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, 18 April, 2017
at 7.00pm

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

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

Section 92 The Chair's Duties and Discretions

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

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

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

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

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

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

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

Your cooperation is appreciated

Chairperson of Council
Planning & Amenity Committee Meeting

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

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

Membership of the Committee
All Councillors

Order of Business

1. Apologies

2. Declarations of Interest

3. Adoption and Confirmation of the minutes of previous meeting

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   4.11 30 Robinson Street, Brighton East Notice of Decision to Grant a Planning Permit Application No: 2016/244/1 Ward: Northern. 445
5. Confidential Business

Nil

Next Meetings 2017

- Wednesday 19 April
- Tuesday 9 May 2017
- Tuesday 13 June 2017
- Tuesday 18 July 2017
- Tuesday 15 August 2017
- Tuesday 12 September 2017
- Tuesday 17 October 2017
- Tuesday 14 November 2017
- Monday 11 December 2017
1. Apologies

2. Declarations of Interest

3. Adoption and Confirmation of the minutes of previous meeting

   3.1 Confirmation of the Minutes of the Planning & Amenity Committee Meeting held on 14 March 2017.
4. **Matters of Decision**

### 4.1 TREE REMOVAL - 86 DENDY STREET, BRIGHTON

**City Planning & Community Services - Amenity Protection**  
File No: PSF/17/76 – Doc No: DOC/17/57563

**Executive summary**

**Purpose and background**

The purpose of the report is to consider a resident’s appeal to Council to permit the removal of one Monterey Cypress (*Hesperocyris*) tree from their property located at 86 Dendy Street, Brighton. The value of the tree using the Bayside Tree Valuation Calculator is estimated to be $59,000. The owner seeks removal of the tree due to, tree health, risk and proposed new landscape design.

An application to remove one Monterey Cypress (*Hesperocyris*) tree located in the front yard of the property, was received on 29 December 2016. Attachment 1 includes photographs of the tree and it’s location on the property.

The tree is protected by Local Law No. 2 (Neighbourhood Amenity) and has been assessed in accordance with Council’s *Management of Tree Protection on Private Property Policy 2015* (Attachment 2). The tree did not meet the criteria for removal in the Policy and the permit application was refused by Council’s delegate. The results of the assessment are provided in Attachment 3.

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

**Key issues**

A summary of the assessment criteria and results for this tree removal application are provided below.

**Property Owner’s reason for tree removal:**

The applicant has a number of concerns about the Monterey Cypress (*Hesperocyris*) tree including the following:

- the tree to be removed will allow removal of the inground pool.
- the tree blocks light and access to the north facing aspect of the property.
- the tree’s close proximity to powerlines.
- the tree drops large amounts of debris.
- a new landscape design with replacement planting consisting of several large trees is proposed.

Further to the points provided by the applicant, two neighbours support the applicant’s concerns and supports the removal and replacement of the tree. In addition, a 2015 arboriculture report by Open Space Management was provided which recommended the removal of the tree. The report was commissioned by the previous owner of 86 Dendy Street to accompany a proposed planning development application which was granted in September 2016 for the Construction of two dwellings and associated front fencing over 1.2m in height which included the retention of the subject tree.
Council's Arborist's Assessment:

Health Structure and Impacts:
Council's arborist has assessed the tree and concluded that it is of good health and structure with a life expectancy greater than 10 years. The tree has a high amenity value as it can be seen from the streetscape and from neighbouring properties. Overall the tree is rated as having a medium retention value.

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

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

- the tree is large in size, and there was evidence of excessive pine needle litter.
- the tree is in an inappropriate location within 3.4m to the swimming pool, however the applicant has indicated their intention to remove the pool;
- 50% of each tree’s canopy overhangs the pool.
- the tree canopy currently clears the powerlines and the infrastructure provider conducts regular inspections of trees in the area to ensure the safety of their power lines.

In accordance with Council’s Policy, a tree removal permit is granted where the amenity value of the tree is moderate and four neighbours support its removal. The tree is high amenity value, only two neighbours support its removal.

A tree risk assessment was calculated using the Quantified Tree Risk Assessment method. The calculation revealed that the likelihood of risk of harm from complete tree failure was 1 in 400,000.

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

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

Summary
An application to remove one Monterey Cypress (*Hesperocyris*) tree from 86 Dendy Street, Brighton has been refused as it did not meet the criteria for removal in Council’s Management of Tree Protection on Private Property Policy 2015. The tree is in a healthy condition, and provides a high amenity value to the area for many years.

The value of the tree using the Bayside Tree Valuation Calculator is estimated to be $59,000. The policy only considers structural damage, health amenity and building (new woks) issues not solar access and landscape redesign.

The applicant has indicated that several large trees will be replanted should a permit be granted for the tree’s removal.

Having regard to the assessment detailed in this report removal of the tree is not supported.
Recommendation

That Council:
Not grant a permit for the removal of one Monterey Cypress (*Hesperocyris*) tree 86 Dendy Street, Brighton.

Support Attachments
Nil

1. Attachment 1: photograph of the Monterey Cypress (*Hesperocyris*) tree
3. Attachment 3: Tree assessment result for the Monterey Cypress (*Hesperocyris*) tree
Considerations and implications of recommendation

Liveable community

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

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

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

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

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

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

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

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

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

Option 1

Summary
Council does not grant a permit to remove the Monterey Cypress (Hesperocyparis) tree as it does not meet Council’s Management of Tree Protection on Private Property Policy 2015. A pruning permit could be granted to remove any deadwood from the trees.

The trees have been assessed as having good health and high amenity value. The tree’s valuation has been assessed at approximately $59,000.

Benefits
The tree is of high amenity value and will continue to contribute to the neighbourhood character.

Issues
The applicant will have future requirements to prune the tree from the power lines, cleaning/maintenance costs will be an ongoing burden for the applicant.

Option 2

Summary
Council grants a tree removal permit to remove the Monterey Cypress (Hesperocyparis) tree and requires the applicant to plant and maintain one replacement tree to the satisfaction of the Manager Amenity Protection as a condition of the tree removal permit.

Benefits
Replacement trees will help to protect the local amenity and neighbourhood character and reduce excessive ongoing pool maintenance costs for the Landowner.

Issues
The loss of healthy, high amenity trees from the neighbourhood with a life expectancy of greater than 10 years.
Photograph of the Monterey Cypress (*Hesperocyparis*) tree located at 86 Dendy Street, Brighton

Photograph of the Monterey Cypress (*Hesperocyparis*) tree viewed Dendy Street, Brighton
Aerial photograph of the Monterey Cypress (*Hesperocyparis*) tree cate 86 Dendy Street, Brighton
Council Policy

<table>
<thead>
<tr>
<th>Council policy title:</th>
<th>Management of Tree Protection on Private Property Policy 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Council policy ref no:</td>
<td>C/POL/CPA/001</td>
</tr>
<tr>
<td>Council policy owner:</td>
<td>Director City Planning &amp; Amenity</td>
</tr>
<tr>
<td>Adopted by:</td>
<td>Bayside City Council</td>
</tr>
<tr>
<td>Date adopted:</td>
<td>22 September 2015</td>
</tr>
<tr>
<td>Scheduled review:</td>
<td>September 2019</td>
</tr>
<tr>
<td>Document reference no:</td>
<td>DOC/15/37434</td>
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</tbody>
</table>

(Council Policy is a public statement formally resolved by Council, which clearly states Council’s requirements in relation to a particular matter or issue. For Council policy approval process, refer Section 19 and Appendix 1 of the Policy Handbook.)

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

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

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

A permit is not required:

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

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

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

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

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

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

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

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

4. Roles & Responsibilities

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

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

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

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

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

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

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

### 7. Tree removal permit

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

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

#### 7.1 Assessment

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

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

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

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

**Other considerations:**

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

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

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

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

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

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

7.3 Tree pruning / removal in emergency circumstances
In an emergency, that part of a tree that is an immediate threat to life and or property may be removed without a permit.

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

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

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

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

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

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

8. Replacement Planting
In order to enhance the overall tree canopy cover, Council aims to:
- achieve a net increase in the number of canopy trees on both private and public land; and
- encourage the planting of canopy trees of sufficient scale to contribute to the diversity of the canopy.
### Preferred tree planting ratios and scale

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

#### 8.1 Tree Replacement Planting Height

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

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

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

#### 8.2 Site constraints

Canopy trees should be included on all Replacement Planting Plans unless evidence is provided by a suitably qualified professional to the satisfaction of Council, that:

- there is insufficient soil volume to support the long-term viability of a canopy tree suitable to the locality; and
- the planting of a tree in a particular location would likely cause damage to property or infrastructure services, a substantial nuisance to adjoining property owners, or a traffic hazard that cannot be avoided or mitigated without unreasonable expense.

#### 8.3 Tree Planting Zone

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

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

Tree Planting Zones should be sited and designed in accordance with the following guidelines:

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

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

9. Related documents

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

10. Definitions & Abbreviations

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

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

<table>
<thead>
<tr>
<th>Permit Requirement</th>
<th>Do not proceed with assessment. Advise applicant.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is a permit required for removal?</td>
<td>Yes</td>
</tr>
<tr>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tree Health</th>
<th>Recommend removal of tree with conditions.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Evaluate tree health. Is the tree dead?</td>
<td>Yes</td>
</tr>
<tr>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

| Tree Structure | |
|---------------| |
| Evaluate tree structure. Is tree hazardous? | Yes |

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(03) 9599 4444
PO BOX 27 SANDRINGHAM VIC 3191
www.bayside.vic.gov.au

Bayside City Council Planning & Amenity Committee Meeting - 18 April 2017

Item 4.1 – Matters of Decision

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Tree Removal Assessment

2. TREE REMOVAL ASSESSMENT

Building Permit
Does the building envelope meet criteria?
Yes
No

Tree Location
Does the tree location meet criteria?
Yes
No

Medical Condition
Is tree removal justified by a medical condition?
Yes
No

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

Social Impacts
No. of criteria met?
≥ 2
< 2

Does the application cite risk or hazard as a reason for removal?
Yes
No

Recommend refusal of the application

Recommend removal of tree with conditions.

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

1 Building Permits

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

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

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

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

Table 1. Assessment method for tree removal

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

2 Tree Location

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

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

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

Conditions will include a requirement for replacement tree/s.

3 Medical condition

Where an application for tree removal:

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

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

4 Tree health, structure and impacts

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

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

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

Criteria

Tree health, structure and impacts criteria:

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

5 Social considerations

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

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

1. QUANTIFIED TREE RISK ASSESSMENT

IGFRA
Conduct IGFRA:
Does the risk of harm rate as less than 2.00,000?

Yes

Can the risk be mitigated with standard pruning?

Yes

Recommend refusal of the application

No

No

Recommend removing tree with conditions.

Yes

ATTACHMENT C

Recommend refusal of the application and offer pruning permit.
Quantified Risk Assessment

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

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

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

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

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

Health
Tree health is based on vigour and vitality. In assessing health, observations are made of the following:
- foliage characteristics
- extension growth
- wound wood development
- extent of predation or disease
In many instances correct application of arboricultural management practices can revitalise a tree and extend its ability to provide a value to the community.
(G) Good
- Tree displays 71-100% live canopy mass
- Foliage exhibits near optimal foliage characteristics in size, colour and density
- Tree may have low levels of tip dieback
- Tree may exhibit low levels of pest/pathogen infestation that is not expected to have a significant impact on the long term health of the tree
(F) Fair
- Tree displays 51-70% live canopy mass
- Foliage may be stunted or discoloured
- Tree exhibits less than optimal extension growth
- Tree has moderate pest/pathogen infestation which may be retarding growth and impacting on health levels, it is expected that the tree can recover with or without intervention
(P) Poor
- Tree displays <50% live canopy mass
- Tree exhibits low levels of extension growth
- Tree has extensive pest/pathogen infestation and is not expected to recover from such infestation even with intervention
- Tree may be senescent
(D) Dead
- Tree has no live vascular tissue

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

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

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

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

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

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

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

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

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

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

(N/A) Not Applicable

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

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

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

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

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

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

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

(L) Low
The tree is generally in fair health and structure, provides low levels of amenity and may do so for up to 10 years. The tree may be juvenile or otherwise small and easily replaced by advanced plantings or plantings that will provide similar amenity value in a reasonable timeframe.

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

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

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

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

#### Indigenous

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

#### Native

<table>
<thead>
<tr>
<th>Botanic Name</th>
<th>Common Name</th>
<th>Height</th>
<th>Width</th>
<th>Evergreen/ Deciduous</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acacia pendula</td>
<td>Weeping Myall</td>
<td>8-10</td>
<td>6-7</td>
<td>E</td>
</tr>
<tr>
<td>Agonis flexuosa</td>
<td>Weeping Willow Myrtle</td>
<td>10-12</td>
<td>10-12</td>
<td>E</td>
</tr>
<tr>
<td>Allocasurina torulosa</td>
<td>Rose She-oak</td>
<td>10</td>
<td>7</td>
<td>E</td>
</tr>
<tr>
<td>Angophora costata</td>
<td>Smooth-barked Apple</td>
<td>15-20</td>
<td>10-15</td>
<td>E</td>
</tr>
<tr>
<td>Angophora fioribunda</td>
<td>Rough Barked Apple</td>
<td>12-15</td>
<td>10-12</td>
<td>E</td>
</tr>
<tr>
<td>Corymbia ficifolia</td>
<td>Red-flowering Gum</td>
<td>10-15</td>
<td>10-15</td>
<td>E</td>
</tr>
<tr>
<td>Corymbia exima</td>
<td>Yellow Bloodwood</td>
<td>15</td>
<td>10-12</td>
<td>E</td>
</tr>
<tr>
<td>Corymbia maculata</td>
<td>Spotted Gum</td>
<td>18-22</td>
<td>12-15</td>
<td>E</td>
</tr>
<tr>
<td>Elaeocarpus reticulosus</td>
<td>Blueberry Ash</td>
<td>8</td>
<td>3-5</td>
<td>E</td>
</tr>
<tr>
<td>Eucalyptus cephalocarpa</td>
<td>Silver-leaved Stringybark</td>
<td>8-15</td>
<td>8-12</td>
<td>E</td>
</tr>
<tr>
<td>Eucalyptus cinerea</td>
<td>Mealy Stringybark</td>
<td>12</td>
<td>7-10</td>
<td>E</td>
</tr>
<tr>
<td>Eucalyptus cornuta</td>
<td>Yate</td>
<td>8-12</td>
<td>10</td>
<td>E</td>
</tr>
<tr>
<td>Eucalyptus crenulata</td>
<td>Silver Gum</td>
<td>8</td>
<td>6</td>
<td>E</td>
</tr>
<tr>
<td>Eucalyptus largiflorens</td>
<td>Black Box</td>
<td>10-15</td>
<td>8-12</td>
<td>E</td>
</tr>
<tr>
<td>Eucalyptus leucoxyylon</td>
<td>Yellow Gum</td>
<td>12</td>
<td>10</td>
<td>E</td>
</tr>
</tbody>
</table>
### subsp. connata
- **Eucalyptus mannifera** Red Spotted Gum 12-15 8-12 E
- **Eucalyptus microcarpa** Grey Box 15 10 E
- **Eucalyptus nicholii** Narrow-leaved Black Peppermint 10-15 10 E
- **Eucalyptus polyanthemos** Red Box 15 8-12 E
- **Eucalyptus puellula** White Peppermint 15 7 E
- **Eucalyptus rubida** Candlebark Gum 15 12 E
- **Eucalyptus saligna** Sydney Blue Gum 15-25 12-18 E
- **Eucalyptus scoparia** Wallangarra White Gum 8-12 5-10 E
- **Eucalyptus sideroxylon** Red Ironbark 12-18 10-15 E
- **Eucalyptus tereticornis** Forest red gum 15-20 12-15 E
- **Lophostemon confertus** Brush Box 10-15 8-12 E
- **Melaleuca quinquenervia** Broad-leafed paperbark 10-15 8-12 E
- **Tristaniopsis laurina** Water Gum 8 6 E
- **Waterhouseia floribunda** Weeping Lilly Pilly 10-12 8-10 E

### Exotic

<table>
<thead>
<tr>
<th>Botanic Name</th>
<th>Common Name</th>
<th>Height</th>
<th>Width</th>
<th>Evergreen/Deciduous</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acer cultivars</td>
<td>Maple</td>
<td>10-20</td>
<td>10-15</td>
<td>D</td>
</tr>
<tr>
<td>Araucaria heterophylla</td>
<td>Norfolk Island Pine</td>
<td>20-25</td>
<td>10-20</td>
<td>E</td>
</tr>
<tr>
<td>Arbutus unedo</td>
<td>Irish Strawberry Tree</td>
<td>8</td>
<td>8</td>
<td>E</td>
</tr>
<tr>
<td>Catalpa bignonoides</td>
<td>Indian Bean Tree</td>
<td>10-12</td>
<td>10-12</td>
<td>D</td>
</tr>
<tr>
<td>Cedrus deodara</td>
<td>Deodar Cedar</td>
<td>15-25</td>
<td>12-18</td>
<td>E</td>
</tr>
<tr>
<td>Celtis occidentalis</td>
<td>Hackberry</td>
<td>7-12</td>
<td>6-10</td>
<td>D</td>
</tr>
<tr>
<td>Fraxinus ‘Raywood’</td>
<td>Claret Ash</td>
<td>12</td>
<td>9</td>
<td>D</td>
</tr>
<tr>
<td>Fraxinus excelsior ‘Aurea’</td>
<td>Golden Ash</td>
<td>8-12</td>
<td>7</td>
<td>D</td>
</tr>
<tr>
<td>Fraxinus pensylvanica</td>
<td>Green Ash</td>
<td>10-15</td>
<td>8-12</td>
<td>D</td>
</tr>
<tr>
<td>Gleditsia triacanthos</td>
<td>Honey Locust</td>
<td>10-15</td>
<td>8-15</td>
<td>D</td>
</tr>
<tr>
<td>Jacaranda mimosifolia</td>
<td>Jacaranda</td>
<td>8-12</td>
<td>8</td>
<td>D</td>
</tr>
<tr>
<td>Liquidambar styraciflua</td>
<td>American Sweetgum</td>
<td>12-22</td>
<td>12-15</td>
<td>D</td>
</tr>
<tr>
<td>Magnolia grandiflora</td>
<td>Bull Bay</td>
<td>8-15</td>
<td>8-12</td>
<td>E</td>
</tr>
<tr>
<td>Metrosideros excelsior</td>
<td>Pohutukawa</td>
<td>8-10</td>
<td>8-10</td>
<td>E</td>
</tr>
<tr>
<td>Platanus x acerifolia</td>
<td>London Plane</td>
<td>14-22</td>
<td>12-18</td>
<td>D</td>
</tr>
<tr>
<td>Pyrus cultivars</td>
<td>Flowering Pear</td>
<td>8-12</td>
<td>4-8</td>
<td>D</td>
</tr>
<tr>
<td>Quercus coccinea</td>
<td>Scarlet Oak</td>
<td>12-15</td>
<td>12-15</td>
<td>D</td>
</tr>
<tr>
<td>Quercus palustris</td>
<td>Pin Oak</td>
<td>15-22</td>
<td>12-18</td>
<td>D</td>
</tr>
<tr>
<td>Quercus rubra</td>
<td>Northern Red Oak</td>
<td>12-20</td>
<td>12-20</td>
<td>D</td>
</tr>
<tr>
<td>Schinus molle</td>
<td>American Pepper</td>
<td>8-15</td>
<td>10-15</td>
<td>E</td>
</tr>
<tr>
<td>Tilia cordata cultivars</td>
<td>Small-leaved Linden</td>
<td>15-20</td>
<td>12-20</td>
<td>D</td>
</tr>
<tr>
<td>Ulmus glabra ‘Lutescens’</td>
<td>Golden Elm</td>
<td>10-15</td>
<td>12-15</td>
<td>D</td>
</tr>
<tr>
<td>Ulmus parvifolia</td>
<td>Lacebark</td>
<td>12-15</td>
<td>10-15</td>
<td>D</td>
</tr>
<tr>
<td>Ulmus procera</td>
<td>English Elm</td>
<td>12-20</td>
<td>12-15</td>
<td>D</td>
</tr>
<tr>
<td>Zeicova serrata</td>
<td>Japanese Zeikova</td>
<td>15-20</td>
<td>12-15</td>
<td>D</td>
</tr>
</tbody>
</table>
Table 1 Tree Assessment Results for the Monterey Cypress (*Hesperocyris*) tree English Oak (*Quercus robur*) tree located at 86 Dendy Street, Brighton.

<table>
<thead>
<tr>
<th>Criteria for granting tree removal permit</th>
<th>Description</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Building Permit</td>
<td>Building permit granted and building or construction works, and the tree cannot be retained.</td>
<td>A building permit has not been issued.</td>
</tr>
<tr>
<td>2. Tree Location</td>
<td>Report by expert providing evidence that the tree is causing structural damage to the building, services. Evidence that the tree is causing structural damage to the building, services or infrastructure or is at 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. Tree trunk is within two metres of a dwelling. Within one metre of a garage or carport. Crossover within structural root zone.</td>
<td>No report provided. There is no structural damage evident. The tree is located within 3.4m from the swimming pool with 50% limbs overhanging the pool. No garage or carport proposed. Crossover not subject to this application.</td>
</tr>
<tr>
<td>3. Medical Conditions</td>
<td>Medical certificate from a doctor or specialist indicating the tree is causing a specific allergenic problem that is reducing the quality of life and there is no other way to manage the problem.</td>
<td>No correspondence was provided by the owner related to medical conditions caused by the tree.</td>
</tr>
<tr>
<td>Criteria for granting tree removal permit</td>
<td>Description</td>
<td>Comment</td>
</tr>
<tr>
<td>------------------------------------------</td>
<td>-------------</td>
<td>---------</td>
</tr>
<tr>
<td><strong>4. Tree health structure and impacts</strong></td>
<td>Evidence provided by Council staff indicating the tree has a detrimental impact on surrounding environmental and public health. Removal granted where two of criteria or either poor health, structure or sustainable life expectancy less than five years.</td>
<td>No evidence or claim by applicant that there was a detrimental impact on surrounding environmental and public health from the tree. Council’s arborist indicates the tree is of good health, high retention value with a life expectancy of greater than 10 years.</td>
</tr>
<tr>
<td><strong>5. Social considerations (two required to warrant tree removal)</strong></td>
<td>The amenity or character is moderate or low 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 Written letters of support provided by property owners/tenants (four) living adjacent or opposite the property Demonstrated financial hardship and inability to undertake routine maintenance – no source of income and receiving Centrelink payments</td>
<td>The tree’s amenity value is high. There are two other protected trees on the property. Two letters of support provided from adjacent property owners. The property owner has made no representation of financial grounds.</td>
</tr>
<tr>
<td><strong>6. Report by property owners</strong></td>
<td>Qualified arborist Structural engineer report</td>
<td>A 2015 Arborist report was supplied with the application. The report was commissioned by the previous owner as part development application and is not relevant to the current local law application. No structural engineer’s reports were provided.</td>
</tr>
<tr>
<td><strong>7. Quantified Tree Risk Assessment (QTRA) conducted</strong></td>
<td>Risk calculated as – Broadly acceptable Tolerable Unacceptable</td>
<td>Broadly acceptable: A tree risk assessment was calculated using the Quantified Tree Risk Assessment method. The calculation</td>
</tr>
</tbody>
</table>
revealed that the likelihood of risk of harm from complete tree failure was 1 in 400,000.

In accordance with Council’s Policy, a tree removal permit is granted where the likelihood of risk of harm from complete tree failure is less than 1 in 30,000.
4.2 SIGNIFICANT TREE REMOVAL REQUEST - 73 MOREY ROAD, BEAUMARIS

City Planning & Community Services - Amenity Protection
File No: PSF/17/76 – Doc No: DOC/17/66462

Executive summary

Purpose and background

The purpose of the report is to consider a resident’s request to Council to remove a Coast Banksia (*Banksia integrifolia*) from Council’s Significant Tree Register located at 73 Morey Road, Beaumaris.

In 1996 Council established a Significant Tree Register that is maintained in accordance with the Bayside *Significant Trees Management Policy 2013*. There are currently seventy (70) tree sites recorded as Significant on the Bayside Significant Tree Register, including three (3) Coast Banksia (*Banksia integrifolia*) trees on the basis of size, contribution to the landscape and the fact that they are examples of remnant vegetation (age).

On 2 November 2011 the Coast Banksia (*Banksia integrifolia*) tree located at 73 Morey Road, Beaumaris was damaged in a storm. Half the canopy of the tree and a large limb was destroyed.

On 24 February 2016 Council received a request form from the owners to remove the tree from the Significant Tree Register. The tree is located in the front setback adjacent the footpath. The owners stated a significant decline in the health of the tree as a reason for it’s removal, they have also made a separate planning application to remove the tree.

An arboricultural assessment and report written by Ironbark Environmental Arboriculture, is attached to this report. The report includes digital images of the tree and it’s location.

Key issues

Independent Arborist Assessment:

The Ironbark Environmental Arboriculture report recommends removal of the subject tree and replacement with a new indigenous canopy in the front setback. Key findings of the report are:

- The subject tree is a mature Coast Banksia (*Banksia integrifolia*) with a *poor* structure, *fair* condition of health and *moderate* amenity value.
- The tree has a structure which is declining; it is expected that the tree is not likely to maintain current levels of amenity for more than nine (9) years.
- The diameter of the trunk is greater than the minimum size for a Coast Banksia tree that is listed for *Significant Size* by the National Trust; however, the canopy dimensions for this tree are below those expected for a mature specimen in the Bayside area (Scott et al. 2002).
- The tree does not fulfil any other of the requirements to be listed as significant under the criterion of the City of Bayside Significant Tree Register.
- The tree has a probability of failure of 1/ 500,000,000; which places it in the *broadly acceptable* risk region. There is no requirement to remove the tree on the basis of risk management.
The assessment focused on the ten criteria in the Significant Trees Management Policy 2013 which is based upon the National Heritage Trust agreed criteria for assessing significant trees. The significance of the tree was assessed and based on all ten criterion, being Horticultural value, Rare or localised, Particularly old, Aesthetic value, Curious growth form, Historical value, Aboriginal culture. These criterions were used to assess the tree for significance in a local context within the City of Bayside. For a tree to be considered significant it must meet one of the ten criteria. The assessment of the tree by ‘Ironbark Environmental Arboriculture’ concluded that the tree did not meet any of the criteria.

**Council’s Arborist’s Assessment:**

Council’s Senior Investigations Arborist has inspected the tree and reviewed the report by Ironbark Environmental Arboriculture. The findings and recommendations in the report are supported.

**Summary**

A request was received to remove a Coast Banksia (*Banksia intergriolia*) located at 73 Morey Road, Beaumaris from Council’s Significant Tree Register.

The Coast Banksia (*Banksia intergriolia*) was inspected by Ironbark Environmental Arboriculture and Council’s Senior Investigations Arborist. As the tree does not meet the criteria for significant status in line with Council’s Significante Tree Policy 2013 it is recommended that it is removed from the register. A separate planning application for its removal has been lodged by the tree owner.

**Recommendation**

That Council:

1. Removes the significant tree status for the Coast Banksia (*Banksia intergriolia*) tree located at 73 Morey Road, Beaumaris.

**Support Attachments**

Nil

Attachment 1 – Photos of tree and location
Attachment 2 – Significant Tree Criteria Assessment
Attachment 3 – Independent Arborist Report
Attachment 4 – Significant Tree Policy 2013
Considerations and implications of recommendation

Liveable community

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

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

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

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

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

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

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

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

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

#### Option 1

| Summary | Council removes the Significant Tree status of the Coast Banksia (*Banksia integrifolia*) tree as it no longer meets the criteria for significant tree status as required in the Significant Tree Policy 2013.  
  The tree has been assessed as having poor structure, fair condition of health and moderate amenity value.  
  The tree was previously damaged in a storm, half the canopy of the tree and a large limb was destroyed. |
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Benefits</td>
<td>Removing the significant status will allow removal and replacement of the tree that will eventually provide high amenity value and contribute to the neighbourhood character.</td>
</tr>
<tr>
<td>Issues</td>
<td>Loss of a mature tree in the existing landscape.</td>
</tr>
</tbody>
</table>

#### Option 2

<table>
<thead>
<tr>
<th>Summary</th>
<th>Council does not grant removal of significant status of the Coast Banksia (<em>Banksia integrifolia</em>) tree.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Benefits</td>
<td>The tree will remain and provide some amenity value and contribute to the neighbourhood character.</td>
</tr>
</tbody>
</table>
| Issues | The subject tree does not meet the criteria for significant status as required by Council’s Significant Tree Policy 2013.  
  The tree is a mature Coast Banksia (*Banksia integrifolia*) with a poor structure, *fair* condition of health and *moderate* amenity value.  
  The tree has a structure which is declining; it is expected that the tree is not likely to maintain current levels of amenity for more than nine (9) years. |
Attachment 1

Photo of storm damage to tree on 2 November 2012

Photo of tree taken in February 2017
Significant Tree Criteria Assessment

73 Morey Street
<table>
<thead>
<tr>
<th>Category</th>
<th>Fulfils Requirements</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Horticultural value</td>
<td>No</td>
<td>The tree is of local province and has no horticultural significance.</td>
</tr>
<tr>
<td>2. Location or context</td>
<td>No</td>
<td>The tree does not fulfil subcategories 1 - 8.</td>
</tr>
<tr>
<td>2.1 Historic garden or park</td>
<td>No</td>
<td>Tree is located in residential area.</td>
</tr>
<tr>
<td>2.2 Historic cemetery</td>
<td>No</td>
<td>Tree is located in residential area.</td>
</tr>
<tr>
<td>2.3 Important landmark</td>
<td>No</td>
<td>No evidence the tree is a landmark.</td>
</tr>
<tr>
<td>2.4 Remnant native vegetation</td>
<td>No</td>
<td>The tree is planted.</td>
</tr>
<tr>
<td>2.5 End of natural range</td>
<td>No</td>
<td>The tree is indigenous to the area.</td>
</tr>
<tr>
<td>2.6 Contribution to landscape</td>
<td>No</td>
<td>The tree has a moderate amenity value.</td>
</tr>
<tr>
<td>2.7 Historic town</td>
<td>No</td>
<td>The tree is not part of a historic town.</td>
</tr>
<tr>
<td>2.8 Historic planting style</td>
<td>No</td>
<td>The tree is not planted in a historic style.</td>
</tr>
<tr>
<td>3. Rare or localised</td>
<td>No</td>
<td>The species is not endemic to Bayside or listed under the DELWP Advisory List of Rare or Threatened Plants in Victoria.</td>
</tr>
<tr>
<td>4. Particularly Old</td>
<td>No</td>
<td>The life span of this species is greater than 100 years; this tree is ~50 years of age.</td>
</tr>
<tr>
<td>5. Outstanding size</td>
<td>No</td>
<td>The trunk is of a significant size but the canopy is below average size for a mature specimen.</td>
</tr>
<tr>
<td>6. Aesthetic value</td>
<td>No</td>
<td>The tree has a moderate amenity value.</td>
</tr>
<tr>
<td>7. Curious growth form</td>
<td>No</td>
<td>The growth form is normal.</td>
</tr>
<tr>
<td>8. Historical value</td>
<td>No</td>
<td>No historic events are associated with the tree.</td>
</tr>
<tr>
<td>9. Aboriginal culture</td>
<td>No</td>
<td>There is no evidence the tree has significance to aboriginal culture.</td>
</tr>
<tr>
<td>10. Outstanding example of species</td>
<td>No</td>
<td>The tree has a poor structure.</td>
</tr>
</tbody>
</table>
**IRONBARK**
Environmental Arboriculture

**Significant Tree Assessment**

73 Morey Road  
Beaumaris  
VIC 3193

**Prepared by**

Grant Harris  
B.Sc EnvSc (Wildlife & Conservation Biology) Deakin  
DipHort (Arboriculture) NMIT  
CertArb Merristwood

**Commissioned by**

Bayside City Council  
12th February 2017
Summary

- The subject tree is a mature Coast Banksia (*Banksia integrifolia*) with a poor structure, fair condition of health and moderate amenity value.

- The tree does not fulfil any of the requirements to be listed as significant under the criterion of the City of Bayside Significant Tree Register.

- The tree has a probability of failure of 1/500,000,000, which places it in the broadly acceptable risk region.

- The tree has a useful life expectancy of between 4 - 9 years.

- The tree is recommended for removal and replacement with a new indigenous canopy tree.

Introduction

Ironbark Environmental Arboriculture Pty Ltd has been engaged by Bayside City Council to provide a significant tree assessment for one tree situated in the front setback of 73 Morey Road, Beaumaris. (Figure 1: Site Location).

The objectives of the assessment are to:

- Measure the dimensions of the subject tree.

- Visually assess the condition of the subject tree in relation to its structure, health, form and aesthetic value.

- Provide an assessment of the site conditions surrounding the subject tree.

- Undertake a Quantified Tree Risk Assessment of the subject tree.

- Investigate the historic significance and remnant status of the subject tree.

- Evaluate the subject tree to determine if it continues to meet the criteria for listing on Bayside City Council’s Significant Tree Register.
Background

The subject tree is a mature Coast Banksia (*Banksia integrifolia*) (Figure 2: Subject Tree) listed as significant tree number 107, under the *Significant Trees Management Policy* (Bayside City Council 2013).

Since being listed as significant the Coast Banksia has experienced failures of first-order stems; which have altered its size and appearance.

Because of the history of stem failures, a re-assessment of the tree’s significance and Quantified Tree Risk Assessment (QTRA) has been undertaken.

![Image of tree location and boundaries](image)

Figure 1: Site Location, property boundaries (orange lines) and location of subject tree (yellow circle). Adapted from Planning Maps on Line, DELWP 2007 (2017) and Google Earth Pro (2017).
Planning Context

The following sections of the Bayside City Council planning scheme pertain to the subject tree:

- Clause, 22.06, Neighbourhood Character Policy, Precinct H2.
- Clause, 42.02, Schedule 3 to the Vegetation Protection Overlay
- Clause 93.06, Remove, Lop or Destroy a Tree.
Methods

On the 2nd February 2017, Grant Harris of Ironbark Environmental Arboriculture Pty Ltd assessed the subject tree. No survey plan of existing features has been provided; the tree location is identified using visual observations, GPS and aerial imagery (uncorrected ±3 m).

The trunk circumference at 1 m above ground level and trunk diameter at 1.3 m and 1.4 m was recorded. Tree height was measured using a Nikon Forestry Pro laser-clinometer and canopy width was paced out in North-South and East-West directions.

Tree health and structure were assessed visually from ground level; explanatory notes for the tree assessment descriptors are provided in Appendix 1. Tree Protection Zones (TPZs) and Structural Root Zones (SRZs) were calculated in accordance with AS 4970–2009 Protection of Trees on Development Sites.

Tree structure was assessed with reference to the following texts:


A detailed history of the tree was recorded from the resident, Mrs Bronwen Casey.

Aerial images from 1945 were used to establish the remnant status of the tree (www.1945.melbourne, 2017).
Observations

Tree Data

<table>
<thead>
<tr>
<th>Scientific Name</th>
<th>Banksia integrifolia</th>
</tr>
</thead>
<tbody>
<tr>
<td>Common Name</td>
<td>Coast Banksia</td>
</tr>
<tr>
<td>Height (m)</td>
<td>~8m</td>
</tr>
<tr>
<td>Spread (m)</td>
<td>~9m</td>
</tr>
<tr>
<td>Diameter at 1.4m (cm)</td>
<td>132 + 97</td>
</tr>
<tr>
<td>Diameter at 1.3m (cm)</td>
<td>134 + 100</td>
</tr>
<tr>
<td>Circumference at 1 m (cm)</td>
<td>446 - largest stem</td>
</tr>
<tr>
<td>Age</td>
<td>Mature</td>
</tr>
<tr>
<td>Origin</td>
<td>Indigenous</td>
</tr>
<tr>
<td>Health</td>
<td>Fair</td>
</tr>
<tr>
<td>Structure</td>
<td>Poor</td>
</tr>
<tr>
<td>Amenity Value</td>
<td>Moderate</td>
</tr>
<tr>
<td>Useful Life Expectancy</td>
<td>4 – 9 years</td>
</tr>
<tr>
<td>Distance from site boundaries</td>
<td>1m South, 2m East</td>
</tr>
</tbody>
</table>

Structure

- The tree has co-dominant stems (twin trunks) which bifurcate (fork) at approximately ~0.4m above ground level.
- At ~1m above ground level there is a large wound resultant from the previous failure of a structural stem. The pattern of wounding on the remaining stem is characteristic of a failure associated with bark inclusion (Lonsdale 1999).
- Scaffold branches arising from the remaining stem have been heavily pruned and stems bearing live foliage are of epicormic origin (shoots).

Health

- The foliage arising from the epicormic stems has good colouration and size.
- Boring insect holes and associated kno staining were observed on the trunk.

Amenity Value

- The tree is visible from Morey Road but not from other streets in the neighbourhood.
Age

- Based on the history received from the resident, the tree is estimated to be ~50 years old and to have been planted as a seedling grown from local provenance.
- Coastal Banksia has a lifespan of over 100 years (Hornsby Shire Council, 2011); if the subject tree is remnant it is probable that it would be identifiable in historic aerial images of the site. No discernible canopy tree is identifiable in images of the site taken in 1945.
- There is no other evidence which indicates the subject tree is remnant vegetation.

**Significant Tree Register Assessment**

<table>
<thead>
<tr>
<th>Category</th>
<th>Fulfils Requirements</th>
<th>Comments</th>
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<tbody>
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<tr>
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</tr>
</tbody>
</table>
Quantified Tree Risk Assessment

<table>
<thead>
<tr>
<th>Target Range</th>
<th>Size Range</th>
<th>Probability of Failure Range</th>
<th>Reduced Mass</th>
<th>Risk Index</th>
</tr>
</thead>
<tbody>
<tr>
<td>3: Human, Periodic Occupancy</td>
<td>4.25mm to 100mm</td>
<td>1/10,000 - 1/100,000</td>
<td>NA</td>
<td>1/500,000,000 Broadly Acceptable Region</td>
</tr>
<tr>
<td>Comments</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reassessment date</td>
<td>2nd February 2018</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Findings

- The subject tree is a mature Coast Banksia (*Banksia integrifolia*) with a poor structure, fair condition of health and moderate amenity value.

- The tree has a structure which is declining; it is expected that the tree is not likely to maintain current levels of amenity for more than nine (9) years.

- The diameter of the trunk is greater than Coast Banksia listed for Significant Size by the National Trust (Appendix 2), however, the canopy dimensions are below those expected for a mature specimen in the Bayside area (Scott et al. 2002). The subject tree does not fulfil the requirement of Criteria 5, Outstanding size.

- The tree does not fulfil any other of the requirements to be listed as significant under the criterion of the City of Bayside Significant Tree Register.

- The tree has a probability of failure of 1/500,000,000; which places it in the broadly acceptable risk region. There is no requirement to remove the tree on the basis of risk management.

Recommendations

- The subject tree is recommended for removal and replacement with a new indigenous canopy tree in the front setback.

- The proposed removal of the subject tree requires assessment against the objectives of Bayside planning scheme (see Planning Context, above, p.3).
Appendix 1: Photographs

- Failure point of previously bifurcated stem
- Showing size and location of trunk
- Kino staining and boring insect holes in trunk
- Boring insect holes in lower trunk
Appendix 2: Dimensions of Coast Banksia listed for Outstanding Size by the National Trust

<table>
<thead>
<tr>
<th>Address</th>
<th>Height (m)</th>
<th>Age</th>
<th>Diameter At 1.3 m (cm)</th>
</tr>
</thead>
<tbody>
<tr>
<td>423 Beach Road, Sandringham</td>
<td>22</td>
<td>?</td>
<td>60 cm</td>
</tr>
<tr>
<td>Royal Botanic Gardens, Birdwood Avenue, Melbourne</td>
<td>10</td>
<td>200</td>
<td>100 cm</td>
</tr>
</tbody>
</table>
Appendix 3: Descriptors

Origin

Indigenous - species is endemic to the local area and has been naturally occurring since the recording of flora commenced.

