Planning & Amenity Committee Meeting Agenda

Agenda

for the

Planning & Amenity Committee Meeting

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

on

Tuesday, 17 July, 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 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 45 Martin Street, Brighton Local Law Tree Removal Appeal Application No: 2018/100  Ward: Northern ................................. 7
   4.2 129 - 135 Martin Street, Brighton Support the Grant of a Planning Permit Application No: 2017/586  Ward: Northern................. 19
   4.3 8 Sterling Avenue, Highett Secondary Consent - Approve Application No: 2014/229/1  Ward: Central ................................. 63
   4.4 52 Spicer Street, Beaumaris Notice of Decision to Grant a Planning Permit Application No: 2017/789  Ward: Southern .... 95
   4.5 6 - 8 Myrtle Street, Brighton Notice of Decision to Grant a Planning Permit Application No: 2017/746/1  Ward: Northern.............. 111
   4.6 7 Billson Street, Brighton East Notice of Decision to Grant a Planning Permit Application No: 2017/713/1  Ward: Northern. 129
   4.7 2 Burgess Street, Beaumaris Notice of Decision to Grant a Planning Permit Application No: 2017/509  Ward: Southern ... 191
   4.8 50 - 52 Well Street, BRIGHTON & 38 Burrows Street, BRIGHTON Notice of Decision to Grant a Planning Permit Application No. 2017/675/1 Ward: Northern............................................. 239
   4.9 111 Dendy Street, Brighton Notice of Decision to Grant a Planning Permit Application No: 2017/701/1  Ward: Northern............. 327
   4.10 15 Centre Road, Brighton East Notice of Decision to Grant a Planning Permit Application No: 2017/285/1  Ward: Northern 403
   4.11 VCAT Report - 2017/18....................................................... 451
5. Confidential Business

Nil

**Next Meetings 2018**

- Tuesday 14 August 2018
- Tuesday 28 August 2018
- Tuesday 11 September 2018
- Tuesday 16 October 2018
- Tuesday 30 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 26 June 2018.
4. Matters of Decision

4.1 45 MARTIN STREET, BRIGHTON
LOCAL LAW TREE REMOVAL APPEAL
APPLICATION NO: 2018/100 WARD: NORTHERN

City Planning & Community Services - Amenity Protection
File No: PSF/15/8764 – Doc No: DOC/18/132476

1. Application details

| Date application received | 17 April 2018 |
| Location | 45 Martin Street, Brighton (front yard) |
| Tree Species | • Eucalyptus nicholii (Peppermint Gum)  
• Eucalyptus viminalis (Manna Gum) |
| Tree protection policy | Local Law No. 2 (Neighbourhood Amenity) |
| Does it meet policy criteria for removal | General Criteria: No  
Tree Structure & Health: No  
Social Considerations: No |
| Photographs | Attachment 1 |

2. Property Owner Reason for Removal

The applicant has two concerns regarding the *Eucalyptus nicholii* (Peppermint Gum) and *Eucalyptus viminalis* (Manna Gum) tree at 45 Martin Street, which are:

- Risk to residents, friends and general public from limb failure and tree health.
- Independent Arborist reports by Rigoni Tree Solutions states that both trees pose an unacceptable risk and recommends both trees be granted a permit for removal.

3. Assessment of Tree Removal

Assessment of General Criteria

In accordance with Council’s Management of Tree Protection on Private Property Policy 2015 only **one criteria** from the following list needs to be met to provide a tree removal permit. This application has been assessed as follows:

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Yes/No</th>
<th>Comments</th>
</tr>
</thead>
</table>
| **Building Permits**  
Building permit issued and tree cannot be retained | No | Permit not issued |
| **Medical Condition**  
Doctors / Special medical certificate specialist indicating tree is causing a specific allergic problem that is reducing the quality of life and there is no other way to manage the problem | No | No medical certificate provided |
<table>
<thead>
<tr>
<th>Criteria</th>
<th>Yes/No</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Tree Location</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Report by expert:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a) evidence of structural damage to building, services or infrastructure; or</td>
<td>No</td>
<td>Report not received.</td>
</tr>
<tr>
<td>b) Risk to people or property, which can only be overcome by implementing a remedy that is unreasonable or greatly disproportionate to the value of the tree or risk posed by the tree</td>
<td>No</td>
<td>The independent Arborist report did not include a risk assessment or provide satisfactory evidence that complete removal of both trees is required to appropriately manage the risk. Council’s Arborist conducted a risk assessment of the trees and found them to be in the ‘tolerable range’ of the risk threshold. Using the QTRA guidance material, works to these trees is not considered an unreasonable expense in reducing the risk from a ‘tolerable level’ to a ‘broadly acceptable level’.</td>
</tr>
<tr>
<td><strong>Quantified Tree Risk Assessment (QTRA) conducted</strong></td>
<td>No</td>
<td>Risk was calculated 1 in 50,000 and can be reduced by implementing modern arboriculture tree management techniques.</td>
</tr>
<tr>
<td>Risk less than 1 in 30,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Other Considerations</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a) Evidence provided by Council staff indicating the tree has a detrimental impact on surrounding environmental and public health.</td>
<td>No</td>
<td>Evidence not provided</td>
</tr>
<tr>
<td>b) Qualified arborist report assessing tree as posing an unacceptable risk, with verifiable information for which conclusions are drawn</td>
<td>No</td>
<td>Two independent Arborist reports submitted. The reports did not contain verifiable information on which conclusions are drawn, include a risk assessment or provide satisfactory evidence that complete removal of both trees is required to appropriately manage the risk. <strong>Attachment 2 – Detailed review of the Independent Arborist reports.</strong></td>
</tr>
<tr>
<td>c) Structural engineer report assessing tree as primary cause of damage to the structure, with verifiable</td>
<td>No</td>
<td>Report not submitted.</td>
</tr>
</tbody>
</table>
Assessment of Tree health, structure and sustainable life expectancy (2 Criteria to be met)

In accordance with Council’s Management of Tree Protection on Private Property Policy 2015 two criteria from the following list needs to be met to provide a tree removal permit. This application has been assessed as follows:

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Yes/No</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Poor health</td>
<td>No</td>
<td>Peppermint Gum was in good health with fair structure and high amenity value. The Manna Gum was in fair health with fair structure and high amenity value.</td>
</tr>
<tr>
<td>b) Poor Structure</td>
<td>No</td>
<td>Assessed as Fair</td>
</tr>
<tr>
<td>c) Sustainable life expectancy (less than 5 years)</td>
<td>No</td>
<td>Assessed at greater than 10 years</td>
</tr>
</tbody>
</table>

Assessment of Social Considerations (2 Criteria to be met)

In accordance with Council’s Management of Tree Protection on Private Property Policy 2015 two criteria from the following list needs to be met to provide a tree removal permit. This application has been assessed as follows:

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Yes/No</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>The amenity or character is moderate or low</td>
<td>No</td>
<td>Amenity value was High for both trees.</td>
</tr>
<tr>
<td>There are at least two other trees on the property that are protected, have a sustainable life expectancy of more than 10 years and are not subject to a current removal permit application or existing permit.</td>
<td>No</td>
<td>The property does not have an additional two trees that are protected by the Local Law.</td>
</tr>
<tr>
<td>Written letters of support provided by property owners/tenants (four) living adjacent or opposite the property</td>
<td>No</td>
<td>Letters of support were not submitted with application.</td>
</tr>
<tr>
<td>Demonstrated financial hardship and inability to undertake routine maintenance – no source of income and receiving Centrelink payments</td>
<td>No</td>
<td>Not raised by the applicant.</td>
</tr>
</tbody>
</table>

4. Arborist Comments

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

- The Peppermint Gum tree in good health, fair structure and provides a high level of amenity to the neighbourhood and the Manna Gum tree in fair health, fair structure and also provides a high level of amenity to the neighbourhood
A limb from the Peppermint Gum had fallen approximately a month before the tree removal application was lodged, there was some minor damage to the dwelling. Tree limb failure is not uncommon in all species of trees in the urban environment. Council’s Arborist are of the opinion that the risk can be reduced by modern arboricultural tree management techniques.

A Tree Stability Sensor report was conducted, movement sensors were attached to both trees from 20 April 2018 to 14 May 2018. The tilt data from the trees is plotted on a graph that uses an international dataset of dynamic tilt values taken from trees under natural wind loading to show where trees fall within the limits of stability. Tilt values recorded above Level 1 are considered in the High range and trees within this range would be considered for removal.

The Tree Stability reports on the subject trees indicated that the trees’ root plate tilt value for the Peppermint Gum and Manna Gum are within the Low Tilt Level of 0.4 and 0.3 degrees respectively.

It should be noted, that the bracket holding the tree sensor attached to the Peppermint Gum tree failed during the data collection period.

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

5. **Recommendation**

That Council refuse to grant a permit for the removal of one *Eucalyptus nicholii* (Peppermint Gum) and one *Eucalyptus viminalis* (Manna Gum) tree from 45 Martin Street, Brighton.

**Support Attachments**

1. Tree Photos and Location ↓
2. Review of Independent Arborist Reports ↓
Manna Gum viewed from south.

Aerial image of Manna Gum.
Peppermint gum viewed from west.

Aerial image of Peppermint Gum.
Branch failure
Council’s Senior Investigations Arborist’s review and response (in italics) to reports by Rachel Jackson c/- Rigoni Tree Solutions

Tree species: Narrow-leaved Black Peppermint (*Eucalyptus nichollii*) and manna Gum (*Eucalyptus viminalis*)

Report dated 3 April 2018

Page 4

Codominant stems from approximately 3 metres above ground level.
Response: *Codominate means the stems and amount of foliage on them is roughly equal in size. At this point there union is wide, or saddle like, and not considered structurally unsound.*

Recent failure of the eastern stem approximately 7 metres from ground level (See images 1 and 2).
The point of failure was on a bend/dogleg. Remaining limbs on this stem will now be exposed to transverse loading.
Response: *The tree was exposed to transverse loading (wind) prior to the failure.*

Tissue at the failure location has deteriorated as shown in images 3 and 4.
Response: *The upper side of the failure shows discoloration and staining, indicating the fracture had existed for some time.*

Western ascending stem presents a significant bend from the stem junction/union. This stem has a high likelihood of failure also.
Response: *There is no rational behind the statement to explain why the stem has a high likelihood of failure to make comment on. Both Ronan and I disagree with this.*

Structural roots are restricted.
Response: *This is an interesting statement because on Page 2 the author states ‘A visual assessment was done above ground on the root system with no evidence of problematic structural issues. No underground exploration was done and no liability can be taken for any faults occurring underground.***

 Positioned less than 2m away from equally sized tree (tree 2). The adjacent tree, a mature Manna Gum (tree 2), was also assessed. The trunk presents swelling in multiple locations on north and west faces. This indicates internal splits and a point of weakness/loss of strength (see images 5 and 6).
Response: *The longitudinal ribbing may indicate internal faults, there would need to be additional investigations. The image below is from Principles of Tree Hazard Assessment and Management, considered a seminal text in arboriculture.*
It highlights the fact that the tree may not be compromised internally.

If the neighbouring tree (tree 1) is removed this tree will be exposed to winds.

The tree is already exposed to winds.

Anchor structural root issues.

Contradicts statements made on Page 3.

Reduced foliage density due to competition from neighbouring tree.
The mature Narrow-Leaved Black Peppermint (tree 1) has been assessed as hazardous and should be removed as soon as possible.

Response: There is a problem with the wording here; a hazard is the part of the tree that will fail/land on something. All trees are hazardous; is the level of hazard extreme/high/medium/low? The report does not include a risk assessment.

This tree has codominant stems with a union approximately 3 metres above ground level. Deteriorated tissue within the eastern stem has led to the recent stem failure approximately 7 metres above ground level during moderate winds. The point where the stem failed was on a bend/dogleg. As the majority of the crown is now missing from the eastern stem the branches below the failure point now present a hazard due to traverse wind loading.

Response: I would say the failed section comprised less than 25% of the foliage in that section.

Tree 2, the Manna Gum, has concerns with both its health and structure. The trunk presents swelling in multiple locations on the north and west faces. This indicates the presence of internal splits and a weakness as swelling is created by the formation of adaptive tissue in response to a loss of strength.

Response: I agree with the last point that swelling is created by the formation of adaptive tissue, what we do not have is evidence that there is internal cracking.
It is also possible that this area is housing a pathogenic infection.  
Response: The tree would certainly have some form of pathogen in it, as to what type it is and whether it can and is causing a detriment to the health or structural integrity of the tree is a matter for investigation.

Report dated 21 May 2018

Page 6

An aerial inspection was conducted to closely inspect the defects on the remaining intact stem of tree 1, the mature Narrow-leaved Black Peppermint. As previously noted, the western ascending stem presents a significant bend from the stem junction/union. Given the previous major failure to the eastern stem (image 7) the defects on the western stem present a likelihood of failure.  
Response: All parts of every tree have a likelihood of failure, is it really low or really high?

The following observations were made during the aerial inspection:
Defective tissue was found in the west ascending stem at approximately 10 metres above natural ground level.
Response: What about the tissue was defective?

A fair hollow was detected within this area of the stem by using a sounding hammer.  
Response: I spoke to Shaun Rigoni, he says that the hollow was central to the stem and about 20% of the stem thickness. This is not a significant compromise. I adjusted my risk assessment based on this information, possibly over inflated the likelihood of failure, and the risk of harm did not exceed the threshold.
The strength loss would be much less than the -29% than for example b.

The area of concern is on the tension side of the bending stem to the north (image 8). The area also presents swelling and separated bark on compression side due to adaptive tissue being laid down in response to loss of strength (image 9 and 10).  
Response: The laying down of adaptive wood suggests that the tree is improving its structural integrity.

The angled stem at this point presents a 20 degree lean over the dwelling, yard, powerlines and footpath (images 11,12,14,15,16). Fungus was detected under the bark attached to both dead and live tissue contributing to decay and weakness (image 13).  
Response: What type of fungus it is and is it deteriorating the structural integrity. If it is degrading the dead wood only it is still not much of an issue.
Due to the previous stem failure, the structure of this tree is now asymmetric. An unbalanced crown is considered a causative factor for failure when other defects are present. This can be exacerbated by the presence of decay in load bearing portions of a tree as the decay results in reduced structural strength and increases the potential for failure (Dunster et al. 2013). E. nicholii is susceptible to infection by the bracket fungi Phelinus robustus (Kile and Johnson 2000) as it does not compartmentalise well.

Response: The fungus is not Phelinus robustus.

The vigour of mature trees is reduced and so is their ability to compartmentalise decay. The presence of fungal hyphae within the failed stem indicates that this tree may have been slow to compartmentalise the decay which lead to the failure. It is unclear whether this fungus colonised the wood before or after the defect that led to the stem failure and how far the decay extends below the point of failure.

Response: Healthy mature trees, such as the Peppermint, do not have reduced vigour. This is associated with over-mature, or senescing, trees. Identifying when the fungus colonised the failure site would be important in determining issues with structural integrity.

If the Narrow-leaved Black Peppermint is retained it will require pruning to cut back the broken stem to the main stem. This will leave a considerable open wound. RTS recommends that weight reduction pruning of the western stem will not be beneficial to the ongoing health of this tree and is not a solution to the potential for future failures. The proximity of the tree to a number of targets as shown through photos in the observation section supports the finding by RTS that this tree be removed.

Response: We agree that there are management option available to the applicant. In a conversation with the applicant I on 7 May 2018 I was informed that United Energy have inspected the tree; the inspecting officer was going to review the reports and his assessment of the tree and make a decision on whether the tree’s posed an unacceptable risk to the powerlines within four weeks.
1. **Application details**

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Support the Grant of a Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Bigadd Concepts 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>21 September 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>N/A – VCAT appeal</td>
</tr>
<tr>
<td>Zoning</td>
<td>Commercial 1 Zone</td>
</tr>
<tr>
<td></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>Heritage Overlay (Schedule HO749)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>6 (no parties to VCAT appeal)</td>
</tr>
</tbody>
</table>

**Purpose**

The purpose of this report is to endorse a consent position reached by all parties at a Compulsory Conference at VCAT on 26 June 2018.

**History**

At the Planning and Amenity Committee on 27 February 2018, Council determined to refuse the planning application at the subject site. The grounds of refusal were as follows:

1. **The proposed development of the land does not comply with the purposes of the Commercial 1 Zone (C1Z) as the density proposed is not complimentary to the role and scale of the Martin Street Major Activity Centre due to the excessive proposed height.**

2. **The proposed development of the land does not comply with the purposes of the Design and Development Overlay Schedule 18 (DDO18) as:**
   a) **The proposed height and reduced upper level setbacks are not compatible with the preferred future role and character of the Martin Street Neighborhood Activity Centre.**
   b) **The visual bulk and dominant form as a result of the excessive height does not conserve or enhance the valued heritage character.**

3. **The proposed development of the land does not comply with the purposes of the Heritage Overlay (HO) as:**
   a) **The visual bulk and dominant form as a result of the excessive height does not conserve or enhance the valued heritage character and will adversely affect the significance of the heritage place.**
4. The proposed reduction in car parking fails to respond to the purpose of Clause 52.06 (Car Parking) of the Bayside Planning Scheme, in particular:
   a) The proposal fails to provide the number of car parking spaces required in accordance with Clause 52.06 and as a result will impact on the amenity of the locality by negatively impacting surrounding areas.

VCAT
An Application for Review against the decision made by Council was lodged with VCAT pursuant to Section 77 of the Planning and Environment Act 1987.

The application was heard at a Compulsory Conference (mediation) on 26 June 2018. No objectors (third parties) registered as party to the appeal, and hence it was Council and the applicant’s representatives in attendance.

In preparation for the Compulsory Conference, the permit applicant circulated ‘without prejudice’ plans which included the following changes:

- Construction of an additional level of basement car parking, increasing the number of car spaces from 33 to 39 (and associated reduction in the parking shortfall from 7 spaces to 1 space),
- Removal of all car stackers. Previously, 28 of the 33 spaces were in a car stacker arrangement,
- Relocation of storage bays, bin store and bicycle parking across the two levels of basement,
- Minor change to ground floor layout to reflect the relocation of storage and bicycle parking to the basement,
- ‘Squaring off’ of the previously curved terrace / canopy areas at each floor to better respond to the adjacent heritage building, and
- Maximum building height reduced by 300mm (maximum height now 14m).

A full list of the without prejudice changes and plans are included at Attachment 1 and 2.

The permit applicant and Council planners agreed to a consent position. If the consent order is not endorsed by the Planning and Amenity Committee, the application will proceed to a full hearing on 31 August 2018.

At this stage, should the matter proceed to a hearing, the above-mentioned changes will be retracted and the appeal will be based on the previously advertised plans (Attachment 3).

2. Recommendation

That Council resolve to:

Support the Grant of a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/586 for the land known and described as 129 – 135 Martin Street, Brighton, for the use and development of dwellings, construction of a four storey mixed use building plus basement parking, demolition and construction in a Heritage Overlay and reduction of car parking in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the use and development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions...
and three copies must be provided. The plans must be generally in accordance with the plans prepared by Finnis Architects referenced TP04 – TP05 Revision H and TP06 – TP12 Revision F, dated 19 June 2018 but modified to show:

a) Details of the lighting and paving of the setback area adjacent to the carriageway easement;

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) An updated landscaping plan in accordance with condition 10;

d) Any update to the basement bin store area to allow for compliance with 20(g).

e) Payment of Development contributions in accordance with condition 22.

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

g) Planter Boxes in accordance with condition 10(a).

h) Sustainability report in accordance with condition 14.

i) 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. 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. Waste collection must at all times be conducted entirely within the site and in a manner that limits interference with other vehicular traffic to the satisfaction of the Responsible Authority.

**Water Sensitive Urban Design**

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

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

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

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

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

**Landscaping**

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

a) Planter boxes to be located on the inside of each north and south facing balcony.

b) A survey, including, botanical names of all existing trees to be removed from the site.

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

d) A planting schedule of all proposed vegetation within the planter boxes including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.

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.

**Heritage**

13. Before demolition begins, an annotated photographic study of archival quality of the building prepared by a suitably qualified person to the satisfaction of the Responsible Authority must be submitted to the Responsible Authority as a record of the building. The survey must include:

a) Each elevation of the building;

b) The interior of the building;

c) Architectural design detailing of the building;

d) A statement prepared by an architectural historian describing and explaining both the design and construction of the building and the photographs.
Sustainability

14. Prior to the endorsement of plans pursuant to condition 1, a Sustainability Report to the satisfaction of the Responsible Authority must be submitted and endorsed by the Responsible Authority. The Sustainability Report must generally be in accordance with the Report prepared by Sustainable Development Consultants dated September 2017 but updated to reflect design revisions.

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

Construction Management Plan

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

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

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

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

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

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

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

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

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

i) Site security.

j) Public safety measures.

k) Construction times, noise and vibration controls.

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

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

n) Remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site).
o) An emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experience.


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

r) Details of crane activities, if any.

Drainage

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

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

19. Council records indicate that there is 3.05 metre wide carriageway easement along the north property boundary as indicated on the drawings provided. The plans indicate no proposals to encroach into the easement with any buildings or structure of note. Proposals to be built over the easement will require Build Over Easement consent from the Responsible Authority/Authorities.

Waste Management

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

a) Dimensions of storage waste areas.

b) Storage waste areas for the office and shop use to be in the basement area.

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

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

e) Facilities for bin cleaning.

f) Method of waste and recyclables collection.

g) All waste (including shops and office waste) to be collected from the basement with no kerbside collection.

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

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

j) Method of hard waste collection.

k) Method of presentation of bins for waste collection.

l) Sufficient headroom within the basement to accommodate waste collection vehicles.
m) Sufficient turning circles for the waste collection vehicles to enter and exit the site in a forward direction.

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

o) Compliance with relevant policy, legislation and guidelines.

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

Basement Construction

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

Development Contributions

22. 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

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

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

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

c) The use is not started within five years of the date of this permit.

d) The use is discontinued for a period of two years or more.

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 allow for a signage to be erected on the building. A separate planning permit will be required for any advertising signage for the office and shop units.

- 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.

• Future occupants of the building and their visitors will not be eligible for Council car parking permits.

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

3. Amended Plans Assessment

This report will detail how the amended plans at Attachment 2 respond to the previous Grounds for Refusal and relevant planning policies.

Ground for Refusal 1 and 2 (Excessive Height)

1. The proposed development of the land does not comply with the purposes of the Commercial 1 Zone (C1Z) as the density proposed is not complimentary to the role and scale of the Martin Street Major Activity Centre due to the excessive proposed height.

2. The proposed development of the land does not comply with the purposes of the Design and Development Overlay Schedule 18 (DDO18) as:

a) The proposed height and reduced upper level setbacks are not compatible with the preferred future role and character of the Martin Street Neighborhood Activity Centre.

b) The visual bulk and dominant form as a result of the excessive height does not conserve or enhance the valued heritage character.

The first two grounds for refusal relate to excess height, in particular, the provision of a fourth storey (in an area with a preferred height of three storeys).

Whilst it could not be said that this ground for refusal has been satisfied in full (the fourth storey is retained), the improvements made to the design (namely the removal of car stackers and provision of additional car parking) ensures stronger compliance with the DDO18, which specifically allows for consideration of a fourth storey subject to compliance with a set criteria.

An assessment against this set criteria is provided below:

• Whether the proposal achieves a high standard of architectural design and an exemplary design response to the site context

Previously, it would be difficult to argue that the proposal represented a ‘high’ standard of architectural design and ‘exemplary’ design response, due to the excessive use of car stackers and overall shortfall in car spaces provided (by seven).

The changes to the design remove all car stackers, and significantly reduce the required parking shortfall to just one space (to be justified below).

When the development scheme is now assessed holistically, it is of a very high architectural standard and integrates well with its surrounds, providing a high level of amenity for future occupants.

• Innovative environmental design

The changes to do not impact on this criteria, noting that proposed condition 14 will ensure compliance.

• Minimal overshadowing of adjoining streets, public spaces and residential
properties

The changes do not impact on this criteria, noting that Council officers had previously indicated compliance in the previous development scheme.

- **Minimal amenity impacts of adjoining residential properties, including limiting visual bulk, overlooking, overshadowing and loss of daylight and solar access to windows of adjoining properties**

The changes do not impact on this criteria. The proposal has been assessed against Clause 58 of the Bayside Planning Scheme which considers the impact on residential amenity. The proposal is fully compliant and will not adversely impact adjoining residential properties.

- **Respect for places subject to the Heritage Overlay**

The changes proposed to the design, specifically the ‘squaring off’ of the front façade are a direct response to feedback from Council’s Heritage Advisor. This is discussed in more detail below, and this criteria is now considered to be met.

- **Transition is scaled to lower building forms.**

The changes to the design, namely the lowering of the overall building height by 300mm will assist in strengthening compliance with this criteria. Notwithstanding this, Council planning officers had previously indicated compliance, noting that the upper floors of the building are set back from both front and rear. At the rear, this provides a transition to the residential properties to the north. It also provide an appropriate transitional to both adjoining sites that front onto Martin Street, noting that there is an approved four storey development (not yet constructed) adjacent the site to the west at No.123 Martin Street.

Given the strong compliance with the above-mentioned criteria as set out in proposed DDO18, the provision of a fourth storey can be supported. Whilst this ground has not been satisfied in full, significant improvements have been made. Given that each of the remaining grounds have been addressed, reliance on this ground alone would be a difficult case to argue at VCAT, noting that the expectation for planning applications to be ‘acceptable’ rather than perfect.

**Ground for Refusal 3**

3. The proposed development of the land does not comply with the purposes of the Heritage Overlay (HO) as:

   (a) The visual bulk and dominant form as a result of the excessive height does not conserve or enhance the valued heritage character and will adversely affect the significance of the heritage place.

The proposed changes, namely the ‘squaring off’ of the front façade has satisfied this ground for refusal.

Whilst the change might appear to be relatively minor, this ground for refusal was not a major factor in the refusal of the application, and was not mentioned by Councilors in their debate on the application merits.

Council’s Heritage Advisor did not oppose the principal of a four storey building on the site.

**Ground for Refusal 4**

4. The proposed reduction in car parking fails to respond to the purpose of Clause 52.06 (Car Parking) of the Bayside Planning Scheme, in particular:

   (a) The proposal fails to provide the number of car parking spaces required in accordance with Clause 52.06 and as a result will impact on the amenity of the locality by negatively impacting surrounding areas.
The proposed changes to the development have focused mainly on addressing this ground for refusal, which on review, was the biggest cause for concern when the merits of the application were discussed at the Planning and Amenity Committee on 27 February 2018.

The reduction in the number of car spaces being sought from 7 to 1 is of high significance, though equally as important is the removal of all car stackers, which allows for a far more efficient and usable car park layout.

The applicant has engaged a traffic consultant to assist with car park allocation, who has recommended that full parking compliance be achieved for residential (19 spaces), residential visitors (3 spaces) and the office component (13 spaces). This has been achieved and is labelled on the plans.

With respect to the remaining shop use, it is proposed to allocate this shop only 1 space of the 4 that remain (a shortfall of 4 spaces), with the remaining 3 spaces to be utilised for surplus visitor parking to either the office and/or residential use.

This is summarised in the table below:

<table>
<thead>
<tr>
<th>Use</th>
<th>Requirement</th>
<th>Allocated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Tenant</td>
<td>19 spaces</td>
<td>19 spaces</td>
</tr>
<tr>
<td>Residential Visitor</td>
<td>3 spaces</td>
<td>3 spaces</td>
</tr>
<tr>
<td>Office</td>
<td>13 spaces</td>
<td>13 spaces</td>
</tr>
<tr>
<td>Shop</td>
<td>5 spaces</td>
<td>1 space</td>
</tr>
<tr>
<td>Shared Spaces</td>
<td>0 spaces</td>
<td>3 spaces</td>
</tr>
<tr>
<td></td>
<td>40 Spaces</td>
<td>39 Spaces</td>
</tr>
</tbody>
</table>

The reasoning behind the shop reduction is based on empirical data, which would suggest a likely full time staff requirement of one person.

Whilst there would obviously be some visitor demand, such visitors are unlikely to be aware of the basement parking area, which is obscured from the street and accessed via the rear laneway. It would also be frustrating and untimely for visitors to exit the basement car park area in the event that any small allocation is already occupied.

Reliance on surrounding parking network for visitors to retail areas within an activity centre is not unusual and/or unreasonable. Council agrees that the ‘spare’ 3 parking spaces would better be utilized by office and/or residential visitors, who would often outstay the parking restrictions of the surrounding parking network (and overtime, or through instruction would become more aware of the access arrangement to the basement parking area).

The applicants Traffic Submission is attached at Attachment 4.

This reason for refusal has been largely satisfied.

4. Conclusion

As described above, the changes to the plans are significant, and address the previous grounds for refusal to an acceptable level.

Whilst the building would remain at four storeys, the DDO18 that seeks to enforce these height restrictions is specifically worded to allow for consideration of heights over and above this preferred limit.

The overall building shows strong compliance with Council policy, and the additional level (noting its generous recession and low visibility) is not of such consequence that would warrant progression to a full merits hearing – particularly given that changes now proposed may be retracted.
The overall development is considered to show an appropriate level of compliance with the Bayside Planning Scheme.

Support Attachments
1. Statement of Changes ↓
2. Without Prejudice Plans ↓
3. Refused Development Plans ↓
4. Traffic Report ↓
19th June, 2018

The Principal Registrar
Planning and Environment
Victorian Civil and Administrative Tribunal
55 King Street
MELBOURNE VIC 3000

Dear Registrar,

RE: VCAT Reference No. P557/2018
129-135 Martin Street, Brighton

STATEMENT OF CHANGES – VCAT ISSUE

GENERAL:
- Additional basement added.
- Car parking numbers increased from 33 to 39
- Overall building height, excluding services and lift over run, reduced to 14m from the laneway level.
- Relocation of storage and bicycle parking from the ground floor to the basement.
- Ground floor layouts amended to reflect the relocation of storage and bicycle parking.
- Curved façade and canopy corners squared-off on all levels.

TP00: COVER PAGE (REV A) 19.06.2018
- Amended image to reflect design amendments outlined below.

TP01: NEIGHBOURHOOD AND SITE DESCRIPTION (REV A) 19.06.2018
- No change.

TP02: DESIGN RESPONSE (REV F) 19.06.2018
- Area changes to table.
- Built form amendments to plan.
- Proposed development at 123 Martin Street indicated on elevation.

TP03: SHADOW DIAGRAMS (REV A) 19.06.2018
- Built from amendments to plan.

TP04: BASEMENT FLOOR PLAN (REV H) 19.06.2018
- Additional Basement.
- Revised carpark layout and allocation.
- Bike stores and storage relocated from ground floor.
- Storage area table amended

TP05: GROUND FLOOR PLAN (REV H) 19.06.2018
- Bike stores and storage relocated from ground floor.
- Minor plan and area changes to commercial tenancies.
- Proposed development at 123 Martin Street indicated on plan.

TP06: FIRST FLOOR PLAN (REV F) 19.06.2018
- Rounded corners squared off.
- Proposed development at 123 Martin Street indicated on plan.

TP07: SECOND FLOOR PLAN (REV F) 19.06.2018
- Rounded corners squared off.
- Proposed development at 123 Martin Street indicated on plan.
TP08: THIRD FLOOR PLAN (REV F) 19.06.2018
• Rounded corners squared off.
• Proposed development at 123 Martin Street indicated on plan.

TP09: NORTH & WEST ELEVATION (REV F) 19.06.2018
• Overall building height reduced to 14m, excluding services and lift overrun.
• Rounded corners squared off.
• Proposed development at 123 Martin Street indicated on elevation.

TP10: SOUTH & EAST ELEVATION (REV F) 19.06.2018
• Overall building height reduced to 14m, excluding services and lift overrun.
• Rounded corners squared off.
• Proposed development at 123 Martin Street indicated on elevation.

TP11: SECTION
• Overall building height reduced to 14m, excluding services and lift overrun.
• Additional Basement.
• Built form amendments as indicated above.

Kind Regards,

[Signature]

Damon Hills,
Associate Director
MIXED-USE DEVELOPMENT - 129-135 MARTIN STREET, BRIGHTON
Item 4.2 – Matters of Decision

MIXED-USE DEVELOPMENT - 129-135 MARTIN STREET, BRIGHTON
Dear Jarryd,

129-135 Martin Street, Brighton – Proposed Mixed-Use Development
Traffic Engineering Assessment

Introduction

We refer to the proposed mixed-use development at 129-135 Martin Street, Brighton and provide a traffic engineering assessment of the amended development as requested.

The following assessment is based on amended development plans prepared by Finnis Architects (Revision H, dated 19/06/2018) that we understand are to be circulated for an upcoming VCAT hearing.

Car Parking Assessment

The proposed development falls under the land-use categories of ‘dwelling’, ‘office’ and ‘shop’ under Clause 74 of the Planning Scheme. The Planning Scheme sets out the car parking requirements for new developments under Clause 52.06.

An assessment of the car parking requirements associated with the proposed development is set out in Table 1.
Traffic Engineering Assessment
129-135 Martin Street, Brighton: Proposed Mixed-Use Development

Table 1: Statutory Car Parking Assessment – Clause 52.06

<table>
<thead>
<tr>
<th>Use</th>
<th>Measure</th>
<th>Rate</th>
<th>Requirement¹(1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>One-bedroom</td>
<td>2</td>
<td>1 space per dwelling</td>
<td>2 spaces</td>
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<tr>
<td>Two-bedroom</td>
<td>9</td>
<td>1 space per dwelling</td>
<td>9 spaces</td>
</tr>
<tr>
<td>Three-bedroom</td>
<td>4</td>
<td>2 spaces per dwelling</td>
<td>8 spaces</td>
</tr>
<tr>
<td>Visitors</td>
<td>15</td>
<td>1 space to each 5 dwellings</td>
<td>3 spaces</td>
</tr>
<tr>
<td>Office</td>
<td>382m²</td>
<td>3.5 spaces per 100m²</td>
<td>13 spaces</td>
</tr>
<tr>
<td>Shop</td>
<td>145m²</td>
<td>4.0 spaces per 100m²</td>
<td>5 spaces</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
<td>40 spaces</td>
</tr>
</tbody>
</table>

¹(1) Clause 52.06.5 specifies that where a car parking calculation results in a requirement that is not a whole number, the number of spaces should be rounded down to the nearest whole number.

Based on the above, the proposed development has a statutory car parking requirement for 40 spaces. A total of 39 on-site parking spaces are to be provided which results in a statutory shortfall for one car space only.

Based on our advice, the plans identify the following on-site car parking allocation for the 39 spaces:

- 19 spaces for residents (i.e. statutory requirement),
- 3 visitor spaces (i.e. statutory requirement),
- 13 spaces for office staff including three sets of tandem spaces (i.e. statutory requirement),
- 1 shop space for use by associated staff (shortfall of 4 customer car spaces), and
- 3 surplus spaces allocated to either residents or office staff.

Based on the above, there is a requirement to provide justification for a reduction in the statutory car parking requirement for four (4) shop car spaces only, noting that they will likely be associated with customers of the proposed shop.

Shop Car Parking Provision

Based on our experience and good current traffic engineering practice, it is generally accepted by Councils and VCAT that shop tenancies be provided with on-site staff parking at a rate of approximately one space per 100m² of leasable floor area, with a minimum of one space per tenancy. Accordingly, the proposed on-site car parking provision for one car space to the single shop tenancy is considered appropriate for associated staff given the floor area is only 145m².

The statutory shortfall for four (4) car spaces only will comprise of short-term car parking demands generated by customers which will need to be accommodated by nearby public parking. The reliance on on-street parking for these short-term uses is consistent with what is required for the existing businesses on the site and is considered appropriate for the proposed shop.
Furthermore, given that all on-site parking is to be provided in a secure basement carpark with laneway access, it is not appropriate or convenient to provide on-site customer car parking in any case.

Based on the above, we are satisfied that the proposed on-site car parking provision and allocation is satisfactory and it is appropriate for a Permit to be issued to reduce the statutory car parking requirement for the proposed shop. A more detailed assessment of the appropriateness of reducing the statutory requirement based on the decision factors under Clause 52.06-7 is provided in our previous report (Ref: G23072R-01D).

Car Parking Layout and Access Arrangements

Traffic Group has provided design advice to the project architect to achieve a satisfactory layout for parking and access arrangements. The amended parking layout has been assessed under the following guidelines:

- Clause 52.06-9 of the Planning Scheme (Design standards for car parking), and
- The relevant Australian Standards.

A total of 39 on-site car parking spaces are to be provided including one ‘accessible’ space to be allocated to the shop tenancy and three (3) pairs of tandem spaces to be allocated to the office tenancies.

Key elements of the design include:

- The ‘accessible’ car space is to be provided at a width of at least 2.4m, length of 5.4m and with an adjacent shared area of the same dimensions in accordance with the relevant Australian Standard for disabled parking (AS/NZS 2890.6:2009).
- The standard car spaces are to be provided at a width of 2.6m, length of 4.9m and with an adjacent access aisle in excess of 6.4m which exceeds the Planning Scheme dimensions under Clause 52.06-9 (Design Standard 2).
- An additional length of 0.5m is provided between each pair of tandem spaces in accordance with 52.06-9 (Design Standard 2). The tandem spaces are to be allocated to the office tenancy which is an appropriate and necessary arrangement given the dependent functionality of these spaces.
- Access to each of the critical to access car spaces has been checked for the 85th percentile design vehicle and has been found to be satisfactory. Some spaces may require an additional manoeuvre to access which is expressly permitted by AS2890.1-2004 for long-term (i.e. resident or staff) parking and is consistent with good current practice.
- Vehicles can enter and exit the basement ramp in a forward direction in accordance with Clause 52.06-9 (Design Standard 1).
- Access to/from the basement ramp from the ROW has been checked for the 99th percentile design vehicle and has been found to be satisfactory. Furthermore, we note that the proposed building

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1 In the case that residential visitors require access to the site, they would need to inform the resident they are visiting upon arrival who would let them into the carpark.
has been setback from the ROW which effectively widens the trafficable width to 5.5m which provides for two-way passing.

- A minimum headroom clearance in excess of 2.2 metres is available above all car spaces and throughout the car park in accordance with AS/NZS 2890.1-2004 and in excess of Clause 52.06-9 (Design Standard 1).
- A headroom clearance of at least 2.5m is to be provided above the ‘accessible’ space and adjacent shared area in accordance with AS/NZS 2890.6:2009.
- The location of columns or storage units adjacent to car parking spaces is in accordance with the requirements set out at Diagram 1 of Clause 52.06-9 (Design Standard 2).
- Ramp grades and changes in grade are provided in accordance with the requirements of Clause 52.06-9 (Design Standard 3).
- The first 5m within the site is steeper than 1:10 which does not comply with the requirement under Clause 52.06-9 (Design Standard 3). Given that access is via a laneway with no footpaths and limited pedestrian activity, we are satisfied that the proposed ramp grades are appropriate and there will not be any impacts to pedestrian or vehicle safety.
- The car spaces located adjacent to walls have been provided with a minimum of 300mm additional clearance to walls, in accordance with Diagram 1 of Clause 52.06-9 (Design Standard 2).

