Agenda

for the

Planning & Amenity Committee Meeting

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

on

Tuesday, 18 July, 2017 at 7.00pm

Chairperson: Cr Laurence Evans

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

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

Section 92 The Chair's Duties and Discretions

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

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

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

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

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

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

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

Your cooperation is appreciated

Chairperson of Council
Planning & Amenity Committee Meeting

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

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

Membership of the Committee
All Councillors

Order of Business

1. Apologies
2. Declarations of Interest
3. Adoption and Confirmation of the minutes of previous meeting
4. Matters of Decision

4.1 1/11 Birdwood Avenue, Brighton Notice of Decision to Grant a Planning Permit Application Number: 2016/747/1 Ward: Northern ................................................................. 7

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4.7 2 Ruxton Rise, Beaumaris (Formerly Lot 1 - 489 Balcombe Road) Notice of Decision to Grant a Planning Permit Application No: 2016/16/1 Ward: Southern ........................................... 189

4.8 3 Ruxton Rise, Beaumaris (Formerly Lot 4 - 489 Balcombe Road) Notice of Decision to Grant a Planning Permit Application No: 2016/617/1 Ward: Southern ................................................. 227

4.9 4 Ruxton Rise, Beaumaris (Formerly Lot 2 - 489 Balcombe Road) Notice of Decision to Grant a Planning Permit Application No: 2016/17/1 Ward: Southern .................................................. 275
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4.11 298 New Street, Brighton Notice of Decision to Grant a Planning Permit Application No: 2016/739/1 Ward: Northern............ 359

4.12 9 Gramatan Avenue, Beaumaris Notice of Decision to Grant a Planning Permit Application No: 2016/775/1 Ward: Southern 393

4.13 9 Wilson Street, Highett Notice of Decision to Grant to a Permit Application No: 2015/666/1 Ward: Central ......................... 405

4.14 14 Normanby Street, Brighton Support the Grant of a Planning Permit Application No: 2014/72/1 Ward: Northern............. 447

4.15 1-5 Reynolds Street, Hampton East Notice of Decision to Grant a Planning Permit Application No: 2016/596/1 Ward: Central ... 485

4.16 VCAT Report................................................................. 547

5. Confidential Business
Nil

**Next Meetings 2017**

Thursday 3 August 2017  
Tuesday 15 August 2017  
Tuesday 12 September 2017  
Thursday 28 September 2017  
Tuesday 17 October 2017  
Thursday 2 November 2017  
Tuesday 14 November 2017  
Thursday 30 November 2017  
Monday 11 December 2017  
Thursday 21 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 6 July 2017.
4. Matters of Decision

4.1 1/11 BIRDWOOD AVENUE, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NUMBER: 2016/747/1 WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/125545

1. Purpose and background
To report a planning permit application for the construction of a dwelling on land affected by a Design and Development Overlay, Schedule 1 on a lot with an area of 756 square metres (refer Attachment 1) at 1/11 Birdwood Avenue, Brighton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Ms M K Cummins C/- Nepean Planning Consultants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>16 November 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>22 July 2016</td>
</tr>
</tbody>
</table>

2. Policy implications
Planning permit requirements
Clause 43.02 (Design and Development Overlay, Schedule 1) - Construct a building or 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.

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

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Open Space</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 2 objections were received. The following concerns were raised:

Item 4.1 – Matters of Decision
- Issues with decreased setbacks;
- Absence of finished floor level notations;
- Overlooking;
- Non-compliance with Bayside Planning Scheme; &
- Incomplete fence survey.

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 the Bayside Planning Scheme in respect of the land known and described as **1/11 Birdwood Avenue, Brighton** for the **construction of a dwelling on a lot with storey heights in excess of 3.5m in a Design and Development Overlay, Schedule 1** in accordance with the endorsed plans and subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the amended plans dated 9 February 2017 but modified to show:
   a) The ‘void’ notations deleted from the ground floor plan and elevations.
   b) The front fence reduced to a maximum height of 1.8m.
   c) The gates associated with the front fence to be modified to an open style with a minimum of 25% transparency.
   d) All indicative landscaping to be removed from the ground and first floor plan.
   e) An amended Landscape Plan in accordance with Condition 8 of this permit.
   f) A Tree Management Plan (report) and Tree Protection Plan (drawing) in accordance with Condition 9 of this permit.
   g) Before the development starts, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:
      i. The type of water sensitive urban design stormwater treatment measures to be used.
      ii. The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas.
      iii. 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.

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

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

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

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

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

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

8. Before the development starts, an amended Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plans must be drawn to scale with dimensions and must be generally in accordance with the landscape concept plan drawn by Ben Scott Garden Design 9 February 2017, but modified to show:
   a) A survey, including botanical names, of all existing trees to be retained on the site.
   b) A survey, including botanical names, of all existing vegetation to be removed from the site.
   c) A survey, including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   d) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
   e) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   f) Details of surface finishes of pathways and driveways.
   g) Proposed landscaping to the public open space to be deleted.
   h) The proposed in ground water tank to be relocated southwards to the dwelling.
   i) The planting of one tree capable of reaching 12m at maturity in the front set back.
   j) The planting of one tree capable of reaching 14m at maturity in the rear set back.
   k) The location of the water sensitive urban design stormwater treatment measures in accordance with the measures identified in 1g).
9. Before the development starts, including any related demolition or removal of vegetation, a Tree Management Plan (report) and Tree Protection Plan (drawing), 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.

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

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

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

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

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

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

**Permit Expiry**

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

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

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

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

**Permit Notes**

- 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 buildings 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 and sewerage easement running along the middle of the property as indicated on the drawings provided. The plans indicate that a deck shall be constructed over the easement. This has been approved by Council. Any further proposals to encroach into the easement will require Build Over Easement consent from the Responsible Authority/Authorities.

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

• 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.

5. Council Policy

Council Plan 2017-2021

Relevant strategic objectives of the Council plan include:

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

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

Relevant strategies of the Council plan include:

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

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

Bayside Planning Scheme

• Clause 9 Plan Melbourne
• Clause 11 Settlement
• Clause 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 22.06 Neighbourhood Character Policy, C1
• Clause 22.08 Water Sensitive Urban Design
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. The proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 2.

The proposal is site responsive and considerate of the preferred future character of the precinct. The front setback provided is in excess of 8.9m along the majority of the front title boundary and assists in achieving a high level of visual separation between buildings in the streetscape.

The building height and massing of the buildings elements will not dominate the streetscape and the proposed materials and colours is respectful and integrated with the coastal setting of the subject site.

Demonstrating an overall maximum height of 7.2m, the proposals low scale design will provide a recessive transition between the adjoining buildings. Varied materials and the flat roof built form provides a high articulated façade to Birdwood Avenue.

The siting of the dwelling provides for sufficient landscaping area to assist in maintaining the spaciousness and treed character of the area. Landscaping opportunities will assist in integrating the development in the streetscape and provide visual relief to the public realm.

The proposed Landscaping Plan is generally acceptable and provides for landscaping across all areas of the subject site. Notwithstanding this, an amended landscaping plan requiring the provision of larger canopy trees is discussed in Section 6.5 of this report.

The proposed front fence and associated gate does not demonstrate compliance with the preferred future character of the precinct. The application proposes a 2.2 metre solid masonry wall. The proposed fence and associated gate will extend along the 19.25 metre title boundary that is located in the convex of Birdwood Street.

Whilst solid walls are a dominant feature of the streetscape, the height of the wall is still considered to be excessive.

The proposed fence will offer the residents a level of privacy, however, the deliberate location of the secluded private open space and pool to the front of the subject sites title boundary should not necessitate a design outcome at the detriment to the public realm.

Whilst landscaping will assist in screening the private open space of the dwelling, a condition of permit is recommended for the proposed gates to be of a material to offer oblique views through the site and the height of the proposed fence to be lowered to a maximum of 1.8 metres.

On balance, the proposal’s design response is considered to be of a high standard that is site responsive and respectful to the existing and preferred neighbourhood character.

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

The application proposes a single dwelling that contains a ceiling height in excess of 3.5m. The increased ceiling height results in an internal open space or ‘cavity’ that is confined to the ground floor dining room and kitchen.

Demonstrating a ceiling height of 5.4m measured from the finished ground floor level to the first floor ceiling above, the feature is situated to the northern and eastern facades.

Fenestration associated with the increased ceiling height and open space is externally designed and presented over the two levels. The double height design feature will not be discernible from the streetscape or adjoining properties and will increase internal amenity of the dwelling.

Setback in excess of 12m from the northern front title boundary, the eastern elevation faces a shed and the rear open space of the adjoining dwelling at 7 Martin Street. The first floor windows do not contain any landing where the possibility of overlooking to any adjoining habitable room windows or secluded private open space may occur.

Despite the excess ceiling height, the overall maximum height of 7.2m is respectful of the scale and form of the site and its immediate surrounds. The generous setback and low scale design will assist in protecting the amenity and privacy of adjoining residential properties.

Consideration of the landscaping matters is outlined in Section 6.1 above and Section 6.5 of this report.

It is considered that the proposal meets the objectives of the standard and will not detrimentally impact upon the streetscape or generate any additional off site impacts.

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

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

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

6.4. **Vegetation & Landscaping**

The submitted Landscape Plan by Ben Scott Garden Design, dated 9 February 2017, shows the removal of all existing vegetation from the site.

Council’s Arborist does not object to the removal of the proposed vegetation on receipt of an amended Landscape Plan subject to conditions.

While the extent of landscaping proposed is sufficient, Council’s Arborist has advised that the proposed Crepe Myrtles located to the subject sites’ front title boundary should be used as complimentary plantings rather than as a ‘feature tree’. At least one tree capable of reaching 12m at maturity to be located in the front setback will be conditioned on permit. Additionally at least one tree capable of reaching 14 m at maturity to be located in the rear of the property will be conditioned on permit.
The Landscape Plan demonstrates a buried water tank located in the front set back close to the depicted hot rocks. Council’s arborist has advised that the water tank is required to be located further south, closer to the dwelling, to provide an increased uninterrupted soil volume for establishment of the trees in the front setback.

Vegetation that is shown to be located in Council’s verge is required to be removed from the Landscaping Plan as consent is required to be obtained from the relevant Council department. A condition of permit will require all indicative landscaping to be removed from the floor plans and all landscaping within the verge to be removed from the Landscaping Plan.

Council’s Arborist concluded that vegetation located adjacent to the shared boundary fences with the subject site has the potential to negatively impact neighbouring vegetation. Of particular concern is the large tree located in the front setback of 13 Birdwood Avenue. A condition of permit will require the submission of a Tree Management and Protection Plan to ensure the health and stability of neighbouring trees are not compromised by the proposal.

6.5. **Objections received**

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

**Decreased setbacks**

The application is not subject to a Clause 54 (ResCode) assessment. This application and its individual merits are assessed and subject to the relevant policies of the Bayside Planning Scheme as reported.

**Absence of finished floor level notations**

The finished floor levels are notated on the plans.

**Overlooking**

The application is not subject to a Clause 54 (ResCode) assessment. This application and its individual merits are assessed and subject to the relevant policies of the Bayside Planning Scheme as reported.

**Non-compliance with Bayside Planning Scheme**

This application and its individual merits are assessed and subject to the relevant policies of the Bayside Planning Scheme as reported.

**Incomplete fence survey**

Sufficient details were provided to enable a complete assessment of the application.

**Support Attachments**

1. Development Plans
2. Site Surrouns and Imagery
3. Neighbourhood Character Assessment (Precinct C1)
Bower Architecture

External Finishes Schedule

<table>
<thead>
<tr>
<th>Code</th>
<th>Item</th>
<th>Description / Colour</th>
<th>Illustration</th>
</tr>
</thead>
<tbody>
<tr>
<td>BK1</td>
<td>Natural Brickwork (face brickwork or painted)</td>
<td>Warm neutral tone</td>
<td><img src="image1.png" alt="Illustration" /></td>
</tr>
<tr>
<td>CL1</td>
<td>Lightweight Cladding</td>
<td>Dulux Monument or similar</td>
<td><img src="image2.png" alt="Illustration" /></td>
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<tr>
<td>CL2</td>
<td>Timber Cladding</td>
<td>Natural Timber Cladding</td>
<td><img src="image3.png" alt="Illustration" /></td>
</tr>
<tr>
<td>CL3</td>
<td>Vertical Battened Cladding</td>
<td>Warm/dark grey</td>
<td><img src="image4.png" alt="Illustration" /></td>
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</table>
Item 4.1 – Matters of Decision
**ATTACHMENT 2**

**SITE AND SURROUNDS IMAGERY**

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**Legend**

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

*Figure 1 Aerial overview of the site and surrounds*
Figure 2 View towards the site from the south

Figure 3 View towards the site from the southwest
ATTACHMENT 3
Neighbourhood Character Policy (Precinct G1)

Preferred Future Character

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>Does not Respond</td>
</tr>
<tr>
<td>The existing dwelling is proposed to be demolished as part of this application. The existing dwelling contributes to the character of the precinct however the dwelling is in a dilapidated state and the replacement of the existing dwelling is supported.</td>
<td></td>
<td></td>
<td></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>Does not comply</td>
</tr>
<tr>
<td>Whilst the extent of planting to all open areas of the site is considered sufficient, the submitted Landscaping Plan does not suitable canopy trees plantings to replace what already</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------</td>
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<td>------------------------------------------------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| To enhance the bayside vegetation character of the area.                  | • Retain large trees and established native and traditional coastal vegetation and provide for the planting of new indigenous coastal trees where possible. | Removal of large native and coastal trees. Planting of environmental weeds.                | Does not comply  
The removal of all existing vegetation on site is proposed.                                                      |
| 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. |                                                                                           | Responds  
The generous front setback allows for a high level of space for the front garden.  
Although a pool and associated decking is proposed to be located in the front setback, the landscape plan demonstrates a suitable amount of landscaping in the front garden.  
The proposed dwelling is sited to the rear of the lot and albeit the rear wall on boundary, is appropriately sited to create and maintain a sense of space between 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 façade or view of the dwelling.  
Loss of front garden space. | Responds  
The existing crossover will be retained and widened 500 millimetres to facilitate egress and ingress of vehicles to the subject site.  
The car parking facilities and garage are located on the western boundary will not visually impact 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>To ensure that new buildings and extensions do not dominate the streetscape.</td>
<td>• Recess upper level elements from the front façade.</td>
<td>High pitched roof forms with dormer windows.</td>
<td>Responds&lt;br&gt;Whilst the first floor is not recessed, the generous setbacks and design detail of the proposed dwelling assist in the integration of the dwelling in 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, of the heritage building/s in the new building design.</td>
<td>Buildings that dominate heritage buildings by height, siting or massing.</td>
<td>N/A&lt;br&gt;The subject site does not adjoin any heritage buildings.</td>
</tr>
<tr>
<td>To encourage the use of a variety of building materials, finishes and design detail that complement the coastal setting.</td>
<td>• Use a mix of materials including timber or other non-masonry wall materials in building design.&lt;br&gt;• Use simple building details and articulate roof forms.</td>
<td>Large, poorly articulated external wall surfaces of one material only.&lt;br&gt;Heavy materials and design detailing (eg. large masonry columns and piers).</td>
<td>Responds&lt;br&gt;The proposed building materials of face brickwork and various cladding will assist in the articulating the dwellings facades and mitigating visual bulk impacts to the adjoining properties.&lt;br&gt;The submitted colour and material schedule ensures that visible sections of the dwelling will be respectful and complementary to surrounding buildings. Furthermore, the simple design response and muted tones are respectful of the sites coastal setting.</td>
</tr>
<tr>
<td>To encourage the openness of the streetscape.</td>
<td>• Provide open style fencing, other than along heavily trafficked roads.</td>
<td>High, solid front fencing.</td>
<td>Does not respond&lt;br&gt;The location of the developments secluded private open space to the front garden is an outcome that is usually avoided, however a reduction in the proposed 2.2m front fence height to 1.8m and screening by way of landscaping will afford a level of</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| To create a visually interesting and attractive built form interface with the foreshore reserve, on properties fronting the reserve and visible from the reserve. | - Articulate the form of buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies, verandahs, non-reflective glazing and light-transparent balustrading.  
- Use a mix of contemporary and traditional coastal materials, textures and finishes, including render, timber, non-masonry sheeting, glazing, stone and brick.  
- Provide a fence or landscaping treatment to delineate the property boundary fronting the foreshore reserve.  
- Provide articulated roof forms to create an interesting skyline when viewed from the beach. | Buildings that have no relationship to the foreshore setting.  
Poorly articulated roof and building forms.  
Highly reflective materials or glazing.  
Blank walls facing the foreshore.  
Lack of distinction between public and private spaces along the foreshore. | N/A  
The subject site is not located along the foreshore. |
4.2 76 HODDER STREET, BRIGHTON EAST
NOTICE OF DECISION TO GRANT A PERMIT
APPLICATION NO: 2016/477 WARD: NORTHERN

City Planning & Community Services - Statutory Planning
File No: PSF/15/8755 – Doc No: DOC/17/129320

1. Purpose and Background
To report a planning permit application for the construction of two double-storey dwellings and a front fence exceeding 1.2m in height on a lot with an area of 719.81 square metres (refer Attachment 1) (refer application plans) at 76 Hodder Street, Brighton East (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>R &amp; K Francischelli</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>1 August 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>7 December 2016</td>
</tr>
</tbody>
</table>

2. Policy Implications
Planning permit requirements
Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two or more dwellings on a lot and a front fence exceeding 1.2m in height.

Planning scheme amendments
There are no relevant Planning scheme amendments for this proposal.

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

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

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

Public notification
The application was advertised pursuant to Section 52(1)(a) and (d) of the Planning and Environment Act 1987 and two objections were received. The following concerns were raised:
- Over-development of the site;
- Visual impacts;
- Loss of on-street car parking capacity; and
- Loss of sunlight to north-facing windows.
Consultation meeting

A consultation meeting was held on 7 June 2016 attended by a Council officer, the permit applicant and one objector. As a result of this meeting 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 the land known and described as 76 Hodder Street, Brighton East for the construction of a double-storey dwelling and a fence exceeding 1.2m in height 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 submitted plans date-stamped 26 October 2016, but modified to show:

a) The first floor northern and southern boundary setbacks of each dwelling to comply with Standard B17 of Clause 55 of the Bayside Planning Scheme.

b) The first floor northern and southern elevations of each dwelling to include a variety of finishes and materials.

c) The metal-bar front fence sections between the rendered brick piers having a minimum 75% visually permeability.

d) The proposed treatment of the pedestrian pathways to the dwellings to be a different material/finish to the driveways.

e) The Dwelling 1 driveway where it intersects with the footpath and the new crossover 3m wide with a 1m offset from the northern property boundary. The Telstra pit within the driveway is to be made trafficable.

f) The Dwelling 2 driveway where it intersects with the footpath and the new crossover 3m wide with a nil offset from the southern property boundary.

g) Adequate sight lines provided where the proposed ramps/driveways intersect with the footpath as per the diagram shown in AS 2890.1. All structures including foliage, front fences etc. within the triangle must be limited to a maximum height of 0.9m or kept clear.

h) The following annotations added to the plans:

i) The garage doors having a minimum width of 3m.

ii) The gradient of the driveway/ramp not to exceed 1 in 16.

i) 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.