Victorian - species is native to the State of Victoria and has been naturally occurring since the recording of flora commenced.

Australian - species is native to Australia and has been naturally occurring since the recording of flora commenced.

Exotic - species is not endemic to any part of Australia.

Age

Young - Juvenile tree recently planted. Last 1 - 5 years.

Semi-mature - Tree has not reached potential mature height in current situation.

Mature - Specimen has reached expected size in current situation.

Senescent - Tree is over mature and in decline.

Health

Good

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

Fair

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

Poor

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

Dead

- Tree has no live vascular tissue
Structure

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

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

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

Hazardous
- Complete or major structural failure is imminent

Amenity Value

Low
- Tree has poor health or
- Tree provides little visual contribution to the neighbourhood character.

Moderate
- Tree has fair / good health and
- Tree is easily viewed from the street.

High
- Tree has fair / good health and
- Tree is highly visible from the street and from other streets in the area
Useful Life Expectancy
10+ Years
Tree is likely a mature tree that is in good health and/or structure and is expected to maintain current levels of amenity for a minimum of 10 years.

<10 Years
Tree is likely a mature tree that is in fair health and/or structure and is likely declining. It is expected that the tree is not likely to maintain current levels of amenity for more than 10 years.

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

Retention Value
High
The tree is generally in good health and structure, provides high levels of amenity and is likely to do so for more than 10 years. Tree may have historic or cultural significance.

Medium
The tree is generally in fair to good health and structure, provides high levels of amenity and is likely to do so for up to 10 years.

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.

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

Owned by third party / Neighbouring trees
Any tree located outside the subject site is considered to have a high retention value.
Appendix 4: Glossary of Arboricultural Terms

Diameter at Breast Height (DBH): Trunk diameter measured at 1.4 m above ground level. Where there is more than one trunk the quadratic mean value is used.

Tree Protection Zone (TPZ): An area above and below ground set aside for the protection of tree roots and canopy. The TPZ is a circle calculated from the Diameter at Breast Height (DBH) and a radial measurement in metres is given. To protect tree roots is is common for the natural ground level within the TPZ to be maintained.

Structural Root Zone (SRZ): The area around the base of a tree required to maintain stability. The SRZ is nominally circular with the trunk at its centre and is expressed by its radius in metres.

Appendix 5: Expertise to Prepare the Report

- I have over fourteen (14) years of experience in arboricultural industries, including over ten (10) years of consultancy.
- I have training and experience in the collection of biological samples and data for scientific research.
- My qualifications, experience and expertise are in the fields of arboriculture, horticulture, botany and wildlife biology which ensures that I am qualified to make informed independent assessments of issues pertaining to the management of trees and associated fauna.
- I am not employed to remove trees.

Grant Harris

G. Harris
Appendix 6: Insurance Details

<table>
<thead>
<tr>
<th>Insurance</th>
<th>Professional Indemnity</th>
<th>Public Liability</th>
<th>Workers Compensation</th>
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<td>Fitzpatrick &amp; Co</td>
<td>EML Mutual</td>
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<td>462445</td>
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<td>Renewal Date</td>
<td>25/9/2017</td>
<td>31/7/2017</td>
<td>31/7/2017</td>
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</tbody>
</table>

References


Hornby Shire Council (2011) Fact sheet - Banksia integrifolia / Coast Banksia.


SGI Global, AS 4970-2009 Protection of Trees on Development Sites.

Council Policy

Council policy ref no: C/POL/INF
Council policy owner: Director Infrastructure Services
Adopted by: Bayside City Council
Date adopted: Ordinary Meeting of Council Monday 2 September 2013
Scheduled review: 2016

1. Policy intent

To apply a consistent and equitable approach to the management of significant trees on private and public land in Bayside.

To protect, promote and improve the highly valued tree canopy in the municipality.

2. Purpose/Objective

The purpose of the Significant Trees Management Policy is to effectively administer the nomination of a tree, the listing of a significant tree onto, and the delisting of a significant tree from the Significant Trees Register. The removal of a significant tree from the Significant Trees Register can only be endorsed by Council at an Ordinary Meeting of Council.

The Bayside Planning Scheme (VPO) and Local Law No. 2 “Neighbourhood Amenity” assist Council to protect and expand the tree canopy of the entire municipality. Clause 36 (1) (a) and (b) of Council’s Local Law No. 2 “Neighbourhood Amenity” protects significant trees and a Local Law permit is required to destroy, damage, remove, cut, trim, lop, prune any tree listed on the significant tree register.

It is recognised that trees are an integral part of neighbourhood amenity, provide natural beauty and a sustainable environment.

3. Scope

The Significant Trees Management Policy 2013 is limited in its application to trees that:
- are located on private property and public land that are protected under Bayside City Council’s Local Law No. 2 – ‘Neighbourhood Amenity’;

Final
September 2013
are currently listed on Council's Significant Tree Register, and

- in exceptional circumstances do not meet the protection criteria under the Local Law.

This policy does not apply to exemptions and determinations made by the responsible authority regarding trees protected by the Bayside Planning Scheme. This includes but is not limited to:

- Heritage Overlay,
- Native vegetation (Clause 52.17 Planning Scheme)
- Vegetation Protection Overlay
- Property specific planning permits.

Roles and Responsibilities

Implementing and providing advice on the policy and resolution of disputes or differences that may arise in interpretation of this Policy will be the role of the responsible Manager.

4. Policy statement

Bayside City Council has committed to providing high-quality living environments for residents, ratepayers and visitors. The significance of trees in the Bayside community is reflected in the existing planning policy and local law controls covering Bayside. Some trees, through age, size, and rarity of planting or association with historical events achieve a higher level of importance than others on private land, and Council is committed to acknowledging their existence.

6.1 Nominating trees to the register

Who can nominate?

Any person can nominate trees located on any public or private property anywhere in the municipality.

Nomination form

Nominations must be made on the approved nomination form (see Appendix 1) and should include the written support of the tree owner. It is the nominator's responsibility to obtain the tree owner's written support.

Nomination forms received without written owner's consent will delay the assessment process and may limit the accuracy of the assessment of the tree.

Further nominations

Council will not accept a further nomination to list a tree on Council's Significant Tree Register within two years of an unsuccessful nomination. An unsuccessful nomination is where the assessment did not consider the tree to be significant.
Nomination fee
There is currently no nomination fee. Fees are set by Council each financial year.

6.2 Assessing nominated trees

Criteria for assessment

As part of the original study in 1996, a set of criteria for assessing trees was created. The criteria used by Bayside City Council replicate those used by the National Trust of Australia (Victoria) for their Significant Tree Register (see Appendix 2).

Process for assessment of nominated trees

When a nomination is received a Council Officer will inspect the tree to determine if it has characteristics of a significant tree. If the inspection identifies the tree as potentially significant, a consulting arborist will be engaged at Council’s cost to conduct an assessment.

The consulting arborist will forward a report detailing the assessment and the criteria met to Council Officers. If the report concludes that the tree is significant, the delegated officer prepares a report for Council recommending listing the tree on the Significant Tree Register.

Council notifies the nominator and the property owner of the outcome.

6.3 Process for deleting trees from the register

Requesting deletion from the register

Requests to delete trees from the register will only be accepted from the owner/s of the tree. The owner/s of the tree should make a written submission including the reasons why the tree should be deleted from the register with an accompanying independent arborist report. All owners of the tree must support the application.

Processing requests for deletion

Council will arrange for a consulting arborist to undertake an inspection of the tree at council’s cost. If the consulting arborist determines that the tree is no longer significant the Delegated Officer prepares a report for full Council recommending the tree be deleted from the register.

The report to Council is to include a copy of the consulting arborist’s report.

The owner is notified of Council’s decision.

If the consulting arborist recommends that the tree is retained on the register, the arborist’s report is to detail the reasons that lead to this conclusion. The report is then to be forwarded to the appropriate Council officer to prepare a formal response to the owner.
Council will not process a further request to delete a tree from the register within two years of a failed request, unless there are exceptional circumstances relating specifically to the condition of the tree.

6.4 Appeals

In accordance with Council’s meeting procedure and Local Law, any person has a right to be heard at a Council meeting.

6.5 Removal of trees included in the Council’s Significant Tree Register

A tree listed on the Significant Tree Register cannot be removed until it has been deleted from the Register and an appropriate Local Law permit issued. This does not apply if a tree is removed under the exemption provisions in the Local Law.

7. Related documents


<table>
<thead>
<tr>
<th>Policies</th>
<th>Management of Tree Protection on Private Property Policy</th>
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<tbody>
<tr>
<td>Plans</td>
<td>Bayside 2020 Community Plan 2011, Bayside Council Plan</td>
</tr>
<tr>
<td></td>
<td>2013/2017(revised)</td>
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<tr>
<td>Strategies</td>
<td>Bayside Tree Strategy 2011 (revised)</td>
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<tr>
<td>Procedures</td>
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<td>Guidelines</td>
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<tr>
<td>Legal</td>
<td>Bayside City Council Consolidated Local Law No 2 –</td>
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<tr>
<td></td>
<td>‘Neighbourhood Amenity’</td>
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<td></td>
<td>Bayside Planning Scheme (VPO)</td>
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<td></td>
<td>Charter of Human Rights &amp; Responsibilities Act 2006</td>
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8. Definitions & Abbreviations

<table>
<thead>
<tr>
<th>Term</th>
<th>Meaning</th>
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<tr>
<td>Responsible</td>
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<tr>
<td>Authority</td>
<td>VCAT</td>
</tr>
<tr>
<td></td>
<td>Planning Minister</td>
</tr>
<tr>
<td>Private Land</td>
<td>Any land not under the control of Council, State or federal Government.</td>
</tr>
<tr>
<td>Delegated Officer</td>
<td>Has the same meaning as a Senior Officer in the Local Government Act 1989</td>
</tr>
<tr>
<td>Exceptional</td>
<td>A tree that meets either National or State significance.</td>
</tr>
<tr>
<td>circumstances</td>
<td></td>
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</table>

Please note: This policy is current as at the date of approval. Refer to Council’s website (www.bayside.vic.gov.au) or staff intranet to ensure this is the latest version.
Appendix 1: Council's Significant Tree Register - nomination form

Nomination form

Botanical name: __________________________________________________________________________
Common name: __________________________________________________________________________
Address of tree: __________________________________________________________________________
Position on property: ______________________________________________________________________
Height: ___________________________________________________________________________________
Canopy spread: ___________________________________________________________________________
  east–west _______________________________________________________________________________
  north–south ______________________________________________________________________________

Reason for tree nomination

History of the tree: __________________________________________________________________________
(please attach a separate sheet if required)

Nominator name: __________________________________________________________________________
Nominator address: __________________________________________________________________________
Contact phone number: _______________________________________________________________________
Owner's name ______________________________________________________________________________
Owner's Signature – (consent for nomination) __________________________________________________________________________
Date: _____________________________________________________________________________________

For further information see Management of Significant Trees Policy 2013 or telephone Council on 9599 4444.
Appendix 2: Registration criteria and significance ratings

The categories used to define significant trees are:

Criteria 1: Horticultural value
Any tree that is of horticultural or genetic value and could be an important source of propagating stock, including specimens that are particularly resistant to disease or exposure.

Criteria 2: Location or context
Any tree that is in a unique location or context and so provides a contribution to the landscape, including remnant indigenous vegetation, important landmarks, and trees that form part of a historic garden, park or town.

Sub-criteria:
1. Historic garden or park
2. Historic cemetery
3. Important landmark
4. Remnant indigenous vegetation
5. End of natural range
6. Contribution to landscape
7. Historic town
8. Historic planting style.

Criteria 3: Rare or localised
Any tree of a species or variety that is rare or of very localised distribution.

Sub-criteria:
1. Only known specimen
2. 1 to 10 known specimens
3. 10 to 50 known specimens
4. In the wild
5. End of natural range
6. Disjunct community.

Criteria 4: Particularly old
Any tree that is particularly old or venerable.

Criteria 5: Outstanding size
Any tree outstanding for its large height, trunk circumference, or canopy spread.

Sub-criteria:
1. Height
2. Circumference
3. Canopy spread
4. Height x circumference
5. Spread x circumference
6. Height x circumference x spread.

Criteria 6: Aesthetic value
Any tree of outstanding aesthetic significance.

Criteria 7: Curious growth form
Any tree that exhibits a curious growth form or physical feature such as abnormal outgrowths, natural fusion of branches, severe lightning damage, or unusually pruned forms.

Sub-criteria:
1. Abnormal outgrowths
2. Fusion of branches
3. Unusually pruned
4. Unusually damaged.
Criteria 8: Historical value
Any tree commemorating a particular occasion (including plantings by royalty) or with association to an important historical event.

Sub-criteria:
1. Cultural group
2. Public feature
3. World War I
4. World War II
5. British royalty
6. Non-British royalty
7. Visiting dignitary
8. Australian public figure
9. Victorian public figure.

Criteria 9: Aboriginal culture
Any tree associated with Aboriginal activities.

Sub-criteria:
1. Scarred tree
2. Corroboree tree.

Criteria 10: Outstanding example of species
Any tree that is an outstanding example of the species.

Grading of significance
As well as identifying significant trees and the nature of their significance, Council’s Significant Tree Register documents the level of significance of the trees. Five grades are used to classify the level of significance. The grades are consistent with those used for the classification of heritage buildings and places. The definition of ‘cultural significance’ is consistent with the Burra Charter (article 1.2). The grades are:

1. National significance (N) - Any tree of major significance and essential to the national heritage.
2. State significance (S) - Any tree of major significance and essential to the state heritage.
3. Regional significance (R) - Any tree of significance and contributing to the Melbourne metropolitan region’s heritage.
4. Local significance (L) - Any tree of significance and contributing to the municipality of Bayside City Council.
5. Neighbourhood significance (Nb) - Any tree of significance and contributing to the streetscape or neighbourhood landscape in the municipality of Bayside City Council.
4.3 7 SMEED STREET, BLACK ROCK
NOTICE OF DECISION TO GRANT AN AMENDED PLANNING PERMIT
APPLICATION NO: 2015/387/2 WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/66502

1. Purpose and background

To report a planning permit application for a Section 72 Amendment to Planning Permit 2015/387/1 issued on 11 April 2016 and subsequently amended on 19 October 2016 for the construction of two double storey dwellings, construction of a front fence exceeding 1.2 metres and removal of native vegetation (refer Attachment 1) at 7 Smeed Street, Black Rock (refer Attachment 2).

This application seeks approval for removal of tree 2 (VPO tree), construction of a 1.8 metre high front fence, first floor setback of dwelling 1 amended to 6.78 metres, first floor setback of dwelling 2, associated with the Master Bed wall, amended to 6.18 metres, increase in the size of the Kitchen window associated with dwelling 1, a window added to the pantry of dwelling 2, removal of a window associated with bedroom 2 of dwelling 2, reconfiguration of the ground floor sliding doors in the eastern elevation, changes to the fenestration and materials making up the façade of both dwellings; and dwelling 1 garage door materials changed from Colorbond Steel ‘Surfmist White’ to dark stained cladding.

Applicant: Dale Crowhurst
Date application received: 4 April 2017 (Amended)
Statutory days expired: 3 June 2017

2. Policy implications

Planning permit requirements

Pursuant to Section 72 of the Planning and Environment Act 1987, the ambit of discretion is limited to the proposed changes sought by the applicant. Consideration cannot be given to elements approved as part of the original application but not sought to be amended.

On the 4 April, 2017 this application was amended by the permit applicant to show the removal of one tree, being tree No. 2. Given the application now involves the removal of native vegetation, a planning permit is require pursuant to Clause 42.02-2 (Vegetation Protection Overlay) to remove, destroy or lop any vegetation native to Australia. The removal of this tree has always been shown on the advertised plans, but the applicant had incorrectly noted the species of tree and did not apply for the removal of native vegetation explicitly. The applicant amended the application to seek a permit to remove this tree on the 4 April 2017.

Original planning permit requirements

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

Clause 32.09-5 (Neighbourhood Residential Zone) – Construct a front fence exceeding 1.2 metres in height.

Planning scheme amendments

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

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

3. Stakeholder Consultation

External referrals

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

Internal referrals

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
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<tr>
<td>Arborist</td>
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Public notification

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

- Front and rear setbacks;
- Overlooking;
- Car parking;
- Visual bulk; and
- Fence height.

Consultation meeting

The applicant declined a consultation meeting, advising that issues raised by objectors were unlikely to be resolved through mediation.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant an Amended Permit under the provisions of the Bayside Planning Scheme in respect of Planning Permit Application 2015/387/2 for the land known and described as 7 Smeed Street, Black Rock, for the construction of two double storey dwellings, a front fence exceeding 1.2 metres and removal of native vegetation in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

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

a) A schedule of construction materials, external finishes and colours (incorporating two (2) paint samples)

b) Deleted

c) All pedestrian doors opening outwardly from the garages.

d) Deleted

e) Deleted

f) Deleted

g) Deleted

h) Boundary fence on the western boundary to be increased to a minimum height of 1.8 metres.

i) The first floor habitable room windows of both dwellings on the west elevation to be screened in accordance with Clause 55.04-6 (Standard B22 Overlooking) of the Bayside Planning Scheme and Clause 55.04-7 (Standard B23 Internal Views) of the Bayside Planning Scheme.

j) An updated Landscape plan in accordance with Condition 7.

k) An Arborist report prepared by a qualified Arborist in accordance with Condition 9.

l) Water Sensitive Urban Design (WSUD) measures in accordance with Condition 10 of this Planning Permit.

m) Deleted

n) The front setback of dwelling 1 increased by 1.0 metre to all components of the front façade at both ground and first floor levels, so as to retain the existing amount of articulation within the front facade. This increased front setback can be provided by reducing the rear setbacks, reducing the size of the dwelling, or a combination of these options.

o) Deleted

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

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

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

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

6. 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.

7. Before the development starts, 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 drawn to scale with dimensions and three copies must be provided. The landscaping plan must show:

a) A survey of all existing vegetation to be retained and/or removed (including botanical names).

b) Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary whose Tree Protection Zone extend into the subject site.

c) Details of surface finishes of pathways and driveways.

d) Details of water sensitive urban design elements to be incorporated and the plant species to be used.

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.

f) At least 80% native vegetation by both species and plant count.

g) A tree protection plan showing trees to be retained on the subject site and neighbouring properties which have Tree Protection Zones (TPZ’s) that extend into the subject site, prepared by a suitable qualified arborist in accordance with AS 4970-2009 Protection of Trees on Development Sites.

h) The tree protection plan must provide specific details of the construction

i) the inclusion of four canopy trees capable of reaching a minimum height of 8 metres at maturity (two within the front setback and two within the rear setback).

All species selected must be to the satisfaction of the Responsible Authority

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

9. Before the development starts, including demolition, an Arborist Report (Tree protection methodology/plan) or appendices to the submitted report prepared by Glenn Waters dated 28 June 2015 is to be submitted and approved to the satisfaction of the Responsible Authority. The purpose of this report is to outline how those trees to remain on the subject site, and those trees on neighbouring properties whose Tree Protection Zones extend into the subject site will be adequately protected during construction and remain viable post construction. The Arborist Report is to include, at a minimum, the following:

a) A plan that accurately locates all vegetation to be retained/protected with their Tree Protection Zone (TPZ) identified.

b) A plan that accurately locates the location of tree protection fencing and/or ground protection.

c) A plan that accurately locates the proposed built form and all services. Services are to be located outside a TPZ or to be bored under the TPZ.

d) A plan that accurately identifies finished levels for outdoor areas.

e) A plan that accurately locates footing systems and surface details of all works inside a TPZ.

f) A legend and north point.

g) Clear time frames as to when the tree protection zones must be installed and when they can be removed.
h) A Tree Protection Plan is required for trees to be retained on the subject site and neighbouring properties which have Tree Protection Zones (TPZ’s) that extend into the subject site.

i) The Tree Protection Plan must be prepared by a suitably qualified arborist in accordance with AS 4970-2009 Protection of Trees on Development Sites.

j) The Tree Protection Plan must provide specific details of the construction measures which will be used to minimise the impact of the proposed development on trees to be retained on the subject site and neighbouring properties.

k) The Tree Protection Plan must demonstrate that the trees to be retained on the subject site and neighbouring properties (including the Pyrus communis located at 20 Love Street Black Rock, along the rear boundary to the west), will remain viable post construction.

l) The recommendations of the Tree Protection Plan must be followed throughout the development, including demolition and landscaping phases of the works.

m) The Tree Protection Plan must specify the project arborist(s) who are responsible for ensuring the recommendations of the Tree Protection Plan are followed throughout all phases of the works. Names, contact details, qualifications and experience of the project arborist(s) must be provided.

n) A landscape plan must be provided which gives the botanical identification of the trees proposed for retention, removal and new canopy tree plantings.

o) The botanical name of Tree 14 shown on the landscape plan prepared by Knight Building Group and dated 17/8/2015 must be amended to Soft Tree Fern (Dicksonia antarctica).

10. 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. 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 in accordance with the guidelines outlined in Clause 22.08 of the Bayside Planning Scheme and must show:-

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

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

   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.

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.

11. The applicant 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.
12. The development is to have a Stormwater Detention System installed, the design capacity to be to the satisfaction of the Responsible Authority.

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

14. 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:
   i) A trench grate (150mm minimum internal width) located within the property and/or
   ii) Shaping the driveway so that water is collected in a grated pit on the property and/or
   iii) Another Council approved equivalent.

15. Before the development begins, two 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 and approved by Council's Engineering Services department.

16. 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.

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

   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.

Permit Notes

- A permit must be obtained from Council for all vehicular crossings.
- These must be constructed under Council's supervision for which 24 hours’ notice is required.
- Building approval must be obtained prior to the commencement of the above approved works.
- Consultation should take place with Council respect of the removal of the vehicular crossing and reinstatement works.
- Reticulated sewerage must be provided to the requirements of the Sewerage Authority.
- The existing street tree/s must not be removed or damaged.
Prior to commencement of any building works, an Asset protection Application must be taken out. This can be arranged by calling Asset Protection Administrator, Mon- Fri 9:00am to 1:00pm on 9599 4638.

<table>
<thead>
<tr>
<th>Date Amended</th>
<th>Details</th>
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</table>
| 19 October 2016    | The Tribunal directs that Permit No. 5/2015/387/1 must contain the conditions set out in the permit issued by the Responsible Authority on 11 April 2016 with the following modifications:  
(a) Conditions 1(b), (d), (e), (f), (g), (m) and (o) are deleted.  
(b) Condition 1(n) is amended to read:  
The front setback of dwelling 1 increased by 1.0 metre to all components of the front façade at both ground and first floor levels, so as to retain the existing amount of articulation within the front facade. This increased front setback can be provided by reducing the rear setbacks, reducing the size of the dwelling, or a combination of these options. |
| 18 April 2017      | Amendment pursuant to Section 72 of the Planning and Environment Act 1987, comprising the following changes:  
Amendment to permit preamble:  
- To include ‘a front fence exceeding 1.2 metres and removal of native vegetation’. The permit is to read as follows (changes highlighted in bold):  
'Construction of two double storey dwellings a front fence exceeding 1.2 metres and removal of native vegetation' in accordance with the endorsed plans and subject to the following conditions.  
Amendment to the endorsed plans, comprising:  
(a) construction of a 1.8 metre high front fence;  
(b) first floor setback of Dwelling 1 amended to 6.78metres;  
(c) first floor setback of Dwelling 2, associated with the Master Bed wall, amended to 6.18 metres;  
(d) increase in the size of the Kitchen window associated with Dwelling 1;  
(e) a window added to the pantry of Dwelling 2;  
(f) removal of a window associated with Bedroom 2 of Dwelling 2;  
(g) reconfiguration of the ground floor sliding doors in the eastern elevation;  
(h) changes to the fenestration and materials making up the façade of both Dwellings; and  
(i) Dwelling 1 garage door materials changed from Colorbond Steel 'Surfmist White' to dark stained cladding. |
5. **Council Policy**

*Council Plan 2013-2017*

Relevant strategies of the Council plan include:

- **3.1.1** Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.
- **3.1.3** Advocating Council’s planning and urban design objectives.

**Bayside Planning Scheme**

- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 1)
- Clause 43.02 Vegetation Protection Overlay (Schedule 3)
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

6. **Considerations**

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

The site is located within Neighbourhood Character Precinct E4 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The proposed amendment incorporates changes to the materials and fenestration forming part of the façades of both dwellings. It is considered that the proposed changes are acceptable as they further refine the façade design, resulting in an overall simplification of the dwellings’ presentation to the street. These changes are considered to be respectful of the character of the area and will fit comfortably within the existing streetscape where existing the dwellings sit within well-vegetated blocks and do not dominate.

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)**

Schedule 3 to the Neighbourhood Residential Zone varies the street setback requirements contained at Clause 55.03-1 of the Bayside Planning Scheme and as such, the dwellings are required to be set back from the street by 7.75 metres.

Planning permit 2015/387 allows for a ground floor front setback of between 6.1 metres – 7 metres and a first floor setback of 7 metres, for dwelling 1. A front setback of between 6.7 metres to 7.75 metres at ground floor and 6.59 metres to 7.75 metres at first floor, has been approved for dwelling 2.

The proposal seeks to amend the first floor setbacks associated with both dwellings, in order to incorporate a 6.78 metre setback for dwelling 1 and a 6.18 metre setback associated with the master bedroom wall to dwelling 2. These setbacks would result in a variation to Standard B6 of 1.22 metres and 1.82 metres, respectively.

There are no changes proposed to the approved front setbacks, at ground floor.

It is considered that the variations to Standard B6 sought by the proposed amendment are acceptable due to the minor variation between the proposed setback and the setbacks as approved under Planning Permit 2015/387. Moreover, the visual impact of these changes are acceptable given that they would facilitate the proposed changes to the façade. Importantly, it is considered that these changes would result in a built form outcome that is preferable from a design detail and neighbourhood character perspective, to that which is currently approved as part of Planning Permit 2015/387.

**Front fences (Standard B32)**

Schedule 3 to the Neighbourhood Residential Zone varies the front fences requirement contained at Clause 55.06-2 of the Bayside Planning Scheme and as such, the maximum fence height permitted is 1.2 metres. The proposed amendment incorporates a 1.8 metre high front fence associated with both dwellings, varying Standard B32 by 0.6 metres.

This variation is considered to be acceptable due to the height and appearance of the front fences on adjoining properties. Specifically, 22 Love Street and 9 Smeed Street both utilise high solid, front fences. Additionally, the proposed fence height and design is consistent with the prevailing front fence design within the streetscape and is therefore considered to be in keeping with neighbourhood character.

Accordingly, this element of the proposal is considered to be acceptable.
6.3. Vegetation and landscaping

The endorsed landscape plan forming part of planning permit 2015/387/1 shows the removal of a *Syagrus romanzaffiana* (identified as Tree 2) located on the southern boundary of the site. Removal of this tree, along with four other *Syagrus romanzaffiana* (identified as Trees 3, 4, 5 and 6) was required to facilitate the development of the land with two dwellings. The removal of these trees was assessed as part of the original planning permit application and it was determined that, on balance and with appropriate replacement planting, their removal was acceptable.

However, during the assessment process associated with the current amendment application, Council's Arborist noted that the *Syagrus romanzaffiana* (Tree 2) shown on the endorsed landscape plan had been incorrectly identified. Following a site inspection, Council's Arborist confirmed that the tree was in fact an *Archontopheonix cunninghamiana*. This species is an Australian native and planning permission is required for its removal, pursuant to Clause 43.02 (Vegetation Protection Overlay – Schedule 3) of the Bayside Planning Scheme.

Accordingly, the proposed amended landscape plan shows the removal of one *Archontopheonix cunninghamiana* (Tree 2), located on the southern boundary of the site. Removal of this tree is considered to be acceptable given that its retention would prevent the development of the site in accordance with planning permit 2015/387/1. Additionally, the replacement planting, comprising five large/medium indigenous trees and other indigenous shrubs and plants, is considered to successfully address the objectives of the Vegetation Protection Overlay (Schedule 3) and is therefore acceptable.

6.4. Objections received

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

Rear setbacks

No changes have been proposed to the rear setbacks approved as part planning permit 2015/387. Therefore, consideration cannot be given to this aspect of the development and has not formed part of this planning assessment.

Overlooking

The proposed amendment incorporates changes to the windows associated with the kitchen of dwelling 1, the pantry of dwelling 2, the ground floor sliding doors associated with dwelling 1 and 2, and the fenestration in the front façade. All of these windows either comply with, or are exempt from, the objective and standards of Standard B22. As such, it is not considered that the proposed amendments will result in any unreasonable overlooking to the habitable room windows, or secluded private open space of existing dwellings.

Car parking

The proposed amendment does not require an assessment against the provisions of Clause 52.06 (Car parking) of the Bayside Planning Scheme. As the ambit of discretion is limited to the changes being proposed, consideration cannot be given to the potential traffic impacts of an increase in density associated with the construction of two dwellings on a lot. Therefore, traffic has not been considered as part of this assessment.
Visual bulk

No additional built form has been proposed as part of the amendment application, therefore an assessment of visual bulk has only been undertaken in respect of the impact of changes to front setbacks, fenestration and materials. It is not considered that these changes will result in an unacceptable level of additional visual bulk and are acceptable from a neighbourhood character and amenity based perspective.

Fence height

Fencing along the northern boundary between the subject site and 22 Love Street is shown on the endorsed plans at a height of 2 metres – 2.25 metres. This element of the development was assessed and approved as part of Planning Permit 2015/387 and as such, its merits cannot be considered as part of the proposed amendment.

Support Attachments

1. Endorsed Plans
2. Development Plans
3. Site and Surrounds
4. Neighbourhood Character Assessment
5. Clause 55 Assessment
Item 4.3 – Matters of Decision
## CONSTRUCTION MATERIALS, EXTERNAL FINISHES & COLOURS SCHEDULE

<table>
<thead>
<tr>
<th>REF</th>
<th>Description</th>
<th>Colour/Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>01</td>
<td>ROOF</td>
<td>STEEL SHEETING</td>
</tr>
<tr>
<td>02</td>
<td>EXTERNAL WALLS</td>
<td>ACRYLIC RENDER</td>
</tr>
<tr>
<td>03</td>
<td>EXTERNAL WALLS</td>
<td>ACRYLIC RENDER</td>
</tr>
<tr>
<td>04</td>
<td>EXTERNAL WALLS</td>
<td>ACRYLIC RENDER</td>
</tr>
<tr>
<td>05</td>
<td>FEATURE BLADE WALL STONE</td>
<td></td>
</tr>
<tr>
<td>06</td>
<td>GARAGE DOOR</td>
<td>COLORBOND STEEL</td>
</tr>
<tr>
<td>07</td>
<td>OVERLOOKING SCREEN</td>
<td>WHITE TRANSLUCENT GLASS</td>
</tr>
<tr>
<td>08</td>
<td>WINDOW FRAMES</td>
<td>POWDERCOATED ALUMINIUM</td>
</tr>
<tr>
<td>09</td>
<td>DOOR FRAMES</td>
<td>POWDERCOATED ALUMINIUM</td>
</tr>
<tr>
<td>10</td>
<td>FEATURE DOORS</td>
<td>TIMBER</td>
</tr>
<tr>
<td>11</td>
<td>DRIVEWAY</td>
<td>CONCRETE EXPOSED AGGREGATE</td>
</tr>
<tr>
<td>12</td>
<td>PAVING</td>
<td>Pavers</td>
</tr>
</tbody>
</table>
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1. Aerial overview of the site and surrounds

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th>⭐</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objectors</td>
<td>⬤</td>
</tr>
</tbody>
</table>
Figure 2. View towards the front of the subject site

Figure 3. View along Smeed Street, looking south.
ATTACHMENT 3
Neighbourhood Character Assessment
Precinct E4

Neighbourhood Character Precinct E4

Preferred Future Character Statement

The diverse dwelling styles sit within informal coastal gardens with large trees. There is a lightness to the structures and streetscapes due to the use of lighter building materials, colours and design detailing. The informal coastal feel is enhanced by street treatments including informal coastal street trees and the retention of the wide nature strips. Buildings fronting the foreshore reflect their setting and provide a visually attractive built form interface with the reserve.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To maintain and enhance the garden settings of the dwellings.</td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs.</td>
<td>Lack of landscaping and substantial vegetation.</td>
<td>Not applicable</td>
</tr>
<tr>
<td>To enhance the bayside vegetation character of the area through the retention and planting of appropriate coastal species.</td>
<td>• Retain established native and traditional coastal vegetation and provide for the planting of new indigenous coastal trees. • Minimise paving in front garden areas including driveways and crossovers.</td>
<td>Removal of large, native trees. Front setbacks dominated by impervious surfaces. Planting of environmental weeds.</td>
<td>Responds The endorsed landscape plan forming part of planning permit 2015/387/1 has successfully incorporated sufficient replacement indigenous and native plantings. A combination of large and medium trees, as well as shrubbery and grasses will compensate for the proposed removal of the Archontopheonix cunninghamiana.</td>
</tr>
<tr>
<td>To ensure that building setbacks from boundaries contribute to the informality and</td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td>Loss of front garden space.</td>
<td>Responds The proposed changes to the front setbacks of the dwellings will not result in</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
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</tr>
<tr>
<td>sparcousness of the area and visual separation of the buildings.</td>
<td>- Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>any changes to the plantings as endorsed as part of the original landscape plan. Importantly, space will remain for the planting of trees and shrubs and there will be no loss of front garden space.</td>
</tr>
<tr>
<td>To minimise the dominance of car parking facilities.</td>
<td>- Locate garages and car ports behind the line of the dwelling.</td>
<td>Car parking facilities that dominate the façade or view of the dwelling.</td>
<td>Responds</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>The proposed amendment does not seek to change the approved setbacks for either garages associated with the dwellings. Rather, the Dwelling 1 garage door materials are proposed to change from Colorbond Steel ‘Surfmist White’ to dark stained timber cladding. This change is considered to be acceptable as it will create a visually cohesive link between the first floor of Dwelling 2, the proposed vegetation and the garage itself. Importantly, the proposed change in materials will not increase the dominance of the garage within the façade.</td>
</tr>
<tr>
<td>To encourage innovative architecture that reflects the coastal setting.</td>
<td>- New buildings should be individually designed to respond to the characteristics of the coastal location and the site.</td>
<td>Large bulky buildings Flat, poorly articulated front wall surfaces. High pitched roof forms with dormer windows.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>- Incorporate building elements and details that contribute to a lightness of structure.</td>
<td></td>
<td>By removing a number of architectural features and details within the façade and refining the horizontal elements, the amendment effectively reduces the visual clutter presenting to Smeed Street. The dwellings retain a high level of articulation within the façade, through the use of staggered setbacks and windows at first floor, to produce a visually cohesive product that will not dominate the streetscape.</td>
</tr>
<tr>
<td>To respect the identified heritage qualities of adjoining buildings.</td>
<td>- Where adjoining an identified heritage building, respect the height, building forms, siting and materials, in the new building design.</td>
<td>Period reproduction detailing.</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
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<td>---------------------------------------------------------------------------</td>
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</tr>
<tr>
<td>To use lighter looking building materials and finishes that complement the vegetation and coastal setting.</td>
<td>- Incorporate timber or other non-masonry wall materials where possible.</td>
<td>Heavy materials and design detailing (e.g. Large masonry columns and piers)</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>- Use lighter coloured building materials and finishes.</td>
<td>Excessive use of render on external wall surfaces.</td>
<td>The amendment proposes to incorporate timber cladding to the garage door of Dwelling 1 and the first floor of Dwelling 2. These changes will reduce the amount of render contained within the façade, resulting in a lighter looking development that will fit more comfortably within a well-vegetated setting.</td>
</tr>
<tr>
<td>To create a visually interesting and attractive built form interface with the foreshore reserve.</td>
<td>- Articulate the form buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies, verandahs, non-reflective glazing and light-transparent balustrading.</td>
<td>Buildings that have no relationship to the foreshore setting.</td>
<td>Not applicable</td>
</tr>
<tr>
<td></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>Poorly articulated roof and building forms.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Provide articulated roof forms to create an interesting skyline when viewed from the beach.</td>
<td>Highly reflective materials or glazing.</td>
<td></td>
</tr>
</tbody>
</table>

Item 4.3 – Matters of Decision
<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer Attachment 2.</td>
</tr>
<tr>
<td>Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly identifiable from either the streetscape or the common pedestrian access.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Requirement</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>-------------</td>
</tr>
<tr>
<td>B6</td>
<td>Street Setback</td>
<td>No</td>
</tr>
<tr>
<td>B7</td>
<td>Building Height</td>
<td>Yes</td>
</tr>
<tr>
<td>B8</td>
<td>Site Coverage</td>
<td>Yes</td>
</tr>
<tr>
<td>B9</td>
<td>Permeability</td>
<td>Yes</td>
</tr>
<tr>
<td>B10</td>
<td>Energy Efficiency</td>
<td>Yes</td>
</tr>
<tr>
<td>B11</td>
<td>Open Space</td>
<td>N/A</td>
</tr>
<tr>
<td>B12</td>
<td>Safety</td>
<td>Yes</td>
</tr>
<tr>
<td>B13</td>
<td>Landscaping</td>
<td>Yes</td>
</tr>
</tbody>
</table>
**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><strong>B14 Access</strong></th>
<th>N/A</th>
<th>No changes are proposed to the approved vehicle access arrangements.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B15 Parking Location</strong></th>
<th>N/A</th>
<th>There are no changes proposed to the parking arrangements approved as part of the original planning permit.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.</td>
<td>N/A</td>
<td>No changes proposed to the approved parking arrangements.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B17 Side and Rear Setbacks</strong></th>
<th>N/A</th>
<th>No changes are proposed to the approved side and rear setbacks.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.</td>
<td>N/A</td>
<td>No changes are proposed to the approved side and rear setbacks.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Ground Floor</strong></th>
<th><strong>First Floor</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td><strong>Proposed</strong></td>
<td><strong>Proposed</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B18 Walls on Boundaries</strong></th>
<th>N/A</th>
<th>No changes are proposed to the approved wall on boundary.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</td>
<td>N/A</td>
<td>No changes are proposed to the approved wall on boundary.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B19 Daylight to Existing Windows</strong></th>
<th>N/A</th>
<th>No changes are proposed to the setbacks from habitable room windows.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate daylight into</td>
<td>N/A</td>
<td>No changes are proposed to the setbacks from habitable room windows.</td>
</tr>
</tbody>
</table>
existing habitable room windows.

<table>
<thead>
<tr>
<th>B20 North Facing Windows</th>
<th>No north facing windows on adjoining properties are affected.</th>
</tr>
</thead>
</table>
| **B21 Overshadowing Open**  
Space | Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 December. Importantly, the proposed amendments will not result in any additional overshadowing. |
| **B22 Overlooking**  
Limit views into existing secluded private open space and habitable room windows. | All windows proposed to be amended by this application either comply with, or are exempt from the requirements of Standard B22. |
| **B23 Internal Views**  
Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development. | N/A |
| **B24 Noise Impacts**  
Protect residents from external noise and contain noise sources in developments that may affect existing dwellings. | The proposed amendments will not generate any noise above that typically expected from a residential building. |
| **B25 Accessibility**  
Consider people with limited mobility in the design of developments. | N/A  
No changes are proposed to the approved entries associated with the dwellings. The proposed changes do not impact upon the development’s ability to be retrofitted to accommodate people with limited mobility in the future if required. |
| **B26 Dwelling Entry**  
Provide a sense of identity to each dwelling. | Yes  
The entries to both dwellings are easily identifiable from the street. |
| **B27 Daylight to New Windows**  
Allow adequate daylight into new habitable room windows. | Yes  
All habitable windows have direct access to daylight. |
| **B28 Private Open Space**  
Provide reasonable recreation and service needs of residents | Minimum: 25m² secluded, 40m² overall  
Proposed: 113m² secluded, 177m² overall |
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>B30 Storage</td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td>N/A</td>
<td>A storage shed of 6m³ in size has been provided in the garage of each dwelling as part of the original application.</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer Attachment 1.</td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td>No</td>
<td>Required: 1.2m  Proposed: 1.8m</td>
</tr>
<tr>
<td>B33 Common Property</td>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>B34 Site Services</td>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td>Yes</td>
<td>Plans show clotheslines, mailboxes and storage areas as required. Space for meters has been provided alongside the entries of each dwelling.</td>
</tr>
</tbody>
</table>
4.4 212 - 216 BAY ROAD, SANDRINGHAM  
SUPPORT THE GRANT OF A PLANNING PERMIT  
APPLICATION NO: 2011/357/2 WARD: SOUTHERN

City Planning & Community Services - Development Services  
File No: PSF/15/8755 – Doc No: DOC/17/70409

1. Purpose and background

To report a planning permit application for an Amendment to Planning Permit 2011/357/2 which allows, “A mixed use development comprising the construction of more than one dwelling on a lot, three (3) buildings ranging from five to six storeys in height plus basement car parking in a Special Building Overlay, use of the land for shop, cafe and office, reduction in the standard requirements for car parking, loading and bicycle facilities of the Bayside Planning Scheme and creation of new access to a Road Zone Category 1” on a lot with an area of 13,324 square metres (refer Attachment 1) at 212-216 Bay Road, Sandringham (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Ratio Consultants Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>21 November 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>N/A</td>
</tr>
</tbody>
</table>

The applicant lodged an appeal under Section 87A of the Planning and Environment Act 1987 with the Victorian Civil and Administrative Tribunal (VCAT) to amend Planning Permit No 2011/357/2.