Based on the above, we are satisfied that the layout of the proposed parking spaces is satisfactory and the access arrangements for the site will provide for safe and efficient movements to and from the surrounding road network.

**Conclusion**

Having undertaken a traffic engineering assessment of the amended plans for the proposed mixed-use development at 129-135 Martin Street, Brighton, we are of the opinion that:

a) the statutory car parking requirement for residents, visitors and office staff is to be provided on-site,

b) one (1) on-site staff space is to be provided for the shop tenancy which is consistent with good current traffic engineering practice and is regularly considered as acceptable by Councils and VCAT,

c) there is to be a statutory shortfall for four (4) shop customer spaces only,

d) the off-site parking demand to be generated by customers of the proposed shop would be appropriately accommodated by the existing supply of nearby on-street parking consistent with the existing businesses on the site,

e) the proposed parking layout and access arrangements are in accordance with the requirements of the Planning Scheme, relevant Australian Standards, and current practice, and

f) there are no traffic engineering reasons why a planning permit for the proposed mixed-use development at 129-135 Martin Street, Brighton, should be refused.
Traffic Engineering Assessment
129-135 Martin Street, Brighton: Proposed Mixed-Use Development

Please contact Brent Chisholm or Nathan Woolcock at Traffix Group if you require any further information.

Yours faithfully,

TRAFFIX GROUP PTY LTD

[Signature]

NATHAN WOOLCOCK
Director
4.3  8 STERLING AVENUE, HIGHETT
SECONDARY CONSENT - APPROVE
APPLICATION NO: 2014/229/1  WARD: CENTRAL

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Approve the secondary consent amended plans</th>
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<tbody>
<tr>
<td>Street address</td>
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<tr>
<td>Application No.</td>
<td>5/2014/229/1</td>
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<tr>
<td>Applicant</td>
<td>Hilstin</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>30 April 2018</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
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<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
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<td>Development Contribution Plan Overlay Schedule 1 (DCPO1)</td>
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<tr>
<td>Application plans and documents TRIM Ref No</td>
<td>DOC/18/95656</td>
</tr>
</tbody>
</table>

Proposal

Planning Permit 2014/229/1 allows:

Construction of two or more dwellings on a lot.

The application seeks approval to amend the endorsed plans pursuant to condition 2 of Planning Permit 2014/229/1 on a lot with an area of 655 square metres.

The proposed amendments are as follows:

- Retrospective permission to change the roof material from concrete tile to corrugated iron; and,
- Front fence material changed from brick pier and iron to timber pickets.

The development plans are provided at Attachment 1.

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

History

Planning Permit 2014/229/1 (see Attachment 3) was issued on 20 June 2016 at the direction of the Victorian Civil and Administrative Tribunal (VCAT).

Plans were endorsed by Council on 21 August 2017 (see Attachment 4).

2. Planning controls

Planning Permit requirements

There are no primary permit triggers to consider as part of this application. The application seeks to amend the endorsed plans pursuant to the secondary consent provisions afforded by Condition 2 of Planning Permit 5/2014/229/1.
3. **Stakeholder consultation**
   
   **External referrals**
   
   There are no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme.
   
   **Internal referrals**
   
   There are no referrals to Council departments required to be made for this application.
   
   **Public notification**
   
   Applications made in accordance with the secondary consent provisions are not subject to the notice requirements of Section 52 of the *Planning and Environment Act 1987*. Therefore, the amended plans have not been advertised.

4. **Recommendation**

   That Council resolve to:
   
   1. Approve the amended plans in accordance with secondary consent provisions of Planning Permit 2014/229/1.
   2. The materials schedule identified as Sheet 1 and the plans identified as Sheets 2 and 3, prepared by Danes Design Studio and dated October 2015 be endorsed. These plans are to be read in conjunction with the plans endorsed on 21 August 2017.
   3. Sheets 2-4 (inclusive) of the previously endorsed plans be superseded.

5. **Council Policy**

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

6. **Considerations**

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

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

   **Does the proposed amendment authorise something for which primary consent is required under the planning scheme?**
   
   The primary consent was issued at the direction of VCAT for the construction of two or more dwellings on a lot. The amendment sought under this application is considered to be consistent with the proposal and does not authorise something for which primary consent is required for under the Bayside Planning Scheme.

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

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

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

Support Attachments

1. Development Plans ↓
2. Site Surrounds and Imagery ↓
3. Planning Permit 2014/229/1 ↓
4. Endorsed Plans ↓
ATTACHMENT 4
Site and Surrounds Imagery

Figure 1: Aerial Overview of subject site.

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
</tbody>
</table>
Figure 2: View towards the site from the northeast.

Figure 3: View towards the site from the northeast.
Figure 4: View towards the site from the east.
PLANNING PERMIT
5/2014/229/1

Address Of The Land: No. 8 Sterling Avenue HIGHTET

Planning Scheme: Bayside

The Permit Allows: Construction of two or more dwellings on a lot 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 submitted with the application but modified to show:

(a) A separation of 2.5 metres between dwellings 1 and 2 facing Tibrockney Street with no increases to the external building envelope elsewhere.
(b) If permission is not granted to build the proposed garage over the easement, the garage for dwelling 3 to be shown and noted as a demountable carport.
(c) Six square metres of external storage for dwelling 2.
(d) Front fencing to dwellings 2 and 3 deleted.
(e) The maximum height of porches protruding into the frontage setback reduced to 3.6 metres in height.
(f) A schedule of external materials and finishes in accordance with Condition 3 of this permit.
(g) The side fencing for dwelling 1 to Tibrockney Street to include 20mm spacing for visual permeability.
(h) Driveways with corner splay to comply with Clause 52.06-8 of the Bayside Planning Scheme to the extent accepted by the Responsible Authority.
(i) An arborist report in accordance with Condition 8 of this planning permit and any minor amendments, to the satisfaction of the Responsible Authority, required to comply with the recommendations of this report.
(j) A landscape plan in accordance with Condition 9 of this permit.

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

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

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

Date issued: 20 June 2016

How Gerrard
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.
All pipes with the exception of 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.

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.

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

Before the development starts, an arborist report in accordance with AS4970-2009 Protection of Trees on Development Sites is required to be submitted to and be approved by the Responsible Authority. This arborist report must assess trees 2 and 12 as shown on the concept landscape plan submitted with the application. This arborist report must provide an arboricultural impact assessment providing details of the design and construction methods which will be used to minimise root disturbance to these trees if applicable and they are proposed to be retained by the owners of the relevant properties.

Before the development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be similar to the plan prepared by Habitat landscape and environmental design consultants dated April 2016 must be drawn to scale with dimensions and three copies must be provided. The landscaping plan must show:

(a) A survey (including botanical names) of all existing vegetation to be retained and/or removed.
(b) Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary.
(c) Tree protection zones of all trees on adjoining properties, where such tree protection zones extend into the subject site. Tree Protection Zones are to be calculated in accordance with AS4970.
(d) Details of surface finishes of pathways and driveways.
(e) 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. All species selected must be to the satisfaction of the Responsible Authority.
(f) Landscaping and planting within all open areas of the site.
(g) An in-ground irrigation system to all landscaped areas.

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

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.

Date issued: 20 June 2016

Signature for the Responsible Authority

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
12. Tree Protection Fencing is to be established around the street trees prior to demolition and maintained until all works on site are complete. The fencing is to be constructed and secured so its positioning cannot be modified by site workers. The fencing is to encompass the entire nature strip under the drip line of the tree. The Tree Protection Zone is to be established and maintained in accordance with Australian Standards 4970 Protection of trees on development sites. During construction of the crossover, tree protection fencing may be reduced to the edge of the Council approved crossover to facilitate the construction of the crossover. Tree Protection fencing must also be provided onsite to protect the tree on the neighbouring land to the south as per the recommendations of condition 8 of this permit.

13. Before the occupation of the development starts, the areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:

(a) Constructed;
(b) Properly formed to such levels that they can be used in accordance with the plans;
(c) Surfaced with an all-weather-seal coat;
(d) Drained;
(e) To the satisfaction of the Responsible Authority.

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

14. Vehicle crossings servicing the development must be constructed to the satisfaction of the Responsible Authority and any existing disused or redundant crossing or crossing opening must be removed and replaced with footpath/nature strip/kerb and channel, to the satisfaction of the Responsible Authority.

15. Before the commencement of works, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority to provide for Water Sensitive Urban Design Stormwater Treatment Measures.

(a) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaping areas; and
(b) Design details of the water sensitive urban design stormwater treatment measures, including cross sections;

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

16. The permit holder must apply for the nominated legal point of discharge for the development where stormwater run-off must be collected and free drained to Council's drainage assets to Council standards.
17 Stormwater discharge must be retained for the portion above the discharge calculated using a Coefficient of Runoff at 0.35. The development is to have a Stormwater Detention System installed, the design capacity to be to the satisfaction of the Responsible Authority.

16 Any subsurface water captured on the site must be treated in accordance with Council's Policy for "Discharge of Pumped Subterranean Water Associated with Basement or Below Ground Structures".

19 Any seepage / agricultural drainage water must be filtered to rain water clarity and must be pumped to the nearest Council Drain /Pit and not be discharged to the kerb and channel unless directed otherwise.

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

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

21 Before the development begins, three sets of detailed plans indicating the method of stormwater discharge to the nominated Legal Point of Discharge (and Stormwater Detention Systems where applicable) must be lodged with Council's Engineering Services department for approval.

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

23 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 has not completed within four years of the date of this permit.

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

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

Date issued: 20 June 2016

Planning and Environment Regulations 2005 Form 4

Signature for the Responsible Authority

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
Item 4.3 – Matters of Decision
Item 4.3 – Matters of Decision
Arboricultural Report
Development Impact Assessment

Site address: 8 Sterling Avenue, Highett. Vic. 3190
Date of assessment: 24 July 2017
Prepared for: Hilstin
Prepared by: Melbourne Arborist Reports Pty Ltd
Jack Machar
Diploma of Horticulture (Arboriculture)

Planning Department

- 7 AUG 2017

Received

PLANNING AND ENVIRONMENT ACT 1987
BAYSIDE PLANNING SCHEME
This plan complies with Condition No. 1
Planning Permit: 2014/229/1 Sheet: 6 of 6
Issued: 20 June 2016 Endorsed: 21 August 2017

Responsible Authority

Item 4.3 – Matters of Decision

Page 82 of 465
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1 SCOPE OF REPORT

This report has been prepared in response to condition 8 of planning permit application number 2014/229/1 as requested by VCAT member Dalia Cook. VCAT Reference number P2183/2015. The scope of this report extends to two trees located adjacent to the site within number 6 Sterling Avenue, Hightett. The report identifies the tree species, health and structural condition, location, dimensions, age class, useful life expectancy (ULE), origin, retention value, tree protection zones (TPZ), structural root zones (SRZ) and the likely impact that could be caused to the trees by the proposed site development.

Tree protection requirements are outlined for the design, demolition, construction and landscaping stages of development to best protect the trees in question from deleterious impact. A similar report has previously been prepared by Constructive Arboriculture dated May 2014, in which trees 1 and 2 were referred to as trees 2 and 12 respectively.

2 ASSESSMENT METHODOLOGY

Tree assessment was conducted visual from the ground only and is limited to parts of the tree which are easily viewed from the ground; other defects may be present within a tree’s crown, not visible from the ground. No soil excavation, probing or ground penetrating radar was carried out as part of the inspection process.

The content provided within this report relates to information and observations available at the time of inspection. This report is considered valid for 12 months only. Trees retained in the landscape beyond 12 months are recommended to be re-assessed by an AQF level 5 or higher arborist to assist in future management decisions.

Diameter at Breast Height (DBH) = 1.4m above ground level (methods shown in AS 4970-2009 have been used for low branching, multi-stemmed and leaning trees).

Tree heights and canopy spreads are estimates only. DBH measurements of third party trees have been estimated due to site access restrictions.

Tree Protection Zones (TPZ) and Structural Root Zones (SRZ) have been calculated using the formulas provided in the Australian Standards for Protection of Trees on Development Sites AS 4970-2009.

DBH x 12 = TPZ Radius from centre of main stem at ground level. *minimum 2.0m, maximum 15m.
(Dx50) 0.42 x 0.64 = SRZ (Radius) in meters. *minimum 1.5m

Tree descriptors were used to assess tree health, tree structure, useful life expectancy (ULE), age class, origin and tree retention value. Descriptors are in the appendix section at the rear of the report and should be referred to for definitions of ratings assigned to trees within this report.

All photos were taken by the author using a digital camera unless otherwise stated.
3 FINDINGS

3.1 TREE ASSESSMENT

<table>
<thead>
<tr>
<th>Tree No</th>
<th>Genus species</th>
<th>Common Name</th>
<th>DBH cm</th>
<th>TPZ Radius m</th>
<th>SRZ Radius m</th>
<th>Height m</th>
<th>Spread m</th>
<th>Health</th>
<th>Structure</th>
<th>ULE</th>
<th>Age class</th>
<th>Retention value</th>
<th>Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 (2)</td>
<td>Fraxinus angustifolia subsp. angustifolia Desert Ash</td>
<td>50</td>
<td>6.0</td>
<td>2.6</td>
<td>13</td>
<td>11</td>
<td>Good</td>
<td>Good</td>
<td>5-10yrs</td>
<td>Mature</td>
<td>Third party</td>
<td>Exotic</td>
<td></td>
</tr>
<tr>
<td>2 (12)</td>
<td>Ficus carica Common Fig</td>
<td>40</td>
<td>4.8</td>
<td>2.2</td>
<td>5</td>
<td>6</td>
<td>Good</td>
<td>Fair</td>
<td>5-10yrs</td>
<td>Mature</td>
<td>Third party</td>
<td>Exotic</td>
<td></td>
</tr>
</tbody>
</table>

Table 3 Notes: Tree descriptions relating to health, structure, ULE, age and retention value are supplied in the appendix section of this report and should be referred to as part of the assessment provided in the above table.
3.2 PROPOSED SITE PLAN AND TREE LOCATIONS

![Site Plan and Tree Locations Diagram]

Figure 1 Proposed site plan supplied by the client shows tree locations and TPZs

3.3 PROPOSED DEVELOPMENT IMPACT TO TREES

Proposed plans include the construction of a new driveway within the TPZ and SRZ of tree 1. A portion of the garage for unit 1 will also encroach the TPZ of tree 1. Total encroachment into the TPZ of tree 1 by proposed works is approximately 35-40%, however impact to the tree can be reduced through alternative construction methods which minimise excavation as outlined in section 4.2 of this report. Minor canopy pruning will be required for tree 1 to allow adequate space for construction.

Proposed construction plans encroach <10% of the TPZ of tree 2. Demolition of an existing shed within the TPZ of tree 2 will be required during the early stages of site establishment.

Trees 1 and 2 will require protection controls during demolition, construction and landscaping—refer to section 4 of this report.

Arborist Report- 8 Sterling Avenue, Highett. Page 5 of 13
4 TREE PROTECTION REQUIREMENTS

4.1 OVERVIEW OF TREE PROTECTION REQUIREMENTS
The following tree protection requirements have been adapted from Australian Standard AS 4970-2009 Protection of Trees on Development Sites and must be implemented for trees 1 and 2 at the commencement of development works, and be maintained throughout the entire development period. An AQF level 5 or higher arborist must be engaged as the project arborist for the duration of site works.

Differing tree protection controls will be required at various stages of the development. The main stages of development are categorized into; design/pre-demolition, demolition, construction (including utility and services installation) and landscaping. Alterations to work scheduling that may affect the implementation of tree protection controls must be brought to the attention of the project arborist for review.

4.2 DESIGN/PRE-DEMOLITION STAGE
a) Proposed plans must show the driveway within the TPZ of tree 1 to be constructed above the existing soil grade with no requirements for soil excavation other than within 1m of the northern site boundary adjoining the pedestrian footpath (required due to change in level at site boundary).
b) The driveway for unit 1 must be offset from the western site boundary by at least 0.5m.
c) The nominated driveway surface must be permeable.
d) Soil below the driveway may not require compacting to achieve construction outcomes.
e) Demolition plans must show the TPZs of trees 1 and 2 with a notation stating; 'No changes to soil levels, arborist must be present during demolition works within TPZ'.
f) An AQF level 5 or higher arborist must be engaged as the project arborist. Details (company, name, qualification and contact) of the engaged arborist must be supplied to the responsible authority and be made available to all demolition and construction staff as required.

4.3 DEMOLITION/PRE CONSTRUCTION STAGE
a) The project arborist must be onsite to supervise and consult with demolition staff operating within or adjacent to the TPZs.
b) Machinery must not be driven within the TPZs.
c) Excavation must not occur within the TPZs other than specified in points 4.2.a and 4.4.g.
d) Minor canopy pruning must be performed on tree 1 at this stage. All pruning must be conducted in accordance with AS 4373-2007 Pruning of Amenity Trees and any other relevant law, policy or guidelines enforced by local authority.
e) Material storage areas and site amenities must be established outside of the TPZs.
f) Underground utilities and services must be routed outside the TPZs or be installed using directional boring at a depth greater than 1.0m. Boring pits must be positioned outside the TPZs or as approved by the project arborist.
4.4 **CONSTRUCTION STAGE**

a) 1.8m high temporary chain mesh TPZ fencing must be erected to exclude the maximum area of TPZ from the construction work zone, whilst allowing for safe and adequate construction space. Consultation between the builder/project manager and the project arborist will be required.

b) TPZ fencing must not impede roads or walkways. Existing boundary fencing may be utilised as part of TPZ fencing. TPZ Fencing must be erected in accordance with Australian Standard AS 4687-2007 Temporary Fencing and Hoardings.

c) Signage must be attached to the TPZ fencing detailing the restrictions of that zone and contact details for the project arborist.

d) Requirements to alter or access the TPZs must be approved by the project arborist and the responsible authority.

e) The surface of the TPZs must be covered by a 75mm thick layer of organic mulch.

f) Drainage and underground utilities must be routed outside the TPZs.

g) Excavation must not occur within the TPZs other than as specified by the project engineer for footings of dwellings and garages and as specified in point 4.2.a.

h) Underground utilities and services must be routed outside the TPZs or be installed using directional boring at a depth greater than 1.0m. Boring pits must be positioned outside the TPZs or as approved by the project arborist.

i) The project arborist must be present during any works which require access into the fenced off portion of TPZs.

j) Any roots discovered at the outer edge of the TPZs must be pruned back to undamaged wood by the project arborist using clean sharp tools.

k) Irrigation regimes may be required and implemented at the discretion of the project arborist.

4.5 **LANDSCAPING STAGE**

a) The project arborist must be consulted by the builder and landscape staff regarding the removal of tree protection controls such as temporary fencing, mulch and irrigation.

b) The project arborist must be onsite to supervise the construction of hard surfaces within TPZs.

c) The project arborist must attend the site at completion of development works and complete a final assessment of protected trees. The project arborist must provide to the client and responsible authority (at their request) a final certification document outlining any impacts the development has had on the protected trees and recommendations for rectifications works as required.
5 CONCLUSION AND RECOMMENDATIONS

Proposed plans must show the driveway for unit 1 to be constructed above the existing soil level as possible while accommodating the change in level between the street frontage and the subject site.

Excavation will be required within the TPZs of trees 1 and 2 for footings of garage 1 and unit 3.

It is expected that trees 1 and 2 will remain in good health post development, provided proposed plans can allow for restricted excavation within the TPZ of tree 1 as outlined in section 4.2 and tree protection controls outlined in section 4 of this report are implemented.

Tree protection measures outlined in section 4 of this report must be applied to trees 1 and 2.

All canopy and root pruning must be completed in accordance with AS 4373-2007 Pruning of Amenity Trees.
6 REFERENCES AND APPENDICES

6.1 APPENDIX 1 SUPPORTIVE PHOTOGRAPHS

Figure 2 Tree 1

Figure 3 Tree 1 in relation to property boundary and grassed area of proposed driveway

Figure 4 Tree 2, note shed to be demolished
6.2 APPENDIX 2 DATA DESCRIPTORS, DEFINITIONS AND CRITERIA

HEALTH

- **Dead** – Tree is completely dead, non-functional crown (no green leaves), stem cambium completely dead, no evidence of root suckers or lignotuberos sprouts.
- **Poor** – Tree is presenting large quantities of crown dieback extending from tip dieback to major scaffold branches. Persistent infections of pathogens, insect borers, fungal cankers and root disease. Irreversible condition ultimately leading to death. Any treatments may only be seen as temporary to achieve hazard reduction prior to tree removal.
- **Fair** – Tree is presenting symptoms of stress that may be due to seasonal biotic or abiotic conditions e.g. water stress or seasonal defoliators. The symptoms may include tip dieback (less than 25mm diameter), crown thinning, defoliation, leaf discoloration, reduced leaf and/or internode length (less than 75% normal average size of non-stressed specimen), the condition may be reversible.
- **Good** – Tree is generally free of pest and disease Symptoms, any biotic or abiotic stress is not to be present over more than 25% of the tree parts concerned. Internode length may be variable but generally consistent in length for the last 2 annual increments.
- **Excellent** – Tree is completely free from evidence of pest or disease organisms. Tree is exhibiting no signs of abiotic stress such as tip dieback or loss of foliage. Growth is of typical colouration, size and quantity for that species at that location. Internode length is consistent or increasing in length from previous 2 increments. The tree crown appears complete and balanced.

STRUCTURE

- **Very poor (extremely defective)** – Tree has pronounced structural weakness that may be due to poor growth development, fungal decay, previous failures within crown, mechanical damage including past pruning or a combination of these and is presenting symptoms of instability and possible imminent structural failure of major structural component(s).
- **Poor (moderately defective)** – Tree has structural weakness that may be due to poor growth development, fungal decay, mechanical damage including past pruning or a combination of these but is not at this time presenting symptoms of imminent structural failure of major structural components.
- **Fair (minimally defective)** – Tree has some structural weakness but failure of which is not a major structural component and does not present any symptoms of potential imminent failure. Tree does not appear significantly fungally degraded in any structurally significant component.
- **Good (non-defective)** – Tree does not appear to have any notable structural weakness, symptoms of structural distress or indicators of fungal decay.

AGE CLASSIFICATIONS

- **Juvenile** – Young trees that are yet to reach one third of their expected size generally less than 10 years old.
- **Reformed** – Trees which have previously been cut to a stump and allowed to regrow.
- **Semi-mature** – Trees which have reached approximately half of their expected size and are less than one third of the way through their expected lifespan; species and location considered.
- **Mature** – Trees which have reached their expected size and are approximately between one third and two thirds of the way through their expected average lifespan; species and location considered.
- **Senescent** – Trees which have over matured within the surrounding landscape and present in decline by way of tip dieback, fungal decay, branch shedding, or pest infestation.
- **Dead** – Trees which present with a non-functional crown (no green leaves), stem cambium completely dead, no evidence of root suckers or lignotuberos sprouts.
SIGNIFICANCE / RETENTION DESCRIPTORS

- **Low Significance** – Trees that offer little in terms of contributing to the future site for reasons of poor health, structural condition or species inaptness in relation to unacceptable growth habit, noxious, poisonous or invasive weed species or a combinations of these characteristics. Juvenile and semi mature trees which could be readily replaced may also be placed in this category.

- **Moderate Significance** – Trees offering some beneficial attributes that may enhance the site or local environment in relation to botanical, historical or local significance but may be limited to some degree by their current health condition, structural condition or short (<10yrs) ULE.

- **High Significance** – Trees with potential to positively contribute to the future site or local environment due to their botanical, historical or local significance in combination with good characteristics of health & structure, ULE >10 yrs. Remnant specimens may also be placed in this category regardless of health & structure.

- **Third party/ Neighbouring trees** – Trees located within adjoining properties or council owned land, these trees should be protected from major physical injury or where appropriate permission may be sort to alter or replace the tree/s.

Trees of Low significance should be considered for removal prior to development works proceeding. Trees of Low significance should place no restraints on proposed designs.

Trees of Moderate significance should be considered for retention where possible within the development design, but not necessarily to the detriment of the design. Arboricultural works or alternate construction techniques within acceptable limits may be utilized to allow construction to proceed with the retention of moderate significance tree/s.

Trees of High significance should be considered for retention and be incorporated within the design layout. All avenues of tree protection and alternate construction techniques should be investigated.

**Origin**

- **Native** – Species that occur naturally in other states of Australia.
- **Vic native** – Species that occur naturally in Victoria (may also be found in other parts of Australia).
- **Exotic** – Species that occur naturally outside of Australia, i.e. the species has been introduced.
- **Garden origin** – Species that have been cultivated through the nursery industry.
Useful Life Expectancy – ULE

(Adapted from Barrell 2001)

20+/long: Trees that appear to be retainable in the current landscape for more than 20 years.
1. Structurally sound trees located in positions that can accommodate future growth.
2. Minimally defective trees that could be made suitable for retention in the long term by remedial arboricultural practices.
3. Trees of special significance for historical, commemorative or rarity reasons that would warrant extraordinary efforts to secure their long-term retention.

10-20/Medium: Trees that appear to be retainable in the current landscape for 10 to 20 years.
1. Trees that may only live between 10 and 20 years.
2. Trees that may live for more than 20 years but would be removed to allow for new plantings.
3. Trees that may live for more than 20 years but would be removed during the course of normal management for safety or nuisance reasons.
4. Minimally defective trees that can be made suitable for retention in the medium term by remedial arboricultural practices.

5-10/Short: Trees that appear to be retainable in the current landscape for 5 to 10 years.
1. Trees that may only live for 5 to 10 years.
2. Trees that may live for more than 10 years but would be removed to allow for new plantings.
3. Trees that may live for more than 10 years but would be removed during the course of normal management for safety or nuisance reasons.
4. Defective trees that require substantial remedial work to make safe and are only suitable for retention in the short term.

<5 years/Remove: Trees requiring immediate removal, or weed species that would need removal within the next 5 years. Arboricultural practices not warranted.
1. Dead trees.
2. Declining trees through disease or inhospitable conditions.
3. Dangerous trees through instability or recent loss of adjacent trees.
4. Dangerous trees through structural defects including cavities, decay, included bark, wounds or poor form.
5. Damaged trees that are considered unsafe to retain.
6. Trees that are listed as noxious weeds in the subject area.
7. Trees conflicting with structures, underground utilities or hard surfaces that cannot easily be remedied through engineering solutions.
6.3 REFERENCES

<http://www.barrelltreecare.co.uk/pdfs/BT08-Sydney.pdf>

Australia, Sydney.

Standards Australia, 2009. Australian Standard AS-4970 Protection of trees on development sites,
Standards Australia, Sydney.
4.4 52 SPICER STREET, BEAUMARIS
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/789  WARD: SOUTHERN

City Planning & Community Services - Statutory Planning
File No: PSF/15/8755 – Doc No: DOC/18/152123

1. Application details

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<td>Ms A Vlahakis</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The site is subject to restrictive covenant 1444952. The covenant does not restrict the proposed vegetation removal.</td>
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<td>Date application received</td>
<td>23 November 2017</td>
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<td>Current statutory days</td>
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</tr>
<tr>
<td>Number of objections</td>
<td>2</td>
</tr>
</tbody>
</table>

Proposal
The application seeks the removal of four native trees in a Vegetation Protection Overlay on a lot with an area of 671 square metres.

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 42.02-2 (Vegetation Protection Overlay Schedule 3) – 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:
**Internal Referral** | **Response**
--- | ---
Arborist | Supports removal of trees 5 and 6. Trees 2 and 3 to be retained.

Public notification

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

- Loss of vegetation without sufficient justification, and
- Loss of wildlife.

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

Consultation meeting

Council officers decided not to hold a consultation meeting for this application given the recommendation of the Arborist was to support the removal of the dead tree and tree in decay (tree 5 and 6) and the retention of the two healthy trees (trees 2 and 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 2017/789 for the land known and described as **52 Spicer Street, Beaumaris**, for 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 generally in accordance with the advertised plan dated 22/02/2018 but modified to show:
   a) Retention of tree 2 (*Corymbia citriodora*) and tree 3 (*Acmena smithii*).
   b) A Landscaping Plan in accordance with Condition 3 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. Landscaping

   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 drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) The retention of tree 2 (*Corymbia citriodora*) and tree 3 (*Acmena smithii*).
   b) A survey, including the botanical name and dimensions at maturity of the proposed replacement tree on the site.
c) The provision of one replacement canopy tree of native or indigenous origin in the rear garden with a mature height equal or greater than 10m.

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

5. Any pruning that is required to be done to the canopy of any tree to be retained (trees 2 and 3) 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 2 and 3) is to be done by hand by a qualified Arborist.

**Permit Expiry**

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

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

5. **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 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.04 Environmental and Landscape Values
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy (Precinct H2)
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 42.02 Vegetation Protection Overlay (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- 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 H2. Subject to condition 1 changes to retain two trees, the proposal is considered to demonstrate an acceptable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

Established gardens that contain some substantial vegetation including trees are typical of this precinct. Two of the trees proposed to be removed are either dead or suffering major decay and no objection is raised to their removal. The other two trees have a high retention value with a life expectancy of over 20 years. Council’s Arborist does not support their removal and as such conditions are included in the recommendation to require their retention. In addition a condition is included for a replacement canopy tree in the rear garden to offset the removal of two trees on this site.

6.2. **Landscaping**

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

The application plans show the removal of four trees from the site protected by the VPO3, identified in the table below.

<table>
<thead>
<tr>
<th>VPO3 protected trees</th>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed for removal</td>
<td>Proposed for retention</td>
<td></td>
</tr>
<tr>
<td>Tree 2, 3, 5 &amp; 6</td>
<td>1, 4</td>
<td>-</td>
</tr>
</tbody>
</table>

From an arboriculture perspective Council’s Arborist has reviewed the application and advises that the removal of tree 5 (dead) and tree 6 (major decay in lower stem) is supported. However, trees 2 and 3 should be retained as their removal would not comply with the VPO objectives.

An assessment against the decision guidelines of the VPO3 is provided at Attachment 4. Both trees have good structures and fair to good health. They have a high retention value and life expectancy of more than 20 years. Furthermore, it is noted that the submitted Arborist report states that if tree 2 (*Corymbia citriodora*) is not removed, then the dead and highly fatigued limbs should be pruned. The hazard rating for this tree is 1/50 000, which is within the acceptable range and is not considered to pose an unacceptable risk. See section 6.3 below in relation to tree 3.

6.3. **Structural damage to the property**

The arborist report submitted with the application states that, in their opinion, tree 3 (*Acmena smithii*) is causing damage to the foundations of the dwelling. Council’s Building Inspector has carried out a site inspection and found that tree 3 is located in the front yard, approximately 2 metres from the front wall of the dwelling.
This wall is of brick construction with two large windows and the bottom window sill being at floor level. There is a hairline vertical crack to the sill brickwork of the southern window (driveway side), but there is no other damage, movement or cracking to the front wall of the dwelling.

If there was major structural damage and/or footing movement, it would be expected to find cracking at the top corners of the windows of the top lintels. The hairline crack to the sill brickwork is very minor and would be expected in a house of this age. Additionally the house has not been maintained and there are loose and disconnected roof gutters.

Council’s Building Inspector is therefore satisfied that the tree does not require removal. The purported cracking/movement is noted as minimal and expectant for a dwelling of this era and type of construction. There are method and management systems (tree root barrier) that can be considered and put in place to mitigate any further potential for the existing dwelling to be included by the drying effect of the tree.

Support Attachments

1. Development Plan ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment ↓
4. VPO Assessment ↓
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐️</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>⚪️</td>
</tr>
</tbody>
</table>
Figure 2 View towards the site from the west showing tree 2 and 3 to be retained
Figure 3 View within the site from west showing tree 5 to be removed
**ATTACHMENT 3**  
Neighbourhood Character Policy (Precinct H2)

**Preferred Future Character**

The low scale dwelling styles sit within established gardens that contain some substantial vegetation including trees. Front setbacks are large, and sometimes variable, and dwellings usually include a pitched roof form of some type. The streetscapes have an open feel due to buildings being offset from at least one side boundary and a lack of intrusive front fencing, complemented by wide roads and nature strips. Linkages with the remainder of the Beaumaris area are strengthened through the use of more indigenous planting in the private and public domains.

**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 that includes substantial trees and shrubs, preferably indigenous species.  
• Retain large established trees and provide for the planting of new trees and shrubs wherever possible (locate footings outside root zone). | • Lack of landscaping and substantial vegetation. | Responds subject to condition  
The tree removal plan submitted with the application shows the removal of four trees from the site.  
Council's Arborist supports the removal of two of these trees, one of which is dead and the other of which has major decay.  
The removal of the other two trees is not supported and this will be secured via condition.  
There is extensive vegetation on the site, however it is considered appropriate for a single replacement canopy tree in the rear garden, which will be secured via condition. |
| • To maintain the rhythm of spacious visual separation between buildings and allow space for trees and other planting. | • Buildings should be sited to create the appearance of space between buildings and accommodate vegetation.  
• Buildings should be sited to allow space for a garden including trees and shrubs. | • N/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 minimise the dominance of car parking facilities.</td>
<td>• Locate garages and car ports at or behind the line of the dwelling.</td>
<td>• Car parking facilities that dominate the façade or view of the dwelling.</td>
<td>N/A</td>
</tr>
<tr>
<td>• To ensure that new buildings reflect the low scale forms of the area,</td>
<td>• Incorporate design elements into the front façade design of new dwellings such as recessed portions,</td>
<td>• Large, bulky buildings poorly articulated roof, front and side wall surfaces.</td>
<td>N/A</td>
</tr>
<tr>
<td>and provide an articulated and interesting façade to the street.</td>
<td>projecting elements behind the front setback line, pitched roof forms, combinations of materials,</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>textures or colours or other elements providing appropriate articulation.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Recess upper levels from the front façade.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• To use building materials and finishes that complement the natural</td>
<td>• Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting,</td>
<td>• Period reproduction styles and detailing.</td>
<td>N/A</td>
</tr>
<tr>
<td>setting.</td>
<td>glazing, stone and brick.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• To enhance the openness and informality of the streetscape and maintain</td>
<td>• Provide open style front fencing, other than along heavily trafficked roads.</td>
<td>• High or solid front fencing.</td>
<td>N/A</td>
</tr>
<tr>
<td>views into front gardens.</td>
<td>• Use vegetation as an alternative wherever possible.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
ATTACHMENT 3
Vegetation Protection Overlay (VPO) Assessment

Tree No. 2
Botanical Name: Corymbia citriodora
Common Name: Lemon scented gum
Height / Canopy: 20m x 10m
Trunk Circ.@1m: 205
Location 1: W0
Location 2: N4

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

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Category</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Origin</td>
<td>Indigenous</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Victorian</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Australian/Exotic</td>
<td>2</td>
</tr>
<tr>
<td>Occupation by native fauna</td>
<td>Occupied by native fauna</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>Signs of use by fauna</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>No signs of use by fauna</td>
<td>2</td>
</tr>
<tr>
<td>Diameter of tree trunk &lt;80cm</td>
<td>Living canopy</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>Dead canopy</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Living canopy</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>Dead canopy</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Dead canopy</td>
<td>1</td>
</tr>
<tr>
<td>Hollow-boring tree</td>
<td>Tree bearing a natural hollow</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>No natural hollow, artificial</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>habitat hollow can be</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>installed, Low to moderate</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>level of maintenance</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>No natural hollow and</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>unsuitable for installation</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>of artificial</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>habitat hollow, High</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>level of maintenance</td>
<td>2</td>
</tr>
<tr>
<td>Useful life expectancy &lt;100</td>
<td>years</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>4 - 9 years</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>0 - 3 years</td>
<td>2</td>
</tr>
<tr>
<td>Wildlife corridors</td>
<td>Within 50 m of a green space</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>park or reserve</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>Outside 50 m of a green</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>space, park or reserve</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>Greater than 0.5 km from a</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>green space, park or reserve</td>
<td>3</td>
</tr>
<tr>
<td>Impacts on adjacent flora</td>
<td>Removal will have negative</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>impacts on indigenous flora</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>Removal will have negative</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>impacts on native flora</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Removal will have no negative</td>
<td>5</td>
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<tr>
<td></td>
<td>impacts on indigenous or</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>native flora</td>
<td>5</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>12</td>
</tr>
</tbody>
</table>

Item 4.4 – Matters of Decision
### Decision guideline | Response
---|---
The impact the vegetation removal would have on the character of the area | Reduce amenity of area. Runs contrary to NCPH2 where large trees are to be retained.
The impact the vegetation removal would have on the presence of indigenous species in the locality | No foreseeable impact.
The impact the vegetation removal would have on the appearance of development | Likely increase the presence of the built form.
The impact the vegetation removal would have on the habitat quality of any remaining vegetation and the fragmentation of wildlife corridors | Potential of fragment wildlife corridors if removal occurs.
Any proposal to regenerate or plant indigenous vegetation on the site | No proposal has been offered.