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

k) The delineation of all site services, including mailboxes, utility meters, clotheslines, air-conditioning units, stormwater detention tanks, bin and recycling enclosures, etc., for each dwelling, where not already shown.
l) An amended landscape plan in accordance with Condition 9 of this permit; and;

m) A Tree Management Plan in accordance with Condition 12 of this permit.

All to the satisfaction of the Responsible Authority.

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

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

4. All pipes (excluding down 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. 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.

7. 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.

8. The water-sensitive urban design stormwater treatment system as detailed in the Sustainable Design Assessment report, prepared by Energy Water Environment (Dated 2/11/2016) 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.

9. Prior to the endorsement of plans pursuant to Condition 1 of this permit, an amended Landscape Plan generally in accordance with the submitted landscape plan prepared by Zenith Concepts, dated October 2016, must be submitted to and be endorsed by the Responsible Authority. The plan must be modified to include:

   (a) At least one tree within the front setback of each new dwelling with the capacity to reach a mature height of 10m and spread of 6m.

   (b) At least one tree within the rear setback of each dwelling, with the capacity to reach a mature height of 8m and spread of 4m.

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, and before any related demolition or removal of vegetation is undertaken, 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 (report) must be specific to the site, be in accordance with Australian Standard: Protection of Trees on Development Sites AS4970-2009 and include:

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 in respect of the three Mirror-Bush (*Coprosma repens*) trees growing adjacent to the north (side) boundary at 78 Hodder Street.

The existing natural ground level must be retained within 1 m of the north (side) boundary.

13. Any pruning that is required to be done to the canopy of the trees at the rear of the property at 12 Beltane Avenue which overhang the subject site’s east (rear) boundary must be undertaken by a qualified arborist, in accordance with AS 4373-2009 ‘Pruning of Amenity Trees’ prior to the commencement of works.

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

16. Before the development begins, 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.

17. The existing Telstra pit is to be made trafficable by vehicles.

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, 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.
• Before any Asset Protection Permit is issued by Council, the applicant must pay $2,618.78 to the Responsible Authority for the removal and replacement of the *Agonis flexuosa* (Willow Myrtle) street tree. This amount has been determined in accordance with Council’s current policy for the removal of street trees. This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by the Responsible Authority, must undertake the removal and replacement of the street tree. Any replacement planting will be at the discretion of the Responsible Authority.

• Approval from Telstra will be required for the works to make the Telstra pit within the driveway to Dwelling 1 trafficable.

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

4. **Council Policy**

   **Council Plan 2017-2021**

   Relevant strategic objectives of the Council plan include:

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

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

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

   Relevant strategies of the Council plan include:

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

   **Bayside Planning Scheme**

   • Clause 9 Plan Melbourne
   • Clause 11 Settlement
   • Clause 15 Built Environment and Heritage
   • Clause 16 Housing
   • Clause 21.02 Bayside Key Issues and Strategic Vision
   • Clause 21.03 Settlement and Housing
   • Clause 21.06 Built Environment and Heritage
   • Clause 22.06 Neighbourhood Character Policy (NCP D1)
   • Clause 22.08 Water Sensitive Urban Design
   • Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
   • Clause 52.06 Car Parking
   • Clause 55 Two or more dwellings on a lot
   • Clause 65 Decision Guidelines
5. **Considerations**

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

5.1. **Neighbourhood character**

The site is located within Neighbourhood Character Precinct D1 and, subject to appropriate conditions being imposed, the proposal is considered to demonstrate an acceptable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

In particular, it is considered that whilst the front façade of the building will be adequately articulated to the streetscape, this is not the case in respect of the side elevations, which lack variation and setbacks. A condition will be imposed requiring a greater degree of articulation to be provided along the north and south sides of the building.

In addition, the submitted landscape plan requires amendment to ensure that the proposal maintains and enhances the garden settings of the dwelling. In order to achieve this, a condition will be imposed on any permit issued requiring more substantial landscaping within the front and rear setbacks, most notably through the planting of canopy trees capable of achieving greater height and spread.

The application proposes a 1.5m high front fence and hinged vehicle gates, comprising rendered brick piers with vertical metal bars in-between. The elevations do not clearly indicate the level of visual permeability, so a condition will be imposed requiring the metal-bar sections to be at least 75% open. A more visually permeable fence will ensure that a greater level of openness is maintained within the streetscape and be more respectful of the existing and preferred neighbourhood character.

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

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

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

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

At the first floors of both dwellings, there is an encroachment to the adjacent side boundary: Dwelling 1 to the north and Dwelling 2 to the south. In each instance, the building encroaches 60mm into the setback. Given that such a minor reduction in the width of the dwellings’ upper-floor rooms will have a negligible effect on the internal amenity of those rooms, it is considered appropriate that a permit condition be imposed requiring the design to be amended to comply with the standard.

**Design Detail (Standard B31)**

There is insufficient variation in external materials along the building’s north and south (side) walls, with excessive use of render proposed. A condition will be imposed requiring a greater variety of materials to be used along those walls. This will improve the interface of the development with the abutting properties, both of which objected to the proposal.
Front Fences (Standard B32)
The application proposes a 1.5m high front fence and hinged vehicle gates, comprising rendered brick piers with vertical metal bars in between. The elevations are unclear in respect of the level of visual permeability that the fence will offer, so a condition will be imposed requiring the metal-bar sections to be at least 75% open. This will ensure that the openness of the streetscape is maintained.

5.3. Car parking and traffic
Each three-bedroom dwelling is provided with two car parking spaces. The proposal accords with Clause 52.06 of the Bayside Planning Scheme.

The application was assessed by Council’s traffic engineer, who stated no objection to the proposal.

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

5.4. Street tree removal
A Desert Ash (Fraxinus augustifolia) tree is located within the nature strip fronting 76 Hodder Street, adjacent to the existing crossover at the southern end of the frontage. Council’s Open Space Arborist has reviewed the application and advises that a minimum 2.3 metre setback, measured from the street tree’s stem at ground level, will be required to ensure the tree’s continued health and longevity while site works are undertaken.

The Open Space Arborist also advises that the location of a proposed new crossover at the northern of the frontage will adversely affect a second street tree, a Willow Myrtle (Agonis flexuosa). To ensure the tree’s continued health and longevity, a minimum 2.4 metre setback will be required from all site works undertaken.

Council’s Open Space Arborist has advised that the Willow Myrtle street tree is suitable for removal subject to the issuing of a Road Opening Permit, and has indicated a fee the applicant would be required to pay to cover for the cost of the tree’s removal and replacement. This fee is included as a permit note in the report recommendation.

5.5. Vegetation & landscaping
The application involves the removal of various trees from the site, including the following species:

- Sweet Pittosporum (Pittosporum undulatum)
- Broad-Leaf Privet (Ligustrum lucidum)
- Bay Laurel (Laurus nobilis)
- Lemonwood (Pittosporum eugenioides)
- Mirror-Bush (Coprosma repens)
- Western Red Cedar (Thuja plicata)
- Oleander (Nerium oleander)

The Arborist states that all of these trees have low amenity value; and offers no objection to their removal, provided that a suitable landscape plan is submitted. The landscape plan must include screening plants along the boundaries of the rear setbacks, and include at least one tree within the front setback of each new dwelling with the capacity to reach a mature height of 10m and spread of 6m. Also, the landscape plan must provide for at least one tree within the rear setback of each dwelling, with the capacity to reach a mature height of 8m and spread of 4m.
There is a row of Ornamental Pear (*Pyrus calleryana*) trees growing adjacent to the north (side) boundary at 78 Hodder Street. The proposal does not require a major encroachment into the Tree Protection Zones (TPZs) of these trees; and these trees will remain viable provided that works do not extend beyond the subject site. The natural ground level must be retained within 1m of this north boundary, and ground protection in accordance with AS 4970-2009 ‘Protection of Trees on Development Sites’ must be installed within 1m of the boundary to protect the vegetation growing on this neighbouring site.

As there are branches of three trees, comprising two Cherry Laurel (*Prunus laurocerasus*) and one Fastigiate Yew (*Cephalotaxus harringtonia*), growing at the rear of the property at 12 Beltane Avenue which overhang the subject site’s west (rear) boundary, any pruning of these trees required to replace the dilapidated boundary fence and install the proposed storage sheds must be undertaken by a qualified arborist, in accordance with AS 4373-2009 ‘Pruning of Amenity Trees’ prior to the commencement of works. Therefore, a condition to this effect will be imposed.

5.6. **Objections received**

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

- **Loss of sunlight to north-facing windows**

The objector at 74 Hodder Street is concerned that the development will block out daylight and leave the north-facing rooms dark, impacting upon the quality of indoor activities.

Other than a 60mm encroachment into the side setback at the upper floor, the proposal complies with the relevant standard. The building is to be set back 2m from the south (side) boundary at the ground floor, and 3.26m at the upper floor. A condition will be imposed requiring the first floor northern and southern boundary setbacks of each dwelling to comply with Standard B17 of Clause 55 of the Bayside Planning Scheme. The proposal also complies with Standard B19, which seeks to protect daylight access to existing habitable room windows.

**Support Attachments**

1. Development Plans ⇩
2. Site and Surrounds Imagery ⇩
3. Neighbourhood Character (Precinct D1) Assessment ⇩
4. ResCode (Clause 55) Assessment ⇩
Figure 1. Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐️</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>⬜️</td>
</tr>
</tbody>
</table>
Figure 2. View towards the subject site from the north end of the road frontage.
Figure 3. View towards the subject site from the south end of the road frontage.
Figure 4. Adjoining dwelling to the north at 78 Hodder Street.
ATTACHMENT 3

Neighbourhood Character Policy (Precinct D1)

Preferred Future Character Statement

The dwellings sit within established gardens that contain substantial vegetation including trees. The area retains some dwellings from the Inter-war era, along with new complementary development. The spaciousness of the area is maintained by setting buildings back from both side boundaries and keeping front fences low and appropriate to the era of the dwelling. The strong horizontality of the existing dwellings is respected by recessing upper levels of new dwellings, incorporating low pitched roof forms and articulating the front facades.

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. • Retain existing large trees wherever possible. • Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td>Lack of landscaping and substantial vegetation Loss of front garden space.</td>
<td>Responds, subject to condition&lt;br&gt;The applicant has submitted a landscape plan that is generally satisfactory, other than providing for insufficiently large canopy trees within the front and rear setbacks. A condition will be imposed on any permit issued requiring more substantial plantings in these areas.</td>
</tr>
<tr>
<td>To maintain a 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&lt;br&gt;The proposal provides for a 1m setback from the south (side) boundary, and although the Dwelling 1 garage will adjoin the neighbouring garage at 78 Hodder Street, the contiguous ground-floor building form that will result will be adequately screened from the streetscape by existing dense vegetation along the common boundary inside 78 Hodder Street.</td>
</tr>
<tr>
<td>To minimise the loss of front garden spaces and the dominance of car parking structures.</td>
<td>• Locate garages and carports behind the line of the dwelling. • Minimise paving in front garden areas including driveways and crossovers.</td>
<td>Car parking structures that dominate the façade or view of the dwelling. Front setbacks dominated by</td>
<td>Responds&lt;br&gt;The garages will be set back behind the line of the dwellings’ porches and entries. There will also be a sufficient area of permeable area retained within the front setback for substantial</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
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</tbody>
</table>
| To ensure that buildings respect the low scale, horizontal forms of the area. | - Recess two storey elements from the front façade.  
|                                                                           | - Incorporate low pitched roof forms with eaves.                                |                                                                      | Responds The dwellings’ upper floors are recessed from their ground floors, and a low pitched roof with eaves is proposed. |
| To ensure that new dwellings present an interesting façade to the streetscape. | - 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. | Large, bulky buildings with poorly articulated front and side wall surfaces. | Responds, subject to condition The front façade of the building will be adequately articulated, but this is not the case in respect of the side walls, which lack variation in setback from the side boundaries. A condition will be imposed requiring a greater degree of articulation along the north and south sides of the building. |
| To respect the identified heritage qualities of adjoining buildings.      | - Where adjoining an identified heritage building, respect the height, building forms, siting and materials, in the new building design. | Buildings that dominate heritage buildings by height, siting or building massing. Period reproduction detailing. | N/A The dwellings on the adjoining sites are not recognised as having heritage qualities. |
| To reflect the building materials in locations where there is particular consistency. | - Where consistent brick colours are used in the streetscape, use similar toning in the colours of new buildings.  
<p>|                                                                           | - Use simple building details without replication of older styles.              | Brightly coloured external building materials in areas of consistent brick materials. | N/A There is no consistency in exterior colours and materials in the locality. |
| To maintain the openness of the streetscape.                             | - Front fence style should be open and appropriate to the building era.       | High front fencing.                                                  | Responds, subject to condition The application proposes a 1.5m high fence and hinged vehicle gates, comprising rendered brick piers with vertical metal bars in between. The elevations are unclear in respect of the level of visual permeability that the fence will offer, so a |
|                                                                          |                                                                                                                                  |                                                                      |                                                                                           |</p>
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<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th><strong>Planning Officer Assessment</strong></th>
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<td></td>
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<td></td>
<td>condition will be imposed</td>
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<td></td>
<td>requiring the metal-bar sections to be at least 75% open.</td>
</tr>
</tbody>
</table>
## ATTACHMENT 4
### CLAUSE 55 ASSESSMENT

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes, subject to condition</td>
<td>Refer Attachment 3</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support two dwellings.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>Yes</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 each street frontage with the each entry clearly identifiable.</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>Required: 9m Proposed: 9.02m. (Note: The porches within the setback are less than 3.6m high.)</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
preferred neighbourhood character and make efficient use of the site.

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Yes/No</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>B7 Building Height</td>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td>Yes</td>
<td>9 metres</td>
<td>7.1 metres</td>
</tr>
<tr>
<td>B8 Site Coverage</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Yes</td>
<td>Maximum: 50%</td>
<td>Proposed: 50%</td>
</tr>
<tr>
<td>B9 Permeability</td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
<td>Minimum: 20%</td>
<td>Proposed: 36.25%</td>
</tr>
<tr>
<td>B10 Energy Efficiency</td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>Yes</td>
<td>The proposal provides appropriate solar access to the dwellings.</td>
<td></td>
</tr>
<tr>
<td>B11 Open Space</td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B12 Safety</td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Yes</td>
<td>No safety issues are considered to be likely to arise.</td>
<td></td>
</tr>
<tr>
<td>B13 Landscaping</td>
<td>To provide appropriate landscaping. To encourage: Development that respects the landscape character of the neighbourhood. Development that maintains and enhances habitat for plants and animals in locations of habitat importance.</td>
<td>Yes</td>
<td>Adequate space is provided for landscaping, particularly within the front and rear setbacks where its positive impact on neighbourhood character and visual amenity will be maximised.</td>
<td></td>
</tr>
<tr>
<td>Item 4.2 – Matters of Decision</td>
<td>Page 61 of 567</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- **The retention of mature vegetation on the site.**

<table>
<thead>
<tr>
<th>B14 Access</th>
<th>Yes</th>
<th>Appropriate vehicular access for each dwelling is provided.</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>B15 Parking Location</th>
<th>Yes</th>
<th>Each dwelling is provided with appropriate car parking facilities.</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, subject to condition</th>
<th>Refer report and table below. Areas of non-compliance are underlined.</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>
<tr>
<td>The minor encroachment to the north and south (side) boundaries at the first floor can be addressed by way of a permit condition requiring the proposal to be amended to comply with the standard.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>B18 Walls on Boundaries</th>
<th>Yes</th>
<th>North 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></td>
<td></td>
</tr>
<tr>
<td>Max. length and max. height: 19.31m and 3.6m (average 3.2m)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposed max. length and max. height: 6m and 3.3m (average 3.15m)</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 set back 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</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B21 Overshadowing Open Space</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-----------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td></td>
<td></td>
</tr>
<tr>
<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>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B22 Overlooking</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
</tr>
<tr>
<td>Yes</td>
</tr>
<tr>
<td>The application proposes highlight windows to the first floor of the proposed dwelling to ensure that no overlooking of adjoining properties occurs.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B23 Internal Views</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
</tr>
<tr>
<td>Yes</td>
</tr>
<tr>
<td>No internal overlooking between dwellings will occur.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B24 Noise Impacts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
</tr>
<tr>
<td>Yes</td>
</tr>
<tr>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B25 Accessibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consider people with limited mobility in the design of developments.</td>
</tr>
<tr>
<td>Yes</td>
</tr>
<tr>
<td>Entries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B26 Dwelling Entry</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide a sense of identity to each dwelling.</td>
</tr>
<tr>
<td>Yes</td>
</tr>
<tr>
<td>The dwelling entries are easily identifiable within the building’s front façade when viewed from the street.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B27 Daylight to New Windows</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate daylight into new habitable room windows.</td>
</tr>
<tr>
<td>Yes</td>
</tr>
<tr>
<td>All habitable room windows are provided with appropriate daylight access.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B28 Private Open Space</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide reasonable recreation and service needs of residents by adequate pos.</td>
</tr>
<tr>
<td>Yes</td>
</tr>
</tbody>
</table>
| Minimum: 40m² private open space, including 25m² secluded private open space.  
Dwelling 1: 64.9m² secluded private open space  
Dwelling 2: 66m² secluded private open space  
As both dwellings are provided with an area of secluded private open space that exceeds the total area of private open space required, the proposal automatically complies with both arms of the standard. |

<table>
<thead>
<tr>
<th>B29 Solar Access to Open</th>
</tr>
</thead>
<tbody>
<tr>
<td>Both dwellings are afforded adequate solar access</td>
</tr>
<tr>
<td>Yes</td>
</tr>
<tr>
<td><strong>Space</strong></td>
</tr>
<tr>
<td>-----------</td>
</tr>
<tr>
<td><strong>B30 Storage</strong></td>
</tr>
<tr>
<td><strong>B31 Design Detail</strong></td>
</tr>
</tbody>
</table>
| **B32 Front Fences** | Encourage front fence design that respects the existing or preferred neighbourhood character. | Yes, subject to condition | **Maximum:** 1.2m  
**Proposed:** 1.5m  
The application proposes a 1.5m high fence and hinged vehicle gates, comprising rendered brick piers with vertical metal bars in between. The elevations are unclear in respect of the level of visual permeability that the fence will offer, so a condition will be imposed requiring the metal-bar sections to be at least 75% open. |
| **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. | Yes | No common property is proposed. |
| **B34 Site Services** | Ensure site services and facilities can be installed and easily maintained and are accessible, attractive. | Yes | Adequate site services are proposed as part of this application. |
4.3  2 BURGESS STREET, BEAUMARIS
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/6854/1  WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/130813

1. Purpose and background
To report a planning permit application for the subdivision of the land into two lots on a lot with an area of 2,295 square metres (refer Attachment 1) at 2 Burgess Street, Beaumaris (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Vicsurvey</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>10 February 2017 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>11 April 2017</td>
</tr>
</tbody>
</table>

2. Policy implications
Planning permit requirements
Clause 32.09-3 (Neighbourhood Residential Zone) – Subdivision of land.
Clause 43.02-3 (Design and Development Overlay 1) – Subdivision of land.
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. As is this case now, the site will not be located within the area covered by the SBO.