Section 87A of the Planning and Environment Act 1987 allows VCAT to amend a permit that has been issued at its direction. The application follows the same process as if it was a planning permit application, except that the VCAT decides the application after hearing submissions from all parties.

This S87A application seeks approval for the following (refer Attachment 3):

- Reduction in total number of dwellings from 311 to 309;
- Reconfiguration of dwellings to allow for greater diversity of housing;
- Additional two levels to Buildings A and B, and an additional level to Building C;
- Introduction of communal facilities (including dining, lounge, gymnasium, and theatre for residential use); and
- Proposed removal of the existing Red Iron Bark tree and subsequent redesign to northeast corner of Building A.

Council planning officers reviewed the amended plans and advised all parties on 22 March 2017 that it did not support the proposed amendments. The not support grounds related to height, bulk, neighbourhood character, and removal of the Red Iron Bark tree within the front setback (refer Attachment 4). There were five objections to the application, one of which had multiple co-signatories.

At a VCAT Compulsory Conference held on 22 March 22017, attended by the permit applicant and Council Officers, an in-principle agreement was reached between all parties in attendance. The outcome was to reduce the number of dwellings by seven from 309 to 302, retain the existing Red Iron Bark tree in the front setback and increase the setbacks of the building, particularly the front setbacks of the additional levels proposed.
The agreement was that an amended planning permit could issue for the proposal subject to conditions. The plans tabled at the Compulsory VCAT Conference are provided at Attachment 4 and were used to assist with discussion at the conference and in forming the recommendation below. These plans have not been formally substituted.

If Council agrees to support the recommendation below then an amended planning permit will be issued by VCAT which contains, unchanged, all of the conditions contained in the recommendation of this report.

Alternatively, should Council determine to not support the issue of an amended permit, then the application will proceed to a VCAT merits hearing based on the original application plans with the additional unit numbers, reduced setbacks, changes to the front façade and the removal of the Iron Bark Tree to the northeast corner of Building A.

2. **Policy implications**

**Planning permit requirements**

- Clause 32.04 (Mixed Use Zone) – Buildings and works including the use of retail, café, offices, dwellings and the construction of two or more dwellings on a lot.
- Clause 44.05 (Special Building Overlay) – Buildings and works in a Special Building Overlay.
- Clause 45.03 (Environmental Audit Overlay) – Prior to the commencement of a sensitive use on site a certificate of environmental audit certificate or a statement from an environmental auditor must be issued.
- Clause 52.06 (Car Parking) – Reduction in the number of car parking spaces.
- Clause 52.07 (Loading and Unloading of vehicles) – Reducing the area available for loading and unloading of vehicles.
- Clause 52.29 (Land Adjacent to a Road Zone Category 1) – Creating and altering an access to a Road Zone Category 1.
- Clause 52.34 (Bicycle Facilities) – The proposed scheme provides the required number of bicycle spaces and therefore does not require a planning permit under this provision.

**Planning scheme amendments**

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

Planning Scheme Amendment C150 outlines the overall policy direction for the commercial areas in the Bayside Municipality. Amendment C150 was adopted by Council at its 16 August 2016 Ordinary Meeting. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and Adopted.

Planning Scheme Amendment C153 has been initiated by Council and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process concluded on 16 January 2017 and a report considering submissions will be presented to Council early in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and adopted. As such, there is no statutory weight which can be given to
Amendment C153. It is noted some additional land has been included in the SBO whilst other land has been removed. Generally the SBO has shifted towards the eastern property boundary.

Better Apartment Design Standards

Better Apartments Design Standards are being introduced to improve the liveability and sustainability of apartments in Victoria. The standards were scheduled to come into effect in March 2017 however have not yet been introduced. The Design Standards set out a range of outcome ‘objectives’ and ‘standards’ that contain the requirements to meet the objective.

Transitional provisions are likely to apply, meaning that applications lodged prior to the introduction of the new apartment provisions will be assessed under the planning scheme requirements that existed before the new apartment provisions came into operation.

As the application was submitted in 2016, and the new Standards have yet to come into operation, the applicant has not provided a detailed analysis of the development against these new standards. The apartment development cannot be assessed and the recommendation provided is not based on a formal assessment against the new Design Guidelines.

It is noted that, on 29 November 2016, Council resolved at its Ordinary Council Meeting to support the Victorian Government’s new Better Apartment Design Standards.

3. Stakeholder Consultation

External referrals

The application was not required to be referred to any Referral Authorities.

It is noted that the original application was referred to Public Transport Victoria (PTV) who offered no objection. The amendments propose a reduction in the number of apartments. Pursuant to Clause 52.36-1 a proposal that, in the opinion of the responsible authority, satisfies requirements or conditions previously agreed to in writing between the responsible authority and the referral authority is exempt from a referral requirement. The proposal is unlikely to impact the previous comments made by PTV.

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>Supports the amendments to allow for the retention of the tree as per original approval and tree protection measures already detailed on the permit.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>Waste Management Officer</td>
<td>No objection, subject to conditions</td>
</tr>
</tbody>
</table>

Public notification

VCAT instructed Public Notification of the application which attracted five objectors. The following ground were raised:

- Removal of a tree in the front setback;
- Loss of views;
Consultation meeting

VCAT arranged and held a Compulsory Conference on 22 March 2017. All objectors of this application were invited to attend the Compulsory Conference. The applicant tabled ‘Without Prejudice’ plans, which are those being considered in this report, were agreed by parties in attendance. As the objectors did not attend, they were struck out as parties to the proceedings.

4. Recommendation

That Council:

Determines to Support the application under the provisions of the Bayside Planning Scheme in respect of Planning Permit Application No. 2011/357/2 for the land known and described as 212-216 Bay Road, Sandringham, for a mixed use development comprising the construction of more than one dwelling on a lot, three (3) buildings ranging from six to eight storeys in height plus basement car parking in a Special Building Overlay, use of the land for shop, cafe and office, reduction in the standard requirements for car parking, loading and bicycle facilities of the Bayside Planning Scheme and creation of new access to a Road Zone Category 1 in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Prior to the commencement of works 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 this 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 by CBG Architects Pty Ltd, drawing nos. TPOO-TP16, Revision H, dated 04 November 2016 but modified to show:

- Add notation on the ground floor plan being a dimension of 2.55 metres between Office 3 and the west boundary;
- Water Sensitive Urban Design features in accordance with the requirements of Condition 9 of this permit.
- Environmentally sustainable design measures in accordance with and environmentally sustainable design report and implementation strategy, prepared by a suitably qualified expert, submitted to and approved by the Responsible Authority;
- A minimum of 6 cubic metres of storage must be provided in the basement for each dwelling/tenancy.
- Landscape Plan in accordance with condition 3 of this permit.
- The provision of underground services.
- Any proposed staging of the development including a detailed works programme.
- All building heights to be shown on the plans in metres above Natural Ground Level.
- Relevant plan showing compliance with Melbourne Water and VicRoads conditions;
j) The location of all plant and equipment including baffling and screening as required to ensure compliance with State Environment Protection Policy (Control of Noise from Commercial, Industrial or Trade Premises within the Melbourne Metropolitan Area) No. N-1.

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

l) Lift structures (including lift overruns mounted above the roofline of the buildings) must be shown on the plans and must not exceed 2.4 metres in height above the finished roof level.

m) A detailed schedule and description of construction materials, external finishes and colours. The exterior colour and cladding must be of a non-reflective nature.

n) The provision of a loading and unloading area to be signed and line marked in accordance with Australian Standards.

o) The dimensions of all car spaces, all aisle widths and column widths and height clearances to be annotated on the plans.

p) Minimum height clearance at the entrance of the basement and throughout the car parks is 2.2 metres and the Plans are to show the height clearance.

q) A cross section of the proposed basement and ramps to be provided showing the relevant grades, levels, lengths of levels and headroom clearances.

r) Disabled access to building, as appropriate, to be shown on the plans.

s) Internal Direction Signage.

t) At Ground Level, 1st floor, 2nd floor and third floor, the front setback of Building A to remain in accordance with the development shown on the plans marked Revision G (endorsed on 16 September 2016) and the retention of the Red Ironbark tree in the front setback.

u) If required to allow for the retention of the Red Ironbark tree, the deletion of not more than 3 stacker car spaces within the basement level.

v) At 6th and 7th floors, the front setback of Building A and B increased by not less than 7 metres.

w) The layout of the 5th floor on Building C modified generally in accordance with drawing SK04 dated 22 March 2017.

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

3. Prior to the commencement of works a Landscape Plan must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must include, but are not limited to:

a) Retention of Red Ironbark tree within the front setback.

b) Details of surface finishes of pathways and driveways.

c) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
d) Landscaping and planting within all open areas of the site.

e) An in-ground irrigation system to all landscaped areas.

All species nominated in the planting schedule must be to the satisfaction of the Responsible Authority.

4. Before the occupation of any building, all works relevant to that building including landscaping shown on endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

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

6. Prior to the commencement of any works, a Construction Management Plan shall be submitted to and approved by the Responsible Authority. When approved, the Construction Management Plan will then form part of this permit. The Construction Management Plan, is not limited to but must include measures relating to:

a) Construction of a temporary fence to be erected along the boundary between 208-210 Bay Road, Sandringham and 212-216 Bay Road, Sandringham. The temporary fence is to be erected prior to the commencement of the construction authorised by this permit and is to be retained in place until the construction of the acoustic fence required by this permit. The temporary fence must be of a design and standard that would provide reasonable security between 208-210 Bay Road Sandringham and 212-216 Bay Road Sandringham during the construction period. The temporary fence must be designed to reasonably manage dust between the properties during the earthworks phase of construction;

b) Hours of construction;

c) Control of noise, dust and liner;

d) Vehicle access and deliveries;

e) Protection of public assets;

f) Communication with the council and the public;

g) The management of construction vehicles and construction vehicle parking;

h) Prevention of the deposition of mud or other materials on roadways.

i) The protection of pedestrian access along the laneway to the west on the land;

1 The Construction Management Plan must be implemented to the satisfaction of the Responsible Authority.

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

7. Before commencement of works, a Parking Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. Three copies of the plan must be submitted. The plan must include but is not limited to:

a) The allocation of car parking for individual properties and the commercial use in accordance with endorsed plans;

b) Signs and pavement markings to direct and control the flow of traffic within and exiting the site including for the car park and loading areas. This
includes warning signs for drivers and pedestrians.

c) Lighting and security arrangements for the car park.

d) Details of car stackers.

The Parking Management Plan must be implemented to the satisfaction the Responsible Authority.

The Parking Management Plan must not be modified unless with the prior written consent of the Responsible Authority.

8. Before commencement of works, a Waste Management Plan generally in accordance with the plan submitted to Council (Waste Wise Environmental-May 2011) and to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. Three copies of the plan must be submitted. The plan must include but is not limited to:

   a) No bins stored on Bay Road.

   b) Provision on the site for the collection of garbage and other solid waste by private contractor. This area must be graded and drained and screened from public view.

   c) All waste material not required for further on-site processing must be regularly removed from the site. All vehicles removing waste must have fully secured and contained loads so that no wastes are spilled or dust or odour is created.

   d) No vehicles are permitted to obstruct the pedestrian access to the school that adjoins the southern boundary of the subject land.

3 The Waste Management Plan must be implemented to the satisfaction the Responsible Authority.

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

9. Before the commencement of works, a detailed Stormwater Plan must be submitted to and be approved by the Responsible Authority. When approved, the Stormwater Plan will be endorsed and will then form part of this permit. The Stormwater Plan must include plans be drawn to scale with dimensions and three copies must be provided. The plans must be in accordance with the guidelines outlined in Clause 22.08 of the Bayside Planning Scheme and must show:

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

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

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

10. The Water Sensitive Urban Design Stormwater Treatment System as shown on the endorsed Stormwater Plan must be implemented, retained and maintained at all times in accordance with the Urban Stormwater - Best Practice Environmental Management Guidelines, CSIRO 1999 to the satisfaction of the Responsible Authority.

11. Before any building is occupied, the area(s) set aside for the parking of vehicles and access lanes as shown on the endorsed plans for that building, must be:
a) Constructed;
b) Properly formed to such levels that they can be used in accordance with the plans;
c) Surfaced with an all-weather-seal coat;
d) Drained;
e) Line marked to indicate each car space and all access lanes; and
f) Clearly marked to show the direction of traffic along access lanes and driveways.

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

12. Any redundant existing crossing or crossing opening must be removed and replaced with footpath, nature strip, and kerb and channel to the satisfaction of the Responsible Authority and VicRoads. All costs associated with compliance with these requirements must be borne by the permit holder.

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

14. Prior to occupation, a noise commissioning report must be prepared to the satisfaction of the Responsible Authority in order to ensure that acoustic treatments in accordance with the endorsed plans have been implemented or constructed, to the satisfaction of the Responsible Authority. Any further works recommended in the report must then be installed at the expense of the Owner, to the satisfaction of the Responsible Authority.

15. The development authorised by this permit must include the following noise attenuation measures to the satisfaction of the Responsible Authority:

   a) installation of an acoustic fence along the western property boundary of the site of varying maximum height from 2.0 metres at the southern of the site up to 3.3 metres at the northern end of the site (with the variations in the height of the fence as specified on Plan No. TP02t Rev H dated 04 November 2016, prepared by CBG Architects Pty Ltd);

   b) installation of noise barriers in the form of winter gardens and solid balustrades along the western facade of Building B. Glazing thickness for winter gardens with operable louvers and solid balustrades must be at least 10.38 mm. The height of the solid balustrades and operable louvers must be:

      i. 1.8 metres high for apartments on level 1;
      ii. 1.5 metres high for apartments on levels 2-3;
      iii. 1.2 metres high for apartments on level 4;
      iv. 0.8 metres high for apartments on level 5.

   c) installation of noise barriers in the form of sealed inoperable windows along the western facade of Building C with a glazing thickness of at least 8 mm;

   d) installation of noise barriers in the form of winter gardens with operable louvers and solid balustrades for apartments C114, C115, C213, C214, C313 and C314 of Building C. Glazing thickness for sealed windows, winter gardens and solid balustrades must be at least 10.38mm. The
height of the solid balustrades and operable louvers must be:

i. 1.8 metres high for apartments on level 1;

ii. 1.5 metres high for apartments on levels 2-3; and

iii. 1.2 metres high along the western balcony edge of apartments on level 4.

16. Before development commences the Applicant must pay $4579.69 to the Responsible Authority for the removal and replacement of the existing street tree, the Lophostemon confertus. This amount has been determined in accordance with Council’s current policy for the removal of street tree(s). This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree(s) 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(s). Any replacement planting will be at the discretion of the Responsible Authority.

17. Before the development (including demolition) starts, a Tree Protection Fence must be erected around the Lophostemon confertus on the western boundary and be maintained until all works on the site are complete. The fencing is to be constructed and secured so site workers cannot modify its positioning.

6 The fencing is to encompass the entire nature strip under the drip line of the tree.

7 The Tree Protection Zone is to be established and maintained in accordance with Australian Standards 4970 Protection of trees on development sites.

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

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

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

21. 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.

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

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

24. The use and development must be managed so that the amenity of the area is not detrimentally affected, including through the:

a) transport of materials, goods or commodities to or from the land

b) appearance of any building, works or materials;

c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; and
d) presence of vermin.

**Melbourne Water Conditions**

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

26. Finished floor levels must be a minimum of 300 mm above the applicable flood level.

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

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

29. A bund wall to a minimum of 300mm above the applicable flood level is to be constructed along the driveway to prevent flood waters entering the basement carpark.

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

31. Any drainage system to the basement must be designed such that stormwater is unable to penetrate the basement. Details of the drainage system must be submitted to Melbourne Water and the Responsible Authority prior to works commencing.

32. Prior to the commencement of works separate application, direct to Melbourne Water, must be made for any new or modified storm water connection to Melbourne Water’s drains or watercourses. Prior to accepting an application, evidence must be provided demonstrating that Council considers that it is not feasible to connect to the local drainage system. [Contact Asset Services on telephone 9235 1414 for Melbourne Water’s connection requirements, including payment of appropriate fees.]

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

34. Any vehicular and/or pedestrian access must be designed and constructed to comply with the following safety criteria associated with the applicable flood level:
   a) Depth of flow does not exceed 0.35m;
   b) Velocity of flow does not exceed 1.5m/s; and
   c) The Depth Velocity product does not exceed 0.35 m2/s.

**VicRoads Conditions**

35. Prior to the commencement of works, a detailed functional layout must be submitted to and approved by VicRoads and the Responsible Authority for approval, generally in accordance with the functional layout 8646DS11 dated 13/12/11 prepared by Ratio Consultants.

36. Prior to the commencement of works, a public lighting layout must be submitted to VicRoads for approval.

37. Subsequent to the approval of the detailed functional layout and a public lighting layout, a detailed engineering layout in conjunction with a ‘Detailed Design Stage Road Safety Audit (RSA) must be submitted to VicRoads for approval. The RSA must be undertaken by an independent VicRoads prequalified audit team and be
conducted in accordance with *Austroads — Road Safety Audit (Second Edition, 2002)*. When the detailed engineering layouts are approved, an additional copy must be submitted to VicRoads.

38. Prior to the commencement of roadworks, the developer must contact Team Leader - VicRoads Improvement Projects Department (Telephone No. 9881 8080) for the following requirements:

a) Provide a bank guarantee (in the name of the developer) without a termination date, to VicRoads for the estimated cost of works.

b) Provide evidence that the Contractor has a public liability insurance policy for at least $10 million, effective for the duration of the works.

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

d) Submit to VicRoads for approval, a Traffic Management Plan showing the proposed provision for traffic and signing for the duration of the works, at least 21 days prior to the commencement of works. The Traffic Management Plan must meet the requirements of the VicRoads Worksite Traffic Management (Roadworks Signing) Code of Practice which incorporates *AS 17423-2002*. Traffic management/control must be carried out by suitably trained personnel.

e) Arrange for the contractor to contact the VicRoads Surveillance Coordinator (Telephone No. 9881 8079), at least seven 7 days prior to the commencement of works. [Note: The contractor will be charged for the actual cost of VicRoads surveillance, which may be undertaken at certain key times during the works.]

f) Provide evidence that the contractor has developed and maintained a Quality Management System, Occupational Health and Safety System, Environmental Management System and Traffic Management System, to the satisfaction of VicRoads.

39. The developer must pay the full cost of all roadworks, drainage, road safety devices, service relocations, civil works, public lighting, traffic signals and any other associated costs, i.e. all works to be complete at no cost to VicRoads.

40. Where the roadworks, including footpath and nature strip, lie within private property, a widening of the road reserve will be required, at no cost to VicRoads. The developer must engage a licensed surveyor to prepare a Plan of Subdivision showing the affected land labelled “ROAD”, which is to be vested in the Roads Corporation upon certification of the Plan of Subdivision, without any encumbrances. Subsequent to the registration of the plan, the subdivider must ensure that the original Certificates of Title that issue in the name of the Roads Corporation, are posted to: VicRoads - Property Services Department, 60 Denmark Street KEW 3101.

41. The design, depth and composition of pavement (new & existing) must be to the satisfaction of VicRoads.

42. The standard of materials and works must be in accordance with VicRoads Standard Specifications for Roadworks & Bridgeworks, and to the satisfaction of VicRoads.

43. The detailed functional layouts, public lighting & detailed engineering layouts and ‘as constructed drawings must be in accordance with VicRoads, Austroads and Australian Standards publications, and any other relevant publications, unless otherwise approved by VicRoads.
44. Prior to the use allowed by this permit commencing, the applicant must complete all roadworks specified, to the satisfaction of VicRoads.

45. All roadworks must be constructed in accordance with approved/endorsed layouts, to the satisfaction of VicRoads.

46. Prior to the commencement of works internal/external to the site, a wheel-wash facility must be installed on-site, so vehicles exiting the site do not deposit mud or other materials within the road reserve, to the satisfaction of the Responsible Authority and VicRoads.

47. Prior to the commencement of works within the road reservation, approval must be obtained from VicRoads or the Responsible Authority, as applicable.

48. The Department of Infrastructure — Bus Operations Department (Telephone No. 9655 8940) must be notified of the proposed works affecting any bus stops, 7 days before construction is to commence.

49. This permit will expire if one of the following circumstances applies:
   a) the use(s) and development hereby permitted are not started within two years of the date of this permit.
   b) the development is not completed within six years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.

Permit Note

<table>
<thead>
<tr>
<th>Date</th>
<th>Brief description of amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>23 April 2014</td>
<td>Extension of time granted to allow development to commence by 16 March 2015 and be completed by 16 March 2018.</td>
</tr>
<tr>
<td>17 October 2014</td>
<td>Planning Permit amended at the direction of the Tribunal as follows:</td>
</tr>
<tr>
<td></td>
<td>· Conditions 1 amended to read: Prior to the commencement of works 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 this 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 by CBG Architects Pty Ltd, drawing nos. TP01 dated 28.02.2014; TP02-TP14 Revision E dated 07.03.2014, TP15- TP16 Revision D dated 07.03.2014 and TP17 Revision A dated 12.03.2014 but modified to show:</td>
</tr>
<tr>
<td></td>
<td>(a) Add notation on the ground floor plan being a dimension of 2.55 metres between Office 3 and the west boundary;</td>
</tr>
<tr>
<td></td>
<td>(b) Add a notation on the ground floor plan being a dimension of 7.05 metres between apartment B-G13 and the west boundary;</td>
</tr>
<tr>
<td></td>
<td>(c) Add a notation on the first, second and third floor plans being a dimension of 5.15 metres between the balconies and the west boundary;</td>
</tr>
</tbody>
</table>
(d) Deletion of the reference to SOHO on Section A and B drawings TP14 and substitute ‘office’;
(e) Water Sensitive Urban Design features in accordance with the requirements of Condition 9 of this permit.
(f) Environmentally sustainable design measures in accordance with and environmentally sustainable design report and implementation strategy, prepared by a suitably qualified expert, submitted to and approved by the Responsible Authority;
(g) A minimum of 6 cubic metres of storage must be provided in the basement for each dwelling/tenancy.
(h) Landscape Plan in accordance with condition 3 of this permit.
(i) The provision of underground services.
(j) Any proposed staging of the development including a detailed works programme.
(k) All building heights to be shown on the plans in metres above Natural Ground Level.
(l) Relevant plan showing compliance with Melbourne Water and VicRoads conditions;
(m) The location of all plant and equipment including baffling and screening as required to ensure compliance with State Environment Protection Policy (Control of Noise from Commercial, Industrial or Trade Premises within the Melbourne Metropolitan Area) No. N-1.
(n) All pipes, fixtures, fittings and vents servicing any building on the site except downpipes must be concealed in service ducts or otherwise hidden from view.
(o) Lift structures (including lift overruns mounted above the roofline of the buildings) must be shown on the plans and must not exceed 2.4 metres in height above the finished roof level.
(p) A detailed schedule and description of construction materials, external finishes and colours. The exterior colour and cladding must be of a non-reflective nature.
(q) The provision of a loading and unloading area to be signed and line marked in accordance with Australian Standards.
(r) The dimensions of all car spaces, all aisle widths and column widths and height clearances to be annotated on the plans.
(s) Minimum height clearance at the entrance of the basement and throughout the car parks is 2.2
Bayside City Council  Planning & Amenity Committee Meeting - 18 April 2017  

- Item 4.4 – Matters of Decision

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metres and the Plans are to show the height clearance.

(t) A cross section of the proposed basement and ramps to be provided showing the relevant grades, levels, lengths of levels and headroom clearances.

(u) Disabled access to building, as appropriate, to be shown on the plans.

(v) Internal Direction Signage.

- Condition 3 amended to read: Prior to the commencement of works a Landscape Plan generally in accordance with the Landscape Plan Drawing No L-VCAT01 dated 20 June 2014 prepared by John Patrick Pty Ltd must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must include, but are not limited to:

  a) Details of surface finishes of pathways and driveways.

  b) 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.

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

  d) An in-ground irrigation system to all landscaped areas.

  8 All species nominated in the planting schedule must be to the satisfaction of the Responsible Authority.

- Condition 15 amended to read: The development authorised by this permit must include the following noise attenuation measures to the satisfaction of the Responsible Authority:

  a) installation of an acoustic fence along the western property boundary of the site of varying maximum height from 2.0 metres at the southern of the site up to 3.3 metres at the northern end of the site (with the variations in the height of the fence as specified on Plan No. TPO2 — Rev E dated 07.03.2014, prepared by CBG Architects Pty Ltd);

  b) installation of noise barriers in the form of winter gardens and solid balustrades along the western facade of Building B. Glazing thickness for winter gardens with operable louvers and solid balustrades must be at least 10.38 mm. The height of the solid balustrades and operable louvers must be:
<table>
<thead>
<tr>
<th>18 April 2017</th>
<th>Amendment pursuant to Section 87A of the Planning and Environment Act 1987 to:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Amend what the permit allows to:</td>
</tr>
<tr>
<td></td>
<td>A mixed use development comprising the construction of more than one dwelling on a lot, three (3) buildings ranging from six to eight storeys in height plus basement car parking in a Special Building Overlay, use of the land for shop, cafe and office, reduction in the standard requirements for car parking, loading and bicycle facilities of the Bayside Planning Scheme and creation of new access to a Road Zone Category 1. Conditions 1, 3, 7 and 15 are amended.</td>
</tr>
<tr>
<td></td>
<td>Plans endorsed under the permit are amended as complying with Condition 1 of the as amended.</td>
</tr>
</tbody>
</table>

5. Council Policy

Council Plan 2013-2017

Relevant strategies of the Council plan include:

- **3.1.1** Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.

- **3.1.3** Advocating Council’s planning and urban design objectives.

Bayside Planning Scheme

- **Clause 11** Settlement
6. Considerations

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

6.1 Urban Context and Built form

There have been no relevant changes in the Bayside Planning Scheme since the planning permit was issued, the zoning and overlays remain unchanged. The site remains in an area earmarked for change and urban renewal and continues to be supported by the relevant State and Local polices.

The principle of higher density development on the site and within the immediate site context has been established. Since the original approval of the development, albeit in an amended format, in March 2012, the immediate area has changed with the
construction of several higher density mixed use developments being approved and constructed.

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

Clause 15.01-2 (Urban design principles) together with the Guidelines for Higher Density Residential Development provide the relevant tools for consideration of the appropriateness of the application from a design, height and character perspective.

The proposed addition of two levels responds to the physical context and of adjoining developments by locating a pedestrian built form to Bay Road and the taller components towards the centre of the site, mitigating an visual bulk elements to adjoining properties and the streetscape. The proposal will not dominate the pedestrian environment at street level as the upper floor additions are recessed and will have limited visibility to the streetscape.

The front setback of the sixth and seventh floors of Buildings B and C have been increased significantly. With the additional 7m setback, the top two levels of Buildings A and B are setback a total of 47.55m and 45.8m respectively from bay Road. Significantly, the proposed additional top two levels will not be visible when viewed from the opposite side of Bay Road bearing in mind the approved six storey development (as demonstrated on 3D massing perspective).
The scale and mass of the proposed development will now respond to the existing lower level building form, provides a human scale and mitigates against previous concerns relating to visual bulk. Further, the upper levels are set back and any perception of bulk will be concentrated towards the centre of the site.

The modification of the front facade to provide a curved element to the west side of Building A softens the built form and introduces additional articulation to the streetscape. The retention of the existing Red Iron Bark Tree will also positively contribute to the development and will soften the presentation to the streetscape.

With respect to Building B, the additional built form is better resolved, likely due to the narrower profile of the six floor built form below. The additional two floors sit back from the side setbacks and are recessed sufficiently so as to mitigate against the visual bulk and a vertical emphasis to this building. The articulation to this level and choice of materials now ensures the proposed upper floors are recessive.

With respect to Building C, the fifth floor of Building C has been reduced significantly, with the setbacks increased from the east from 11.8m to 17.85m, west increased from 9.6m to 13.15m and south (to the school) increased from 11.4m to 14.7m. The bulk of the additional floor is shifted towards the internal courtyard area. This presents an improved design and the increased setbacks offset the bulk created by the additional floor.

Generally, the additional storeys and overall composition of the three buildings when read in the streetscape together are no longer as bulky and present a better proportioned design. The scale and massing of the proposed additions now respond to the existing lower level building form due to the high level of concealment of the additions.

The building separation from ground to fifth floor is generally maintained as per previous approvals and continue to afford a similar level of amenity to these apartments. The sixth and seventh floors to Building A and B are now further setback from the floors immediately below and maintain the level of amenity that the current scheme provides.

Solar access studies have not been provided for the proposed amendments but it is deemed that the upper levels of all three buildings will receive a sufficient level of solar access. Whilst the upper floors of Building A have been offset from the eastern site boundary and mitigate excessive bulk from the west facing windows of the abutting four storey development.

It is noted that the development immediately to the rear is a school and shadow diagrams indicate that no additional overshadowing would result.
6.2 Reduction in dwellings and dwelling diversity

In principle, the proposed reduction in the number of dwellings and the diversity of the housing stock is supported. The precinct as a whole offers a variety of dwellings sizes and types. Adding to the mix whilst reducing the overall dwellings number is an appropriate outcome for this precinct.

6.3 Car parking and traffic

The proposal does not seek a car parking reduction under Clause 52.06 relative to what is currently approved.

Each use is proposed to be allocated parking in accordance with or in excess of the approved parking rates. As such, the proposed parking provision and allocation is acceptable.

It is noted that the proposed parking provision includes 59 tandem pairs, 14 spaces within 7 garage type enclosures and 80 car stacker spaces. All tandem spaces and garage type enclosed spaces will be allocated to the same dwelling or commercial tenancy, whilst all stacker spaces will be allocated to residents and staff.

Minimum Required and Proposed Parking Allocation

<table>
<thead>
<tr>
<th>Use</th>
<th>Rate</th>
<th>Number Proposed</th>
<th>Minimum Based on Rate</th>
<th>Allocation Approved</th>
<th>Proposed Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwellings</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 Bedroom</td>
<td>1 space per 1 bedroom dwelling</td>
<td>26 dwellings</td>
<td>26 spaces</td>
<td>26 spaces</td>
<td>26 spaces</td>
</tr>
<tr>
<td>2 Bedroom</td>
<td>1 space per 2 bedroom dwelling</td>
<td>223 dwellings</td>
<td>223 spaces</td>
<td>260 spaces</td>
<td></td>
</tr>
<tr>
<td>3 Bedroom</td>
<td>2 spaces per 3 bedroom dwelling</td>
<td>47 dwellings</td>
<td>94 spaces</td>
<td>94 spaces</td>
<td></td>
</tr>
<tr>
<td>4 Bedroom</td>
<td>2 spaces per 4 bedroom dwelling</td>
<td>6 dwellings</td>
<td>12 spaces</td>
<td>12 spaces</td>
<td></td>
</tr>
<tr>
<td>Visitor</td>
<td>0.15 spaces per dwelling</td>
<td>302 dwellings</td>
<td>45 spaces</td>
<td>45 spaces</td>
<td></td>
</tr>
<tr>
<td>Retail</td>
<td>3.5 spaces per 100sqm</td>
<td>110sqm</td>
<td>4 spaces</td>
<td>4 spaces</td>
<td></td>
</tr>
<tr>
<td>Café</td>
<td>0.15 spaces per seat</td>
<td>40 seats</td>
<td>6 spaces</td>
<td>6 spaces</td>
<td></td>
</tr>
<tr>
<td>Office</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Staff</td>
<td>3.2 spaces per 100sqm</td>
<td>535sqm</td>
<td>17 spaces</td>
<td>17 spaces</td>
<td></td>
</tr>
<tr>
<td>Visitor</td>
<td>0.3 spaces per 100sqm</td>
<td>535sqm</td>
<td>2 spaces</td>
<td>2 spaces</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>429 spaces</td>
<td>466 spaces</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
The access arrangements (from Bay Road and into the basements) remains unchanged. The findings of the Ratio Traffic Engineering Review of Amended Plans are generally considered acceptable. Car parking allocations, car stackers specifications and waste management recommendations should form conditions of the permit should the application be supported.

6.4 Vegetation

The proposed retention of the Red Iron Bark tree is supported and addresses Council’s previous ground of Not Support. It is noted that three car parking spaces may be required to be removed to ensure the retention of the tree. This is considered acceptable given the development provides more car spaces than the planning scheme requirement.

Support Attachments

1. Site and Surrounds Imagery ↓
2. Development Plans ↓
3. Grounds of Not Support ↓
4. Without Prejudice Plans - Compulsory Conference 22 March 2017 ↓
5. Without Prejudice Perspective Views - Compulsory Conference 22 March 2017 ↓
Figure 1 Aerial overview of the site and surrounds

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
</tr>
</thead>
<tbody>
<tr>
<td>⭐</td>
</tr>
</tbody>
</table>
Figure 2 View from Bay Road towards the subject site from the west
Figure 3 View from Bay Road towards the subject site from the east
Dear Applicant,

APPLICATION NUMBER: 5/2011/357/2
ADDRESS: 212-216 Bay Road SANDRINGHAM

PROPOSAL: A mixed use development comprising the construction of more than one dwelling on a lot, three (3) buildings ranging from five to six storeys in height plus basement car parking in a Special Building Overlay, use of the land for shop, cafe and office, reduction in the standard requirements for car parking, loading and bicycle facilities of the Bayside Planning Scheme and creation of new access to a Road Zone Category 1

Council considered the above application and determined to not support the application. The reasons for not supporting the above application are detailed as follows:

1. The proposed development of the land does not comply with the requirements of the Mixed Use Zone to encourage development to respond to the existing and preferred neighbourhood character of the area, requirements of Clause 15.01-2 of the Bayside Planning Scheme and Objectives 1.1 and 1.2 of the Guidelines for Higher Density Residential Development as follows:
   a) The proposal does not achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm.
   b) The proposal does not enhance the public realm and will result in detrimental impacts on neighbouring properties due to the scale and mass of the building.
   c) The proposal does not preserve the existing character and amenity of the area.
   d) The proposal does not maintain the prevailing streetscape rhythm, building scale and height of the neighbourhood due to the excessive heights.

2. The proposed development of the land does not comply with the requirements of the Mixed Use Zone to encourage development to respond to the existing and preferred neighbourhood character of the area, requirements of Clause 15.01-2 the Bayside Planning Scheme and objectives 2.1, 2.2, 2.4, to 2.8 of the Guidelines for Higher Density Residential Development as follows:
   a) The building height, massing of the additional built form particularly to Building A and B do not reinforce the structure and character of the area. The upper floor additions result in an awkward overall building compositions that disrupts the street rhythm.
b) The additional built form to Building C results in loss of amenity to the adjoining school and a reliance on vegetation to soft the additional visual bulk.

c) The additional upper floors result in the human scale of the development being lost. The upper levels will dominate the private open space areas at ground floor. The articulation to the built form fails to mitigate the building massing.

d) The additional levels will result in a loss of outlook for adjoining residential properties that would prevent a reasonable visual connection to the external environment, particularly the adjoining four storey residential development at 218 Bay Road.

3. The proposed development of the land does not comply with the requirements of the Mixed Use Zone to encourage development to respond to the existing and preferred neighbourhood character of the area, requirements of Clause 15.01-2 of the Bayside Planning Scheme and objective 5.5 of the Guidelines for Higher Density Residential Development as it fails to provide a high level of architectural design and visual interest which sufficiently mitigates against the scale and massing of the buildings.

4. The proposed development of the land does not comply with the requirements of the Mixed Use Zone to encourage development to respond to the existing and preferred neighbourhood character of the area, requirements of Clause 15.01-2 of the Bayside Planning Scheme and objectives 5.2 of the Guidelines for Higher Density Residential Development as the removal of the Red Iron Bark Tree has not been justified and would result in the loss of vegetation which provides a high level of amenity to the area and softens the built form.

Should you have any further queries, please contact Council’s Planning Officer:-

Patricia Stewart
Email: enquiries@bayside.vic.gov.au
Telephone: 03 9599 4384

Please quote planning application 2011/357 – 212-216 Bay Road SANDRINGHAM in all correspondence / emails.

Yours faithfully

Patricia Stewart
STATUTORY PLANNING DEPARTMENT
Item 4.4 – Matters of Decision
Item 4.4 – Matters of Decision

Attachment 5

Bayside City Council
Planning & Amenity Committee Meeting - 18 April 2017
1. Purpose and background

To report a planning permit application for partial demolition of heritage buildings and construction of a four storey building with basement car parking in a Heritage Overlay. The building comprises two shops and three offices at ground level, 27 residential properties on upper floor levels, a reduction in the required car parking rate and a waiver of the loading and unloading facilities (refer Attachment 1) at 123 – 127 Martin Street, Brighton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Urbis Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>4 March 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>3 May 2016</td>
</tr>
</tbody>
</table>

2. Policy implications

Planning permit requirements

Clause 34.01-4 (Commercial 1 Zone) – Buildings and works not otherwise exempt.
Clause 43.01-1 (Heritage Overlay) – Partial demolition, buildings and works.
Clause 52.06-3 (Car Parking) – Reduction in the number of car parking spaces required under Clause 52.06-5.
Clause 52.07 (Loading and Unloading of Vehicles) – Waiver of loading bay

Planning Scheme Amendment C152

The exhibition period for Amendment C152 (Martin Street Structure Plan) finished 16 January 2017. Council has considered the submissions and determined at its Council meeting on 28 March 2017 to requests the Minister for Planning to appoint a Planning Panel to consider the submissions received for Amendment C152 in accordance with Section 23(1)(b) of the Planning and Environment Act 1987. A Directions Hearing is scheduled for 20 April 2017 with a Panel Hearing commencing on 29 May 2017.

Pursuant to Section 60 (1A) (eb) (g) of the Planning and Environment Act 1987 before deciding on an application, “the responsible authority must consider… any other strategic plan, policy statement, code or guideline which has been adopted by a Minister, government department, public authority or municipal council.”

Council adopted the Martin Street Structure Plan at its Council Meeting March 2016. Therefore the objectives, guidelines, requirements and vision of the Structure Plan must be considered as part of any planning application in the Martin Street Activity Centre.

Amendment C152 is in the early stages of the Planning Scheme Amendment process. Therefore, the proposed planning controls, specifically DDO18 and GRZ9, do not yet hold any statutory weight and the current Planning Scheme requirements should be applied to any planning application made within the Martin Street Activity Centre. However, some regard will need to be given to the vision, objectives and strategies of Martin Street Structure Plan as this document has been adopted by Council.

Amendment C152 seeks to introduce DDO18 to the Martin Street Activity and replace the existing NRZ3 with a GRZ9.
Other Planning Scheme Amendments

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

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

Planning Scheme Amendment C150 outlines the overall policy direction for the commercial areas in the Bayside Municipality. Amendment C150 was adopted by Council at its 16 August 2016 Ordinary Meeting. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and Adopted.