Is tree removal supported: Yes ☐ No ☒

| Tree No. | 3 |
| Botanical Name: | Syzygium smithii |
| Common Name: | Lilly Pilly |
| Height / Canopy: | 14m x 8m |
| Trunk Circ.@1m: | 200 |
| Location 1 | W3 |
| Location 2 | N6 |
| Origin: | Indigenous | Victorian | Australian | Exotic |
| Age: | Young | Semi-mature | Mature | Over-mature |
| Health: | Good | Fair | Poor | Dead |
| Structure: | Good | Fair | Poor | Hazardous |
| Amenity Value: | High | Moderate | Low | None |
| Life Expectancy: | 20 years + | 10-19 years | 4-9 years | 0 - 3 years |
| Retention Value: | High | Medium | Low | None |
| Habitat value: | High | Moderate | Low |
### Tree Habitat Value Assessment Matrix

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Origin</td>
<td>Indigenous</td>
<td>2 points</td>
</tr>
<tr>
<td></td>
<td>Introduced</td>
<td>2 points</td>
</tr>
<tr>
<td></td>
<td>Australian/Exotic</td>
<td>0 points</td>
</tr>
<tr>
<td>Occupied by native fauna</td>
<td>Occupied by native fauna</td>
<td>6 points</td>
</tr>
<tr>
<td></td>
<td>Signs of use by fauna</td>
<td>2 points</td>
</tr>
<tr>
<td></td>
<td>No signs of use by fauna</td>
<td>0 points</td>
</tr>
<tr>
<td>Diameter of tree trunk</td>
<td>&lt;50cm</td>
<td>5 points</td>
</tr>
<tr>
<td></td>
<td>&lt;50–100cm</td>
<td>3 points</td>
</tr>
<tr>
<td></td>
<td>&gt;100cm</td>
<td>0 points</td>
</tr>
<tr>
<td></td>
<td>Living canopy</td>
<td>2 points</td>
</tr>
<tr>
<td></td>
<td>Dead canopy</td>
<td>0 points</td>
</tr>
<tr>
<td></td>
<td>No canopy</td>
<td>0 points</td>
</tr>
<tr>
<td>Hollow-bearing tree</td>
<td>Yes</td>
<td>6 points</td>
</tr>
<tr>
<td></td>
<td>No or not applicable</td>
<td>0 points</td>
</tr>
<tr>
<td>Useful life expectancy</td>
<td>&gt;15 years</td>
<td>2 points</td>
</tr>
<tr>
<td></td>
<td>5–9 years</td>
<td>2 points</td>
</tr>
<tr>
<td></td>
<td>0–3 years</td>
<td>0 points</td>
</tr>
<tr>
<td>Wildlife corridor</td>
<td>Within 50 m of a green space, park or reserve</td>
<td>3 points</td>
</tr>
<tr>
<td></td>
<td>&gt;50 m from a green space, park or reserve</td>
<td>0 points</td>
</tr>
<tr>
<td>Impacts on adjacent flora</td>
<td>Removal will have negative impacts on indigenous flora</td>
<td>3 points</td>
</tr>
<tr>
<td></td>
<td>Removal will have minimal impacts on indigenous flora</td>
<td>2 points</td>
</tr>
<tr>
<td></td>
<td>Removal will have negative impacts on non-indigenous flora</td>
<td>0 points</td>
</tr>
<tr>
<td>Total</td>
<td>15 points</td>
<td></td>
</tr>
</tbody>
</table>

### Decision Guideline

| The impact the vegetation removal would have on the character of the area | Reduce amenity of area. Runs contrary to NCPH2 where large trees are to be retained. |
| The impact the vegetation removal would have on the presence of indigenous species in the locality | No foreseeable impact. |
| The impact the vegetation removal would have on the appearance of development. | Likely increase the presence of the built form. |
| The impact the vegetation removal would have on the habitat quality of any remaining vegetation and the fragmentation of wildlife corridors | Potential of fragment wildlife corridors if removal occurs. |
| Any proposal to regenerate or plant indigenous vegetation on the site. | No proposal has been offered. |

**Definitions**

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

**H (High)**

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

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

(L) Low

The tree is generally in fair health and structure, provides low levels of amenity and may do so for up to 10 years. The tree may be juvenile or otherwise small and easily replaced by advanced plantings or plantings that will provide similar amenity value in a reasonable timeframe.
4.5 6 - 8 MYRTLE STREET, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/746/1 WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/153360

1. Application details

<table>
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<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Stonnington Residential</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants</td>
</tr>
<tr>
<td>Date application received</td>
<td>13 November 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>33 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
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<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 1)</td>
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<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td></td>
<td>Vegetation Protection Overlay (Schedule 3)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>3</td>
</tr>
</tbody>
</table>

Proposal
The application seeks approval for the construction of a first floor extension to an existing building with storey heights is excess of 3.5m in a Design and Development Overlay, Schedule 1 on a lot with an area of 1,684 square metres. Key details of the proposal are as follows:

- Existing single storey dwelling to be extended with ground and first floor addition.
- Two Storey, 7.4 metre overall maximum height.
- Flat roof, Georgian style.
- Site coverage 22.9%.
- 73.5% Garden Area.

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 43.02 -2 (Design and development overlay, Schedule 1) – Construct a building or construct or carry out works.

Planning Scheme Amendments
There are no Planning Scheme Amendments relevant to this application.
3. Stakeholder consultation

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

**Internal referrals**
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:

- Height of extension;
- Privacy and overlooking;
- Setbacks;
- Insufficient car parking;
- Overshadowing;
- Plans quality of inconsistencies; and
- Property Value.

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 three objectors. As a result of this meeting one objection was withdrawn and the applicant circulated amended plans to address concerns from the remaining objectors.

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 2017/746 for the land known and described as **6-8 Myrtle Street, Brighton**, for the **construction of a first floor extension to an existing building with storey heights is excess of 3.5m in a Design and Development Overlay, Schedule 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 amended plans Council date stamped 31 May 2018 prepared by Stonnington Residential referenced 1747 and dated 21.03.2018 A but modified to show:
   a) 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 Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

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

**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 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.

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- The existing street trees must not be removed or damaged.

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.

Bayside Planning Scheme

- Clause 9  Plan Melbourne
- Clause 11  Settlement
- Clause 12  Environmental and Landscape Values
- Clause 15  Built Environment and Heritage
- Clause 16  Housing
- Clause 21.02  Bayside Key Issues and Strategic Vision
- Clause 21.03  Settlement and Housing
- Clause 21.04  Environmental and Landscape Values
- Clause 21.06  Built Environment and Heritage
- Clause 22.06  Neighbourhood Character Policy (Precinct C1)
- Clause 22.08  Water Sensitive Urban Design
- Clause 32.09  Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02  Design and Development Overlay (Schedule 3)
- Clause 45.06  Development Contributions Plan 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. Neighbourhood character

The site is located within Neighbourhood Character Precinct C1. Where a design response is applicable, 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 building height and massing of the buildings elements will not dominate the streetscape and will remain respectful and integrated with the coastal setting of the subject site.

From the streetscape, the existing single storey building is located 12 metres behind the street frontage and first floor addition provides a 15 metres street setback.

Demonstrating an overall maximum height of 7.4 metres, the proposals low scale design will provide a recessive transition between the adjoining buildings. The flat roof form is in keeping with the varied roof types in the immediate surrounds and that in combination with the generous setbacks, will have limited off site and third party impacts.

Moreover, the siting of the first floor addition and ground floor extension to the rear will maintain the existing landscaping that will assist in preserving the spaciousness of the site.

As a result of the proposal, further landscaping will not be required to assist in integrating the development to the streetscape or provide visual relief to the public realm as the existing fencing largely ameliorates the contribution of landscaping to the immediate surrounds.

On balance, the proposal’s design response is considered to be acceptable.

6.2. Design and Development Overlay, Schedule 1

The application is not subject to the objectives, standards and decision guidelines of Clause 54 (ResCode). However, pursuant to Clause 43.02-3 (Design and Development Overlay, Schedule 1), the Responsible Authority must consider matters of siting, height, design, building setbacks and landscaping. Additionally, the proposal must meet the objectives of this schedule and improve the amenity of the area.

The application proposes a first floor extension to the existing single storey dwelling that will result in storey heights in excess of 3.5 metres (in this instance 3.8 metre storey height is proposed).

Due to the existing 3.3 metre ceiling height of ground floor, any first floor addition would trigger the requirement of the DDO1, irrespective of design and layout.

Given the generous setbacks of the first floor addition from the north (18m), east (18m) and west (15m) there would be no unreasonable amenity impact.

The most sensitive interface is to the south, which contains double storey dwellings that feature north facing habitable room windows and secluded private open space. The first floor is proposed to be setback 3.9m from this south boundary (which is complaint with the required ResCode standard). Importantly, this elevation does not propose any windows and accordingly, the possibility of overlooking to any adjoining habitable room windows or secluded private open space is not possible.

The proposed side setbacks are also sufficient enough to ensure adequate solar access to the existing north facing windows. It is considered that any perceived amenity impacts as a result of the proposed side setbacks are negligible.

Despite the excess ceiling height, the overall maximum height of 7.4 metres is respectful of the scale and form of the site and its immediate surrounds. The generous setback and low scale design is in keeping within the area and will assist in protecting the amenity and privacy of adjoining residential properties.
Although shadow diagrams were not required to be submitted with the application, it is considered that any overshadowing as a result of the proposal would be limited to the southern title boundary and the existing dwellings to the south would currently experience a degree of overshadowing from the existing brick boundary fencing.

On balance, the 300 millimetre variation will not be discernible from the streetscape or adjoining properties.

Furthermore, it is considered that the proposal meets the objectives of the standard including to protect and enhance the foreshore environment and views of Bayside from Port Phillip Bay and will not detrimentally impact upon the streetscape or generate any additional off site impacts.

6.3. **Street tree(s)**

Three street trees are located within the nature strip and proposed for retention.

6.4. **Water Sensitive Urban Design (Stormwater Management)**

Pursuant to Clause 22.08 of the Bayside Planning Scheme, a response to Water Sensitive Urban Design (Stormwater Management) must be submitted with an application for accommodation.

To meet the objectives of the Clause, a condition of permit will require the submission of a report from an industry accepted performance measurement tool and amended plans detailing the measures to be incorporated within the development to demonstrate compliance with the standard.

6.5. **Objector issues not already addressed**

Insufficient car parking:

The assessment of car parking pursuant to Clause 52.06 does not apply to the extension of one dwelling on a lot in the Neighbourhood Residential Zone.

**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.

Insufficient information

Sufficient information to enable an informed view of the application has been made available for viewing at Council offices as part of the notification process, which has been carried out in accordance with Section 57 of the *Planning and Environment Act 1987*. Additional information submitted with the application has been made available at the request of interested parties.

**Support Attachments**

1. Development Plans ↓
2. Sites and Surrounds ↓
3. Neighbourhood Character Assessment, C1 ↓
Item 4.5 – Matters of Decision
ATTACHMENT 2
SITE AND SURroundS IMAGERY

Figure 1 Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>★</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>●</td>
</tr>
<tr>
<td>Withdrawn</td>
<td>▲</td>
</tr>
</tbody>
</table>
Figure 2 View towards the site frontage from the west.

Figure 3 View towards the site frontage from the west, showing the existing single storey dwelling.
Figure 4 View towards the site's southern title boundary and the adjoining dwelling at 2 Myrtle Street, Brighton.

Figure 5 View towards the site's northern title boundary and the adjoining dwelling at 5 Seacombe Grove, Brighton.
ATTACHMENT 3
Neighbourhood Character (Precinct C1) Assessment

Preferred Future Character Statement

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

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
• Alterations and extensions should retain the front of these dwellings. | Demolition of dwellings that contribute to the valued character of the Precinct. | N/A  
Demolition of the existing dwelling is not proposed. |
| To maintain and enhance the spacious garden settings of the dwellings. | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. | Lack of landscaping and substantial vegetation. | N/A                                                                                           |
| To enhance the bayside vegetation character of the area.     | • Retain large trees and established native and traditional coastal vegetation and provide for the planting of new indigenous coastal trees where possible. | Removal of large native and coastal trees.  
Planting of environmental weeds. | N/A  
No vegetation is proposed to be removed or impacted as result of the proposal. |
| To retain the sense of spaciousness in the area and provide adequate space for front gardens. | • Buildings should be sited to allow space for the planting of trees and shrubs.  
• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | Compiles  
Existing front and side setbacks are maintained at ground floor whilst generous first floor side and rear setbacks are provided that results in the maintenance of the sites spacious setting. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To minimise the dominance of car parking facilities, driveways and crossovers.</td>
<td>• Locate garages and car ports at or behind the line of the dwelling.</td>
<td>Car parking facilities that dominate the façade or view of the dwelling.</td>
<td>N/A No changes are proposed to the existing cross over arrangement.</td>
</tr>
<tr>
<td></td>
<td>• Minimise hard paving in front yards.</td>
<td>Loss of front garden space.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>To ensure that new buildings and extensions do not dominate the streetscape.</td>
<td>• Recess upper level elements from the front façade.</td>
<td>High pitched roof forms with dormer windows.</td>
<td>Complies The flat roof form and generous setbacks provided to the first floor extension, result in a recessed design response to the most sensitive interface to the southern elevation.</td>
</tr>
<tr>
<td>To respect the identified heritage qualities of adjoining buildings.</td>
<td>• Where adjoining an identified heritage building, respect the height, building forms, siting and materials, of the heritage building's in the new building design.</td>
<td>Buildings that dominate heritage buildings by height, siting or massing.</td>
<td>N/A No adjoining buildings are identified as containing heritage qualities.</td>
</tr>
<tr>
<td>To encourage the use of a variety of building materials, finishes and design detail that complement the coastal setting.</td>
<td>• Use a mix of materials including timber or other non-masonry wall materials in building design.</td>
<td>Large, poorly articulated external wall surfaces of one material only.</td>
<td>Complies The first floor extension is of a much simpler form than the traditional ground floor, however, only glimpses of the extension will be visible from the streetscape due to the siting of the dwelling. The proposal will make no discernible contribution to the coastal setting of the precinct.</td>
</tr>
<tr>
<td></td>
<td>• Use simple building details and articulate roof forms.</td>
<td>Heavy materials and design detailing (e.g. large masonry columns and piers).</td>
<td></td>
</tr>
<tr>
<td>To encourage the openness of the streetscape.</td>
<td>• Provide open style fencing, other than along heavily trafficked roads.</td>
<td>High, solid front fencing.</td>
<td>N/A</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------</td>
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</tbody>
</table>
| To create a visually interesting and attractive built form interface with   | • Articulate the form of 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.   | Buildings that have no relationship to the foreshore setting.  
Poorly articulated roof and building forms.  
Highly reflective materials or glazing.  
Blank walls facing the foreshore.  
Lack of distinction between public and private spaces along the foreshore. | N/A  
The subject site does not front the foreshore nor will the extension be visible from the foreshore.                                               |
| the foreshore reserve, on properties fronting the reserve and visible from  | • Use a mix of contemporary and traditional coastal materials, textures and finishes, including render, timber, non-masonry sheeting, glazing, stone and brick.  
• Provide a fence or landscaping treatment to delineate the property boundary fronting the foreshore reserve.  
• Provide articulated roof forms to create an interesting skyline when viewed from the beach. |                                                                                                               |                                                                                                               |
| the reserve.                                                               |                                                                                                                                                                                                             |                                                                                                               |                                                                                                               |
4.6  7 BILLSON STREET, BRIGHTON EAST
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/713/1  WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/156394

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Keen Planning</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>17 November 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>140 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>5</td>
</tr>
</tbody>
</table>

Proposal

The application seeks approval for the construction of two double storey attached dwellings, basement car parking and a front fence exceeding a height of 1.2 metres on a lot with an area of 788m².

Key details of the proposal are as follows:

- Two dwellings;
- Two storeys with a maximum building height of 8 metres;
- Site coverage: 52.2%
- Permeability: 20%
- Garden Area: 35.2%
- A total of four car spaces is provided with two car spaces allocated to each dwelling in the basement.

The application plans are provided at Attachment 1.

It is noted that the applicant has submitted draft amened plans relating to decreasing the overall size of the basement in response to Arboricultural concerns. These plans are included at Attachment 5.

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

History

There is no planning permit history relevant to this application.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:
• Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two or more dwellings on a lot and a front fence exceeding a height of 1.2 metres.

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 to Remove and replace the street tree asset</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 five objections were received. The following concerns were raised:

• Neighbourhood character;
• Overlooking;
• Overshadowing;
• Visual bulk;
• Building heights;
• Setbacks;
• Car parking; and
• Construction management

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

Consultation meeting
A consultation meeting was held on 18 April 2018 attended by the permit applicant and three objectors. As a result of this meeting no objections were withdrawn.

Draft amended plans responding to concerns raised by Council’s Arborist by decreasing the basement size have been submitted and are included at Attachment 5. These plans were not advertised as they are informal plans responding to concerns.
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 2017/713/1** for the land known and described as **7 Billson Street, Brighton East** for the **construction of two double storey attached dwellings, basement car parking and a front fence exceeding a height of 1.2 metres** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans advertised with the application prepared by Moull Murray Architects referenced Project No. 10284 Drawing No. TP.01.01, TP.01.02, TP.01.03, TP.01.04, TP.02.01, TP.02.02, TP.03.01, TP.03.02, dated 16 October 2017 and Landscape Plan prepared by Zenith Concepts Sheet 1 of 1 dated September 2017 but modified to show:

   a) The Basement and Ground Floor plans to be updated generally in accordance with the draft amended plans received by Council on 28 May 2018.

   b) Deletion of the architectural frame elements and voids associated with the façade treatment of Dwelling 1 and 2.

   c) Deletion of the street entry elements.

   d) A reduction to the extent of hard paving located with the front setback adjacent to Dwelling 1 and 2’s master bedrooms and replaced with landscaping.

   e) The first floor front setback to Dwelling 1 and 2’s west facing bedroom increased to 9.5m. The increased setbacks must be absorbed within the first floor building envelopes.

   f) The side elevations at ground and first floor level to be treated with a mix of materials and finishes.

   g) The northern side setbacks to the sitting room associated with Dwelling 1 to be offset from the common boundary with 5 Billson Street to demonstrate compliance with Standard B19 (Daylight to Existing Windows).

   h) The southern side setbacks increased or wall height decreased to demonstrate the secluded private open space associated with 1/9 Billson Street receives a minimum of five hours of unencumbered sunlight in accordance with Standard B21 (Overshadowing Open Space).

   i) Internal fencing heights nominated to demonstrate compliance with Standard B23 (Internal Views).

   j) Turntables within the basement to have a minimum 4.5m diameter and details of manufactures specifications are required.

   k) Garage door openings to each basement to have a minimum 3m width.

   l) Modifications to basement ramp gradients to be shown on a sectional diagram with annotated RL’s must be provided to confirm compliance
with Design Standard 3 (Gradients) of Clause 52.06-9 of the Bayside Planning Scheme.

m) The northern crossover to be 3 metres in width. The existing crossover (along with the redundant portion) is to be removed.

n) The southern crossover to be 3 metres in width and a minimum 0.5 metre radius to be provided between the southern edge of the new crossover and the existing side entry pit at the channel. Accordingly, the internal driveway/ramp where it intersects with the footpath to be adjusted to meet this provision.

o) Adequate sight lines must be provided where each ramp/driveway intersects with the front footpath in accordance with Design Standard 1 (Accessways) of Clause 52.06-9 of the Bayside Planning Scheme.

p) Location of all plant and equipment, with all air conditioning units to be located within the basement. Pool plant equipment is to be acoustically treated and located away from habitable room windows of dwellings (internal to external to the development).

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

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

s) A Tree Protection Plan in accordance with Condition 13 of this permit.

t) Development Contributions Levy in accordance with Condition 18 of this permit.

u) A Construction Management Plan 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.

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

**Water Sensitive Urban Design**

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

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

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

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

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

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

**Landscaping**

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Zenith Concepts Sheet 1 of 1 dated September 2017 but modified to show:

a) A reduction in hard paving to facilitate the required planting areas for replacement canopy trees in accordance with Bayside City Councils Landscape Guidelines (2016).

b) Tree protection zones (TPZ) for those neighbouring trees where their TPZ extends into the subject site.

c) An amended planting schedule including sufficient tree spacing and planting areas to ensure trees reach their mature canopy size.

d) One (1) large replacement canopy tree located within the front setback of each dwelling to grow to a minimum mature height of 12m or two (2) small replacement canopy tree species with a minimum mature height of 8m.

e) One (1) large replacement canopy tree located within the private open space of each dwelling to grow to a minimum mature height of 10m or two (2) small replacement canopy tree species with a minimum mature height of 6m.

f) 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.

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) An amended 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

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 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) No grade changes occurring within the tree Protection Zone of the KohuHu tree located at 9 Billson Street.

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

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

14. All protection measures identified in the Tree Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Protection Plan, 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.

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.

Development Contributions Levy

18. 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.

Construction Management

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

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

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

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

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

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

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

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

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

i) Site security.

j) Public safety measures.

k) Construction times, noise and vibration controls.

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

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

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

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

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

r) Details of crane activities, if any.

**Permit Expiry**

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

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

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

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

**Permit Notes:**

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

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

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

- A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department, if applicable, 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.

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

- Before the development starts the applicant must pay $18,078.07 to the Responsible Authority for the removal and replacement of an existing street tree. This amount has been determined in accordance with Councils current policy for the removal of street tree(s). This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by the Responsible Authority,
must undertake the removal and replacement of the street tree. Any replacement planting will be at the discretion of the Responsible Authority.

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 21.09 Transport and Access
- Clause 22.06 Neighbourhood Character Policy (Precinct D4)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 45.06 Drainage Contributions Plan Overlay (Schedule 1)
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

6. Considerations

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

The site is located within Neighbourhood Character Precinct D4. Subject to conditions, the proposal is considered to demonstrate an acceptable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The area is characterised by a variety of built form, consisting of a mix of single storey weatherboard, facebrick with render original housing stock and contemporary single and double storey infill dwellings set behind front fencing that varies in style, materials and height with landscaped front setbacks.

The design response is contemporary and its general form, scale and building massing with appropriate side setbacks responds to the varied residential feel of the streetscape and wider neighbourhood precinct. The side setbacks allow for a visual break with the adjoining properties to the south whilst the proposed built form on the northern boundary it mitigated through landscaping within the front setback that softens the interface between these two properties. It is recommended that the proposed side elevations are to be treated with a mix of materials to ‘break-up’ the blank white rendered façade and reduce the perception of horizontality of the facades.

The proposed architectural framed elements to the front façade however create unnecessary visual bulk that are discordant with Billson Street. The architectural elements are superfluous and should be deleted via a recommended permit condition. Ancillary to this, the proposed cantilevering first floor elements are considered contrary to the preferred neighbourhood character which advocates for first floor elements to be recessed behind the front façade. A condition of permit has been included requiring the first floor to be recessed to have a street setback not less than 9.5 metres.

Whilst the abutting properties feature pitched roof forms, the wider area including developments at 8, 25 and 36 Billson Street all feature flat roof profiles therefore the proposal is considered to be acceptable in the wider character of the area.

Similarly, conditions requiring a reduction in hard paving to the central front setback and an increased first floor front setback will assist in varying the façade treatment, resulting in an improved design response to the preferred residential garden setting and visual separation between ground and first floors facing the street.

The proposed basement negates dominant garage built form impacts to the street. Conditions requiring changes to the basement access and layout, including a reduced basement footprint will address Council’s Traffic Engineers requirements and also allow improved landscaping opportunities throughout the subject site. It is further considered appropriate to delete the street entry framing elements. These are not considered to be a feature of the area and their location represents a departure from open views to the front gardens.

On balance and subject to conditions as described above, the proposal is generally supported and will contribute favourably to the preferred neighbourhood character objectives envisioned for this precinct.

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

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

- **Neighbourhood character (Standard B1), integration with the street (Standard B5) and detailed design (Standard B31)**

As discussed above, the overall scale and massing of the building reflects the preferred neighbourhood character. However, modifications seeking the deletion of the architectural frames and ‘voids’, reducing hard paving within the front setback and increasing articulation at first floor are required to improve the façade treatment and the
proposals general fit within the preferred streetscape character. Appropriate conditions of permit are included to address these concerns.

**Street setback (Standard B6)**

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>9m</td>
<td>9m – 10.8m at ground floor and 8.8m at first floor. 7.2m to architectural frames at ground and first floor.</td>
<td>0.2m 1.8m</td>
</tr>
</tbody>
</table>

The cantilevered sections at first floor and structures associated with the architectural voids (exceeding 3.6 metres in height) present an unreasonably bulky built form to the streetscape. As a result, the first floor front setbacks are recommended to be varied via a condition of permit to increase to a minimum setback of 9.5 metres.

**Site coverage (Standard B8)**

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>50%</td>
<td>52.2%</td>
<td>2.2%</td>
</tr>
</tbody>
</table>

The proposed side and rear setbacks responds to the pattern of development within the immediate area and will allow suitable landscaping opportunities within the subject site. Therefore the 2.2% variation is considered reasonable in this instance.

It is however noted that a condition of permit requiring compliance associated with Daylight to existing windows objective (Standard B19) requires an additional offset from the northern boundary and as such this will result in the overall site coverage being further reduced.

Clause 32.09-4 requires that for the construction of a dwelling or residential building on a lot above 650 square metres, a lot must provide a minimum of 35% garden area at ground floor level.

The submitted garden area plan confirms that the development has a garden area of approximately 35.2%, which exceeds the minimum 35% garden area required by the Clause.

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

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

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

The proposed 1.23 metre side setback to Dwelling 1’s living room to the northern boundary fails the varied numerical side setback required by the schedule to the zone by 0.77 metres. The proposed setback provides appropriate separation between new and old buildings to respect the general built form character within the immediate area,
whilst maintaining a reasonable amenity response to the neighbour to the north. Therefore, the proposed variation is considered acceptable in this instance. Notwithstanding this variation, it is considered that an additional setback from the northern boundary will be required to satisfy the objectives of Daylight to existing windows (Standard B19) associated with 1/5 Billson Street (see below for further discussion).

Similarly, the proposed 0.1 metre variation sought for Dwelling 2’s first floor side setbacks are considered minimal and pose no unreasonable visual bulk detriment or reduction to daylight to the immediately south adjoining neighbours within the dwellings at 9 Billson Street.

Daylight to existing windows (Standard B19)
The sitting room wall associated with Dwelling 1 has been setback 1.15 metres from existing habitable room windows at 1/5 Billson Street. A 3 square metre light court has been provided, but fails to meet the minimum dimension of 1 metre clear to the sky as the eaves encroach into setback. It is therefore recommended a condition of permit be included requiring compliance with this Standard to allow adequate daylight to existing habitable room windows located at 1/5 Billson Street.

Overshadowing (Standard B21)
The existing private open space at Unit 1/9 Billson Street is 48 square metres. The submitted shadow diagrams indicate less than the minimum 5 hours of sunlight can be achieved throughout the day. Whilst the transgression is considered minor and provides reasonable solar access to the adjoining private open space to the south, it is considered appropriate to require a condition to reduce the adjacent wall heights and/or increased side setbacks.

Front fences (Standard B32)
Front fences within this section of Billson Street vary in height, style and materials. The proposed 1.8m high front fence with transparent pickets and a solid render central section respects the streetscape character and will allow oblique views to landscaping within the front setback.

6.3. Landscaping

Existing vegetation
Council’s Arborist advises that existing on-site vegetation, including on-site trees has a low amenity value and is not protected by the VPO or any local law and supports its proposed removal subject to conditions of permit requiring appropriate replacement landscaping, including canopy tree planting in accordance with Council’s Bayside Landscape Design Guidelines (2016).

Proposed landscaping
Concerns were raised regarding the extent of the proposed basement envelope. It is acknowledged that there is scope to reduce the basement footprint to increase deep soil areas and space to support appropriate landscaping throughout the site. Draft amended plans are included at Appendix 5 detailing proposed basement reduction which has been noted as acceptable by Council’s Arborist.

Vegetation on adjoining properties
Council’s Arborist advises the development will have a minimal impact to existing trees located on neighbouring properties, including a Kohuhu (Pittosporum tenuifolium) at 9 Billson Street, provided no grade changes occur within its TPZ that extends into the subject site. A Tree Management Plan has been included as a condition of permit.
Street tree
Council’s Open Space Arborist advises that there is an existing *Melaleuca linariifolia* street tree asset located within the nature strip in front of the subject site. The proposed 1.5 metre clearance required to construct Dwelling 2’s crossover will severely impact the street tree due to its encroachment within its Tree Protection Zone. Council’s Open Space Arborist supports the removal of the street tree asset subject to all costs associated with the removal and replacement street tree asset are covered by the landowner/permit holder.

6.4. *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 two car spaces per three or more bedroom dwellings.

Each unit will comprise four bedrooms with each afforded two car parking spaces within the basement. Therefore, the proposed on-site car parking provision satisfies the requirements of Clause 52.06-5.

The submitted plans were referred to Council’s Traffic Engineer who supports the proposal subject to standard traffic conditions that seek modifications to crossovers, basement ramp grades and widths and turntable dimensions and clarification related to the location of tandem car spaces located within the basement. The submitted plans can be amended to address these requirements via conditions of permit. It is noted the draft amended plans included at Appendix 5 Generally response to the concerns raised by Council’s Traffic Engineer.

In addition, it is considered that the proposed development will have no significant impact on traffic congestion and/or the existing on-street car parking network within Billson Street or surrounding streets and was not raised as a concern by Council’s Traffic Engineer.

6.5. *Development contributions levy*

The subject site is located within catchment area 8B.

Based on the proposed application and the below recommendation, a payment of $2020 is required. The payment of the development contributions will be recommended as a condition of permit.

6.6. *Objector issues not already addressed*

*Construction management*

Building work can sometimes affect adjoining properties. An owner who is proposing building work has obligations under the *Building Act 1993* to protect adjoining property from potential damage from their work. If building work is close to or adjacent to adjoining property boundaries, then the relevant building surveyor may require the owner to carry out protection work in respect of that adjoining property. This is to ensure that the adjoining property is not affected or damaged by the proposed building work. Protection work provides protection to adjoining property from damage due to building work. It includes but is not limited to underpinning of adjoining property footings, including vertical support, lateral support, protection against variation in earth pressures, ground anchors, and other means of support for the adjoining property. This process is not controlled or overseen via the planning process and regulations. It is a matter addressed at the building permit stage.

Some noise and other off site impacts are inevitable when any construction occurs. The developer will be required to meet relevant Local Laws and EPA regulations regarding construction practices to ensure these impacts are mitigated.

A Construction Management Plan has been included as a condition of permit to mitigate some of the impacts associated within construction, particularly traffic, parking and
unloading.

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment (Precinct D4) ↓
4. Clause 55 (ResCode) Assessment ↓
5. Draft Amended Plans ↓
Item 4.6 – Matters of Decision
Item 4.6 – Matters of Decision
Item 4.6 – Matters of Decision
**Item 4.6 – Matters of Decision**

<table>
<thead>
<tr>
<th>Coverage + Areas</th>
<th>Section/Block</th>
<th>Zone Name</th>
<th>Area (sqm)</th>
<th>Selected Details</th>
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<td>External Areas</td>
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<td></td>
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<tr>
<td>Unit Number</td>
<td>Bonded Barn 01</td>
<td>First Floor</td>
<td>411m²</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ground Floor</td>
<td>156m²</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Lower Ground</td>
<td>278m²</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Townhouse 02</td>
<td>First Floor</td>
<td>139m²</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ground Floor</td>
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</tr>
<tr>
<td></td>
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<td>Lower Ground</td>
<td>133m²</td>
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<table>
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<tr>
<th>Proposed Building Area</th>
<th>Site Area</th>
<th>Covered</th>
<th>Permeable</th>
<th>Proposed Permeable</th>
</tr>
</thead>
<tbody>
<tr>
<td>788m²</td>
<td>411m²</td>
<td>52.2%</td>
<td>20.0%</td>
<td>35.2%</td>
</tr>
<tr>
<td>156m²</td>
<td>278m²</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Attachment 1**

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**Bayside City Council**

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

**Attachment 1**
Item 4.6 – Matters of Decision
ATTACHMENT 2
Site and Surrounds Imagery

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

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐</td>
</tr>
<tr>
<td>Objectors</td>
<td>⬤</td>
</tr>
</tbody>
</table>
Figure 2. Aerial Overview of subject site
Figure 3: Looking east to 7 Billson Street (subject site) and south east to the street tree.
Figure 4: Looking east, to a 1/5 Billson Street and the subject site to the right of the photograph.

Figure 5: Looking east to the subject site and the front fence and vegetation associated with 1/9 Billson Street to the right of the photograph.
Figure 6: Looking south and east 1/9 Billson Street and south along Billson Street.

Figure 7: View looking north along Billson Street.
ATTACHMENT 3

Neighbourhood Character Policy (Precinct D4)

Preferred Future Character Statement

The wide variety of dwelling styles sit within established gardens, with occasional canopy trees, and do not dominate the streetscape. The buildings are consistently set back from the front and at least one side boundary, which, combined with the open style front fencing, creates a sense of spaciousness in the streetscape. Avenues of street trees assist in unifying streetscapes.

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 and rhythm of front boundary setbacks. | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs.  
• Retain large trees wherever possible.  
• Buildings should be sited to allow space for the planting of trees and shrubs. | Lack of landscaping and substantial vegetation  
Removal of large trees. | Responds  
Front setbacks within this section of Bحسن Street vary from approx. 7m - 9m with several single and double width carports/garages dominating the streetscape.  
The front setback allows landscaping opportunities to provide meaningful landscaping to the streetscape in response to the prevailing garden setting. In addition, there is scope to reduce the overall size of the basement footprint to improve landscaping opportunities within the subject site to enhance the preferred garden setting of this precinct. Conditions requiring a reduction of the extent of paving will further assist with the establishments of landscaping.  
The proposed 1.8m high front fence with a central solid render section and pockets at sides will allow oblique views to the proposed future landscaping within the front setback whilst also minimising the... |
### Item 4.6 – Matters of Decision

<table>
<thead>
<tr>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bayside City Council Planning &amp; Amenity Committee Meeting - 17 July 2018</td>
</tr>
<tr>
<td>Attachment 3</td>
</tr>
</tbody>
</table>

**Objectives**

- To maintain the rhythm of visual separation between buildings

**Design Responses**

- Buildings should be sited to create the appearance of gaps between buildings and accommodate substantial vegetation.

**Responds**

- The scale of buildings within Bilson Street is generally single and double-storey single dwellings with various styles of butt form. The proposed dwellings are contemporary in architectural elements, including voids with a recessed first floor element forming the presentation of the development to the street. The flat roof and general appearance of the buildings and is considered acceptable given the varied butt form evident within the streetscape. However, the architectural aspects, particularly the façade, which is contrary to the preferred neighbourhood character of the precinct and is not supported in its current form as it adds a significant bulkiness to the front façade. A condition seeking the deletion of the proposed car parking structures in the side elevations is used in breaking up any perception of visual bulk.

<table>
<thead>
<tr>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bayside City Council Planning &amp; Amenity Committee Meeting - 17 July 2018</td>
</tr>
<tr>
<td>Attachment 3</td>
</tr>
</tbody>
</table>

**Objectives**

- To minimise the dominance of car parking structures in the streetscape.

**Design Responses**

- Car parking structures that dominate the façade or view of the dwelling.

**Responds**

- As mentioned above, front setbacks within the section of Bilson Street feature several dominant carports and garages, some of which are forward of dwelling facades.
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To ensure that buildings and extensions do not dominate the streetscape.</td>
<td>• Recess second storey elements from the front façade.</td>
<td></td>
<td>The proposal eliminates dominant geraging impacts to the streetscape by locating adequate car parking within the basement below. As mentioned above, a condition can improve landscaping opportunities within the front setback to combat the extent of hard paving necessary to accommodate basement ramps.</td>
</tr>
<tr>
<td></td>
<td>• Use simple building details.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| To maintain the openness of the streetscape and the views into front gardens.| • Front fences should be open style, other than along heavily trafficked roads. | High, solid front fences. | Responds  
The proposed ground and first floor side setbacks generally accord with the varied setbacks required by the schedule to the zone to maintain the rhythm and provide space between buildings.  
As mentioned above, the proposed architectural voids facing Billson Street introduce a discordant element to the streetscape context and are conditioned to be deleted to ensure the development favourably responds to the preferred streetscape character. |
### ATTACHMENT 4
ResCode (Clause 55) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong>&lt;br&gt;Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.&lt;br&gt;Development responds to features of the site and surrounding area.</td>
<td>Yes, subject to conditions</td>
<td>Refer to Attachment 3 and report for further discussion.</td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong>&lt;br&gt;Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.&lt;br&gt;Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td>Yes</td>
<td>The subject site is appropriately located in an established suburban area and is able to take advantage of public transport and community infrastructure services.</td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong>&lt;br&gt;Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong>&lt;br&gt;Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td>Yes</td>
<td>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.</td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong>&lt;br&gt;Integrate the layout of development with the street</td>
<td>Yes, subject to conditions</td>
<td>Subject to recommended conditions seeking changes to façade articulation, the development will appropriately integrate with the prevailing and preferred streetscape character and provide a suitable transition to adjoining properties. The setbacks are generally compliant with the numerical standards of Standard B17, as varied, and considered to be reflective of its immediate adjoining properties at 5 and 9</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Action</td>
</tr>
<tr>
<td>------</td>
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</tr>
<tr>
<td>B6 Street Setback</td>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td>No</td>
</tr>
<tr>
<td></td>
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<tr>
<td>B7 Building Height</td>
<td>Building height should respect the existing or preferred neighbourhood character.</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
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<td></td>
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</tr>
<tr>
<td>B8 Site Coverage</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>No</td>
</tr>
<tr>
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<tr>
<td>B9 Permeability</td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
</tr>
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</tr>
<tr>
<td>B10 Energy Efficiency</td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>Yes</td>
</tr>
<tr>
<td>B11 Open Space</td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>N/A</td>
</tr>
<tr>
<td>B12 Safety</td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
### B13 Landscaping
To provide appropriate landscaping.
To encourage:
- Development that respects the landscape character of the neighbourhood.
- Development that maintains and enhances habitat for plants and animals in locations of habitat importance.
- The retention of mature vegetation on the site.

<table>
<thead>
<tr>
<th>Yes, subject to conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>The extent of the basement envelope and swimming pools located within the rear setback are generally acceptable. However, opportunities exist to reduce the overall size of the basement footprint to create improved space and opportunities for meaningful landscaping. Therefore, conditions of permit requiring a reduction to the basement envelope and an amended landscape plan to be submitted to the satisfaction of the Responsible Authority are recommended. Refer to Attachment 3 and Section 6.3 of the report for further discussion.</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>Yes, subject to conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>The proposed access to/from Billson Street to the basement car parking is generally acceptable, however conditions requiring modifications to crossovers and ramp grades are recommended. Refer to Section 6.4 of the report for further discussion.</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.