3. Stakeholder Consultation
External referrals
Pursuant to Clause 66.01 of the Bayside Planning Scheme, two lot subdivisions are exempt from referral requirements under Section 55 of the Planning and Environment Act 1987. Therefore, no referral of this subdivision application has been made under that Act.

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

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

Pursuant to Clause 66.01-1 of the Bayside Planning Scheme, a permit for subdivision must contain the following conditions:

The owner of the land must enter into an agreement with:

- A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider’s requirements and relevant legislation at the time; and
- A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:

- A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider’s requirements and relevant legislation at the time; and
- A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Pursuant to Clause 66.01-1 permits for subdivisions which are not required to be referred under Clause 66.01 (other than for the creation of lots to correspond with existing flats and car parking spaces) must contain the following conditions:

- The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority’s requirements and relevant legislation at the time.
- All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
- The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

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:

- Neighbourhood character
- Vegetation protection
- Building envelopes
- Landscaping

Consultation meeting

A consultation meeting was held on 24 May 2017, attended by the permit applicant. While objectors did indicate that they would be in attendance, no objectors were present.
As a result of this meeting 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 2016/6854/1** for the land known and described as **2 Burgess Street, Beaumaris**, for the **two lot subdivision** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the plan of subdivision is certified under the **Subdivision Act 1988**, 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 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) Relocation of the proposed crossover for Lot 1 southwards to achieve a minimum 2.6 metre setback from the edge of the crossover to the existing street tree, Banksia integrifolia, measured from the edge of the central stem at ground level.
   
b) A Tree Management Plan (report) and Tree Protection Plan (drawing) in accordance with Condition 6 of this permit.

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

**Demolition of existing buildings**

3. Before the statement of compliance is issued under the **Subdivision Act 1988**, all existing buildings, including carport, shed, dwelling and swimming pool must be demolished and the site scraped and cleaned to the satisfaction of the Responsible Authority. Any existing trees on the site must be retained and protected during demolition in accordance with Conditions 6 to 8 of this permit.

**Subdivision works**

4. Before the plan of subdivision is certified under the **Subdivision Act 1988**, detailed construction 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 include:
   
a) Construction of a vehicle crossing for Lot 1.
   
b) The reconstruction of the vehicle crossing for Lot 2.

All works constructed or carried out must be in accordance with those plans and to the satisfaction of the Responsible Authority, including the road Authority.

5. Before the statement of compliance is issued under the **Subdivision Act 1988**, the works referred to in Conditions 3 and 4 of this permit must be constructed and completed to Council’s satisfaction.

**Tree Protection Plan**

6. Prior to the endorsement of plans pursuant to Condition1, 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.

7. 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.

8. Prior to any site works commencing, including demolition or removal of vegetation, the name and contact details of the project Arborist responsible for implementing the Tree Management Plan must be submitted to the Responsible Authority.

Street Trees

9. 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 and maintained prior to demolition and 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.

10. 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.

11. 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.

General

12. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas
services to each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

13. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.

14. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

15. The owner of the land must enter into an agreement with:
   a) A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
   b) A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

16. Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:
   a) A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
   b) A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Public Open Space Contribution

17. Before the statement of compliance is issued under the Subdivision Act 1988, the applicant or owner must pay a Public Open Space Contribution to the Responsible Authority a sum equivalent to five (5) per cent of the site value of all the land in the subdivision.

Permit Expiry

18. This permit will expire if:
   a) The plan of subdivision is not certified with compliance within two (2) years of the date of this permit.
   b) The registration of the subdivision is not completed within five (5) years of the date of this permit.

The Responsible Authority may extend the time if a request is made in writing before the permit expires or within six months afterwards.

Permit Notes

- The land may be inspected by Council to ensure compliance with this planning permit and any plans and documents endorsed to this permit. Investigations and possible prosecutions may apply if you fail to accord with all requirements of this
Planning Permit and any relevant Building Regulation, Local Law or other legislation. This includes the need for the retention and maintenance of any building, hard and soft landscaping assets and all building services.

5. **Council Policy**

**Council Plan 2017-2021**

Relevant strategic objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 13 Environmental Risks
- Clause 14 Natural Resource Environment
- Clause 16 Housing
- Clause 19 Infrastructure
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
- Clause 21.08 Open Space
- Clause 21.10 Infrastructure
- Clause 21.11 Local Areas
- Clause 22.06 Neighbourhood Character Policy
- Clause 32.09 Neighbourhood Residential Zone
- Clause 43.02 Design and Development Overlay
- Clause 56 Residential Subdivision
- 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. Development permit history

There is no previous planning permit history for this site relevant to the proposed subdivision.

6.2. Compliance with Clause 56 (ResCode - Subdivision)

An assessment against the requirements of Clause 56 is provided at Attachment 3. There are not any issues or areas of non-compliance proposed by the subdivision.

6.3. Public Open Space Contribution

Clause 52.01-1 (Exemption from public open space requirement specified in the scheme) states that a two lot subdivision is exempt from a public open space requirement specified in this scheme, unless Council considers it likely that each lot will be further subdivided. In this case the land could be further subdivided given the size of each lot could accommodate multiple dwellings.

The schedule to Clause 52.01-1 specifies a 5% contribution. Accordingly, a Public Open Space contribution of 5% is required in respect of this subdivision. A condition is included in the permit to this effect.

6.4. Section 173 Agreement

A Section 173 Agreement is an agreement between the land owner and Council made under the Planning and Environment Act 1987, and sets out conditions or restrictions on the use and/or development of land. This Agreement binds both the present land owner and any subsequent owner of that land by registering the agreement on title.

A Section 173 Agreement is not required in this case as there is no associated construction with this proposed subdivision.

6.5. Street tree removal

The nature strip on front of the site includes three street trees. Council’s Open Space Arborist has made the following comments:

“There are three street tree assets fronting the property Allocasuarina cunninghamiana (Tree 1, Northern), Banksia integrifolia (Tree 2, Central) and Allocasuarina verticillata (Tree 3, Southern). One of these trees, the Banksia integrifolia will be severely impacted by the installation of the vehicle crossing at the proposed location.

A 2.6m setback, measured from the edge of the central street tree asset’s stem at ground level, is required to retain the street tree Banksia integrifolia (Tree 2).”

The current location of the crossover for Lot 1 can be moved southwards in order to cater for the retention of Street tree 2. A condition for an amended plan will be included in the permit to this effect.

6.6. Vegetation & Landscaping

The plan of subdivision itself does not seek to remove any trees on the site. As a result of the location of the proposed crossover, the future on-site driveway will necessitate the removal of some vegetation on the site. This can be undertaken as a separate exercise, however it is directly related to this application and the location of the crossover is paramount based upon the retention value of the trees on site.

The proposal was referred to Council’s Arborist, who inspected the site and provided the following comments:

“The proposed crossover will require the removal of a small Weeping Bottlebrush (Callistemon viminalis) (Figure 1). This tree is native to Australia, but below the dimensions to be protected under the VPO3.”

The Arborist went on to advise:
“The proposed retaining wall cut / reinstatement works will negatively impact the root system of the mature Radiata Pine (*Pinus radiata*) (Figure 1). This is an exotic species and therefore, not protected under the VPO3. However; the Radiata Pine is of the dimensions to be protected under the Local Law, No.2 Amenity Protection and the Neighbourhood Character Policy guidelines for Precinct H4, state design responses should retain large, established trees.

The tree has a very low canopy density and is in a poor health and condition; therefore, removal would be supported. The neighbouring Radiata Pine to the South is also in a poor condition of health; removal of this tree would also be supported.”

![Figure 1: Locations of potentially impacted trees](image)

Having regard to the above, the location of the proposed vehicle crossing in the nature strip can be supported.

The trees on the site are not part of this application and therefore separate application to Council under the requirements of the Vegetation Protection Overlay Schedule 3 and Local Laws will be required to be made for their removal.

**6.7. Objections received**

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

The objectors raised that the proposed subdivision is not in keeping with the existing neighbourhood character of Beaumaris. The site is located within Neighbourhood Character Policy – Precinct H4. Precinct H4 does not include an objectives of guidelines in relation to subdivision, however the proposed land size (1,071sqm and 1,224sqm) and dimensions are consistent with other properties in the street and broader neighbourhood. Currently, the lot is double the size of other land holdings in this neighbourhood. Subdividing the land into the lots proposed will ensure a consistent subdivision pattern for the street and neighbourhood. The lot sizes still ensure that an appropriate landscaped outcome is achieved consistent with the landscaped character of the neighbourhood should the land be developed in the future.

Building envelopes

Objectors have requested that building envelopes be included on endorsed plans. The land is within the Neighbourhood Residential Zone Schedule 3 within which there is no limit to the number of dwellings able to be developed on the site.

Any further development of the site above a single dwelling will require a planning permit application to be submitted to Council, which will be assessed on its merit at that time.

The addition of building envelopes on each lot as part of this current subdivision is, therefore, considered to be onerous and not required in this instance.

Landscaping

The issue of landscaping of the site will be considered as part of any future development of the site and not part of this current proposal to subdivide the site into two lots.

Support Attachments

1. Proposed Plan of Subdivision
2. Neighbourhood and site description and Design response
3. Site and Surrounds Imagery
4. Clause 56 (ResCode - Subdivision) Assessment
### PLAN OF SUBDIVISION

**LOCATION OF LAND**
- **PARISH:** MOORABBIN
- **TOWNSHIP:** 
- **SECTION:** 
- **CROWN ALLOTMENT:** 
- **CROWN PORTION:** 48 (PART)
- **TITLE REFERENCE:** VOL.4871 FOL.093

**LAST PLAN REFERENCE:** LOT 5 ON TP715280S

**POSTAL ADDRESS:** 2 BURGESS STREET
- **BEAUMARIS, VIC**

**MGA CO-ORDINATES:**
- **E**
- **ZONE:** 
- **N**
- **GDA 94**

**VESTING OF ROADS AND/OR RESERVES**

<table>
<thead>
<tr>
<th>IDENTIFIER</th>
<th>COUNCIL/BODY/PERSON</th>
</tr>
</thead>
<tbody>
<tr>
<td>NIL</td>
<td>NIL</td>
</tr>
</tbody>
</table>

**NOTATIONS**

- **DEPT/LIMITATION:** Does not apply

**SURVEY:**
- This plan is based on survey.

**STAGING:**
- This is not a staged subdivision.
- Planning Permit No.
- This survey has been connected to permanent marks No(s):
  - In Proclaimed Survey Area No:

**EASEMENT INFORMATION**

<table>
<thead>
<tr>
<th>Easement Reference</th>
<th>Purpose</th>
<th>Width (Metres)</th>
<th>Origin</th>
<th>Land Beneficial In Favour Of</th>
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<td>E-1</td>
<td>SEWERAGE</td>
<td>SEE PLAN</td>
<td>C/- 5590727 THIS PLAN</td>
<td>MMBW SOUTH EAST WATER CORPORATION</td>
</tr>
<tr>
<td>E-2</td>
<td>SEWERAGE</td>
<td>SEE PLAN</td>
<td>THIS PLAN</td>
<td>SOUTH EAST WATER CORPORATION</td>
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**WARNING:**
1. THIS IS A PHOTOCOPY OF AN UNREGISTERED PLAN. ALL ALTERATIONS BEYOND THE CONTROL OF THE SURVEYER MAY BE REQUIRED BY OTHERS PRIOR TO CONSTRUCTION AND REGISTRATION. Vicsurvey CAN ACCEPT NO LIABILITY FOR ANY LOSS OR DAMAGE INCURRED ARISING TO ANY PERSON OR CORPORATION WHO RELY ON THIS PLAN FOR ANY PURPOSE.

**DIMENSIONS SHOWN HEREIN ARE SUBJECT TO FINAL SURVEY.**

---

**Item 4.3 – Matters of Decision**
ATTACHMENT 3
Site and Surrounds Imagery

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th>⭐</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objector</td>
<td>●</td>
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</table>
2 Burgess – looking south

2 Burgess – looking north
2 Burgess Street
## Assessment Table 1 – Residential Subdivision (Clause 56)
Refer to Clause 56 of the Planning Scheme for objectives, decision guidelines and a full description of standards.

<table>
<thead>
<tr>
<th>STANDARD, OBJECTIVE(S) AND RELEVANT DECISION GUIDELINES</th>
<th>ASSESSMENT</th>
</tr>
</thead>
</table>
| C6 Neighbourhood Character | ✔ Responds  
To design subdivisions that respond to neighbourhood character  
The proposal encourages opportunities for diversity in residential type by providing lot sizes in a location where there are existing services. |
| C8 Lot area and building envelopes | ✔ Complies  
To provide lots with areas and dimensions that enable the appropriate siting and construction of a dwelling, solar access, private open space, vehicle access and parking, water management, easements and the retention of significant vegetation and site features.  
Lot 1 will have a total land area of 1,071sqm.  
Lot 2 will have a total land area of 1,224sqm.  
Both proposed lots are capable of containing a 10m by 15m envelope. |
| C9 Solar orientation of lots | ✔ Complies  
To provide good solar orientation of lots and solar access for future dwellings.  
Lots are appropriately orientated with both lots having a northwest-southeast orientation. |
| C11 Common area | N/A  
No common areas are proposed as part of this subdivision.  
To identify common areas and the purpose for which the area is commonly held.  
To ensure the provision of common area is appropriate and that necessary management arrangements are in place.  
To maintain direct public access throughout the neighbourhood street network. |
| C21 Lot access | ✔ Complies  
To provide for safe vehicle access between roads and lots.  
Both lots have a direct street frontage to Burgess Street with separate crossover for each.  
Any construction of a new crossover will require the appropriate approval from Council’s Engineering Department. |
| C22 Drinking water supply | ✔ Complies  
To reduce the use of drinking water  
To provide an adequate, cost-effective supply of drinking water.  
Water supply requirements will be provided to the requirements of South East Water. |
| C23 Reused and recycled water | ✔ Complies  
To provide for the substitution of drinking water for non-drinking purposes with reused and recycled water.  
The use of reused or recycled water is not proposed as part of this application. |
| C24 Waste water management | ✔ Complies  
To provide a waste water system that is adequate for the maintenance of public health and the management of effluent in an environmentally friendly manner.  
The site will be connected to the reticulated waste water system to the requirements of South East Water. |
| C25 Urban run-off management | ✔ Complies |
**C26 Site management**

To protect drainage infrastructure and receiving waters from sedimentation and contamination.

To protect the site and surrounding area from environmental degradation or nuisance prior to and during construction of subdivision works.

To encourage the re-use of materials from the site and recycled materials in the construction of subdivisions where practicable.

- **Complies**
  
  Public utilities reticulated services exist for the property.

**C27 Shared trenching**

To maximise the opportunities for shared trenching.

To minimise constraints on landscaping within street reserves.

- **Complies**
  
  Public utilities reticulated services exist for the property.

**C28 Electricity, telecommunications and gas**

To provide public utilities to each lot in a timely, efficient and cost effective manner.

To reduce greenhouse gas emissions by supporting generation and use of electricity from renewable sources.

- **Complies**
  
  Both lots will be connected to the relevant services.
1. Purpose and background

To report a planning permit application for a Section 72 Amendment to Planning Permit 2014/373 issued on 24 February 2015 for the construction of two double storey dwellings and front fence exceeding 1.2 metre on a lot with an area of 772.5 square metres (refer Attachment 1) at 3 Dorothea Street, Highett (refer Attachment 2).

The site is currently vacant and works have not yet begun.

The application seeks approval to:

**Dwelling 1**

- East side setback at the ground floor is to be increased from 2.05m to 2.15m;
- South rear setback at the first floor is to be increased from 2.95m to 3.05m;
- Reduction of the balcony size to create a new sitting room which faces to Dorothea Street. The front setback from the proposed sitting room at the first floor is not reduced. It remains at approximately 11.7m;
- Internal layout alterations to introduce a new bedroom at the first floor. Now including a total of 4 bedrooms increased from 3 bedrooms;
- Alteration to front façade design (fronting Dorothea Street) by adopting rendering and cladding finishes to replace the approved face brick and reducing the approved glazing amount; and
- Alterations to the appearance of other elevations by adopting rendering and cladding to match with the proposed façade design.

**Dwelling 2**

- North setback to the internal boundary fence at the ground floor has been increased from 2.0m to 2.005m;
- West side setback at the ground floor is to be increased from 5.74m to 5.805m;
- South rear setback fronting Marchant Street at the first floor has been increased from 5.08m to 5.19m;
- West side setback at the first floor in to be increased from 3.8m to 4.0m;
- Deletion of the balcony at the first floor fronting Marchant Street to create a new bedroom. Now including a total of 4 bedrooms increased from 3 bedrooms;
- Alteration to front façade design fronting Marchant Street by adopting rendering and cladding finishes to replace the approved face brick and reducing the approved glazing amount; and
- Alterations to other elevations by adopting rendering and cladding to match with the proposed façade design.
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 and not sought to be amended.

Original 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 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 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 Council has requested the Minister for Planning to appoint an independent Planning Panel to consider submissions received. A Panel hearing is expected to occur later 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 proposes to remove the SBO from the site and as such will no longer apply to an application on this site.

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 not referred to any Council departments.

Public notification

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

- Property devaluation;
- Removal of boundary fence;
- Overlooking;
- Overshadowing;
- Access and maintenance to boundary walls;
- Visual bulk;
- Loss of views; and
- Inadequate stormwater drainage system.
Consultation meeting

A consultation meeting was held on 22 May 2017 attended by the permit applicant and three objectors. As a result of this meeting no objections were withdrawn.