3. Stakeholder Consultation

External referrals

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

Internal referrals

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic</td>
<td>Request for a number of conditions of approval to address concerns.</td>
</tr>
<tr>
<td>Heritage Advisor</td>
<td>Concerns.</td>
</tr>
<tr>
<td>Drainage</td>
<td>No objection, subject to conditions.</td>
</tr>
<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 14 objections were received. The following concerns were raised:

- Height
- Overshadowing
- Loss of privacy
- Visual bulk
- Waste management
- Loading
- Car parking
- Traffic generation and safety
- Noise
- Commercial trading hours
- Architectural design
- Neighbourhood character
- Overdevelopment
- Construction impacts (traffic, noise, dust)
- Surrounding property values
- Accuracy of the plans.

Resident Meeting
The applicant declined the offer of attending a resident meeting. No meeting was held.

4. Recommendation
That Council:
Issues a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of the land known and described as **123 – 127 Martin Street, Brighton for the demolition of 123 Martin Street and partial demolition of 125-127 Martin Street in a Heritage Overlay Schedule 749 (HO749) and the construction of a four storey building plus basement car parking comprising two shops and three offices at ground level, 27 dwellings on upper floor levels in a Commercial 1 Zone**, a reduction in the required car parking rate and a waiver of the loading and unloading facilities in accordance with the endorsed plans and subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans 30 June 2016 but modified to show:
   a) The street setback to the second floor wall to be a minimum of 4 metres and 2.4m to the balcony with a minimum dimension of 1.6 m provided in accordance with Standard B8, Private Open Space of Clause 55 of the Bayside Planning Scheme.
   b) The window details to the shop front of 125-127 Martin Street are to be detailed to the satisfaction of the Responsible Authority.
   c) The front façade of 125-127 Martin Street cleaned and bagged with white paint
   d) All north facing balconies are to be screened in accordance with Standard B22, Overlooking of Clause 55 of the Bayside Planning Scheme.
   e) All west facing habitable room windows / balconies are to be screened in accordance with Standard B22, Overlooking of Clause 55 of the Bayside Planning Scheme.
   f) All west facing habitable room windows / balconies are to be screened in accordance with Standard B23, Internal Views of Clause 55 of the Bayside Planning Scheme.
Planning Scheme.

g) All east facing habitable room windows / balconies are to be screened in accordance with Standard B23, Internal Views of Clause 55 of the Bayside Planning Scheme.

h) The balconies areas of Apartments 1.04 and 2.10 increased to comply with Standard B28, Private Open Space without any increase in the building form or envelope.

i) The courtyards to all three office tenancies to be increase to have an minimum areas of 25 square metres with a minimum dimension of 3 metres.

j) Amalgamation of Apartments 1.08 and 1.09 at first floor level and Apartments 2.07 and 2.08 at second floor level to provide two, two bed apartments.

k) Car parking allocation as per the below:
   i. One parking space to each residential dwelling (total of 25 car spaces);
   ii. One parking space to each shop tenancy (total of 2 car spaces);
   iii. A total of eight car parking spaces to the office tenancies with access to be provided to residential visitors outside of office operating hours. Signs stating the operating hours must be detailed on the allocated office car parking spaces; and
   iv. Provision two at-grade parking spaces for residential visitors.

l) Amended vehicular access to 125-127 Martin Street, Brighton generally in accordance with The Bunchan Group Development Plans Drawing Number ATP-20001 Rev B and ATP-20001 Rev B but modified to show access to gas meters, waste storage, and substation to also be from 125-127 Martin Street. Access via 123 Martin Street has no right of access to the ROW.

m) The provision of a ‘waiting bay’ located at the top of the access ramp to be located outside the Right-Of-Way and the two at-grade parking bays moved further south.

n) The provision of convex mirrors to provide a backup system to the traffic signals if the traffic signals are not working.

o) Dimensions to all parking spaces, aisle widths, column locations, etc.

p) All storage areas are to be provided with safe and convenient access.

q) Specifications for the car stackers, including the proposed height clearances for each of the levels and the proposed clear width of the platform.

r) Any bicycle parking spaces to be in accordance with as required in AS2890.3.

s) Any bicycle parking spaces to be in accordance with as required in AS2890.3.

t) All elevations and roof plan to show all plant, equipment and services concealed within the design of the building. No plant, equipment, services or architectural features will be permitted above the roof level of the buildings without the written consent of the Responsible Authority, and no air conditioning units will be permitted to be visible from the street.

u) Any changes to comply with the Site and Environment Management Plan...
(SEMP) conditions of this permit.

v) Any changes to comply with the Construction Management Plan in conditions of this permit.

w) Any notations or changes to meet the Drainage conditions of this permit

x) Any consequential changes to the plans to comply with any conditions of this permit which must result in no increase in the building form and envelope.

All to the satisfaction of the Responsible Authority.

Ongoing conditions for the lifetime of the permit

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

3. Before the occupation of the any of the development or use hereby approved, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.

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

5. Before occupation, screening of windows and roof decks including fixed privacy screens designed to limit overlooking as required by Standard B22 be installed and maintained thereafter for the life of the building 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.

7. The customer patronage shown on the endorsed plans, as associated with the car parking as shown on the endorsed plans, must not be exceeded at any time.

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

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

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

Landscaping

11. 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 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 with no reduction to the area of secluded private open space provided and no increase to the built form or building envelope.
b) A survey, including, botanical names of all existing trees to be removed on 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.

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.

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

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

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

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

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

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

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

Site and Environment Management and Construction Management Plans

17. Prior to the endorsement of plans to Condition 1 of this permit, a Site and Environmental Management Plan (SEMP) must be prepared by a suitably qualified person, to the satisfaction of, and submitted to and approved by, the Responsible Authority. The SEMP will remain in perpetuity for the life of the use and development hereby approved, and must be updated to reflect new non-residential uses on the commencement of any tenancy. The SEMP must include operational and site management details including but not limited to:

a) The Waste and Recycling Management Plan, prepared by Leigh Design, to be updated to include the following:
i. Clarification of the arrangement for private waste collection contractor's vehicle to collect the waste on site and entering and exiting in a forward direction.

ii. Direct access from the shops to the waste collection and storage area. Access via the residential lobby is not supported.

iii. Deletion of steps between the lift and waste storage area. This must be replaced with a ramp to allow for mobility impaired access.

iv. Modifications to the waiting area at the top of the ramp facilitate a waste vehicle to turn manoeuvre.

v. All waste streams including garbage and recycling, hard/ electronic/ liquid/ medical and home detox (paint and chemicals) are the responsibility of the private contractor and the body corporate. Council will not be offering these services; and

vi. A litter trap meeting Australian Standards for the size of the bin room to be installed and cleaned on a regular basis by a contractor;

b) The details of operation and how the hours of operation will be managed by the owners / operators of the non-residential uses;

c) An ongoing 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, and details of how all relevant traffic and parking related permit conditions will be complied with for the life of the development;

d) Details of staff car parking management, staff bicycle parking, staff education regarding considerate commercial operations and any other relevant details relating to staff education and management; and

e) Details of how the commercial owners/occupiers will ensure that amenity of adjacent residences will be not be adversely affected by noise, smell, waste management, loading and unloading, pests and any other considerations.

18. Prior to the endorsement of plans to Condition 1 of this permit, a construction Management Plan (CMP) must be prepared by a suitably qualified person, to the satisfaction of, and submitted to and approved by, the Responsible Authority. The CMP must include operational and site management details including but not limited to;

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

b) 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.

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

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

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

f) 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.

g) Site security.

h) Public safety measures.

i) Construction times, noise and vibration controls.

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

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

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

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


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

p) Hoarding details, if any.

Traffic

19. Prior to the completion of the basement floor constructions, written confirmation by a Licensed Land Surveyor must be provided to the Responsible Authority verifying that the car park floor levels have been constructed in accordance with the endorsed plans (prior to the construction of the levels above being commenced).

20. Prior to the completion of the ramps within the basement car parks, written confirmation by a Licensed Land Surveyor must be provided to the Responsible Authority verifying that the ramps have been constructed in accordance with the endorsed plans (prior to the construction of the levels above being commenced).

Drainage

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

22. Before the endorsement of plans at Condition 1 of this permit, detailed plans indicating, but not limited to, the method of storm-water discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council's Infrastructure Assets Department.

23. The water sensitive urban design stormwater treatment system as detailed in the Sustainable Design Assessment report, prepared by Sustainably Design Consultants (Dated December 2016) 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.

Cultural Heritage Management Plan

24. Prior and during construction the requirements and Recommendations of the Ecology and Heritage Partners Aboriginal Cultural Heritage Management Plan
dated 18 August 20016, Number 14331 must be implemented to the satisfaction of the Responsible Authority.

**Permit Expiry**

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

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

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

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

**Permit Notes**

- This permit does not constitute any authority to carry out any building works, works to public property or occupy the building or part of the building unless all relevant building and asset protection permits are obtained. The applicant is to bear the cost to remove and reinstate any street furniture or infrastructure items to provide the required access to the proposed development.

- The proposed development would not be eligible for Council parking permits

- Other permits and approvals are likely to be required for this development. Please contact Council on 9599 4444 for more information.

5. **Council Policy**

**Council Plan 2013-2017**

Relevant strategies of the Council plan include:

- **3.1.1** Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.

- **3.1.3** Advocating Council’s planning and urban design objectives.

**Bayside Planning Scheme**

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 17 Economic Development
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.07 Economic Development
- Clause 21.09 Transport and Access
- Clause 21.11 Local Areas (Martin Street Neighbourhood Activity Centre)
- Clause 22.05 Heritage Policy
- Clause 22.08 Water Sensitive Urban Design
- Clause 34.01 Commercial 1 Zone
- Cause 43.01 Heritage Overlay Schedule 749 (Martin Street Heritage Precinct)
- Clause 52.06 Car Parking
- Clause 52.07 Loading and Unloading of Vehicles
- Clause 52.34 Bicycle Facilities
- Clause 65 Decision Guidelines

6. **Considerations**

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

6.1. **Strategic Consideration**

The subject site fronts Martin Street and is located within the Martin Street, Gardenvale Neighbourhood Activity Centre. The preferred future role of the Martin Street, Neighbourhood Activity Centre has been developed in the Outline Development Plan for the Martin Street Commercial Activity Centre.

Clause 21.11-7 provides a series of objectives and strategies that are relevant in the development of the Martin Street Neighbourhood Activity Centre and generally seeks to maintain the Edwardian design, promote attractive, well designed development that complements surrounding residential character and to ensure that development takes place in an orderly and proper manner having regard to character and amenity of the area and to encourage urban design improvements which offer variety, interest and convenience to shoppers. The proposal is considered to generally accord with this policy direction.

The Outline Development Plan for the Commercial and Community Activity Centre, pursuant to Clause 21.11-7, provides locational references for the policy direction in the commercial centre. The area of Martin Street is identified as an opportunity to provide attractive two storey office redevelopment and to retain existing buildings area an important focal built-form element for the centre. The proposed development is generally considered to respond to the objectives but it is noted that the intensification of development and overall height is greater than that envisaged by the Outline Development Plan for the Commercial and Community Activity Centre.

Planning amendment C152 seeks to rezone land around the Martin Street Neighbourhood Activity Centre from NRZ to GRZ and applies a new DDO to the activity centre area.

The subject site is located within Precinct C of DDO18. Pursuant to DDO18, Precinct C has a preferred height of 3 storeys (11 metres) and a minimum upper level front setback of 5 metres. The proposed development of a 4 storey building with a front setback of 3.4 metres at the second and third storeys and 5 metres at the fourth storey does not comply with the requirements of DDO18 as the height of the development is greater than the 3 storey height allowed and the proposed upper level front setback that is less than the 5m minimum setback requirements. However, these requirements are discretionary, and a planning permit may be granted to vary these requirements.

Justification in accordance with the ‘variations to the requirements of this schedule’ outlined in the DDO allows these requirements to be varied. Specifically, an application that seeks to vary the height and setback requirements should demonstrate whether the following will be achieved:

- Whether the proposal achieves a high standard of architectural design and an exemplary design response to the site context
- Innovative environmental design
• Minimal overshadowing of adjoining streets, public spaces and residential properties
• 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
• Respect for places subject to the Heritage Overlay
• Transition is scale to lower building forms.

Based on the information provided the above criteria has largely been met. Therefore, in principal a variation to the height and front setback requirements is acceptable subject to conditions which are further discussed in Sections 6.3 and 6.4 below.

The DDO seeks to ensure that new buildings in commercial areas present a fine grained human scale to the streets and provide active frontages with shopfronts at street level. It appears that the proposed development complies with this requirement. In addition to this, the DDO seeks to protect and enhance the heritage significance of commercial areas by recessing upper levels. The upper level setbacks have not been setback in accordance with the DDO requirements but are considered to appropriately respond to the DDO and Heritage Policy objectives. The proposal will also make use of the laneway at the rear of the site by providing vehicle access from this location. This is consistent with the requirements of the DDO.

Planning Scheme Amendment C150 seeks to implement the Retail, Commercial and Employment Strategy 2016 (RCE Strategy), which outlines the overall direction for Bayside’s commercial areas. Of relevance to this application are objectives that seek an increase to commercial floor space is provided in new developments.

Given all of the above, the state and direction of local policy context is considered to support higher density mixed use development on the site. This mandate for change is tempered by the proximity to land within the Neighbourhood Residential Zone where significantly less growth is envisaged. Transitions in scale from the development to areas of less change should be accommodated within the subject site. In considering scale in excess of the preferred maximum building height of three storeys these interfaces become particularly important in addition to a heightened emphasis on overall building performance and architectural quality. The bulk, massing and interfaces to residential zoned land is assessed further in the ‘Urban Design’ section of the report.

6.2. Land Use

The proposal comprises two Shop units of 113 square metres and 92 square metres with three Office spaces of 69 square metres, 74 square metres and 64 square metres in area. Shops and office uses do not require a planning permit in the Commercial 1 Zone. Residential accommodation is also a Section 1 (as of right use) within the Commercial 1 Zone. The location and width of the residential frontage would not disrupt or undermine the active edge provided by the development.

6.3. Heritage

The subject site is located within the Martin Street Heritage Precinct, identified by Heritage Overlay Schedule 749. The precinct is characterised with a mix of single and double storey Edwardian shops with some inter-war developments. The precinct is largely read as an area defined by its fine grained rhythm, low scale and general cohesion of architectural styles and building materials and its early to mid-twentieth century commercial character.

123 Martin Street is a non-contributory building with a modern shopfront while 125-127
Martin Street is a contributory building to the heritage precinct. The latter buildings are inter-war and presents two shopfronts to the street with recessed entries and original shop windows, awning over and high brick parapet.

Immediately adjacent to 123 Martin Street at No. 121, is a three storey development behind the original shop frontage with a modern recessive upper levels. The south side of Martin Street, directly opposite the subject site, is not included within the heritage precinct but features a five storey mixed use building. Martin Street whilst being a relatively intact heritage precinct, also includes modern, higher density developments as outlined.

Clause 22.05 (Heritage Policy) outlines objectives and performance standards in relation to demolition, additions to heritage buildings and new buildings, each element is discussed below:

**Demolition**

The non-contributory building at 123 Martin Street is proposed for demolition. This building is not original heritage fabric and presents a modern shopfront to the streetscape. Clause 22.05-3.2 allows for the demolition of non-contributory buildings and it is further noted that the replacement building offers a contemporary design which makes a comfortable fit between the adjoining contributory buildings, drawing on the proportions and materials to complement these properties.

To 123-127 Martin Street, the front façades are proposed to be retained with two separate shop front presenting to the streetscape. The recessed entry doors, high parapet and awning are to be retained with new glazing and shop entry doors. The details of the front façade have not been clearly detailed in the architectural drawings therefore a condition has been included that the window treatments are subject to further approval to the satisfaction of the Responsible Authority. The side return wall to the existing walkway is also to be retained and will form part of the entry passage to the office and upper level dwellings. The retention of this element allows some of the original building depth and three dimensional aspect to be retained. All other fabric, behind the front façade, is proposed to be demolished and this is considered acceptable as it is located to the rear of the site and not highly visible from the streetscape, does not highly contribute to the significance of the streetscape and the replacement building provides a responsive scale and massing to this section of Martin Street, striking an appropriate balance of increasing density in areas in close proximity to public transport.

**Additions and New Buildings**

The proposed front façade to 123 Martin Street will present a similar profile to that of the contributory buildings at 125-127 Martin Street but finished in concrete with a gazed façade. The design response is considered to adopt a high quality contemporary design that includes two central access doors and a glazed canopy, all of which provide continuity with the abutting properties. The contemporary design is based on the historical characteristics of the street and the finer grain development patterns found within the streetscape.

The proposed built form to the front façade of 123 Martin Street and behind the contributory buildings at 125-127 Martin Street are generally considered acceptable subject to a condition requiring the first and second floor walls and second floor balcony to be provided with a greater street offset in line with the offsets at 121 Martin Street. These conditions will achieve a sufficient recession of the built from the single storey heritage façade to ensure the supremacy of the heritage frontage to Martin Street. The design response retains the single storey, low scale development pattern which is characteristic of this heritage precinct and ensures the upper levels are sufficiently offset and simply articulated to provide a contemporary but subservient backdrop to the heritage fabric at ground floor level and to the overall precinct.
The design response does not try to mimic any architectural features within the precinct but rather adopts references in a contemporary form including proportions and materials which complement the heritage streetscapes and will not dramatically affect the character of the immediate environs. For instance a similar proportion of solid to void ratios are proposed to the upper floor levels as with the heritage façade. The additions and the new building are clearly distinguishable from the original built form and the upper floor street setbacks allow principal view lines to these contributory buildings to be preserved.

The proposed building at four storeys exceeds that of the prevailing single and double storeys which characteristic the streetscape but given there is a pronounced variation in buildings heights along Martin Street the proposed height is considered acceptable. It is however noted that many of the contributory heritage buildings often have high parapets and high floor to ceiling heights which assists in concealing the lower levels of any additions.

The street setbacks to the first and second floor level are proposed at 3.4m to the wall with the first floor terrace extending to the parapets of the heritage façade below, including the new parapet to 123 Martin Street. At second floor level the balconies, finished in a dark brick, cantilever the terrace below while the third floor is setback 5.6m from the southern site boundary and 3.7m and 3.6 m from the east and west side boundaries respectively.

The proposal as it currently presents with the second floor level balcony cantilevering the first floor balcony would introduce a heavy element that would loom over the high parapet. Recessing the balcony and façade would provide an improved outcome in order to more strongly retain its single story contribution to the streetscape and avoid facadism.

It is considered reasonable that a condition is included to require the second floor setback to the wall align with those of the adjoining property at 121 Martin Street i.e. a 4m to the wall. Given the heavy profile of the cantilevering balcony, a condition has been included to require this element to be further recessed whilst providing a minimum depth of 1.6m in accordance with Standard B28, Private Open Space. This will provide a 2.4m setback to the balcony. Whilst this is greater than that at 121 Martin Street it is noted these balconies are glazed and provide a more lightweight backdrop to the heritage façade. These setbacks would further ensure that oblique views when travelling east / west along Martin Street are viewed in the context of already established higher built forms of 121 Martin Street to the west and the five storey development at 116 Martin Street directly opposite the subject site. This requirement may require the reconfiguration of apartment layouts and/ or a reduction in the number of apartments at this level.

The retention of the canopies over the footpath at ground floor level restrict localised views of the upper level additions and ensures that lower scale development patterns are maintained.

The partial demolition, alterations and new buildings are acceptable as the fabric to be demolished is non-contributory and the replacement buildings exhibit design excellence were a sympathetic design response is proposed with a high quality contemporary finishes. The resultant presentation to the streetscape is one that preserves the street rhythm and does not obscure views of the defining features of the contributory buildings. For these reasons the proposal is considered acceptable from a heritage perspective.

6.4. Urban Design

Building Height and Massing

There is no height control stipulated for the subject site with policy direction of the Neighbourhood Activity Centre and Heritage Policy directing that any development needs to be sensitively designed to respect the prevailing character and heritage fabric
of the area. Further the site abuts a Neighbourhood Residential Zone which has a maximum height control of 9m therefore any development should be design so as to provide a reasonable level of amenity to adjoining properties.

The development largely presents as a three storey building to the streetscape due to the recessive nature of the fourth floor. Visibility Diagrams (ATP-10024) Streetscape Analysis demonstrate that views of the fourth floor will be limited and will largely be restricted to views travelling along Martin Street where the development will be read in context with other three to five storey buildings. See Heritage comments at Section 6.3 for further discussion.

The northern elevation consists of the four storeys being offset from the common boundary with 2 Hamilton Street and the Right Of Way, beyond which lies a three storey residential development at 83 Asling Street. The staggered rear setbacks increases from on the boundary at ground floor level to setbacks at 3.2m, 5.3m and 8.4m at first, second and third floor respectively. This elevation is considered acceptable on the basis that the built form is broken up due to the offset of 125-127 Martin Street from the Right Of Way. The inclusion of balconies and recessed nature of the proposal is considered to sufficiently mitigate against any perception of visual bulk from adjoining properties.

The proposal overall is considered to represent a well resolved and high standard of architectural design. The shadow diagrams submitted in support of the application demonstrate that the additional built form proposed contributes negligible additional overshadowing between 9am and 3pm on the 22nd September to the streetscape with no overshadowing impacts to the residential properties due to their location north of the site. The overshadowing standard in ResCode is considered appropriate to refer to in this instance.

Detailed Design

Subject to the conditions of approval recommended in regards to the interface to the Martin Street, the proposal presents a fine grained, human scale development to the streetscape. The front façade is considered to be well-articulated with the use of a number of materials from textured concrete and brickwork and projections/recesses creating strong horizontal forms and a high level of visual interest which incorporates original heritage features such as the high parapets for planters.

A high level of glazing to the front façade also assists in providing a high level of activation to the street. The provision of a canopy at ground floor level not only provides for weather protection but also ensure continuity with the remaining streetscape.

The northern elevation consists of the four storeysye being offset from the common boundary from the properties to the north but are further articulated with the provision of balconies and a variety of materials and finishes.

6.5. Compliance with Clause 55 (ResCode)

Pursuant to Clause 34.01-8, the responsible authority must consider, as appropriate, the objections, standards and decision guidelines of Clause 55. An assessment of the application against the provisions of Clause 55 is contained in Attachment 3. A number of ResCode standards, including site coverage and walls on boundaries are not considered relevant to the commercial location of the subject site.

6.6. Amenity

As the subject site fronts Martin Street, the primary amenity related consequences of the proposal are to the adjacent residential properties to the north and east. The shadow diagrams submitted in support of the application demonstrate that the secluded private open space areas of neighbouring properties are not affected due to this location north of the subject site.
As discussed in the Bulk and Massing section of the report, the development as proposed would not result in an unreasonable visual bulk and amenity impacts to the properties to the north due to the generous rear setbacks and recessed upper floor levels which mitigate against any oblique views of the development. Other elements of the scheme which are conditioned as part of the permit are outlined below.

**Overlooking**

It is considered appropriate to use the overlooking control in Clause 55 (Standard B22) as the basis of assessing the potential overlooking impacts of the proposal. The north facing windows and balconies at first and second floor level would provide opportunities for overlooking to 2 Hamilton Street and 83 Asling Street. It is recommended a condition be included to accord with the ResCode overlooking standards. To the west elevation, the habitable room windows would result in overlooking opportunities to unscreened windows associated with 121 Martin Street. A condition of permit is included to address this. The east elevation is located beyond 9m beyond the side elevation of 83 Asling Street and 139 Martin Street to require any additional screening.

It is noted conditions requiring additional planters to the north facing balconies will further assist in reducing any opportunities for overlooking.

**Length of wall on the boundary**

Length of wall to the northern property boundary to 2 Hamilton Street is proposed at a length of 13.7m in lieu of 10.95m. A variation of 2.75m is considered acceptable due to the property’s interface with the commercial area. Further, the current boundary is defined by a shed and garage on the boundary therefore no additional amenity impact will result from the proposed wall and its height.

**6.7. Internal Amenity**

The layout and design of the proposed units would ensure a generally good quality of accommodation for all future residents. All habitable rooms would have direct access to natural light and ventilation. Internal overlooking between the proposed units is addressed with a condition requiring compliance with Standard B23, Internal Views of Clause 55 of the Bayside Planning Scheme to apartments orientated to the east and west elevations. A high number of apartments proposed would have dual aspect and all would be provided with private outdoor open space in the form of balconies.

It is considered that the majority of units will receive a high level of solar access due to the site’s orientation and dual aspects for many dwellings. The lower level apartments to the eastern property boundary are served by a light-well with balconies and habitable room windows fronting into these areas. Whilst the level of solar access is not considered to be high, Apartment 1.11 and Apartment 2.10 are considered to be provided with an adequate level of solar access. The light-wells to the western property boundary are considered sufficiently large adjacent to the two storey built form at 129-135 Martin Street to provide a good level of natural light and ventilation.

As outlined in Attachment 3, with the exception of Units 1.04 and 2.10, all units would comply with the private open space requirements in ResCode (Standard B28). Both of these units fall short of the area required and minimum dimension. It is considered reasonable that a condition be included to require these minimum space standards and width to be met by without increasing the built form. A condition has been included requiring these apartments to be comply with Standard B28, Private Open Space.

**6.8. Car parking and traffic**

A 3m wide Right of Way extends west from the western building line of Asling Street for a distance of 45.7m terminating at the eastern boundary of No 123 (being the western half of the site). According to the title, 125-127 Martin Street has a right of access to the Right of Way, but 123 Martin Street does not have access rights to the Right of Way.
Concerns relating to the traffic and access were relayed to the applicant who noted that that they would accept conditions to require the access to be via 125-127 Martin Street. Council officers also raised concerns relating to the parking surveys submitted in justification for the car parking reduction. The surveys submitted in respect of the site covered an extensive area. The parking surveys also pre-dated the completion of two large developments on the opposite side of Martin Street and are little more than ‘spot’ surveys which probably miss the peak, including that associated with the peak evening dining period between 5 pm and 9 pm on evenings and weekends.

The applicant responded to concerns relating to the traffic surveys by advising they would accept conditions to reduce the number of units by two to provide 25 dwellings (deletion of two one bed units). If this condition were to be imposed a total of 37 on-site car spaces would be provided comprising 2 at-grade car spaces accessed directly from the Right-Of-Way and the remaining 35 parking spaces provided within the basement level car park. A copy of the amended basement and ground floor plan is included at Attachment 4 and the below breakdown of on-site parking would result:

<table>
<thead>
<tr>
<th>Use</th>
<th>Size</th>
<th>Rate</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling (resident)</td>
<td>9 x 2-bedroom&lt;br&gt;16 x 2-bedroom</td>
<td>1 space to each&lt;br&gt;1 or 2-bedroom dwelling</td>
<td>25 resident spaces</td>
<td>25</td>
</tr>
<tr>
<td>Dwelling (visitor)</td>
<td>25 dwellings</td>
<td>1 space for visitors to every 5 dwellings</td>
<td>5 visitor spaces</td>
<td>2</td>
</tr>
<tr>
<td>Office</td>
<td>226m²&lt;br&gt;net floor area</td>
<td>4 spaces to each&lt;br&gt;100m² of leasable floor area</td>
<td>9 spaces</td>
<td>8</td>
</tr>
<tr>
<td>Shop</td>
<td>226m²&lt;br&gt;leasable floor area</td>
<td>4 spaces to each&lt;br&gt;100m² of leasable floor area</td>
<td>9 spaces</td>
<td>2</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>48 SPACES</strong></td>
<td></td>
<td><strong>37 SPACES</strong></td>
<td></td>
</tr>
</tbody>
</table>

The existing use on site includes 300 square metres of retail floor space and a single dwelling equating to a total requirement for 13 car parking spaces to be provided on site. A total of two spaces are provided equating to an existing parking waiver of 11 spaces.

Council’s Traffic Engineering Department commissioned independent parking occupancy survey, carried out on Friday 17 and Saturday 19 February 2017 within a 150 metre walking distance from the subject site. The area of 150 metres was selected as it represents an appropriate walking distance for residential visitors.

The Friday surveys indicate that during the evening there are 18 available parking spaces within a 150 metre walk from the subject site and the Saturday survey indicates 22 available parking spaces. This evidence combined with the site’s close proximity to Gardenvale Train Station and bus routes operating within the area and the multi-purpose trips the office and shop elements will attract to the area will generally ensure that the development will not result in an unreasonable level of parking pressure within the area.

Further the volume of traffic generated by the proposal is considered to be low with no more than 19 vehicles movements to and from the site during morning peak hour and 17 during evening peak hour. This is not considered to unreasonably impact on the access of other developments utilising the Right-of-Way or any unreasonable pressure onto Asling Street as in either direction.

Based on the current car parking waiver for the existing uses, the proposed waiver of 11 spaces is considered acceptable and further supported by the proximity to Gardenvale Railway Station less than 200m away, availability of alternative parking within the area, Details of how the car parking is to be allocated has not been provided but it is considered reasonable that the following allocations be conditions as part of the permit:

- One parking space to each residential dwelling (total of 25 car spaces);
- One parking space to each shop tenancy (total of 2 car spaces);
- A total of eight parking spaces to the office tenancies with access to be provided to residential visitors outside of office operating hours. Signs stating the operating hours must be detailed on the allocated office car parking spaces; and
- Provision two at-grade parking spaces for residential visitors.

Clause 52.34 required the following bicycle facilities to be provided on site:

<table>
<thead>
<tr>
<th>Use</th>
<th>Rate</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling (resident)</td>
<td>In developments of four or more storeys, 1 to each 5 dwellings</td>
<td>5</td>
<td>8</td>
</tr>
<tr>
<td>25 dwellings</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dwelling (visitor)</td>
<td>In developments of four or more storeys, 1 to each 10 dwellings</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>25 dwellings</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Office (Employee)</td>
<td>1 to each 300 sqm of net floor area if the net floor area exceeds 1000 sqm</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Total area 207 sqm</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Office (Visitor)</td>
<td>1 to each 1000 sqm of net floor area if the net floor area exceeds 1000 sqm</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Total area 207 sqm</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shop (Employee)</td>
<td>1 to each 600 sqm of leasable floor area if the leasable floor area exceeds 1000 sqm</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>1 to each 500 sqm of</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>leasable floor area if</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>the leasable floor area</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>exceeds 1000 sqm</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shop (Visitor)</td>
<td>1 to each 500 sqm of leasable floor area if the leasable floor area exceeds 1000 sqm</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Total area 205 sqm</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>7</td>
<td>8</td>
</tr>
</tbody>
</table>

6.9. **Loading**

No loading bay is proposed on site. Pursuant to Clause 52.07, the loading bay requirements may be waived if either the land area is insufficient or adequate provision is made for loading and unloading vehicles to the satisfaction of the responsible authority. It is noted that due to the size of the shops it is expected that the majority of deliveries will occur via small delivery vehicles that can available of on-street parking facilities as per the existing arrangements for the subject site.

Given the commercial location, size of the commercial units and the close proximity to the existing loading zones adjacent to 79-81 Asling Street, the on-site loading bay waiver is considered appropriate.

6.10. **Waste Collection**

The updated Waste Management Plan indicates that waste collection would be via a waste vehicle being parked on Asling Street. Traffic Engineering does not support kerbside collection from Asling Street. Rather a small 6.4m long waste vehicle should
collect the waste directly from the site entering and exiting in a forward direction. With modifications to the waiting area at the top of the ramp there should be adequate room for a small waste vehicle to turn around.

The two proposed shops do not have direct access to the waste storage areas, rather pedestrian access to the waste areas would be via the Martin Street footpath and the main entry to the residential and office lobby. This is unacceptable. Traffic Engineering requires waste collection and storage for the shops to be appropriately designed.

There are steps between the lift and the waste storage area for residents. This is undesirable. Traffic Engineering recommends that a ramp be provided to allow for mobility impaired access. These concerns are addressed by planning permit conditions.

6.11. Vegetation & Landscaping

There is some vegetation included on the subject site but due to its location it fails to provide any amenity value to the streetscape or surrounding area due to its location. The removal of this vegetation is warranted to facilitate development potential on a site that is strategically appropriate for intensification of development.

The proposal also includes planters to balconies at First and Third Floor Level which facilitate softening the built form. It is considered reasonable to include planters to all north and south facing balconies, on the inner side wall, to further soften the presentation to adjoining properties, particularly to the north.

It is noted that excavation and construction is in close proximity to vegetation at 2 Hamilton Street. A condition of permit includes a requirement for a Tree Protection Plan demonstrating how vegetation on adjoining properties is to be retained.

6.12. Cultural Heritage Management Plan

A CHMP has been prepared in accordance with Part 4 of the Victorian Aboriginal Heritage Act 2006 and is required by the Victorian Aboriginal Heritage Regulations 2007 (s.74). A report prepared by Ecology and Heritage Partners dated 18 August 20016, Number 14331 notes that the site has been assessed as being of low archaeological and scientific significance. This report has been approved on 23 September 20016 under Section 65 of the Aboriginal Heritage Act 2006. Recommendations of the report are included as conditions of this permit.

6.13. Objections received

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

Construction impacts (traffic, noise, dust)

A condition of approval is recommended to require a construction management plan be prepared and submitted to Council prior to the endorsement of plans. While some noise and other off site impacts are inevitable when any construction occurs, all development is required to meet relevant Local Law and EPA regulations regarding construction practices to ensure these impacts are mitigated.

Surrounding property values

Impact on property values is not a planning consideration.

Commercial trading hours

A condition of approval is recommended to ensure the hours of the commercial units are reasonable for the activity centre location.
Sewer/stormwater infrastructure

Council’s Drainage Engineers have reviewed the application and have not advised of any specific limitation or deficiency of the surrounding infrastructure network.

Accuracy of the plans

The plans have been checked and are generally reflective of the site conditions. It is noted that the title block of some drawings have been labelled incorrectly including the First Floor Plan which is labelled as Level 03 Plan and the Third Floor Plan being labelled at the Level 01 Plan.

Support Attachments

1. Development Plans ⬇️
2. Site and Surrounds Imagery ⬇️
3. Clause 55 (ResCode) Assessment ⬇️
4. Proposed Amended Access ⬇️
ADVERTISED PLAN

123-177 MAPLE STREET, BRIGHTON

PRE-APPLICATION CONSULTATION

A pre-application meeting was held at Bayside Council on 19.09.2013 to begin the process of discussions with Council regarding the proposed development at 123-177 Maple Street, Brighton. A work in progress burn Planning package was provided containing the following information:

- Details of the proposed development
- Details of the proposed development
- Details of the proposed development
- Details of the proposed development
- Details of the proposed development

Further discussions will be held with the applicant prior to lodging an application.

DESIGN RESPONSE

The applicant has been advised that a Design Response is required as part of the planning process. A Design Response will be required to address the following:

- Compliance with local planning controls
- Compliance with local planning controls
- Compliance with local planning controls
- Compliance with local planning controls
- Compliance with local planning controls

The Design Response will need to be lodged with Council by the applicant and will be assessed by Council in accordance with the local planning controls.
Item 4.5 – Matters of Decision
Item 4.5 – Matters of Decision
Item 4.5 – Matters of Decision
Item 4.5 – Matters of Decision
Item 4.5 – Matters of Decision
Item 4.5 – Matters of Decision

Bayside City Council
Planning & Amenity Committee Meeting - 18 April 2017
Attachment 1

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Item 4.5 – Matters of Decision
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1. Aerial Overview of subject site and objector map. Four additional objections have been received from outside the map boundaries.

Legend

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐</td>
</tr>
<tr>
<td>Objectors</td>
<td>⬤</td>
</tr>
</tbody>
</table>
Figure 2. View looking north to the subject site.

121 Martin Street (three storey development to the rear of a contributory building to the Martin Street Heritage Precinct) to the left of the photograph.

123 Martin Street (non-contributory building) proposed to be demolished and 125-127 Martin Street (contributory building with front facades proposed to be retained) to the right of the photograph.
Figure 3. View looking north to 125-127 Martin Street (contributory building) with front façade proposed to be retained. To the right of the photograph is 129-135 Martin Street (contributory building).

Figure 4. View looking west along Martin Street with 129 – 135 Martin Street in the foreground and the subject site beyond.
Figure 5. View looking east along Mart Street towards Gardenvale Railway Station.

Figure 6. View looking east along Martin Street towards five storey development at 124 Martin Street.
Figure 7. View looking west along Martin Street with No. 116 to the foreground. It is noted these properties are not within the Martin Street Heritage Precinct but recessed upper floor levels are not visible from street level views.
Figure 8. View looking west to the subject site.
Figure 9. View looking west from Asling Street towards the subject site with the three storey development at 83 Asling Street to the right of the photograph.
Figure 10. Vegetation on site

Tree 1 – *Coprosma repens* (Mirror Bush)

Tree 2 – *Callistemon paludosus* (River Bottlebrush)

Tree 3 – *Ligustrum lucidum* (Broad-leaved Privet)
<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>N/A</td>
<td>See Heritage Discussion at Section 6.3</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>Refer to Strategic Justification at Section 6.1.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>Yes</td>
<td>The proposal comprises 14 x one bed apartments and 13 x two bed apartments. The units also provide a range of sizes and layouts including units ranging in size from 52m² to 132m².</td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>The proposal will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development. Council's drainage engineers have reviewed the application and raise no issues with infrastructure capacity in the area.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The development will integrate appropriately with the street as discussed at Section 6.3 of this report.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>No numerical requirement. See Section 6.1 and Section 6.3 of report for further discussion.</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Yes</td>
<td>No numerical requirement. See Section 6.1, Section 6.3 and Section 6.4 of report for further discussion.</td>
</tr>
<tr>
<td>Building height should respect the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Proposed: 13.85 metres (4 storeys)</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>-----------------------------------</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>N/A</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>N/A</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>
<tr>
<td><strong>B14 Access</strong></td>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td>Yes</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
</tr>
</tbody>
</table>
| B15 Parking Location | Provide resident and visitor vehicles with convenient parking.  
Avoid parking and traffic difficulties in the development and the neighbourhood.  
Protect residents from vehicular noise within developments. | Yes | On site car parking is provided in the form of a basement carpark and two at grade spaces. Standard traffic conditions are included as permit conditions.  
Refer to Section 6.8 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. | N/A | Refer to Section 6.3 and 6.4 of the Report for further discussion. |
| B18 Walls on Boundaries | Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings. | Yes | Only the wall to the northern property boundary abutting 2 Hamilton Street and 83 Asling Street are considered relevant.  
**Maximum length of wall**: 10.95m to 2 Hamilton Street and 2.3 to 83 Asling Street  
**Proposed length of wall**: 13.7m to 2 Hamilton Street and 2.3m to 83 Asling Street.  
**Maximum wall height**: 3.6m  
Proposed wall height: 3.6m  
**Maximum average wall height**: 3.2m  
Proposed average wall height: 3.6m |
<p>| B19 Daylight to Existing Windows | Allow adequate daylight into existing habitable room windows. | Yes | The development has been sufficiently setback from all habitable room windows to abutting properties. It is further noted that the fourth level is significantly setback from all boundaries with light wells provided to the east and west elevations that will facilitate equitable development opportunities for abutting properties west. These setbacks ensure adequate solar access for the apartments orientation to the east and west. |
| B20 North Facing Windows | Allow adequate solar access to existing north-facing habitable room windows. | N/A | There are no north facing windows within 3m of the shared boundary. |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>B21 Overshadowing Open Space</td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Yes</td>
<td>It is noted that some additional shadowing will occur at 9am to the roof of 121 Martin Street and over the rear service yards associated with the commercial properties at 117 and 119 Martin Street and 2A Hamilton Street. At 12 noon, all additional shadowing will occur internally to the site and over Martin Street. By 3pm, all additional shadowing will be restricted to Martin Street and the roof and car parking areas associated with 129-135 Martin Street.</td>
</tr>
<tr>
<td>B22 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>No</td>
<td>Refer to Section 6.6 of the report. Addressed via condition.</td>
</tr>
<tr>
<td>B23 Internal Views</td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>No</td>
<td>See Section 6.7 of report for further discussion.</td>
</tr>
<tr>
<td>B24 Noise Impacts</td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
<td>The site is located within a commercial zone and a Neighbourhood Activity Centre. The level of noise associated with the development is not anticipated to exceed that expected of a mixed use development in an activity centre.</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
<td>Entries are accessible for people with limited mobility with a wheelchair lift provided to the Martin Street frontage with lift access being provided to all levels. Conditions have been included relating to access to waste facilities on site. The development could be further retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling/residential building.</td>
<td>Yes</td>
<td>The development fronts Martin Street with the pedestrian access provide in adjacent to the heritage property at 125-127 Martin Street. The recessed entry is not only appropriate from a heritage assessment but also to provide services such as mail boxes.</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>See Section 6.7 for further discussion.</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>No</td>
<td>Minimum: A balcony of 8m² with a minimum width of 1.6m.</td>
</tr>
<tr>
<td>Apartment No</td>
<td>Total POS m²</td>
<td>Total POS with Minimum Dimension m²</td>
<td></td>
</tr>
<tr>
<td>--------------</td>
<td>--------------</td>
<td>-----------------------------------</td>
<td></td>
</tr>
<tr>
<td>1.01</td>
<td>12</td>
<td>12</td>
<td></td>
</tr>
<tr>
<td>1.02</td>
<td>12</td>
<td>12</td>
<td></td>
</tr>
<tr>
<td>1.03</td>
<td>9 (6 off living room + 3 off bedroom)</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>1.04</td>
<td>5</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>1.05</td>
<td>8</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>1.06</td>
<td>8</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>1.07</td>
<td>26 (12 off bedroom + 14 off living room)</td>
<td>26</td>
<td></td>
</tr>
<tr>
<td>1.08</td>
<td>8</td>
<td>8</td>
<td></td>
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<tr>
<td>1.09</td>
<td>11</td>
<td>11</td>
<td></td>
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<tr>
<td>1.10</td>
<td>15</td>
<td>15</td>
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<td>1.11</td>
<td>22</td>
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<td>7</td>
<td></td>
</tr>
<tr>
<td>2.02</td>
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<td>16</td>
<td></td>
</tr>
<tr>
<td>2.03</td>
<td>16</td>
<td>7.2</td>
<td></td>
</tr>
<tr>
<td>2.04</td>
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<td>2.06</td>
<td>10</td>
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<td>2.07</td>
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</tr>
<tr>
<td>2.08</td>
<td>8</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>2.09</td>
<td>6</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>2.10</td>
<td>3</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>3.01</td>
<td>15 (12 off living room and 3 off bedroom)</td>
<td>12</td>
<td></td>
</tr>
<tr>
<td>3.02</td>
<td>60 (22 off living room and 38 off bedroom)</td>
<td>39</td>
<td></td>
</tr>
<tr>
<td>3.03</td>
<td>8</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>3.04</td>
<td>8</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>3.05</td>
<td>45</td>
<td>45</td>
<td></td>
</tr>
<tr>
<td>3.06</td>
<td>37</td>
<td>37</td>
<td></td>
</tr>
</tbody>
</table>

**B29 Solar Access to Open Space**

Allow solar access into the secluded private open space of new dwellings/buildings.

|   | Yes | Given the orientation of the site, appropriate solar access to the private open space areas is provided. |

**B30 Storage**

Provide adequate storage facilities for each dwelling.