<table>
<thead>
<tr>
<th>Yes, subject to conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>On site car parking is provided in the form of a basement car park. Standard traffic permit conditions are recommended to clarify ramp widths, turntable dimensions and the location of tandem car spaces. Refer to Section 6.4 of the report for further discussion.</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 to the report for further discussion. |

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (side)</td>
<td>0m or 2m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 2m</td>
</tr>
<tr>
<td>East (rear)</td>
<td>0m or 3m</td>
</tr>
<tr>
<td>Item 4.6</td>
<td>Matters of Decision</td>
</tr>
<tr>
<td>----------</td>
<td>---------------------</td>
</tr>
</tbody>
</table>
| **B16 Walls on Boundaries**<br>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings. | Yes | Unit 1’s entry, sitting and butlers pantry walls are proposed to be constructed to the northern boundary.  
**North boundary**  
Maximum Height: 3.6m  
Proposed: 3.6m  
Maximum Length: 18.16m  
Proposed: 16.83m  
The proposed wall height and length accords with the standard. |
| **B19 Daylight to Existing Windows**<br>Allow adequate daylight into existing habitable room windows. | Yes, subject to conditions | See Section 6.2 of the report for further discussion. |
| **B20 North Facing Windows**<br>Allow adequate solar access to existing north-facing habitable room windows. | Yes | The development has been setback in excess of the standard requirement to ensure solar access to existing habitable room windows of units at 9 Billson Street. |
| **B21 Overshadowing Open Space**<br>Ensure buildings do not significantly overshadow existing secluded private open space. | Yes, subject to conditions | The submitted shadow diagrams indicate less than the minimum 5 hrs of solar access can be achieved throughout the day, failing the standard. A condition requiring compliance is included as a recommended condition.  
Refer to Section 6.2 of the report for further discussion. |
| **B22 Overlooking**<br>Limit views into existing secluded private open space and habitable room windows. | Yes | The notations provided on the submitted elevations indicate all north and south facing first floor habitable room windows will have either high sills or fixed obscure glass to a minimum height of 1.7m above finished floor level to prevent unreasonable overlooking to adjoining properties. East facing first floor bedroom windows have not been screened given the non-sensitive interface with St Finbars Tennis Club to the east.  
In addition, the existing 2.6m – 3m high boundary fencing will provide adequate protection to immediately adjoining properties from unreasonable overlooking to/from ground floor windows. |
<table>
<thead>
<tr>
<th>Item</th>
<th>Title</th>
<th>Action</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>B23</td>
<td>Internal Views</td>
<td>Yes</td>
<td>The submitted planning report states that windows have been screened and/or orientated to limit unreasonable internal views and a 1.8m high fence will be provided between the secluded private open space of each dwelling, yet the submitted floor plans and/or elevations do not show the fence proposed between SPOS areas. A condition of permit is included to correct this anomaly.</td>
</tr>
<tr>
<td>B24</td>
<td>Noise Impacts</td>
<td>Yes</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>B25</td>
<td>Accessibility</td>
<td>Yes</td>
<td>Entries are accessible for people with limited mobility with a lift provided from the basement car park to all floors. In addition, the development could be further retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td>B26</td>
<td>Dwelling Entry</td>
<td>Yes</td>
<td>The development faces Billson Street and includes a clearly identifiable entries and separate pedestrian pathways. The entries provide shelter, a sense of personal address and a transitional space for the residential building.</td>
</tr>
<tr>
<td>B27</td>
<td>Daylight to New Windows</td>
<td>Yes</td>
<td>All habitable windows will open out onto a space clear to the sky. It is further noted sky lights have been included to improve solar access to the ground floor sitting and pantry associated with Dwelling 1.</td>
</tr>
<tr>
<td>B28</td>
<td>Private Open Space</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall with a minimum dimension of 3 m; Note: No balconies are proposed. Proposed: Both units meet the requirements of this standard and are provided with adequate private open space for the reasonable recreation and service needs of residents. It is noted that Clause 32.09-4 of the Bayside Planning Scheme requires a minimum garden area at ground floor level of 35% of the site area. This equates to 275.8m². A total of 278m² has been provided, equating to approx. 35.2% garden area.</td>
</tr>
<tr>
<td>Private Open Space</td>
<td>Secluded Private Open Space</td>
<td></td>
<td></td>
</tr>
<tr>
<td>--------------------</td>
<td>-----------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unit 1</td>
<td>125m²</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unit 2</td>
<td>153m²</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Yes</td>
<td>Dwelling 1 &amp; 2's secluded private open space areas have a north-easterly orientation to provide appropriate solar access for future residents.</td>
<td></td>
</tr>
<tr>
<td>B30 Storage</td>
<td>Yes</td>
<td>The submitted plans and planning report state that 6m³ of storage is provided for each unit within the basement to meet the needs of future residents. Note: Conditions requiring changes to the overall size and arrangement of the basement envelope may require storage to be relocated elsewhere within the basement.</td>
<td></td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Yes, subject to conditions</td>
<td>Refer to Attachment 3 and Section 6.1 of the report for further discussion.</td>
<td></td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>No</td>
<td>Front fences within this section of Billson Street vary in height, style and materials. The proposed 1.8m high front fence with pickets and a solid render central section is considered acceptable and will allow oblique views to landscaping within the front setback.</td>
<td></td>
</tr>
<tr>
<td>B33 Common Property</td>
<td>Yes</td>
<td>Areas of common property within the basement are functional and capable of efficient management.</td>
<td></td>
</tr>
<tr>
<td>B34 Site Services</td>
<td>Yes</td>
<td>All appropriate site services can be easily catered for on-site with sufficient space for storage of rubbish bins and provision of mailboxes etc.</td>
<td></td>
</tr>
</tbody>
</table>
1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Song Bowden Planning</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>18 August 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>134 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)</td>
</tr>
<tr>
<td></td>
<td>Vegetation Protection Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>6</td>
</tr>
</tbody>
</table>

Proposal

The application seeks approval for the removal of six (6) native trees and the construction, use and illumination of a private tennis court on a lot with an area of 2,272 square metres.

Note: The submitted plans also show the construction of a new dwelling. This does not require a planning permit and as such is not considered under the assessment of the application. The dwelling has been shown on the plans for clarity and to give context to the location of the proposed tennis court and tree removal.

The application plans are provided at Attachment 1.

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

Background

2016/81 - Removal of native vegetation protected by a Vegetation Protection Overlay – Approved (VicSmart Permit) – 18 February 2016

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 42.02-2 (Vegetation Protection Overlay Schedule 3) – Removal of native vegetation
- Clause 52.21-2 - construction, use and illumination of a private tennis court and associated native vegetation removal in a Vegetation Protection Overlay

Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.
3. Stakeholder consultation

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

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

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

Public notification
The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and six objections were received. The following concerns were raised:
- Loss of trees and subsequent impact on birdlife;
- Does not respond to the VPO;
- Swimming pool will be elevated;
- Illumination from tennis court;
- Noise from use of tennis court and swimming pool;
- Proposed dwelling is large and out of keeping; and
- Overshadowing from proposed dwelling.

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

It should be noted that the original application that was advertised proposed the removal of five native trees. It was subsequently identified that two additional native trees were to be removed which had been omitted. As a result, the application was re-advertised for the removal of seven native trees. Following comments from Council’s Arborist, one of the native trees (Tree 7) was proposed to be retained and so only six native trees are now proposed for removal.

Consultation meeting
A consultation meeting was not held because the application exceeds the statutory time frame (opening up a failure appeal being lodged with VCAT) and the extensive public notification has not resulted in an outcome acceptable to either party.

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 2017/509 for the land known and described as 2 Burgess Street, Beaumaris, for the removal of six (6) native trees and the construction, use and illumination of a private tennis court in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

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

a) The setback of the edge of the tennis court fencing increased to a minimum of 3 metres from the street frontage.

b) Full details of the lighting poles and fencing, including elevation drawings in the context of the overall site. These must comply with performance requirement E5 of the Code of Practice – Private Tennis Court Developments Revision 1.

c) Demonstration of full compliance with performance requirements E3.3.1, E3.3.2 and E3.3.3 of the Code of Practice – Private Tennis Court Developments Revision 1.

d) An updated Landscaping Plan in accordance with Condition 4 of this permit.

e) A Construction Impact Report in accordance with Condition 7 of this permit.

f) A Tree Management Plan and Protection Plan in accordance with Condition 8 of this permit.

All to the satisfaction of the Responsible Authority.

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

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

**Landscaping**

4. 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 CX Landscape, dated 24/11/2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

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

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

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

d) The provision of three (3) replacement canopy trees of native or indigenous origin with a mature height equal or greater than 12m.

e) The provision of three (3) replacement canopy trees of native or indigenous origin with a mature height equal or greater than 10m.
f) The provision of three (3) replacement canopy trees of native or indigenous origin with a mature height equal or greater than 8m.

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

h) Details of surface finishes of pathways and driveways

5. 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.

6. 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.

Construction Impact Report

7. Prior to the endorsement of plans pursuant to Condition 1, a Construction Impact Report prepared by a suitably qualified arborist in accordance with AS4970 Protection of Trees on Development Sites (2009) for trees 7 and 9 and all trees on neighbouring which properties which have TPZs which extend into the subject site, to the satisfaction of the Responsible Authority shall be submitted to and be endorsed by the Responsible Authority.

The report should demonstrate the construction methods and materials proposed to ensure trees to be retained will remain viable post development and include the extent of pruning proposed to facilitate works around trees retained on site.

Tree Management and Protection Plan

8. 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.

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

10. Before the development starts, 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.
11. The following must be complied with at all times:
   a) Drainage resulting from the court must be intercepted to avoid any overflow and must be connected to an approved point of discharge.
   b) Any lighting system must not exceed an illumination level of 12 lux and an average illumination of 10 lux when measured at the nearest habitable room window of an adjoining dwelling or at a point 3 metres outside the property boundary, whichever is the nearest to the light source.
   c) Any lighting system must:
      - Comply with the ‘Residential Tennis Court Lighting Code’ produced by the Tennis Court Builders Association of Australia;
      - Be baffled to ensure that a light source is not directly visible from a habitable room window of an adjoining dwelling;
      - use light poles which are not more than 8 metres above the court surface; and
      - be certified after installation by a qualified lighting engineer
   d) The court must not be used for commercial purposes such as professional tennis coaching or court hire.
   e) The court must not be used between 10.30pm and 7.30 am.
   f) No mechanical equipment such as ball-throwing machines may be operated between 7pm and 8am.
   g) The method of construction must comply with the ‘Guide Specifications for Tennis Court Construction’ produced by the Tennis Court builders Association of Australia.

**Permit Expiry**

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

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

5. **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 12  Environmental and Landscape Values
- Clause 15  Built Environment and Heritage
- Clause 21.02  Bayside Key Issues and Strategic Vision
- Clause 21.04  Environmental and Landscape Values
- Clause 21.06  Built Environment and Heritage
- Clause 22.06  Neighbourhood Character Policy (Precinct H4)
- Clause 32.09  Neighbourhood Residential Zone (Schedule 3)
- Clause 42.02  Vegetation Protection Overlay (Schedule 3)
- Clause 43.02  Design and Development Overlay (Schedule 1)
- Clause 52.21  Private Tennis Court
- 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 H4. The proposal is considered to demonstrate an acceptable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The character of this precinct is typified by dwellings within the topography and informal landscaped surrounding, including remnant and indigenous coastal trees. The removal of six native trees is offset by a condition included in the recommendation requiring the planting of nine canopy trees of native or indigenous origin that are capable of reaching mature heights of between 8-12 metres. This planting is considered acceptable. The provision of a tennis court is not considered to detract from the objectives of the precinct, as set out in the Attachment 3.

6.2. **Tennis Court**

Clause 52.21 relates to private tennis courts and seeks to endure that tennis courts used in conjunction with a dwelling are sited and constructed to minimise the effects of the development on nearby properties and that there is no unreasonable disturbance or loss of amenity to adjoining residential areas.

A permit is required under this clause because the site is within a Vegetation Protection Overlay and the removal of native vegetation is also proposed.

The decision guidelines of this clause require an application to be considered against the relevant objectives and consideration, including the Code of Practice - Private Tennis Court Development Revision 1 March 1999. These are set out below:

**Court location**

The court must be at least:

- 3 metres from a street frontage
- 3 metres from an adjoining dwelling if the court if to be illuminated; and
20 metres from a Melbourne Water declared main drain.
The proposed tennis court is shown as being set back 1.5m from the street frontage. A condition is therefore included in the recommendation requiring the setback to be increased to 3m. The tennis court will be illuminated but will be in excess of 3m from the adjoining property and there is no Melbourne Water declared main drain in the vicinity of the site.

Fencing and enclosures
If less than 1 metre from a property boundary, the court fencing or other enclosure:
- Must not be more than 3 metres above the court surface;
- Must be of a maintenance-free material and use non-intrusive colours; and
- Must not be solid or enclosed for a height of more than 2 metres above the court surface.

The proposed tennis court would be located 1.5 metres away from the neighbouring property boundary. As such the above criteria are not applicable. The submitted plans show however that the proposed fencing would be 3 metres high, of a mesh style coloured dark green.

Site works
- The site on which the court is to be constructed must not have a slope of more than 20 percent overall.
- Excavation or filling must not exceed 1 metre in depth within 1 metre of a property boundary.
- Filling must not exceed 2.5 metres in depth at any point on the court site.
- Drainage resulting from the court must be intercepted to avoid any overflow and must be connected to an approved point of discharge.

Limited information has been provided with the application in relation to the above criteria, though compliance appears to have been achieved based on scale of drawings. For certainty, conditions are included in the recommendation requiring that the proposal demonstrate full compliance with the first three standards (E3.3.1, E3.3.2 and E3.3.4). The final point will be covered under the drainage requirements through the building process.

Landscaping
- No vegetation may be removed
  - In an urban zone, within 3 metres of a street frontage or adjoining public land
- If a permit is required, replanting must occur in excess of the number of trees removed and should comprise indigenous or species similar to those removed.
- Temporary barriers must be provided to protect areas of vegetation which are outside the works site.
- Landscaping must be maintained over fill batters.

Although two trees are being removed which are within 3 metres of the street frontage, these trees (2 and 3) do not require a planning permit for their removal. All trees which are protected by the VPO and are proposed for removal under this application are more than three metres from the site frontage. Six native trees are proposed to be removed; a condition is included in the recommendation requiring the replanting of nine canopy trees of indigenous or native origin. The last two requirements will be secured through recommended conditions.
It is also noted that the tennis court will be further recessed from the site frontage (to 3.0m) through condition, and this setback area will be landscaped with hedge screening.

Illumination

- Any lighting system must not exceed an illumination level of 12 lux and an average illumination of 10 lux when measured at the nearest habitable room window of an adjoining dwelling or at a point 3 metres outside the property boundary, whichever is the nearest to the light source.

- Any lighting system must:
  - Comply with the ‘Residential Tennis Court Lighting Code’ produced by the Tennis Court Builder Association of Australia;
  - Be baffled to ensure that a light source is not directly visible from a habitable room window of an adjoining dwelling;
  - Use light poles which are not more than 8 metres above the court surface; and
  - Be certified after installation by a qualified lighting engineer.

Limited information has been provided by the applicant, in relation to this performance requirement, only stating that compliance can be achieved. Details have been nominated on the plans, but no specifics have been provided. This is therefore included in the recommended conditions to ensure compliance with the standard.

Privacy

- The court must not be used for commercial purposes such as professional tennis coaching or court hire.

- The court must not be used between 10.30pm and 7.30am.

- No mechanical equipment such as ball-throwing machines may be operated between 7pm and 8am.

Conditions are included in the recommendation to ensure that the above requirements are secured and adhered to.

Construction methods

- Adjoining residential properties shall be notified before any works are undertaken within 2 metres of the boundary.

- Temporary barriers must be provided to protect areas of vegetation which are outside the works site.

- The method of construction must comply with the ‘Guide Specifications for Tennis Court Builders Construction’ produced by the Tennis Court Builders Association of Australia.

These requirements are included as a recommended condition.

Subject to the above requirements being included as recommended conditions, the proposed tennis court will demonstrate compliance with the Code of Practice – Private Tennis Court Development Revision 1 march 1999 as required by Clause 52.21 of the Bayside Planning Scheme.

6.3. Landscaping

The objectives of the VPO3 are to retain the amenity, aesthetic character and habitat value of native vegetation by preventing the loss of native (particularly indigenous) vegetation and promoting the regeneration and replanting of indigenous species in the Beaumaris and Black Rock area.
The application plans show the removal of nine trees from the site including six trees protected by the VPO3. The table below identifies those trees protected by the VPO3, those protected by the Local Law and those which are not protected by any statutory mechanism.

<table>
<thead>
<tr>
<th>VPO3 protected trees</th>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed for removal</td>
<td>Proposed for removal</td>
<td>Proposed for removal</td>
</tr>
<tr>
<td>Proposed for retention</td>
<td>Proposed for retention</td>
<td>Proposed for retention</td>
</tr>
</tbody>
</table>

- **Tree 4, 5, 6, 8, A, B**
- **Tree 1, 7**
- **Trees 2, 3, 10, 9**
- **N/A**
- **N/A**

**Exotic Trees**

From an arboriculture perspective Council’s Arborist has reviewed the application and advises that trees 2 and 3 (large Monterey Pines) are of fair/poor health and exotic origin, which reduces their amenity value. Whilst they are prominent due to their size, the fair/poor health status is worrying for trees of this size and scale, and in general such species are not idea for residential blocks in urban areas. Their removal and replacement with indigenous canopy trees would be a superior outcome over time.

Tree 10, whilst being of good health with a high amenity structure has significant decay pockets. Furthermore, this species (*Populus alba*) has an extensive root system which is prone to spreading and becoming a nuisance.

The above-mentioned trees are not protected by the VPO and as such do not technically form part of this application. Each would have required a local law permit if lodged independently, and Council’s Arborist has confirmed that approval would likely have been given.

**VPO Trees**

Tree 4 (*Melaleuca armillaris*), whilst of native origin, has low amenity and no objection is raised to its removal. Tree 6 (*Corymbia ficifolia*) has good health, fair structure and high amenity value. However, its location centrally within the site would place an unreasonable burden on any future development of the site. No objection is therefore raised to its removal subject to indigenous canopy tree replacement planting.

Tree 5 (*Corymbia ficifolia*) is also located centrally within the site. This tree has good health and structure and a high amenity value. Much like tree 4, the tree is located within the middle region of the site and hence retention becomes extremely difficult without placing a significant burden / restriction on the site. Had this tree been more suitably located, retention would have been required, though in its current position this is considered to be an unreasonable request. As such, and subject to a high standard of replacement planting, including indigenous canopy trees, it removal is considered acceptable.

No objection is raised to the removal of tree 8 (*Corymbia ficifolia*) which is located adjacent to tree 7, subject to the retention of tree 7 (see below). This tree has good health and structure and a moderate amenity value. It would not be missed if the adjacent tree #7 was retained and so there is no objection to its removal if replaced with new indigenous canopy tree plantings in accordance with Bayside City Council Landscape VP03 Guidelines (2016). The retention of tree No.7 was negatived with the applicant throughout the application and is now being retained.
Tree A (*Agonis flexuosa*) and tree B (*Lophostemon confertus*) are both native trees but have low retention value. No objection is made to their removal subject to replacement indigenous canopy tree planting.

An assessment against the decision guidelines of the VPO3 is provided at Attachment 4. 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 (and in fact improved on) once replacement plantings mature. 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.

**Retained trees**

Tree 7 (*Corymbia ficifolia*) is located within the front setback of the subject property on the southern side of the existing carport. This tree has good health and structure and a high amenity value. Its prominent position means it can be viewed from the street and neighbouring properties. This tree was originally proposed to be removed but Council’s Arborist advised that this would not be supported. As such the plans were amended to show retention of the tree.

Tree 9 (*Quercus palustris*) is also proposed to be retained. Conditions are included in the recommendation to ensure appropriate protection measures are utilised during construction.

In addition to the above assessment, Council’s Arborist has reviewed the submitted landscape plan and advised that it needs to include 80% indigenous planting as required in the VPO. In addition the landscaping needs to include provision of nine replacement canopy trees or native or indigenous origin at heights greater or equal to 8m (3 no trees), 10m (3 no trees) and 12m (3 no trees). Over time, this would provide a net benefit to the site to compensate for those tree being removed.

**6.4. Cultural Heritage Management Plan**

The majority of the site is located within an Area of Cultural Heritage Sensitivity. However, the proposed works, which are in relation to a single dwelling on a lot are exempt from the requirements of the *Aboriginal Heritage Act 2006*.

**6.5 Objector issues not already addressed**

**Loss of trees and subsequent impact on birdlife**

Conditions are included within the recommendation requiring the planting of replacement canopy trees, nine in total. These are considered appropriate to mitigate for the loss of the existing trees and will provide additional habitats for birdlife and flora and fauna.

**Illumination from tennis court**

The Code of Practice for Private Tennis Court Development sets out levels of illumination that must not be exceed both within the tennis court and when measured from the nearest habitable window of an adjoining property. A condition is included in the recommendation to ensure the development complies with these requirements as per Clause 52.21 of the Bayside Planning Scheme, which relates to tennis courts.

**Noise from use of tennis court and swimming pool**

This application is for a tennis court and native vegetation removal. Subject to conditions controlling the hours of use of the tennis court, the use of it is 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.
Objections relating to the proposed new dwelling and swimming pool

As stated earlier in the report, the construction of a single new dwelling and swimming pool on the lot does not trigger the requirement for a planning permit. As such, they cannot be considered under this application.

Support Attachments

1. Development Plans and Arb Report
2. Site and Surrounds Imagery
3. Neighbourhood Character Assessment
4. VPO Assessment
Item 4.7 – Matters of Decision
**ARBORICULTURAL REPORT**

**PROPERTY ADDRESS:** 2 Burgess Street, Beaumaris, VIC  
**Client:** Lee Anne Wilcox  
**Our Ref:** PSY/2017/0209  
**Date of Report:** 09/02/2017  
**Tree Inspection:** 09/02/2017 by Dr Peter You

### INTRODUCTION

This arborist report has been commissioned by the client to assess all large trees within the subject site for pre-purchase tree inspection for the subject property.

A photo aerial plan of this property showing the trees has been provided and attached.

### METHODOLOGY OF TREE ASSESSMENT

Tree Assessment Methodology was by means of VTA method (Visual Tree Assessment as per Matthecks). Tree size DBH measurements were made with tape measure, and tree height with clinometer. No other tools or instrumentation were used or deemed necessary in this instance.

The report is based on the format and contents in Australian Standard AS4970:2009 – ‘Protection of Trees on Development Sites’.

### LIMITATIONS IN TREE ASSESSMENT

There is no limitation to access to the trees for assessment and measurement.

### BAYSIDE COUNCIL VPO ZONE FOR TREE PROTECTION

This property is located in the council VPO zone. Any tree that is greater than 160mm DBH AND taller than 2m height will require council permit for removal.
### ARBORICULTURAL DATA COLLECTED IN ASSESSMENT

<table>
<thead>
<tr>
<th>Tree No.</th>
<th>Species</th>
<th>DBH</th>
<th>Canopy</th>
<th>Height</th>
<th>Health</th>
<th>Structure</th>
<th>Form</th>
<th>Significance</th>
<th>ULE</th>
<th>Retention</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td><em>Pinus radiata</em></td>
<td>600 mm</td>
<td>3.16 = 9m</td>
<td>11m</td>
<td>Fair - canopy full of deadwood</td>
<td>Good</td>
<td>Fair</td>
<td>Exotic weed tree - environmental weed in Aust Govt weed list</td>
<td>Medium (depends on future maintenance)</td>
<td>Low</td>
</tr>
<tr>
<td>2</td>
<td><em>Pinus radiata</em></td>
<td>800 mm</td>
<td>10m</td>
<td>20m</td>
<td>Poor - canopy density thin sparse - plenty of browned needles falling off</td>
<td>Good</td>
<td>Fair</td>
<td>Exotic weed tree - environmental weed in Aust Govt weed list</td>
<td>Medium (depends on future maintenance)</td>
<td>Low</td>
</tr>
<tr>
<td>3</td>
<td><em>Pinus radiata</em></td>
<td>950 mm</td>
<td>10m</td>
<td>20m</td>
<td>Poor - canopy density thin sparse - plenty of browned needles falling off</td>
<td>Good</td>
<td>Fair</td>
<td>Exotic weed tree - environmental weed in Aust Govt weed list</td>
<td>Medium (depends on future maintenance)</td>
<td>Low</td>
</tr>
</tbody>
</table>
Tree No. 4
Species: *Melaleuca armilaris* (Swamp Paperbark)
DBH: 250+200+150 mm
Canopy: 8m
Height: 6m
Health: Good
Structure: Fair
Form: Fair
Significance: Native tree for greenery
ULE: Medium (depends on future maintenance)
Retention: Low

Tree No. 5
Species: *Corymbia [syn. Eucalyptus] ficifolia* (Flowering Red Gum)
DBH: 1100 mm
TPZ: 13m radius
SRZ: 4m radius
Canopy: 15m
Height: 11m
Health: Good
Structure: Good
Form: Good
Significance: Native greenery flowering large tree for shade amenity native biodiversity etc
ULE: Medium (depends on future maintenance)
Retention: High – Council most probably will require you to retain this tree

Tree No. 6 - tree buried in foundation - photo
Species: *Corymbia* [syn. *Eucalyptus*] *ficusfolia* (Flowering Red Gum) - white flowering variety
DBH: 400+400+300 mm
TPZ: 7.7m radius
SRZ: 3m radius
Canopy: 10m
Height: 20m
Health: Good
Structure: Good – a branch with wounding injury - photo
Form: Good
Significance: Native greenery flowering large tree for shade amenity native biodiversity etc
ULE: Medium (depends on future maintenance)
Retention: High – Council most probably will require you to retain this tree
Tree No. 7
Species: Corymbia [syn. Eucalyptus] ficifolia (Flowering Red Gum)
DBH: 1000 mm
TPZ: 12m radius
SRZ: 4m radius
Canopy: 16m
Height: 16m
Health: Good
Structure: Good - trunk base in ground - photo
Form: Good
Significance: Native greenery flowering large tree for shade amenity native biodiversity etc
ULE: Medium (depends on future maintenance)
Retention: High - Council most probably will require you to retain this tree

Tree No. 8
Species: Corymbia [syn. Eucalyptus] ficifolia (Flowering Red Gum)
DBH: 300 mm
TPZ: 3.6m radius
SRZ: 2.2m radius
Canopy: 8m
Height: 10m
Health: Good
Structure: Good
Form: Good
Significance: Native greenery flowering large tree for shade amenity native biodiversity etc
ULE: Medium (depends on future maintenance)
Retention: High - Council most probably will require you to retain this tree
ADDENDUM TO REPORT (UPDATED 23 MAY 2018)

The Bayside Council has requested that two extra trees be included in the report as their removal will trigger a permit requirement under council rule and regulation.

Tree inspection of the two ‘missing’ trees was conducted on 23 May 2018 based on the plan below provided by the Bayside Council. The two trees in question are one Willow Myrtle (Tree-A) and one Qld Brush Box (Tree-B).
Tree No.  A  
Species:  Agonis flexuosa  (Willow Myrtle)  
DBH:  250mm  
Canopy:  5m  
Height:  4m  
Health:  Fair – canopy density thin sparse  
Structure:  Fair  
Form:  POOR – tree trunk leaning (photo) and canopy lopsided unbalanced (photo)  
Significance:  Small native greenery tree in poor shape – no significance  
ULE:  Short (depends on future maintenance)  
Retention:  LOW – removal recommended

Tree A Willow Myrtle – Whole tree leaning and lopsided unbalanced with half canopy left
**CONCLUSION & RECOMMENDATIONS**

The three Radiata Pines in the front, being environmental weed trees in poor condition, is of low retention value, and Council most probably will approve their removal.

The native Flowering Red Gums are large native trees protected by the Council VPO and it is highly likely that Council will refuse to issue VPO tree felling permit.

The Pin Oak and White Poplar in the rear also are large exotic trees of high value, especially the Pin Oak which is a council favourite street tree species in many councils. The Poplar will present serious sucker problems after removal felling, a major problem that will create serious headaches most difficult to resolve.

DIRECTOR – Dr Peter You MSc(Oxon) PhD(Melb) CBIod FRSB
Chartered Arboricultural Consultant
The two extra trees (A & B) are in poor condition and both are recommended for removal.

All retained trees are to be protected with normal duty of care and as per tree protection measures according to AS4970-2009.

Dr Peter Yau MSc(Chem) PhD(Melb) CSci FRSA
Arboricultural Consultant
9 February 2017
Updated 23 May 2018
ADDENDUM DATED 12/04/2018

Since the last report was provided in February 2017, a building design plan has been developed and has been provided to me for comments on tree impact assessment. The basement floor plan provided is attached below:

The development is for a single residential dwelling building, and the plan proposes that ALL trees are to be removed except trees Nos. 1-7-9 as shown above to be retained.

The construction technique feedback for tree protection from the client is as following:

1. For T7, the minimum distance from tree to the basement wall is 6.00m with 2m outside SRZ (4m) as space to allow for excavation and construction. This is only one corner of the building and the slab will be supported by screw-plies and sitting above-ground therefore there will be no physical impact to the roots in the ground below.

2. For T9, the distance from the tree trunk to the basement wall is even further at 9m setback which is totally outside the TPZ of 7.2m which will NOT be encroached at all; while the structure is to be supported by screw piles and the the slab outside the TPZ will be totally above ground.

3. For T1, while it is not within regulation to require its retention, it is nevertheless proposed to be retained in the proposal plan. The concrete footing for the retaining wall structure to be constructed will be above existing NGL, with screw pile footings to avoid root damage.

DIRECTOR – Dr Peter Yu MSc(Oxon) PhD(MSc) CBIol FRSB Chartered Biologist Arboricultural Consultant
CONCLUSION FOR ADDENDUM (April 12, 2018)

The development basement plan proposes all trees to be removed from the subject site, with the retention of only three trees Nos. 1-7-9.

The retained trees are given special engineering design features as detailed in the plan notations for tree protection. The construction is essentially on screw piles and slabs above natural ground level.

This proposal plan is recommended for council agreement.

Dr Peter You MSc(Gron) PhD(Melb) CToI FRSB
Arboricultural Consultant
12 April 2018 (Date of Addendum)
EXPLANATORY NOTES

SIZE DIMENSIONS:

DBH (Diameter Breast Height) is a measurement of trunk diameter taken at 1.4m above ground level. Girth is circumference measured at 1.4m above ground level.

For multiple trunk trees, \( DBH_1 = \left( \frac{DBH_1^2}{2} + \frac{DBH_2^2}{2} + \frac{DBH_3^2}{2} \right)^{1/2} \)

Canopy Spread is a measurement of canopy diameter measured from edge-to-edge of canopy drip-line.

Height is a measurement of the tree’s height by clinometer.

Tree Protection Zone (TPZ) is estimated as 12 times the tree trunk DBH as per AS 4970:2009 ‘Protection of Trees on Development Sites’ – it is a radius distance from tree trunk base.

Structural Root Zone (SRZ) is estimated as per AS 4970:2009 ‘Protection of Trees on Development Sites’ – it is a radius distance from tree trunk base.

VIGOUR/HEALTH:

The health condition of the tree is classified as Very Good, Good, Fair, Poor, Moribund/Dead.

These observations are based on factors such as physical damage, broken branches, scars, root damage, rotten cavities, visible fungal bodies, branches dieback, deadwood, branch stubs, observable diseases or insect damage/infestation, foliar colour and density of the canopy, growth extension over the last year etc.

Vigour/Health:

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Good</td>
<td>Outstanding specimen. Full &amp; balanced canopy. Good shape and form. Foliage dense, entire with good colour, no pest/disease damage. No dieback or deadwood. Excellent growth indicators, eg extension growth.</td>
</tr>
<tr>
<td>Good</td>
<td>Canopy full, may be slightly asymmetrical. Foliage dense, entire with good colour, minimal pest/disease damage. Negligible quantity of deadwood (&lt;10%). Good growth indicators, eg extension growth.</td>
</tr>
<tr>
<td>Fair</td>
<td>Canopy may be unbalanced. Foliage density thin, generally with good colour, some discoloration may be present. Minor pest or disease damage present. (Typical for species in location). Minor quantity of deadwood (&lt;30%).</td>
</tr>
<tr>
<td>Poor</td>
<td>Major quantity of deadwood &amp; dead/broken limbs (&gt;30%). Foliage density thin &amp; sparse, may be severely defoliated, wilting, chlorotic or necrotic, may have excessive epinomic or basal sprout growth. Serious pest/disease damage, and stress level leading to tree decline.</td>
</tr>
<tr>
<td>Dead/Moribund</td>
<td>Tree is moribund or dead, totally defoliated or no live-foliage and green bark on the tree. Bark may be peeling off trunk/branch.</td>
</tr>
</tbody>
</table>

DIRECTOR – Dr Peter Yau MSc(Octae) PhD(Melb) CBIol FRSA
Chartered Biologist Arboricultural Consultant
STRUCTURE:

The structure of the tree is classified as Very Good, Good, Fair, Poor, Dead.

These observations are based on factors such as canopy balance and symmetry, straight or leaning trunk, single or multiple trunks, bifurcated codominants with included bark, risk of branch drop or tree collapse, presence of decay in trunk or roots, evidence of instability etc.

Structure:

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Good</td>
<td>Excellent branch attachment, no structural defects. Trunk straight, sound and solid, with no exposed wounds, cavities and decay. No damage to roots, and good root buttressing. Good trunk and scaffold branch taper. No branch over extension.</td>
</tr>
<tr>
<td>Good</td>
<td>Good branch attachment with minor structural defects. Trunk straight, sound, may show minor non-hazard wounding. No damage to roots, with good buttressing.</td>
</tr>
<tr>
<td>Fair</td>
<td>Some minor structural defects and/or minor damage to trunk. Regenerated crown after severe pollarding. Bark torn and missing on main trunk or branches. Cavities and decay may be present. May have minor damage to roots not threatening tree stability. May have slight leaning and slightly lopsided canopy.</td>
</tr>
<tr>
<td>Poor</td>
<td>Major structural defects eg trunk bifurcation with included bark, cracked or split branches, pollarded canopy not regenerated, trunk/branch damage and/or missing bark, large rotten cavities, girdling or damaged roots that destabilize the tree. Root buttress not visible above ground. Serious lean, not straight growing. Canopy halved and lopsided.</td>
</tr>
<tr>
<td>Dead</td>
<td>Dead tree poses imminent risk or high hazard risk</td>
</tr>
</tbody>
</table>

SHAPE/FORM:

The shape and form of the tree is classified as Good, Fair, Poor.

These observations are based on factors such as canopy shape, balance and symmetry, straight or leaning trunk, single or multiple trunks.

Shape/Form:

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Good</td>
<td>Single upright straight tree trunk. No leaning. Well-balanced full density symmetrical canopy.</td>
</tr>
<tr>
<td>Poor</td>
<td>Tree trunk with serious leaning (&gt;30 degrees off vertical), tree trunk with kinking, twisting. Canopy lopped/pollarded. Canopy halved, badly leaning and/or lopsided. Tree top cut off for overhead powerlines clearance or top dieback, or blown off in strong winds.</td>
</tr>
</tbody>
</table>
SIGNIFICANT TREES

This rating is to be used to rate the significance of trees in the area.
Trees that are of State or National significance would normally be registered by The National Trust or Heritage Council and would be identified as such.

Local Councils planning scheme may have separate listings of Significant Trees in the Municipality.

Trees may be considered as significant if they fall into one or more of the following categories:
- Exceptional size and/or age
- Rare or threatened/Endangered species
- Unusual shape or form
- Aboriginal cultural value
- Heritage or Historic value
- Exceptional example of a species
- Genetical Biodiversity Value
- Outstanding feature in the landscape
- Habitat Value.

Generally trees are described according to their flowering and foliage amenity, greenery contribution, shade, shelter, screening, or being classified as noxious weeds or environmental weeds.

USEFUL LIFE EXPECTANCY (ULE)

<table>
<thead>
<tr>
<th>Type</th>
<th>Useful Life Expectancy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Long</td>
<td>Over 50 years</td>
</tr>
<tr>
<td>Median</td>
<td>10-50 years</td>
</tr>
<tr>
<td>Short</td>
<td>Under 10 years</td>
</tr>
</tbody>
</table>

RETENTION

<table>
<thead>
<tr>
<th>Level</th>
<th>Retention Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>High</td>
<td>Retention recommended</td>
</tr>
<tr>
<td>Median</td>
<td>Retention/Removal Optional</td>
</tr>
<tr>
<td>Low</td>
<td>Removal recommended</td>
</tr>
<tr>
<td>Remove</td>
<td>Removal a matter of necessity or urgency</td>
</tr>
</tbody>
</table>

Dr Peter Yau  MSc(Oxon)  PhD(Melb)  Ciol  FRSB
Arboricultural Consultant

9 Feb 2017
Summary of Author's qualifications and experience

(a) I (Dr Peter Yau) am the arboriculturist who prepared this arborist report.

(b) My qualifications include:
   a. Bachelor of Science (Honours) in Botany & Biochemistry – Hong Kong University, HKG
   b. Master of Science (Forestry/Arboriculture) – Oxford University England, UK
   c. Doctor of Philosophy (Forestry/Arboriculture) – Melbourne University Victoria AUST
   d. Graduate Diploma in Business Administration – Swinburne University of Technology, Victoria Australia
   e. Chartered Biologist (CBIol) & Fellow of Royal Society of Biology (FRSB) UK

My professional experience in arboriculture includes:

a. 1975-1995 Arboriculturist of the Melbourne City Council being responsible for the policy and management issues relating to the planting, maintenance, removal, transplanting, protection, preservation of all trees within the municipal district of the City of Melbourne. Also appointed to membership of Victorian state government task force for Elm tree diseases.

b. 1995- now Arboricultural Consultant to public and private sector clients eg
   i. Office of The Governor, Government House Victoria
   ii. Energy & Water Ombudsman of Victoria
   iii. Public Transport Ombudsman of Victoria
   iv. Municipal Councils in Victoria and NSW
   v. State Government - Places Victoria (Former VicUrban)
   vi. Private property developers, architects, planners, lawyers etc
   vii. Hong Kong Government – Leisure & Cultural Services Department (LCSD), Agriculture Forestry & Conservation Department (AFCD), MTR Corporation
   viii. Appointed Member of Expert Panel of Hong Kong Government Tree Management Office, Development Bureau 2011-2016
   ix. P.R. China – Registered Foreign Expert

My academic experience in arboriculture includes:

c. 1982- now Visiting Lecturer in Arboriculture – Burnley College, The University of Melbourne
d. 1990- now External Examiner of Post-Graduate Research Degree Thesis
e. I have given arboricultural training courses, keynote addresses and presentations to national and international conferences, workshops and seminars nationally and internationally, and I have published peer-reviewed papers in international journals in arboriculture. I have written critique reviews on other scientists' books, publications and papers.
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds

(One objection was lodged by Beaumaris Conservation Society, another objection was lodged with an PO Box in Noble Park).

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>🌟</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>⚪</td>
</tr>
</tbody>
</table>
Figure 2 View towards the site from the west
Figure 3 View towards the site (RHS) along Burgess Street
Figure 4 View toward the site from the west, showing the driveway sloping up into the site
ATTACHMENT 3
Neighbourhood Character Policy (Precinct H4)

Preferred Future Character

The single and double storey dwellings sit within the topography and informal landscaped surrounds, including remnant and indigenous coastal trees. The variety of dwelling styles reflect the coastal setting through their design, details and finishes. An informal feel to the streetscapes is achieved by spaces around buildings, the lack of or unobtrusive style of front fencing and informal street treatments. Along Beach Road, development responds to its highly visible location on the edge of the coast by providing visually interesting forms and facades. Informal street treatments remain in those streets with no kerbing and remnant street tree planting is retained.