4. Recommendation

That Council:

Issues a Notice of Decision to Amend a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2014/373/2 for the land known and described as 3 Dorothea Street, Highett, for the construction of two double storey dwellings and front fence exceeding 1.2 metre 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) The driveway of Dwelling 1 where it intersects with the footpath must be 3m wide with 0.8 metre offset from the east boundary.
   b) The construction of a new 3 metre wide crossing for Dwelling 1 with a 0.8 metre offset from the east boundary, centred to the driveway.
   c) The driveway for Dwelling 2 where it intersects with the footpath must be 3 metres wide with a 0.6 metre offset from the west boundary.
   d) The construction of a new 3 metre wide crossing for Dwelling 2 with a 0.6 metre offset from the west boundary, centred to the driveway.
   e) Impacts of the construction of the crossovers on Council assets such as pits, trees and power poles.
   f) Compliance with the sight line requirements of AS2890.1 for the area where the driveway intersects with the footpath / nature strip for both dwellings. The plans must note that all structures and foliage, fences and other structures are limited to a maximum height of 1 metre or be kept clear.
   g) Provision of a privacy screen on the west side of the first floor balcony of Dwelling 2 in accordance with the requirements of Standard B22 of Clause 55 of the Bayside Planning Scheme.
   h) Internal fencing between Dwellings 1 & 2 to be a minimum of 1800mm above finished ground level.
   i) Relocation of the ground floor east elevation en-suite and study for Dwelling 2, 200mm off the east boundary and retention of the existing east boundary fence.
   j) Deletion of the swimming pool in the frontage of Dwelling 1.
   k) An updated landscaping plan in accordance with Condition 7 of this permit.
   l) Location of the proposed fencing details to be shown on the proposed site plan.
   m) All the proposed walls on boundaries to be relocated 200mm of the boundary.
n) All plant and equipment (including air conditioning units, heating units, hot water systems, etc.) which are proposed to be located externally.

o) Location and details of the proposed mailbox, meters, clotheslines and storage sheds for each proposed unit.

p) Provision of privacy screens:
   i. on the east side of the first floor balcony of the proposed Unit 1.
   ii. on the west side of the sitting room window at the first floor of the proposed Unit 1.
   iii. on the west side of the bedroom 3 window of the proposed Unit 2.

in accordance with the requirements of Standard B22 of Clause 55 of the Bayside Planning Scheme.

q) Nomination of glazing details in accordance with Standard B22 of Clause 55 of the Bayside Planning Scheme.

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

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

4. All pipes, fixtures, fittings and vents servicing the dwellings must be concealed in service ducts or otherwise hidden from view to the satisfaction of the responsible authority.

5. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the dwellings without the written consent of the responsible authority.

Traffic

6. Vehicular crossings must be constructed to the road to suit the proposed driveways to the satisfaction of the responsible authority.

Landscaping

7. Before the development starts, a landscape plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided.

The plan must show:

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

   b) Buildings and trees including botanical names on neighbouring properties within three metres of the boundary

   c) Details of surface finishes of pathways and driveways

   d) 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

   e) Landscaping and planting within all open areas of the site.
f) The planting of one tree capable of reaching a minimum height of 12 metres at maturity in the Dorothea Street frontage of Dwelling 1 & secluded open space of Dwelling 2

All species selected must be to the satisfaction of the responsible authority.

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

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

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

Drainage

10. 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.

11. Stormwater discharge must be retained for the portion above the discharge calculated using a Coefficient of Runoff of 0.35. The development is to have a Stormwater Detention System installed, the design capacity to be to the satisfaction of the Responsible Authority.

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

13. All on-site stormwater is to be collected from the hard surface areas and must not be allowed to flow uncontrolled onto adjoining properties. The on-site drainage system must prevent discharge from each driveway onto the footpath. Such a system may include either:
   a) A trench grate (150mm minimum internal width) located within the property and/or
   b) Shaping the driveway so that water is collected in a grated pit on the property and/or
   c) Another Council approved equivalent.

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

15. The driveway / Parking areas / paved courtyards / paths and 'pervious' pavements must be graded / drained to prevent stormwater discharge into adjacent properties.

Melbourne Water

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

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.
- 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 9:00 to 1:00pm on 9599 4638.

Permit required notes as per drainage

- If further information is required in relation to Melbourne Water’s permit conditions shown above, please contact Melbourne Water on telephone 9679 7517 quoting Melbourne Water’s reference 241010.

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<th>Date</th>
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<td>6 March 2017</td>
<td>Extension of time granted to allow commencement by 24 February 2019 and completion by 24 February 2021.</td>
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</table>
| 18 July 2017 | Amendment to the permit under Section 72 of the Planning and Environment Act 1987 to:

Existing Condition 1f), 1h) and 1k) to be amended as follows:

- 1f) Compliance with the sight line requirements of AS2890.1 for the area where the driveway intersects with the footpath / nature strip for both dwellings. The plans must note that all structures and foliage, fences and other structures are limited to a maximum height of 1 metre or be kept clear.
- 1h) Internal fencing between Dwellings 1 & 2 to be a minimum of 1800mm above finished ground level.
- 1k) An updated landscaping plan in accordance with Condition 7 of this permit.

New Condition 1l), 1m), 1n), 1o), 1p) and 1q) to be introduced as follows:

- 1l) Location of the proposed fencing details to be shown on the proposed site plan.
- 1m) All the proposed walls on boundaries to be relocated 200mm of the boundary.
- 1n) All plant and equipment (including air conditioning units, heating units, hotwater systems, etc.) which are proposed to be located externally.
- 1o) Location and details of the proposed mailbox, meters, clothlines and storage sheds for each proposed unit.

- 1p) Provision of privacy screens
  - i. on the east side of the first floor balcony of the proposed Unit 1.
  - ii. on the west side of the sitting room window at the first floor of the proposed Unit 1.
  - iii. on the west side of the bedroom 3 window of the proposed Unit 2.

  in accordance with the requirements of Standard B22 of Clause 55 of the Bayside Planning Scheme.

- 1q) Nomination of glazing details in accordance with Standard B22 of Clause 55 of the Bayside Planning Scheme.

Amended Plan under Section 72 to include:

**Dwelling 1**
- East side setback at the ground floor has been increased from 2.05m to 2.15m
- South rear setback at the first floor has been increased from 2.95m to 3.05m
- Reduction the balcony size to create a new sitting room which faces to the Dorothea Street.
- Internal layout alterations to introduce a new bedroom at the first floor.
- Alteration to front façade design (fronting Dorothea Street) by adopting rendering and cladding finishes to replace the approved face brick and reducing the approved glazing amount.
- Alterations to other elevations by adopting rendering and cladding to match with the proposed façade design.

**Dwelling 2**
- North rear setback to internal boundary fencing at the ground floor has been increased from 2.0m to 2.005m.
- West side setback at the ground floor has been increased from 5.74m to 5.805m.
- South rear setback fronting Marchant Street at the first floor has been increased from 5.08m to 5.19m.
- West side setback at the first floor has been increased from 3.8m to 4.0m.
- Deletion of the balcony at the first floor fronting Marchant Street to create a new bedroom.
- Alteration to front façade design (fronting Marchant Street) by adopting rendering and cladding finishes to replace the approved face brick and reducing the approved glazing amount.
- Alterations to other elevations’ appearance by adopting rendering and cladding to match with the proposed façade design.
5. **Council Policy**

**Council Plan 2017-2021**

Relevant strategic objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 11 Settlement
- Clause 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 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 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 proposed building elevations have been altered by adopting a new design involving rendered finishes and cladding to replace the approved face bricks and feature tiles and stones. The proposed window fenestrations as well as the location of walls have been tweaked to form a new façade design. Having said that the new proposal contributes to a good design outcome, it adopts designs details from the existing neighbourhood which
includes modern finishes, pitched roof, and eaves to differentiate the ground and first floor. Overall design achieves a high level of compliance with the precinct guidelines as same as the original permit.

The objectors have raised concerns relating to visual bulk. The considerations for this application is limited to the proposed amendments being the proposed rooms and the elevation appearance alterations. The approved balcony of Unit 1 is partially enclosed and replaced by a new sitting room. It brings the wall towards the Dorothea Street by 1.6m to provide space for the proposed sitting room. The west side setback remains at 3.92m complying Standard B17. It offers limited visual impact to the adjoining property at 1 Dorothea Street given the area is mainly defined by a carport on boundary.

The approved balcony of Unit 2 is to be replaced by the new bedroom 3. It brings the wall towards the Marchant Street by approximately 1.7m. The proposed west side setback is 4m which complies with Standard B17 and setback 200mm further than the approved plan. The proposal will have limited visual impacts to the neighbour at 1 Dorothea Street given this area is not primarily used as private open space as existing sheds and outbuildings are defining this area.

Furthermore, the first floor building footprints of each dwelling have not been increased. The proposed new rooms will bring the wall towards both Dorothea Street and Marchant Street however it still offers limited visual impact to the existing streetscape given the proposed setbacks are substantial, being 11.815m and 5.19m from Dorothea and Marchant Street respectively.

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

An assessment against the requirements of Clause 55 is provided at Attachment 4.

**Front setback (Standard B6)**

The existing front setbacks to Dorothea Street is slightly altered. The existing balcony will be filled in, but the setback will remain compliant with Standard B6.

In regard to the Marchant Street frontage, the setback will remain as approved, albeit the balcony will be filled in and occupied by a bedroom.

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

The proposal is to increase the approved side and rear setbacks as follows:

- The south rear setback of Unit 2 at the first floor from 5.08 to 5.19m;
- The west side setbacks at the first floor to 4m from 3.8m;
- The west side setback at ground floor of Unit 2 is to be increased from 5.74m to 5.805m; and
- The east side setback at ground floor of Unit 1 is to be increased from 2.05m to 2.15m.

The proposed modifications will improve the outcome originally approved. It is noted that the setbacks remain compliant with Standard B17 of Clause 55.

**Overlooking (Standard B22)**

The proposed balcony of Unit 1 (East Elevation) will potentially overlook into the property at 1/5 Dorothea Street which requires to be conditioned to comply with Standard B22.

The proposed sitting room (West Elevation) window at the first floor potentially overlook into the habitable room window of 1 Dorothea Street which requires to be conditioned to comply with Standard B22.

The proposed bedroom 3 window (West Elevation) will potentially overlook into the backyard of 1 Dorothea Street which requires to be conditioned to comply with Standard B22.
Internal Views (Standard B23)
The proposed plan does not show the internal fencing details between both new dwellings which may cause internal views between the dwellings. A condition is included requesting a 1.8m high internal fence to be provided complying with Standard B23.

Landscaping (Standard B13)
The proposed amendments do not change the approved landscaping design in terms of the details of the approved vegetation. However, the approved landscaping is required to be updated to reflect the changes made on the proposed ground floor plan. A condition is to be included requesting the landscaping plan to be amended to include any changes to the ground floor plan.

Storage (Standard B30)
The storage sheds were provided in the original endorsed plan, however, they are removed from the current plan. Therefore, a condition is included requiring storage sheds to be provided to each dwelling in accordance with Standard B30.

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

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

Removal of boundary fence
The applicant has confirmed with Council that both garage walls on boundaries will be relocated 200mm off the boundary to address this concern. Accordingly, this setback will retain the existing boundary fences.

Access and maintenance to boundary walls
A wall on the title boundary or 200mm off the boundary is permitted under the Bayside Planning Scheme. Both the applicant and registered objectors agreed to move the wall off the boundary by 200mm. This ensures the existing boundary fence is retained however may create maintenance issues in the future. This will become a civil matter which cannot be considered as part of the planning assessment.

Inadequate stormwater drainage system
The stormwater drainage system has been considered as part of the original approval. It is noted that conditions are included in the planning permit to ensure appropriate servicing is provided to the dwellings.

Overshadowing
The objectors from the 2/5 Dorothea Street raised the concerns that the proposal will overshadow to their properties, especially the new installed solar panels will be affected. The applicant circulated overshadowing plan after the consultation meeting which demonstrated that no unreasonably overshadowing will be created by the proposal and complying with Standard B21. A copy of the shadowing plan was circulated to the registered objectors by Council, no further objection was received and no objections were withdrawn.
Support Attachments

1. Development Plan ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment ↓
4. ResCode Assessment ↓
5. Original Planning Permit ↓
Figure 1 Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>✭</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>⬤</td>
</tr>
</tbody>
</table>
Figure 2 View towards the site from Dorothea Street from east
Figure 3 View towards the site from Dorothea from west
Figure 4 View from Marchant Street towards subject site
ATTACHMENT 3

Neighbourhood Character Policy (Precinct G1)

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain and enhance the garden settings of the dwellings. | Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation. | Lack of landscaping and substantial vegetation. | Responds
| | Retain large, established trees and provide for the planting of new trees wherever possible. | Removal of large trees. | Comments
| | Buildings should be sited to allow space for the planting of trees and shrubs. | Planting of environmental weeds. | 

To maintain the rhythm of visual separation between buildings.

<table>
<thead>
<tr>
<th>Design Responses</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
</tr>
</tbody>
</table>

To ensure that new buildings provide an articulated and interesting façade to the street.

<table>
<thead>
<tr>
<th>Design Responses</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| Responds
| Comments
| The footprint of the building is not altered therefore it is not applicable to this amendment. | 

Although the design has been altered however it still achieves a high level of compliance given the variety of materials have been adopted.
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td>Use pitched roof forms with eaves.</td>
<td>High, solid front fencing.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Comments</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The front fence was approved under the original approval.</td>
</tr>
</tbody>
</table>
### ATTACHMENT 4

**ResCode (Clause 55) Assessment**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer Attachment 2.</td>
</tr>
<tr>
<td>Design respects existing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>contributes to a preferred</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development responds to</td>
<td></td>
<td></td>
</tr>
<tr>
<td>features of the site and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>N/A</td>
<td>The proposed amendment does not change the number of dwelling as</td>
</tr>
<tr>
<td>Residential development is</td>
<td></td>
<td>approved under the previous permit.</td>
</tr>
<tr>
<td>consistent with housing policies in</td>
<td></td>
<td></td>
</tr>
<tr>
<td>the SPPF, LPPF including the MSS</td>
<td></td>
<td></td>
</tr>
<tr>
<td>and local planning policies.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Support medium densities in areas</td>
<td></td>
<td></td>
</tr>
<tr>
<td>to take advantage of public transport</td>
<td></td>
<td></td>
</tr>
<tr>
<td>and community infrastructure and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>and types in developments of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>N/A</td>
<td>The proposed amendment does not change the number of dwelling as</td>
</tr>
<tr>
<td>Provides appropriate utility</td>
<td></td>
<td>approved under the previous permit.</td>
</tr>
<tr>
<td>services and infrastructure</td>
<td></td>
<td></td>
</tr>
<tr>
<td>without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Integrate the layout of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>N/A</td>
<td>The proposed amendment does not change the approved front setback.</td>
</tr>
<tr>
<td>The setbacks of buildings from a</td>
<td></td>
<td></td>
</tr>
<tr>
<td>street respect the existing or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>preferred neighbourhood</td>
<td></td>
<td></td>
</tr>
<tr>
<td>character and make efficient</td>
<td></td>
<td></td>
</tr>
<tr>
<td>use of the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
</tr>
<tr>
<td>B7 Building Height</td>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td>N/A</td>
</tr>
<tr>
<td>B8 Site Coverage</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Yes</td>
</tr>
<tr>
<td>B9 Permeability</td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
</tr>
<tr>
<td>B10 Energy Efficiency</td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>Yes</td>
</tr>
<tr>
<td>B11 Open Space</td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>N/A</td>
</tr>
<tr>
<td>B12 Safety</td>
<td>Layout to provide safety and security for residents and property.</td>
<td>N/A</td>
</tr>
<tr>
<td>B13 Landscaping</td>
<td>To provide appropriate landscaping. To encourage: Development that respects the landscape character of the neighbourhood. Development that maintains and enhances habitat for plants and animals in locations of habitat importance. The retention of mature</td>
<td>No</td>
</tr>
</tbody>
</table>
vegetation on the site.

<table>
<thead>
<tr>
<th>Item</th>
<th>Ground Floor</th>
<th>First Floor</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>B14 Access</td>
<td>N/A</td>
<td>The proposed amendment does not include alterations to the access as approved under the original permit.</td>
<td></td>
</tr>
<tr>
<td>B15 Parking Location</td>
<td>Yes</td>
<td>The proposed car parking areas are appropriately located.</td>
<td></td>
</tr>
<tr>
<td>B17 Side and Rear Setbacks</td>
<td>Yes</td>
<td>Refer the table below.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>East (side)</strong></td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>2.05m</td>
<td>2.05m</td>
<td>3.398m – 3.32m</td>
</tr>
<tr>
<td><strong>West (side)</strong></td>
<td>2m</td>
<td>2.24m – 5.805m</td>
</tr>
<tr>
<td><strong>South (rear)</strong></td>
<td>3m</td>
<td>3.455m</td>
</tr>
</tbody>
</table>

| B18 Walls on Boundaries | Yes | Maximum Height: 3.6m |
|                         |     | Proposed: 3.4m |
|                         |     | Maximum Average Height: 3.2m |
|                         |     | Proposed:3.2m |
|                         |     | Maximum Length: approximately 19m each side |
|                         |     | Proposed: 6.4m each side |

| B19 Daylight to Existing Windows | Yes | Adequate daylight has been provided to the existing habitable room windows. |
| B20 North Facing Windows | Yes | No additional north facing windows on adjoining properties are affected by the proposed |
### Bayside City Council
Planning & Amenity Committee Meeting - 18 July 2017
Attachment 4

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>4.4</strong> – Matters of Decision</td>
<td></td>
</tr>
</tbody>
</table>

| B21 Overshadowing Open Space | Yes | Given the proposed building height as well as the footprint is not altered significantly, no unreasonable overshadowing is caused by the proposal. The applicant has provided Council a shadow diagram which has confirmed that the amended plan does not cause any unreasonable overshadowing to adjoining properties. |
| **B22 Overlooking** | No | Refer report. Addressed via conditions. |
| **B23 Internal Views** | No | The internal fence at the ground floor will be conditioned with a 1.8m high fence to comply with the condition. No internal views will be compromised from the first floor as all the windows have been screened up to 1.7m. |
| **B24 Noise Impacts** | Yes | The development will not generate any noise above that typically expected from a residential building. |
| **B25 Accessibility** | Yes | Entries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required. |
| **B26 Dwelling Entry** | Yes | The entries to both dwellings are easily identifiable from the street. |
| **B27 Daylight to New Windows** | Yes | All habitable windows have direct access to daylight. |
| **B28 Private Open Space** | N/A | The proposal does not include any alterations to SPOS or POS under the original approval. |
| **B29 Solar Access to Open Space** | N/A | The proposal does not include any alterations which may cause the different solar access to SPOS. |
**B30 Storage**
Provide adequate storage facilities for each dwelling.