<p>|   | Yes | Designated storage areas are provided within the basement and have a minimum area of 6 cubic metres. |</p>
<table>
<thead>
<tr>
<th>B31 Design Detail</th>
<th>Yes</th>
<th>Encourage design detail that respects the existing or preferred neighbourhood character. Refer to Section 6.3 of the report for further discussion.</th>
</tr>
</thead>
<tbody>
<tr>
<td>B32 Front Fences</td>
<td>N/A</td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
</tr>
<tr>
<td>B33 Common Property</td>
<td>Yes</td>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas. Communal and private areas are clearly delineated. Common property is functional and capable of efficient management.</td>
</tr>
<tr>
<td>B34 Site Services</td>
<td>No</td>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. Avoid future management difficulties in common ownership areas. No detail of plant or air conditioning systems are provided on plans. It is anticipated there will be sufficient space in the basement for services; however a condition of approval is recommended to address this. Services and gas metres appropriately located in an accessible position adjacent to the resident’s pedestrian entry.</td>
</tr>
</tbody>
</table>
1. **Purpose and background**

To report a planning permit application for the construction and extension of a Residential Aged Care Facility and provision of a front fence in excess of 1.5 metres on a lot with an area of approximately 2,487 square metres (refer Attachment 1) at 7 Durrant Street and 4-10 Marion Street, Brighton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Urbis Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>8 February 2017 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>22 April 2017</td>
</tr>
</tbody>
</table>

The proposed land use (Residential Aged Care Facility), is a Section 1 use (Permit Not Required use). It is also a use which already exists on the land known as 4-10 Marion Street. This is a use which is increasingly in demand given the Melbourne’s aging population. It is also a use with specific spatial and design requirements, unique to the end users.

In this application, the proposed building comprises a two storey element in 7 Durrant Street and a new first floor over the existing building at 4-10 Durrant Street. The two buildings are linked at the ground and first floor level. For the most part, 7 Durrant Street will be serviced through 4-10 Marion Street. Pedestrian access will also be provided through the facilities main entry in Marion Street. The development includes a new basement carpark and storage area under the new building at 7 Durrant Street. The basement will be accessed via an existing crossover, which will be widened.

A total of 22 new bedsit rooms are proposed to be accommodated within the new buildings. These rooms each have a private bathroom attached. Common facilities are included in the form of dining / lounge / sitting areas. Residents will also be able to access services within the broader Aged Café Facility.

2. **Policy implications**

**Planning permit requirements**

Clause 32.08-4 (General Residential Zone) – Construction and extension of a Residential Building (Residential Aged Care Facility) and construction of a front fence in excess of 1.5 metres in height.

Clause 44.05-1 (Special Building Overlay) – To construct a building or to construct or carry out works.

**Planning scheme amendments**

Planning Scheme Amendment C139 has been prepared by Council and requires development to provide a financial contribution for drainage in this area. Council has adopted Amendment C139 and has submitted it to the Minister for Planning for approval. Whilst the Amendment is now considered ‘seriously entertained’, the Minister has not yet made a decision on the Amendment.
Planning Scheme Amendment C153 has been initiated by Council and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process concluded on 16 January 2017 and a report considering submissions will be presented to Council early in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and adopted. As such, there is no statutory weight which can be given to Amendment C153. Amendment C153 does not propose changes to the SBO which affects the site.

3. Stakeholder Consultation

External referrals

The application was referred to the following authorities:

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

Internal referrals

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

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

- Potential impacts on character of Durrant Street.
- Loss of sun and daylight.
- Overlooking.
- Increased flood risk.
- Increased car parking demand.
- Increased traffic.

Consultation meeting

A consultation meeting was held on 18 January 2016 attended by the permit applicant and one objector. As a result of this meeting one objection was withdrawn.
4. **Recommendation**

That Council:

Issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning Application No. 2016/496/1** for the land known and described as **7 Durrant Street and 4-10 Marion Street, BRIGHTON**, for the **construction and extension of Residential Aged Care Facility and provision of a front fence in excess of 1.5 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 advertised plans but modified to show:
   a) An amended schedule of construction materials, external finishes which identifies building colours.
   b) A new 5.5m wide crossover to be constructed with 1 metre offset from the southern property boundary along with a 1 metre wide new separator in between the new and existing neighbouring crossing. Sightlines at the top of the ramp to meet AS2890.1.
   c) The width of the ramp at the intersection with the footpath to be 5.5 metres wide with 1 metre offset from the southern property boundary.
   d) Allocation of the proposed parking spaces for staff and visitors.
   e) An amended Landscaping Plan in accordance with Condition 3 of this permit.
   f) A Tree Management and Protection Plan in accordance with Condition 6 of this permit.
   g) Details of Water Sensitive Urban Design features proposed on the building in accordance with the Environmentally Sustainable Development Report required by Condition 10 of this permit.
   h) An amended Waste Management Plan in accordance in with Condition 12.

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. Prior to the endorsement of plans pursuant to Condition 1, a revised landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.
   b) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
d) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.

e) Details of surface finishes of pathways and driveways.

f) The planting of one tree capable of reaching 14 metres at maturity in the front set back.

4. 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.

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

6. 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 Australian Standard, protection of trees on development sites, 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.

7. Prior to the commencement of buildings and works (including demolition) a tree protection fence must be installed around the Platanus orientalis (Oriental Plane) street tree abutting the site. Soil excavation must not occur within 2.0 metres from the edge of the Platanus orientalis (Oriental Plane) street tree asset’s stem at ground level. Other conditions for street tree protection fencing during development are as follows:

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

   • Fencing must be installed to comply with AS 4970–2009, Protection of trees on development sites.

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

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

   • 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.

   Root pruning within the TPZ
Prior to soil excavation for a Council approved crossover within the TPZ. A trench must be excavated along the line of the crossover adjacent to the tree using root sensitive non-destructive techniques.

All roots that will be affected must be correctly pruned.

Installation of utility services within the TPZ

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

8. 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.

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

10. Prior to the endorsement of plans pursuant to Condition 1, a revised Environmentally Sustainable Development Report to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The Report must be generally in accordance with the Report prepared by Energy Lab and submitted with the application, but modified as necessary to comply with the conditions of this permit.

11. 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.

12. Prior to the endorsement of plans pursuant to Condition 1, an amended Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must be generally in accordance with the WMP submitted with the application but modified identify that waste will be collected on the site and to include the following information:

a) Bin infrastructure will be provided in accordance with mobile garbage bin best practice signage guidelines and colour coding

b) Bins and storage area will be labelled and signage explaining service use and placement.

c) Commingle recycling (mixed recycling) must include plastics coded 1-7, glass, aluminium, tin cans, milk and juice cartons, paper including magazines and newspaper, cardboard in small amounts and folded down. NO PLASTIC BAGS IN RECYCLE BINS.

d) Cardboard recycling in large amounts shall be collected and organised by the Body Corporate or Owners Corporation through a private collection contractor.

e) Waste items such as e-Waste, white goods, domestic volumes of household paints, household batteries, florescent tubes and mixed globes can be taken to Baysides Waste Transfer and Recycling Centre at 144 Talinga Road, (fees and charges may apply) and will be organised through the Body Corporate / Owners Corporation.

f) A 240lt charity bin maybe considered and organised through the Body Corporate / Owners Corporation for the collection for clothing and small household items.
g) Bin Washing - Storm water drains in storage area should be fitted with a litter trap/filter to trap litter which can then be disposed of responsibly; any trap/filter is to be included on a regular cleaning and sanitising schedule and must be emptied regularly.

13. 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.

s) Details of mesh to be provided to scaffolding within 9 metres of 2A Marion Street to minimise overlooking during construction. The mesh is to have a minimum 50% transparency.

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

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

16. Council records indicate that there is a 1.22m wide drainage easement along the north-west property boundary as indicated on the drawings provided. The plans indicate that a ‘link to the adjoining building in 4 Marion Street shall be constructed over the easement. Any proposal to encroach into the easement will require Build Over Easement consent from the Responsible Authority/Authorities. The link shall be partially demountable over the easement and lightweight. The link is to have no walls, other than demountable glass walls, on either the north-east or south-west side so as to let easy access through it if required in the future. Council requires that the footings of the link encroach no further than 450mm from the title boundary into the easement.

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

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

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

Melbourne Water Conditions

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

21. The building setbacks shown to site boundaries must not be further reduced without the further review and written approval by Melbourne Water, to ensure adequate open space areas to allow for the passage of overland flood flow.

22. Finished floor levels of the extended rooms must be constructed no lower than 11.9 metres to Australian Height Datum (AHD).

23. The apex to the basement carpark must be constructed no lower than 11.9 metres to AHD.

24. Imported fill must be kept to a minimum on the property and must only be used for the sub floor areas of the extended building.

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

Permit Expiry

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

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

**Permit Notes**

- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council's supervision for which 24 hours' notice is required.
- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- Subsurface water must be treated in accordance with Council's Policy for "Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures."
- Consent will be required from Council to build over the existing drainage easement. The applicant may be required to enter into a Section 173 agreement to ensure that Council retains access to the asset and that any costs of removing the part of the development built over the easement are borne by the applicant.
- The existing street tree/s must not be removed or damaged.

**Melbourne Water Notes**

- The applicable flood level is 11.6 metres to Australian Height Datum (AHD).
- If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on 9679 7517, quoting Melbourne Water's reference 269576.

5. **Council Policy**

**Council Plan 2013-2017**

Relevant strategies of the Council plan include:

- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.
- 3.1.3 Advocating Council’s planning and urban design objectives.

**Bayside Planning Scheme**

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
• Clause 21.06  Built Environment and Heritage
• Clause 22.06  Neighbourhood Character Policy
• Clause 22.07  Discretionary Uses in Residential Areas
• Clause 22.08  Water Sensitive Urban Design
• Clause 32.08  General Residential Zone (Schedule 2)
• Clause 43.02  Design and Development Overlay (Schedule 10)
• Clause 44.05  Special Building Overlay
• Clause 52.06  Car Parking
• Clause 55  Two or more dwellings on a lot
• Clause 65  Decision Guidelines

6.  Considerations

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

6.1.  Discretionary Uses in Residential Areas

The site is zoned General Residential, the final purpose of which reads “to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.”

This is further reflected in Council’s Municipal Strategic Statement which recognises that ‘there are a number of important uses that should be located within residential areas of the municipality, including nursing homes and residential villages’. Under the Bayside Planning Scheme, a residential aged care facility is included under the definition of residential village.

Clause 22.07 of the Bayside Planning Scheme does provide a set of guiding principles for assessing the appropriateness of the location for the intended use. These are ‘preferred’ locations and not mandatory, which suggests that other locations can also be appropriate. It should be noted that there is an existing aged care facility already established and this proposal is for the construction of an extension to this facility.

The preferred locational criteria and an assessment against these criteria is as follows:
### Policy: Response:
The discretionary use abuts a Road Zone or collector road. Other locations may only be favourably considered where it can be demonstrated that residential amenity will not be unreasonably compromised. The site is located approximately 220 metres south of Bay Street, which is a Road Zone Category 2. As stated previously in this report, this proposal is for an extension to an existing aged care facility. The main vehicular access to the site will remain off Marion Street, although a secondary access is proposed off Durrant Street.

<table>
<thead>
<tr>
<th>Site consolidation is encouraged to ensure adequate on-site parking, landscaping and setbacks are provided.</th>
<th>The site represents two parcels of land which together have an area of approximately 2,487 square metres. As will be discussed adequate on-site parking, landscaping and setbacks are provided.</th>
</tr>
</thead>
<tbody>
<tr>
<td>The discretionary use is on a corner site.</td>
<td>The site is not located on a corner and has two frontages being approximately 40m north east and 44m south-west of the intersection of Marion Street and Durrant Street.</td>
</tr>
<tr>
<td>The discretionary use is located on the periphery of commercial areas or adjacent to other discretionary uses to provide a transition between commercial and residential areas.</td>
<td>The site is located approximately 170 metres to the south of the commercially zoned land along Bay Street. The use as a residential aged care facility is already established on the Marion Street site and this proposal seeks to extend this use onto the adjoining site at 7 Durrant Street.</td>
</tr>
<tr>
<td>The discretionary use is located near similar community and support facilities.</td>
<td>The site is located in a residential area, where there is already an established aged care facility.</td>
</tr>
<tr>
<td>The discretionary use is located within walking distance of public transport and promotes safe and convenient pedestrian access.</td>
<td>The site is located within 300 metres of North Brighton station and lies within the Bay Street Major Activity Centre. It is about 420 metres away from the Nepean Highway and is close to four bus routes.</td>
</tr>
</tbody>
</table>

The proposal meets the majority of the preferred location criteria and importantly is considered to meet the objectives of this clause particularly in respect to neighbourhood character, preserving residential amenity and traffic/car parking. Although the site is not located on a corner, or the periphery of a commercial area, the use has already been established on the Marion Street site and this proposal is purely for an extension to this facility. In this instance the site is considered to be an acceptable location for the proposed development.

#### 6.2. Neighbourhood character

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

The building proposes two new levels facing Durrant Street, and a new first floor above an existing one level building facing Marion Street. Both buildings will have pitched, tiled roofing and rendered facades. The styling and materials of the building suit the traditional context and the scale respects what is a prevailing height character of one to two storeys.
While the new first floor level has no impacts upon landscaping, or site coverage, the sitting of the new building at 7 Durrant Street is responsive to the opportunities and constraints afforded to the site. One of those opportunities is to connect the new building at 7 Durrant Street with the existing Aged Care Facility at 4-10 Marion Street, and this means building deep into the site, which already extends further north than the neighbouring sites in Durrant Street. This results in a relatively higher site coverage yet little impact upon the local neighbourhood character. The new extension will be stepped setback from the street frontage at both ground and first floor level and will have a lower ridge height than the adjacent property at 2A Marion Street, which assists its integration into the streetscape and helps reduce the visual bulk.

From both the site’s street frontages the impression of the new buildings remains acceptable, and this is assisted by the introduction of new landscaping which is discussed below.

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:

**Site Coverage (Standard B8)**

Specific to the land at 7 Durrant Street, a site coverage of 61% is proposed. The overall site coverage including the Marion Street site is 59%. The slightly higher site coverall on the Durrant Street site is due to the desire to build to the rear of the site, and connect with the existing Residential Aged Care Facility. The additional mass at the rear of the site has no impacts upon neighbourhood character. The building has also generally been massed in a way which protects the amenity experienced within adjacent properties and will also allow for additional planting and landscaping on the remaining land. The site coverage is therefore considered acceptable in this instance.

**Private Open Space (Standard B28)**

Residents are not provided with individual areas of private and secluded open space, although there are shared areas within the broader site, as well as within the frontage of 7 Durrant Street for recreation. There are also various communal internal spaces. The response is acceptable given the proposed land use.

**Storage (Standard B30)**

Residents will not have individual storage cages, however there is a bulk store provided in the basement. This is an acceptable arrangement given the type of facility being provided.

**Front Fences (Standard B32)**

A new front fence is proposed facing Durrant Street which comprises of 1.8 metre high rendered piers with a 1.6 metre high picket infill. The proposed style of fencing will allow views into the front of the site and this is supported. The front fencing matches some of the other front fencing around the aged care facility and is similar, in height and materials, to other fencing within this area. The fencing is considered appropriate.

### 6.3. Car parking and traffic

<table>
<thead>
<tr>
<th>Proposed Use</th>
<th>Quantity / Size</th>
<th>Statutory Parking Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential aged care facility</td>
<td>0.3 to each lodging room</td>
<td>6 spaces (22 rooms)</td>
</tr>
<tr>
<td><strong>Total car spaces required</strong></td>
<td></td>
<td>6</td>
</tr>
<tr>
<td><strong>Total car spaces proposed</strong></td>
<td></td>
<td>8</td>
</tr>
</tbody>
</table>
Pursuant to the car parking provisions of Clause 52.06, the proposal generates a demand of 0.3 car spaces to each lodging room, which equates to 6 car spaces. The proposal includes 8 car spaces within a basement car park, which is in excess of the requirements of Clause 52.06 of the Bayside Planning Scheme.

Council's Traffic Engineer has reviewed the application and raised no objection to the proposal subject to the inclusion of the following:

- The applicant requires to show proposed car parking allocation (i.e. staff or visitors etc).
- The ramp where it intersects with the footpath to be 5.5m wide with 1m offset from the southern property boundary. The radius of the curves on either side of the ramp to be slightly increased to improve better two-way traffic passing at the top.
- A 5.5m wide new crossover to be constructed with 1m offset from the southern property boundary along with a 1m wide new separator in between the new and existing neighbouring crossing.
- Sightlines at the top of the ramp needs to meet AS2890.1.

These items have been included as condition in the recommendation.

In terms of an increase in traffic generation, the development relates to an extension to an existing aged care facility, which generates a different level of traffic movement from a normal residential development. The traffic report submitted with the application outlines that the level of traffic will equate to four vehicle movements per hour on average during peak hours. This is considered a low traffic generation and Council's Traffic Engineer has raised no objection to this.

6.4. Vegetation & Landscaping

The application plans show the removal of two trees from the site as described below:

- A **Corymbia ficifolia** (Red Flowering Gum), the tree appears to have been lopped in the past. The tree is in good health and provides moderate amenity.
- A **Paraserisenthis lophanta** (Cape Wattle) is in good health and provides moderate amenity to the area.

Council's Arborist has advised that neither of these trees is significant enough to warrant alteration to the design and they can be removed.

Council's Arborist raised a question as to the impact of the proposal upon a **Ligustrum lucidium** (Broad-leafed Privet) along the common boundary with 9 Durrant Street. The tree protection measures included in the submitted arborist's report are insufficient and not in accordance with AS 4970:2009 *Protection of Trees on Development Sites*. The report is generic and does not specifically address how the Broad-leafed Privet will be protected. A condition requiring a revised Tree Protection Plan is included in the recommendation.

In respect to the submitted Landscape Plan, Council's arborist noted:

- *The landscape plan does not include any significant vegetation.*
- *The front setback should include a replacement tree capable of reaching 14 m at maturity.*

A condition requiring a revised Landscape Plan is included in the recommendation.
6.5. **Street trees**

There is a street tree adjoining the site in Durrant Street. The proposed crossover is offset sufficiently to protect the tree however, Council’s Open Space Arborist has requested permit conditions regarding tree protection fencing. These are included in the recommendation.

6.6. **Building over an Easement**

The link connecting the new two storey building to the Marion Street building is proposed above an easement. Council’s Drainage Department has approved the building over the easement provided the structure is demountable, in other words can be removed to allow for access to the easement, and if it is to have walls, they are to be simple dismountable glass.

6.7. **Waste Management**

The application included a Waste Management Plan (WMP) prepared by Green Change Solutions. The WMP has been reviewed by Council’s Waste Management Coordinator who has requested that additional information be included in the report. This can be achieved by a permit condition.

The report suggests that waste collection will be carried out in Marion Street, twice a week and Council’s traffic engineer has objected to this proposition. In response, the permit applicant however, has agreed to waste collection taking place within the basement. This is reasonable since there is space for one additional parking space and the applicant advises that staff parking would be managed to ensure a free space for waste collection at the necessary times. Council’s traffic engineer has requested a Car Parking Management Plan, and this Plan should also detail how waste collection will be managed. The WMP also needs to be updated to reflect the revised waste collection details. Conditions are included in the recommendation to this effect.

6.8. **Environmentally Sustainable Design**

The application included an Environmentally Sustainable Development Report prepared by Energy Lab. The report includes a response to Clause 22.08 Water Sensitive Urban Design. The initiatives outlined in the report ought to be shown on the application plans and the Report endorsed under the permit. Conditions are included in the recommendation to this effect.

6.9. **Objections received**

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

**Increased flood risk**

Melbourne Water as a determining referral authority have raised no objection to the proposed development subject to conditions.

**Support Attachments**

1. Development plans ⊳
2. Site imagery and surrounds ⊳
3. Neighbourhood character assessment ⊳
4. Clause 55 assessment ⊳
Louvre screen angled upwards at 1700mm high to prevent over looking.

CL: 17.90
FL: 15.20
CL: 14.70
FL: 12.00

South elevation louvre screens to first floor.
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>Yellow</td>
</tr>
<tr>
<td>Objector(s)</td>
<td></td>
</tr>
<tr>
<td>Withdrawn</td>
<td></td>
</tr>
</tbody>
</table>
Figure 2 Subject Site Durrant Street

Figure 3 Subject Site Marion Street
ATTACHMENT 3
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 façades, and by respecting the older building styles and scales without replicating them. Open style front fencing improves the visual connection between the dwelling and the street. Street tree planting consistency is improved to provide a unifying element to the area.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.</td>
<td>• Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development. &lt;br&gt;• Alterations and extensions should retain the front of these dwellings.</td>
<td>Demolition of dwellings that contribute to the valued character of the Precinct.</td>
<td>The applicant proposes to demolish a modest, single storey dwelling facing Durrant Street. No permit is required for the demolition. Durrant Street exhibits a mixed dwelling character and the loss of this dwelling is acceptable given an appropriate replacement is proposed.</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.</td>
<td>Responds &lt;br&gt;The application was accompanied by a Landscape Plan prepared by CDA Design Group Pty Ltd. The Plan has been reviewed by Council’s arborists who have determined that it requires some modification, including at least one significant tree within the front setback. This requirement forms a condition of approval.</td>
</tr>
<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. &lt;br&gt;• 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 &lt;br&gt;The new building in Durrant Street is seback from both of this site’s side setbacks to allow landscaping around the building. The new first floor above the building at 4 Marion Street has no</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
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<td>------------------------------</td>
</tr>
</tbody>
</table>
| 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.                   | Responds  
The application proposes a single lane vehicular access and basement car parking. The basement entry point is well setback on the site. A single vehicular access point is suitable to the site which does not have other vehicular access. |
| 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 façades.  
- Recess upper storey elements from the front façade. | Large buildings with poorly articulated façades.                                           | Responds  
The building is two levels with a pitched roof. The façade is articulated with a step towards the north. The building is an appropriate response to the one and two storey traditionally character which prevails in this area. |
| To respect the identified heritage qualities of adjoining buildings.       | - Where adjoining an identified heritage building, respect the height, building forms, siting and materials of the heritage building/s, in the new building design. | NA                                                                                         | Responds  
The building incorporates a pitched, tiled roof and has a mostly rendered façade, with regular glazing. The materials respect the character of this area. |
| 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  
The building incorporates a pitched, tiled roof and has a mostly rendered façade, with regular glazing. The materials respect the character of this area. |
| To improve the visual connection between the dwellings and the              | - Provide open style front fences, other than along heavily trafficked roads.      | High, solid fences                                                                        | Responds  
Windows overlook Durrant Street at ground and first floor level. The new first |
<table>
<thead>
<tr>
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<th>Design Responses</th>
<th>Avoid</th>
</tr>
</thead>
<tbody>
<tr>
<td>streetscape and encourage views to front gardens.</td>
<td>- Front fence style should be appropriate to the building era.</td>
<td>floor facing Marion Street does not have windows because it sits behind the pitched roof of the existing building. It is also setback some 12.73m. The ground level of this building will continue to provide an appropriate street relationship.</td>
</tr>
</tbody>
</table>
## ATTACHMENT 4

**BAYSIDE PLANNING SCHEME – CLAUSE 55**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer Attachment 2.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support an extended Residential Aged Care Facility.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>Windows overlook Durrant Street at ground and first floor level. The new first floor facing Marion Street does not have windows because it sits behind the pitched roof of the existing building. It is also setback some 12.73m. The ground level of this building will continue to provide an</td>
</tr>
<tr>
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<td>---</td>
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</tr>
</tbody>
</table>
| **B6 Street Setback** | Yes | **Minimum**: 4.17m  
**Proposed**: 4.4m |
| The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site. |   |   |
| **B7 Building Height** | Yes | **Required**: 11m  
**Proposed**: 8.5m |
| Building height should respect the existing or preferred neighbourhood character |   |   |
| **B8 Site Coverage** | No | **Maximum**: 60%  
**Proposed**: 61% - 7 Durrant only  
59% - whole site |
| Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. |   |   |
| **B9 Permeability** | Yes | **Minimum**: 20%  
**Proposed**: 33% - 7 Durrant only |
| Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. |   |   |
| **B10 Energy Efficiency** | Yes | The proposal provides appropriate solar access to new habitable spaces. |
| 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. |   |   |
| **B11 Open Space** | N/A |   |
| Integrate layout of development with any public and communal open space provided in or adjacent to the development. |   |   |
| **B12 Safety** | Yes | No safety issues are considered to be likely to arise. |
| Layout to provide safety and security for residents and property. |   |   |
| **B13 Landscaping** | Yes | Refer report. |
| 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>B14 Access</th>
<th>Yes</th>
<th>Appropriate vehicular access is provided.</th>
</tr>
</thead>
</table>
| Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character. | | **Maximum:** 40% of street frontage  
**Proposed:** 35% of street frontage |

<table>
<thead>
<tr>
<th>B15 Parking Location</th>
<th>Yes</th>
<th>The proposed car parking areas are appropriately located.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B17 Side and Rear Setbacks</th>
<th>Yes</th>
<th>The site has an interface to dwellings at 2 Marion Street, 7A Durrant Street and 9 Durrant Street. At all these interfaces wall heights are less than 6.9m high, meaning at most a 2m setback is required adjoining these boundaries. Boundary setbacks range from 2.0m to 6.96m.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B18 Walls on Boundaries</th>
<th>NA</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B19 Daylight to Existing Windows</th>
<th>Yes</th>
<th>The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate daylight into existing habitable room windows.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B20 North Facing Windows</th>
<th>Yes</th>
<th>No north facing windows on adjoining properties are affected.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### B21 Overshadowing Open Space
Ensure buildings do not significantly overshadow existing secluded private open space.

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Refer report.</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Refer report.</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>There are no unreasonable opportunities to gain internal views given the style of accommodation being proposed.</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building. The site is relatively nearby a railway line although it is not considered necessary to require acoustic treatment, particularly since no new windows have an immediate outlook to the railway line.</td>
</tr>
</tbody>
</table>

### B25 Accessibility
Consider people with limited mobility in the design of developments.

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>The building includes lift access and an internal link to the existing facilities.</td>
</tr>
</tbody>
</table>

### B26 Dwelling Entry
Provide a sense of identity to each dwelling.

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>The building will be accessed via from the building’s existing main entry in Marion Street. Hedge planting within the frontage of Durrant Street makes it clear that there is no public entry in this location. The arrangements are acceptable given the buildings are extensions to the existing aged care facility.</td>
</tr>
</tbody>
</table>

### B27 Daylight to New Windows
Allow adequate daylight into new habitable room windows.

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>Residents are not provided with individual areas of private and secure open space, although there are shared areas within the broader site, as well as within the frontage of 7 Durrant Street for recreation. There are also various communal internal spaces. The response is acceptable given the proposed land use.</td>
</tr>
</tbody>
</table>

### B29 Solar Access to Open Space

<table>
<thead>
<tr>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>NA</td>
</tr>
<tr>
<td>Item</td>
</tr>
<tr>
<td>------</td>
</tr>
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</tbody>
</table>
1. **Purpose and background**

To report a planning permit application for the construction of a three storey building containing 20 dwellings, basement car parking and a front fence exceeding a height of 1.5 metres on a lot with an area of 1,644 square metres (refer Attachment 1) at 43 Crisp Street, Hampton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Keen Planning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>5 July 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>5 December 2016</td>
</tr>
</tbody>
</table>

2. **Policy implications**

**Planning permit requirements**

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

Clause 32.08-4 (General Residential Zone) – Construction of a front fence exceeding a height of 1.5 metres within 3 metres of the site frontage.

Clause 43.02 (Design and Development Overlay, Schedule 12) – Construction of building exceeding 10 metres in height where the slope of the natural ground level at any cross section of the site of the building wider than 8 metres is 2.5 degrees or more.

**Planning scheme amendments**

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

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

3. **Stakeholder Consultation**

**External referrals**

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

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>Objection to replacement planting, can be addressed through permit conditions.</td>
</tr>
<tr>
<td>Open Space Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

Public notification

The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and 20 objections were received. The following concerns were raised:

- Demolition of the existing building;
- Overdevelopment;
- Inconsistent with existing neighbourhood character;
- Unacceptable traffic and parking pressures will result in the immediate site context;
- Visual bulk;
- Overlooking;
- Overshadowing;
- Architectural quality;
- Waste Management;
- Energy efficiency;
- Poor on-site amenities;
- Increased pressure on drainage infrastructure;
- Impact of vegetation removal on wildlife;
- Disturbances during construction; and
- Accuracy of Keen Town Planning Report.

Consultation meeting

The applicant declined the offer of a community consultation meeting.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2016/461/1 for the land known and described as 43 Crisp Street, Hampton, for the construction of a three storey building containing twenty apartments, basement car parking and front fence exceeding a height of 1.5 metres in a General Residential Zone Schedule Two and a Design and Development Overlay Schedule Twelve 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 Council date stamped 29 September 2016 but modified to show:

   a) The Gillies Street setback to the balconies of Apartments 1.05, 1.06 and 1.07 to be increased to a minimum to 2m. The internal depth of the balconies must be no less than 1.6m in accordance with the requirements of Standard B28. The living areas to each apartment will be reduced in size to accommodate this change.

   b) Windows and balconies to comply with Standard B23, Internal Views of Clause 55.04-7 of the Bayside Planning Scheme.

   c) The Studies associated with Apartments 2.01 and 2.02 recessed a minimum of 3m behind the prevailing building line and have a minimum width of 3.2m and consequential internal changes.

   d) The height of the second floor level to be reduced by a minimum of 250mm and any consequential changes.

   e) Site Coverage not to exceed 60%.

   f) Details of parking allocations to apartment numbers and visitors be denoted on basement plan.

   g) The secure bicycle lockers must comply with AS2890.3:2015.

   h) Storage cages K, L, M, N, O and P reduced to a minimum size of 6 cubic metres (from 8.1 cubic metres) to achieve a separation of 1.3 metres (in lieu of 1.0 metre) between the car spaces and the storage cages. The cages must have sliding doors.

   i) A minimum 2m x 2m corner splay must be provided at the southeast corner of the property. The splay must be infilled with concrete to match the footpath.

   j) A ‘stop-go’ signal system to the basement ramp with priority given to traffic entering from Crisp Street.

   k) 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.

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

   m) Water Sensitive Urban Design measures in accordance with Condition 6 of this permit.

   n) A Landscaping plan in accordance with Condition 8 of this permit.

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

   p) A Waste Management Plan in accordance with Condition 22 of this permit.

2. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.
3. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

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

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

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.

8. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the Planting Schedule and Ground Floor Plan drawn by Jack Merio Design and Landscape, dated 25/05/2016 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.
   b) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
   d) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   e) The planting of one indigenous tree capable of reaching 14 m at maturity in the front set-back (Crisp Street frontage).
f) The planting of one indigenous tree capable of reaching 12 m at maturity in the front set-back (Crisp Street frontage).

g) The planting of one tree (native or exotic) capable of reaching 12 m at maturity front set-back (corner Crisp Street and Gillies Street).

h) The planting of three indigenous trees capable of reaching 10 m at maturity in the Gillies Street set-back.

i) Details of surface finishes of pathways and driveways

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

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

11. Prior to the endorsement of plans pursuant to Condition 1, a Tree Management Plan (report) and Tree Protection Plan (drawing), to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority.

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

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

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

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

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

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

14. Soil excavation must not occur within the structural root zones (SRZ according to AS 4970–2009, Protection of trees on development sites) of each street tree asset fronting the subject site in Crisp Street and Gillies Streets (Approximately 3.0 metres of the street trees' stems and 4.0 metres from the stem of the large Agonis flexuosa (Willow Myrtle) in Gillies Street).

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

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

b) Fencing must be installed to comply with AS 4970–2009, Protection of trees on development sites.
c) Fencing should encompass the Tree Protection Zone (TPZ) for all street trees adjacent to the development.

d) Fencing must 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.

16. Root pruning within the TPZ

a) 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.

b) All roots that will be affected must be correctly pruned.

17. Installation of utility services within the TPZ

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

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

19. The mechanical stackers must be kept in good working order to the satisfaction of the Responsible Authority to ensure access to all car spaces is available at all times and to prevent adverse noise emissions.

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

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

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

a) Dimensions of storage waste areas.

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

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

d) Facilities for bin cleaning.

e) Method of waste and recyclables collection.

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

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

h) Method of hard waste collection.

i) Method of presentation of bins for waste collection.

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

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

m) Compliance with relevant policy, legislation and guidelines.

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

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

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

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

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

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

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

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

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

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

i) Site security.

j) Public safety measures.

k) Construction times, noise and vibration controls.

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

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

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

o) An emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experience.
q) All contractors associated with the construction of the development must be made aware of the requirements of the Construction Management Plan.
r) Details of crane activities, if any.

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

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

Permit Notes:
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council’s supervision for which 24 hours notice is required.
- Council must be notified of the vehicular crossing and reinstatement works.
- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- Prior to commencement of any building works, an Asset protection Application must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.
- Council records indicate that there is no easement within the property.
- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.
- The existing street trees must not be removed or damaged.

5. Council Policy

Council Plan 2013-2017

Relevant strategies of the Council plan include:
- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.
- 3.1.3 Advocating Council’s planning and urban design objectives.

Bayside Planning Scheme
- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
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 site fronts Crisp Street and Gillies Street and is located within the Hampton Street Major Activity Centre. The preferred future role of the Hampton Street Major Activity Centre has been developed in the Hampton Structure Plan, the Bayside Housing Strategy 2014 and the Retail, Commercial and Employment Strategy 2016. Clause 21.11-4 and the Design and Development Overlay 12 implement the preferred future role of Hampton Street in the Bayside Planning Scheme.

Clause 21.11-4 provides a series of objectives and strategies that are relevant in the development of the Hampton Street Major Activity Centre. The subject site is located within the residential area precinct of the activity centre. The policy framework as it applies to the subject site seeks to, “retain its spacious and leafy character. New housing in this precinct will integrate with the existing streetscape and provide additional opportunities for people to live near the centre. The interface of the business and surrounding residential precincts will be marked by sensitive urban design treatments.”

DDO12 includes the following design objectives:

- 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.
- To maintain a strong landscape character with residential buildings set within vegetated front gardens and streetscapes in residential precincts.

The site is located within Precinct E which has a maximum building height of 12.0 metres/3 storeys (due to the slope of the land). The proposed built form has an overall height of 10.8 metres.

As a concept it is considered that the proposed type of development responds to its strategic location and the framework plan associated with Hampton Street Major Activity Centre. The site sits at the eastern interface of the activity centre and abuts the interface with the lower density Neighbourhood Residential Zone, Schedule 3. The concept of providing a higher density style building at this location is therefore not disputed subject to an appropriate design response and management of amenity impacts.
The proposal is considered to make a good fit within the streetscape where significantly less growth is envisaged to the east of the subject site. The site’s peripheral location within the Major Activity Centre zoning commands a transitional step-down in building height and building form. The site characteristics and design response is considered to provide an appropriate response to areas of less change abutting the subject site whilst providing a satisfactory level of compliance with ResCode (Clause 55) and adequate vehicle access.

6.2. **Neighbourhood character**

The site is located within Neighbourhood Character Precinct F1 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The building, while obviously of a larger scale than many in the immediate area, will maintain the garden character of the area. The front setback provided is sufficient to ensure that the building does not dominate the streetscape. In addition, the proposal is generally consistent with the design objectives of the Design and Development Overlay, Schedule 12. The proposal is designed to integrate with the existing and preferred built form character of the area and adopts a building height of 10.8m which falls below the permissible height of 12.0m (3 storeys) of the Design and Development Overlay.

Notwithstanding this, both adjoining dwellings are lower scale with a double storey at 41 Crisp Street and 6 Gillies Street and a single storey dwelling at 8 Gillies Street and whilst it is difficult to integrate a three storey built form with adjacent double and single storey dwellings, the second floors have been suitably recessed so as to ensure they remain subservient. In order to further assist with minimising the built form at the second floor level, conditions have been included requiring the already recessed Study to Apartment 2.04 to be further setback and widened so as to reinforce the street rhythm and finer grain developments along Gillies Street. It is also noted that the floor to floor / ceiling heights of each level are generous and could be further reduced in order to facilitate a reduction in the perception of visual bulk, particularly at second floor level. It is recommended a condition be included requiring the second floor level be reduced by not less than 250mm.

The massing combined with a high level of articulation ensure the dwellings are responsive to the existing site context whilst also appealing to the emerging trend of modern built form within the area.