Coral and Point Avenues form an area of significant neighbourhood character.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| • To enhance the bayside vegetation character of the area through the planting of indigenous coastal species. | • Prepare a landscape plan to accompany all applications for new dwellings that utilises indigenous coastal species.  
• Retain large, established trees and provide for the planting of new trees and shrubs wherever possible (locate footings outside root zone). | • Lack of a landscape plan.  
• Removal of large established trees.  
• Use of exotic species and planting of environmental weeds | **Responds**  
Council’s Arborist has raised no objection to the removal of five of the native trees on the site, as the majority of them are not worthy of retention. An objection has been raised however to the removal of tree 5.  
The reason for supporting the removal of this tree against the Arborist recommendation is set out in the section 6.3 of the main report.  
A condition is included in the recommendation requiring the replacement planting of nine indigenous or native species capable of growing to mature heights of between 8-12 metres. The provision of such a level of planting will ensure that substantial planting occurs |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>• To maintain the rhythm of spacious visual separation between buildings.</td>
<td>• Dwellings should be sited to create the appearance of space between buildings and to accommodate substantial vegetation.</td>
<td>•</td>
<td>Throughout the site and will not adversely impact on the neighbourhood character. Furthermore, the net increase in the number of trees on the site is considered to have a net beneficial outcome particularly over time as the tree mature and grow.</td>
</tr>
<tr>
<td>• To minimise the dominance of car parking structures and the loss of front garden space.</td>
<td>• Locate garages and carports behind the line of the dwelling.</td>
<td>•</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>• Minimise paving in front garden areas including driveways and crossovers.</td>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.</td>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>• To ensure that new buildings and extensions do not dominate the streetscape</td>
<td></td>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>• To encourage innovative architecture that reflects the bayside setting.</td>
<td>• New buildings should be individually designed to respond to the characteristics of the bay side location and the site.</td>
<td>•</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Although the proposed tennis court will be located to the front of the site, it will be set down within the topography such that any impact will be minimised.</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>• To use lighter looking building materials and finishes that complement the bayside setting</td>
<td>• Use a mix of contemporary and traditional coastal materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick.</td>
<td>• Period reproduction styles and detailing.</td>
<td>N/A</td>
</tr>
<tr>
<td>• To maintain the openness of the streetscape and views to coastal garden settings.</td>
<td>• Provide open style front fencing, other than in exceptional circumstances.</td>
<td>• High or solid front fencing.</td>
<td>Responds</td>
</tr>
<tr>
<td>• To create a visually interesting and attractive built form interface with the foreshore reserve, on properties fronting Beach Road and visible from the reserve.</td>
<td>• Where the properties front to both Beach Road and another street, ensure the dwellings present visually interesting elevations on all faces visible from the public domain. • Use landscaping materials and coastal plants within the front setback that contribute to the coastal character and amenity of the street. • Provide articulated roof forms to create an interesting skyline when viewed from the beach. • Provide low or open style front fencing along Beach Road frontages.</td>
<td>• Flat, poorly articulated roof forms and facades visible from the public domain. High, solid front fencing on Beach Road.</td>
<td>N/A</td>
</tr>
</tbody>
</table>
### ATTACHMENT 3

**Vegetation Protection Overlay (VPO) Assessment**

| Tree No. | 4 |
| Botanical Name: | *Melaleuca armillaris* |
| Common Name: | Giant Honey Myrtle |
| Height / Canopy: | 8m X 6m |
| Trunk Circ.@1m: | |
| Location 1 | ~3m from north |
| Location 2 | ~8m from west |
| Origin: | Indigenous | Victorian | Australian | Exotic |
| Age: | Young | Semi-mature | Mature | Over-mature |
| Health: | Good | Fair | Poor | Dead |
| Structure: | Good | Fair | Poor | Hazardous |
| Amenity Value: | High | Moderate | Low | None |
| Life Expectancy: | 20 years + | 10-19 years | 4-9 years | 0 - 3 years |
| Retention Value: | High | Medium | Low | None |
| Habitat value: | High | Moderate | Low | |

<table>
<thead>
<tr>
<th>Decision Guideline</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>The impact the vegetation removal would have on the character of the area.</strong></td>
<td>Removal of the tree will have little impact on the amenity of the area.</td>
</tr>
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<td>The removal of the individual specimen will have a low impact on the habitat quality of remaining vegetation; when considering the extent of the vegetation proposed to be removed there will be a significant negative impact.</td>
</tr>
<tr>
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<td>The applicant is not proposing to regenerate or plant indigenous vegetation on the site. The proposed plantings are not in accordance with the preferred character.</td>
</tr>
<tr>
<td>Tree No.</td>
<td>5</td>
</tr>
<tr>
<td>Botanical Name:</td>
<td><em>Corymbia ficifolia</em></td>
</tr>
<tr>
<td>Common Name:</td>
<td>Red Flowering Gum</td>
</tr>
<tr>
<td>Height / Canopy:</td>
<td>15m X 11m</td>
</tr>
<tr>
<td>Trunk Circ.@1m:</td>
<td></td>
</tr>
<tr>
<td>Location 1</td>
<td>~15 from south</td>
</tr>
<tr>
<td>Location 2</td>
<td>~30 from east</td>
</tr>
<tr>
<td>Origin:</td>
<td>Indigenous</td>
</tr>
<tr>
<td>Age:</td>
<td>Young</td>
</tr>
<tr>
<td>Health:</td>
<td><strong>Good</strong></td>
</tr>
<tr>
<td>Structure:</td>
<td><strong>Good</strong></td>
</tr>
<tr>
<td>Amenity Value:</td>
<td><strong>High</strong></td>
</tr>
<tr>
<td>Life Expectancy:</td>
<td>20 years +</td>
</tr>
<tr>
<td>Retention Value:</td>
<td><strong>High</strong></td>
</tr>
<tr>
<td>Habitat value:</td>
<td><strong>High</strong></td>
</tr>
</tbody>
</table>

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<tbody>
<tr>
<td>The impact the vegetation removal would have on the character of the area</td>
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<tr>
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</tr>
<tr>
<td>Location 2</td>
<td>~17m from east</td>
</tr>
<tr>
<td>-----------</td>
<td>---------------</td>
</tr>
</tbody>
</table>

| Origin:    | Indigenous    | Victorian | **Australian** | Exotic |
| Age:       | Young         | Semi-mature | Mature        | Over-mature |
| Health:    | **Good**      | Fair       | Poor          | Dead     |
| Structure: | Good          | **Fair**   | Poor          | Hazardous |
| Amenity Value: | High       | **Moderate** | Low           | None     |
| Life Expectancy: | 20 years + | **10-19 years** | 4-9 years | 0 - 3 years |
| Retention Value: | High       | **Medium**  | Low           | None     |
| Habitat value: | High       | Moderate    | Low           |          |

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</tr>
<tr>
<td>Tree No.</td>
<td>7</td>
</tr>
<tr>
<td>----------</td>
<td>---</td>
</tr>
<tr>
<td>Botanical Name:</td>
<td>Corymbia ficifolia</td>
</tr>
<tr>
<td>Common Name:</td>
<td>Red Flowering Gum</td>
</tr>
<tr>
<td>Height / Canopy:</td>
<td>16m X 16m</td>
</tr>
<tr>
<td>Trunk Circ.@1m:</td>
<td></td>
</tr>
<tr>
<td>Location 1</td>
<td>~2m from south</td>
</tr>
<tr>
<td>Location 2</td>
<td>~30m from west</td>
</tr>
<tr>
<td>Origin:</td>
<td>Indigenous</td>
</tr>
<tr>
<td>Age:</td>
<td>Young</td>
</tr>
<tr>
<td>Health:</td>
<td>Good</td>
</tr>
<tr>
<td>Structure:</td>
<td>Good</td>
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<td>Amenity Value:</td>
<td>High</td>
</tr>
<tr>
<td>Life Expectancy:</td>
<td>20 years +</td>
</tr>
<tr>
<td>Retention Value:</td>
<td>High</td>
</tr>
<tr>
<td>Habitat value:</td>
<td>High</td>
</tr>
</tbody>
</table>

**Decision Guideline**

- **The impact the vegetation removal would have on the character of the area**
  
  Removal of this tree would have a high level negative impact on the canopy cover of the immediate area.

- **The impact the vegetation removal would have on the presence of indigenous species in the locality**
  
  Removal of the tree will not have any impact on the presence of indigenous species.

- **The impact the vegetation removal would have on the appearance of development**
  
  Removal of the tree will increase visual bulk by the loss of screening provided by the tree’s canopy.

- **The impact the vegetation removal would have on the habitat quality of any remaining vegetation and the fragmentation of wildlife corridors**
  
  The removal of the individual specimen will have a moderate impact on the habitat quality of remaining vegetation; when considering the extent of the vegetation proposed to be removed there will be a significant negative impact.

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  The applicant is not proposing to regenerate or plant indigenous vegetation on the site. The proposed plantings are not in accordance with the preferred character.
<table>
<thead>
<tr>
<th>Tree No.</th>
<th>11</th>
</tr>
</thead>
<tbody>
<tr>
<td>Botanical Name:</td>
<td>Lophostemon confertus</td>
</tr>
<tr>
<td>Common Name:</td>
<td>Queensland Brush Box</td>
</tr>
<tr>
<td>Height / Canopy:</td>
<td>11m X 6m</td>
</tr>
<tr>
<td>Trunk Circ.@1m:</td>
<td></td>
</tr>
<tr>
<td>Location 1</td>
<td>~3m from south</td>
</tr>
<tr>
<td>Location 2</td>
<td>~17 from east</td>
</tr>
</tbody>
</table>

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

**Decision Guideline**

<table>
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</tr>
</thead>
<tbody>
<tr>
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</tr>
<tr>
<td><em>Any proposal to regenerate or plant indigenous vegetation on the site</em></td>
</tr>
</tbody>
</table>
### Tree No. 12

**Botanical Name:** *Agonis flexuosa*

**Common Name:**

**Height / Canopy:** 4m X 5m

**Trunk Circ @1m:**

**Location 1** - 2m from north

**Location 2** - 20m from west

<table>
<thead>
<tr>
<th>Origin</th>
<th>Indigenous</th>
<th>Victorian</th>
<th>Australian</th>
<th>Exotic</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Age:</strong></td>
<td>Young</td>
<td><strong>Semi-mature</strong></td>
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<tr>
<td><strong>Amenity Value:</strong></td>
<td>High</td>
<td>Moderate</td>
<td><strong>Low</strong></td>
<td>None</td>
</tr>
<tr>
<td><strong>Life Expectancy:</strong></td>
<td>20 years +</td>
<td>10-19 years</td>
<td><strong>4-9 years</strong></td>
<td>0 - 3 years</td>
</tr>
<tr>
<td><strong>Retention Value:</strong></td>
<td>High</td>
<td>Medium</td>
<td><strong>Low</strong></td>
<td>None</td>
</tr>
<tr>
<td><strong>Habitat Value:</strong></td>
<td>High</td>
<td>Moderate</td>
<td><strong>Low</strong></td>
<td></td>
</tr>
</tbody>
</table>

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</table>
4.8 50 - 52 WELL STREET, BRIGHTON & 38 BURROWS STREET, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO. 2017/675/1 WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/16/4074 – Doc No: DOC/18/151913

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>Commercial and General</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants</td>
</tr>
<tr>
<td>Date application received</td>
<td>27 October 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>76 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone (Schedule 2)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 11)</td>
</tr>
<tr>
<td></td>
<td>Special Building Overlay (Schedule 1)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>14</td>
</tr>
</tbody>
</table>

Proposal

The application seeks approval for the construction of a three (3) storey building (plus basement) comprising of ten (10) new dwellings on a lot with an area of 1,369 square metres. Key details of the proposal are as follows:

- Ten dwellings are proposed across the site, eight will contain 3 bedrooms and two dwellings containing 2 bedrooms.
- The proposed building will be three storeys in height and will have a maximum building height of 10.8m.
- Site coverage of 52% is proposed.
- Permeability of 21% is proposed.
- Garden Area of 36.2% is proposed.
- 20 car spaces for residents and 2 visitor spaces, all within the basement are proposed. Therefore, no parking waiver is required.

The application plans are provided at Attachment 1.

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

History

There is no planning permit history relevant to this application.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:
• Clause 32.08-5 (General Residential Zone) – Construction of two or more dwellings on a lot.
• Clause 43.02-2 (Design and Development Overlay) – Construct a building or construct or carry out works within a Design and Development Overlay Schedule 11.
• Clause 44.05-1 (Special Building Overlay) – Construct a building or construct or carry out works within a Special Building Overlay.

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

3. Stakeholder consultation

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

Internal referrals
The 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>Waste Management Department</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>Strategic Planning Department</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 14 objections were received. The following concerns were raised:
• Neighbourhood character;
• Overlooking;
• Overshadowing;
• Laneway Amenity;
• Construction of basement and associated property damage;
• Creating additional flood risk;
• Visual Bulk;
• Loss of Views;
• Rubbish Bins on Nature Strip;
• Noise;
• Building Height;
• Landscaping;
• Safety;
• Energy Efficiency;
• Measurable standards is an inadequate tool to assess the subjective amenity impacts of development on neighbouring properties;
• Parking / Traffic; and
• Property values.

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

Consultation meeting
The applicant declined a consultation meeting, preferring to consult with objector parties individually. As a result of this consultation process, amended plans were submitted on 2 May 2018, which showed some reduction in the built form to the rear and south east elevations.

The amended plans were re-advertised, however no objections were withdrawn.

4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/111 for the land known and described as 50-52 Well Street Brighton & 38 Burrows Street Brighton, for the construction of a three storey building (plus basement) comprising 10 dwellings in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans (formally submitted to Council on 2 May 2018) prepared by Tectvs referenced 28505, and revision number 1.2 but modified to show:
   a) Demonstration that the building, (including lift overrun, rooftop screens etc) must not exceed a vertical height of 11m above the minimum floor level of 10.03 AHD as required by Melbourne Water at any point (i.e. demonstrate that the height complies with the General Residential Zone).
   b) All side and rear setbacks (including balcony and screening) to comply with Standard B17, as measured from Natural Ground Level. Compliance must be clearly, and accurately depicted on each elevation, with cross sectional diagrams at mid points if required.
   c) Provide a built-in-wardrobe to Bedroom 3 of Dwelling 1.01, without reducing the current dimensions (of 2.82m and 3.225m) or reducing any other setbacks.
   d) Recess the entire second floor front wall a further 500mm (balcony can remain in current location) from the property frontage. Redesign must occur to the satisfaction of the Responsible Authority.
   e) The location of the crossover to line up with the location and width of the proposed ramp driveway.
   f) Overlooking diagrams showing how screening reliant on planter boxes complies with Standard B22, without relying on mature plantings (i.e. the planter box structure itself must sufficiently act as the screen).
g) Clear delineation of storage areas at basement level and allocation to the respective dwelling.

h) Ramp gradients in compliance with the design requirements outlined in Clause 52.06-9 of the Bayside Planning Scheme.

i) Ramp gradient ratios and section lengths shown on the basement plan, ground floor plan and sections where relevant.

j) Adequate sight lines where the proposed ramp/driveway intersects with the footpath in accordance with clause 52.06-9.

k) Location of all plant and equipment, including hot water services and air conditioners etc. Plant equipment must not locate on balconies, and must be hidden from the public realm (ideally in the basement).

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

m) An amended Landscaping Plan in accordance with Condition 9 of this permit.

n) Waste Management Plan in accordance with Condition 21.

o) Evidence of payment of development contributions as required by Condition 20.

p) Demonstration of compliance with Melbourne Water Conditions.

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. 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

6. 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

7. Prior to the endorsement of plans pursuant to Condition 1, an amended landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape plan submitted with the application on 27 October 2017 drawn by Lisa Ellis Gardens, dated 13 October 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
a) The building footprint amended to match the plans formally submitted to Council on 3 May 2018.

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

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

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

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

f) Details of surface finishes of pathways and driveways

8. 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.

9. 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

10. 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.

11. 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.

12. 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.

13. Any pruning that is required to be done to the canopy of any tree to be retained must 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 must be done by hand by a qualified Arborist.

**Street tree protection**

14. Soil excavation must not occur within 2 metres from the edge of either of the Platanus x acerifolia (London Plane) street trees stem at ground level.

15. 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.

**Construction Management Plan**

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

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

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

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

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

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

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

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

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

j) Public safety measures.

k) Construction times, noise and vibration controls.

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

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

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

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


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

r) Details of crane activities, if any.

Traffic

17. The applicant is to bear the cost to reinstate/relocate the Council assets to provide access to the proposed development. All redundant crossovers are to be removed.

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.

Drainage Development Contributions

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

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

Waste Management

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

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

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

d) Facilities for bin cleaning.

e) Method of waste and recyclables collection.

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

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

h) Method of hard waste collection.

i) Method of presentation of bins for waste collection.

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

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

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

m) Compliance with relevant policy, legislation and guidelines.

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

Melbourne Water

22. Prior to the development plans being endorse, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Waters conditions relating to open style fencing and decking footing (angle of repose). Plans must be submitted with ground and floor level to Australian Height Datum (AHD).

23. The finished floor levels of the ground floor dwellings must be set no lower than 10.03 metres to Australian Height Datum (AHD), which is 300mm above the applicable flood level of 9.73 m to AHD.

24. The entry/exit driveway of the proposed basement carpark must incorporate a flood proof apex of 10.03m to AHD which is 300mm above the applicable flood level of 9.73m to AHD.

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

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

27. The development must be set back 4 metres from the south western boundary as proposed and must not be altered without prior consent from Melbourne Water. The setback must be maintained at natural surface levels and be kept clear of all permanent structure (i.e. no garages, sheds or water tanks) apart from open style fencing.

28. The development must be set back 1.5 metres from the south eastern boundary as proposed and must not be altered without prior consent from Melbourne Water. The setback must be maintained at natural surface levels.
and be kept clear of all permanent structures (i.e. no garages, sheds or water tanks) apart from open style fencing.

29. The proposed rear decks must be set at a minimum of 10.03m to AHD and open underneath with open steps to allow for the passage of overland flows through the rear setback.

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

31. The depth of the footings for the basement and rear decking must be adequate to satisfy the angle of repose relative to the drain as per Melbourne Water's specification. Refer to Melbourne Water’s Standard Drawing: ‘Angle of Repose - Footing Design’ for details.

32. Any proposed landscaping within 1.5m from the south-western property boundary must be in line with Melbourne Water’s ‘Planting near Sewers, Drains and Water Mains Guidelines’ within the Planning and Building section of our website.

33. Any new perimeter fencing at the south western boundary must be of an open, lightweight style of construction or paling.

34. All open space within the property, including the rear garden areas must be set at existing natural surface level so as not to obstruct the passage of overland flows (and no retaining walls, raised garden beds or solid masonry walls are to be used in the development of the land).

35. No filling of the property is permitted outside of any building footprint with the exception of sub floor areas of the dwellings and driveway ramps.

36. All internal fences and gates must be of an open design (minimum 50% open) including internal fences or gates within the 4 metre setback to allow for the passage of overland flows during a significant flood event.

**Permit Expiry**

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

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

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

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

**Permit Notes:**

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

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

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

5. **Council Policy**

**Council Plan 2017-2021**

Relevant objectives of the Council plan include:

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

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 13 Environmental Risks
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 19 Infrastructure
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.07 Economic Development
- Clause 21.09 Transport and Access
- Clause 21.10 Infrastructure
- Clause 21.11 Local Areas (Church Street Major Activity Centre)
- Clause 22.04 Business Employment Area Policy
- Clause 22.06 Neighbourhood Character Policy (Precinct B2)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.08 General Residential Zone (Schedule 2)
6. **Considerations**

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

6.1. **Strategic Justification**

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

Furthermore, Clause 21.11 encourages redevelopment of large sites for residential buildings with basement car parking and provide off street parking for all new dwellings. In addition to this, Clause 21 seeks to provide opportunities for as many people as appropriate to live and work in Brighton, with access to public transport and within walking and cycling distance of activity centres, therefore providing real transport options for people other than private motor vehicles.

This proposal meets the above policy objectives as it is located within walking distance of Middle Brighton Station and a commercial precinct on Church Street, Brighton, and the site is located within the Church Street Major Activity Centre.

The increase in housing density in this location is supported by State and Local Planning Policy.

6.2. **General Residential Zone Schedule 2**

**Garden Area Requirement**

As the site is larger than 650 square metres, a garden area of at least 35% of the site must be provided. The plans submitted with the application show that at least 36% of the site will be set aside as garden area which complies with this mandatory requirement.

**Maximum Building Height**

The maximum building height proposed (including the height of the screening on the roof) is 12.3m above natural ground level. The site is impacted by a Special Building Overlay (SBO). When the application was referred to Melbourne Water in accordance with the requirements of the SBO, a minimum floor level of 10.03AHD was specified. Clause 32.08-9 of the Bayside Planning Scheme states that land within an SBO can have a building height of 11m above the minimum floor level required. The current plans show a maximum building height of 11.65 when taken from the required minimum floor level.

A condition is included in the recommendation requiring the building height to be reduced to 11m above 10.03AHD to comply with this requirement of the zone.

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

The design objectives of this schedule are as follows:

- To ensure that the height of new development is compatible with the preferred future role and character of the Church Street Major Activity Centre;

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

- To ensure that new development contributes to safe and active streets; and,
- To maintain a strong landscape character with residential buildings set within vegetated front gardens and streetscapes in the residential precincts.

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

Precinct E has a maximum building height of 11m (3 Storeys) or 12m (3 storeys) where the slope of the natural ground level at any cross section of the site of the building wider than 8m is 2.5 degrees or more. The subject site does not have a slope exceeding 2.5 degrees, so the height limit of 11m must be adhered to.

The proposal retains the low rise, neighbourhood character of the Church Street Major Activity Centre by respecting the scale of Build Form. The plans comply with DDO11 for the following reasons:

- The bulk, location and appearance of the development is considered to be in keeping with the emerging character and appearance of adjacent buildings located within close proximity and will enhance the streetscape;
- The proposed development does not overshadow any public space nor any adjoining streets to an unsatisfactory level;
- The proposed use of a mixture of materials provides a level of articulation and breaks up the perceived bulk from all adjoining allotments;
- The subject site is within walking distance of Middle Brighton Station and the Church Street commercial strip which encourages active and public transport modes and furthers the Church Street Centre Framework Plan;
- The proposed development will contribute to creating a vibrant residential activity centre;
- The proposed development is consistent with the Church Street Centre Framework Plan; and,
- The layout and appearance of areas set aside for car parking is sufficient as it is located within the basement, and will not dominate the streetscape.

The height of the building in the submitted plans does not comply with the 11m height limit mentioned previously, however Council is able to consider variations pursuant the wording of the parent Design and Development Overlay.

Importantly, it is only the lift overrun and rooftop service screen that exceeds 11m (approx. 11.65m). The main building roof form is located below the 11m maximum.

Notwithstanding the above, Condition 1(a) will require the building height to be reduced to a height of 11m above 10.03AHD (which is the minimum floor level required by Melbourne Water) to comply with the zoning requirements. This is considered to be a reasonable benchmark / expectation, particularly given that any minor projection would only associate with the lift overrun and/or screening of services upon the rooftop.

The second floor of the proposed dwelling is set back between 2.2m to 3.0m behind the front wall of the first floor immediately below. This setback does not meet the 4m setback required in the overlay, and a variation of between 1.8m and 1.0m is required. The intent of this requirement is to ensure that the second storey of buildings does not present dominantly to the streetscape.

The main design reason for this non-compliance relates to the applicants voluntary setback of first floor from ground floor (they could conceivably have had a sheer front elevation and complied with the requirement). It is not considered reasonable for Council
to stringently apply the 4m setback rule and effectively punish the applicant for this first floor recession.

However, some increased setback is required to achieve the intent of the requirement, and hence a further 500mm recession at second floor will be sought through condition. Subject to this condition, the spirit and intent of the requirement has been met.

6.4. **Special Building Overlay**

The development plans were referred to Melbourne Water in accordance with Section 55 of the *Planning and Environment Act 1987*. Melbourne Water does not object to the proposed development subject to conditions. These conditions have been included in the recommendation.

6.5. **Neighbourhood character**

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

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

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

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

- To recognise the need for change around activity centres while respecting the desired future character of the area.
- To recognise the need for new or additional Design Objectives and Design Responses for areas affected by structure planning outcomes and Melbourne 2030 housing objectives.

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

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

- The preferred future character and the precinct guidelines including objectives, design responses and avoid statements for each precinct as described in this policy.
- The extent to which the characteristics of the built and natural environment in the immediate vicinity of the site may determine a preferred future character that is different from that applying to the remainder of the precinct in which the site is located.
- Whether the site is located within a residential opportunity area as shown on the Strategic Framework Plan of the Municipal Strategic Statement and the extent to which this may alter the relevance of the design responses to consideration of the proposal.

The underlined section above applies to the development under consideration, and the relevance of the Neighbourhood Character Precinct B2 is diminished by the sites inclusion in the Bay Street Activity Centre and the DDO10.

Notwithstanding the above, 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 preferred future character statement for the B2 precinct is as follows:

*The diverse dwelling styles, with a continued presence of pre WW2 dwellings, sit within established gardens with occasional tall canopy trees. Side setbacks on both sides, and the setting back of car ports/garages from the dwelling, allows for vegetation to flow around the dwellings. New buildings blend with the existing, through using a variety of materials or colours within front façades, and by respecting the older building styles and scales without replicating them. Open style front fencing improves the visual connection between the dwelling and the street. Street tree planting consistency is improved to provide a unifying element to the area. Pearson Street and Loller Street are both areas of significant neighbourhood character.*

The proposed building is of a contemporary architectural style which will sit comfortably within the surrounding diverse building styles in the area. The proposal contains appropriate side setbacks to provide a sense of spaciousness and visual separation when viewed from the streetscape. The setbacks also provide ample opportunity for landscaping to help maintain and enhance the garden setting for dwellings within the area and provide further visual separation. The proposed mixture of materials and colours ensures that the building will blend appropriately with the existing buildings at the front façade.

A basement car park is included with this application which has a double benefit of allowing for ample front garden space and landscaping opportunities to be provided whilst also, reducing the dominance of car parking structures when the site is viewed from the streetscape.

While the proposed 1.8m high, solid front fence is not in keeping with the preferred future character of the area, it is in keeping with the existing character. Council notes that the existing dwellings at 50 and 52 Well Street both feature high, solid front fencing, as do many of the neighbouring properties within the immediate context.

Importantly, this is not the first higher density development within the immediate surrounds, and buildings of a similar scale and type to that proposed already exist at No.43 Well Street and 2A Male Street (both within 50m of the subject site). A planning permit was also granted at No.46 Well Street for a three storey building.

The proposed development is therefore considered to show compliance with both the existing and preferred neighbourhood character.

### 6.6. Compliance with Clause 55 (ResCode)

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

**Street setback (Standard B6)**

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Well Street</td>
<td>8.075m</td>
<td>7.0m</td>
<td>1.075m</td>
</tr>
</tbody>
</table>

Given that the adjoining allotment at 48 Well Street fronts onto Burrows Street, a street setback from Well Street of 8.075m is required to achieve this standard. A setback of 7m from Well Street is proposed which requires a variation to the standard of 1.075m. The objective of the street setback is to ensure the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of a site.

The proposed variation is considered an appropriate design response to the area. The adjoining lot at 48 Well Street has a side setback from Well Street of 4.9m and the adjoining site a 54 Well Street has an 8.075m setback from the street. The proposed 7m setback provides an appropriate and suitable transition between these two setbacks.
whilst maintaining enough front garden space to achieve the landscape character of the area as discussed in Attachment 3.

The objective of this standard has therefore been met.

Building Height (Standard B7)

When measured from the natural ground level, the proposed maximum building height is approximately 12.5m to the top of the rooftop screening. However, as the site is within an SBO, the maximum building height needs to be measured from the minimum floor level required by Melbourne Water, which has been calculated at 10.03 AHD. The current plans show the maximum height of the rooftop screen is 11.7m above 10.03 AHD and still does not comply with the Standard, or mandatory building height required by the zone and overlay.

A condition requiring the maximum height to be no more than 11m above 10.03 AHD has been included on the recommendation. This is considered to be appropriate as a number of site services currently on the roof could be relocated to the basement, reducing the need for screening on the roof, and, the current floor to floor levels of each storey has some wriggle room to be reduced to achieve compliance (while still maintaining good internal amenity outcomes for future residents of the proposed dwellings).

It is important to note that it is only the lift overrun and rooftop screen that exceeds the height (i.e. features with very little visibility from the public realm) and the main building form itself would comply with the stated height limit.

Side and rear setbacks (Standard B17)

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>South East (side)</td>
<td>0m or 1.1m</td>
</tr>
<tr>
<td></td>
<td>2.33m</td>
</tr>
<tr>
<td>North West (side)</td>
<td>0m or 1.2m</td>
</tr>
<tr>
<td></td>
<td>2.59m</td>
</tr>
<tr>
<td>South West (rear)</td>
<td>0m or 1m</td>
</tr>
<tr>
<td></td>
<td>2.59m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Second Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
</tr>
<tr>
<td>South East (side)</td>
</tr>
<tr>
<td>North West (side)</td>
</tr>
<tr>
<td>South (rear)</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 proposed variations occur along the side facades, being relatively minor at first floor and moderate at second floor. The applicant’s drawings appear to have taken setback requirements from Melbourne Waters FFL requirements rather than Natural Ground Level – this is not an acceptable approach.

The reduced setbacks would impact on neighbouring amenity by way of visual bulk and overshadowing and hence it is considered reasonable that the setbacks be increased through condition to comply. Full compliance will therefore be require through condition.

**Overshadowing (Standard B21)**

This standard requires that:

Where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September. If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.

**2/36 Burrows Street**

A review of the plans indicate some non-compliance with respect to 2/36 Burrows Street, in that the front secluded private open space (SPOS) would have approximately 4 hours of sunlight, which would generally occur between 10.30am and 2.30pm. This is considered to be reasonable in this instance for the following reasons:

- The proposed development only impacts this area of SPOS up until 10.15am, after which any shadowing is a result of the existing dwelling at 2/36.
- The dwelling has another area of SPOS to the rear of the property that would completely unaffected (by way of shadow) from the proposed development. It must also be noted that the living room double doors open up to this rear SPOS rather than the front.

**1/54 Well Street**

The small side courtyard to this dwelling is less than 40sqm, and hence any additional shadow whatsoever would result in non-compliance with the standard.

From the outset, it must be acknowledged that it would be virtually impossible to prevent any shadow impact whatsoever on this area (given the built form encouraged on the site, the orientation and the site context). With non-compliance therefore inevitable, it becomes a question of what is considered to be reasonable for this dwelling.

The shadow associated with the proposed development begins to encroach upon this SPOS area form around 1.30pm. Prior to this there would be no impact, and hence the required variation to the standard is approximately 1 hour of shadow.

The outcome is considered to be reasonable in this instance for the following reasons:

- The property also contains a much larger area of SPOS to the front of the dwelling, noting the high brick fence that totally encloses the front setback area.
- The applicant has made a genuine attempt to minimise impact on this area, cutting a large portion off the second floor that was specifically removed to provide an additional 45 minutes(approx.) of sunlight to the affected area (this occurred after the first round of advertising).
- The condition (1(b)) requiring full compliance with standard B17 will further reduce the overshadowing upon this area.
Remaining Interfaces

The remaining dwelling interfaces are impacted by shadows, but not to a point where non-compliances with the standard occur. It must also be noted that the additional setback requirements associated with condition 1(b) will further reduce the already compliant shadow impacts on these properties.

Front Fences (B32)

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Well Street</td>
<td>1.2m</td>
<td>1.8m</td>
<td>600 mm</td>
</tr>
</tbody>
</table>

A front fence of 1.8 metres in height is proposed to the front boundary of the site on Well Street. Pursuant to Standard B32 a front fence to a maximum of 1.2 metres in height is provided preferred. The objective of this standard is to encourage front fence design that respects the existing or preferred neighbourhood character.

As explained in the Neighbourhood Character assessment, the existing front fences at 50 Well Street and 52 Well Street, are of similar heights and designs to the proposed front fence, as are a number of front fences on existing dwellings within the immediate vicinity of the subject site. Therefore, the proposed front fence is respectful of the existing neighbourhood character.

Furthermore, front fencing of this style is required to allow the front, ground floor dwellings to be provided with secluded private open space in accordance with Standard B28 of the ResCode provisions.

Functional Layout (Standard B46)

Standard B46 requires bedrooms, other than master bedrooms, to have minimum dimensions of 3m width and 3m in length. Which would total a bedroom area of 9 square metres.

The objective of the Functional Layout provision is to ensure dwellings provide function areas that meet the needs of residents.

Bedroom 2 in Dwelling G.04 has dimensions of 3.675m length and 2.95m width, therefore totalling an area of 10.84m². Bedroom 2 of Dwelling 1.04 has a length of 3.625m and width of 2.95m which equates to a total area of 10.69m². The area provided to each of these bedrooms comfortably exceeds the minimum area achieved by compliance with the standard. Council therefore contends that the very minor non-compliance by way of dimension is acceptable.

Bedroom 3 of Dwelling 1.01 has a width of 2.82m and a length of 3.225m. This equates to an area of 9.09m². The area of the room achieves the same area as compliance with the Standard would, however this room does not include any built in robe space. Standard B46 goes on to say that room to accommodate a wardrobe in addition to the minimum dimensions. Therefore, Council considers that the size of this bedroom does not comply with the standard, or satisfy the objective. A condition has been included on the recommendation requiring a built in robe be provided to this bedroom, without altering any dimensions of this room, or any setbacks. Council considers that compliance with this condition can be achieved through making internal layout changes to the study nook and northern half of the walk in robe provide in Bedroom 1 of the same dwelling.

Room Depth (Standard B47)

The objective of the Room Depth Provision is to allow adequate daylight into single aspect habitable rooms.

The only single aspect habitable rooms that do not comply with Standard B47 are the habitable open plan living, dining and kitchens in Dwelling G.03 and Dwelling 1.03. These rooms are both 10.4m in length (rather than 9m that the standard seeks) and include a
living room, dining room, kitchen and walkway and a variation of 1.4m is required.

As shown on the plans, the walkway is the part of the room furthest from the window. If a wall was erected to section of the walkway from the rest of the room, the walkway would not be considered a habitable room. The walkway is 1m in width and begins 9.4m from the window. Therefore, it could be viewed that the only “habitable” aspects of this space has a room depth of 9.4m, and would only require a variation of 0.4m.

Given the generous size and scale of the windows serving each of these rooms, adequate daylight will fill the primary habitable spaces and hence the objective would be met.

6.7. **Landscaping**

The application plans show the removal of multiple trees from the site. The application was referred to Council’s Arborist who has not raised any objection to the proposed tree removal.

The arborist have however advised that the Tree Protection Measures for Tree #18 fall short of the desired requirements. An updated Tree Management Plan (Report) and Tree Protection Plan (Drawing) will be required in conditions address this concern.

The landscape plans submitted with the application was deemed to be acceptable by Council’s Arborist.

6.8. **Street tree(s)**

The plans submitted with the application do not show any buildings or works being carried out within 2m of any existing street trees. Therefore Council officers were satisfied that a referral to the Street Tree Arborist was not warranted and that standard permit conditions pertaining to implementation of street tree protection measures in accordance with Australian Standards was sufficient to protect these assets.

6.9. **Car parking and traffic**

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

The proposal includes eight, 3 bedroom dwellings and two, 2 bedroom dwellings. Clause 52.06 of the Bayside Planning Scheme stipulates that a minimum of 18 resident car parking spaces are required. Clause 52.06 also states that one visitor car parking space is required for every five dwellings within the development. This proposal is for 10 dwellings so a total of two visitor car parking spaces are required to achieve the requirements of Clause 52.06.

The basement car park shows the provision of 20 resident car parking spaces and two visitor parking spaces, exceeding the requirements of Clause 52.06.

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

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

6.10. **Objector issues not already addressed**

**Laneway Amenity**

A number of concerns were raised regarding the visibility and surveillance of the rear laneway. The existing conditions of this laneway is that the existing single storey
dwellings at 50 and 52 Well Street have high, solid rear fencing backing onto this laneway. The current conditions of these sites dictate that the laneway does not receive any passive surveillance from these sites.

The proposed three storey apartment building will have dwellings facing the laneway at all levels. These dwellings will provide increased levels of passive surveillance and therefore result in a safer laneway than existing. Further contributing to this, the proposed rear fence along this boundary is to visually permeable, which again provides improved surveillance of the laneway.

The site at 38 Burrows Street contains a sheer, two storey wall built to the laneway boundary which currently looms over the laneway. This proposal seeks to delete this dwelling, and replace the building with a large, open garden space which will improve the visibility, surveillance and amenity of the laneway compared to the current conditions.

The proposed works will be setback appropriately for a dwelling of this size to ensure the building does not loom over or enclose the laneway. Finally, the application was referred to Council’s Traffic Engineer, who did not raise any concerns with vehicle or pedestrian visibility entering or exiting the laneway onto Burrows Street.

Construction of basement and associated property damage

Building work can sometimes affect adjoining properties. An owner who is proposing building work has obligations under the Building Act 1993 to protect adjoining property from potential damage from their work. If building work is close to or adjacent to adjoining property boundaries, then the relevant building surveyor may require the owner to carry out protection work in respect of that adjoining property. This is to ensure that the adjoining property is not affected or damaged by the proposed building work. Protection work provides protection to adjoining property from damage due to building work. It includes but is not limited to underpinning of adjoining property footings, including vertical support, lateral support, protection against variation in earth pressures, ground anchors, and other means of support for the adjoining property. This process is not controlled or overseen via the planning process and regulations. It is a matter addressed at the building permit stage.

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

Some noise and other off site impacts are inevitable when any construction occurs. The developer will be required to meet relevant Local Laws and EPA regulations regarding construction practices to ensure these impacts are mitigated.

Creating additional flood risk

The subject site is located within a Special Building Overlay which pertains to flooding levels in the area. Consequently, the application was referred to the Relevant Floodplain Management Authority (Melbourne Water) as per the requirements of Section 55 of the Planning and Environment Act 1987.

Melbourne Water are satisfied that the proposal will not create any additional flooding risk on nearby properties and did not object to the application subject to a number of conditions. These conditions have been included on the recommendation and Council relies on Melbourne Waters assessment.

Visual Bulk

The building’s visual bulk is tempered through its articulation from front and side boundaries, further complemented by the contrasting wall cladding materials, planter boxes and vegetation used at ground, first and second floors.
As discussed, further setbacks are required at condition 1(b) that will further ensure an acceptable built form.

**Rubbish Bins on Nature Strip**

A Waste Management Plan was submitted with the application and states that a private waste collection will be used rather than typical rubbish bin collection from the nature strip carried out by Council. The private waste collection truck will be required to collect the bins from the basement level.

Furthermore, the waste management plan submitted with the application was referred to Council’s Waste Management Department for comment, who did not object to the proposal.

**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. Residents of the proposed apartments are no more or less likely to generate excessive noise than the occupiers of the surrounding existing dwellings.

**Measurable standards is an inadequate tool to assess the subjective amenity impacts of development on neighbouring properties**

While Council acknowledges that amenity impacts on existing dwellings is ultimately a subjective matter, the provisions of Clause 55 is currently the only assessment tool available to Council for assessing the amenity impacts on neighbouring dwellings.

The ability of these provisions to adequately assess amenity impacts on neighbouring dwellings cannot be considered with this application. Ultimately this point needs to be raised with the Planning Minister.

An assessment of the proposals compliance with these standards and objectives is outlined in Section 6.6 of this report and Attachment 4.

**Parking / Traffic**

The proposed development satisfies Clause 52.06 of the Bayside Planning Scheme in respect to the provision of car parking. The development provides for appropriate on-site car parking relative to the number of bedrooms in the existing and proposed dwellings. Council’s Traffic Engineer has assessed the proposal and has raised no concerns regarding the impact of the proposal on the surrounding traffic network.

A number of objections mentioned there was existing traffic and parking problems in the area. These existing conditions cannot be addressed through the current application, nor should the burden of relieving these existing problems be imposed on the developer of the subject land.

**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.

**Loss of view**

Whilst it is recognised that views may form part of residential amenity, the Tribunal has consistently held that there is no legal entitlement to a view.
Support Attachments

1. Development Plans
2. Site and Surrounds
3. Neighbourhood Character Assessment
4. Clause 55 Assessment
Item 4.8 – Matters of Decision
Item 4.8 – Matters of Decision
Item 4.8 – Matters of Decision
Item 4.8 – Matters of Decision
Item 4.8 – Matters of Decision
Item 4.8 – Matters of Decision
Item 4.8 – Matters of Decision
Item 4.8 – Matters of Decision
ATTACHMENT 2
Site Surrounds and Imagery

Figure 1. Aerial overview of the site and surrounds

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

* Council received three objections from address not shown on the above image.
Figure 2. A photo of the subject site at 50 Well Street, Brighton

Figure 3. A photo of the subject site at 52 Well Street, Brighton
Figure 4. A photo of the subject site at 38 Burnows Street, Brighton.
Figure 5. A view of the rear laneway of the site, taken from the Burrows Street entry, looking towards the subject site.
Figure 6. A view of the rear laneway, taken from the Burrows Street entry, looking at the existing fencing at 36F and 36R Burrows Street, Brighton.
Figure 7. A view of the rear laneway, taken from the rear of 52 Well Street, looking towards the subject site and Burrows Street.