<table>
<thead>
<tr>
<th>Yes/No</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>A storage shed of 6m³ in size has not been provided which will be conditioned as part of the permit.</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Yes/No</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Refer Attachment 2.</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Yes/No</th>
<th>Description</th>
</tr>
</thead>
</table>
| N/A    | Required: 1.2m

**Proposed:** The proposal does not include any alteration to the approved front fence. |

**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>Yes/No</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
<td></td>
</tr>
</tbody>
</table>

**B34 Site Services**
Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.

<table>
<thead>
<tr>
<th>Yes/No</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Plans have not been updated to show clotheslines or storage areas as required, they will be conditioned as part of the permit. Locations for mailboxes and metres will be conditioned.</td>
</tr>
</tbody>
</table>


10 March 2017

Peter Wright & Associates Pty Ltd
Suite 5, 60 Bay Road
SANDRINGHAM 3191

Dear Applicant,

Permit Number: 5/2014/373/1
Address: 3 Dorothea Street HIGG HOLD

EXTENSION OF TIME

Council has resolved to grant an extension of time for the above permit, please refer to the attached copy of the permit for details.

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

Ziqi Xi
Email: enquiries@bayside.vic.gov.au
Telephone: 9599 4408

Please quote planning application 2014/373 – 3 Dorothea Street HIGG HOLD in all correspondence / emails.

Yours faithfully

STATUTORY PLANNING DEPARTMENT
Enc.
The Following Conditions Apply To This Permit:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
   a) The driveway of Dwelling 1 where it intersects with the footpath must be 3m wide with 0.8 metre offset from the east boundary.
   b) The construction of a new 3 metre wide crossing for Dwelling 1 with a 0.8 metre offset from the east boundary, centred to the driveway.
   c) The driveway for Dwelling 2 where it intersects with the footpath must be 3 metres wide with a 0.6 metre offset from the west boundary.
   d) The construction of a new 3 metre wide crossing for Dwelling 2 with a 0.6 metre offset from the west boundary, centred to the driveway.
   e) Impacts of the construction of the crossovers on Council assets such as pits, trees and power poles.
   f) Compliance with the sight line requirements of AS 2890.1 for the area where the driveway intersects with the footpath / nature strip for both dwellings. The plans must note that all structures and foliage, fences and other structures are limited to a maximum height of 1 metre or be kept clear.
   g) Provision of a privacy screen on the west side of the first floor balcony of Dwelling 2 in accordance with the requirements of Standard B22 of Clause 55 of the Bayside Planning Scheme.
   h) Internal fencing between Dwellings 1 & 2 to be a minimum of 1800mm above finished ground level.
   i) Relocation of the ground floor east elevation en-suite and study for Dwelling 2, 200mm off the east boundary and retention of the existing east boundary fence.
   j) Deletion of the swimming pool in the frontage of Dwelling 1.
   k) A landscaping plan in accordance with Condition 7.
   l) All plant and equipment (including air conditioning units, heating units, hotwater systems, etc.) which are proposed to be located externally.

Date issued: 24 February 2015
Signature for the Responsible Authority

Planning and Environment Regulations 2005 Form 4

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
2. The development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

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

4. All pipes, fixtures, fittings and vents servicing the dwellings must be concealed in service ducts or otherwise hidden from view to the satisfaction of the responsible authority.

5. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the dwellings without the written consent of the responsible authority.

Traffic
6. Vehicular crossings must be constructed to the road to suit the proposed driveways to the satisfaction of the responsible authority.

Landscaping
7. Before the development starts, a landscape plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided.

The plan must show:
   a) A survey including botanical names of all existing vegetation to be retained and/or removed
   b) Buildings and trees including botanical names on neighbouring properties within three metres of the boundary
   c) Details of surface finishes of pathways and driveways
   d) 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
   e) Landscaping and planting within all open areas of the site.
   f) The planting of one tree capable of reaching a minimum height of 12 metres at maturity in the Dorothea Street frontage of Dwelling 1 & secluded open space of Dwelling 2

All species selected must be to the satisfaction of the responsible authority.

Date issued: 24 February 2015

Signature for the Responsible Authority

Planning and Environment Regulations 2009 Form 4

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
The landscape plan must also indicate that an in-ground irrigation system is to be provided to all landscaped areas.

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

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

Drainage

10. 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.

11. Stormwater discharge must be retained for the portion above the discharge calculated using a Coefficient of Runoff of 0.35. The development is to have a Stormwater Detention System installed, the design capacity to be to the satisfaction of the Responsible Authority.

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

13. All on-site stormwater is to be collected from the hard surface areas and must not be allowed to flow uncontrolled onto adjoining properties. The on-site drainage system must prevent discharge from each driveway onto the footpath. Such a system may include either:
   a) A trench grate (150mm minimum internal width) located within the property and/or
   b) Shaping the driveway so that water is collected in a grated pit on the property and/or
   c) Another Council approved equivalent.

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

15. The driveway / Parking areas / paved courtyards / paths and ‘pervious’ pavements must be graded / drained to prevent stormwater discharge into adjacent properties.

Date issued: 24 February 2015

Signature for the Responsible Authority

Planning and Environment Regulations 2005 Form 4

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
Melbourne Water
16. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.

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.
- 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.

Permit required notes as per drainage

If further information is required in relation to Melbourne Water’s permit conditions shown above, please contact Melbourne Water on telephone 9579 7517 quoting Melbourne Water’s reference 241010

<table>
<thead>
<tr>
<th>Date</th>
<th>Brief description of amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>7 March 2017</td>
<td>Extension of time granted to allow commencement by 24 February 2019 and completion by 24 February 2021.</td>
</tr>
</tbody>
</table>

THIS PERMIT SUPERSEDES ALL OTHER PERMITS ISSUED.
FORM 4

PLANNING PERMIT

IMPORTANT INFORMATION ABOUT THIS PERMIT

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

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

WHEN DOES A PERMIT EXPIRE?
1. A permit for the development of land expires if—
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act
     1988 and the plan is not certified within two years of the issue of the permit, unless the permit contains a
different provision; or
   * the development or any stage is not completed within the time specified in the permit, or, if no time is specified,
     within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of
     the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.

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

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

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

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

WHAT ABOUT APPEALS?
* The person who applied for the permit may apply for a review of any condition in the permit unless it was granted
  * at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of review exists.
  * An application for review must be lodged within 60 days after the permit was issued, unless a notice of decision to
    grant a permit has been issued previously, in which case the application for review must be lodged within 60 days
    after the giving of that notice.
  * An application for review is lodged with the Victorian Civil and Administrative Tribunal.
  * An application for review must be made on an Application for Review form which can be obtained from the
    Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
  * An application for review must state the grounds upon which it is based.
  * An application for review must also be served on the Responsible Authority.
  * Details about applications for review and the fees payable can be obtained from the Victorian Civil and
    Administrative Tribunal.
Item 4.4 – Matters of Decision
4.5 38 KEATS STREET, SANDRINGHAM
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/768/1 WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/128086

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 919 metres square (refer Attachment 1) at 38 Keats Street, Sandringham (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Ask Planning Services Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>4 April 2017 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>4 June 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.

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

Amendment VC110 was gazetted on the 27 March 2017. The amendment implemented the State Government’s response to the recommendations of the Managing Residential Development Advisory Committee by introducing a minimum garden area for lots 400sqm and above, amending the mandatory height controls and the deleting the minimum number of dwellings allowed per lot in the Neighbourhood Residential Zone. Transitional provisions at clause 32.09-14 state that planning applications received prior to the introduction of VC110 are not required to meet the minimum garden area requirement, the maximum building height or the number of storey requirements. As such this application is not affected by VC110.

3. Stakeholder Consultation
External referrals
There were no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme.
Internal referrals
The application was referred to the following Council departments for comment:

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Open Space 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 two objections were received. The following concerns were raised:
- Loss of daylight; and
- Retention of trees on private property.

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 the Bayside Planning Scheme in respect of Planning Application 2016/768/1 for the land known and described as 38 Keats Street, Sandringham, for the construction of two 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 in accordance with the advertised plans submitted with the application but modified to show:
   a) The first floor north and south (side) setbacks of dwelling 1 and 2 to be compliant with Standard B17 (Side and rear setbacks) of Clause 55 of the Bayside Planning Scheme;
   b) Boundary fencing located along the eastern, southern and western boundary must be compliant with Standard B22 (Overlooking) of Clause 55 of the Bayside Planning Scheme;
   c) Adequate sightlines must be provided where the proposed driveway intersects with the front footpath as per the diagram shown in AS2890.0.
   d) An amended Landscape Plan in accordance with Condition 9 of this permit;
   e) A Tree Management Plan (report) and Tree Protection Plan (drawing) in accordance with Condition 10 of this permit.

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

3. 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.

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

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

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

9. 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 Kate Ardlie Design dated 24 March 2017, Revision D 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 protected vegetation to be removed from the site.
   c) Provision of a medium tree reaching a minimum size of 8 metres located within the rear of the development.
   d) A survey, including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   e) A planting schedule of all proposed trees and shrubs, including botanical...
names, common names, pot sizes, sizes at maturity, and quantities of each plant.

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

g) Details of surface finishes of pathways and driveways.

h) Three trees capable of reaching 8 m at maturity in the rear setback; two in the south yard and one in the north yard.

10. Prior to the endorsement of plans pursuant to Condition 1, including any related demolition or removal of vegetation, a Tree Management Plan (report) and Tree Protection Plan (drawing), to the satisfaction of the Responsible Authority, must be submitted to, and be endorsed by, the Responsible Authority.

The Tree Management Plan (report) must be specific to the site, be in accordance with Australian Standard: Protection of Trees on Development Sites AS4970-2009 and include:

a) Construction of the alfresco area of 38a Keats Street (south-east) to be constructed above existing grade and of a permeable nature.

b) Demonstrated recommendations outlines within the arborist report relating to the use of root sensitive techniques for neighbouring trees.

c) Tree Protection Zone and structural root zones of trees *3

d) Details of Tree Protection Zones 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;

e) Comment on methods to be utilised and instruction on how to deploy them;

f) Comment on when the protection measures are to be deployed;

g) Comment on when the protection measures can be modified;

h) Process that will be followed if any damage occurs to a tree;

i) Process that will be followed if construction works require alteration to protection measures outlined in report; and

j) Stages of development at which inspections will occur.

Any proposed alteration to the plan must be assessed by the site arborist and can only occur following the approval of the site arborist.

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

The Tree Protection Plan must be drawn to scale and show the location of all tree protection measures to be utilised. If tree protection measures are proposed to be changed during the development, one plan for each stage of tree protection measures must be submitted.

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

12. Before the development starts, including demolition or removal of vegetation, the name and contact details of the project arborist responsible for implementing the endorsed Tree Management Plan must be submitted to the Responsible Authority.
13. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

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

15. The proposed widening of the existing vehicle crossing must not impact the street tree’s health and stability; however, soil excavation must not occur within 3.0 m from the edge of the *Melia azedarach* (White Cedar) street tree asset’s stem at ground level.

16. Before the development starts, including demolition or removal of vegetation, a tree protection fence must be installed for the protection of a tree’s canopy and root zone. Street tree protection fencing during development are as follows:
   a) Fencing is to be secured and maintained prior to demolition and until all site works are complete.
   b) Fencing must be installed to comply with 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 is to be constructed and secured so its positioning cannot be modified by site workers.
   e) If applicable, prior to construction of the Council approved crossover, TPZ fencing may be reduced to the edge of the new crossover to facilitate works.

17. Root pruning within the TPZ:
   a) Prior to soil excavation for a Council approved crossover within the TPZ of the street tree, 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.

18. 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.

19. 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.

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. Council records indicate that there is a 1.83m wide drainage and sewerage easement along the western 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.

22. Before the development, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council’s Infrastructure Assets Department.
23. Any subsurface water captured on site must be treated in accordance with Council’s Policy for “Discharge of pumped Subterranean Water Associated with Basement or Below Ground Structures”. Any seepage/agricultural drainage water must be filtered to rain water clarity and must be pumped to the nearest Council Drain/Pit and not be discharged to the kerb and channel unless directed otherwise.

24. 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.

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:

- 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 buildings works or occupy the building or part of the building unless all relevant building permits are obtained.

- Before the development commences, the applicant must pay $3,410.40 to the Responsible Authority of the removal and replacement of the existing street tree. This amount has been determined in accordance with Council’s current policy for the removal of street trees. This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by the Responsible Authority, must undertake the removal and replacement of the street trees. Any replacement planting will be at the discretion of the Responsible Authority must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.

5. Council Policy

Council Plan 2017-2021

Relevant strategic objectives of the Council plan include:

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

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

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

Relevant strategies of the Council plan include:

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

- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy (Precinct E3)
- 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 the Neighbourhood Character Precinct E3. The proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The development incorporates appropriate boundary setbacks to reflect the built form pattern of the area while promoting adequate visual separation between the adjoining dwellings. It is noted that the character of Keats Street consists of various built form elements, therefore the proposed contemporary design will not seem at odds with the immediate area. The dwellings will sit comfortably within their context largely due to the articulated facades, roof form responsive to dwelling forms in the neighbourhood, appropriate front setbacks, materials and finishes that are complementary to the existing and the preferred character of the area.

The buildings setback from the side boundaries allow for suitable landscaping opportunities to enhance the landscaped character of the area. The proposed development consists of a 10 metre front setback (north) which provides an opportunity for the retention of tree #3 a Tupelo (*Nyssa sylvatica*) located at street frontage; consequently maintaining the vegetated streetscape.

Taking into consideration the prominence of garden characteristics of Keats Street, the proposed low front fence ensures that the front garden will be visible from street frontage.

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

6.2. Compliance with Clause 55 (ResCode)

An assessment against the requirements of Clause 55 is provided at Attachment 4. Those non-compliant standards are discussed below:
Side and Rear Setbacks (Standard B17)

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td><strong>East (side)</strong></td>
<td>0m or 2m</td>
<td>1.4m or 2m</td>
</tr>
<tr>
<td><strong>South (rear)</strong></td>
<td>0m or 3m</td>
<td>8.5 m</td>
</tr>
<tr>
<td><strong>West (side)</strong></td>
<td>0m or 2m</td>
<td>1.6 or 2.3m</td>
</tr>
</tbody>
</table>

The proposed setbacks do not respect both the existing and preferred neighbourhood character and will present in a visually unacceptable manner when viewed from the abutting allotment(s). Furthermore there is limited variation in terms of building material between the lower and first floor (render), therefore no visual break is provided which creates for visual bulk.

It is for this reason that a condition is included in the recommendation that requires both east and western ground and first floor setbacks of dwelling 1 and 2 to comply with Standard B17 of the Bayside Planning Scheme to mitigate amenity impacts and respect the character of the neighbourhood.

Overlooking (Standard B22)

A combination of fixed obscure glazing and appropriately located windows have been incorporated within the design to minimise overlooking and comply with Standard B22.

However it is noted that no details were provided regarding any boundary fencing. It is for this reason that a condition will be placed on the permit requiring boundary fencing to comply with standard B22.

6.3. **Car parking and traffic**

A minimum of two off-street parking spaces are to be provided for each dwelling, in accordance with the requirements of Clause 52.06 (Car parking) of the Planning Scheme.

Council’s Traffic Engineer has also requested that a corner splay be provided to enable adequate visibility between the road and footpath users. This has been included as a condition in the recommendation.

The development is likely to result in a marginal increase in traffic, but this can be accommodated within the surrounding street network. Council’s Traffic engineer has no concerns with this minor increase in traffic.

6.4. **Street tree removal**

The existing *Melia Azedarach (White Cedar)* abutting the proposed crossover (north-west) will be removed to accommodate the crossover. Council’s Open Space Arborist has supported the application subject to conditions which are included should a permit issue.

6.5. **Vegetation & Landscaping**

Council’s Arborist has attended the site and has advised that the existing vegetation on the site is generally in good condition and provides high amenity value, however it is noted that no trees are protected by any planning overlay.

The table below identifies those trees protected by the Local Law and those which are not protected by any statutory mechanism. Indigenous trees are marked with "*".
Council’s Arborist in their referral response advised that there is no objection to the proposed removal of all trees, with the exception of tree #4 a Liquidambar (*Liquidambar styraciflua*). However as there is no planning overlay protecting the tree, tree #4 impacts the proposed development and therefore its removal is considered to be acceptable.

The applicant proposes to retain tree #3 (*Tupelo (Nyssa sylvatica)* therefore tree #3 must be retained. To further the vegetated nature of Keats Street, a condition will be placed on the permit requiring the provision of a medium sized tree (reaching a minimum height of 8 metres) within the rear of the development.

Council’s Arborist in their referral response advised that the proposed development should adopt the recommendation of the arborist report with regards to trees located on neighbouring properties (tree #9 a Chinese Photinia (*Photinia serratiflora*)). It is for this reason that a condition requiring construction of the alfresco area of 38a Keats Street (south-east) to be constructed above existing grade and of a permeable nature. It is noted that Tree #6 is dead, therefore its removal is inconsequential.

With regards to the future planting on the site, the proposed development incorporates landscaping opportunities to achieve an outcome consistent with the existing and preferred character of the area. The Bayside City Council Landscape Guidelines (2015) specify that for low density applications, one large canopy tree (8-15 m height and greater than 4m canopy spread) should be planted in the front of a dwelling and one large tree or two small (6m to 8m height) trees are planted in the rear of the site.

The proposed development is considered to comply with The Bayside City Council Landscape Guidelines (2015) as the landscape plan includes the retention of a large tree #3 (*Tupelo (Nyssa sylvatica)*) located within the front setback (north). The landscape plan also includes a variety of shrubs and ground covers within the front and rear setbacks, and along the side boundaries. The landscape plan will achieve an outcome consistent with the preferred landscaped character of the area.

### 6.6. Objections received

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

**Loss of daylight**

All habitable room windows adjoining the subject site will have a light court that is 3 square metres in area and 1 metre clear to the sky, and the proposed buildings have been adequately setback from boundaries to ensure that daylight to existing habitable room windows is not reduced. The proposal complies with Standard B19 (Daylight to Existing Windows) of Clause 55 of the Bayside Planning Scheme.
Support Attachments

1. Development Plans ↓
2. Site Surrounds and Imagery ↓
3. Neighbourhood Character Assessment (Precinct E3) ↓
4. Clause 55 (ResCode) Assessment ↓
Item 4.5 – Matters of Decision

NEW TOWN HOUSE DEVELOPMENT
38 KEATS STREET, SANDRINGHAM
Revision 1 March 2017
TOWN PLANNING REF: 010692

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

Figure 1 Aerial overview of the site and surrounds showing objectors (two) in the immediate vicinity of the site.