The proposal offers a contemporary form, incorporating a mixture of stone cladding with high levels of glazing which is responsive to the more modern developments within both streetscapes. Further large landscaping is required to ensure that the garden setting of the area is maintained and enhanced. It is considered that, with these changes, the proposal would demonstrate a high level of compliance with the precinct guidelines, with appropriate balance struck with the objectives of the Hampton Street Major Activity Centre.
6.3. **Compliance with Clause 55 (ResCode)**

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

**Street setback (Standard B6)**

To Crisp Street

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground Floor</td>
<td>9m</td>
<td>9.0m - 9.01m</td>
</tr>
<tr>
<td>First Floor</td>
<td>9m</td>
<td>9.0m</td>
</tr>
<tr>
<td></td>
<td>(7.0m and 7.43m to</td>
<td>(-2.0m and -1.66m to balconies)</td>
</tr>
<tr>
<td></td>
<td>balconies)</td>
<td></td>
</tr>
<tr>
<td>Second Floor</td>
<td>13m (as varied by</td>
<td>13.1m</td>
</tr>
<tr>
<td></td>
<td>DDO12)</td>
<td>(9.15m to balconies)</td>
</tr>
</tbody>
</table>

The Gillies Street setback (East side setbacks) are detailed in the table overleaf.

The front facade is required to be setback a minimum of 9m from Crisp Street. The built form is generally setback a minimum of 9m at ground and first floor level in accordance with Standard B6 of ResCode. The street setback at second floor level is approximately 13.1m as required by Design and Development Overlay Schedule 12 which recommends a minimum of 4m setback behind the front wall of the floor immediately below. This design response minimises the visual impacts of the upper floors.

The first floor balconies associated with Apartments 1.01 and 1.08 encroach into the street setback and are proposed to setback 7.43m and 7.0m respectively. The associated wall heights of the supporting structures are 6.2m and 5.0 m respectively due to the rising terrain from west to east. The variations to both balconies are considered acceptable as these structures provide added depth to the front façade, articulating a horizontal emphasis to the built form and thus ensuring ground and first floor levels are read as the primary built form. It is further noted that the balconies do not result in any amenity impacts to adjoining neighbours and do not effect opportunities for landscaping within the front setback.

The east (side) façade is required to be setback a minimum of 1.0m to 5.62m to Gillies Street. The proposal is fully compliant as discussed below in relation to Standard B17. The first floor balconies associated with Apartments 1.05, 1.06 and 1.07 encroach into the setback with Gillies Street and propose setbacks of 1.4 and 1.55m. Whilst the balconies add articulation to the side elevation to Gillies Street, there is also a requirements to provide a transition to the adjoining built form and setbacks of 1.4m at first floor level are not considered to achieve this requirement. It is considered appropriate to increase the setbacks to the balconies to be a minimum of 2m from the Gillies Street frontage. The minimum depth to the balconies is required to be retained at 1.6m in accordance with Standard B28. This will require a small encroachment into the living areas of these apartments. The presentation of the balconies with a setback of 2m is considered to retain an appropriate level of articulation and the increased setbacks will facilitate opportunities to establish additional landscaping.

**Site Coverage (Standard B8)**

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>60%</td>
<td>61.74%</td>
<td>+1.74%</td>
</tr>
</tbody>
</table>

The development proposes a site coverage of 61.74% which exceeds the 60% requirement. Whilst a minor variation, it is considered reasonable that this is conditioned
to be fully compliant. It is noted the setback requirements associated with the balconies fronting Gillies Street will likely facilitate the required reduction of 1.74%.

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

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>First Floor</th>
<th>Second Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
<td>Requirement</td>
</tr>
<tr>
<td>East (side)</td>
<td></td>
<td>East (side)</td>
</tr>
<tr>
<td>0, 1m</td>
<td>2.2m, 3.0m</td>
<td>1.96m to the</td>
</tr>
<tr>
<td></td>
<td>to 4.46m</td>
<td>wall of</td>
</tr>
<tr>
<td></td>
<td></td>
<td>bedroom 2</td>
</tr>
<tr>
<td></td>
<td></td>
<td>of Apt 1.08.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1.45m to the</td>
</tr>
<tr>
<td></td>
<td></td>
<td>wall of Apt</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1.05.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(adjacent to</td>
</tr>
<tr>
<td></td>
<td></td>
<td>6 Gillies</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Street).</td>
</tr>
<tr>
<td>West (side)</td>
<td>0, 1m</td>
<td>West (side)</td>
</tr>
<tr>
<td></td>
<td>2.2m, 2.44m</td>
<td>2.49m to the</td>
</tr>
<tr>
<td></td>
<td>to 8.08m</td>
<td>wall of</td>
</tr>
<tr>
<td></td>
<td></td>
<td>bedroom 2</td>
</tr>
<tr>
<td></td>
<td></td>
<td>of Apt 1.01.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1.74m to the</td>
</tr>
<tr>
<td></td>
<td></td>
<td>dining room</td>
</tr>
<tr>
<td></td>
<td></td>
<td>wall of Apt</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1.04.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>North (rear)</td>
<td>0, 1m</td>
<td>North (rear)</td>
</tr>
<tr>
<td></td>
<td>0m and</td>
<td>North (rear)</td>
</tr>
<tr>
<td></td>
<td>1.55m and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1.7m</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1.36m to</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1.66m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**First Floor**

At first floor level the western side setback to the southernmost portion of the site is non-compliant by 0.29m. Due to the site terrain it is inherently difficult to meet the numerical requirement of this Standard. The proposed variation is considered acceptable as it applies to a narrow section of wall totalling 5.8m in length and lies adjacent to a driveway associated with 41 Crisp Street and would not result in unreasonable amenity detriment through overlooking or overshadowing.

The first floor rear setback is proposed at 1.55m in lieu of 1.66m. A variation of 0.11m is considered acceptable as the wall lies adjacent to the driveway associated with 6 Gillies Street and will not result in any unreasonable amenity detriment through over-looking or overshadowing to the south-facing windows of 8 Gillies Street.

**Second Floor**
At second floor level the side setbacks to the western side setbacks to the southernmost portion of the site is non-compliant by 0.27m. Due to the sloping site profile at this location the setback to Bedroom 2 of Apartment 2.01 is considered acceptable as the remainder of the wall is recessed above the required standard and its siting opposite the driveway at 41 Crisp Street ensures there will be no unreasonable amenity impacts to the adjoining neighbours. Further, due to the recessed front setback required by the Design and Development Overlay, views of the upper floor will be limited.

The second floor rear setbacks are proposed at 3.36m and 3.91m in lieu of 4.09m to the Kitchen and Dining Room Wall of Apartment 2.02. A variation of 0.73m and 0.18m is considered acceptable as the wall abuts a non-sensitive interface with the driveway associated with 6 Gillies Street and the inclusion of planters to the balcony are considered to soften the built form at this location.

Internal Views (Standard B23)

The proposed balconies and habitable room windows fronting both Crisp Street and Gillies Street include limited screening measures. Screening measures have not been included to allow for high levels of passive surveillance to the streetscape and reduce visual bulk added by screening devices.

Overlooking to the ground floor level will result from first and second floor balconies and the sides of balconies fronting Gillies Street not being treated with screens. Notwithstanding this, the inclusion of conditions requiring the first floor balconies to be recessed from Gillies Street will reduce the opportunity for intermittent views between properties and the inclusion of planters at second floor level balconies will restrict downward views. These measures will generally limit views close to compliance with Standard B23.

Whilst the architectural merit of reducing any bulk through omitting screens is acknowledged it is considered reasonable that future residents should expect a higher level of amenity than is afforded by the proposal. It is considered reasonable the conditions are added to require compliance with Standard B23.

Private Open Space (Standard B28)

<table>
<thead>
<tr>
<th>Apartment No.</th>
<th>Total Private Open Space (m²)</th>
<th>POS with minimum dimension (m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apt G.01</td>
<td>27 to side setback 19 to courtyard 56 to site frontage</td>
<td>23 to side setback 0 to courtyard 56 to site frontage</td>
</tr>
<tr>
<td>Apt G.02</td>
<td>33</td>
<td>20</td>
</tr>
<tr>
<td>Apt G.03</td>
<td>31</td>
<td>22.</td>
</tr>
<tr>
<td>Apt G.04</td>
<td>100</td>
<td>83</td>
</tr>
<tr>
<td>Apt G.05</td>
<td>59</td>
<td>26</td>
</tr>
<tr>
<td>Apt G.06</td>
<td>33</td>
<td>33</td>
</tr>
<tr>
<td>Apt G.07</td>
<td>35</td>
<td>35</td>
</tr>
<tr>
<td>Apt G.08</td>
<td>29</td>
<td>15 to side setback 0 to courtyard 50 to site frontage</td>
</tr>
<tr>
<td>Apt 1.01</td>
<td>8 balcony</td>
<td>8 balcony</td>
</tr>
<tr>
<td>Apt 1.02</td>
<td>8 balcony</td>
<td>8 balcony</td>
</tr>
<tr>
<td>Apt 1.03</td>
<td>8 balcony</td>
<td>8 balcony</td>
</tr>
</tbody>
</table>
Apartments G.01 and G.08 whilst being provided with the required areas of private open space with both apartments exceeding 40m² in area, the private space is however fragmented and the secluded areas to the east and west setbacks fail to meet the minimum area of 25m² with a minimum dimension of 3m and are not directly accessible from living areas.

Apartments G.01 and G.08 benefit from open space within the front setbacks and whilst these areas have a southern orientation, these spaces complement the areas of secluded private open space and are of usable proportions. It is further noted that the provision of secluded private open space within the front setbacks are not uncommon within Activity Centres.

All apartments at first floor have been provided with the minimum of 8m² with a minimum dimension of 1.6m. At second floor level all apartments have been provided with a minimum of 31m² with a minimum dimension of 1.6m.

Front Fence (Standard B32)

<table>
<thead>
<tr>
<th>Crisp Street</th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.5m</td>
<td>0.4m to 0.88m plinth + 1.64m high fence</td>
<td>+0.54m to +1.02m</td>
<td></td>
</tr>
</tbody>
</table>

The proposed front fence has a staggered height to accommodate the rising terrain moving east along Crisp Street. The fence profile will exceed the preferred 1.5m high fence height.

To the western boundary with 41 Crisp Street, the street boundary is to be defined by a plinth to a height of 0.4m to 0.88m and will accommodate a 1m wide planter bed. The landscaping strip will screen a 1.64m high white rendered fence behind.

To the eastern boundary with Gillies Street, a plinth from falling in height from 0.95m to 0.38m will define the street frontage with a 0.8m wide planter bed with a 1.64m high white rendered fence behind.

Whilst the proposed fence height exceeds the preferred height which is necessitated by the slope of the land and secluded private open spaces to Apartments G.01 and G.08, the fence is considered appropriate in this instance. The acceptability of the fence profile is established by the built form being sufficiently softened by the planter bed and offset from the site frontage so as to ensure a human scale is presented to the streetscape. Due to the terrain along Crisp Street, higher front fences (often acting as retaining walls) are commonplace. The proposed fence is also sufficiently broken up with pedestrian and vehicular access points so as to avoid a continuous built form.

The fencing to the eastern boundary is punctuated with pedestrian accesses along the staggered fence line. The fence is again considered satisfactory and is site responsive to the terrain and the staggered fence line adds rhythm to the streetscape.
6.4. **Car parking and traffic**

The required and proposed car parking rates are summarised in the below table.

<table>
<thead>
<tr>
<th>Use</th>
<th>Number</th>
<th>Rate</th>
<th>Required Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>12x 3 bedroom dwellings</td>
<td>2 spaces per dwelling</td>
<td>24</td>
</tr>
<tr>
<td>Residential</td>
<td>8x 2 bedroom dwellings</td>
<td>1 space per dwelling</td>
<td>8</td>
</tr>
<tr>
<td>Visitor</td>
<td>20x dwellings</td>
<td>1 space per 5 dwellings</td>
<td>4</td>
</tr>
<tr>
<td><strong>Total spaces required</strong></td>
<td></td>
<td></td>
<td><strong>36</strong></td>
</tr>
<tr>
<td><strong>Total spaces provided</strong></td>
<td></td>
<td></td>
<td><strong>40</strong></td>
</tr>
</tbody>
</table>

Each dwelling is provided with the required number of car parking spaces in accordance with Clause 52.06.

Council’s Traffic Engineer has reviewed the application and raised no objection subject to minor conditions, including clarification of the basement ramp gradient levels, removal of the redundant crossover and sightlines to the remaining crossing in accordance with the Australian Standard. All recommendations are included as conditions of approval.

Council’s Traffic Engineer has reviewed the submitted information and has required a number of modifications to the proposal, the majority of which have been included as recommended conditions to the permit.

In response to objector concerns regarding on-site parking and impacts to on-street parking; the number, size and location of parking spaces, accessways and crossovers complies with Bayside Planning Scheme requirements and is therefore considered to be acceptable. Details of car parking allocation has been included as a condition.

Further, the development provides 5 bicycle spaces in the basement car park, a condition has been included requiring the secure bicycle lockers to comply with AS2890.3:2015.

Council’s Traffic Engineer has also noted the proposed 1m gap between the parking bays 17, 19, 21, 23, 25 and 8.1m3 storages is not considered appropriate as the effective width of the pedestrian path to storages will further reduce when cars are parked overhanging the bay. A minimum 1.5m wide pedestrian access should be maintain, complying with relevant DDA requirements. Accordingly the width of the storages should be further reduced. It is considered this concern can be addressed through a condition requiring Storage cages K, L, M, N, Q and P reduced to a minimum size of 6 cubic metres (from 8.1 cubic metres) which achieves a separation of 1.3 metres (in lieu of 1.0 metre) between the car spaces and the storage cages. It is also considered that the provision of sliding doors as opposed to swing doors will allow more space for occupants to effectively access the storage cages and thus address this concern.

Further, the proposed development will not result in an unreasonable level of vehicular movements within the surrounding road networks and no concerns have been raised by Council’s Traffic Engineer in this regard.
6.5. Vegetation & Landscaping

Existing Vegetation

The area is well vegetated with planted trees of native and exotic provenance. Currently there are four trees within the subject site which are protected by local law. Tree 4 is a high profile tree which is highly visible from the surrounding streets. It is however in decline and has a low Useful Life Expectancy (ULE). Large sections of the canopy have died and been removed and other sections continue to die. The other three removals within the site will not impact on the street view. Council’s Arborist notes that the trees within the subject site are veteran trees which are reaching over-maturity and do not warrant imposing design constraints in order to preserve them.

The removed trees should be replaced with substantial native canopy trees in accordance with the Neighbourhood Character Precinct, F1.

<table>
<thead>
<tr>
<th></th>
<th>Protected by</th>
<th>Protected by</th>
<th>Not Protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed to be</td>
<td>VPO3</td>
<td>Local Law</td>
<td></td>
</tr>
<tr>
<td>removed</td>
<td>0</td>
<td>4</td>
<td>0</td>
</tr>
<tr>
<td>Proposed to be</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>retained</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

The Arborist’s Report by Andrew Patrick of Open Space Management, dated 30/12/2015 was checked against the existing conditions during the site inspection and Council’s Arborist is in agreement that it is unlikely that the proposed work will adversely impact upon the trees on the adjoining sites. A Tree Management Plan and Tree Protection Plan have been included as conditions of this permit to ensure construction methods facilitate the retention of this vegetation.

Proposed Landscaping

The proposed plan does not provide significant native canopy trees as prescribed by the Neighbourhood Character Precinct, F1. The proposed planting schedule/landscape plan does not provide sufficient significant native canopy trees. The hedge plantings and under plantings are generally acceptable but the Chinese elms and pear trees do not meet the Neighbourhood Character requirements for the setbacks along the road frontages. Conditions have been included as a recommendation of this report requiring the areas of hard paving to be reduced to allow for increased soil area along the Gillies Street frontage to allow for future growth of canopy trees.

Street Trees

There are a number of street tree assets in the naturestrips surround in the subject site. The proposed crossover will not have an impact on the existing street trees in Crisp Street. All street tree assets adjoining the subject site will require protection during site works and permit conditions have been included to reflect this.

6.6. Objections received

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

Demolition of the existing building

This building is not subject to any heritage designation under the Planning Scheme. Although it is acknowledged that it is a pleasant building that offers a high level of amenity, it has no statutory protection under the Planning Scheme and could be demolished without a planning permit.
Impact of vegetation removal on wildlife
Conditions requiring replacement landscaping will ensure that wildlife can be established with the site boundaries.

Disturbances during construction
A condition requiring the submission and approval of a Construction Management Plan has been included in the recommendation. Construction Management Plan’s typically contain measures to control impacts on neighbouring properties, including traffic movements, site access and dust.

Accuracy of Keen Town Planning Report
Statements in the town planning report regarding the distance to the nearest train station are not relied upon to justify the parking assessment.

Support Attachments
1. Development Plans ↓
2. Site and Surround Imagery ↓
3. Neighbourhood Character Assessment (Preceinct F1) ↓
4. Clause 55 (ResCode) Assessment ↓
Item 4.7 – Matters of Decision
**ATTACHMENT 2**

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. Objector Map. Three additional objections have been received from outside the map boundaries.

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
<tr>
<td>Objectors</td>
</tr>
</tbody>
</table>
Figure 3. View looking north-west to subject site.

Figure 4. View looking north to subject site
Figure 5. View looking north-west to 41 Crisp Street

Figure 6. View looking north with the subject site to the left of the photograph.
Figure 7. View looking north-east to Crisp Street and Gillies Street around-about.

Figure 8. View looking west to the tennis courts of the subject site. The driveway to 6 Gillies Street is to the right of the photograph.
Figure 9. View looking west toward 6 and 8 Gillies Street.

Figure 10. View looking south-west from the junction of Gillies Street and Service Street toward 36 Service Street and 8B Gillies Street.
Figure 11. View looking north to 33 Crisp Street.

Figure 12. View looking south to 36 Crisp Street.
ATTACHMENT THREE

Neighbourhood Character Precinct F1

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
 • Alterations and extensions should retain the front of these dwellings and be appropriate to the building era. | Demolition of dwellings that contribute to the valued character of the Precinct. | Although the existing dwelling at on site is an attractive building, it has no heritage designation. |
| To maintain and enhance the garden settings of the dwellings, and enhance the bayside vegetation character. | • Retain established trees and vegetation.  
 • Replace any trees removed with species that will grow to a similar height.  
 • Encourage replanting of indigenous sandbelt vegetation.  
 • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs, and indigenous coastal vegetation. | Lack of landscaping and substantial vegetation.  
 Removal of trees.  
 Planting of environmental weeds. | No trees on site are particularly worthy of retention. Suitable replacement vegetation will ensure that the garden setting of the area will be maintained. Additional planting is required beyond what has been proposed by the applicant. |
| To ensure the building setbacks reflect the existing spacious visual separation of buildings and contribute to the informality of the dwelling setting. | • Buildings should be sited to allow space for the planting of trees and shrubs.  
 • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | Loss of front garden space. | The front setback contains sufficient space to enable the planting of suitably sized trees. Conditions relating to side setbacks to Gillies Street will further ensure sufficient opportunities for the establishments of vegetation within this street setback. |
<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 loss of front garden spaces and the dominance of car parking structures.</td>
<td>- Locate garages and carports behind the line of the dwelling.</td>
<td>Car parking structures that dominate the façade or view of the dwelling.</td>
<td>In order to ensure that the perception of visual bulk is reduced to Gillies Street, a condition has been included requiring a recess in the built form at first floor level in order to ensure the built form is well articulated. The provision of underground parking ensures sufficient room is provided for car parking on site without compromising the area available to include meaningful landscaping. Landscaping conditions have been included to ensure sufficient space and soil volumes are available.</td>
</tr>
<tr>
<td>To ensure that new buildings and extensions do not dominate the streetscape.</td>
<td>- Recess second storey elements from the front façade.</td>
<td>High pitched or mansard roof forms with dormer windows.</td>
<td>The second storey component of the building is recessed from the front façade by 4 metres beyond the floor immediately below, as per the requirements of Design and Development Overlay, Schedule 12. This ensures the proposed building provides a sensitive transition to lower scale developments fronting Crisp Street and the building makes a comfortable and appropriately scaled building within the streetscape. To the Gillies Street elevation, the built form extends for appropriately 42m at ground and first floor. At second floor level, the proposal is reduced to approximately 35m. Whilst the development includes a high level of articulation with a modularised façade at ground and first floor level with a high level of glazing to the second floor level to ensure the built form largely reads as double storey and the second floor level remains subservient. Conditions relating to the size of the recess to the study area associated with Apartment 2.04 will further reduce any perception of visual bulk.</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 respect the identified heritage qualities of adjoining buildings.</td>
<td>Where adjoining an identified heritage building, respect the height, building forms, siting and materials, in the new building design.</td>
<td>Large bulky buildings with flat, poorly articulated front wall surfaces.</td>
<td>The site does not adjoin any heritage buildings.</td>
</tr>
<tr>
<td>To reflect the lightness of the streetscape created through the use of a mix of appropriate building materials and finishes.</td>
<td>Incorporate a variety of timber or other non-masonry wall materials where possible.</td>
<td>Heavy materials and design detailing (eg. Large masonry columns and piers).</td>
<td>The building makes use of stone cladding and a high level of glazing which combined with rendered elements and metal fins provide for a well-articulated building which introduces a contemporary built form which contributes to a the lightness of the streetscape.</td>
</tr>
<tr>
<td>To maintain the openness of the streetscape and views to the dwellings.</td>
<td>Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High, solid front fencing.</td>
<td>The proposed fence height exceeds the preferred height which is necessitated by the slope of the land and secluded private open spaces to Apartments G.01 and G.08 but is considered appropriate in the site context as the planter bed and offset from the site frontage softens the presentation to the streetscape.</td>
</tr>
<tr>
<td>To create a visually interesting and attractive built form interface with the foreshore reserve.</td>
<td>Articulate the form buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies, verandas, non-reflective glazing and light-transparent balustrading. Use a mix of contemporary and traditional coastal materials, textures and finishes, including render, timber, non-masonry sheeting, glazing, stone and brick. Provide articulated roof forms to create an interesting skyline when viewed from the beach.</td>
<td>Buildings that have no relationship to the foreshore setting. Poorly articulated roof and building forms. Highly reflective materials or glazing.</td>
<td>The proposed building has no interface with the foreshore.</td>
</tr>
</tbody>
</table>
### ATTACHMENT 4

**ResCode (Clause 55) Assessment**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</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. |
| **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 | Refer to ‘Strategic Justification’ section of the report for an assessment of the proposal against the relevant policy context.  
The subject site is appropriately located with regard to services and facilities to support the construction multiple dwellings on a lot of this size. |
| **B3 Dwelling Diversity**  
Encourages a range of dwelling sizes and types in developments of ten or more dwellings. | Yes | The proposal comprises 8 x two bed and 12 x three bed units. The units also provide a range of sizes and layouts including units ranging in size from 98m² an 168m². |
| **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. Council's drainage engineers have reviewed the application and raise no issues with infrastructure capacity in the area. |
| **B5 Integration with the Street**  
Integrate the layout of development with the street | Yes | The development will integrate appropriately with the street. The proposed building has a 9m front setback to Crisp Street and a staggered side setback to the western boundary with the second floor level recessed from both the front, side and rear setbacks so as to reduce the dominance of the upper level in context with the neighbouring single and double storey dwellings.  
The building has been orientated to front Crisp Street but the side elevation to Gillies Street has been appropriately articulated so as to provide a well... |
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Requirement</th>
<th>Preferred</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B6 Street Setback</strong></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>
<td>Requirement: 9m and 13m (at second floor level in accordance with DDO12)</td>
<td>Proposed: 9m and 13m at second floor level. Balconies at first floor level encroach into the front setback. See Section 6.2 of report for further discussion.</td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Building height should respect the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Preferred: 12 metres (3 storeys) as the slope of the natural ground level at any cross section wider than 8 metres is 2.5 degrees or more</td>
<td>Proposed: 10.8 metres (3 storeys) It is noted that where the basement level exceeds wall height of 1.2m there is only two additional levels above therefore the development complies with the 3 storey height limit.</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>No</td>
<td>Maximum: 60%</td>
<td>Proposed: 61.74% See Section 6.2 of report for further discussion. Conditions added to require compliance.</td>
</tr>
<tr>
<td><strong>B9 Permeability</strong></td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
<td>Minimum: &gt;20%</td>
<td>Proposed: 27.48%</td>
</tr>
<tr>
<td><strong>B10 Energy Efficiency</strong></td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>Yes</td>
<td>All habitable areas, including habitable rooms and secluded private open space areas have been located to maximise solar access and no habitable rooms rely on secondary light sources.</td>
<td></td>
</tr>
<tr>
<td><strong>B11 Open Space</strong></td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>N/A</td>
<td>There is no communal open space in or adjacent to the development.</td>
<td></td>
</tr>
<tr>
<td><strong>B12 Safety</strong></td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Yes</td>
<td>The pedestrian entry points are clearly recognisable while upper levels allow for the passive surveillance of the street.</td>
<td></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.

**Yes**
The siting of the development creates sufficient opportunities for meaningful landscaping subject to conditions relating to the setbacks. A condition of permit will require an amended landscape plan to be submitted to the satisfaction of the Responsible Authority.

See Section 6.5 of the report for further discussion.

---

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

**Yes**
An appropriate access off Crisp Street to basement parking has been provided.
Standard traffic conditions are included as permit conditions.

See Section 6.4 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 included as permit conditions.

Refer to Section 6.4 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 6.3 of the Report.

---

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>East (side)</td>
<td>0, 1m</td>
<td>2.2m, 3.0m to 4.46m</td>
<td>2.96m to the wall of bedroom 2 of Apt 1.08.</td>
<td>2.0m to the wall of bedroom 2 of Apt 1.08.</td>
<td>5.19m to dining room wall of Apt 2.04.</td>
<td>5.59m to the dining room wall and 4.2m to the balcony of Apt 2.04.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1.45m to the wall of Apt 1.05, (adjacent to 6 Gillies Street).</td>
<td>3.331m to the wall and 1.55m to the balcony of Apt 1.05.</td>
<td>3.08m to dining room wall of Apt 2.03.</td>
<td>4.72m to the dining room wall and 3m to the balcony of Apt 2.03.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2.2m to the wall of bedroom 2 of Apt 1.01.</td>
<td>5.89m to the dining room wall of Apt 2.01.</td>
<td>5.62m to the dining room wall and 3.2m to the balcony wall</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1.74m to 6.3m to the</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>West (side)</td>
<td>0, 1m</td>
<td>2.2m, 2.44m, to 8.08m</td>
<td>2.49m to bedroom 2 of Apt 1.01.</td>
<td>2.2m to bedroom 2 of Apt 1.01.</td>
<td>5.89m to the dining room wall of Apt 2.01.</td>
<td>5.62m to the dining room wall and 3.2m to the balcony wall</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1.74m to 6.3m to the</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### B18 Walls on Boundaries
Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.

<table>
<thead>
<tr>
<th>North (rear)</th>
<th>0, 1m</th>
<th>0m and 1.55m and 1.7m</th>
<th>1.36m to 1.66m</th>
<th>1.55m to 1.7m</th>
<th>3.29m to 4.09m</th>
<th>3.4m to 3.91m and 1.7m to 1.81m to the balcony wall.</th>
</tr>
</thead>
</table>

**Yes**

- **Maximum length of wall:** 14.86m
- **Proposed length of wall:** 7.67m
- **Maximum wall height:** 3.6m
- **Proposed wall height:** 2.08m
- **Maximum average wall height:** 3.2m
- **Proposed average wall height:** 2.02m

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

**Yes**

- The development has been sufficiently setback from all habitable room windows to abutting properties at 41 Crisp Street and 6 and 8 Gillies Street.
- The closest windows are located at 41 Crisp Street which has three habitable room windows offset 2.32m and 4.14m from the common boundary. The southern window, adjacent to the boundary is required to be setback 5.4m from the window. The proposal is setback 7.94m and therefore complies

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

**Yes**

- There are no north facing windows within 3m of the shared boundary.
| **B21 Overshadowing Open Space** | **Yes** | Additional overshadowing will occur to areas of secluded private open space associated with 41 Crisp Street. Due to the orientation of the site no other properties will be affected by overshadowing resulting from the proposed development. At 9am the rear north facing area of secluded private open space will be subject to the most overshadowing. The overshadowing extents beyond the existing shadows cast by the existing built form. By 10am the additional overshadowing marginally extends beyond the existing overshadowing in the rear area of secluded private open space. The driveway remains significantly overshadowed at this time. By 12 noon and onwards, no additional overshadowing results to adjoining properties. The extent of additional overshadowing will continue to provide for a minimum of 40m² of secluded private open space to 41 Crisp Street for a minimum of five hours in accordance with this standard. |
| **B22 Overlooking** | **Yes** | All habitable room windows have been screened to a minimum height 1.7 metres above finished floor level or have been sited appropriately in accordance with this Standard. |
| **B23 Internal Views** | **No** | See Section 6.3 of report for further discussion. |
| **B24 Noise Impacts** | **Yes** | It is anticipated that the level of noise which will be emitted from the dwellings will not exceed levels otherwise expected from residential uses. |
| **B25 Accessibility** | **Yes** | Entries are accessible for people with limited mobility with a wheelchair lift provided to the Crisp Street frontage. The development could be further retrofitted to accommodate people with limited mobility in the future if required. |
### B26 Dwelling Entry
Provide a sense of identity to each dwelling/residential building.

| Yes | The development front Crisp Street and includes a clearly identifiable entry with dedicated pedestrian pathway. The dwellings with secluded private open space adjoining Gillies Street benefit from a secondary, informal access. |

### B27 Daylight to New Windows
Allow adequate daylight into new habitable room windows.

| Yes | All habitable windows will open out onto a space clear to the sky or a covered external space which itself is open to the sky. |

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

| No | Minimum:
25m² secluded, 40m² overall with a minimum dimension of 3 m;
A balcony of 8m² with a minimum width of 1.6m.

**Proposed:**
Apartments G.01 and G.08 whilst being provided with the required areas of secluded private open space, the space is fragmented whereby the space to the eastern and western sides of both apartments fail to meet the minimum 25m² with a minimum dimension of 3m.

All apartments at first floor have been provided with the minimum of 8m² with a minimum dimension of 1.6m. At second floor level all apartments have been provided with a minimum of 31m² with a minimum dimension of 1.6m.

See Section 6.4 for further discussion.
<table>
<thead>
<tr>
<th>Apartment No.</th>
<th>Total Private Open Space (m²)</th>
<th>POS with minimum dimension (m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apt G.01</td>
<td>27 to side setback 19 to courtyard 56 to site frontage</td>
<td>23 to side setback 0 to courtyard 56 to site frontage</td>
</tr>
<tr>
<td>Apt G.02</td>
<td>33</td>
<td>20</td>
</tr>
<tr>
<td>Apt G.03</td>
<td>31</td>
<td>22</td>
</tr>
<tr>
<td>Apt G.04</td>
<td>100</td>
<td>83</td>
</tr>
<tr>
<td>Apt G.05</td>
<td>59</td>
<td>26</td>
</tr>
<tr>
<td>Apt G.06</td>
<td>33</td>
<td>33</td>
</tr>
<tr>
<td>Apt G.07</td>
<td>35</td>
<td>35</td>
</tr>
<tr>
<td>Apt G.08</td>
<td>29 30 to courtyard 50 to site frontage</td>
<td>15 to side setback 0 to courtyard 50 to site frontage</td>
</tr>
<tr>
<td>Apt 1.01</td>
<td>8 balcony</td>
<td>8 balcony</td>
</tr>
<tr>
<td>Apt 1.02</td>
<td>8 balcony</td>
<td>8 balcony</td>
</tr>
<tr>
<td>Apt 1.03</td>
<td>8 balcony</td>
<td>8 balcony</td>
</tr>
<tr>
<td>Apt 1.04</td>
<td>8 balcony</td>
<td>8 balcony</td>
</tr>
<tr>
<td>Apt 1.05</td>
<td>8 balcony</td>
<td>8 balcony</td>
</tr>
<tr>
<td>Apt 1.06</td>
<td>8 balcony</td>
<td>8 balcony</td>
</tr>
<tr>
<td>Apt 1.07</td>
<td>8 balcony</td>
<td>8 balcony</td>
</tr>
<tr>
<td>Apt 1.08</td>
<td>3 and 14 balcony</td>
<td>14 balcony</td>
</tr>
<tr>
<td>Apt 2.01</td>
<td>52 balcony 42 balcony</td>
<td></td>
</tr>
<tr>
<td>Apt 2.02</td>
<td>31 balcony 23 balcony</td>
<td></td>
</tr>
<tr>
<td>Apt 2.03</td>
<td>32 balcony 26 balcony</td>
<td></td>
</tr>
<tr>
<td>Apt 2.04</td>
<td>52 balcony 42 balcony</td>
<td></td>
</tr>
</tbody>
</table>

**B29 Solar Access to Open Space**

Allow solar access into the secluded private open space of new dwellings/buildings.

**Yes**

As per the above Standard it is acknowledged that the areas of secluded private open space to the east and west setbacks of Apartments G.08 and G.01 respectively are marginally non-compliant with Standard B28 and there is a reliance on the area within the front setback to supplement this. The southern boundary of this area of secluded private open space is offset in excess of 5.15m from any wall to the north of the space and is therefore deemed compliant.

**B30 Storage**

Provide adequate storage facilities for each dwelling.

**Yes**

Designated storage areas are provided within the basement and have a minimum area of 6 cubic metres.

**B31 Design Detail**

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

**Yes**

Refer to Section 6.2 of the report for further discussion.
### B32 Front Fences
Encourage front fence design that respects the existing or preferred neighbourhood character.

<table>
<thead>
<tr>
<th></th>
<th>No</th>
<th>See Section 6.3 of the report for further discussion.</th>
</tr>
</thead>
</table>

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

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No areas of common property are proposed.</th>
</tr>
</thead>
</table>

### B34 Site Services
Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.
Avoid future management difficulties in common ownership areas.

| | Yes | All appropriate site services can be easily catered for on-site. Mails boxes are shown to adjoin the pedestrian entry with waste provisions being provided within the basement level. A condition has been included requiring the location of solar hot water systems and air conditioning units to be located away from |
1. **Purpose and background**

   To report a planning permit application for the construction of two double storey dwellings with basement parking on a lot with an area of 1,590 square metres (refer Attachment 1) at 12 North Road, Brighton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Adapt Architecture</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>28 December 2016 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>27 February 2017</td>
</tr>
</tbody>
</table>

2. **Policy implications**

   **Planning permit requirements**
   - Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two dwellings on a lot.
   - Clause 43.02-2 (Design and Development Overlay Schedule 1) - Buildings and works.
   - Clause 44.05-1 (Special Building Overlay) – Buildings and works.

   **Planning scheme amendments**

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

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

3. **Stakeholder Consultation**

   **External referrals**

   In accordance with Clause 66 of the Bayside Planning Scheme, the application was referred to the following authorities:

<table>
<thead>
<tr>
<th>External Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Melbourne Water</td>
<td>No objection subject to conditions.</td>
</tr>
</tbody>
</table>
Internal referrals

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>Raised concern with the loss of on-street parking.</td>
</tr>
<tr>
<td>Drainage Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Street Trees 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 five objections were received. The following concerns were raised:

- Inconsistent with Neighbourhood Character,
- Non-compliance with Rescode, including setbacks,
- Overlooking,
- Damage to existing properties during construction, and
- Inadequate waste management.

Consultation meeting

A consultation meeting was held on 17 January 2017, attended by a Council officer, the applicant and two objectors. Subsequently, the objectors were notified pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 of an amendment to the application, with changes to the proposal as follows:

- Increased front and side setbacks
- Reduction of wall height on side boundaries

No objections were however withdrawn.

4. Recommendation

That Council:

Issues a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning Application 2016/429/1** for the land known and described as **12 North Road, Brighton** for the **construction of two double storey dwellings with basement parking** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the submitted plans date-stamped 28 December 2016, but modified to show:
   a) A longitudinal section of the ramp to the basement to show all AHD levels, grades and length of grades and headroom of 2.2 metres.
   b) Water sensitive urban design measures in accordance with Condition 6 of this permit.
c) A Landscaping Plan in accordance with Condition 9 of this permit.
d) A Tree Management and Protection Plan in accordance with Condition 12 of this permit.
e) Changes as required by Melbourne Water conditions 18-30 of this permit.

All to the satisfaction of the Responsible Authority.

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

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

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

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

6. 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.

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

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

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

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

e) Details of surface finishes of pathways and driveways

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

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

12. Prior to the endorsement of plans pursuant to Condition 1, including any related demolition or removal of vegetation, a Tree Management Plan (report) and Tree Protection Plan (drawing), to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority.

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

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

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

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

c) Details of a Tree Protection Fence for the two street trees Ulmus xhollandica fronting the property to include the following:

- Fencing is to be secured prior to demolition and maintained until all site works are complete.
- Fencing must be installed to comply with AS 4970–2009, Protection of trees on development sites.
- Fencing should encompass the Tree Protection Zone (TPZ) for all street trees adjacent to the development.
- Fencing is to be constructed and secured so its positioning cannot be modified by site workers.
- 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.

d) Root pruning within the TPZ
Prior to soil excavation for a Council-approved crossover within the TPZ, a trench must be excavated along the line of the crossover adjacent to the tree using root-sensitive, non-destructive techniques.

All roots that will be affected must be correctly pruned.

e) Installation of utility services within the TPZ

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

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

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

15. Soil excavation must not occur within three (3) metres from the edge of the eastern Ulmus x hollandica street tree asset's stem at ground level.

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

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

Melbourne Water Conditions

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

19. No buildings or works may be undertaken within 3 metres between the eastern and western title boundaries, to allow flows to pass around the building within the title boundaries. This setback should be set at natural surface level and be free from obstruction such as raise garden beds.

20. The dwellings must be constructed with finished floor levels set no lower than 3.6 metres to Australian Height Datum, which is 300mm above the applicable flood level of 3.3m AHD.

21. A bund wall must be constructed along the driveway to a minimum height of 3.45 metres to the Australian Height Datum, which is 300mm above the applicable flood level of 3.15m AHD, to prevent flood water from entering the basement level.

22. The entry / exit driveways of the basement car park must be set no lower than 3.6m AHD, which is 300mm above the applicable flood level of 3.15m AHD.

23. All other doors, windows, vents and openings to the basement car park must be set no lower than 3.6m AHD, which is 300mm above the applicable flood level of 3.3m AHD.

24. Flood resistant materials must be used for the construction of floor levels and walls below the applicable flood level for the proposed basement.

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

26. Any new lift must be programmed at all times to stop at the level of the ground floor as a precautionary measure to ensure the safety of users, and should include
cut out mechanisms, alarms, and inspection and maintenance regimes to ensure compliance during emergency events.

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

28. Any new fencing below the applicable flood level must be of an open style (50%) or timber paling construction type, to allow for the passage of flood water/overland flow.

29. All open space within the property, outside of the building envelope, below the applicable flood level must be set at the existing natural surface level so as not to obstruct the passage of overland flows, and no retaining walls are to be used within the setback areas along the title boundaries.

30. Imported fill must be kept to a minimum on the property below the applicable flood level and must only be used for the sub floor areas of the dwellings and driveway ramps.

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

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

Permit Notes
- A permit must be obtained from Council for all vehicular crossings.
- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- Council records indicate that there is a 1.22m wide drainage easement along the western property boundary and a 1.83m wide drainage easement along the southern property 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.

Melbourne Water Note
- The estimated flood level for the property grades from 3.3 metres to Australian Height Datum (AHD) at the southern title boundary down to 3.0 metres to AHD at the northern title boundary. These flood levels are based on a 100 year Average Recurrence Interval (ARI) storm. This is a storm that has a probability of occurrence of 1% in any one year.
- If further information is required in relation to Melbourne Water’s conditions, please contact the land Development Team on 9679 7517 quoting Melbourne Water’s reference 273535.
• For the purpose of the Building Code of Australia – Building in Flood Hazard Areas, Melbourne Water has determine that during a flood event that has a probability of occurrence of 1% in any one years, the maximum flow rate of flood water (velocity) will be below 1.5 metres per second.

5. Council Policy

Council Plan 2013-2017

Relevant strategies of the Council plan include:

• 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.

• 3.1.3 Advocating Council’s planning and urban design objectives.