Figure 8. A view of the rear laneway taken at the rear of 52 Well Street, looking towards the Huntingfield Road entry point.
Figure 9. A view of the 3 storey building at 43 Burrows Street, Brighton.
Figure 10: A view of the 3 storey building located at 2A Male Street, Brighton
Figure 11. A view of the 4 storey building at 1/3 Male Street, Brighton.
Neighbourhood Character Precinct B2

Preferred Future Character Statement

The diverse dwelling styles, with a continued presence of pre WW2 dwellings, sit within established gardens with occasional tall canopy trees. Side setbacks on both sides, and the setting back of car ports/garages from the dwelling, allows for vegetation to flow around the dwellings. New buildings blend with the existing, through using a variety of materials or colours within front facades, and by respecting the older building styles and scales without replicating them. Open style front fencing improves the visual connection between the dwelling and the street. Street tree planting consistency is improved to provide a unifying element to the area.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
|  | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
• Alterations and extensions should retain the front of these dwellings. | Demolition of dwellings that contribute to the valued character of the Precinct. | Responds  
None of the dwellings proposed for demolition make a significant contribution to the character precinct. This is especially true for the dwellings at 50 and 52 Well Street, which are secluded from view by the high, solid front fence.  
The dwelling at 38 Burrows Street is not of a pre WW2 architectural style, and with its narrow street frontage, does not contribute to the character of the precinct.  
Furthermore, no objections were raised relating to the demolition of these dwellings, and no planning permit is required for their demolition. |
| To maintain and enhance the garden settings of the dwellings. |  |  |
|  | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. | Lack of landscaping and substantial vegetation. | Responds  
The applicant has prepared a landscape plan which shows the opportunity for generous landscaping within the development, especially on the land known as 38 Burrows Street.  
The existing dwelling at 38 Burrows Street is to be demolished and converted fully, into a garden area.  
Landscaping conditions have been included in the recommendation. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To maintain the rhythm of spacious visual separation between buildings and provide space for front gardens.</td>
<td>• 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.</td>
<td>Loss of front garden space.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Whist the building is generally setbacks from boundaries to an acceptable degree, there are exceptions, and full compliance with Standard B17 will be required by condition. The landscape plans submitted show the planting of trees and shrubs around the proposed building. This vegetation will act to enhance the appearance of space between buildings, when viewed from Wall Street.</td>
</tr>
<tr>
<td>To minimise the loss of front garden space and the dominance of car parking facilities.</td>
<td>• Locate garages and carports behind the line of the dwelling. • Provide only one vehicular crossover per typical site frontage. • Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.</td>
<td>Car parking facilities that dominate the façade or view of the dwelling.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>All car parking facilities will be located within the basement level which will only be accessed from an existing crossover at 52 Wall Street. As part of this proposal, a net loss of 3 garages, and 2 vehicle access ways will occur as currently all dwellings across the three sites contain these facilities. Other than the access way to the basement, the car parking facilities will be secluded from view and ample front garden space has been provided.</td>
</tr>
<tr>
<td>To ensure new development respects the dominant buildings forms and scale of buildings in the Precinct, through the use of innovative architectural responses.</td>
<td>• Articulate the form of buildings and elevations, particularly front facades. • Recess upper storey elements from the front façade.</td>
<td>Large buildings with poorly articulated facades.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>While the proposed building is larger than the existing dwellings at 50 Wall Street, 52 Wall Street and 38 Burrows Street, it is well articulated through setbacks, materials, vegetation and design features.</td>
</tr>
<tr>
<td>To respect the identified heritage</td>
<td>• Where adjoining an identified heritage building, respect the height, building forms, siting and materials of the heritage.</td>
<td>Buildings that dominate heritage buildings by.</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>There are no heritage listed buildings or heritage.</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
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</tr>
<tr>
<td>qualities of adjoining buildings.</td>
<td>buildings in the new building design.</td>
<td>height, siting or massing limitation or reproduction of historic building styles and detailing.</td>
<td>precincts within the immediate vicinity of the site.</td>
</tr>
</tbody>
</table>
| To use a variety of building materials and finishes that provide visual interest in the streetscape. | • Incorporate a variety of building materials such as brick, render, timber and non-masonry into the building design.  
• Use simple building details. | Exclusive use of one material on external wall facades. | Responds  
As shown on the elevation plans, an appropriately varied palette of materials is proposed. |
| To improve the visual connection between the dwellings and the streetscape and encourage views to front gardens. | • Provide open style front fences, other than along heavily trafficked roads.  
• Front fence style should be appropriate to the building era. | High, solid fences | Does not respond  
The proposed 1.8m high, solid front fence does not comply with the preferred design response. However, the existing dwellings at 50 Well Street and 52 Well Street, and majority of neighbouring dwellings contain high, solid front fences. In this respect, the proposal is respectful of the existing streetscape and existing neighbourhood character of the area. Furthermore, this type of fencing is required to provide areas of secluded private open space for the front ground floor dwellings in accordance with the requirements of Clause 55 (ResCode) of the Bayside Planning Scheme. |
## ATTACHMENT 4

### ResCode (Clause 55) Assessment

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

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong> 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>B2 Residential Policy</strong> Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td>Yes</td>
<td>The proposal is compliant with the relevant State Planning Policy Framework and Local Policy Framework regarding housing.</td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong> Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td>Yes</td>
<td>The proposed development includes both two bedroom dwellings and three bedroom dwellings. Along with this, multiple dwellings containing a bath or shower, kitchen, toilet and wash basin on the ground floor are provided.</td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong> Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer. The location of the site is such that the development can be connected to appropriate reticulated services.</td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong> Integrate the layout of development with the street.</td>
<td>Yes</td>
<td>The proposal appropriately addresses the street and the common pedestrian and vehicle entries are clearly identifiable from either the streetscape.</td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong> The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td>No</td>
<td>Required: 8.075m Proposed: 7m</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision Required</td>
</tr>
<tr>
<td>------</td>
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<td>--------------------</td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td>No</td>
</tr>
<tr>
<td><strong>B8 Site Coverage</strong></td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B9 Permeability</strong></td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B10 Energy Efficiency</strong></td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B11 Open Space</strong></td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>B12 Safety</strong></td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B13 Landscaping</strong></td>
<td>To provide appropriate landscaping. To encourage: Development that respects the landscape character of the neighbourhood. Development that maintains and enhances habitat for plants and animals in locations of habitat importance. The retention of mature vegetation on the site.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
## B14 Access
Ensure the safe, manageable and convenient vehicle access to and from the development.
Ensure the number and design of vehicle crossovers respects neighbourhood character.

| Yes | Appropriate vehicular access is provided. Maximum: 33% of street frontage Proposed: 14% 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.

| Yes | The proposed car parking areas are appropriately located. |

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

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

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>South East (side)</td>
<td>0m or 1.1m</td>
</tr>
<tr>
<td>North West (side)</td>
<td>0m or 1.2m</td>
</tr>
<tr>
<td>South west (rear)</td>
<td>0m or 1m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Second Floor</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>South East (side)</td>
<td>5.6m – 5.8m</td>
</tr>
<tr>
<td>North West (side)</td>
<td>5.9m – 6.1m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>5.3m – 5.9m</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.

| N/A | Maximum Height: 3.6m Proposed: None proposed Maximum Average Height: 3.2m Proposed: None proposed Maximum Length: 20m Proposed: None proposed |

## B19 Daylight to Existing
Yes
The proposal is well setback from property boundaries to ensure daylight to existing windows
### Windows
Allow adequate daylight into existing habitable room windows.

<table>
<thead>
<tr>
<th>Item 4.8 – Matters of Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Windows</strong></td>
</tr>
<tr>
<td>Allow adequate daylight into existing habitable room windows.</td>
</tr>
<tr>
<td><strong>B20 North Facing Windows</strong></td>
</tr>
<tr>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
</tr>
<tr>
<td>The proposal is set back from existing north facing windows on adjoining properties such that they are not unreasonably affected.</td>
</tr>
<tr>
<td><strong>B21 Overshadowing Open Space</strong></td>
</tr>
<tr>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
</tr>
<tr>
<td>Refer to report.</td>
</tr>
<tr>
<td><strong>B22 Overlooking</strong></td>
</tr>
<tr>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
</tr>
<tr>
<td>Windows and balconies have been appropriately treated through planter boxes, or screens to comply with the standard.</td>
</tr>
<tr>
<td><strong>B23 Internal Views</strong></td>
</tr>
<tr>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
</tr>
<tr>
<td>At ground level, fencing to a height of 1.8m will prevent internal overlooking, whilst windows at first floor have been adequately located and designed to limit internal overlooking to less than 50%.</td>
</tr>
<tr>
<td><strong>B24 Noise Impacts</strong></td>
</tr>
<tr>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
</tr>
<tr>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
</tr>
<tr>
<td><strong>B25 Accessibility</strong></td>
</tr>
<tr>
<td>Consider people with limited mobility in the design of developments.</td>
</tr>
<tr>
<td>Entries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong></td>
</tr>
<tr>
<td>Provide a sense of identity to each dwelling.</td>
</tr>
<tr>
<td>The entry to the development is easily identifiable from the street.</td>
</tr>
<tr>
<td><strong>B27 Daylight to New Windows</strong></td>
</tr>
<tr>
<td>Allow adequate daylight into new habitable room windows.</td>
</tr>
<tr>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td><strong>B28 Private Open Space</strong></td>
</tr>
<tr>
<td>Provide reasonable recreation and service needs of residents by adequate pos.</td>
</tr>
<tr>
<td>All balconies have an area of at least 8m² with a minimum width of 1.8m. The ground floor apartments are provided with an area well in excess of the required 40m² of private open space including at least 25m² of secluded private open space.</td>
</tr>
<tr>
<td><strong>B29 Solar Access to Open Space</strong></td>
</tr>
<tr>
<td>Yes</td>
</tr>
<tr>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>Item</td>
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<tr>
<td>B30 Storage</td>
</tr>
<tr>
<td>B31 Design Detail</td>
</tr>
<tr>
<td>B32 Front Fences</td>
</tr>
<tr>
<td>B33 Common Property</td>
</tr>
<tr>
<td>B34 Site Services</td>
</tr>
<tr>
<td>Standard B35 Energy efficiency objectives</td>
</tr>
<tr>
<td>Standard B36 Communal open space</td>
</tr>
<tr>
<td>Item</td>
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<td>------</td>
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<td>4.8</td>
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</table>

Item 4.8 – Matters of Decision
| Identity. |  
|-----------------|-----------------|
| To ensure the internal layout of buildings provide for the safe, functional and efficient movement of residents. To ensure internal communal areas provide adequate access to daylight and natural ventilation. |  
| **Standard B43 Private open space above ground floor** | Yes  
| To provide adequate private open space for the reasonable recreation and service needs of residents. | Yes  
| **Standard B44 Storage** | The proposal provides more than adequate private open space for all future residents and exceeds the dimensions set out in the table to the standard. |  
| To provide adequate storage facilities for each dwelling. | Yes  
| **Standard B45 Waste and recycling** | The storage provided exceeds the requirements. |  
| To ensure dwellings are designed to encourage waste recycling. To ensure that waste and recycling facilities are accessible, adequate and attractive. To ensure that waste and recycling facilities are designed and managed to minimise impacts on residential amenity, health and the public realm. | Yes  
| **Standard B46 Functional layout** | The applicant submitted a waste management plan which was referred to Council’s Waste Management Department. The Waste Management department approved the submitted plan which complies with this standard. |  
| To ensure dwellings provide functional areas that meet the needs of residents. | Yes  
| **Standard B47 Room depth** | All living areas exceed the minimum dimensions required. However, Bedroom 2 of Dwelling G.04 and 1.04 and Bedroom 3 of Dwelling 1.01 do not meet the minimum dimensions required by the standard. Refer to report | No  
| To allow adequate daylight into single aspect habitable rooms. | All habitable rooms have sufficient depth and ceiling height to allow for adequate daylight aside from Dwelling G.03 and Dwelling 1.03. Refer to report for assessment of these rooms. | No  
| **Standard B48 Windows** | All habitable rooms have at least one window in an external wall of the building. No bedrooms require a secondary area within the bedroom for natural light. | Yes  
| To allow adequate daylight into new habitable room windows. |  
| **Standard B49 Natural ventilation** | The proposal meets the requirement in terms a minimum of 40% of dwellings having effective cross ventilation. | Yes  
<p>| To encourage natural |</p>
<table>
<thead>
<tr>
<th>City Planning and Amenity – Statutory Planning</th>
<th>Delegate Officer Report</th>
</tr>
</thead>
<tbody>
<tr>
<td>ventilation of dwellings.</td>
<td></td>
</tr>
<tr>
<td>To allow occupants to effectively manage natural ventilation of dwellings.</td>
<td></td>
</tr>
</tbody>
</table>
4.9 111 DENDY STREET, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/701/1 WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/152152

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Keen Planning</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>27 December 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>188 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>18</td>
</tr>
</tbody>
</table>

Proposal

The application seeks to construct a residential building comprising eight (8) dwellings with basement car park on a lot with an area of 1,434.82m². Key details of the proposal are as follows:

- Eight dwellings and shared basement car park;
- Two storeys with a maximum building height of 7.89m;
- Site Coverage 55.4%;
- Permeability 42.2%;
- Garden area 36.9%; and
- A total of 16 car spaces and two visitor car spaces located within the basement car park.

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 18 objections were received. The following concerns were raised:

- Overdevelopment / density / number of dwellings;
- Neighbourhood character, particularly the façade treatment;
- Visual bulk;
- Setbacks;
- Overlooking;
- Overshadowing;
- Separation between buildings;
- Car parking, access and traffic;
- Vegetation and landscaping;
- Accuracy of the plans, particularly the site survey, associated level changes and overshadowing shadowing; and
- Property values.

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

Consultation meeting

A consultation meeting was held on 10 May 2018 attended by the permit applicant and six objecting parties. As a result of this meeting no objections were withdrawn.

4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/701/1 for the land known and described as 111 Dendy Street, Brighton for the construction of a two storey residential building comprising eight dwellings, basement car park and front fence exceeding 1.2 metres in height in accordance with the endorsed plans and subject to the following conditions from the standard conditions:
1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application prepared by IN2 Pty Ltd Sheets TP03 (Rev.I), TP04 (Rev.I), TP05A (Rev.G), TP05B (Rev.G), TP05C (Rev.G), TP05D (Rev.F) and TP05E (Rev.F) and dated Oct 2017 and Landscape Plan Sheets 1, 2 & 3 of 3 prepared by Wallbrink dated 7/2/18 but modified to show:

   a) A reduction to the extent of glazing to the façade treatment to achieve and reflect the residential characteristic of the immediate streetscape. This should include banding to the top of the ground and first floor windows.

   a) The ground floor western side setback to Dwelling 4 increased to 2 metres.

   b) The ground floor eastern side setbacks to Dwelling 1 and 2 increased to be in line with the edge of the balcony above (1.36 metres).

   c) A reduction to the dwellings’ floor to ceiling height from 3.2 metres to 3 metres with a corresponding decrease in the overall building height of 0.4 metres.

   d) Reduction in the front fence height to 1.5 metres with a minimum 25% transparency.

   e) Planter beds located between Dwelling 2 and 3 adjacent the communal pathway to be increased to a minimum width of 1.5 metres.

   f) Highlight windows adjacent to the communal pathway to be acoustically treated.

   g) All lights along the communal pathway to feature downward lighting and designed to avoid light spill on adjoining properties.

   h) Screening to the first floor balconies in accordance with Standard B22 (Overlooking).

   i) The width and gradient of the basement ramp must be dimensioned on the floor plans in accordance with Clause 52.06.9 of the Bayside Planning Scheme.

   j) Inclusion of a traffic signalling and intercom systems to the basement access ramp.

   k) Details of all car parking allocations to be annotated on the basement floor plan.

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

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

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

   o) A Landscape Plan in accordance with Condition 10.

   p) A Waste Management Plan in accordance with Condition 18.

   q) A Construction Management Plan in accordance with Condition 19.

   r) Evidence of the NatHERS Cool Load in accordance with Condition 20.
s) Development Contributions payment in accordance with Condition 21. All to the satisfaction of the Responsible Authority.

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

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

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

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

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

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

**Water Sensitive Urban Design**

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

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

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

**Landscaping**

10. 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 Wallbrink Landscape Architecture, 111 Dendy St Brighton, Dwg 1998TP3 and be drawn to scale with dimensions and
three copies must be provided. The plan must show:

a) Location of ground protection measures, in accordance with AS4970, between the west fence and the west boundary wall of the basement to ensure protection of the row of *Pittosporum tenufolium* at 109 Dendy Street Brighton.

b) Location of tree protection measure associated with the street tree and an annotation that the existing crossover is to be utilised.

c) A survey, including botanical names, of all existing trees to be retained on the site.

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

e) 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.

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

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

h) Details of surface finishes of pathways and driveways, including a reduction in the extent of hard paving.

i) Eight (8) trees capable of reaching 8m in height at maturity.

11. Prior to commencement of works ground protection, in accordance with AS4970, must be installed between the west fence of 111 Dendy Street and the west boundary wall of the basement.

The ground protection must remain in place until commencement works for the installation of the paving.

The paving must be installed above grade.

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.

**Car Parking and Access**

14. 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.

15. Before the occupation of the development starts, any new and/or 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.

**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.

Waste

18. Before the endorsement of plans, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must clearly indicate that waste collection is to be via a private contractor, not Council, and include:
   a) Dimensions of storage waste areas.
   b) Storm water drains in storage areas should be fitted with a litter trap.
   c) The number and size of bins to be provided.
   d) Facilities for bin cleaning.
   e) Method of waste and recyclables collection.
   f) Types of waste for collection, including colour coding and labelling of bins.
   g) Hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines).
   h) Method of hard waste collection.
   i) Method of presentation of bins for waste collection.
   j) Sufficient headroom within the basement to accommodate waste collection vehicles
   k) Sufficient turning circles for the waste collection vehicles to enter and exit the site in a forward direction.
   l) Strategies for how the generation of waste and recyclables will be minimised.
   m) Compliance with relevant policy, legislation and guidelines.

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

Construction Management

19. Before the commencement of works, a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit and shall thereafter be complied with. The CMP must specify and deal with, but not be limited to the following as applicable:
   a) A detailed schedule of works including a full project timing.
   b) A traffic management plan for the site, including when or whether any access points would be required to be blocked, an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local
services, preferred routes for trucks delivering to the site, queuing/sequencing, excavation and swept-path diagrams.

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

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

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

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

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

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

i) Site security.

j) Public safety measures.

k) Construction times, noise and vibration controls.

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

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

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

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


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

r) Details of crane activities, if any.

Energy Efficiency

20. The approved development must be in compliance with the required NatHERS Cooling Load pursuant to Clause 55.07-1 of the Bayside Planning Scheme.

Development Contribution

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

**Permit Expiry**

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

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

**Permit Notes:**

- 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.

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 19  Infrastructure
- Clause 21.02  Bayside Key Issues and Strategic Vision
- Clause 21.03  Settlement and Housing
- Clause 21.04  Environmental and Landscape Values
- Clause 21.06  Built Environment and Heritage
- Clause 21.10  Infrastructure
- Clause 22.06  Neighbourhood Character Policy (Precinct B2)
- Clause 22.08  Water Sensitive Urban Design
- Clause 32.09  Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02  Design and Development Overlay (Schedule 3)
- Clause 45.06  Development Contributions Plan Overlay (Schedule 1)
- Clause 52.06  Car Parking
- Clause 55  Two or more dwellings on a lot
- Clause 65  Decision Guidelines

6. Considerations

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

6.1. Neighbourhood character

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

The overall scale and built form massing of the development has been carefully considered to respect and enhance the varied character and pattern of development along Dendy Street. The 7.6 metre front setback (same as 1/109 Dendy Street), side setback and minimum 3.6 metre rear setback provide ‘true ground planting opportunities’ for appropriate vegetation, including canopy tree planting. Further, upper floor levels that are considerably smaller than the ground floor footprint assists in softening and modulating the appearance of the development to generally respect the rhythm and visual separation between dwellings when viewed from the streetscape and adjoining properties to the east, west and north. The development has been designed to present as one dwelling to the streetscape with three similar built forms to the rear rather than an apartment development.

The proposed feature glazing to the façade treatment and extent of metal copper cladding proposed to the eastern and western elevations hints at a commercial rather than residential feel for the overall development. Notwithstanding this, conditions of permit are recommended to significantly reduce the extent of glazing to the frontage,
drawing on similar proportions of glazing to rendered / masonry / weatherboard treatments found along the remainder of the streetscape. Conditions require the inclusion of banding along the top of the ground and first floor glazing which will ensure continuity with the residential presentation of the streetscape.

Whilst the metal copper cladding proposed to the eastern and western elevations is extensive, it will patina as it ages, resulting in an acceptable outcome when viewed from adjoining properties to the east and west. The recommended alterations to the overall appearance to the façade treatment are in direct response to achieve a built form character that reflects the prevailing residential feel and neighbourhood character which and also address concerns raised by local residents.

The proposed flat roof profile is considered to representative of the emerging architecture style found within the immediate area, including that at 115 and 117 Dendy Street. The proposed roof form is an important element to the integrity of the contemporary architecture and minimises the massing of the proposal and any perception of visual bulk presented to adjoining properties.

The proposed maximum 7.89m building height satisfies planning scheme requirements and existing double storey character of dwellings located within Dendy Street in close proximity to the subject site. Further, the proposed double storey built form towards the rear of the subject site is generally supported, subject to floor to ceiling heights at both ground and first floors of all dwellings being reduced from 3.2 metres to 3 metres at ground floor and first floor to alleviate the perception of adverse visual bulk impacts to immediately adjoining private open space, particularly the existing tennis court to the east at 113 Dendy Street which sits at a lower natural ground level. Condition 1(b) is will achieve the preferred outcome discussed above. Whilst it is acknowledged that the tennis court is not considered to be the most sensitive interface, a reduced floor to ceiling heights will assist in reducing the variations to the non-compliant side setbacks and provide improvements for future equitable development, particularly as the terrain slopes down from Dendy Street to the north-east corner of the site. The overall reduction in height will have no adverse amenity impacts to the internal amenity.

The proposed 2 metres separation between Dwellings 2 & 3 at ground floor and Dwellings 6 & 7 at first floor provides a visual ‘break’ to minimise the presentation of visual bulk when viewed from east and west adjoining properties. The generous setbacks to the stair and lift cores also provides added further visual relief, particularly to the eastern façade when viewed from 113 Dendy Street.

The proposed ground and first floor side setbacks are generally acceptable, however do not fully comply with the numerical requirements of the schedule to the zone. The proposed variations are discussed in further detail below. Conditions of permit are included to require all walls to be constructed on the boundary to be offset to allow for improved visual separation with adjoining properties.

The proposed basement entry utilises the existing crossover to maintain existing conditions and minimise adverse impacts to the existing street trees in front of the subject property. Further, the basement ramp has also been appropriately designed to limit its visual impact to the streetscape.

The proposed 2.1 metres high solid render front fence with proposed landscaping in front exceeds the preferred maximum height of 1.2 metres. It is considered reasonable to reduce the fence height to a maximum of 1.5 metres and require visually permeable elements to a minimum of 25% of the fence length. This condition will ensure compliance with the fence profiles along Dendy Street.

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

An assessment against the requirements of Clause 55 is provided at Attachment 4. Those non-compliant standards are discussed below:
Street setback (Standard B6)

The proposed 7.6 metres front setback seeks to vary the 9 metres numerical requirement of the standard. However, it is considered reasonable given the existing setback to the double width carport on site is 5 metres.

The proposed front setback will accommodate substantial landscaping opportunities, including canopy tree planting to reflect the garden character of the neighbourhood and soften the appearance of the development to the street and represents an improvement upon existing conditions.

Further, the front setback matches the front setback at 1/109 Dendy Street to the west and provides an acceptable transition at ground floor to respond to the open setback at 113 Dendy Street to the east and is comparable to properties directly across the road at 104, 106, 108 and 112 Dendy Street to maintain the garden setting evident within Dendy Street.

Site coverage (Standard B8)

The proposed 55.4% site coverage exceeds the 50% schedule requirement.

However, conditions relating to increased side setbacks (discussed below) result in the site coverage being reduced. Subject to conditions requiring additional setbacks at ground and first floor, the varied site coverage is considered acceptable given the basement footprint is modest and accommodates generous front and rear setbacks, thereby allowing for adequate post-construction landscaping opportunities.

Further, the proposed 36.9% garden area exceeds the 35% requirement and ensures minimal off site amenity impacts to immediately adjoining properties.

Side and rear setbacks (Standard B17)

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>Proportion</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
<td>Requirement</td>
</tr>
<tr>
<td>0 or 2m</td>
<td>0m, 2.1m, 2.15m, 4m and 9.3m</td>
<td>4.96m, 5.96m</td>
</tr>
<tr>
<td>0 or 2m</td>
<td>0m, 2.02m, 2.06m and 3.4m</td>
<td>4.6m, 5.18m and 5.32m</td>
</tr>
<tr>
<td>0 or 3m</td>
<td>3.69m 6.24 m</td>
<td>6.78m</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.

It is noted that the reduced side setbacks are directly opposite existing non-sensitive interfaces (i.e. a driveway at 109 and a driveway and tennis court located at 113 Dendy Street). In addition, balconies are allowable projections within side setbacks at first floor.

Notwithstanding the general acceptability of the setbacks, it is recommended that a minimum 2 metre side setback to the ground floor western wall associated with Dwelling 4 be introduced to ensure visual separation along the western side setback.

This condition ensures a more appropriate character outcome and improves the safety/sense of address along the communal pathway.

A condition of permit also requires the ground floor eastern setbacks associate with Dwelling 1 and 2 to be setbacks in line with the balcony edge of the floor immediately above (1.3 metres). This condition will allow for separation with the adjoining property at
113 Dendy Street and will not result in any unreasonable internal amenity impacts. Further, the increase in setbacks will improve the internal amenity afforded to the ground floor secluded private open spaces, but including a greater level of outlook and reduced overshadowing.

The proposed design accommodates reasonable landscaping opportunities along the east and west side setbacks at ground floor and significant modulation at first floor to soften the development and minimise adverse visual bulk impacts when viewed from immediately adjoining properties. In addition, recommended conditions seeking a reduction to ground and first floor, floor to ceiling heights will also aid in reducing undesirable bulk impacts.

Therefore, given the existing site context full compliance with the schedule side setbacks is not considered warranted in this instance.

**Overlooking (Standard B22)**

The proposal includes a number of first floor windows serving habitable rooms that are within 9 metres of the secluded private open space (SPOS) and habitable room windows. All first floor habitable room windows have a fixed vertical metal louvers with 25% visibility to ensure overlooking is limited in accordance with this standard.

It is noted that the west facing balconies have been screened to a height of 1.5 metres. Whilst it can generally be presumed that the tennis court to the rear is 113 Dendy Street does not function as the primary area of secluded private open space, it is considered reasonable that occupants of this property can enjoy the same level of privacy as currently experienced therefore a condition of permit has been included to require all east facing balconies to be screened in accordance with Standard B22 (Overlooking).

In addition, the existing 1.8 – 2 metre boundary fencing provides adequate protection to immediately adjoining properties from unreasonable overlooking to/from ground floor windows.

**Dwelling entry (Standard B26)**

The development faces Dendy Street and includes a clearly identifiable entry point with dedicated pedestrian pathway abutting the western boundary. The entry points provide shelter, a sense of personal address and a transitional space around the building entry. It is noted that the distances travelled on foot to reach the pedestrian accesses to the rear dwellings are comparable with the pedestrian entries of Dwellings 2 and 3 of 109 Dendy Street, immediately to the west of the site.

Notwithstanding the above, it is considered the landscaping insets to Dwelling 2 and 3 could be further enhanced by introducing wider planter beds, setback a minimum of 2 metres which will assist in adding visual interest central to the development. Further it is recommended that the safety of future residents can be improved with the provision of lighting along the pathway, strategically located to minimise light spill to the residential development a 109 Dendy Street.

It is also noted that highlight windows along the shared pedestrian pathway should also be acoustically treated to protect the internal amenity of future residents.

A condition requiring a 2 metre side setback to the western boundary of Dwelling 4 will further assist with introducing a sense of address to the lobby area of the rear built form.

**Detailed design (Standard B31)**

The design, in particular the proposed mass of the built form, has been carefully considered resulting in a well-articulated built form that generally respects the prevailing pattern of building form and preferred neighbourhood character. However, several improvements can be made to improve the overall design as outlined in the Section 6.1 (Neighbourhood Character Assessment) and included as recommended conditions.
Front fences (Standard B32)

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential street</td>
<td>1.2m</td>
<td>2.1m</td>
</tr>
</tbody>
</table>

The proposed 2.1m high rendered front fence incorporating a landscaped section in front exceeds the required 1.2m front fence height required by Schedule 3 of the Neighbourhood Residential Zone. Front fence heights and materials within this section of Dendy Street are varied.

It is acknowledged that the proposed 2.1m high front fence will limit noise, but it is considered that a 1.5 metre high fence will provide a more respectful response to other fence heights within Dendy Street which will complement the wider streetscape character. It is recommended that conditions of permit further require visually transparent elements to assist the vegetative character of the area.

6.3. Landscaping and street trees

Existing vegetation on site

All trees on site are proposed to be removed to facilitate the development. On-site trees are not protected by the VPO or under any local law. The large *Liquidambar styraciflua* tree whilst contributing to the amenity value of the streetscape is noted as having a poor – fair structure and health therefore its retention is not considered necessary and replacement planting discussed below will contribute to the long-term amenity of the streetscape.

As such the proposed removal of existing on-site vegetation is supported.

Vegetation on adjoining properties

The vegetation along the west boundary, at 109 Dendy Street Brighton, is *Pittosporum tenufolium*, and will not be impacted on by the works for the basement. A tree Management Plan is not considered necessary for the protection of this vegetation, rather it is included as a recommended condition of permit.

Proposed landscaping

Council’s Arborist has noted that the proposed replacement planting is not suitable. The trees included in the landscape plan do not meet the Bayside Landscape Guidelines (BLG).

The BLG calls for one small tree, minimum 8 metres in height, for each dwelling, and four are proposed. Council’s Arborist notes there are sufficient opportunities for the required landscaping to be achieved, subject to a condition requiring a reduction in the hard surface areas.

The extent of the basement will allow for deep soil planting for the majority of the site and will enable meaningful landscaping to establish that would assist in softening views of the built form.

Street tree

A *Fraxinus oxycarpa* tree is located within the nature strip and is proposed for retention. Council’s Street Tree Arborist has advised that given the existing crossover is to be utilised there will be minimal impact to the street tree subject to tree protection measures being deployed during construction which have been included as a condition of permit.

6.4. Car parking and traffic

Access and car parking

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.
All dwellings comprise of three bedrooms and is afforded two car parking spaces each within the basement level. The proposed on site car parking meets the requirements of Clause 52.06-5. Further to this, two visitor car parks have been provided to provide a surplus of one car parking space above the requirements of the standard.

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, a signalling system, sightlines and internal parking dimensions. These are included as conditions of the permit.

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

Traffic
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.

Council’s Traffic Engineer has not raised concerns regarding pedestrian or vehicular safety within the area as a result of the development.

Waste management
As a condition of approval the applicant will be required to submit a waste management plan detailing the means by which garbage and recyclables will be stored on the site and the time and frequency of collection and location of the collection point. A condition of any approval will require the submission of a waste management plan.

6.5. Cultural Heritage
The site is not located within an area of Aboriginal Cultural Heritage Sensitivity. In deciding whether a mandatory Cultural Heritage Management Plan (CHMP) is required under the Aboriginal Heritage Act 2006 (Act) and Aboriginal Heritage Regulations 2007 (Regulations), Council must consider if a development which is wholly within an area of cultural heritage sensitivity, requires a CHMP or if it is exempt.

A report from Alpha Archaeology confirms the land has been significantly disturbed and as such a CHMP is not required due to the exemption in Regulation 8A.

It is noted that the report attached refers to four dwellings on a lot. The due diligence in respect of the number of dwellings is inconsequential in this regard as the test for three or more dwellings on a lot for a CHMP requires an assessment relating to the extent of ground disturbance.

6.6. Development Contributions Levy
The subject site is located within catchment area 11A.

Based on the proposed application at the recommendation, a payment of $10,100 is required. The payment of the development contributions will be recommended as a condition of permit.

6.7. Objector issues not already addressed

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

**Incorrect information**

Sufficient information to enable an informed view of the application has been made available for viewing at Council offices as part of the notification process, which has been carried out in accordance with Section 57 of the *Planning and Environment Act 1987*. Additional information submitted with the application has been made available at the request of interested parties.

Queries regarding the accuracy of the plans, including the site levels, are based upon a site survey undertaken by a Licensed Surveyor. Evidence of how the overshadowing assessment has been checked for accuracy has been provided by the permit applicant and is included at Attachment 6.

**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.

**Overdevelopment**

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

The design responds to the opportunities and constraints of the site and its context. It is unrealistic for objectors to expect that the site of this size will not go through redevelopment.

**Dwelling density and number of units**

The Bayside Planning Scheme and the *Planning and Environment Act 1987* does not elaborate on the definition of what constitutes medium or high density housing. Rather, the suitability of the development with respect to density and height is determined by the design’s response to the site context, location and the relevant planning scheme objectives.

The planning scheme does not restrict the number of units that can be located within a given area. Therefore each planning permit application must be assessed against the relevant provisions of the Bayside Planning Scheme. The existence of a high number of dwellings in the area would not be sufficient grounds for Council to justify refusal of the application before the Victorian Civil and Administrative Tribunal.

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment (Precinct B2) ↓
4. ResCode (Clause 55) Assessment ↓
5. Cultural Heritage Management Plan Assessment ↓
6. Accuracy of Shadowing Diagrams ↓
Photo 1 – Facing north from Dandy Street to the front boundary of the subject site

Photo 2 – Facing north-east from Dandy Street to 113 and 115 Dandy Street

111 DENDY STREET, BRIGHTON
Photo 7 – Facing north-east from Dendy Street to 109, 111 and 113 Dendy Street (left to right of photo)

Photo 8 – Facing north-west from Dendy Street to 109, 111 and 113 Dendy Street (left to right of photo)

111 DENDY STREET, BRIGHTON
Photo 9 – Facing north from Dendy Street to 115 Dendy Street, 20 metres east of the subject site
Item 4.9 – Matters of Decision
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ATTACHMENT 2
Site and Surrounds Imagery

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

<table>
<thead>
<tr>
<th>Legend</th>
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<tbody>
<tr>
<td>Subject site</td>
<td>★</td>
</tr>
<tr>
<td>Objectors</td>
<td>⚫</td>
</tr>
</tbody>
</table>
Figure 3: Looking north to 111 Dendy Street (subject site)
Figure 4: Looking north, across Dendy Street, to a three unit development at 109 Dendy Street and shared driveway.

Figure 5: Looking north to 113 Dendy Street.
Figure 6: Looking north to 115 and 117 Dendy Street.

Figure 7: View looking west along Dendy Street, from the road intersection with Hampton Street.
ATTACHMENT 3
Neighbourhood Character Policy (Precinct B2)

Preferred Future Character Statement
The diverse dwelling styles, with a continued presence of pre WW2 dwellings, sit within established gardens with occasional tall canopy trees. Side setbacks on both sides, and the setting back of car ports/garages from the dwelling, allows for vegetation to flow around the dwellings. New buildings blend with the existing, through using a variety of materials or colours within front façades, and by respecting the older building styles and scales without replicating them. Open style front fencing improves the visual connection between the dwelling and the street. Street tree planting consistency is improved to provide a unifying element to the area.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.</td>
<td>• To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.</td>
<td>Demolition of dwellings that contribute to the valued character of the Precinct.</td>
<td>Demolition of the existing dwelling does not require planning approval.</td>
</tr>
<tr>
<td>To maintain and enhance the garden settings of the dwellings.</td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs.</td>
<td>Lack of landscaping and substantial vegetation. Removal of large canopy trees.</td>
<td>Whilst the proposed basement takes up a significant amount of the site layout it incorporates large front and rear setbacks and ‘cut outs’ along the side setbacks demonstrates there are sufficient areas of open space and ‘true ground’ planting areas in which to include canopy planting. The submitted Landscape Plan includes canopy tree planting in these areas, including at least two canopy trees (Greenback Magnolia trees capable of reaching a mature height of 10 metres) in the front setback which is highly visible to the adjoining streetscape, ensuring the</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Comments</td>
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</tbody>
</table>
| 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 | Adequate visual separation and space within the front setback is provided to promote landscaping opportunities throughout the site. First floor setbacks and articulation along the side and rear boundaries, including a physical 2 metre separation between units offers visual interest and alleviate adverse building massing when viewed from the street and adjoining dwellings. This is further enhanced by the setbacks associated with the lift and stair wells which are offset 9.37 metres from the eastern site boundary. |
| To minimise the loss of front garden space and the dominance of car parking facilities. | • Locate garages and carports behind the line of the dwelling.  
• Provide only one vehicular crossover per typical site frontage.  
• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space. | Car parking facilities that dominate the façade or view of the dwelling.  
Dominance of crossovers and driveways | The proposed basement ramp utilises the existing crossover adjacent to the eastern boundary. This maintains the vehicle access status quo to the subject site and ensures minimal, if any, additional impact to the existing street tree located on the front nature strip (see Section 6.5 for further information). |
| To ensure new development respects the dominant buildings forms and scale of buildings in the Precinct, through the use of innovative architectural responses. | • Articulate the form of buildings and elevations, particularly front facades.  
• Recess upper storey elements from the front façade. | Large bulky buildings with flat, poorly articulated wall surfaces | The dwellings present as a contemporary built form, which is responsive to other developments evident within the street, including that at 115 and 117 Dendy Street. Notwithstanding this it is recommended that the façade treatment is modified to reduce the considerable glazing utilised at ground and first floor facing Dendy Street. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Comments</th>
</tr>
</thead>
</table>
| 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. | The proposed reflective glazing provides for a backdrop which will reflect the large canopy trees proposed within the front setbacks and will contribute to the lightness of the built form. It is however considered this can still be achieved with a reduced level of glazing and the incorporation of banding material along the top of the ground and first floor levels. This approach will present a similar ratio of glazing associated with residential front facades along the existing streetscape.  
The front façade whilst being constructed on the same plain, does provide for an acceptable level of articulation and the curved walls setback behind prevent any perception of a flat façade. |
| To use a variety of building materials and finishes that provide visual interest in the streetscape. | • Incorporate a variety of building materials such as brick, render, timber and non-masonry into the building design.  
• Use simple building details. | Excessive use of render on external walls. | Recommended conditions seek to vary and soften the variety of external materials and finishes detailed on the submitted elevation drawings and Colours & Materials Schedule. In particular the extensive glazing finish used on the façade treatment to ensure the proposal presents as a |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Comments</th>
</tr>
</thead>
</table>
| To improve the visual connection between the dwellings and the streetscape and encourage views to front gardens. | • Provide open style front fences, other than along heavily trafficked roads.  
• Front fence style should be appropriate to the building era. | High, solid front fencing | A 2.1m solid render front fence is proposed. Whilst this exceeds the preferred 1.2m front fence required by the schedule to the zone, it responds to the prevailing high front fencing character evident within this section of Dendy Street and is generally considered acceptable in this instance. It is however considered appropriate to introduce some visually permeable elements which will allow views into the densely vegetated front setback. |
ATTACHMENT 4
ResCode (Clause 55) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>
| B1 Neighbourhood Character  
Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.  
Development responds to features of the site and surrounding area. | Yes | Refer to Attachment 3 and Section 6.1 of this report. |
| B2 Residential Policy  
Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.  
Support medium densities in areas to take advantage of public transport and community infrastructure and services. | Yes | The subject site is appropriately located with regard to services and facilities to support the development.  
State Planning Policy Framework supports the intensification of development in and around public transport nodes and in activity centres.  
Policy seeks to encourage residential development close to shops and services and the appropriate redevelopment of larger sites for appropriately designed dwellings adequate off-street car parking for all new dwellings. It is considered that the proposal meets the above policy aspirations.  
It is considered that the proposed development achieves the policy vision of the area by retaining its spacious and leafy character, while also appropriately integrating new housing into the streetscape. Furthermore, the interface of the proposed development with the adjoining lower scale residential development is considered to be dealt with in a sensitive manner (discussed further at Attachment 3 and at Section 5.1 of this report). |
| 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. | Yes | 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. It is noted that the developer will be required to pay a development contributions levy in accordance with the |
| **B5 Integration with the Street** | No | The development will integrate appropriately within the street and will present as a single dwelling facing Dendy Street. The proposed single width basement ramp utilises the existing crossover and has been designed to ensure minimal impact to the streetscape and in particular the existing street tree. The development proposes a flat roof form and Dwellings 1 and 5 feature extensive glazing to their façades. Conditions of permit have been included to require this to be amended to present a more acceptable fit with the streetscape and wider neighbourhood character. The proposed 2.1m high solid render front fence exceeds Council’s preferred maximum 1.2m front fence height and blocks views to Dwelling 1’s landscaped front setback. However, this is considered acceptable in this instance as:

- The front fence incorporates vegetation in front that extends across the face of the site and softens the development
- The front fence height reflects existing high front fencing evident within this section of the Dendy Street streetscape
- The front fence will limit noise from Dendy Street.