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
<tr>
<td>Objector(s)</td>
</tr>
</tbody>
</table>
Figure 2 View of the site as seen from Keats Street

Figure 3 View of the site as seen from Keats Street
Neighbourhood Character Precinct E3

Preferred Future Character Statement

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 California Bungalow style dwellings, however, new buildings 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  
Keats Street contains various forms of development including contemporary design. The proposed development will enhance the existing and emerging character of the area by utilising similar forms of materials, finishes; and, landscaping. |
| To maintain and enhance the garden settings of the dwellings. | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. | Lack of landscaping and substantial vegetation. | Responds  
There is sufficient space to provide substantial trees to maintain and enhance the garden settings of the dwellings. |
| To provide space for front gardens. | • Buildings should be sited to allow space for the planting of trees and shrubs. | Loss of front garden space. | Responds  
There is sufficient area for the provision of landscaping to occur within the front setback of both dwellings. |
| To maintain the rhythm of spacious visual separation between buildings. | • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | | Responds  
Subject to conditions, the dwellings will be appropriately setback from the side boundaries to maintain the rhythm of visual separation between buildings. |
<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>Responds</td>
</tr>
<tr>
<td></td>
<td>- Minimise paving in front garden areas including driveways and crossovers.</td>
<td>Front setbacks dominated by impervious surfaces.</td>
<td>Although the garages are not located behind the line of the dwellings, all effort has been taken to reduce the garages dominance. This has been done by utilising timber as the external finish of both garage doors, thus reducing the visual impact on the streetscape. The landscaping plan demonstrates sufficient landscaping opportunities in order to meet the vegetated streetscape of Keats Street.</td>
</tr>
<tr>
<td>To ensure new development respects the dominant building scale and forms within the streetscape.</td>
<td>- Recess upper storey elements from the front façade.</td>
<td></td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>- Incorporate pitched roof forms with eaves.</td>
<td></td>
<td>The dwellings feature articulated forms and second storey elements (subject to conditions) will be recessed from the side walls and surfaces. The recessed upper storey element from the front façade response to the neighbourhood character of the street. It is considered that due to the architectural design found throughout Keats street, the flat roof form for both dwellings is considered to be appropriate as it meets the existing and emerging neighbourhood character of the street.</td>
</tr>
<tr>
<td>To use lighter looking building materials and finishes that complement weatherboard where it predominates in the streetscape.</td>
<td>- Incorporate timber or other non-masonry wall materials where possible.</td>
<td>Heavy materials and design detailing where weatherboard predominates (eg. Large masonry columns and piers)</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The proposed development incorporates a mixture of building material such as timber, timber cladding; and, render. The colours are considered to compliment the streetscape of Keats Street.</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 maintain the openness of the streetscape.</td>
<td>• Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High, solid front fencing</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Front fence style should be appropriate to the building era.</td>
<td></td>
<td>A condition requiring the front fence to be reduced to 1.2m will enhance the openness of the streetscape and allow for landscaping to be visible from the public realm.</td>
</tr>
</tbody>
</table>
## ATTACHMENT 4
### ResCode Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td>Yes</td>
<td>Refer Attachment 3.</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. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support two dwellings.</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>The proposed development is for two dwellings therefore B3 Dwelling Diversity does not apply.</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>Yes</td>
<td>Development is capable of being connected to necessary reticulated services. Permit conditions from engineering further ensure compliance.</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>Both dwellings will integrate with Park Avenue.</td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td>Yes</td>
<td>Minimum: 9m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 10m</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Yes/No</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>--------</td>
</tr>
<tr>
<td>B7 Building Height</td>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td>Yes</td>
</tr>
<tr>
<td>B8 Site Coverage</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Yes</td>
</tr>
<tr>
<td>B9 Permeability</td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
</tr>
<tr>
<td>B10 Energy Efficiency</td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>Yes</td>
</tr>
<tr>
<td>B11 Open Space</td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>N/A</td>
</tr>
<tr>
<td>B12 Safety</td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Yes</td>
</tr>
<tr>
<td>B13 Landscaping</td>
<td>To provide appropriate landscaping. To encourage: Development that respects the landscape character of the neighbourhood. Development that maintains and enhances habitat for plants and animals in locations of habitat importance. The retention of mature vegetation on the site.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
### B14 Access
Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.

<table>
<thead>
<tr>
<th>Power</th>
<th>Maximum: 33% of street frontage</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Proposed crossovers: 33% of street frontage</td>
</tr>
<tr>
<td></td>
<td>A 3.3 metre wide crossover is proposed to be constructed for each dwelling within the adjoining road reserve. The number of crossovers proposed is consistent with the neighbourhood character and equates to 33% of the total site frontage.</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Power</th>
<th>The car space of each of the dwellings will be located in proximity to their respective dwellings.</th>
</tr>
</thead>
</table>

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

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>East (side)</td>
<td>Ground Floor</td>
</tr>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>0m or 2m</td>
<td>1.4m or 2m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>0m or 3m</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2m</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>Power</th>
<th>Maximum Height: 3.2m</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Proposed: 3.2m</td>
</tr>
<tr>
<td></td>
<td>Maximum Average Height: 3.2m</td>
</tr>
<tr>
<td></td>
<td>Maximum Length: 6 m</td>
</tr>
<tr>
<td></td>
<td>Proposed: 6.00 m (Western Boundary)</td>
</tr>
</tbody>
</table>

### B19 Daylight to Existing Windows
All habitable room windows adjoining the subject site will have a light court that is 3sqm in area and 1m clear to the sky, and the proposed buildings
<table>
<thead>
<tr>
<th>Item 4.5 – Matters of Decision</th>
<th>Attachment 4</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Allow adequate daylight into existing habitable room windows.</strong></td>
<td><strong>have been adequately setback from boundaries to ensure that daylight to existing habitable room windows is not reduced.</strong></td>
</tr>
<tr>
<td><strong>B20 North Facing Windows</strong>&lt;br&gt;Allow adequate solar access to existing north-facing habitable room windows.</td>
<td><strong>Yes</strong>&lt;br&gt;No north facing windows on adjoining properties are affected.</td>
</tr>
<tr>
<td><strong>B21 Overshadowing Open Space</strong>&lt;br&gt;Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td><strong>Yes</strong>&lt;br&gt;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><strong>B22 Overlooking</strong>&lt;br&gt;Limit views into existing secluded private open space and habitable room windows.</td>
<td><strong>Condition (Condition 1b)</strong>&lt;br&gt;A combination of fixed obscure glazing and appropriately located windows have been incorporated within the design.&lt;br&gt;However it is noted that no details was provided regarding any boundary fencing. It is for this reason that a condition will be placed on the permit requiring boundary fencing to comply with standard B22.</td>
</tr>
<tr>
<td><strong>B23 Internal Views</strong>&lt;br&gt;Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td><strong>Yes</strong>&lt;br&gt;There will not be any internal overviewing within the development.</td>
</tr>
<tr>
<td><strong>B24 Noise Impacts</strong>&lt;br&gt;Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td><strong>Yes</strong>&lt;br&gt;The development will not generate any noise above that typically expected from a residential building.</td>
</tr>
<tr>
<td><strong>B25 Accessibility</strong>&lt;br&gt;Consider people with limited mobility in the design of developments.</td>
<td><strong>Yes</strong>&lt;br&gt;Entries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong>&lt;br&gt;Provide a sense of identity to each dwelling.</td>
<td><strong>Yes</strong>&lt;br&gt;The entries to both dwellings are easily identifiable from the street.</td>
</tr>
<tr>
<td><strong>B27 Daylight to New Windows</strong>&lt;br&gt;Allow adequate daylight into new habitable room windows.</td>
<td><strong>Yes</strong>&lt;br&gt;Each dwelling will have habitable room windows that will face an open outdoor space of adequate proportions.</td>
</tr>
</tbody>
</table>
| **B28 Private Open Space** | Yes | **Minimum:** 25m² secluded, 40m² overall  
**Proposed:** Both dwelling consist of 73.5sqm of secluded private open space. |
<table>
<thead>
<tr>
<th></th>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>Provide reasonable recreation and service needs of residents by adequate pos.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B29 Solar Access to Open Space</strong></th>
<th>Yes</th>
<th>Appropriate solar access to the private open space areas is provided.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B30 Storage</strong></th>
<th>Yes</th>
<th>6m³ storage units are located within the garages of both dwellings.</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 Attachment 2.</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>

| **B32 Front Fences** | Condition (Condition 1d) | Required: 1.2m  
**Proposed:** 1.5 m  
A condition will be placed on the permit requiring the front fence to be reduced to 1.2 metres. |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B33 Common Property</strong></th>
<th>N/A</th>
<th>No common property is proposed.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B34 Site Services</strong></th>
<th>Yes</th>
<th>Site services are nominated on the plans and are adequate.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
4.6 161 NORTH ROAD, BRIGHTON SUPPORT THE GRANT OF A PLANNING PERMIT APPLICATION NO: 2016/597/1 WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/133500

1. Purpose and background
To report an in-principle agreement reached by all parties at a VCAT Compulsory Conference for Buildings and works associated with a section 2 use (Medical Centre) and alter access to a Road Zone Category 1 on a lot with an area of 753 square metres at 161 North Road, BRIGHTON (refer Attachment 1).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Pudel Family Trust</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>13 September 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>8 February 2017</td>
</tr>
</tbody>
</table>

Proposal
The applicant seeks to demolish the existing building on site (currently utilised as a single practitioner Medical Centre) and construct a new double storey Medical Centre to be utilised as a specialist Medical Practice for Ear, Nose and Throat practitioners. Details are as follows:

- The proposed building would be double storey, containing a number of rooms and amenities to suit the specific needs of this specialist practice (14 rooms in total);
- Architectural finish would be described as modern and contemporary, with numerous architectural feature elements and a flat roof reaching a maximum height of 8.0m;
- A maximum of three practitioners would operate at any one time;
- Proposed operating hours are 8:00am to 7:00pm Monday to Friday and 8:00am to 1:00pm on Saturday;
- A total of 11 car spaces are proposed throughout the site, which meets the statutory requirements stated at clause 52.06 (i.e. no parking dispensation is required);
- Access would occur via an ‘entrance only’ crossover along North Road, with all vehicles exiting the site to do so via the Right of Way (ROW) that adjoins the side / rear of the site.

Previous Permit
Planning Permit 5/2009/189 was issued on 10 September 2009 for the use of the site for a Medical Centre with one practitioner. This permit has been acted on and the Medical Centre currently operates from the site in accordance with the stated permit conditions.

VCAT Background
The applicant has lodged an appeal under Section 79 of the Planning and Environment Act 1987 with the Victorian Civil and Administrative Tribunal (VCAT) against Bayside City Council’s failure to make a decision within prescribed time.
The VCAT Compulsory Conference was held on 27 June 2017. In attendance, was Council planning officer and numerous parties representing the applicant. One objector lodged a Statement of Grounds, however ticked the box advising VCAT that they do not wish participate in the hearing (and therefore this party was not in attendance at the compulsory conference).

At the VCAT Compulsory Conference, an in-principle agreement was reached between the participating parties. The outcome was to increase the western setback of the first floor to 3.5 metres and 4 metre (increased from between 1.9 metres and 3.0 metres);

A set of without prejudice amended plans were tabled at the VCAT Compulsory Conference by the applicant and are appended as Attachment 2 to this report. These without prejudice plans form part of the in-principle agreement in addition to the conditions noted in the recommendation. These plans have not been formally substituted with VCAT. The original development plans advertised by Council are included as Attachment 3.

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

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

2. Policy implications

Planning permit requirements

- Clause 32.09-5 (Neighbourhood Residential Zone) – Buildings and works associated with a Section 2 Use (Medical Centre);
- Clause 52.29 – Alter access to a Road Zone, Category 1.

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 C152 has been prepared by Council and seeks to implement the Martin Street Structure Plan, which was formally adopted by Council in March 2016. Relevantly, the amendment seeks to rezone the subject site from Neighbourhood Residential Zone (NRZ) to General Residential Zone (GRZ) and introduce the Design and Development Overlay (DDO). If approved, the proposed planning controls would allow for an increased intensity of development on the site and surrounding area, up to three storeys for the subject site. 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 limited statutory weight which can be given to Amendment C152.
3. Stakeholder Consultation

External referrals
The application was referred to the following authorities:

<table>
<thead>
<tr>
<th>Referral Authority</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>VicRoads</td>
<td>No objection, subject to standard 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 standard conditions.</td>
</tr>
<tr>
<td>Drainage</td>
<td>No objection, subject to standard conditions.</td>
</tr>
<tr>
<td>Traffic</td>
<td>Concerns stated as follows:</td>
</tr>
<tr>
<td></td>
<td>- Access should occur off North Road;</td>
</tr>
<tr>
<td></td>
<td>- Sightline issues at intersection of laneway</td>
</tr>
<tr>
<td></td>
<td>with Rose Street.</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 2 objections were received.
- Use of the laneway is inappropriate and unsafe;
- Use of the laneway should be prohibited outside of centre operating hours;
- Insufficient parking; and
- Potential damage and nuisance throughout construction period.

4. Recommendation

That Council:

Determined to support the agreement reached by all participating parties at the VCAT Compulsory Conference and issue a Permit under the provisions of the Bayside Planning Scheme in respect of the land known and described as 161 North Road, BRIGHTON and Lot 1 TP960862X, BRIGHTON, for Buildings and works associated with a section 2 use (Medical Centre) and alter access to a Road Zone Category 1 in accordance with the endorsed plans and subject to the following conditions:

1. Before the use and development starts, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans identified as drawing nos. TP1, TP2, TP3 and TP4, all marked Revision A by Tugendhaft Architecture but modified to show:
a) Increase the first floor west setback and reconfigure the first floor level generally as shown on the diagram identified as 'Proposed modifications 161 North Road Brighton' dated 27 June 2017;  
b) Changes required by condition 12;  
c) Provision of a Waste Management Plan in accordance with Condition 15;  

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

3. Except with the prior written consent of the Responsible Authority, the use permitted by this permit may only operate between the following times:
   - Monday to Friday - 8:00am - 7:00 pm; and,  
   - Saturday 8:00am - 1:00pm.

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

5. 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.

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

7. Provision must be made on the land for the storage and collection of garbage and other solid waste. This area must be graded and drained and screened from public view to the satisfaction of the responsible authority.

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

Car spaces, access lanes and driveways must be kept available for these purposes at all times, including the accessway contained within the self-storage facility.

9. All car parking spaces must be designed to allow all vehicles to drive forwards both when entering and leaving the property.

10. Vehicular crossings must be constructed to the road to suit the proposed driveways to the satisfaction of the Responsible Authority and any 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.

11. All disused or redundant vehicle crossings must be removed and the area reinstated to kerb and channel to the satisfaction of the responsible authority.
VicRoads

12. Prior commencement of the use of the development here by approved, amended plans must be submitted to and approved by the Roads Corporation. When approved by the Roads Corporation, the plans may be endorsed by the Responsible Authority and will then form part of the permit. The plans must be generally in accordance with the Site and Ground Floor Plan prepared by Tugendhaft Architects but modified to show:

a) Appropriate line marking and signage plans showing all vehicle movements via existing crossover on North Road as ‘Entry Only’ and all Exit movements via the existing rear laneway (R.O.W);

b) All vehicle movements via the existing crossover on North Road shall be ‘Entry Only’.

Construction Management

13. Before the development starts, a Construction Management Plan must be submitted to and approved by the Responsible Authority. The Construction Management Plan must address, but is not limited to:

a) Hours of construction, control of noise and airborne matter, deliveries, vehicle access, worker car parking, damage to public assets, and contact numbers for complaints;

b) All traffic management plans for the site demolition, excavation, deliveries and other construction related activities that will affect vehicle and pedestrian traffic;

c) The location of all areas on-and/or off-site to be used for construction staff parking;

d) A parking management plan for all associated construction vehicles;

e) All site sheds, portable toilet, storage and materials, etc. must be confined to the site;

f) The covering and maintenance of all roads/storage areas/external stockpiles/or vacant areas to avoid dust nuisance to any residential and commercial premises;

g) A truck wheel-wash must be installed and used so vehicles leaving the site do not deposit mud or other materials on roadways;

h) No water containing oil, foam, grease, scum or litter will be discharged to the stormwater drainage system from the site;

i) All stored wastes are kept in designated areas or covered containers that prevent escape into the stormwater system;

j) The amount of mud, dirt, sand, soil, clay or stones deposited by vehicles on the abutting roads is minimised when vehicles are leaving the site; and

k) No mud, dirt, sand, soil, clay or stones are washed into, or are allowed to enter the stormwater drainage system.

All works must accord with the approved Construction Management Plan to the satisfaction of the Responsible Authority.

Stormwater Management

14. Before the development starts, 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.

Waste Management Plan

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

a) Dimensions of storage waste areas;

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

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

d) Facilities for bin cleaning;

e) Method of waste and recyclables collection;

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

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

h) Method of medical waste collection.

i) Method of presentation of bins for waste collection;

j) Strategies for how the generation of waste and recyclables will be minimised;

k) 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.

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

17. All operations of the site (internally and externally) must comply with SEPPN-1 and/or SEPPN-2 policies and/or EPA Technical Guidelines. The Responsible Authority may direct the owner and/or occupier, at the sole cost of the owner and/or occupier, to undertake and submit a report to Council demonstrating compliance in relation to the N-1 and/or N-2 policies and/or EPA Technical Guidelines.
Drainage

18. Before the development starts, the permit holder must apply to Council 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.

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

20. 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 discharges to the nearest Council Drain / Pit and not be discharged to the kerb and channel unless directed otherwise.

21. 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. This must include the section of the laneway adjacent the subject title boundary.

22. This permit will expire if one of the following circumstances applies:
   a) The development is not started within two years of the date of this permit.
   b) The development is not completed within four years of the date of this permit.
   c) The use is not started within five years of the date of this permit.
   d) The use is discontinued for a period of two years or more.

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

Notes

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

5. Council Policy

Council Plan 2017-2021

Relevant strategic objectives of the Council plan include:

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

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

Relevant strategies of the Council plan include:

- Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.
- Develop and review structure plans to ensure localities are developed in line with Council’s Housing Strategy
- Ensure new development responds to preferred neighbourhood character in activity centres.

Bayside Planning Scheme

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 17 Economic Development
- Clause 18 Transport
- Clause 19 Infrastructure
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.07 Economic Development
- Clause 21.09 Transport and Access
- Clause 21.10 Infrastructure
- Clause 22.06 Neighbourhood Character Policy
- Clause 22.07 Discretionary Uses in a Residential Area
- 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 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. Clause 52.29 land adjacent to a road zone, category 1 or a public acquisition overlay for a category 1 road.

Whilst the site is currently utilised as a Medical Centre, the proposal includes the intensification of the use (from one practitioner to three) and a substantial change to building and car park layout, therefore a permit is required for the alteration to Access along a Category 1 Road (being North Road).