Bayside Planning Scheme

• Clause 11 Settlement
• Clause 12 Environmental and Landscape Values
• Clause 15 Built Environment and Heritage
• Clause 16 Housing
• Clause 21.02 Bayside Key Issues and Strategic Vision
• Clause 21.03 Settlement and Housing
• Clause 21.04 Environmental and Landscape Values
• Clause 21.06 Built Environment and Heritage
• Clause 22.0 Neighbourhood Character Policy
• Clause 22.08 Water Sensitive Urban Design
• Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
• Clause 43.02 Design and Development Overlay (Schedule 1)
• Clause 44.05 Special Building Overlay
• Clause 52.06 Car Parking
• Clause 55 Two or more dwellings on a lot
• Clause 65 Decision Guidelines

6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct C1 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

In particular, the proposal is considered to maintain the rhythm of front boundary setbacks in North Street and the appearance of spaciousness and visual separation between buildings. Basement parking is provided for each dwelling and the proposal is sufficiently setback from the street to accommodate planting to soften the proposal in the
streetscape. The contemporary design and varied palette of materials are considered to complement the preferred character of the area.

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

An assessment against the requirements of Clause 55 is provided at Attachment 4. The proposal complies with the objectives and standards of Clause 55 (Rescode).

6.3. **Car parking and traffic**

Each dwelling is provided with four car spaces, which exceeds the requirements of Clause 52.06 and will allow for visitor parking on the site. The level of increased traffic generated by the provision of one additional dwelling will not adversely impact the local road network.

It should be noted that Council’s Traffic Engineer has objected to the proposal on the grounds of the loss of two on-street parking spaces in an area where parking is at a premium. The preference is that the existing access point to the site be utilised to provide a common car park for both dwellings. Whilst the loss of two on-street parking spaces is regrettable, there are no parking restrictions along this part of North Road and as such does not provide sufficient grounds on which to refuse the application. It is noted that the proposal includes two additional spaces to accommodate more car parking on site, reducing reliance on on-street parking.

6.4. **Vegetation & Landscaping**

From an arboriculture perspective Council’s Arborist has reviewed the application, the submitted Arborist report, visited the site and advises that:

- The existing trees on the site have low retention values and their removal is acceptable if replaced with suitable canopy trees.
- The amended design response will allow neighbouring trees to remain viable and this is satisfactorily demonstrated in the arboricultural impact assessment section of the Arborist’s report.
- The tree protection planning advice provided in the Arborist’s report is not satisfactory and has not considered the reality of constructing the proposed dwellings (See Figure 13, expert from Tree protection zone setup, p.24, Homewood, 23/12/2016, below). It is considered that ground protection would be more appropriate than fencing. This is included as a condition in the recommendation.
- If the fencing for tree #3 is placed in the location shown on the Tree protection zone setup it will not be possible to construct the ensuite and bedroom 2 of townhouse 1. As stated above, ground protection is considered more appropriate in this instance. This is included as a condition in the recommendation.
- The proposed location of fencing to protect trees #4, 5 and 6 is not practicable and will curtail construction. The use of ground protection in these locations is an obvious alternative to fencing.

Council’s Arborist has reviewed the plans and recommended that a Tree Management Plan is prepared by the applicant to demonstrate to the satisfaction of the Responsible Authority that all trees on neighbouring properties, which have any part of their Tree Protection Zone within the subject site, will remain viable post-construction. This is recommended as a condition of approval.

6.5. **Street Trees**

Council’s Open Space Arborist has reviewed the application and advises that there are two Ulmus xhollandica (Dutch Elm) street tree assets fronting the property. The eastern
crossover will be over 6 metres away from the trunk of the closest street trees and the western crossover will be over 3.4 metres away from both street trees. Conditions are recommended to ensure that these tree will not be impacted upon by the proposed development.

6.6. Objections received

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

Non-compliance with Rescode

The amended plans submitted have addressed all non-compliant aspects and show the proposal to be fully compliant with Clause 55 of the Bayside Planning Scheme. This includes setbacks and overlooking.

Risks of Demolition

A building permit will be required to demolish the existing house. Consideration of the potential risk in demolition, including of Asbestos, will be considered in this process. Such matters are outside the remit of a planning assessment.

Inadequate waste management

The proposal is for two new dwellings on the site, resulting in a net increase of one dwelling. Both properties will be subject to Council waste collections and sufficient space is shown within each dwelling for bin storage.

Support Attachments

1. Development plans
2. Site imagery and surrounds
3. Neighbourhood Character Assessment Precinct C1
4. Clause 55 (ResCode) Assessment
Item 4.8 – Matters of Decision
Item 4.8 – Matters of Decision
Item 4.8 – Matters of Decision
Figure 1 Aerial overview of the site and surrounds

**Legend**

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

Subject site indicated by a star (*)
Objector(s) indicated by a red circle (○)
Figure 2 View towards the site from the north
ATTACHMENT 3
Neighbourhood Character Precinct C1

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.</td>
<td>• Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development. • Alterations and extensions should retain the front of these dwellings.</td>
<td>Demolition of dwellings that contribute to the valued character of the Precinct.</td>
<td>The existing single-storey dwelling is not protected by any statutory instrument. It is a building of no particular architectural merit and makes little contribution to the Precinct.</td>
</tr>
<tr>
<td>To maintain and enhance the spacious 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.</td>
<td>The development provides adequate space for landscaping and vegetation and meets the site coverage requirement specified in Clause 55. A landscaping condition is recommended to ensure appropriate levels of landscaping.</td>
</tr>
<tr>
<td>To enhance the bayside vegetation character of the area.</td>
<td>• Retain large trees and established native and traditional coastal vegetation and provide for the planting of new indigenous coastal trees where possible.</td>
<td>Removal of large native and coastal trees. Planting of environmental weeds.</td>
<td>Council’s Arborist has advised that the existing trees on the site have low retention levels and do not make any significant contribution to the vegetation character.</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
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</tbody>
</table>
| 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. |                                                                                                                                        | The proposed dwellings will be set back within the site, in compliance with Clause 55 requirements and provide for sufficient planting in the front gardens of both dwellings.                                                                                                                                                                                                 |
| To minimise the dominance of car parking facilities, driveways and crossovers. | - Locate garages and car ports at or behind the line of the dwelling.  
- Minimise hard paving in front yards.  
- Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space. | Car parking facilities that dominate the facade or view of the dwelling. Loss of front garden space.                                        | Both dwellings will have basement car parking, with dwelling 1 utilising the existing crossover and a new crossover being created for dwelling 2. Sufficient setbacks are proposed for both dwellings.                                                                                                                                                                                                 |
| To ensure that new buildings and extensions do not dominate the streetscape. | - Recess upper level elements from the front façade.                                                                                                     | High pitched roof forms with dormer windows.                                                                                           | The first floor balconies will slightly overhang the ground floor of the proposed dwellings, however they will be setback 1 excess of 6.7 metres from the frontage in line with adjacent properties and will not dominate the streetscape.                                                                                                                                                                                                 |
| To respect the identified heritage qualities of adjoining buildings.      | - Where adjoining an identified heritage building, respect the height, building forms, siting and materials, of the heritage building/s in the new building design. | Buildings that dominate heritage buildings by height, siting or massing.                                                              | The streetscape of North Road between the foreshore and railway has a heritage overlay where tree controls apply. Conditions will ensure that the proposed development will have no adverse impact on the street trees to the front of the subject site. In terms of the design of the dwellings, they are of a contemporary style which is not considered to have any adverse impact on the heritage streetscape.                                                                 |
| To encourage the use of a variety of building materials, finishes and design detail that complement the coastal setting | - Use a mix of materials including timber or other non-masonry wall materials in building design.  
- Use simple building details and articulate roof forms. | Large, poorly articulated external wall surfaces of one material only. Heavy materials and design detailing (eg.                         | A varied pallet of materials of materials is proposed, with large areas of glazing, complemented by light coloured cement render and a darker colorbond roof. The design is contemporary with good articulation.                                                                                                                                                                                                 |

Item 4.8 – Matters of Decision
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>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>The proposed fencing is a combination of louvre style and open fencing interspersed with small areas of solid render.</td>
</tr>
<tr>
<td>To create a visually interesting and attractive built form interface with</td>
<td>• Articulate the form of buildings and elements, particularly front facades, and</td>
<td>Buildings that have no relationship to the foreshore setting. Poorly</td>
<td>The proposed dwellings are contemporary in design with good articulation both in terms of the building massing and use of materials. The proposal is of a high quality design which will complement the foreshore setting.</td>
</tr>
<tr>
<td>the foreshore reserve, on properties fronting the reserve and visible from</td>
<td>include elements that lighten the building form such as balconies, verandahs,</td>
<td>articulated roof and building forms. Highly reflective materials or</td>
<td></td>
</tr>
<tr>
<td>the reserve.</td>
<td>non-reflective glazing and light transparent balustrading.</td>
<td>glazing. Blanks walls facing the foreshore. Lack of distinction</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Use a mix of contemporary and traditional coastal materials, textures and</td>
<td>between public and private spaces along the foreshore.</td>
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<td>finishes, including render, timber, non-masonry sheeting, glazing, stone and</td>
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<tr>
<td></td>
<td>brick.</td>
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<tr>
<td></td>
<td>• Provide a fence or landscaping treatment to delineate the property boundary</td>
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<tr>
<td></td>
<td>fronting the foreshore reserve.</td>
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<tr>
<td></td>
<td>• Provide articulated roof forms to create an interesting skyline when viewed</td>
<td></td>
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<td></td>
<td>from the beach.</td>
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</tbody>
</table>
### ATTACHMENT 4

**BAYSIDE PLANNING SCHEME – CLAUSE 55**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Complies – see Attachment 3 of report.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support two dwellings.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly identifiable from the streetscape, are framed by a feature brick frame and Dwelling 1 has a dedicated pedestrian access path.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| **B6 Street Setback** | Yes | Required - 6.08m  
Dwelling 1 Proposed: 8.08m to guest house  
Dwelling 2 Proposed: 8.56m to Guest bed |
|-----------------------|-----|------------------------------------------------------|
| **B7 Building Height** | Yes | Required – 8m  
Dwelling 1 Proposed: 7.5m  
Dwelling 2 Proposed: 7.6m  
See report for assessment. |
| **B8 Site Coverage** | Yes | Required – 50%  
Proposed: 47.6% |
| **B9 Permeability** | Yes | Minimum: 20%  
Proposed: 32.1% |
| **B10 Energy Efficiency** | Yes | The proposal provides appropriate solar access to the dwellings. |
| **B11 Open Space** | N/A | |
| **B12 Safety** | Yes | The proposal provides clear legibility and access to the dwellings from the street. |
| **B13 Landscaping** | Yes | This will be secured via a condition. Refer to report. |
Development that maintains and enhances habitat for plants and animals in locations of habitat importance.
The retention of mature vegetation on the site.

**Item 4.8 – Matters of Decision**

**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. Refer to report.

**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. Refer to report.

**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.

Yes

See table below.

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Ground Floor</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>east (side)</td>
<td>0m or 2m</td>
<td>Unit 1: 2.27m - 2.43m</td>
<td>1.99m – 2.65m</td>
<td>4.019m – 4.79m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Unit 2: n/a</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>west (side)</td>
<td>0m or 2m</td>
<td>Unit 1: n/a</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Unit 2: 2.23m – 2.4m</td>
<td>1.96m – 2.81m</td>
<td>4.02m – 4.79m</td>
</tr>
<tr>
<td>South-west (rear)</td>
<td>3m</td>
<td>Unit 1: 24m</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Unit 2: 23m</td>
<td>2.2m</td>
<td>23.40m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Pool pavilions for both dwellings are set over 3m away from the boundary.</td>
<td>Unit 2: 22.2m</td>
<td></td>
</tr>
</tbody>
</table>

**B18 Walls on Boundaries**
Yes

A 3.5m high wall will run along the shared
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.8</td>
<td>Matters of Decision</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</td>
<td></td>
<td>boundary between the proposed two dwellings where the alfresco areas are but will be constructed as one.</td>
</tr>
<tr>
<td>B19 Daylight to Existing Windows</td>
<td>Allow adequate daylight into existing habitable room windows.</td>
<td>Yes</td>
<td>The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained.</td>
</tr>
<tr>
<td>B20 North Facing Windows</td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td>Yes</td>
<td>The only north facing existing habitable windows that could be impacted are at 8 Chatsworth Avenue. The separation distance between this property and the proposed dwellings is over 50m.</td>
</tr>
<tr>
<td>B21 Overshadowing Open Space</td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September.</td>
</tr>
<tr>
<td>B22 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>Yes</td>
<td>Boundary fencing along the eastern, western and southern boundaries will prevent overlooking at ground floor level. Privacy screen louvres, obscure glazing and separation distances ensure there will be no overlooking at first floor level.</td>
</tr>
<tr>
<td>B23 Internal Views</td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>Yes</td>
<td>Vertical louvre screening and privacy screens will prevent mutual overlooking between the two proposed dwellings.</td>
</tr>
<tr>
<td>B24 Noise Impacts</td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
<td>Entries are easily accessible for people with limited mobility. The development also includes lifts for both dwellings and could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling.</td>
<td>Yes</td>
<td>The entries to both dwellings are easily identifiable from the street.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
<td>Details</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
<td>---------</td>
</tr>
<tr>
<td>B27</td>
<td>Daylight to New Windows</td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td>B28</td>
<td>Private Open Space</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall. Proposed: Dwelling 1: 127.9m² secluded, 295.6m² overall. Dwelling 2: 116.4m² secluded, 284.6m² overall.</td>
</tr>
<tr>
<td>B29</td>
<td>Solar Access to Open Space</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>B30</td>
<td>Storage</td>
<td>Yes</td>
<td>Sufficient storage space has been provided in the basement area.</td>
</tr>
<tr>
<td>B31</td>
<td>Design Detail</td>
<td>Yes</td>
<td>Refer Attachment 1.</td>
</tr>
<tr>
<td>B32</td>
<td>Front Fences</td>
<td>Yes</td>
<td>Required: A front fence within 3 metres of a street should not exceed 1.2 metres in ‘other streets’ Proposed: A 2m high render and louvre fence is proposed along the front boundary. This will be setback over 16m from the road.</td>
</tr>
<tr>
<td>B33</td>
<td>Common Property</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>B34</td>
<td>Site Services</td>
<td>Yes</td>
<td>Plans show mailboxes, meters and bin storage. Need condition to require provision of washing lines.</td>
</tr>
</tbody>
</table>
1. Purpose and background

To report a planning permit application for the construction of two double storey dwellings on a lot with an area of 809m square metres (refer Attachment 1) at 71 Tibrockney Street, Highett (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Mr Taranto, Three Above</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>10 November 2016 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>2 January 2016</td>
</tr>
</tbody>
</table>

2. Policy implications

Planning permit requirements

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

Planning scheme amendments

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

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

3. Stakeholder Consultation

External referrals

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

Internal referrals

The application was referred to the following Council departments for comment:
<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Open Space Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

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

- Privacy
- Security risk during construction
- Demolition of fence and garage wall on property boundary will require alternative mounting of clothesline
- Impact on plantings on neighbouring property
- Asbestos exposure
- High density development
- Loss of peace and quite
- Overshadowing
- Pollution
- Crime rates
- Stress on community services

Consultation meeting
The applicant declined a consultation meeting. It is understood the applicant consulted with an objector directly; however no objections were withdrawn.

4. Recommendation
That Council:

Issues a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of Planning Application 2016/500/1 for the land known and described as **71 Tibrockney Street, Highett**, for the **construction of two double storey dwellings on a lot** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans date stamped 19 September 2016 and 2 November 2016 but modified to show:
   a) Western and southern boundary fence raised in height to provide an effectively visual screen to a minimum of 1.8 metres in height from natural ground level.
   b) All first floor side facing windows that are annotated as obscure glazed, also
be fixed to 1.7 metres above finished floor level.

c) Details of the solar hot water units on roof, including type and projection from roof.

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

e) A secure storage area with 6 cubic metre capacity in the rear private open space of each dwelling.

f) Driveway to dwelling one to be 3 metres in width where it meets the footpath and offset from the northern property boundary by 1 metre.

g) Crossover to dwelling two to be 3 metres in width where it meets the footpath and offset from the southern property boundary by 1.8 metres.

h) Crossover to dwelling two to be setback a minimum of 2.5 metres from the Lophostemon confertus (Brush Box) street tree stem at ground level.

i) Garage to dwelling two to have an entrance with a minimum width of 3 metres.

j) What impact, if any the proposed vehicle crossing will have Council assets such as pits and trees, power poles etc. Such items must be accurately shown on the plan.

k) An amended landscape plan in accordance with Condition 10 of this permit.

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

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

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

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

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

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

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

10. Prior to the endorsement of plans pursuant to condition 1, an amended landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Zenith Concepts and dated September 2016 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) Both Crepe Myrtles (*Lagerstroemia indica*) omitted for one canopy tree in the front setback of each dwelling capable of reaching a height and spread of 10 and 6 metres respectively at maturity.

b) A canopy tree in the rear yard of each dwelling capable of reaching a height and spread of 8 and 4 metres respectively at maturity

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

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

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

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

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

16. Council records indicate that there are two 1.83m wide drainage and sewerage easements. One is along the western property boundary and the other is along the southern property 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.

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

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

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

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

**Permit notes**

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- The applicant is to bear the cost to reinstate/relocate the Council assets to provide the required access to the proposed development.

### 5. Council Policy

**Council Plan 2013-2017**

Relevant strategies of the Council plan include:

- **3.1.1** Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.
- **3.1.3** Advocating Council’s planning and urban design objectives.

**Bayside Planning Scheme**

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

### 6. Considerations

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

#### 6.1. Neighbourhood character

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

The proposal is considered to achieve a sense of visual separation and would maintain the rhythm of visual separation in the street. While the proposed landscape plan does not include a sufficient level of trees and vegetation across the site, conditions of approval are recommended for two canopy trees in the front setback and two in the rear setback of the development site. This will ensure the proposal respects and enhances the landscape character of the neighbourhood.

The proposal employs a range of materials and projecting/ recessed elements that would separate the mass of the front façade and provide interest in the street scene. The proposal features pitched roofs and a combination of eaves and parapets. The proposal is considered to be a well resolved and articulated design response and would maintain the openness of the streetscape.

6.2. Compliance with Clause 55 (ResCode)

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

Side and Rear Setbacks (Standard B17)

<table>
<thead>
<tr>
<th></th>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (side)</td>
<td>0m or 2m</td>
<td>0m, 2m, 2.9m</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 2m</td>
<td>2m</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>West (rear)</td>
<td>0m or 3m</td>
<td>3.715m</td>
</tr>
</tbody>
</table>

The proposal would vary the side setbacks at first floor in relation to the northern and southern boundaries. 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 first floor side setback variations of dwelling one vary from 190mm to 480mm. The largest variation relates to bedroom three. The proposed variations are adjacent to the garage on the boundary wall of No.3/222 Hightett Road and a number of non-habitable room windows at No.2/220 Hightett Road. Bedroom four and the first floor retreat of dwelling one, which are adjacent to a habitable room window at No.2/220 Hightett Road, would be in excess of 700mm within the setback standard.

The first floor side setback variations of dwelling two vary from 100mm to 400mm. The largest variation varies the setback standard by 400mm would be directly to the north of the windows to bedroom one at No.69 Tibrockney Street. Bedroom one at No.69 is single aspect and would be unreasonably impacted by the proposal. A condition of approval to require bedroom three to be setback an additional 200mm is recommended to address this amenity impact. The staircase for dwelling two would also vary the setback standards; however it would only be partly adjacent to the
living and dining room at No.69 Tibrockney Street which is both dual aspect and setback in excess of 3.3 metres from the northern boundary. The remainder of the first floor of dwelling two would achieve the setback standards.

The first floor side setbacks to dwelling one and two would exceed the setback from the northern boundary of No.69 Tibrockney Street and would contribute to a regular rhythm of the streetscape at this end of Tibrockney Street. Given all the above, subject to an increased setback as recommended, the proposal is considered to respect the existing and preferred neighbourhood character and would limit amenity impacts on neighbouring properties. The proposal is considered to achieve the objective of the standard.

Walls on Boundaries (Standard B18)

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum height</td>
<td>3.6m</td>
<td>3.6m</td>
</tr>
<tr>
<td>Average height</td>
<td>3.2m</td>
<td>3.6m</td>
</tr>
<tr>
<td>Maximum length</td>
<td>18.525m</td>
<td>6.5m</td>
</tr>
</tbody>
</table>

The double garage to dwelling one would vary the average height control on the northern boundary. The objective of this standard is to ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

The proposed garage to dwelling one would adjoin a garage at No.3/222 Highett Road for its entire length. As such the additional 400mm in average height would not impact on the amenity of any neighbouring property. The additional height would be visible from the street above the adjoining garage; however it is not considered to detract from the existing or preferred neighbourhood character of the precinct. Given the above, the proposal is considered to achieve the objective of this standard.

Overlooking (Standard B22)

The western and southern property boundary fences are proposed as 1.5 and 1.7 metres in height respectively. The ground floor level would not be higher than 800mm above natural ground level. A condition of approval is recommended for the western and southern boundary fence to be a minimum of 1.8 metres in height in accordance with the standard.

A number of the first floor windows to the northern and south elevations are annotated as featuring obscure glazing to 1.7 metres above finished floor level; however the windows are indicated to open below this level. A condition of approval is recommended to require these windows which serve habitable rooms to also be fixed to 1.7 metres in height in accordance with the standard.

An objector has raised a concern with overlooking from the windows serving the staircase for dwelling 1. It is noted the side facing windows which serve the staircases of both dwellings are not screened. It is noted Standard B22 relates to habitable room windows only. The staircases are adjacent to a first floor retreat in both dwellings; however the space around the landing of the staircase is considered to be a transition space rather than as habitable floor space that would generate overlooking impacts.
6.3. **Car parking and traffic**

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

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

6.4. **Street tree**

Council’s Open Space Arborist has reviewed the application and advises there is a *Lophostemon confertus* (Brush Box) street tree fronting the property. The Open Space Arborist advises the location of the proposed vehicle crossing will not impact the tree’s health and stability provided a setback of 2.5 metres can be achieved. The site plan submitted in support of the application locates the street tree 7.6 metres from the southern boundary of the property. As such a 2.5 metre setback can be achieved with the setback of the crossover from the southern boundary as requested by Council’s Traffic Engineers. A condition of approval is recommended to reflect the Council’s Open Space Arborist’s advice.

6.5. **Vegetation & Landscaping**

From an arboricultural perspective Council’s Arborist has reviewed the application and visited the site. Vegetation species proposed for removal on site include Pittosporum, Photinia, Privet and Citrus. Given the small size of the existing vegetation, its removal is considered acceptable subject to suitable replacement planting including canopy trees.

Council’s Arborist has requested amendments to the proposed landscape plan, including the omission of the Crepe Myrtles (*Lagerstroemia indica*) in the front setback of each dwelling for one canopy tree capable of reaching 10 metres in height and 6 metres in spread at maturity. Council’s Arborist has also requested a canopy tree in the rear yard of each dwelling capable of reaching a height of 8 metres and a spread of 4 metres at maturity. Conditions of approval are recommended for all of the above.

Council’s Arborist has advised there are no trees on neighbouring properties that would be adversely impacted by the proposal.

6.6. **Objections received**

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

**Security Risk and Crime Rates**

Short term security risk during construction and long term crime rates associated with the proposal are not planning considerations material to this assessment. In particular, the proposal to construct two dwellings on a lot is not considered to increase potential crime rates in the area.

**Mounting of clothesline**

The mounting of the neighbours clothesline on the boundary wall of an existing garage is a civil matter between the two property owners.

**Asbestos removal**

The demolition and removal of the existing buildings does not require a planning permit and as such is beyond the scope of this assessment; however the demolition must be undertaken by registered practitioners in accordance with work safe guidelines and the relevant Australian standard.
Pollution

The potential to increase pollution in the area is not a material planning consideration in this assessment.

Support Attachments

1. Development plans
2. Site surrounds and imagery
3. Neighbour Character Assessment (Precinct G1)
4. Clause 55 (ResCode) Assessment
Item 4.9 – Matters of Decision
Item 4.9 – Matters of Decision
Item 4.9 – Matters of Decision
Item 4.9 – Matters of Decision

Proposed Shadows – 9am Sept 22nd

1:200
Existing Shadows - 12pm Sept 22nd
Item 4.9 – Matters of Decision
Bayside City Council
Planning & Amenity Committee Meeting - 18 April 2017

Attachment 1

Item 4.9 – Matters of Decision

Paint Colour selection

Material Selection

1. Rendered Aerated Concrete panel walls
   Colour: Dulux Dracula
2. Rendered Aerated Concrete panel walls
   Colour: Dulux White Grey
3. Rendered Aerated Concrete panel walls
   Colour: Dulux Steppe
4. Rendered Aerated Concrete panel walls
   Colour: Dulux Steppe
5. Rendered Aerated Concrete panel walls
   Colour: Dulux Natural White
6. Expressed - Cement Board Cladding
   Colour: Dulux Steppe
7. Glossed Timber Cladding
   Colour: Dulux Steppe
8. Powder-coated finish to metal section roller door
   Colour: Bisque Dulux Steppe
9. Powder-coated finish to Aluminium Windows
   Colour: Dulux Black
10. Concrete Fig Leaf
    Colour: Charcoal

Aluminium window frames
by Alto Windows
Powder coat finish - Black

Materials & Finishes Board

Above

Rick Taranto & Ashley O'Brien
Project:
Duplex Unit Development - 71 Tibrookney Street Highland

Drawing
Materials & Finishes Board

Date
Drawn
Scale
Date
Author
Released
Revision
Project No. 1601
Drawing No. DD-16
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 from Tibrockney Street towards the site looking West

Figure 3 View of interface between subject site and No.69 Tibrockney Street (Two double storey dwellings under construction)
Figure 4 View of interface between subject site and No.3/222 Highett Road
ATTACHMENT 3
Neighbourhood Character Policy (Precinct G1)

Preferred Future Character

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain and enhance the garden settings of the dwellings. | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation.  
• Retain large, established trees and provide for the planting of new trees wherever possible.  
• Buildings should be sited to allow space for the planting of trees and shrubs. | Lack of landscaping and substantial vegetation.  
Removal of large trees.  
Planting of environmental weeds. | Responds  
The landscape plan as proposed does not include a sufficient level of substantial trees and vegetation across the site. Conditions of approval are recommended for two canopy trees in the front setback and two in the rear setback of the development site.  
No significant established trees exist at the site and the proposal provides sufficient space around the dwellings for a meaningful level of landscaping. |
| 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  
Dwelling two would be setback from the southern boundary of the site by 2 metres; however the garage associated with dwelling one would be built on the northern boundary. The proposal would adjoin the |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To ensure that new buildings provide an articulated and interesting façade to the street. | • Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.  
• Use pitched roof forms with eaves. | Large, bulky buildings with poorly articulated front and side wall surfaces. | adjacent garage at No.3/222 Highett Road.  
While the two metre setback to this boundary which would push the development to adjoin the southern boundary would be ideal from a streetscape perspective, given the easement along the southern boundary of the property, this was not possible.  
Given all the above, the proposal is considered to achieve a sense of visual separation and would maintain the rhythm of visual separation in the street. A condition of approval is recommended to increase the level of substantial planting proposed across the site. |
| To maintain the openness of the streetscape. | | High, solid front fencing. | Responds  
The proposal employs a range of materials and projecting/recessed elements that would separate the mass of the front façade and provide interest in the street scene.  
The proposal features pitched roofs and a combination of eaves and parapets. The proposal is considered to be a well resolved and articulated design response. |

Item 4.9 – Matters of Decision
## ATTACHMENT 4
### ResCode (Clause 55) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Requirement and Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer to Attachment 3.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td>Yes</td>
<td>The construction of a medium density dual lot development is supported by relevant policies for this site.</td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The construction of a medium density dual lot development is supported by relevant policies for this site.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td>Yes</td>
<td>The construction of a medium density dual lot development is supported by relevant policies for this site.</td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td>The construction of a medium density dual lot development is supported by relevant policies for this site.</td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td>N/A</td>
<td>The construction of a medium density dual lot development is supported by relevant policies for this site.</td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>The construction of a medium density dual lot development is supported by relevant policies for this site.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td>Yes</td>
<td>The construction of a medium density dual lot development is supported by relevant policies for this site.</td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The construction of a medium density dual lot development is supported by relevant policies for this site.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street</td>
<td>Yes</td>
<td>The construction of a medium density dual lot development is supported by relevant policies for this site.</td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>Required: 7.495m Proposed: 8.315m</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td>Yes</td>
<td>Required: 7.495m Proposed: 8.315m</td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Yes</td>
<td>Maximum: 8m Proposed: 7.92m</td>
</tr>
<tr>
<td>Building height should respect the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Maximum: 8m Proposed: 7.92m</td>
</tr>
<tr>
<td><strong>B8 Site Coverage</strong></td>
<td>Yes</td>
<td>Maximum: 50%</td>
</tr>
<tr>
<td>Maximum: 50%</td>
<td>Yes</td>
<td>Maximum: 50%</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Proposed</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</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:</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>- Development that respects the landscape character of the neighbourhood. - Development that maintains and enhances habitat for plants and animals in locations of habitat importance. - The retention of mature vegetation on the site.</td>
<td></td>
</tr>
<tr>
<td><strong>B14 Access</strong></td>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td>No</td>
</tr>
<tr>
<td><strong>B15 Parking Location</strong></td>
<td>Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
Protect residents from vehicular noise within developments.

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

<table>
<thead>
<tr>
<th></th>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Requirement</strong></td>
<td><strong>Proposed</strong></td>
<td><strong>Requirement</strong></td>
</tr>
<tr>
<td>North (side)</td>
<td>0m or 2m</td>
<td>0m, 2m, 2.9m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3.89m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3.89m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 2m</td>
<td>2m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3.8m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3.98m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3.86m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>0m or 3m</td>
<td>3.715m</td>
</tr>
</tbody>
</table>

Refer to table below and report. Non-compliances are underlined below.

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

<table>
<thead>
<tr>
<th></th>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum Height:</strong></td>
<td>3.6m</td>
<td><strong>Proposed:</strong> 3.6m</td>
</tr>
<tr>
<td><strong>Maximum Average Height:</strong></td>
<td>3.2m</td>
<td><strong>Proposed:</strong> 3.6</td>
</tr>
<tr>
<td><strong>Maximum Length:</strong></td>
<td>18.525m</td>
<td><strong>Proposed:</strong> 6.5m</td>
</tr>
</tbody>
</table>

Refer to report

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

Yes

All setbacks are consistent with the requirements of Standard B19.

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

Yes

No windows surrounding the site are applicable to the standard.

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

Yes

Shadow diagrams submitted with the application demonstrate that at least 75% of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 December.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>B22 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>No</td>
<td>Refer to report.</td>
</tr>
<tr>
<td>B23 Internal Views</td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>Yes</td>
<td>All habitable room windows have been sited in accordance with this standard.</td>
</tr>
<tr>
<td>B24 Noise Impacts</td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
<td>The level of noise associated with the two dwellings is not anticipated to exceed that expected of a residential use.</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
<td>Both dwelling entries are accessible for people with limited mobility and could be retrofitted in the future. Both dwellings have a ground floor bedroom.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling/residential building.</td>
<td>Yes</td>
<td>Both dwelling entrances would be clearly visible from the street and are delineated by the front porches.</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>All habitable windows will open out onto a space clear to the sky.</td>
</tr>
</tbody>
</table>
| B28 Private Open Space | Provide reasonable recreation and service needs of residents by adequate private open space. | Yes | Minimum: 25m² secluded, 40m² overall  
Dwelling one: 120m²  
Dwelling two: 135m² |
| B29 Solar Access to Open Space | Allow solar access into the secluded private open space of new dwellings/buildings. | Yes | Appropriate solar access to the private open space areas is provided. |
| B30 Storage | Provide adequate storage facilities for each dwelling. | No | Addressed via condition |
| B31 Design Detail | Encourage design detail that respects the existing or preferred neighbourhood character. | Yes | Refer to Attachment 3. |
| B32 Front Fences | Encourage front fence design that respects the existing or preferred neighbourhood character. | Yes | Maximum: 1.2m  
Proposed: 1.15m |
<table>
<thead>
<tr>
<th>Item</th>
<th>B33 Common Property</th>
<th>B34 Site Services</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>N/A</td>
<td></td>
</tr>
</tbody>
</table>
4.10 39 & 39A VINCENT STREET, SANDRINGHAM
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/731/1 WARD: CENTRAL

City Planning & Community Services - File No: PSF/15/8755 – Doc No: DOC/17/30187

1. **Purpose and background**

   To report a planning permit application for the construction of four double storey dwellings across two lots with a combined area of 1,078 square metres (refer Attachment 1) at 39 and 39A Vincent Street, Sandringham (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Fredman Malina Planning Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>28 December 2016 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>20 March 2017</td>
</tr>
</tbody>
</table>

2. **Policy implications**

   **Planning permit requirements**

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

   **Planning scheme amendments**

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

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

3. **Stakeholder Consultation**

   **External referrals**

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

   **Internal referrals**

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic</td>
<td>No objection. Minor amendments requested are addressed via condition.</td>
</tr>
<tr>
<td>Arborist</td>
<td>No objection.</td>
</tr>
<tr>
<td>Street Trees</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>
Public notification
The application was advertised pursuant to Section 52(1)(a) and (d) of the Planning and Environment Act 1987 and 23 objections were received. The following concerns were raised:

- Architectural style and detailed design
- Does not response to existing or preferred future neighbourhood character
- Demolition of existing dwellings
- Overdevelopment
- Traffic and parking
- Pedestrian safety
- Street trees
- Excessive hard landscaping
- Drainage
- Visual bulk
- Street setback
- Site coverage
- Loss of existing on-site trees
- Excavation and stability of neighbouring properties
- Contrary to Design and Development Overlay 3
- Dangerous precedent
- Overshadowing of neighbouring properties
- Loss of privacy
- Noise pollution
- Walls on boundaries
- Short term construction impacts on neighbouring properties and residents
- Side boundary fencing
- Loss of views
- Asbestos removal

Consultation meeting
The applicant declined a consultation meeting.

4. Recommendation
That Council:
Issues a Notice of Decision to Grant a Permit under the provisions of Planning application 2016/731/1 for the land known and described as 39 and 39A Vincent Street, Sandringham, for the construction of four double storey dwellings across two lots 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 with date stamped 28 December 2016 but modified to show:

a) Dwelling three setback 2 metres from the western boundary of the site.

b) Street setback of Dwelling two to be increased to a minimum of 6.5 metres, with all other setbacks of Dwelling two to remain the same.

c) Adequate sight lines must be provided where the driveways intersects with footpaths in accordance with AS2890.1. Accordingly, all structures including foliage and fences within these sightlines to be a maximum height of 1 metre.

d) The clotheslines to Dwelling one and two located in the rear private open space of the two properties.

e) Locations of waste storage areas for bins.

f) Crossover to Dwelling two to be setback from the Quercus palustris (Pin Oak) fronting No.41 Vincent Street by a minimum of 2.7 metres.

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

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

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

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

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

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

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

10. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
11. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

12. Before the development starts tree protection fencing is to be established around the Quercus palustris (Pin Oak) fronting No.41 Vincent Street, the Quercus palustris (Pin Oak) fronting No.39 Vincent Street and the Callistemon sp. (Callistemon) adjacent to the Hobson Street boundary of No.39A Vincent Street prior to demolition and maintained until all works on site are complete. The fencing is to be constructed and secured so its positioning cannot be modified by site workers. The fencing is to encompass the entire naturestrip under the drip line of the tree. The Tree Protection Zone is to be established and maintained in accordance with AS 4970-2009. During construction of the crossover, tree protection fencing may be reduced to the edge of the Council approved crossover to facilitate the construction of the crossover.

13. Soil excavation must not occur within 2.8 metres of the stem at ground level of the Quercus palustris (Pin Oak) street tree asset fronting 39 Vincent Street and the Callistemon sp. (Callistemon) fronting the Hobson Street boundary of No.39A Vincent Street. Prior to soil excavation for Council approved crossovers within the Tree Protection Zones a trench must be excavated along the line of the crossover adjacent to the tree using root sensitive non-destructive techniques. All roots that will be affected must be correctly pruned. Any installation of services and drainage within the TPZ must be undertaken using root sensitive non-destructive techniques.

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

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

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

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

Permit notes

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

- The applicant is to bear the cost to remove and reinstate any street furniture or infrastructure items to provide the required access to the proposed development.

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

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

5. Council Policy
Council Plan 2013-2017

Relevant strategies of the Council plan include:

- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.
- 3.1.3 Advocating Council’s planning and urban design objectives.

Bayside Planning Scheme

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct E3 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The existing single storey post-war dwellings could be demolished without the requirement for a planning permit and therefore the removal of the existing dwellings is considered acceptable subject to a suitably designed and detailed replacement buildings. Sufficient space is maintained around the dwellings to accommodate a meaningful level of landscaping.

The proposed site presents to two street frontages with distinctive characters and rhythm. This area of Vincent Street has a regular street setback rhythm; however more recent development in the street disrupts the rhythm and regular spacing of dwellings. Dwelling two would be setback from the eastern boundary by two metres and the separation and setback of the first floor of dwellings one and two would ensure sufficient visual separation is achieved.

This end of Hobson Street has a more intimate character with a narrow roadway and comparatively small setbacks from the street. A condition of approval is recommended for a two metre setback from the western boundary for dwelling three, in addition to the visual separation of the two dwellings would ensure both the existing rhythm of space...
between buildings is not disrupted and sufficient space is provided between buildings for a meaningful level of planting.

While all four dwellings incorporate pitched roof forms and cantilevered overhangs, the first floors project out over the ground floor below. The proposed asymmetrical gable roof forms and cantilevered first floors draw on a number of elements that exist in Vincent Street and Hobson Street. The cantilevered first floors reflect the large eaves and deep portico entrances that exist at No.8A and 8B Vincent Street. While the first floors are not recessed from the lower level, there is a recurrence of first floors that are incorporated into the roof forms of dwellings, including at No.8A, 8B, 10, 10A, 37 and 45 Vincent Street and No.18A, 32 and 37 Hobson Street. As such, the proposal draws from, interprets and reflects a number of elements and emerging character in Vincent and Hobson Street.

The proposal employs brickwork to the ground floor with a mix of vertical and horizontal fixed timber weatherboards at first floor with grey FC sheet utilised in recessed portions of the design. The use of lighter building elements at first floor would both comply with this aspect of the preferred future character and would assist in minimising the weight and visual impact of the first floor on the streetscape. The proposal would open up the frontage to both streets, given a 1.8 metre timber paling fence currently presents to the entire Hobson Street frontage and a brick boundary wall to a similar height presents to the No.39 Vincent Street frontage.

The development proposes a contemporary design that interprets and reflects the existing and preferred neighbourhood character of the precinct. The proposal employs a number of design techniques, materials and finishes to provide a high level of visual interest to both Vincent Street and Hobson 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.

<table>
<thead>
<tr>
<th>Street setback (Standard B6)</th>
<th>Required (Minimum)</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vincent Street</td>
<td>9m</td>
<td>Dwelling 1: 5.575m</td>
<td>Dwelling 1: <strong>3.425m</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Dwelling 2: 5m</td>
<td>Dwelling 2: <strong>4m</strong></td>
</tr>
<tr>
<td>Hobson Street</td>
<td>9m</td>
<td>Dwelling 3: 4.5m</td>
<td>Dwelling 3: <strong>4.5m</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Dwelling 4: 4.705m</td>
<td>Dwelling 4: <strong>4.295m</strong></td>
</tr>
</tbody>
</table>

The development proposes to vary the street setback standards from Vincent Street and Hobson Street. 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 distinctive character of Vincent Street is derived in part from the narrow road way, large nature strip with mature Pin Oak street trees and generous front setbacks and vegetation. Setbacks from the street in this part of Vincent Street are reasonably consistent with No.37 and No.41 being the noticeable outliners. The setback from the eastern boundary of Dwelling two and the increased street setback to the ground floor pantry and laundry of Dwelling one would go some way ease the visual difference in street setback to the two directly adjacent properties; however the street setback of Dwelling two would appear as an incongruous element in the rhythm of the streetscape as proposed. An additional setback of two metres from the street of Dwelling two in
addition to the separation to No.41 Vincent Street would ensure the proposal fits comfortably into the Vincent Street streetscape. A condition of approval is recommended to this effect.