Notwithstanding this, it is considered the presentation can be improved through the introduction of some visually permeable elements which have been included as a condition of permit. See Neighbourhood Character at Attachment 3 for further discussion. |
| **B6 Street Setback** | No | **Requirement:** 9m.
**Proposed:** 7.6m to 13.4m at ground floor and first floor.
See Section 6.2 of report for further discussion. |
| **B7 Building Height** | Yes | **Maximum:** 9m.
Design and Development Overlay, Schedule 3 identifies a height of 2 storeys excludes basements that do not project more than 1.2m above natural ground level, as in this instance.
**Proposed:** Maximum height is 7.89m
It is noted that the basement at no point rises above natural ground level and as such complies with the standard and Design and Development Overlay, Schedule 3. |
<table>
<thead>
<tr>
<th>Item 4.9 – Matters of Decision</th>
<th>B8 Site Coverage</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>No</td>
</tr>
<tr>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>B9 Permeability</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
</tr>
<tr>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>B10 Energy Efficiency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B11 Open Space</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>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B12 Safety</th>
</tr>
</thead>
<tbody>
<tr>
<td>Layout to provide safety and security for residents and property.</td>
</tr>
</tbody>
</table>

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

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

| Yes | The proposed basement ramp utilises the existing crossover to provide appropriate access to/from Dendy Street. The width of the accessway complies with design standards at Clause 52.06.9. General standard traffic conditions are recommended as permit conditions.
|     | Refer to Section 6.3 of the report for further discussion. |

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

| Yes | On site car parking is provided in the form of a basement carpark. Standard traffic conditions are recommended as permit conditions.
|     | Refer to Section 6.3 of the report for further discussion. |

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

| No | Refer to Section 6.2 of the report for further discussion. |

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>East (side)</td>
<td>0 or 2m</td>
</tr>
<tr>
<td>West (side)</td>
<td>0 or 2m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>0 or 3m</td>
</tr>
<tr>
<td>Item</td>
<td>4.9 – Matters of Decision</td>
</tr>
<tr>
<td>------</td>
<td>--------------------------</td>
</tr>
</tbody>
</table>
| **B18 Walls on Boundaries** | Yes | **East boundary**  
Max Height: 3.2m  
Proposed: 3.2m  
Max length: 27.71m  
Proposed: 16.3m  
West boundary  
Max Height: 3.2m  
Proposed: 3.2m  
Max length: 27.6m  
Proposed: 8.2m |
<p>| <strong>B19 Daylight to Existing Windows</strong> | Yes | The development has been sufficiently setback from all existing habitable room windows to ensure these windows achieve a minimum 1m clear to the sky which exceeds the standard. |
| <strong>B20 North Facing Windows</strong> | N/A | There are no north facing windows within 3m of the shared boundary. |
| <strong>B21 Overshadowing Open Space</strong> | Yes | The development has been designed to ensure any additional overshadowing cast over adjoining private open space areas is well within the tests applicable to this standard. |
| <strong>B22 Overlooking</strong> | Yes | See Section 6.2 of this report for further discussion. |
| <strong>B23 Internal Views</strong> | Yes | The development has been designed to ensure limited visibility between dwellings through the appropriate orientation and screening of windows and location of secluded private open space areas, separated by appropriate internal fencing. |</p>
<table>
<thead>
<tr>
<th>Appendix B50</th>
<th>Description</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>B24 Noise Impacts</td>
<td>Consider people with limited mobility in the design of developments.</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/residential building.</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>
<tr>
<td>B28 Private Open Space</td>
<td>Provide reasonable recreation and service needs of residents by adequate private open space.</td>
<td>N/A</td>
</tr>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Yes</td>
</tr>
<tr>
<td>B30 Storage</td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td>Yes</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>No</td>
</tr>
<tr>
<td>Item 4.9 – Matters of Decision</td>
<td></td>
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<tr>
<td>-------------------------------</td>
<td></td>
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</tr>
<tr>
<td>B32 Front Fences</td>
<td>No</td>
<td>The proposed 2.1m high rendered front fence incorporating a landscaped section in front exceeds the required 1.2m front fence height required by Schedule 3 of the Neighbourhood Residential Zone. Front fence heights and materials within this section of Dendy Street are varied. Therefore, it is considered that the proposed 2.1m high front fence will limit noise and responds to other fence heights within Dendy Street which will complement the wider streetscape character and is therefore acceptable in this instance. It is recommended that conditions of permit include some visually transparent elements to assist the vegetative character of the area.</td>
</tr>
<tr>
<td>B33 Common Property</td>
<td>Yes</td>
<td>All areas of common property, such as the basement car park, entry points and pedestrian pathways have been designed to clearly delineate public, communal and private areas. Common property is functional and capable of efficient management.</td>
</tr>
<tr>
<td>B34 Site Services</td>
<td>Yes</td>
<td>All appropriate site services can be easily catered for on-site. Mails boxes are located adjacent to the pedestrian entrance facing Dendy Street. Further, waste provisions will be provided within the basement level. A Waste Management Plan is recommended as a condition of permit.</td>
</tr>
<tr>
<td>Standard B35 Energy efficiency objectives</td>
<td>Yes, subject to a condition</td>
<td>The site orientation maximises the solar access and does not unreasonably reduce energy efficiency and solar access to adjoining properties. East facing areas of open space have been maximised where possible and no habitable rooms rely on borrowed light. A NatHERS Assessment has not been provided with the application yet the applicant claims the development can achieve a max. annual cooling load of 21MJ/M² for Climate Zone 62 (Moorabbin). Therefore, it is considered that the proposed development reasonably provides for an appropriate level of energy efficiency. A condition requiring compliance with the NatHERS Cooling Load is recommended.</td>
</tr>
</tbody>
</table>
### Standard B36 Communal open space

To ensure that communal open space is accessible, practical, attractive, easily maintained and integrated with the layout of the development.

Developments with 40 or more dwellings should provide a minimum area of communal open space of 2.5 sq metres per dwelling or 250 sq metres, whichever is lesser.

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
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<tbody>
<tr>
<td>N/A</td>
<td>This standards relates to developments with 40 or more dwellings.</td>
</tr>
</tbody>
</table>

### Standard B37 Solar access to communal outdoor open space

To allow solar access into communal outdoor open space.

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
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<tbody>
<tr>
<td>N/A</td>
<td>There is no communal outdoor open space provided within this development. Communal areas within this development at ground floor level to do constitute recreational outdoor open space.</td>
</tr>
</tbody>
</table>

### Standard B38 Deep soil areas and canopy trees objective

To promote climate responsive landscape design and water management in developments to support thermal comfort and reduce the urban heat island effect.

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Required: 7.5% of the site area with a minimum dimension of 3 metres and 1 medium tree (6-12 metres) per 50m² of deep soil or 1 large tree per 90m² of deep soil given the site area is between 1001m² - 1500m². <strong>Proposed:</strong> The submitted Landscape Plan prepared by Wallbrink indicates that the required trees can be easily accommodated on site. Council’s Arborist confirms no objection to the proposed landscaping, subject to conditions.</td>
</tr>
</tbody>
</table>

### Standard B39 Integrated water and stormwater management

To encourage the use of alternative water sources such as rainwater, stormwater and recycled water. To facilitate stormwater collection, utilisation and infiltration within the development. To encourage development that reduces the impact of

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
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<tbody>
<tr>
<td>Yes</td>
<td>The proposal has a 42.2% permeability which exceeds the min 20% required by this Standard. Further two rainwater tanks are proposed to be located within the basement, capable of storing more than 8,000L of water which is consistent with the objectives of Clause 22.08 (Water Sensitive Urban Design) of the Bayside Planning Scheme.</td>
</tr>
<tr>
<td>Item</td>
<td>Standard</td>
</tr>
<tr>
<td>------</td>
<td>----------</td>
</tr>
<tr>
<td>4.9</td>
<td>B40 Noise Impacts</td>
</tr>
</tbody>
</table>
| 4.10 | B41 Accessibility | To ensure the design of dwellings meets the needs of people with limited mobility. Yes | Requirement: 50 per cent of dwellings should have:  
- A clear opening width of at least 850mm at the entrance to the dwelling and main bedroom.  
- A clear path with a minimum width of 1.2 metres that connects the dwelling entrance to the main bedroom, an adaptable bathroom and the living area.  
- A main bedroom with access to an adaptable bathroom.  
- At least one adaptable bathroom that meets all of the requirements of either Design A or Design B specified in Table B7.  
Proposed: All dwellings meet these minimum standards. |
| 4.11 | B42 Building entry and circulation | To provide each dwelling and building with its own sense of identity. To ensure the internal layout of buildings provide for the safe, functional and efficient movement of residents. To ensure internal communal areas provide adequate access to daylight and natural ventilation. Yes | The building entry points and pedestrian pathway is clearly visible from the street.  
Lifts and separate stairs provided from the basement to first floor level provide convenient movement for residents.  
Porchs provide appropriate shelter from inclement weather and lobby areas are provided with external glazing for daylight and ventilation. |
<p>| 4.12 | B43 Private open space above ground floor | To provide adequate | Requirement: An area of 15m², with a minimum dimension of 3 metres at a podium or other similar base and convenient access from a living room, or a balcony with an area of 12m² with a minimum |</p>
<table>
<thead>
<tr>
<th>Standard</th>
<th>Description</th>
<th>Decision</th>
<th>Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>B44 Storage</td>
<td>To provide adequate storage facilities for each dwelling.</td>
<td>Yes</td>
<td>Required: 3 bed apartments require 18m² total minimum storage volume and 12m² minimum storage volume with the dwelling. Provided: As mentioned at Standard B30 each dwelling has a designated 6m³ storage area provided within the basement. A further 29.4m³ of internal storage can be provided for each dwelling. Refer to development plan TP04.</td>
</tr>
<tr>
<td>B45 Waste and recycling</td>
<td>To ensure dwellings are designed to encourage waste recycling. To ensure that waste and recycling facilities are accessible, adequate and attractive. To ensure that waste and recycling facilities are designed and managed to minimise impacts on residential amenity, health and the public realm.</td>
<td>Yes, subject to a condition</td>
<td>As mentioned at Standard B34, a waste collection area will be provided within the basement. A Waste Management Plan is recommended as a condition of permit.</td>
</tr>
<tr>
<td>B46 Functional layout</td>
<td>To ensure dwellings provide functional areas that meet the needs of residents.</td>
<td>Yes</td>
<td>Requirement: Bedrooms should provide for a main bedroom with minimum dimensions of 3m x 3.4m. All other bedrooms should have a minimum dimension of 3m x 3m. 2 or more bedroom dwellings should have a minimum living area width of 3.6m with a minimum area of 12m². Proposed: All apartments comply with the minimum widths and area.</td>
</tr>
<tr>
<td>B47 Room depth</td>
<td>To allow adequate daylight into single aspect habitable rooms.</td>
<td>Yes</td>
<td>Requirement: Single aspect habitable rooms should not exceed a room depth of 2.5 times the ceiling height. Proposed: The development includes a range of single aspect habitable rooms and none exceed a room depth of 2.5 times the ceiling height to comply with this standard.</td>
</tr>
<tr>
<td>B48 Windows</td>
<td></td>
<td>Yes</td>
<td>Requirement: Habitable rooms should have a window in an external wall of the building. A window may provide daylight to a bedroom from a smaller</td>
</tr>
</tbody>
</table>

**Private open space for the reasonable recreation and service needs of residents.**

**Dimension of 2.4 metres.**

**Proposed:** All ground floor dwellings have in excess of 31m² of open space which generously exceeds the min. 15m² requirement. All first floor dwellings are provided with 16m² – 20m² balconies with a min dimension of 2.4m which exceeds the standard.
| Item 4.9 – Matters of Decision | Page 387 of 465 |

| To allow adequate daylight into new habitable room windows. | secondary area within the bedroom where the window is clear to the sky. The secondary area should be:
- A minimum width of 1.2 metres.
- A maximum depth of 1.5 times the width, measured from the external surface of the window.
**Proposed:** All rooms have a window in an external wall of the building to achieve the standard. |

| **Standard B49 Natural ventilation**  
To encourage natural ventilation of dwellings.  
To allow occupants to effectively manage natural ventilation of dwellings. | Yes | **Requirement:** At least 40% of dwellings should provide effective cross ventilation that has:
- A maximum breeze path through the dwelling of 18 metres.
- A minimum breeze path through the dwelling of 5 metres.
- Ventilation openings with approximately the same area.  
**Proposed:** All dwellings are provided with natural ventilation. |
Heritage Advisors
www.alphaarc.com

Mr Mark Franek
One 11 Dendy Street Pty Ltd
PO Box 267
Hampton VIC 3188

Dear Mark,

Re: 111 Dendy Street, Brighton
Heritage Due Diligence Assessment

Introduction
Thank you for commissioning Alpha Archaeology Pty Ltd (Alpha) to undertake a heritage due diligence assessment of the above property for the purposes of determining if the property requires a Cultural Heritage Management Plan (CHMP) for a proposed four lot residential development under the Victorian Aboriginal Heritage Act 2006 (the Act).

Part 2, Division 1 of the Victorian Aboriginal Heritage Regulations 2018 (the Regulations) specifies when a CHMP is required. Regulation 7 states that a CHMP is required for an activity if–
(a) all or part of the activity area for the activity is an area of cultural heritage sensitivity; and
(b) all or part of the activity is a high impact activity.

Therefore in order for a CHMP to be required the proponent must be proposing a high impact activity in an area of sensitivity. Below is a review of both the proposed activity and the activity area to determine if either trigger is met and therefore if a CHMP is required.

Cultural Heritage Advisor
Alpha Principal Heritage Advisor Jodie Mitchell undertook this heritage due diligence assessment. Mitchell is a qualified archaeologist with over thirteen years consulting experience, a full member of the Australian Association of Consulting Archaeologists Inc. (MAACAI), and is registered as a Heritage Advisor with the office of Aboriginal Victoria (AV). Following are the results of her review.
Cultural Heritage Sensitivity
The property is situated within the "Sand Sheets" landform, which is considered to be an area of "cultural heritage sensitivity" under r.41 of the Regulations. A site inspection of the property was undertaken by Mitchell on 5 July 2018 to determine if it has been subject to significant ground disturbance according to the definition provided in the Regulations.

The definition of significant ground disturbance under the Regulations (r.4) is the:

"disturbance of—

a) The topsoil or surface rock layer of the ground;

or b) A waterway—

by machinery in the course of grading, excavating, digging, dredging or deep ripping, but does not include ploughing other than deep ripping"

Site Inspection
The property is known as 111 Dendy Street, Brighton and is bounded by Dendy Street to the south and established residential properties to the west, east and north. It is the land contained in Lot 1 on TP161299 in the Parish of Moorabbin, and is 1,399m² in size.

The property currently comprises an established single storey brick dwelling in the front half of the property with an established lawn area, garden beds around the perimeter and concrete drive in the front yard (Photos 1-3).

A bitumen drive way runs down the east side of the house to a brick garage, and through to the rear yard area (Photo 4). The rear yard is located within a sloping area of the surrounding land, sloping very slightly downhill from the south west to the north east, with a drop of one metre in height from the front yard to rear boundary. The backyard contains an in-ground swimming pool immediately behind a decked area at the rear of the house, a lawn and landscaped area surrounding that (Photos 5-7), and a step leading down to an astro turf tennis court taking up the remainder of the rear yard (Photos 8-9). The rear yard has been extensively landscaped and terraced to accommodate the above features. The wooden fence along the western side of the property is slightly higher with a low retaining wall at the base, providing further visual evidence that the yard areas of 111 Dendy Street have been cut and levelled in the past to accommodate the extensive landscaping, pool and tennis court (Photo 10).

The use of machinery would have been required for such extensive ground works when installing the swimming pool, terracing and landscaping the yard areas, and construction of the tennis court.
High Impact Activity
The proposed activity is the application for a planning permit for a four lot residential development. This is a high impact activity under r.48 and r.49 of the Regulations.

Resister Search
Mitchell searched the register of Aboriginal Victoria (AV) to identify if any Aboriginal sites had been recorded on or adjacent the property. No Aboriginal sites are registered on or adjacent the property.

Conclusion
In order for a CHMP to be triggered the property must be in an area of sensitivity and the proposed activity must be a high impact activity. The proposed activity is a high impact activity as it is the development of four dwellings.

It has been determined that the property is in an area zoned as sensitive, however a site inspection has revealed that the entire property has been subject to significant ground disturbance according to the Regulations. This is evidenced by the earthworks required to construct the building, extensive landscaping and terracing over the whole property, installation of an in-ground swimming pool and construction of a tennis court.

Based on the above it has been determined that a CHMP is not required for the proposed development of this property.

If you have any queries in relation to this due diligence heritage assessment, please do not hesitate to contact me.

Yours sincerely,

Jodie Mitchell (B.Arch., MAACA)
Director / Principal Heritage Consultant
Alpha Archaeology Pty Ltd
Photo 3 Bitumen drive way east side front yard.
Photo 7 Rear of house, extensive paving, verandah, pool

Photo 8 Tennis court, showing terracing up to pool area.
Photo 9 Looking south from rear boundary over tennis court, lowest terrace.
Photo 10 Western boundary fence, showing retaining walls where property has been cut and levelled.
Hi Patricia,

We have spoken with the Architect regarding the shadow diagrams and confirm the following:

- The shadows are based on a 3D model.
- The Architect uses Vectorworks which allows them to plug in all of the survey points and it generates a 3D site model. Below are screen shots of the 3D model, the sun locations based on location, date and time and screenshot of the 3:00pm sun (worst case) for your reference.
- The survey information used by the Architect is from the Plan of Survey prepared by M.J. Reddie Surveys dated 15/09/2017. This is attached for reference and includes certification from the Surveyor regarding the accuracy of the Survey.

Please contact me or the Architect (Mile on 0417 384 856) if you have any questions or need anything further.

Cheers, Jason.

Jason Barnfather
Principal Planner
4.10 15 CENTRE ROAD, BRIGHTON EAST
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/285/1 WARD: NORTHERN

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

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>SJB Planning</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>8 May 2017 (Amended)</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>55 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>Special Building Overlay (Schedule 1)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>138</td>
</tr>
</tbody>
</table>

Proposal

The application involves buildings and works to allow the staged redevelopment of the existing Retirement Village to accommodate a total of 152 apartments (increased from 69), within three separate buildings (maximum four storeys in height), a reduction in the associated car parking requirements and alteration to access to a road in a Road Zone, Category 1 on a lot with an area of 6,781 square metres.

Key details of the proposal are as follows:

General:
- A total of 150 x 1 bedroom apartments and 2 x 2 bedroom apartments are proposed within three detached apartment style buildings, known as Buildings A, B and C.
- Site coverage is 35.9%
- Permeability is 26.4%
- Garden area is 23.3%
- Buildings A and C have a three storey height, varying between 13 – 13.9 metres
- Building B has a four storey component at the centre of the footprint and has an overall height of 17 metres
- A total of 52 car spaces are proposed across two separate car parking bays, provided in the south east corner of the site and along the western boundary adjacent to the existing car park at Mayflower Brighton (7 Centre Road)
- Four (4) visitor bicycle spaces are provided along the eastern edge of Building A
- The buildings will be constructed of rendered precast and compressed sheet
concrete in neutral tones and finishes to the façade and grey colourbond metal deck roofs

- A detailed landscape plan has been provided and incorporates landscaped pedestrian accessways throughout the site, canopy trees and large open space areas

**Building A:**
- Located at the front of the site along the southern boundary adjacent to Centre Road
- Comprises 36 apartments within a three storey building and an internal communal space comprising an area of 95 square metres
- The building comprises a ground floor setback of 6 metres from Centre Road and between 5.9 - 11.3 metres from the western boundary
- The building is setback 6 metres (4.9 metres from the balcony) from Centre Road at first and second floor level and 5.3 - 6.2 metres from the western boundary (4.3 metres from the balcony)

**Building B:**
- Located along with northern (rear) boundary of the site and includes a north-south wing projecting into the centre of the site
- Comprises 79 dwellings within a three / four storey building
- The ground floor western elevation is setback 2 metres from the boundary, 4 - 4.4 metres from the rear boundary and 3.83 metres from the eastern boundary
- The first floor level is setback 3.95 - 18 metres from the western boundary and 5.9 metres to the eastern boundary
- The second floor level is setback 4 - 18 metres from the western boundary and 4 - 4.4 metres to the balcony line from the rear boundary and 9.1 metres to the eastern boundary
- The third floor level runs from north to south with a setback of 17-18 metres from the western boundary and 13.4 metres from the rear boundary

**Building C:**
- Located along the eastern boundary of the site
- Comprises 37 units within a three storey building and under croft parking to the south
- The ground floor level is setback 7.25 metres from the eastern boundary
- The first floor level is setback 5.6 - 7.2 metres from the eastern boundary and 10 metres from Centre Road
- The second floor level is setback 7.2 - 9.7 metres from the eastern boundary and 17.4 metres from Centre Road

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 Halycon Senior Citizens Village has operated from the subject site at 15 Centre Road, Brighton East since its establishment in 1978 using donations from the City of Brighton and a variety of private and government organisations. The Village provides
affordable housing to Bayside residents.

The site currently accommodates nine well-spaced buildings which scale between one and two storeys. The buildings accommodate a mixture of dwelling types including 7 double bedroom units, 7 single bedroom units and 55 bedsit rooms. A total of 71 residents occupy the site.

The existing buildings are sited along the northern, eastern and part of the western boundaries and centrally on site. An existing drainage and sewerage easement dissects the site diagonally north west to south east. The existing front setback is used for car parking and provides 22 residential spaces and 2 short term spaces for health care works, deliveries and maintenance personnel.

Vehicle access is provided to the site via two crossovers to Centre Road at the south west and south east corners of the site.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.09-1 (Neighbourhood Residential Zone Schedule 3), a Retirement Village (Accommodation) is a Section 2 Use (permit required).
  The site currently operates as a Retirement Village and the existing use will continue under this application. As such a permit for the continued use is not required.

- Clause 32.09-8 (Neighbourhood Residential Zone Schedule 3), for buildings and works associated with a Section 2 Use.
  The provisions of Clause 32.09-8 with respect to Clause 55 and Clause 32.09-9 with respect to building height do not apply as the proposed use does not fall within the scope of a ‘Residential Building’.
  The garden area requirements do not apply as the works are not associated with a dwelling or residential building.

- Clause 43.02-2 (Design and Development Overlay Schedule 3), for buildings and works which exceed 8 metres.

- Clause 44.05-1 (Special Building Overlay), for buildings and works.

- Clause 52.06-3 (Car Parking), to reduce the number of car parking spaces required under Clause 52.06-5.
  Pursuant to Clause 52.06-5, a Retirement Village has a specified rate of one resident car space per each one bedroom dwelling plus one visitor space per every five units. A total of 152 one and two bedroom units are being provided which generate a requirement of 152 resident car spaces and 30 visitor spaces.
  A total of 52 on site spaces are proposed.

- Clause 52.29 (Land Adjacent to a Road Zone, Category 1), a permit is required to create or alter access to a road in a Road Zone Category 1.

Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.

3. Stakeholder consultation

External referrals

The application was referred to the following authorities:
Referral Authority | Response
---|---
Melbourne Water | No objection, subject to conditions.
Public Transport Victoria (PTV) | No objection, subject to conditions. No response to amended plans at time of writing this report.
VicRoads | No objection, subject to conditions.

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

| Internal Referral | Response |
---|---
Arborist | No objection, subject to conditions. |
Drainage Assets Engineer | No objection, subject to conditions. |
Open Space Arborist | No objection, subject to conditions. |
Urban Design | No objection, subject to conditions. These conditions have been demonstrated in the Section 57A amended plans which are known as the Decision Plans found at Attachment 1. |
Waste Management | No objection, subject to conditions. |
Traffic Engineer | Objection. |

Public notification
The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and 138 objections were received. The following concerns as summarised below were raised:

- Visual bulk;
- Loss of neighbourhood character;
- Overlooking;
- Overshadowing; and
- Parking / Traffic.

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

Consultation meeting
A Consultation Meeting was not held by Council. The applicant chose to facilitate community consultation prior to the lodgement of the planning application and prior to the lodgement of amended plans to Council pursuant to Section 57A of the Planning and Environment Act 1987 following public notification.

The amended plans demonstrated a variety of improvements to the advertised plans (detailed below) and therefore Council was satisfied that re-advertising was not required.

Section 57A amended plans
Following public notification, the applicant submitted an amended application pursuant to Section 57A of the Planning and Environment Act 1987.

These plans are found at Attachment 1 of the report and demonstrate the following
changes to the advertised plans:

- The number of dwellings reduced from 157 to 152;
- The number of on site car parking spaces increased from 35 to 52 spaces;
- Introduction of a vertical recession to Building B towards the western end of the building opposite the private open space areas of 22 and 24 Grant Street (north of the site);
- Alteration to the southern (streetscape) façade Building C through the deletion of Apartment 2.13 to present in a two storey scale to Centre Road. A subsequent alteration to the screen element was made.

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 2017/285** for the land known and described as **15 Centre Road, Brighton East**, for buildings and works to allow the staged redevelopment of the existing Retirement Village to accommodate a total of 152 independent living units within three separate buildings (maximum four storeys in height), a reduction in the associated car parking requirements and alteration to access to a road in a Road Zone, **Category 1** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the decision plans prepared by AdeB Architects, Project No. 123 and Council date stamped 8 May 2018 modified to show:

   a) 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.
   
   b) A staging plan showing the sequence of construction to the satisfaction of the Responsible Authority.
   
   c) Water Sensitive Urban Design measures in accordance with Condition 14.
   
   d) A Landscaping Plan in accordance with Condition 16.
   
   e) A Tree Management and Protection Plan in accordance with Condition 19.
   
   f) A Waste Management Plan in accordance with Condition 30.
   
   g) A Car Parking Management Plan in accordance with Condition 12 of this permit.
   
   h) A Construction Management Plan in accordance with Condition 13 of this permit.
   
   i) Any changes required by VicRoads conditions of this permit.
   
   j) Any changes required by Melbourne Water conditions 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 development starts, a schedule of construction materials, external finishes and colours (incorporating for example paint samples) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the schedule will be endorsed and will then form part of the permit.

7. Provision must be made on the land for the storage and collection of garbage and other solid waste. This area must be graded and drained and screened from public view to the satisfaction of the Responsible Authority.

Car Parking

8. Before the occupation of the development, the area(s) set aside for the parking of vehicles and access as shown on the endorsed plans must be:
   a) Constructed;
   b) Property formed to such levels that they can be used in accordance with the plans;
   c) Suraced with an all-weather seal coat;
   d) Drained;
   e) Line marked to indicate each car space and all access lanes;
   f) Clearly marked to show the direction of traffic along access lanes and driveways;

All to the satisfaction of the Responsible Authority.

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

10. All car parking spaces must be designed to allow all vehicles to drive forwards both when entering and leaving the property.

11. Vehicular crossings must be constructed to the road to suit the proposed driveways to the satisfaction of the Responsible Authority and any existing crossover or crossing opening must be removed and replaced with footpath, nature strip, and kerb and channel to the satisfaction of the Responsible Authority.

Car Parking Management

12. Prior to the endorsement of plans pursuant to Condition 1, a Car Parking Management Plan to the satisfaction of the Responsible Authority must be
submitted to and be approved by the Responsible Authority.

The Car Parking Management Plan must include, but is not limited to, details of:

a) Signing and linemarking of parking spaces.

b) Details of any proposed access controls such as boom gates securing access to the car parking.

c) Plan on how staff parking and parents/carers pick up and drop off during peak hours be will managed.

d) All car spaces and access lanes line marked in accordance with Design Standard 2 of Clause 52.06-8 and AS2890.1-2004 and AS2890.6-2009 as relevant.

e) A parking direction sign at the vehicular entrance to the site directing vehicles to the various uses within the premises.

Construction Management

13. Before the commencement of works, a Construction Management Plan must be submitted to and approved by the Responsible Authority. The Construction Management Plan must address, but is not limited to:

a) Hours of construction, control of noise and airborne matter, deliveries, vehicle access, worker car parking, damage to public assets, and contact numbers for complaints.

b) All traffic management plans for the site demolition, excavation, deliveries and other construction related activities that will affect vehicle and pedestrian traffic;

c) The location of all areas on-and/or off-site to be used for construction staff parking;

d) A parking management plan for all associated construction vehicles;

e) All site sheds, portable toilet, storage and materials, etc. must be confined to the site;

f) The covering and maintenance of all roads/storage areas/external stockpiles/or vacant areas to avoid dust nuisance to any residential and commercial premises;

g) A truck wheel-wash must be installed and used so vehicles leaving the site do not deposit mud or other materials on roadways;

h) No water containing oil, foam, grease, scum or litter will be discharged to the stormwater drainage system from the site;

i) All stored wastes are kept in designated areas or covered containers that prevent escape into the stormwater system;

j) The amount of mud, dirt, sand, soil, clay or stones deposited by vehicles on the abutting roads is minimised when vehicles are leaving the site; and

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

All works must accord with the approved Construction Management Plan to the satisfaction of the Responsible Authority.

Water Sensitive Urban Design

14. 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.

15. 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**

16. 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 prepared by CDA Design Group Pty Ltd, known as Drawing No. TP01, Council date stamped 8 May 2018 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) Any development changes required by Condition 1.

b) Retention of Trees 13 and 14.

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

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

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

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

g) Details of surface finishes of pathways and driveways.

17. 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.
18. 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
19. 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.

20. 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.

Street tree protection
21. Soil excavation must not occur within 2 metres from the edge of the street tree assets stems at ground level.

22. Tree protection fence for the protection the street tree’s canopies and root zone. Conditions for street tree protection fencing during development are as follows:

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

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

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

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

27. 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.

28. 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.

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

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

a) Waste management services to be provided via a private waste and recycling contractors. Private contractor to include bins pull out and push back service from bin enclosure. Bin infrastructure and/ or any other waste will not be placed on kerbside for collection.

b) Service to be carried out within the boundaries of the property, please include the bin infrastructure requirement calculations (garbage, recycling, food waste/ green waste), bin enclosure details and servicing truck access routes.

c) Cardboard recycling in large amounts shall be managed by individual Residents, or will be organised by the Body Corporate / Owners Corporation through a private contractor’s collection. No waste or recycling material will be placed on kerbside for collection.

d) Hard Waste disposal shall be managed by individual Residents, or will be organised by the Body Corporate / Owners Corporation through a private contractor collection. No waste will be placed on the kerbside for collection.

e) Residents can take waste items such as e-waste, white goods, domestic volumes of household paints, household batteries, florescent tubes and mixed globes to Waste Transfer and Recycling Centre at 144 Talinga Road, Cheltenham (fees and charges may apply), or collections shall be organised by the Body Corporate / Owners Corporation through a private contractor’s collection.

f) Bin washing to be provided by commercial service provider off site, or using purpose built trucks, or, if cleaning is proposed to be done on site, storm water drains in storage area should be fitted with a litter trap/filter installed to trap litter which can then be disposed to garbage bins; any trap/filter is to be included in a regular cleaning and sanitising schedule, and must be emptied regularly.

g) Dimensions of storage waste areas.

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

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

j) Facilities for bin cleaning.

k) Method of waste and recyclables collection.

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

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

n) Method of hard waste collection.

o) Method of presentation of bins for waste collection.

p) Sufficient turning circles for the waste collection vehicles to enter and exit the site in a forward direction.
q) Strategies for how the generation of waste and recyclables will be minimised.

r) Compliance with relevant policy, legislation and guidelines including valid, current certificates.

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

**Development Contribution**

31. 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.

**Drainage**

32. 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.

33. 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.

**Public Transport Victoria**

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

**VicRoads**

35. Before the development starts, amended plans must be submitted to and approved by the Roads Corporation (VicRoads). When approved by VicRoads, the plans may be endorsed by the Responsible Authority and will then form part of the permit. The plans must be generally in accordance with the submitted plans TP-02\textsuperscript{D} dated 4 May 2018 and annotated as but modified to show:

a) Both accessways with a ‘no stopping’ zone or similar for at least 7m to the west of the crossover splay.

b) Relocation of the ‘car share’ space so as to not conflict with condition 1a.

36. 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 RA.

37. 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.
38. Vehicles must enter and exit the land in a forward direction at all times.

**Melbourne Water**

39. Prior to the endorsement of plans, a current (within 3 months) survey must be submitted to Melbourne Water demonstrating the exact location of Melbourne Water’s (MW) underground drain as proven by a licensed surveyor.

40. Prior to the endorsement of plans, the lateral clearance for asset replacement access for manholes and pipelines is to be shown to a minimum of 2 metres from the outside edge of the pipeline. No permanent structures are permitted within this lateral clearance zone

a) Footings must extend below “foundation protection zone” (angle of response) and;

b) A statement from the structural engineer stating the design of the building foundation has been designed to allow future excavation of the pipeline adjacent to building. (Screw piles and friction piles are not acceptable).

41. Prior to the endorsement of plans, the foundations and supports of the top floors are to be indicated clearly on the ground floor plans and clearance shown for each support. Cross section of the closest foundation and the MW drain is to be provided to MW.

42. Concrete paving thickness must be shown to be no greater than 150mm thick. The minimum cover over the drain of 850mm must be maintained measured between underside of the pavement and top of the drain.

43. Cut and fill earthworks to alter existing levels must factor in the following:

a) A minimum 850mm vertical cover is to be maintained over the pipeline;

b) A loading (including construction) and vibration assessment will be required to be undertaken by a qualified structural and geotechnical engineer where +/- 500mm or greater is proposed in existing levels. The assessment must factor in current condition of the drain and include any recommendations for limiting loading or vibration caused in the short (during construction) and long term (post construction), where a proposed change in landscape is evident (e.g non-traffic to trafficable).

44. Prior to the endorsement of plans, tree planting must follow MW’s guidelines for planting near assets.

**Permit Expiry**

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

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

b) The development is not completed within six 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.

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

- Staff and Visitors to the site would not be eligible for parking permits.

- Waste management services to be provided via a private waste and recycling contractors. Private contractor to include bins pull out and push back service from the basement carpark. Bin infrastructure and/or any other waste will not be placed on kerbside for collection.

- Service to be carried out within the boundaries of the property, please include the bin infrastructure requirement calculations (garbage, recycling, food waste/ green waste), bin enclosure details and servicing truck access routes.

- Cardboard recycling in large amounts shall be managed by individual Residents, or will be organised by the Body Corporate / Owners Corporation through a private contractor’s collection. No waste or recycling material will be placed on kerbside for collection.

- Hard Waste disposal shall be managed by individual Residents, or will be organised by the Body Corporate / Owners Corporation through a private contractor collection. No waste will be placed on the kerbside for collection.

- Residents can take waste items such as e-waste, white goods, domestic volumes of household paints, household batteries, flowrescent tubes and mixed globes to Waste Transfer and Recycling Centre at 144 Talinga Road, Cheltenham (fees and charges may apply), or collections shall be organised by the Body Corporate / Owners Corporation through a private contractor’s collection.

- Bin washing to be provided by commercial service provider off site, or using purpose built trucks. or, if cleaning is proposed to be done on site, storm water drains in storage area should be fitted with a litter trap/filter installed to trap litter which can then be disposed to garbage bins; any trap/filter is to be included in a regular cleaning and sanitising schedule, and must be emptied regularly.

- Council records indicate that there is a council storm-water drain running North from the Melbourne water pipe along the West property boundary and a small section of the North boundary. Council consider this asset to be protected by an implied easement. The plans indicate no proposals to encroach into the implied easement with any buildings or structures of note. Proposals to be built over the easement will require Build Over Easement consent from the Responsible Authority/Authorities.

- Council records indicate that there is a 6.1m wide drainage and sewerage easement from the West property boundary to the South boundary as indicated on the drawings provided. The plans indicate no proposals to encroach into the easement with any buildings or structures of note. Proposals to be built over the easement will require Build Over Easement consent from the Responsible Authority/Authorities.

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

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

5. **Council Policy**

**Council Plan 2017-2021**

Relevant objectives of the Council plan include:

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

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 18 Transport
- Clause 19 Infrastructure
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
- Clause 21.06 Built Environment and Heritage
- Clause 21.07 Economic Development
- Clause 21.08 Open Space
- Clause 21.09 Transport and Access
- Clause 21.10 Infrastructure
- Clause 22.06 Neighbourhood Character Policy (Precinct D3)
- Clause 22.07 Discretionary Uses in Residential Areas
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. Use of the site as a Retirement Village

The site is located in the Neighbourhood Residential Zone (Schedule 3), the purpose of which is “to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.”

Pursuant to Clause 74 of the Bayside Planning Scheme, a Retirement Village is defined as “land used to provide permanent accommodation for retired people or the aged and may include communal recreational or medical facilities for residents of the village.” The land use is included in the definition of Accommodation.