The existing crossover on North Road will continue to serve the site, and it is important to note that this crossover is for entry only (with exit movements to occur via the ROW to the rear). The accessway is 3.2 metres wide and located on along the north-easter boundary of the site.
Pursuant to Clause 52.29 the application was referred to VicRoads as the responsible Road Authority as North Road is designated as a Road Zone Category 1.

Vic Roads has no concerns with the proposal, on the proviso that the North Road crossover be utilised for entry only.

In summary it is considered that the proposed intensification of the access way is considered reasonable and will not have any detrimental impact on the safe operation of the existing road network.

6.2. **Suitability of the site for a Medical Centre**

The subject site is located within the Neighbourhood Residential Zone Schedule 3 which seeks to recognise areas of predominately single and double storey residential development while allowing a limited range of educational, recreational, religious, community and other non-residential uses to serve the local community needs in appropriate locations.

It must be noted that a Medical Centre currently operates on site, however the current proposal involves a substantially increased intensity (with respect to both use and buildings / works) and hence a full reassessment of the sites suitability for such a use is warranted.

In determining the suitability of the development of non-residential land uses, Clause 22.07 (Discretionary Uses in Residential Areas) includes various design requirements and objectives around the development of various discretionary uses in residential areas, including the development of Medical Centres. Broadly, Clause 22.07-2 seeks to ensure that discretionary uses in residential areas do not adversely affect residential amenity and to ensure that local community needs are served by the proposal.

A Medical Centre is a service that is generally complementary to residential areas and is a community facility which services the needs of the local community. Clause 22.07-3 (Policy) provides guidance on what constitutes a preferred location for the use and development of a Medical Centre. An assessment against these guidelines is as follows:

<table>
<thead>
<tr>
<th>Policy:</th>
<th>Response:</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
<td>The subject site abuts North Road and the Nepean Highway, which are both listed as a Category 1 road pursuant to Clause 36.04. This area is considered an appropriate area for the use and development of a Medical Centre.</td>
</tr>
<tr>
<td>Site consolidation is encouraged to ensure adequate on-site parking, landscaping and setbacks are provided.</td>
<td>The site has an area of 753 square metres. The generous size of the allotment enables the provision of suitable boundary spacing and landscaping, as demonstrated on the development plans.</td>
</tr>
<tr>
<td>The discretionary use is on a corner site.</td>
<td>The subject is located on a corner.</td>
</tr>
</tbody>
</table>
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.  

The subject site is located on the periphery of a commercial area (directly to the east of the site, and also further north).

The discretionary use is located near similar and support facilities.  

The site is within walking distance to a variety of commercial facilities which are located to the north and east of the site.

The discretionary use is located within walking distance of public transport and promotes safe and convenient pedestrian access.  

The site is also well serviced by pedestrian footpaths and is within walking distance of public transport (including Gardenvale Train Station).

Clause 22.07 applies to all discretionary uses in a residential zone and these requirements are not treated as a mandatory requirements for a particular use. Notwithstanding it is considered that the location of the use remains appropriate given its strong compliance with the guidelines of Clause 22.07 as described above.

Although there is no site consolidation, the purpose of which is to ensure adequate on-site parking, landscaping and setbacks, the site is substantial in size at 753 square metres. Moreover, the proposal offers complete compliance with Clause 52.06 (Car Parking) and is considered to be consistent with the context of the area (by way of use and also built form).

The statutory requirement of 11 car parking spaces are provided on-site. Furthermore, the proposed size of the site and suitability of the design response allows for reasonable landscaping and setbacks in accordance with the neighbourhood character.

The proposed operating hours are between 8:00am - 7:00pm, Monday to Friday and Saturday 8:00am – 1:00pm are consistent with those stipulated under Clause 22.07. These hours are appropriate, consistent with the usual business hours and no operation during the sensitive early morning and after evening hours.

Ultimately, the proposed use is an appropriate response to Clause 22.07 of the Bayside Planning Scheme and also the purpose of the Neighbourhood Residential Zone.

### 6.3. Neighbourhood Character

The Bayside Planning Scheme offers two relevant planning policies to provide guidance on the appropriateness of non-residential development in a predominately residential context. These policies include Clause 22.06 (Neighbourhood Character Policy) and Clause 22.07-3 (Discretionary Uses in Residential Areas). The site is located within Neighbourhood Character Precinct B5 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 4.

Siting and built form design guidelines of Clause 22.07-3 are as follows:

- Setbacks from front, side and rear boundaries for buildings or additions must be in accordance with the setback provisions contained in Clauses 54 and 55 of the Bayside Planning Scheme.
Any increased in building height is transitional and represents a height increase of no more than one storey above the prevailing building height.

The materials and finishes reflect that prevailing in the area.

The discretionary use respects the prevailing built form, scale and materials of surrounding buildings, established neighbourhood character and responds to the preferred neighbourhood character.

Streetscape guidelines of Clause 22.07-3 are as follows:

- Front setbacks are consistent with the prevailing setbacks in the area and meet requirements at Clause 54, Standard A3.
- Vehicle car parking and access areas do not form a dominant element in the streetscape.
- Car parking is provided at the rear of the premises.
- Where car parking is provided within the front setback, a minimum landscape buffer of 3 metres from the front boundary is provided. A reduction may be considered where it can be demonstrated that such a reduction will not reduce the effectiveness of the landscaping or unreasonably impact on the streetscape.

The two storey scale of the proposed development is consistent with the preferred height and existing character of residential and non-residential land uses within the immediate area. The proposed development offers a suitable design response to complement the character of residential development in the area, while achieving a contemporary built form outcome for the precinct. The siting of the development is responsive to the sensitive residential interfaces to the north and west, noting that views into the site from the east (i.e. from the Highway) are largely screened by vegetation.

The development does not exceed the 8 metre requirement of the Design and Development Overlay Schedule 3. Furthermore, the proposed height is consistent with the built form character of the area, particularly in reference to the existing residential developments to the north and west of the site. The maximum building height of 8.0 metres will not unreasonably compromise the amenity of the adjoining properties, particularly with the proposed setbacks of the first floor.

This form of building is not out of character with the existing context of residential properties. The proposal offers a centralised vehicle entry to the parking area, with a high level of visual interest, innovation and articulation along the streetscape frontage. The proposed elevations of the front façade reflect design features within the area and the roof form references the modern developments to the west of the site.

6.4. Laneway

Concerns have been raised by the objectors regarding the safety and practicality of the laneway. It is important to make mention that the site is currently used as a medical centre with access rights over the laneway, though use of the laneway (or ROW) was restricted to staff only in the previous planning permit that applied to the site.

The current proposal seeks to rely on the ROW for all exit movements associated with the use (i.e. staff and visitors) and would no doubt intensify the use of the road. The proposed development will operate between the hours of 8:00am to 7:00pm Monday to Friday and 8:00am to 1:00pm on Saturdays.

Pursuant to the Traffic Report prepared by TraffixGroup, if the medical centre worked at (full) capacity at all times, all day, the proposed centre would generate up to 12 vehicle
movements during each hour of operation, and only 6 (each hour) would be on the rear laneway (as the laneway would only serve exit manoeuvres).

This is equates to a maximum total of 66 movements within the rear laneway per day. The 66 movements over an 11 hour operation period is considered to be reasonable and would not cause and over saturation of the laneway. The number of movements expected to be generated on the laneway in peak hours (6), is significantly less than that which requires a passing bay based on the Australian Standards (AS/NZS 2890.1:2004 Section 3.2.2) which state the following:

‘... 30 or more movements in a peak hour (in and out combined) would usually require provision of two vehicles to pass on the driveway...’

Furthermore, issues were raised regarding parking on the laneway and safety of the pedestrians. The laneway is a public road and therefore it is illegal to park or block in any way.

The application was referred to VicRoads who provided their comments regarding the use of the crossover on North Road. VicRoads advised that an ‘entry only’ sign be erected on site (along North Road); this outcome does not allow for the use of North Road to be used as exit and entry, thus encouraging (or in fact requiring) the use of the laneway.

Council’s engineering department raised concerns with the use of the laneway due to amount of traffic the site would generate, however this advice was based on a much higher number of vehicle movements per day than that which would actually occur for this specific use. As discussed above, the number of movements expected to be generated on the laneway in peak hours (maximum of 6 per hour) is considered to reasonable and no unreasonable impacts are anticipated.

### 6.5. Off-site Amenity Impacts

The siting and scale of the proposed form has ensured no unreasonable amenity impact upon adjoining properties. While Clause 55 does not strictly apply to the consideration of non-residential land uses, the requirements pertaining to setbacks provide a useful indication of the suitability of the application. Moreover, whilst not mandatory, reference to Clause 55 is made in Clause 22.07-3 with regards to siting and built form.

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

Having regards to Standard B17 (Side and Rear Setbacks), the following table outlines the proposed side and rear setbacks as modified by Schedule 3 of the Neighbourhood Residential Zone. Non-compliant setbacks are underlined.

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td><strong>West (side)</strong></td>
<td></td>
</tr>
<tr>
<td>0m or 2m</td>
<td>1.9 m – 3 m</td>
</tr>
<tr>
<td><strong>North (rear)</strong></td>
<td></td>
</tr>
<tr>
<td>3m</td>
<td>18m</td>
</tr>
</tbody>
</table>

As noted above, the proposal fails to strictly comply with the modified side and rear setbacks as required by Standard B17. However these setbacks are not mandatory (as this is a non-residential building) and are used as a guide to ensure suitable spacing is generally consistent with the existing and preferred character of the area.

Whilst most of the setback variations were deemed acceptable given the context of this
site, it was felt that the increased setback at first floor was required from the west boundary to protect the visual amenity of the adjacent property at No.159 North Road.

A discussion was held with the applicant in order to address Council’s concern with the setback of the proposed upper floor setback (north-west section). The applicant, in an attempt to appease Council concerns increased the setback of the upper floor setback (rear section only) to be 3.5 m and 4 m. When compared to the requirements (4.18 m – 5.78 m) the variation of 0.68 m and 1.78 m is reasonable as it will still ensure appropriate spacing for landscaping while minimising visual bulk impacts to the neighbouring western property. The lightweight upper levels will also work towards alleviating unreasonable visual bulk to the western interface.

It is acknowledged that south-western portion of first floor will retain a 3 metre setback (rather than the stated 5.8m). This 3 metre setback is considered to appropriate as:

- The abutting property on the adjacent allotment has a similar (in fact smaller) first floor setback at the street;
- The setback is consistent with building separation throughout North Road;
- No overlooking would occur;
- There are very few windows along the side façade of the only abutting property.

A condition has been placed for the upper floor setbacks to comply with the ‘proposed modifications 161 North Road Brighton’ dated 27 June 2017. It is noted that the adjacent owner/occupier at 159 North Road, did not object or raise any concerns with the proposal.

Walls on boundaries (Standard B17)

The proposed wall on boundary (south-west - consult room 2) is located abutting an existing garage that also is a wall on boundary. The proposed wall on boundary has a length of 6 metres and average wall height of 3 metres. The proposed development complies with the requirements of Standard B17.

6.6. Car parking and traffic

<table>
<thead>
<tr>
<th>Proposed Use</th>
<th>Statutory Parking Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medical centre</td>
<td>• 5 spaces to the first person providing health services plus:</td>
</tr>
<tr>
<td></td>
<td>• 3 spaces to every other person providing health services.</td>
</tr>
</tbody>
</table>

**Total car spaces required - 11**

**Total car spaces proposed - 11**

Pursuant to Clause 52.06-5 (Car Parking Requirement), a Medical Centre generates a requirement of 5 spaces to the first person providing health services plus 3 spaces to every other person providing health services. The development proposes a maximum of 3 practitioners / health providers which generates the requirement for 11 spaces. The development incorporates the provision of 11 spaces therefore meets the statutory car parking requirement.

To ensure that the car parking appropriately manages traffic flow, Council’s Traffic Engineer has requested the provision of a Car Parking Plan to include (but not limited to) signing and line marking and details of any proposed access controls. This is included as a condition of permit.
Additional permit conditions provided by VicRoads require an ‘Entry Only’ sign to be erected along North Road.

Overall the extent of car parking provided on site is acceptable and complies with statutory requirements

6.7. Waste Management Plan

The applicant did not submit a Waste Management Plan, however a condition is included in the recommendation to ensure collection is appropriate and does not impact the surrounding area.

6.8. Vegetation & Landscaping

A proposed landscape plan accompanies the application and includes the provision of some landscaping around the perimeter of the site, and within the front setback. Council’s Arborist advised that the health and stability of a Liquidambar (*Liquidambar styriciflua*) located at street frontage (south) will not be impacted by the location of the vehicle crossing.

Council’s Arborist has reviewed the existing site and proposed landscape plan prepared by Memla is considered to be satisfactory.

A lopped Lemon (*Citrus limon*) tree located in the south-western corner of the site is proposed to be removed; Council’s Arborist supports its removal as the tree has a low amenity value.

6.9. Objections received

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

Amenity issues throughout the Construction Period

Noise and truck movements during the construction phase of development are a temporary and unavoidable consequence of development and not justification to withhold development of the site.

Notwithstanding, there are some difficulties associated with this site that the builders would have to address (namely the limitations of parking along North Road and the ROW) and hence a construction management plan would be required through condition to ensure that offsite amenity impact is kept within reasonable limits.

After hours use of the laneway

A 1.8 high slight gate will close off the medical centre from the laneway after hours. Furthermore the existing gate to North Road will be replaced by a sliding gate which will prevent the use of the site afterhours.

Support Attachments

1. Site and Surrounds
2. Amended Plans
3. Advertised Plans
4. Neighbourhood Character Assessment (Precinct B5)
Figure 1 Aerial overview of the site and surrounds showing objectors (three) in the immediate vicinity of the site.

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
<tr>
<td>Objector(s)</td>
</tr>
</tbody>
</table>
Figure 2 View of the site as seen from North Road.

Figure 3 View of the site as seen from Nepean Highway.
Figure 4 View of the Laneway as seem from Rose St.

Figure 5 View of the rear of 161 North Road with a view to the west
Figure 6 View of the laneway at abuts Rose Street
Neighbourhood Character Precinct B5

Preferred Future Character Statement

The area retains a predominance of pre WW2 dwellings, and in Meyer Crt, 1950s brick dwellings. The new pitched roof dwellings sit within established, largely exotic gardens and respect the older dwellings while not replicating these styles. Dwellings are well articulated in plan and elevation, use simple detailing and contain a variety of materials within the front façade. They are also low in scale and do not dominate the streetscape. Space for the planting of vegetation is provided in front yards by the provision of generous front and side setbacks and locating car ports and garages behind the line of the dwelling. Fences are open in style and appropriate to the era of the dwelling. In Meyer Crt front fences are not provided.

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 proposed development will enhance and contribute to the neighbourhood character. The development is well articulated, reasonable scale and provides acceptable front and side setbacks. |
| To maintain and enhance the garden settings of the dwellings.             | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. | Lack of landscaping and substantial vegetation.                      | Responds  
The proposed landscape plan is considered to enhance the garden setting of North Road. |
| To provide adequate space for front gardens.                             | • Buildings should be sited to allow space for the planting of trees and shrubs. | Loss of front garden space.                                          | Responds  
There is sufficient space within street frontage for the provision of landscaping. |
| To maintain the rhythm of spacious visual separation between buildings.   | • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. |                                                                      | Responds  
The dwelling will be appropriately setback from the side boundaries to maintain the rhythm of visual separation between buildings. |
### Objectives

<table>
<thead>
<tr>
<th>To minimise the loss of front garden spaces and the dominance of car parking structures.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Design Responses</strong></td>
</tr>
<tr>
<td>• Locate garages and carports behind the line of the dwelling.</td>
</tr>
<tr>
<td>• Provide only one single width driveway crossover per typical site frontage.</td>
</tr>
<tr>
<td>• Minimise paving in front garden areas including driveways.</td>
</tr>
<tr>
<td><strong>Avoid</strong></td>
</tr>
<tr>
<td>Car parking structures that dominate the façade or view of the dwelling.</td>
</tr>
<tr>
<td>Front setbacks dominated by impervious surfaces.</td>
</tr>
<tr>
<td><strong>Planning Officer Assessment</strong></td>
</tr>
<tr>
<td><strong>Responds</strong></td>
</tr>
<tr>
<td>Although car spaces are not located behind the line of the dwellings, all effort has been taken to reduce vehicular dominance. This has been done by maintaining the existing 2m high fence, thus reducing the visual impact on the streetscape.</td>
</tr>
<tr>
<td>The landscaping plan demonstrates sufficient landscaping opportunities in order to meet the vegetated streetscape of North Road.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>To ensure that buildings and extensions do not visually dominate the streetscape.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Design Responses</strong></td>
</tr>
<tr>
<td>• Recess upper level elements from the front façade.</td>
</tr>
<tr>
<td><strong>Avoid</strong></td>
</tr>
<tr>
<td><strong>Planning Officer Assessment</strong></td>
</tr>
<tr>
<td><strong>Responds</strong></td>
</tr>
<tr>
<td>The upper floor is considered to be substantially recessed from sensitive interfaces (west). Although recession is not provided at street frontage, the proposed development is sufficiently recessed (7.9m) from street frontage. The existing vegetation on site reduce the visual dominance of the development.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>To encourage modern and contemporary architectural responses to surrounding dominant building forms.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Design Responses</strong></td>
</tr>
<tr>
<td>• Adopt, adapt or re-interpret existing building forms (eg. Façade proportions and articulation, roof forms and plan forms) without copying period design details.</td>
</tr>
<tr>
<td><strong>Avoid</strong></td>
</tr>
<tr>
<td>Reproduction of historic building styles.</td>
</tr>
<tr>
<td><strong>Planning Officer Assessment</strong></td>
</tr>
<tr>
<td><strong>Responds</strong></td>
</tr>
<tr>
<td>The proposed development is considered to be contemporary whilst still responding positively to the surrounding neighbourhood character.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>To respect the identified heritage qualities of adjoining buildings.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Design Responses</strong></td>
</tr>
<tr>
<td>• Where adjoining an identified heritage building, respect the height, building forms, siting and materials of the heritage building/s in the new building design.</td>
</tr>
<tr>
<td><strong>Avoid</strong></td>
</tr>
<tr>
<td>Buildings that dominate heritage buildings by height, siting or building massing.</td>
</tr>
<tr>
<td><strong>Planning Officer Assessment</strong></td>
</tr>
<tr>
<td><strong>Responds</strong></td>
</tr>
<tr>
<td>The proposed development does not abut a heritage building.</td>
</tr>
<tr>
<td>Objectives</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| To use a variety of building materials and finishes that reflect those in the streetscape. | • Incorporate a variety of building materials such as brick, render, timber and non-masonry into the building design.  
• Roof materials should generally be terracotta, red black or subdued coloured tiles or similar.  
• Use simple building details. | Exclusive use of one material on external wall surfaces.  
*Period reproduction detailing.* | Responds                                                                                                   | The development proposes the use of various forms of building materials and finishes such as split rock cladding and timber panelling. The use of various building materials and finishes reflect those found within the streetscape. |
| 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                                                                                                   | No change to the existing front fence is proposed. The existing fence is 2m in height however the site is located along a heavily trafficked road (Corner of North Rd and Nepean Highway). |
This matter has been reported to the Planning and Amenity Committee for a decision as a result of Councillor call-in.