Hobson Street has a more intimate character than Vincent Street with narrow nature strips and relatively small street setbacks generally ranging from 3.1 metres to 5.5 metres. The 12.1 metre setback of the dwelling at No.22 Hobson Street is an anomaly in the vicinity of the site; however the existing carport at the property projects to within 4.5 metres of the street. While No.18 Hobson Street is setback 4.9 metres from the street, the adjacent ground floor ensuite of Dwelling three is setback 6.4 metres from the street and is considered to provide a transition between the two properties. In this context the proposed street setback of dwellings three and four is considered to suitably respond to the existing intimate character of Hobson Street and would achieve the objective of the street setback standard.

**Site Coverage (Standard B8)**

A site coverage of 51% is proposed which exceeds the 50% standard. The objective of the standard is to ensure that the site coverage respects the existing or preferred neighbourhood character and responds to the features of the site.

In the context of the overall size of the site, the non-complying site coverage relates to an additional 13.9m² of floor space. Given the minor nature of this non-compliance and as the development comfortably achieves the required permeability level, the proposal is considered to achieve the objective of this standard.

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

<table>
<thead>
<tr>
<th></th>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
<td>Requirement</td>
</tr>
<tr>
<td>East (side)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>0m or 2m</td>
<td>Dwelling 2 – 2m</td>
<td>Dwelling 2 – 2.84m</td>
</tr>
<tr>
<td></td>
<td>Dwelling 4 – 0m</td>
<td>Dwelling 4 – 2.93m</td>
</tr>
<tr>
<td>West (side)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>0m or 2m</td>
<td>Dwelling 1 – 0m</td>
<td>Dwelling 1 – 2.93m</td>
</tr>
<tr>
<td></td>
<td>Dwelling 3 – 0m</td>
<td>Dwelling 3 – 2.99m</td>
</tr>
</tbody>
</table>

The projecting first floor windows to dwelling one and four would not comply with the side setback standards. 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 non-compliant portions of the projecting windows would extend 1.8 metres in width and vary the standard by 330mm. The remainder of the development would comply with the side setback standards. The window associated with dwelling one is adjacent to an existing garage at No.37 Vincent Street and the window associated with dwelling four would be adjacent carport at No.22 Hobson Street. Given the minor nature of the variations and the relation to neighbouring properties, they would not impact on the amenity of any neighbouring dwelling. Given the minor scale of the variations, the proposal is considered to respect the existing and preferred neighbourhood character of the precinct. Given all of the above, the proposal is considered to achieve the objective of the standard.
Daylight to existing windows (Standard B19)

The proposed laundry, pantry and ensuite at ground floor level of dwelling three would be setback 1.2 metres from habitable windows at No.18 Hobson Street, when a setback of 1.6m is required to achieve this standard. The objective of the standard is to allow adequate daylight into existing habitable room windows.

Dwelling three would achieve the 3sqm light court with a minimum dimension of 1 metre clear to the sky required by the standard in relation to the adjacent windows; however it would not achieve a setback of half the height of the wall opposite the window. As discussed above, a condition of approval is recommended to require Dwelling three to be setback two metres from the western property boundary. If this setback is achieved, the proposal will comfortably comply with the objective and standard of this control.

Solar Access to Open Space (Standard B29)

<table>
<thead>
<tr>
<th></th>
<th>Required Depth</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling three</td>
<td>8.24m</td>
<td>5.78m</td>
<td>2.46m</td>
</tr>
<tr>
<td>Dwelling four</td>
<td>8m</td>
<td>5.78m</td>
<td>2.22m</td>
</tr>
</tbody>
</table>

The depth of the rear private open space to dwelling three and four would not achieve the standard. The objective of this standard is to allow solar access into the secluded private open space of new dwellings and residential buildings.

The required depth of the private open space noted in the table above relates to the height of the ridgeline which exacerbates the numerical variation. The shadow diagrams submitted in support of the application demonstrate that during the vernal equinox the north to south orientation of the site ensures the rear private open space of these two dwellings receives sunlight between 9am and 3pm. It is noted the private open space to the rear of the single storey elements of dwelling three and four would comfortably meet this standard. The rear private open spaces of dwelling three and four are considered to receive an acceptable level of solar access and as such the proposal is considered to achieve the objective of this control.

6.3. Car parking and traffic

Each dwelling is provided with two car spaces in accordance with Clause 52.06. Council’s Traffic Engineer has reviewed the application and raised a number of concerns with the proposal, including the proposed crossovers, basement ramp grades, parking space widths and sightlines at the property boundary. The applicant made a number of amendments to the application in response to the Traffic Engineers concerns.

The proposed crossover to dwelling three has been omitted from the application. The two crossovers to Vincent Street and the one adjacent to Dwelling four are existing. While the proposal would remove and reform the two crossovers to Vincent Street, it would not result in a reduction in street parking than currently exists. Given the number of objectors that raised concerns regarding the two car parks being provided for each dwellings, the retention of two additional at grade car parks is considered acceptable from a traffic standpoint. The impact of the at grade parks on the streetscape is assessed in Neighbourhood Character section of the report.

The basement ramp and car parking for Dwellings two, three and four were amended in line with Council’s Traffic Engineers comments. The level of increased traffic and parking demand generated by the proposed development will not adversely impact the local road network and Council’s Traffic Engineer has raised no objection in this regard. Council’s Traffic Engineers have raised no concerns regarding the single point of ingress/egress for the basement onto Vincent Street.
A number of objectors have raised concerns regarding the basement ramp and pedestrian safety. The basement ramp has been amended in line with advice from Council’s Traffic Engineer and would accord with Clause 52.06 of the Bayside Scheme. Subject to adequate sightlines, addressed via a condition of approval, the basement ramp would not compromise pedestrian safety and Council’s Traffic Engineer has raised no objection in this regard.

6.4. **Street tree removal**

Council’s Open Space Arborist has reviewed the application, inspected the site and advises the *Quercus palustris* (Pin Oak) fronting No.41 Vincent Street does not meet the criteria for removal under the Objective 5 of the *Street and Park Tree Management Policy* (2016) and must be retained. To ensure the continued health and stability of the retained *Quercus palustris* (Pin Oak) street tree asset, a 2.7 metre setback from the edge of the street tree asset’s stem at ground level is required.

Council’s Open Space Arborist advises the locations of the two crossovers adjacent to Dwelling one and four would not impact on the *Quercus palustris* (Pin Oak) street tree asset fronting 39 Vincent Street or the *Callistemon* sp. (Callistemon) fronting the Hobson Street boundary of No.39A Vincent Street, provided no soil excavation occurs within 2.8 metres of the stems at ground level. Conditions of approval are recommended which reflect the advice provided by the Open Space Arborist.

It is noted that objectors raised concerns with the proposed basement impact on the health of the *Quercus palustris* (Pin Oak) street trees located along Vincent Street. Council’s Open Space Arborist has recommended conditions of approval as detailed above to ensure the continued health and stability of these street trees.

6.5. **Vegetation & Landscaping**

Council’s Arborist has reviewed the application and visited the site, and advises there is a large *Eucalyptus botryoides* (Southern Mahogany) on site, in the south end of No.39 Vincent Street. Council’s Arborist advises the tree is in good health and displays good branch attachments; however there are five small patches of epicormics growth in the mid canopy. Epicormic growth is a stress response that generally occurs after damage. On the north side of the trunk at approximately 5 metres in height there is an old failure site. Council’s Arborist advises that good levels of wound wood response are displayed in this area; however there is also a fungal fruting body. Decay organisms generally live on dead tissue, and it may be that the decay is localised to the dead section of the old branch failure enveloped by the living tissue of the trunk. Council’s Arborist advises the existence of the decay organism provides a concern as to the long term retention of the tree, though it does not necessarily condemn it.

The site is located within Neighbourhood Character Precinct E3 and the preferred future character objectives and design responses do not seek to protect existing vegetation, but rather ensure substantial trees and shrubs can be accommodated around buildings. Given all of the above, the removal of the *Eucalyptus botryoides* is considered acceptable subject to ensuring substantial planting is provided across the site.

There is an *Arbutus unedo* (Strawberry Tree) at No.41 Vincent Street which has a SRZ and TPZ that extend into the subject site. Council’s Arborist advises the minor encroachment into the TPZ by the proposed basement would not impact on the long term health and longevity of the tree. Timber sleepers and permeable paving are also proposed in the TPZ of the tree.

6.6. **Objections received**

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.
Excessive hard landscaping
The subject sites would remain 27% permeable coverage. It is noted this comfortably achieves the Standard B9 which requires 20% of the site to remain permeable.

Drainage
Council’s Drainage Engineers have reviewed the application and requested standard conditions and permit notes. No concerns were raised regarding the ability of the stormwater and drainage network to accommodate the proposed development.

Excavation and stability of neighbouring properties
The stability of neighbouring properties during and post excavation of the proposed basement is a matter dealt with under the Building Regulations.

Contrary to Design and Development Overlay 3 (DDO3)
Pursuant to Section 2 of the DDO3, a permit is not required to construct a residential building and as such the design objectives and decision guidelines of the overlay do not relate to the proposal.

Overdevelopment/ Dangerous precedent
The construction of a medium density development of up to two dwellings per site is supported by relevant policies for the site.

Noise
An objection has been received on the basis of potential noise impacts associated with the operation of the vehicle door to the basement car park. No detail has been provided in support of the application regarding the proposed opening mechanism. The basement entry point directly adjoins a garage at No.37 Vincent Street and the garage door is not in close proximity to habitable windows at this neighbouring property.

Short term construction impacts
Short term construction impacts relating to neighbouring properties and residents, including noise, allergies and privacy during construction are not material planning considerations and cannot form part of this assessment.

Side boundary fencing
Side boundary fencing in the form of timber paling to 2 metres in height is proposed to the east and west boundaries. This exceeds the 1.8 metres required by Standard B23 of ResCode as detailed in Attachment 4.

Loss of views
The Bayside Planning Scheme does not protect the views from properties beyond ensuring sufficient sunlight and daylight is received, and protecting against unreasonable visual bulk impacts.

Asbestos removal
The demolition and removal of the existing buildings does not require a planning permit and as such is beyond the scope of this assessment; however the demolition must be undertaken by registered practitioners in accordance with work safe guidelines and the relevant Australian standard.
Support Attachments

1. Development Plans ↓
2. Site Surrounds and Imagery ↓
3. Neighbourhood Character Assessment (Precinct E3) ↓
4. Clause 55 (ResCode) Assessment ↓
Item 4.10 – Matters of Decision
Item 4.10 – Matters of Decision
Item 4.10 – Matters of Decision

Existing South Street Elevation

Existing North Street Elevation

Proposed South Street Elevation

Proposed North Street Elevation

Vincent St Units – SW View

Vincent St Units – Rear View

Hobson Street MP View

Hobson St NE View

Hobson St Units – Rear View

Advertised Plan
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

Not shown above: 27, 53A, 55 and 72 Vincent Street, 3 Collingwood Street, 32, 34, 36 and 43 Hobson Street and 4 Codrington Street.

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
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<tbody>
<tr>
<td>Subject site</td>
<td>🌟</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>🎯</td>
</tr>
</tbody>
</table>
Figure 2 View from Vincent Street towards the subject site from the south

Figure 3 View from Hobson Street towards the subject site from the North
Figure 4 View from Vincent Street of No.8A

Figure 5 View from Vincent Street of No.8B
Figure 6 View from Vincent Street of No.10 and 10A (semi-detached pair)

Figure 7 View from Vincent Street of No.43 (foreground) and 45 Vincent Street
Figure 8 View from Hobson Street of No.37 Hobson Street

Figure 9 View from Hobson Street of No.32 Hobson Street
Figure 10 View from Hobson Street of No.18A Hobson Street
ATTACHMENT 3
Neighbourhood Character Policy (Precinct E3)

Preferred Future Character

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development. • Alterations and extensions should retain the front of these dwellings and be appropriate to the building era. | Demolition of dwellings that contribute to the valued character of the Precinct. | Responds

The existing single storey post-war dwellings form a semi-detached pair. Both dwellings are relatively intact with a modern two storey extension no No.39. The dwellings are constructed in red brick with concrete roof tiles and feature simple unadorned front gables and a central red brick chimney. While the dwellings are of some merit aesthetically they are not identified in the Bayside Scheme are warranting particular heritage protection and are not on the Heritage Victoria Register. Both dwellings could be demolished without the requirement for a planning permit. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To maintain and enhance the garden settings of the dwellings.</td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs.</td>
<td>Lack of landscaping and substantial vegetation.</td>
<td>Given the above, the removal of the existing dwellings is considered acceptable subject to a suitably designed and detailed replacement buildings.</td>
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<td></td>
<td></td>
<td></td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>A landscape plan has been submitted in support of the proposal. The proposal includes the planting of four Coastal Banksia and eight Dwarf Yellow Gum. A Jacaranda mimosifolia and Eucalyptus levcoxfyan that currently exist on site adjacent to Hobson Street would be retained. The proposal is considered to include meaningful planting across the site.</td>
</tr>
<tr>
<td>To provide space for front gardens.</td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs</td>
<td>Loss of front garden space.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>As discussed above, sufficient space is maintained around the dwellings to accommodate a meaningful level of planting. The single vehicle entry to the basement has ensured a significant portion of each front garden would be landscaped. The two at grade parking spaces would be formed with recycled timber sleepers which would enable water penetration into the soil which would support the establishment of the proposed landscaping.</td>
</tr>
<tr>
<td>To maintain the rhythm of spacious visual separation between buildings.</td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The proposal site presents to two streets with distinctive characters and rhythm. This area of Vincent Street has a regular street setback rhythm; however more</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
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</table>

**Recent development in the street disrupts the rhythm and regular spacing of dwellings.** Unit two would be setback from the eastern boundary by two metres and the separation and setback of the first floor of Units one and two would ensure sufficient visual separation is achieved.

**Sufficient space around Unit one and two is considered to be provided for substantial vegetation.** The additional setback from the street for the pantry and laundry of Unit one also provides an additional opportunity for planting.

This end of Hobson Street has a more intimate character with a narrow roadway and comparatively small setbacks from the street. The built form presents a regular rhythm of space between dwellings and front gardens. The proposal would extend from boundary to boundary on Hobson Street and would be in close proximity to No.18 Hobson Street and the carport at No.22 Hobson Street. It is noted that setback and separation of Unit three and four at first floor level, clearly delineates the development as two dwellings.

**A two metre setback from the western boundary of Unit three, in addition to the visual separation of the two dwellings would ensure both the existing rhythm of space between buildings is not disrupted and sufficient space is provided between buildings for a meaningful level of planting.**
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To minimise the loss of front garden spaces and the dominance of car parking structures. | - Locate garages and carports behind the line of the dwelling.  
- Minimise paving in front garden areas including driveways and crossovers. | Car parking structures that dominate the façade or view of the dwelling.  
Front setbacks dominated by impervious surfaces. | Responds  
The basement parking entrance would be set behind the frontage of Unit one and the basement garage door would set below ground level. A planter would be located above the entrance to further soften its visual impact.  
The two at grade parking spaces proposed to Unit two and four would be formed with offset recycled timber sleepers surrounded with gravel. This would reduce the visual impact of the parking spaces and provides a softer element that concrete or paving. |
| To ensure new development respects the dominant building scale and forms within the streetscape. | - Recess upper storey elements from the front façade.  
- Incorporate pitched roof forms with eaves. | | Responds  
While all four dwellings incorporate pitched roof forms and cantilevered overhangs, the first floors project out over the ground floor below.  
The proposed asymmetrical gable roof forms and cantilevered first floors draw on a number of elements that exist in Vincent Street and Hobson Street. The cantilevered first floors reflect the large eaves and deep portico entrances that exist at No.8A and 8B Vincent Street.  
While the first floors are not recessed from the lower level, there is a recurrence of first floors that are incorporated into the roof forms of dwellings, including at No.8A, 8B, 10, 10A, 37 and 45 Vincent Street and No.18A, 32 and 37 Hobson Street. As such, the proposal draws from, interprets and |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To use lighter looking building materials and finishes that complement weatherboard where it predominates in the streetscape.</td>
<td>• Incorporate timber or other non-masonry wall materials where possible.</td>
<td>Heavy materials and design detailing where weatherboard predominates (e.g. Large masonry columns and piers)</td>
<td>Reflects a number of elements and emerging character in Vincent and Hobson Street. Given all of the above, the proposal is considered to respond to the existing and preferred future character in an appropriate manner.</td>
</tr>
</tbody>
</table>
| To maintain the openness of the streetscape. | • 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 | Responds While the remaining Californian Bungalows in the area predominately clad in weatherboard a number of the more recently constructed dwellings in the immediate vicinity use a predominance of brick and masonry. The proposal employs brickwork to the ground floor with a mix of vertical and horizontal fixed timber weatherboards at first floor with grey FC sheet utilised in recessed portions of the design. The use of lighter building elements at first floor would both comply with this aspect of the preferred future character and would assist in minimising the weight and visual impact of the first floor on the streetscape. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>entire Hobson Street frontage and a brick boundary wall to a similar height presents to the No.39 Vincent Street frontage.</td>
</tr>
</tbody>
</table>
## ATTACHMENT 4
### ResCode (Clause 55) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Requirement and Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer to Attachment 3.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td>Yes</td>
<td>The construction of a medium density development is supported by relevant policies for the site.</td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The construction of a medium density development is supported by relevant policies for the site.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td>Yes</td>
<td>The construction of a medium density development is supported by relevant policies for the site.</td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td>The dwellings will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development.</td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td>Yes</td>
<td>The development will integrate appropriately with the Vincent and Hobson streets. The dwellings would be oriented to the street and feature clearly defined pedestrian entries and vehicle access.</td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>The development will integrate appropriately with the Vincent and Hobson streets. The dwellings would be oriented to the street and feature clearly defined pedestrian entries and vehicle access.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td>Yes</td>
<td>The development will integrate appropriately with the Vincent and Hobson streets. The dwellings would be oriented to the street and feature clearly defined pedestrian entries and vehicle access.</td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The development will integrate appropriately with the Vincent and Hobson streets. The dwellings would be oriented to the street and feature clearly defined pedestrian entries and vehicle access.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street</td>
<td>Yes</td>
<td>The development will integrate appropriately with the Vincent and Hobson streets. The dwellings would be oriented to the street and feature clearly defined pedestrian entries and vehicle access.</td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>No</td>
<td>Vincent Street</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td>No</td>
<td>Vincent Street</td>
</tr>
<tr>
<td>Required: 9m</td>
<td>Dwelling 1: 5.575m</td>
<td></td>
</tr>
<tr>
<td>Dwelling 2: 5m</td>
<td>Dwelling 3: 4.5m</td>
<td></td>
</tr>
<tr>
<td>Hobson Street</td>
<td>Dwelling 4: 4.705m</td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
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<td>------</td>
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<tr>
<td><strong>B7 Building Height</strong></td>
<td>Building height should respect the existing or preferred neighbourhood character.</td>
<td>Yes</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>No</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Refer to report</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:</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>- Development that respects the landscape character of the neighbourhood.</td>
<td></td>
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<tr>
<td></td>
<td>- Development that maintains and enhances habitat for plants and animals in locations of habitat importance.</td>
<td></td>
</tr>
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<td></td>
<td>- The retention of mature vegetation on the site.</td>
<td></td>
</tr>
<tr>
<td><strong>B14 Access</strong></td>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td>Yes</td>
</tr>
<tr>
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</table>
Bayside City Council  
Planning & Amenity Committee Meeting - 18 April 2017  
Attachment 4

**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  
Two car parking spaces are provided for each dwelling at basement level. One at grade car park is provided for units 2 and 4. The proposed parking location is secure and convenient for future residents.

**B17 Side and Rear Setbacks**  
Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.  
No  
Refer to table below and report. Non-compliances are underlined below.

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m or 2m</td>
</tr>
<tr>
<td></td>
<td>Dwelling 4 – 0m</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2m</td>
</tr>
<tr>
<td></td>
<td>Dwelling 3 – 0m</td>
</tr>
</tbody>
</table>

**B18 Walls on Boundaries**  
Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.  
Yes  
Length  
**Maximum**: 19.65m  
**Western**: 17.705m  
**Eastern**: 9.785m  
Average height on boundary  
**Maximum**: 3.2m  
**Dwelling 1**: 3.2m  
**Dwelling 3**: 3.2m  
**Dwelling 4**: 3.2m  
Maximum height on boundary  
**Maximum**: 3.6m  
**Dwelling 1**: 3.3m  
**Dwelling 3**: 3.45m  
**Dwelling 4**: 3.2m

**B19 Daylight to Existing Windows**  
Allow adequate daylight into existing habitable room windows.  
No  
Refer to report.

**B20 North Facing Windows**  
Allow adequate solar access to existing north-facing habitable room windows.  
Yes  
No windows surrounding the site are applicable to the standard.
<table>
<thead>
<tr>
<th>Item</th>
<th>Title</th>
<th>Decision</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.10</td>
<td>B21 Overshadowing Open Space</td>
<td>Yes</td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space. A review of the existing and proposed shadow diagrams demonstrates that the adjoining secluded private open space areas will receive sufficient solar access in accordance with the Standard. In particular, at least 75% of the SPOS for No.41 Vincent Street would receive sunlight for a minimum of 5 hours between 9am and 3pm on 22 September.</td>
</tr>
<tr>
<td></td>
<td>B22 Overlooking</td>
<td>Yes</td>
<td>Limit views into existing secluded private open space and habitable room windows. The proposal avoids overlooking of neighbouring properties through a combination of obscure glazing and sill heights to 1.7 metres above finished floor levels. Side boundary fences will be above 1.8 metres in accordance with the standard. While the side facing serving bedroom two at first floor level of Unit four faces No.22 Hobson Street, the adjacent carport would screen any overlooking to 9 metres from the bedroom.</td>
</tr>
<tr>
<td></td>
<td>B23 Internal Views</td>
<td>Yes</td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development. A combination of screens and obscure glazing to rear facing windows at first floor level ensures the proposal complies with this standard. Internal fencing to 1.8 metres in height ensures no internal overlooking issues exist at ground floor.</td>
</tr>
<tr>
<td></td>
<td>B24 Noise Impacts</td>
<td>Yes</td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings. The level of noise associated with the dwellings is not anticipated to exceed that expected of a residential use.</td>
</tr>
<tr>
<td></td>
<td>B25 Accessibility</td>
<td>Yes</td>
<td>Consider people with limited mobility in the design of developments. All four dwelling entries are accessible for people with limited mobility and upper floor levels are provided with level access via lifts.</td>
</tr>
<tr>
<td></td>
<td>B26 Dwelling Entry</td>
<td>Yes</td>
<td>Provide a sense of identity to each dwelling/residential building. All dwelling entries are easily identifiable from the street and provide a sense of identity.</td>
</tr>
<tr>
<td></td>
<td>B27 Daylight to New Windows</td>
<td>Yes</td>
<td>Allow adequate daylight into new habitable room windows. All habitable windows will open out onto a space clear to the sky or a covered external space which itself is open to the sky.</td>
</tr>
<tr>
<td></td>
<td>B28 Private Open Space</td>
<td>Yes</td>
<td>Provide reasonable recreation and service needs of residents by adequate private open space. Minimum: 25m² secluded &amp; 40m² overall Proposed: Dwelling one: 64m² Dwelling two: 52.5m² SPOS, 84m² overall Dwelling three: 73.9m² Dwelling four: 72.4m²</td>
</tr>
<tr>
<td><strong>B29 Solar Access to Open Space</strong></td>
<td>No</td>
<td>Refer to report.</td>
<td></td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>----</td>
<td>-----------------</td>
<td></td>
</tr>
<tr>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B30 Storage</strong></th>
<th>Yes</th>
<th>Designated storage areas in excess of 6m³ are provided at the basement level.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide adequate storage facilities for each dwelling.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B31 Design Detail</strong></th>
<th>Yes</th>
<th>Refer to Attachment 3.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B32 Front Fences</strong></th>
<th>Yes</th>
<th>Maximum: 1.2m</th>
</tr>
</thead>
</table>
| Encourage front fence design that respects the existing or preferred neighbourhood character. | | Vincent Street: None proposed
Hobson Street: 1m |

<table>
<thead>
<tr>
<th><strong>B33 Common Property</strong></th>
<th>Yes</th>
<th>Communal and private areas are clearly delineated. Common property is functional and capable of efficient management.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained.</td>
<td></td>
<td>Avoid future management difficulties in common ownership areas.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B34 Site Services</strong></th>
<th>Yes</th>
<th>Air conditioning and water tanks are indicated in appropriate locations on the plans.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td></td>
<td>The locations of the two clotheslines for Dwelling One and Two near the front setback are not considered appropriate. This is addressed via condition.</td>
</tr>
<tr>
<td>Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td>No detail has been provided regarding the locations of bins for the development; however sufficient space would be available in the basement. A condition of approval is recommended to ensure this is addressed.</td>
</tr>
</tbody>
</table>
4.11 30 ROBINSON STREET, BRIGHTON EAST
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/244/1 WARD: NORTHERN

City Planning & Community Services -
File No: PSF/15/8755 – Doc No: DOC/17/46817

1. Purpose and background

To report a planning permit application for the construction of two double storey dwellings on a lot with an area of 604 square metres (refer Attachment 1) at 30 Robinson Street, Brighton East (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Clement-Stone Town Planners</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>15 July 2016 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>24 September 2016</td>
</tr>
</tbody>
</table>

2. Policy implications

Planning permit requirements

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

Planning scheme amendments

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

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

3. Stakeholder Consultation

External referrals

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

Internal referrals

The application was referred to the following Council departments for comment:
<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Street Trees</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

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

- Loss of privacy
- Overshadowing
- Parking
- Traffic generation
- Noise
- Neighbourhood character
- Overdevelopment
- Impact on water table
- Safety issue with different heights of driveways
- Applicant should cover expense of fencing changes. Request for existing boundary fence to remain.
- Construction impacts
- Street tree removal

Consultation meeting
The proposal is largely compliant with the planning scheme in relation to the material planning considerations raised by objectors. In this instance a consultation meeting was not considered to be of benefit.

4. Recommendation
That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2016/244/1 for the land known and described as 30 Robinson Street, Brighton East, for the Construction of two double storey dwellings on a lot in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans date stamped 19 August 2016 but modified to show:

   a) Western and northern boundary fence to the rear of garage one raised in
height to provide an effectively visual screen to a minimum of 1.8 metres in height from natural ground level.

b) Air conditioning and hot water systems to be located on plans and located sensitively in relation to habitable room windows on the subject site and neighbouring properties.

c) A secure storage area with 6 cubic metre capacity in the rear private open space of dwelling 2.

d) Driveway to dwelling one to be 3 metres in width where it meets the footpath and offset from the western property boundary by 0.8 metres.

e) Crossover to dwelling two to be 3 metres in width where it meets the footpath and offset from the eastern property boundary by 0.2 metres.

f) Driveway to dwelling two to be a minimum of 3.6 metres in width.

g) Annotation that no soil excavation is to occur within 2.6 metres of the stem of the Lophostemon confertus (Brush Box) street tree fronting to site.

h) An amended landscape plan in accordance with Condition 10 of this permit.

i) A tree management and protection plan in accordance with Condition 13 of this permit.

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

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

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

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

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

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

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

10. Prior to the endorsement of plans pursuant to condition 1, an amended landscape plan to the satisfaction of the Responsible Authority must be
submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Zenith Concepts and dated July 2016 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) One canopy tree in the front setback of one dwelling capable of reaching a height of 14 metres at maturity.

b) Two canopy trees in the rear yard of the dwelling, without the canopy tree pursuant to condition 10(a), capable of reaching 8 and 10 in height at maturity respectively. A reduction in the paved area in the rear private open space of this dwelling to accommodate the establishment of these trees.

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

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

13. Prior to the endorsement of plans pursuant to condition 1, including any related demolition or removal of vegetation, a Tree Management Plan (report) and Tree Protection Plan (drawing), to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority.

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

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

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

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

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

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

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

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

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

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

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

Permit notes

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- Council records indicate that there are a 1.83m wide drainage and sewerage easements along the northern property 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.
- The applicant is to bear the cost to reinstate/relocate the Council assets to provide the required access to the proposed development.

5. Council Policy

Council Plan 2013-2017

Relevant strategies of the Council plan include:

- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.
- 3.1.3 Advocating Council’s planning and urban design objectives.

Bayside Planning Scheme

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

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

6.1. Neighbourhood character

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

A landscape plan has been submitted in support of the proposal. Sufficient space is considered to be retained around the dwellings to achieve a meaningful level of vegetation and planting. The siting of the proposal would ensure a rhythm of visual separation between buildings is maintained in the street scene.

The proposed car parking facilities would not dominate the streetscape. The proposal employs a simple pitched roof first floor and parapet detail to the ground floor garages. The proposal would sit comfortably in the streetscape. The proposal does not employ front fencing and would maintain the openness of the streetscape.

6.2. Compliance with Clause 55 (ResCode)

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

Street Setback (Standard B6)

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>8.99m</td>
<td>8.57m</td>
<td>429mm</td>
</tr>
</tbody>
</table>

A street setback of 8.57 metres is proposed, when a setback of 9 metres is required to achieve this standard. The objective of the street setback is to ensure the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of a site.

The proposal is considered to achieve an acceptable graduation in street setback between No.28 and 32 Robinson Street. While No.28 is set almost 1 metre further forward of the proposal, the two dwellings are separated by 2 metre setbacks from either boundary. The garage associated with dwelling one, which is adjacent to the carport of No.32 Robinson Street, steps back from the front façade of the proposal by an additional 300mm. In light of the above, the proposal is considered to respect the existing neighbourhood character of the area and would fit comfortably in the street scene. The proposal would also make efficient use of the site. Given all of the above, the proposal is considered to achieve the objective of the standard.

Overlooking (Standard B22)

The western and northern property boundary fences are proposed as 1.5 and 1.7 metres in height respectively. The ground floor level would not be higher than 800mm above natural ground level. To avoid overlooking of neighbouring properties a condition of
approval is recommended for the western and northern boundary fence to be a minimum of 1.8 metres in height in accordance with the standard.

First floor windows serving habitable rooms on the east and west elevations have sill heights raised to 1.75 metres above finished floor level in excess of the overlooking standard. First floor windows to the northern elevation are obscure and glazed and fixed to 1.7 metres above finished floor level. Subject to the conditions outlined above, the proposal would achieve the standard and objective.

6.3. Car parking and traffic

Each dwelling is provided with a single garage and one tandem parking space in accordance with Clause 52.06. Council’s Traffic Engineer has reviewed the application and raised no objection subject to minor conditions. All recommendations are included as conditions of approval.

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

6.4. Street tree removal

Council’s Open Space Arborist has reviewed the application and advises there is a Lophostemon confertus (Brush Box) street tree fronting the property. The Open Space Arborist advises the location of the proposed vehicle crossing will not impact the tree’s continued health and longevity provided no soil excavation occurs within 2.6 metres of the street tree’s stem. The Open Space Arborist has requested standard tree protection conditions are adopted to protect the tree. A condition of approval is recommended to reflect the Council’s Open Space Arborist’s advice.

6.5. Vegetation & Landscaping

From an arboricultural perspective Council’s Arborist has reviewed the application and visited the site. Vegetation species proposed for removal on site include a Japanese Maple, 13 x James Stirling Pittosporum, a Magnolia, 2 x Golden Rain Tree and 7 x Variegated Pittosporum. The trees provided limited amenity value and their removal is considered acceptable subject to suitable replacement planting including canopy trees.

Council’s Arborist has requested amendments to the proposed landscape plan, including a canopy tree in the front setback of one dwelling capable of reaching 14 metres in height at maturity and two canopy trees in the rear yard of the other dwelling capable of reaching a height of 8 and 10 metres respectively. Council’s Arborist has advised a reduction in the paved area in the rear private open space is likely to be required to accommodate the establishment of these trees. Conditions of approval are recommended for all of the above.

A number of neighbouring trees have TPZ’s which enter the subject site. Council’s Arborist has reviewed the tree management plan submitted in support of the application and advises that the proposed protection measures are not practical. A site specific tree management plan is required that enables works to be undertaken on site while protecting the trees for retention. A condition of approval is recommended for an amended tree management plan.

6.6. Objections received

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.
Impact on water table
The proposal would comfortably achieve the level of permeability required under standard B9. The proposal is considered unlikely to have an appreciable impact on the surrounding water table.

Driveway safety and boundary fence
An objector has raised concerns regarding a chance in site level between the proposal driveway and the existing driveway at No.32 Robinson Street and the removal of the boundary fencing. It is noted the ground floor and site plan include an annotation that all boundary fences will remain except where the garage is proposed on the boundary.

An objector has requested the applicant cover the expense of any fencing changes. This is a civil matter between property owners and the Fences Act 1968 provides a process for this to occur.

Construction Impacts/ Secure Site Boundaries
Secure site boundaries during construction is a matter outside the remit of the planning process and is not a material consideration for this assessment. The relevant building surveyor has the responsibility to secure the site during construction.

Support Attachments
1. Development Plans  
2. Site surrounds and imagery  
3. Neighbourhood Character Assessment (Precinct D4)  
4. Clause 55 (ResCode) Assessment
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

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

Figure 3 View from Robinson Street towards the site interface with No.32 Robinson Street
Figure 4 View from Robinson Street towards the site interface with No.28 Robinson Street

Figure 5 View northeast along Robinson Street
Figure 6 View northwest along Robinson Street
ATTACHMENT 3
Neighbourhood Character Policy (Precinct D4)

Preferred Future Character

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  
A landscape plan has been submitted in support of the proposal. Council's Arborist has reviewed the plan and has requested further canopy planting in the front and rear setbacks of the site. Sufficient space is considered to be retained around the dwellings to achieve a meaningful level of vegetation and planting. Additional canopy tree planting is recommended as a condition of approval. |
| To maintain the rhythm of visual separation between buildings. | • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | | Responds  
The proposal would be set 2.2 metres back from the eastern boundary and would extend to within 190mm from the western boundary. The siting of the proposal would ensure a rhythm of visual separation between buildings is maintained in the |
<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 structures in the streetscape.</td>
<td>• Locate garages and carports behind the line of the dwelling</td>
<td>Car parking structures that dominate the façade or view of the dwelling.</td>
<td>Responds&lt;br&gt;The garage associated with dwelling one would be setback from the front façade of the properties while the garage associated with dwelling two would be in line with the rest of the ground floor façade. The driveways have been minimised as far as practicable. The proposed car parking facilities would not dominate the streetscape.</td>
</tr>
<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>Responds&lt;br&gt;Aside from the portion above the front porch of both dwellings, the first floors would be recessed in from the floor below on all sides. The proposal employs a simple pitched roof first floor and parapet detail to the ground floor garages. The proposal would sit comfortably in the streetscape.</td>
</tr>
<tr>
<td>To maintain the openness of the streetscape and the views into front gardens.</td>
<td>• Front fences should be open style, other than along heavily trafficked roads</td>
<td>High, solid front fences.</td>
<td>Responds&lt;br&gt;The proposal would not employ front fencing. The proposal would maintain the openness of the streetscape.</td>
</tr>
</tbody>
</table>
## ATTACHMENT 4
### ResCode (Clause 55) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Requirement and Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer to Attachment 3.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The construction of a medium density dual lot development is supported by relevant policies for this site.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td>The dwellings will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development.</td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Integrate the layout of development with the street</td>
<td></td>
<td>The development would integrate appropriately with the street.</td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>No</td>
<td>Required: 8.99m</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td>Proposed: 8.57m</td>
<td>Refer to report</td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Yes</td>
<td>Maximum: 8m</td>
</tr>
<tr>
<td>Building height should respect the existing or preferred neighbourhood character.</td>
<td>Proposed: 7.9m</td>
<td></td>
</tr>
<tr>
<td><strong>B8 Site Coverage</strong></td>
<td>Yes</td>
<td>Maximum: 50%</td>
</tr>
<tr>
<td>Site coverage should respect the existing or preferred neighbourhood</td>
<td>Proposed: 49.9%</td>
<td></td>
</tr>
</tbody>
</table>
character and respond to the features of the site.

| **B9 Permeability** | Yes | **Minimum:** 20%  
**Proposed:** 40% |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B10 Energy Efficiency</strong></th>
<th>Yes</th>
<th>All habitable areas, including habitable rooms and secluded private open space areas would be appropriately located in relation to the orientation of the site.</th>
</tr>
</thead>
</table>
| 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. |

<table>
<thead>
<tr>
<th><strong>B11 Open Space</strong></th>
<th>N/A</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B12 Safety</strong></th>
<th>Yes</th>
<th>Both dwellings entries would be clearly recognisable while a ground floor study and an upper storey bedroom at each dwelling would allow for the passive surveillance of the street.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Layout to provide safety and security for residents and property.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B13 Landscaping</strong></th>
<th>Yes</th>
<th>Refer to report.</th>
</tr>
</thead>
</table>
| 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. |

| **B14 Access** | Yes | **Maximum:** 40% of street frontage  
**Proposed:** 38.5% |
|----------------|-----|---------------------------------------------------------------------------------------------------------------------------------|
| 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><strong>B15 Parking Location</strong></th>
<th>Yes</th>
<th>On site car parking is provided with a single garage and tandem parking space for each dwellings. The proposed parking location is secure and convenient for future residents.</th>
</tr>
</thead>
</table>
| 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>B17 Side and Rear Setbacks</th>
<th>Yes</th>
<th>Refer to table below and report.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>B18 Walls on Boundaries</th>
<th>Yes</th>
<th>Maximum Height: 3.6m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maximum Proposed: 3.335m</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maximum Average Height: 3.2m</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposed: 3.07m</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maximum Length: 17.25m</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposed: 16.7m</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B19 Daylight to Existing Windows</th>
<th>Yes</th>
<th>All setbacks are consistent with the requirements of Standard B19.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate daylight into existing habitable room windows.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B20 North Facing Windows</th>
<th>Yes</th>
<th>No windows surrounding the site are applicable to the standard.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B21 Overshadowing Open Space</th>
<th>Yes</th>
<th>Shadow diagrams submitted with the application demonstrate that at least 75% of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B22 Overlooking</th>
<th>No</th>
<th>Refer to report.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B23 Internal Views</td>
<td>Yes</td>
<td>All habitable room windows have been sited and screened appropriately in accordance with this Standard.</td>
</tr>
<tr>
<td>-------------------</td>
<td>-----</td>
<td>----------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>B24 Noise Impacts</td>
<td>Yes</td>
<td>The level of noise associated with the two dwellings is not anticipated to exceed that expected of a residential use.</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Yes</td>
<td>Both dwelling entries are accessible for people with limited mobility.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Yes</td>
<td>Both dwelling entries are easily identifiable from the street and provide a sense of identity.</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Yes</td>
<td>All habitable windows will open out onto a space clear to the sky.</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall Proposed: Dwelling 1: 144m² and 33m² Dwelling 2: 160m², 34m²</td>
</tr>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>B30 Storage</td>
<td>No</td>
<td>A designated 6m³ storage area is provided in the side yard of dwelling 1. No dedicated storage area is provided for dwelling 2. Addressed via condition.</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Yes</td>
<td>Refer to Attachment 3.</td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>Yes</td>
<td>No front fence proposed.</td>
</tr>
<tr>
<td>B33 Common Property</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>------------------------------</td>
<td>-------------------</td>
<td></td>
</tr>
<tr>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B34 Site Services</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td>Letter boxes, clotheslines, bins and water tanks shown on plans. Locations of air conditioning and hot water systems not identified in plans.</td>
<td></td>
</tr>
<tr>
<td>Avoid future management difficulties in common ownership areas.</td>
<td>Addressed via condition.</td>
<td></td>
</tr>
</tbody>
</table>
5. **Confidential Business**

Nil

As Chief Executive Officer, I hereby declare that the contents of this agenda relating to the closed meeting of the ordinary meeting of Council are deemed confidential and accordingly members of Council are reminded that the contents of the agenda are not to be disclosed to any other party.

Adrian Robb

Chief Executive Officer