Within the Neighbourhood Residential Zone, a Retirement Village is a Section 2 Use, for which a permit is required as set out in Clause 32.09-2 of the Bayside Planning Scheme. The site currently operates as a residential aged care facility and therefore a permit is not required for the intensification of the use.

6.2. Strategic Justification

Having regards to the existing operation of the site and broader strategic policies for the site, the proposed intensification of the existing Retirement Village is responsive to its context.

The site is located within the Neighbourhood Residential Zone (Schedule 3) and is covered by the Design and Development Overlay (Schedule 3). Relevant strategic policies outlined in the Bayside Planning Scheme seek to ensure increased housing diversity and opportunities, housing affordability, and development sympathetic to the existing and emerging scale and character of built form featured in area.

The proposed redevelopment of the existing Retirement Village achieves the objectives and implements the relevant strategies of the Bayside Planning Scheme in that it contributes to the provision of more diverse housing in an area that is in close proximity to public transport and existing health related facilities (Clauses 11 and 16) whilst achieving a built form outcome respectful of the existing and preferred built form and landscape character of the area (Clause 15).

The Design Objectives of the Design and Development Overlay (Schedule 3) seek to ensure development that maintains the prevailing streetscape rhythm, building scale and to ensure urban design outcomes that contribute positively to local urban character while minimising detrimental impact on neighbouring properties.

While located in a largely residential context, the site currently operates as a Retirement Village and is located adjacent to an existing aged care facility, Mayflower Aged Care. In addition, the site is located along a main arterial road which provides suitable links to...
broader road and transport networks. The proposed development and continued use serves local community needs and provides an essential service to the local Bayside community.

6.3. **Urban Design & Neighbourhood Character**

The subject site is located within the Neighbourhood Residential Zone (Schedule 3) and is covered by the Design and Development Overlay Schedule 3 (DDO3). Of relevance is the site’s location within the DDO3 which relates to building height control for non-residential buildings in the inland minimal residential growth area. This control, combined with the Discretionary Uses in Residential Areas policy (Clause 22.07), provides specific guidance with regards to height, siting and development of non-residential development within residential areas.

Clause 43.02 of the DDO3 seeks to achieve architectural and urban design outcomes that contribute positively to the local urban character; preserve the existing character and amenity of the areas as low rise (up to two storeys) suburban areas with a strong garden character; and seek to maintain the prevailing streetscape rhythm, building scale and height of neighbourhoods. These objectives are similarly reinforced in Clause 22.07 of the Bayside Planning Scheme which provides a set of guiding principles for assessing appropriateness of future development of important uses within a residential area.

**Building Height**

As previously recognised by both Council and the Tribunal, a key planning policy tension in considering increased density and development, is the balance of providing increased housing while ensuring that new development respects the preferred, existing and key characteristics of a neighbourhood.

With regards to building height, Clause 43.02 seeks to ensure development responds to the prevailing building scale and height of neighbourhoods and it is policy, as outlined in Clause 22.07-3, to ensure that any increase in building height is “transitional and represents a height increase of no more than one storey above the prevailing building height.”

The site is located within Neighbourhood Character Precinct D3 and the proposal demonstrates a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

**Siting, built form, design guidelines of Clause 22.07-3 are as follows:**

- Setbacks from front, side and rear boundaries for buildings or additions must be in accordance with the setback provisions contained in Clauses 54 and 55 of the Bayside Planning Scheme.
- Any increased in building height is transitional and represents a height increase of no more than one storey above the prevailing building height.
- The materials and finishes reflect that prevailing in the rea.
- The discretionary use respects the prevailing built form, scale and materials of surrounding buildings, established neighbourhood character and responds to the preferred neighbourhood character.

**Streetscape guidelines of Clause 22.07-3 are as follows:**

- Front setbacks are consistent with the prevailing setbacks in the area and meet requirements at Clause 54, Standard A3.
- Vehicle car parking and access areas do not form a dominant element in the streetscape.
- Car parking is provided at the rear of the premises.
Where car parking is provided within the front setback, a minimum landscape buffer of 3 metres from the front boundary is provided. A reduction may be considered where it can be demonstrated that such a reduction will not reduce the effectiveness of the landscaping or unreasonably impact on the streetscape.

In considering the existing and preferred height and scale of the development, the proposed development incorporates three separate buildings (ranging from 14 metres – 17 metres), which work to incorporate a suitable transition between the more intensified non-residential development to the west, Mayflower Aged Care, and the lower scale dwellings to the east.

The proposed buildings incorporate reasonable articulation and present as largely three storey when viewed from oblique angles, with a perceived two storey streetscape interface associated with Building C as a result of careful design detailing. The proposal for a 3 - 4 storey retirement village is appropriate in this content particular given the 3 storey form to the immediate west which offers a similar purpose and function.

While it has been argued a fourth storey element is not evident in the immediate area, the proposal has incorporated a carefully considered design response which works to absorb and sensitively conceal the additional height to provide an appropriate transition to the surrounding lower scale development. The location of the fourth storey element towards the north western corner of the site, and adjacent to the Mayflower facility, has been supported by Council’s Urban Designer who has indicated the height provides a suitable transition of built form scale. Importantly, the increased building height is consistent with the policy requirements of Clause 22.07-3 which supports the introduction of an additional storey above the prevailing building height of the area.

Council’s Planning Officers have explored the potential amenity impacts through the deletion of the fourth storey throughout the processing of the application particularly in light of the objections received regarding the height of the development. However sightline diagrams submitted as part of the application material demonstrate that the fourth storey is comfortably concealed within the prevailing built form and therefore any visual bulk impacts to adjoining properties would be limited.

Streetscape Character

Concerns have been raised by objectors in relation to the proposal’s streetscape interface. Building A has been designed with a direct interface to Centre Road and incorporates a 6 metre setback from the street.

While not technically applicable, Standard B6 (Street setback) is a good assessment tool for determining the street setback applicable to the proposal. The proposed setback fails to meet the 6.6m setback as outlined in Standard B6 (Street Setbacks) in line with 25 Centre Road.

A setback of 10.1 metres is adopted for Building C which is located adjacent to 25 Centre Road, and Building A incorporates a street setback of 6 metres. These setbacks are reflective of the existing front setbacks associated with Mayflower Aged Care Facility to the west of the site which incorporates a building setback of 6 metres and 5.7 metres from the balcony. Moreover, the proposed setback, combined with the proposal to retain a large portion of the existing vegetation along the southern boundary, ensures that the development will sit comfortably within its context.

It is also noted that Building C now presents in a two storey manner to Centre Road. This outcome allows a suitable transition between the three storey built form of Building A (and three storey built form beyond the site to the west) and the single storey built form of 25 Centre Road to the east of the site.

The design incorporates a suitable response to the opportunities and constraints of the site, and overcomes the site’s challenging easement which ‘cuts’ through the land. Building A and Building C are appropriately oriented to Centre Road and incorporate a
reasonable level of engagement and activation. The location of under-croft car parking to Building C also works to ensure on site parking does not unreasonably affect the visual impact to the street.

The contemporary architectural expression of the built form offers a visually appealing outcome. Visual interest to the streetscape is achieved by a variation in form with balconies and glazing treatments that display a diverse façade treatment. The feature screen of Building C offers a dynamic and visually appealing expression to the prominent Centre Road frontage.

The building entry is clearly defined and incorporates an outcome which works to ensure the development presents as a largely ‘residential’ component in a prevailing residential context. This outcome is a suitable response and ensures any associated signage, as demonstrated on TP-07, does not overwhelm or detract from the residential context of the site.

6.4. **Off Site Amenity**

The siting and scale of the proposed form has ensured unreasonable impacts on the adjoining residential properties are limited, with particular regards to visual bulk, overshadowing and overlooking. While Clause 55 does not strictly apply to the consideration of non-residential land uses, the requirements pertaining to setbacks, overshadowing and overlooking provide a useful indication of the suitability of the application. Moreover, whilst not mandatory, reference to Clause 55 is made in Clause 22.07-3 with regards to siting and built form. In particular, concerns have been raised by objectors in regards to overlooking, overshadowing and visual bulk of the proposed development.

The subject site is adjoined by a number of residential dwellings to the north and east. Adjoining the site to the west is the car park to Mayflower Aged Care and therefore the western interface does not require the same level of amenity consideration as the north and east interfaces.

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

While Clause 55 does not technically apply, Clause 22.07-4 provides guidance around future siting and development of non-residential uses and advises that “setbacks from front, side and rear boundaries for buildings or additions must be in accordance with the setback provisions contained in Clauses 54 and 55 of the Bayside Planning Scheme.”

As mentioned above, the sensitive interfaces abutting the site are located to the north and east. As such, consideration of the proposal to these interfaces is provided below.

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td><strong>East (side)</strong></td>
<td><strong>0 or 2.27m</strong></td>
</tr>
<tr>
<td><strong>West (side)</strong></td>
<td><strong>0 or 2.27m</strong></td>
</tr>
<tr>
<td><strong>North (rear)</strong></td>
<td><strong>0 or 3.27m</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Second Floor</th>
<th>Third Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
</tbody>
</table>
The proposed setbacks provided along the east boundary comply with the B17 standards.

There are various non-compliances with the west and north boundaries, which are discussed in turn below:

**West (side) boundary setbacks**

At first floor level, the proposal includes a variation of 6mm which is unnoticeable to the eye. This variation is extremely minor and will not cause any substantial increase in detriment to the adjoining properties.

At second floor, the proposal includes variations in the order of 3 - 4 metres. This is a reasonably large variation, however these setbacks are opposite the car park/accessway associated with the Mayflower Aged Care. It is not a sensitive interface and will not cause detriment upon this area. Furthermore, the Mayflower Aged Care is significantly setback from the common boundary with the site allowing for residents with a view over the car park to be maintained and will not cause any unreasonable overshadowing.

In addition, the west elevation of the proposal is articulated through varying built forms, materials and setbacks to minimise the visual bulk of the building. The variations in the setbacks are considered acceptable given the context it is located.

**North (rear) boundary setbacks**

To the north are four residential dwellings and part of the Mayflower Aged Car facility. This, along with the east boundary are the most sensitive interfaces. It is noted that between the residential properties and the subject site, there is a constructed laneway. This laneway is in the order of 3 metres. It is constructed (though in relatively poor condition) and appears to be used by only one property (30 Grant Street).

Whilst the proposal is non-compliant at first and second floor level, the building presents as a two storey building to this interface. This, together with the physical separation of the laneway assists in reducing the visual bulk of the building. If the laneway was included in the calculation, the proposal would nearly be compliant with the B17 standards.

Similar to the west elevation, the north elevation of the proposal is articulated through varying built forms, materials and setbacks to minimise the visual bulk of the building. The proposal provides a suitable transition in the built form so at to not overwhelm the dwellings to the north. Overall, the variations in the setbacks are considered acceptable given the context it is located.

**Overshadowing (Standard B21)**

Shadow plans submitted with the application demonstrate there will be no overshadowing impact on the backyards of the properties to the east between 9am and 2pm and at 3pm there is a small area of additional shadowing to the secluded private open space area of 5 Davies Street, Brighton to the east of the site. The additional shadowing complies with Standard B21 which requires at least 75 per cent of the secluded private open space to receive a minimum of five hours of sunlight between 9am and 3pm on 22 September.

<table>
<thead>
<tr>
<th>East (side)</th>
<th>8.9m</th>
<th>9.7 – 9.1m</th>
<th>15.28m</th>
<th>32m</th>
</tr>
</thead>
<tbody>
<tr>
<td>West (side)</td>
<td>8.7 – 9.5 – 8.72 – 9.3m</td>
<td>5.3 – 5.69 – 18 – 5.3m</td>
<td>14.72m</td>
<td>18m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>9.22 – 11.12m</td>
<td>6.6 – 7.02m</td>
<td>16.16m</td>
<td>13.45m</td>
</tr>
</tbody>
</table>
Overlooking (Standard B22)
Standard B22 requires the provision of screening where there is the potential for direct overlooking into the habitable rooms and secluded private open space of neighbouring dwellings within 9 metres. The proposed sightline diagrams submitted with the application (refer to TP-12) demonstrate that due to the generous setbacks and boundary fencing there will be no direct overlooking into the secluded private open space areas of the adjoining residential interfaces to the north and east within 9 metres.

Overlooking opportunities identified in the north west corner of the site (associated with Building B) have been addressed by the provision of 1.7 metre high screens in accordance with Standard B22 at first and second floor level along the northern elevation. The balcony of Unit 2.06 has been reoriented away from the neighbouring secluded private open space and habitable room windows and therefore has no direct views to the habitable areas of the properties to the north.

6.5. Internal Amenity
The proposed development will substantially improve the existing living conditions for existing and future residents. The development incorporates an appropriate level of amenity while also managing the affordability component of the development.

The applicant has worked closely with the existing residents to ensure living standards are improved and reasonable on site facilities and services are provided. The proposal incorporates generous centralised communal landscaped areas to provide for recreational opportunities throughout the site. Building A incorporates a large internal community space at the front of the site to promote social interaction and engagement amongst residents. Each building accommodates a communal laundry and bin storage to further contribute to the on-site liveability and amenity for residents.

Each building is well spaced across the site to ensure landscaped areas receive adequate daylight for the recreational needs of future residents.

The building entries are clearly defined and earmarked by covered entry to assist residents and visitors with accessibility throughout the site.

Each apartment will have an open floor plan featuring a combined living/dining and kitchen area with direct access to balconies or terraces. Internal amenity is largely improved and no habitable areas rely on borrowed light.

6.6. Landscaping
The application proposes the removal of 28 trees and tree groups from the site including 12 native trees. The table below identifies those trees protected by the Local Law and those which are not protected by any statutory mechanism.

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

Council’s Arborist in their referral response advised that they do not support removal of Trees 13 and 14 as they are in good health, have good structure and provide amenity to the area. These trees are located in the easternmost end of a row of trees which run along the southern boundary adjacent to Centre Road. For amenity purposes the
retention of Trees 10 – 14 would be sympathetic to the character of the area and help in off-setting the loss of canopy from the property. A condition is included to require the retention of Trees 13 and 14.

The remaining trees generally provide low amenity or have structural issues that compromise their retention values, such as Trees 20 and 21. Tree Nos. 29, 36 and 38-41 are located on adjoining sites with their Tree Protection Zones (TPZ) extending into the subject site. As such consideration must be given to the impact of the development upon these trees. Council’s Arborist has advised that 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.

In addition to the above assessment, Council’s Arborist has reviewed the submitted landscape plan and advised that it is considered generally acceptable. The theme proposed and the area of soil made available to planting larger trees is sympathetic to the Neighbourhood Character Guidelines.

6.7. Street tree(s)

The application proposes the retention of the existing street trees along the Centre Road frontage. Council's Open Space Arborist has no objection to the application subject to the inclusion of a condition requiring tree protection fencing during the duration of works. A condition to this effect is included in the recommendation.

6.8. 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 parking rate</th>
<th>Scheme</th>
<th>Car Requirement</th>
<th>Parking Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retirement Village</td>
<td>152 units</td>
<td>1 space to each one or two bedroom dwelling</td>
<td>1 space to every five dwellings</td>
<td>152 space to residents</td>
<td>52 space to residents</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>30 visitor spaces</td>
<td>30 visitor spaces</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>182</strong></td>
<td><strong>52</strong></td>
</tr>
<tr>
<td><strong>Shortfall</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>130</strong></td>
<td></td>
</tr>
</tbody>
</table>

Pursuant to Table 1 at Clause 52.06-5, a Retirement Village has a specified rate of one resident car space per each one and two bedroom dwelling plus one visitor car space per every five units. Based on 152 one and two bedroom units being provided, a total of 152 resident spaces and 30 visitor space are required.

Notwithstanding the above, Clause 22.07-3 (Discretionary Uses in Residential Areas) suggests that for a Retirement Village, a rate of 0.3 spaces per bed is more appropriate
based on case studies within the Bayside municipality. In light of this parking rate, the provision of 52 spaces exceeds the requirement of 46 spaces generated by the 0.3 rate within Clause 22.07-3.

Car parking has been listed as a concern by objectors however the decision plans show an increase to the number of on-site spaces provided (previously advertised as 35 spaces).

Council's Traffic Engineers were concerned with the significant reduction in the required number of spaces, and requested further clarification around the movement of staff, allocation of onsite spaces to residents and visitors, surveys of car parking demand associated with the existing units. The reduced number of dwellings from 157 to 152 and an increase in the number of onsite spaces from 36 to 52 is a significant improvement to the overall design and works to address Council's preliminary concerns with regards to car parking. A Car Parking Management Plan is included in the recommendation along with a variety of traffic and parking requirements to work to address Council's Traffic Engineering concerns and those raised by local residents.

Access
The application proposes to utilise the two existing crossovers along Centre Road. It is also proposed to reduce the width of the existing crossover in the south eastern corner from 5.4 metres to 4.2 metres.

VicRoads have reviewed the application and have no objection subject to the inclusion of conditions included as part of the recommendation.

Bicycle facilities
Clause 52.34 seeks to ensure that a new use does not commence or the floor area of an existing use does not increase, until the required bicycle facilities are provided on the land. A Retirement Village use is not recognised in Table 1 of Clause 52.34 and therefore there is no statutory bicycle parking requirement. Notwithstanding, the proposal provides for a total of four visitor bicycle spaces adjacent to Building A.

6.9. Development contributions levy
The subject site is located within catchment area 8B.

Further details regarding the existing number of ground floor units is required in order to calculate the required payment. Notwithstanding, a payment is required. A condition is included in the recommendation to ensure payment.

6.10. Special Building Overlay
The subject site is covered by the Special Building Overlay with the exception of a small portion of the north eastern corner of the site. Council's Drainage Engineers have no objection to the application, subject to conditions which are included as part of the recommendation. Melbourne Water has no objection to the application subject to conditions which are included as part of the Officer recommendation.

6.11. Objector issues not already addressed
The objector concerns listed in Section 3 have been addressed throughout the report.

Support Attachments
1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment ↓
Item 4.10 – Matters of Decision
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1. Aerial overview of the site and surrounds.

Note: Due to the number of objections received, properties have not been identified on the above image.

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>⬤</td>
</tr>
</tbody>
</table>
Figure 2. View of the subject site (shown right) and the existing built form to the west of the site.

Figure 3. View of the subject site (shown right) and the existing built form to the west of the site.
Figure 4. View of the subject site and adjoining built form to the east of the site, viewed from Centre Road.

Figure 5. View taken from the subject site looking north west towards 7 Centre Road, Brighton East.
Figure 6. View taken from the centre of the subject site looking west towards 7 Centre Road, Brighton East.
Figure 7. View of the subject eastern side of the subject site looking north and adjoining built form to the east (25 Centre Road, Brighton East).
## ATTACHMENT 3
### Neighbourhood Character Policy (Precinct D3)

### Neighbourhood Character Precinct D3

#### Preferred Future Character Statement
The dwellings sit within established gardens with occasional canopy trees. The area retains a proportion of pre WWII dwellings, along with new complementary development. Buildings do not dominate the streetscape, with second storeys recessed from the front, simple detailing and articulated front wall facades. The frequent use of weatherboard creates a sense of lightness in the streetscapes and this is strengthened by the use of low to medium front fences of open styles.

### Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| **To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.** | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development. • Alterations and extensions should retain the front of these dwellings. | Demolition of dwellings that contribute to the valued character of the Precinct. | Responds
The existing retirement village does not contribute to the valued character of the precinct. |
| **To maintain and enhance the garden settings of the dwellings.** | • Prepare a landscape plan to accompany applications for new dwellings that includes substantial trees and shrubs. • Buildings should be sited to allow space for the planting of trees and shrubs. | Lack of landscaping and substantial vegetation. | Responds
The proposed landscape plan provides suitable retention of existing landscaping and incorporates generous landscaping opportunities throughout the site. Council's Arborist has no objection to the proposed landscaping concept for the site. |
| **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
Generous boundary and built form spacing has been incorporated into the design response and is consistent with the built |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To minimise the loss of front garden space and the dominance of car parking structures | • Locate garages and carports behind the line of the dwelling.  
• Minimise paving in front garden areas including driveways and crossovers. | Car parking structures that dominate the façade or view of the dwelling.  
Front setbacks dominated by impervious surfaces. | Responds  
The development proposes the retention of the two existing vehicle crossovers featured along Centre Road and seeks to retain the existing row of vegetation along the front property boundary. Parking is located within two areas across the site and has been designed to ensure vehicle accommodation does not dominate or overwhelm the development from the street. |
| To ensure that buildings and extensions do not dominate the streetscape.    | • Recess second storey elements from front façade.  
• Incorporate design elements into the front façade design of new dwellings such as recessed porticos, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation. | Large bulky buildings with poorly articulated front wall facades.  
Period reproduction detailing. | Responds  
While is it proposed to introduce a fourth storey element to the precinct, the styling and design of built form is responsive to the built form scale of development adjoining the site. Building A and C are reflective of the scale of development to the west of the site and the two storey scale featured to the front of Building C works to ensure a suitable transition and scaling down of built form from the west to east along Centre Road. The built form incorporates a pitched roof with eaves and features a variety of materials in neutral tones and finishes to ensure the building will appropriately integrate within the streetscape. |
| To reflect the lightness of the streetscape through the use of appropriate building materials and finishes. | • Incorporate weatherboard or a combination of masonry and non-masonry wall materials where possible, or render or paint large brick surfaces. | Heavy design detailing (e.g. Large brick piers or columns) | Responds  
The proposal incorporates a variety of materials and colours to complement the streetscape and provide articulation to the building including neutral tone painted surfaces and timber look feature screens. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain the openness of the streetscape. | • Front fences should be open, other than along heavily trafficked roads. | Excessive use of render on external wall surfaces. | Responds
No fencing is proposed along the Centre Road frontage. The open space areas to the ground floor dwellings of Building A are enclosed with a 1.7 metre high steel picket front fence with existing landscaping retained along the front property boundary. |
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 applicant 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), consent orders or appeals which are withdrawn by the applicant or objector prior to a hearing.

For the 2017/18 financial year, Council has received 112 decisions, of which 27 have been settled by consent orders, 9 have been withdrawn and 2 were struck out. The total number of LGPRF measured decisions for the year to date is therefore 74. 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>4</td>
<td>3</td>
</tr>
<tr>
<td>August 2017</td>
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<td>2</td>
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<td>September 2017</td>
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<td>4</td>
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<tr>
<td>October 2017</td>
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<td>5</td>
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<td>November 2017</td>
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<td>6</td>
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<tr>
<td>December 2017</td>
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<td>5</td>
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<tr>
<td>January 2018</td>
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<td>February 2018</td>
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<td>March 2018</td>
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<tr>
<td>May 2018</td>
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<td>8</td>
</tr>
<tr>
<td>June 2018</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td><strong>TOTAL DECISIONS</strong></td>
<td><strong>31</strong></td>
<td><strong>43</strong></td>
</tr>
<tr>
<td>LGPRF Result</td>
<td>42%</td>
<td>58%</td>
</tr>
<tr>
<td>--------------</td>
<td>-----</td>
<td>-----</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 June 2018 VCAT Report were determined by the current Councillor group.

2. **Recommendation**
   - That the report on the VCAT decisions on the planning applications handed down during June 2018 be received and noted.

**Support Attachments**
1. VCAT Determined appeals June 2018 ⏩
VCAT Determined Appeals from: 1/06/2018 to 30/06/2018

Subject land
Application no.
VCAT reference no.
Applicant
Referral Authority
Respondents
VCAT Member
Date of hearing
Date of order
Proposal

220 - 228 Bay RD, SANDRINGHAM
2010.232.8
P2524/2017
Blueprint Developments (VIC) Pty Ltd
N/A
Keith Docking; Stephen Durkin; Peter Holland; Faramarz & Helaleh Kholosi
L Hewet & M Blackburn
7/05/2018
22/08/2018
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 (cafÃ©), and office, sale and consumption of liquor, a reduction in required car parking, bicycle and loading facilities and the removal of native vegetation

Officer recommendation/
Delegate determination
Council determination
Appeal type
Plans substituted
(prior to hearing)
VCAT determination
LGPRF outcome

Amended permit granted
Not applicable
Amend a Permit
Yes
Amended Permit to Issue
AFFIRMED

Comments:

This was a Section 87A Application to amend a planning permit issued at the direction of VCAT in 2010. The amendment consisted of the construction of three (3) additional apartments at the subject site known as Nos. 220-228 Bay Road, Sandringham. The three new apartments are to be constructed as a new ninth floor on top of the rear part of the existing roof top of the current building eight story building. Two car parking spaces for each dwelling would be allocated from the surplus parking in the existing basement carpark of the development.

Council opposed this amendment which would increase the development from eight (8) storeys as approved by the Tribunal to nine (9) storeys as it determined that the amendment would create unreasonable and excessive visual bulk and mass. In Council’s opinion it would fail to deliver a high quality urban design outcome for existing and future residents. Four resident Objectors were opposed to this Application on the grounds of construction impacts, noise from future residents and overlooking. These Objectors all have apartments upon the current top level of the apartment building at the eight floor.

The Tribunal considered the implication of the earlier 2010 decision for this matter and commented that the Tribunal at that time did not entertain the merits of whether any building higher than eight storeys would be acceptable on this site. The Tribunal also referred to the 2014 Application for an additional two storeys to be constructed on the same rooftop as the current proposal. Ultimately, the Tribunal refused this Application considering the additional built form to be inappropriate. With respect to the current Application, the Tribunal held that the Application was similar to the 2014 unsuccessful Application but the facts relating to the Application differed significantly as the proposal now was seeking only an additional floor rather than 2 storeys and the design was significantly altered including the proposed roof form.
The key issue for the Tribunal to decide was whether the proposed single storey addition would cause the existing central building to stand out in a manner which resulted in an inappropriate departure from the preferred height limit of 14 metres as specified in Clause 22.04 of the Bayside Planning Scheme. The Tribunal accepted the evidence of the Applicant’s Expert Witness who advocated that the single storey addition was a more recessive element compared with the rejected 2014 application and that the additional storey would be barely noticeable from most vantage points.

The Tribunal did not accept the adverse amenity submissions of the Objectors.
Subject land: 31 Warland RD, HAMPTON EAST
Application no.: 2017.376.1
VCAT reference no.: P303/2018
Applicant: Shangri-La Construction
Referral Authority
Respondents

VCAT Member: Nicholas Hadjigeorgiou
Date of hearing: 1/06/2018
Date of order: 1/06/2018
Proposal: Construction of four dwellings over a basement car park and a front fence with a height exceeding 1.2m in height; Building and works within a Special Building Overlay

Officer recommendation/Delegate determination: Refusal
Council determination: Not applicable
Appeal type: Refusal to Grant a Permit
Plans substituted (prior to hearing): Yes

VCAT determination: Permit to Issue
LGPRF outcome: N/A

Comments:
The application was refused given the Melbourne Water as a Section 56 referral objected on the proposal. The applicant appealed the decision to VCAT under the major case list and a Compulsory Conference hearing was listed on 1 June 2018. The applicant has discussed the amended plans with the Melbourne Water and the proposal was supported. The rest of Council’s minor concerns, side setback and etc have been addressed in the hearing. The matter was settled and consent order was signed on the day.
Subject land: 131 Linacre RD, HAMPTON
Application no.: 2016.748.1
VCAT reference no.: P2762/2017
Applicant: R El Cheikh; N El Cheikh & R S Ghantous
Referral Authority: N/A
Respondents: Kath Pompei and Harry Nickou

VCAT Member: Vicki Davies
Date of hearing: 7/06/2018
Date of order: 21/06/2018
Proposal: Construction of two dwellings on a lot

Officer recommendation/ Delegate determination: Notice of decision
Council determination: Notice of decision
Appeal type: Conditions
Plans substituted (prior to hearing): No

VCAT determination: Issue a Varied Permit
LGPRF outcome: AFFIRMED

Comments:

This was a section 80 Application for Review against certain conditions placed in Planning Permit No.2016/748 issued for the construction of two double storey detached dwellings at the subject site. The disputed conditions relate to the side and rear setback of one of the dwellings, the protection of street trees, the alignment of one of the garages and the height of fencing.

The Tribunal deleted Condition 1(j) which required the Applicant to setback the ground floor living room of Dwelling 2 a minimum of 2 metres from the western boundary. This condition which was imposed by Council at its meeting was considered unnecessary by the Tribunal as the proposed wall abuts an existing concrete block and metal wall on the adjoining property. The Tribunal held that although the proposed wall would be marginally higher that the existing wall on the adjoining property, no adverse amenity impacts would result.

Condition 1(i) required that the setback of the first floor level of Dwelling 2 located along the northern boundary to be increased to comply with Standard B17. The proposed setback was 1.99 metres however to comply with the Bayside Planning Scheme the wall should be setback between 4.2 – 4.6 metres. The Tribunal in noting that this condition was not supported by Council’s Planning Officer but was imposed by the Council at its meeting, held that the condition was unnecessary and deleted it. The factors influencing the Tribunal’s decision was that the neighbour to the north did not object to this Application, the setback exceeds the unvaried Rescode, Standard B17 which would only require a setback of 1.6 metres and the relative depth of the proposed rumpus room at 5.205 metres.

With respect to Conditions 1(e), 11(a) and (b) which all relate to the protection of street trees within the Little Field nature strip, the Tribunal upheld Condition 1(e) requiring the relocation of the driveway along Little Field Street in accordance with the revised Condition 11. The Tribunal agreed with Council’s submissions that Tree No. 1 was of a very high value but it believed that the proposed 3 metre setback of the crossover and the Tree Management Plan would ensure that this tree was protected.

The Tribunal deleted Condition 1(c) which required a 1 metre setback from the northern boundary of Dwelling 2 without increasing the overall footprint of Dwelling 2. It held that there was uncertainty about the rationale for this condition but it accepted the Applicant’s argument that this condition was imposed for traffic and access considerations. The Tribunal held that it was unnecessary and removed it.
The Applicant also contested Conditions (g) and (h) which required the Applicant to lower the height of the proposed fencing to 1.2 metres along the frontage of Dwelling 1. The Applicant was proposing a 1.8 metre high rendered brick fence. The Tribunal held that the proposed height of this fencing could not be justified on neighbourhood character reasons and amended Condition 1(g) to require a fence no higher than 1.5 metres and to be permeable.

Condition 1(h) remained unaltered.
<table>
<thead>
<tr>
<th>Subject land</th>
<th>37 Normanby ST, BRIGHTON</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application no.</td>
<td>2017.310.1</td>
</tr>
<tr>
<td>VCAT reference no.</td>
<td>P2610/2017</td>
</tr>
<tr>
<td>Applicant</td>
<td>Barry Saunders &amp; Barbara Saunders</td>
</tr>
<tr>
<td>Referral Authority</td>
<td>N/A</td>
</tr>
<tr>
<td>Respondents</td>
<td>Stephen Akehurst Design</td>
</tr>
<tr>
<td>VCAT Member</td>
<td>Geoffrey Code</td>
</tr>
<tr>
<td>Date of hearing</td>
<td>8/06/2018</td>
</tr>
<tr>
<td>Date of order</td>
<td>8/06/2018</td>
</tr>
<tr>
<td>Proposal</td>
<td>Alterations and additions to an existing dwelling in a Heritage Overlay</td>
</tr>
<tr>
<td>Officer recommendation/Delegate determination</td>
<td>Notice of decision</td>
</tr>
<tr>
<td>Council determination</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Appeal type</td>
<td>Notice of Decision to Grant a Permit</td>
</tr>
<tr>
<td>Plans substituted</td>
<td>No</td>
</tr>
<tr>
<td>(prior to hearing)</td>
<td></td>
</tr>
<tr>
<td>VCAT determination</td>
<td>Withdrawn by objector</td>
</tr>
<tr>
<td>LGPRF outcome</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Comments:
The Appeal was withdrawn.
Subject land 7 Centre RD, BRIGHTON EAST
Application no. 2016.858.1
VCAT reference no. P2969/2017
Applicant Mayflower Brighton
Referral Authority N/A
Respondents I Dietrich, A Page-Robertson, J Marks, S Bowker, B Huntsman

Date of hearing 13/06/2018
Date of order 13/06/2018
Proposal Use and development of land for a car park in conjunction with an existing aged care facility on adjoining land at 7 Centre Road, Brighton East

Officer recommendation/ Not support
Delegate determination
Council determination Not applicable
Appeal type Failure to Grant a Permit
Plans substituted No
(prior to hearing)

VCAT determination Appeal Withdrawn
LGPRF outcome N/A

Comments:
The Appeal was withdrawn.
Subject land: 23 Hastings AVE, BEUMARIS
Application no.: 2017.561.1
VCAT reference no.: P327/2018
Applicant: Lowe Design
Referral Authority: N/A
Respondents: N/A

VCAT Member: Dalia Cook
Date of hearing: 18/06/2018
Date of order: 18/06/2018
Proposal: Construction of two double storey dwellings; and removal of native vegetation in the Vegetation Protection Overlay

Officer recommendation/ Deleg ate determination: Refusal
Council determination: Not applicable
Appeal type: Refusal to Grant a Permit
Plans substituted (prior to hearing): Yes

VCAT determination: Permit to Issue
LGPRF outcome: N/A

Comments:

The subject site is located within the Neighbourhood Residential Zone (Schedule 3), the Vegetation Protection Overlay (Schedule 3), the Design and Development Overlay (Schedule 3) and the Development Contributions Overlay (Schedule 1).

An application for the construction of two double storey dwellings; and removal of native vegetation in the Vegetation Protection Overlay was refused by Council. The applicant subsequently lodged an application to the Victorian Civil and Administrative Tribunal (VCAT) under Section 77 of the Planning and Environment Act 1987.

Following discussions between the parties agreement was reached in relation to changes to the development and acceptable conditions between Council and the Applicant. Plans were formally substituted and adjoining owners notified. No objections were received.

A consent order was therefore signed by both parties and submitted to the Tribunal, who directed that the decision of the responsible authority be set aside and a permit be issued. The Hearing was vacated.
Subject land: 427 - 455 Hampton ST, HAMPTON
Application no.: 2017.499.1
VCAT reference no.: P526/2018
Applicant: Hampton Beach Pty Ltd
Referral Authority: N/A
Respondents: H Leggett, See Pickle Pty Ltd, Hampton Neighbourhood Association Inc

VCAT Member: M Deidun
Date of hearing: 19/06/2018
Date of order: 27/06/2018
Proposal: Construction of a five storey mixed use development (above two basement levels) comprising not more than 62 dwellings, a supermarket, two shops and a restaurant, alteration of access to a Road in a Road Zone, Category 1

Officer recommendation/ Delegate determination: Refusal
Council determination: Refusal
Appeal type: Refusal to Grant a Permit
Plans substituted (prior to hearing): No

VCAT determination: Permit to Issue
LGPRF outcome: N/A

Comments:

At the Planning and Amenity Committee on 27 February 2018, Council determined to refuse the planning application at the subject site. 22 objections were received to the application.

An Application for Review against the decision made by Council was lodged with VCAT pursuant to Section 77 of the Planning and Environment Act 1987.

The application was heard at a Compulsory Conference (mediation) on 19 June 2018. Three objectors are parties to the appeal, including the Hampton Neighbourhood Association. In preparation for the Compulsory Conference, the permit applicant circulated ‘without prejudice’ plans. It is noted that the without prejudice plans address a lot of the recommended officer conditions outlined in the Planning and Amenity Committee on 27 February 2018 and respond to the objector’s property to the south at 11-15/417 Hampton Street, Hampton.

At the Compulsory Conference, the permit applicant agreed to:
- Introduction of a second basement car park level
- Increased northern boundary setbacks to Holyrood Street
- Increased private open space provisions for dwellings, including the provision of communal areas
- Improved post construction landscaping opportunities, including the provision of a rooftop garden

The permit applicant and all parties to the appeal (including objectors) agreed to a consent position.

The Planning and Amenity Committee endorsed the draft settlement that was reached at the Compulsory Conference and agreed to the issuing of a Planning Permit.
Subject land: 2 Coronet GVE, BEAUMARIS
Application no.: 2017/60/1
VCAT reference no.: P502/2018
Applicant: Michael Taylor
Referral Authority: N/A
Respondents: N/A
VCAT Member: R Naylor
Date of hearing: 26/06/2018
Date of order: 27/06/2018
Proposal: Construction of two (2) new double storey dwellings with a floor to ceiling height exceeding 3.5 metres in a Design and Development Overlay Schedule 1

Officer recommendation/ Delegate determination: Notice of decision
Council determination: Not applicable
Appeal type: Conditions
Plans substituted (prior to hearing): No

LGPRF outcome: VARIED

Comments:

On 26 February 2018, Council granted planning permit 2017/60/1 subject to 20 conditions. The permit allowed the construction of two double storey dwellings with a floor to ceiling height exceeding 3.5 metres in a Design and Development Overlay Schedule 1. Included in the planning permit was condition 1(a) which required that the first floor interface between the two dwellings be inset an additional 500mm for a total separation of 2 metres.

The applicant appealed condition 1(a) pursuant to Section 80 of the Planning and Environment Act 1987. The matter was heard in a short case format on 26 June 2018. Following the presentation of submissions, the tribunal ordered that condition 1(a) be deleted.
Subject land: 345 Beach RD, BLACK ROCK
Application no.: 2017.592.1
VCAT reference no.: P2945/2017
Applicant: Half Moon Property Holdings Pty Ltd
Referral Authority: N/A
Respondents: N/A

VCAT Member: A Glynn
Date of hearing: 29/06/2018
Date of order: 29/06/2018
Proposal: Development of three double storey dwellings with basement parking and alteration of an access in a Road Zone Category 1

Officer recommendation/ Delegate determination: Refusal
Council determination: Not applicable
Appeal type: Refusal to Grant a Permit
Plans substituted (prior to hearing): No

VCAT determination: Permit to issue
LGPRF outcome: N/A

Comments:
The subject site is located within the Neighbourhood Residential Zone (Schedule 3), the Vegetation Protection Overlay (Schedule 3), the Design and Development Overlay (Schedule 1) and the Development Contributions Overlay (Schedule 1).

An application for the development of three double storey dwellings with basement car parking and alteration of an access to a Road Zone Category 1 was refused by Council. The applicant subsequently lodged an application to the Victorian Civil and Administrative Tribunal (VCAT) under Section 77 of the Planning and Environment Act 1987.

A Practice Day Hearing held on the 26 March 2018 determined that a Cultural Heritage Management Plan was required under the Aboriginal Heritage Act 2006 and the Aboriginal Heritage Regulations 2007. The applicant prepared this document which was sent to Aboriginal Victoria for approval as required under the legislation.

A Compulsory Conference was held on 19 April 2018 where agreement was reached in relation to changes to the development and acceptable conditions between Council and the Applicant for Review. The Tribunal issued an order which listed the proceeding for administrative mention by which date the applicant had to advise the Tribunal whether a Cultural Heritage Management Plan had been approved by Aboriginal Victoria.

Following approval of the Cultural Heritage Manage Plan by Aboriginal Victoria on 27 June 2018, the Tribunal directed that a permit be issued. The hearing was vacated.
5. Confidential Business

Nil

As Acting Chief Executive Officer, I hereby declare that the contents of this agenda relating to the closed meeting of the ordinary meeting of Council are deemed confidential and accordingly members of Council are reminded that the contents of the agenda are not to be disclosed to any other party.

Mick Cummins

Acting Chief Executive Officer