1. Purpose and background

To report a planning permit application for the construction of two double storey dwellings on a lot with an area of 869 square metres (refer Attachment 1) at 2 Ruxton Rise, Beaumaris (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Trusch Design Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>1 July 2017 (Amended)</td>
</tr>
<tr>
<td>Statutory days expire</td>
<td>7 August 2017</td>
</tr>
</tbody>
</table>

Site History

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

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

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

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

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

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

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

**Planning permit requirements**

Clause 32.09-6 (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 Melbourne Water and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay (LSIO) from the Bayside Planning Scheme. The public exhibition process concluded on 16 January 2017 and a report considering submissions was presented to Council in April 2017. A planning panel is yet to be appointed to consider the amendment. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and adopted. As such, there is no statutory weight which can be given to Amendment C153. It is noted that the subject site is not within the SBO area and is not proposed to be included in the SBO area.

3. **Stakeholder Consultation**

**External referrals**

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

**Internal referrals**

The application was referred to the following Council departments for comment

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>Conditions requested in relation to landscape plan and arboricultural report.</td>
</tr>
<tr>
<td>Drainage</td>
<td>No objection. Conditions requested.</td>
</tr>
<tr>
<td>Traffic</td>
<td>No objection. Conditions requested.</td>
</tr>
</tbody>
</table>

Public notification and consultation meeting

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

A consultation meeting was held on 3 August 2016 attended by the permit applicant and two objectors. No objections were withdrawn at this time.

The application was formerly amended on the 28 March 2017 and was advertised a second time, pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987. One objection was withdrawn with respect to the amended plans.

The following concerns were raised by the outstanding objections:

- Over-development;
- Setback to Balcombe Road; and
- Advertising carried out incorrectly.
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 2016/16/1** for the land known and described as **2 Ruxton Rise, Beaumaris**, 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 amended plans (Drawing No: DWG2 – DWG6, DWG12 and L-TPO1 Rev D) but modified to show:
   a) Setbacks to the western and southern boundaries to the first floor of both dwellings in accordance with Standard B17.
   b) Privacy screen in the Balcombe Road setback to be deleted. Screening vegetation may replace this.
   c) Any development changes recommended by the Tree Management Plan in accordance with Condition 13 of this permit.
   d) A longitudinal section of both driveways showing the grades and lengths of grades in accordance with AS2890.1.
   e) Sightlines where the driveway meets the crossover in accordance with Clause 52.06-9 of the Bayside Planning Scheme.
   f) A schedule of construction materials, external finishes and colours (incorporating for example paint samples).
   g) A Water Sensitive Urban Design response in accordance with Condition 7 of this permit.
   h) A 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 (excluding downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

6. Before occupation, screening of windows and roof decks including fixed privacy screens be designed to limit overlooking as required by Standard B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.
7. Prior to the endorsement of plans pursuant to Condition 1, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:

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

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

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

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

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape plan (drawing no. L-TP01 Rev D by John Patrick Landscape Architects, dated August 2016) and be drawn to scale with dimensions and three copies must be provided. The plan must show:

   a) Quantities of shrubs and ground covers to be detailed; and
   b) Minimum supply size of the Black Sheoak (Allocasuarina littoralis) to be increased to 2 metres in height.

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 Norfolk Island Pine (Araucaria heterophylla) on site and the Flowering Gum (Corymbia ficifolia) on the neighbouring property, 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. 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.

15. Stormwater discharge must be retained for the portion above the discharge calculated using a Coefficient of Runoff of 0.35. The development is to have a Stormwater Detention System installed, the design capacity to be to the satisfaction of the Responsible Authority.

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

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

a) A trench grate (150mm minimum internal width) located within the property; and/or

b) Shaping the driveway so that water is collected in a grated pit on the property; and/or

c) Another Council approved equivalent.

18. Before the development begins, detailed plans indicating the method of stormwater discharge to the nominated Legal Point of Discharge (and Stormwater Detention Systems where applicable) must be approved by Council's Infrastructure Assets department.

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

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

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

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

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

Permit notes

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
• Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a 'Road Opening Permit' must be obtained to facilitate such work.

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

5. **Council Policy**

**Council Plan 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 (Precinct H3)
• Clause 22.08 Water Sensitive Urban Design
• Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
• Clause 42.03 Vegetation Protection Overlay (Scheduled 3)
• Clause 43.02 Design and Development Overlay (Schedule 3)
• Clause 52.06 Car Parking
• Clause 55 Two or more dwellings on a lot
• Clause 65 Decision Guidelines

6. **Considerations**

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

6.1. **Neighbourhood character**

The site is located within Neighbourhood Character Precinct H3 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 would maintain an openness of the front garden with the exception of the privacy screen to 2.3 metres in height to the Balcombe Road frontage. A condition of approval is recommended to remove this privacy screen fence. Given the bushy character sought by the preferred character statement for the area and the intent of the
original VCAT decision, it is considered more appropriate for any screening sought in this front setback to be achieved with vegetation.

Given the slope and undulation of the existing site, a level of disturbance is unavoidable, particularly given the 8 metre height limit prescribed for the site in the endorsed subdivision plans and Section 173 Agreement. The proposed site cuts for the two dwellings are not considered excessive in this context. In particular the patio and flat grassed area created in the Balcombe Road setback by retaining walls is no larger in extent than the paving and decking area in the endorsed landscape concept plan.

Subject to the recommended conditions of approval the proposal would retain the Norfolk Island Pine (Araucaria heterophylla) adjacent to Ruxton Rise and would achieve a level of planting across the site consistent with the endorsed landscape concept plan and the bushy garden character sought by the preferred future character for the area.

In the context of the size of each dwelling and the level of articulation achieved with recessed and projecting elements and different materials, the garages are not considered to appear dominant in the appearance of the dwellings. The proposal incorporates a number of recessed elements, changes in materials, finishes/ textures and design features that break up the mass of the dwellings into smaller components. Limited detail has been provided in relation to proposed materials and finishes. As such a condition of approval is recommended to require details and samples of the proposed materials be submitted to the satisfaction of the Responsible Authority.

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

The proposal seeks variations to the setback standards to the south and west boundaries at first floor level. The objective of standard B17 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.

Pursuant to sheet 3 of the endorsed subdivision permit plans, the subject site must comply with Schedule 3 of the Neighbourhood Residential Zone, including the side and rear setbacks at ground and first floor. This annotation on the endorsed plan was a requirement of Condition 1(g) of the VCAT directed permit for all lots larger than 500 square metres. The proposal does not comply with this envelope as outlined in the table above. It is acknowledged this condition sought to ensure that a single dwelling constructed on the site, which would not require planning permission, would comply with the siting provisions of Schedule 3 of the Neighbourhood Residential Zone. A condition of approval is recommended to ensure these dwellings comply with the side and rear setback standards pursuant to Schedule 3 of the Neighbourhood Residential Zone.
Overlooking (Standard B22)

All first floor windows to the southern and western elevations would be treated with 25% transparency privacy screening to 1.7 metres in height, obscure glazing to 1.7 metres in height or sill heights raised to 1.7 metres. The exception to this is the southern facing full height window to bedroom one of dwelling two. This window would be within 9 metres of the vacant site at No.4 Ruxton Rise.

A concurrent application for No.4 Ruxton Rise (2016/17/1) has been submitted by the same applicant as this proposal. The window to bedroom one of dwelling two would be within 9 metres of a bedroom window and balcony proposed at No.4 Ruxton Rise; however the neighbouring window and balcony are both proposed to be screened.

In this context and given both applications were made by the same applicant, it is considered appropriate to leave the bedroom window as proposed. It is noted all ground floor windows comply with this standard owing to the 2 metre paling boundary fencing proposed.

6.3. Car parking and traffic

Each dwelling is provided with a double car garage in accordance with Clause 52.06. Council's Traffic Engineer has reviewed the application and advises they have no objection subject to conditions regarding the driveway grades, sightlines and crossovers. One of the crossovers has since been constructed in accordance with the endorsed subdivision plans. Conditions of approval in relation to the driveway grades and sightlines are included in the recommendation.

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

6.4. Vegetation & Landscaping

A landscape concept plan, prepared by John Patrick Landscape Architects Pty Ltd, was endorsed in accordance with subdivision permit 2014/516/2. Pursuant to the Section 173 Agreement all development applications for individual sites must be accompanied by a landscape plan that is generally consistent with the endorsed landscape concept plan. The landscape concept plan identifies the Norfolk Pine for retention, two red flowering gums and two Black Sheoaks to be planted on the site and provides a planting palette with shrubs, groundcovers, grasses and climbers.

A landscape plan for the site, prepared by John Patrick Landscape Architects Pty Ltd and dated August 2016, has been submitted in support of the application. Council's Arborist has reviewed the application and advises that the proposed planting is not completely consistent with the endorsed landscape plan. The wording “consistent with” is considered to be a higher test than the commonly used “generally in accordance with”.

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

The proposed landscape plan provides seven indigenous canopy trees which exceeds that in the endorsed landscape concept plan. It is noted the minimum supply size of the Black Sheoak (Allocasuarina littoralis) in the proposed landscape plan is less than the 2 metres in height specified in the endorsed landscape concept plan. A condition of approval is recommended to address this. A number of small trees are also proposed. The proposed landscape plan also details a wide variety of shrubs and smaller planting that while not entirely in accordance with the planting palette in the endorsed landscape concept plan contain a significant number of native and indigenous species. Quantities
of shrubs and groundcovers are not provided and a condition of approval is recommended to address this.

The proposed landscape plan is considered to appropriately respond to the preferred bushy garden character sought for the area and subject to the recommended conditions is consistent with the endorsed landscape concept plan.

An Arborist report for the former 489 Balcombe Road, prepared by Greenwood Consulting dated 29 September 2015, was submitted to satisfy condition 6 of the original subdivision permit. The Section 173 Agreement lodged on the title requires that an Arborist Report is submitted to Council prior to the commencement of any works where a tree protection zone extents into a site.

A Norfolk Island Pine (*Araucaria heterophylla*) on site adjacent to Ruxton Rise is identified for retention in the endorsed subdivision plans. An existing Cypress is located at the north-western corner of the site adjacent to Balcombe Road. This tree has been approved for removal by the original subdivision permit and is not proposed to be retained by the applicant.

An arborist report, prepared by Greenwood Consulting and dated 3 March 2017, has been submitted in support of the application. The report identifies the built form footprint and driveways as proposed would have a 2.3% and 10.9% incursion respectively into the Norfolk Island Pine. The arborist report recommends the following:

- A Tree Management Plan to be adopted and implemented to inform construction within the Tree Protection Zone (TPZ) of the tree;
- Excavation within the TPZ to be no greater than 50mm. Where greater excavation is required, an updated Arborist Report would be prepared and approved by the Responsible Authority prior to works;
- The proposed walkway to dwelling two to be constructed on posts with no excavation other than these posts;
- No excavation to take place within the Structural Root Zone (SRZ) of the tree; and
- The remaining TPZ to be protected by fencing in accordance with AS4970 (2009), mulched to a depth of 100mm and planted out with perennials.

Council’s Arborists have reviewed the report and advise the proposed east elevation appears to show a cut of approximately 500mm for the southern edge of the driveway to dwelling one. Council’s Arborist advises the proposal is not expected to impact on the safe useful life expectancy of the Norfolk Island Pine subject to best practice tree protection and management methods being implemented. Council’s Arborist has requested a Tree Protection and Management Plan is provided prior to development. A condition of approval is recommended to reflect this.

There are a number of trees adjacent to the development at No.491 Balcombe Road, including a Monterey Cypress (*Cupressus macrocarpa ‘Aurea’*), a Flowering Gum (*Corymbia ficifolia*) and a Silky Oak (*Grevillea robusta*). Council’s Arborist has requested an arborist report be prepared to ensure the Flowering Gum would be protected through the development phase. It is noted a local laws permit for the removal of the large Monterey Cypress on this neighbouring property has recently been granted and as such the impact of the proposal on this tree has not been considered.

### 6.5. Other matters raised by objections

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

Concerns have been raised that the proposal for two dwellings on a lot is an over-development of the site. There were no restrictions placed on the site in the subdivision permit (2014/516/2) issued at the direction of VCAT. The subject site is in the Neighbourhood Residential Zone that places no restriction on the number of dwellings enabled on a lot; aside from the suite of development controls in Clause 55 and neighbourhood character considerations of Clause 22.06. While the VCAT decision may not have considered two dwellings being developed on the subject site, given the size and shape of the site and the merits of the proposal, the construction of two dwellings on a lot is considered appropriate.

Balcombe Road setback

The proposal complies with the 9 metre setback from Balcombe Road decided at the VCAT merits hearing and shown on the endorsed subdivision plans. It is noted a condition of approval would delete the screening fencing in this setback.

Advertising

The applicant has provided a signed statutory declaration that the advertising notice was erected for the prescribed period. Following the formal amendment to the application the re-advertising included a sign being erected, maintained and removed by an independent contractor for the prescribed period of time.

Support Attachments

1. Development Plans
2. Site Surrounds and Imagery
3. Neighbourhood Character (Precinct H3) Assessment
4. Clause 55 (ResCode) Assessment
Item 4.7 – Matters of Decision
Item 4.7 – Matters of Decision
Item 4.7 – Matters of Decision
Figure 1 Aerial overview of the site and surrounds

*The objection received from 2 Te Hongi Court, Beaumaris is not indicated above.

<table>
<thead>
<tr>
<th>Legend</th>
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<tbody>
<tr>
<td>Subject site</td>
<td>⭐️</td>
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<tr>
<td>Objector(s)</td>
<td>⚪️</td>
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<tr>
<td>Withdrawn</td>
<td>▲</td>
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</tbody>
</table>
Figure 2 View from Ruxton Rise across the site looking West
- Cypress to be removed

Figure 3 View from Ruxton Rise across the site looking South-West
- Norfolk Island Pine (*Araucaria heterophylla*) to be retained.
Figure 4 View from Ruxton Rise of site interface with No.491 Balcombe Road

Figure 5 View from Ruxton Rise across site looking North-West
ATTACHMENT 3
Neighbourhood Character Policy (Precinct H3)

Preferred Future Character

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To strengthen the bushy garden character of the area through the planting of appropriate species. | Retain large established trees and understorey, and provide for the planting of new indigenous trees wherever possible (locate footings outside root zone). Prepare a landscape plan to accompany all applications for new dwellings that utilises appropriate native, preferably indigenous, vegetation. Minimise impervious surfaces particularly in front garden spaces to ensure space for plantings. | Lack of landscaping and substantial vegetation. Removal of large established trees. Planting of environmental weeds. | Responds  
A landscape plan has been submitted in support of the application. The trees to be retained and the level of planting across the site is informed by the original VCAT decision and endorsed landscape concept plan. Subject to the recommended conditions of approval the proposal would retain the Araucaria heterophylia adjacent to Ruxton Rise and would achieve a level of planting across the site consistent with the endorsed landscape concept plan and the bushy garden character sought by the preferred future character for the area. This is discussed in greater depth in the report. |

<p>| To maintain the rhythm of spacious visual separation between | Buildings should be sited to allow space for a garden, including trees and shrubs. | | Responds |</p>
<table>
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<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
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<tr>
<td>buildings and ensure adequate space is provided around buildings for the</td>
<td>Buildings should be sited to create the appearance of space between buildings and</td>
<td></td>
<td>The footprint of the proposal would be located wholly within the building envelope established by the endorsed subdivision plans (Ref: 2014/516/2). This envelope ensures space is retained between the proposal, existing dwellings and the development proposed on No.4 Ruxton Rise. Sufficient space is retained around the proposed dwellings to accommodate a level of vegetation consistent with the bushy character identified in the preferred neighbourhood character and endorsed concept landscape plan prepared by John Patrick Landscape Architects.</td>
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<tr>
<td>retention and planting of vegetation.</td>
<td>accommodate vegetation.</td>
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</tr>
<tr>
<td>To minimise the loss of front garden spaces and the dominance of car</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</td>
<td>Responds</td>
</tr>
<tr>
<td>parking structures.</td>
<td>Underground car parking accessed from the front of the site should only be</td>
<td>dwelling.</td>
<td>The proposed double garages for each dwelling do project 1.9 metres forward of the remainder of the dwellings, however in the context of the size of each dwelling and the level of articulation achieved with recessed and projecting elements and different materials, the garages are not considered to appear dominant in the appearance of the dwellings. The proposal exceeds the setback from Ruxton Rise deemed appropriate at the original VCAT decision.</td>
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<td>provided where other options are not possible due to site constraints, the</td>
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<td>garage doors do not dominate the façade and the front setback area is retained</td>
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<td>as predominantly garden space.</td>
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<tr>
<td>To minimise site disturbance and impact of the building on the landscape.</td>
<td>Buildings should be designed to follow the contours of the site on sloping sites.</td>
<td>Major excavation works and site levelling.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>Minimise the use of retaining walls and battering of slopes.</td>
<td></td>
<td>Given the slope and undulation of the existing site, a level of disturbance is unavoidable, particularly given the 8 metre height limit prescribed for the site in the</td>
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### Objectives

<table>
<thead>
<tr>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
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</thead>
<tbody>
<tr>
<td>Design new buildings and extensions so as not to exceed the predominant tree canopy height.</td>
<td>Buildings that protrude above the tree canopy height.</td>
<td>endorsed subdivision plans. The proposed site cuts for the two dwellings footprints are not considered excessive in this context. The need to establish a useable area of open space for each dwelling is acknowledged and the flat patio and grassed areas in the Balcombe Road setback are no larger in extent than the paving and decking areas in the endorsed landscape concept plan. A condition of approval is recommended to delete the privacy screen in the Balcombe Road setback. Given the bushy character sought by the preferred character statement for the area and the intent of the original VCAT decision, it is considered more appropriate for any screening sought in this front setback to be achieved with vegetation.</td>
</tr>
<tr>
<td><strong>To ensure that new buildings provide an articulated and interesting façade to the street.</strong></td>
<td>Large, bulky buildings Poorly articulated front and side wall surfaces.</td>
<td>Responds The proposal incorporates a number of recessed elements, changes in materials, finishes/ textures and design features that break up the mass of the dwellings into smaller components. The first floor would be recessed from the lower floor to the Ruxton Rise frontage. The proposal is considered to contribute an acceptable level of visual interest to the streetscape.</td>
</tr>
<tr>
<td>Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation. Recess upper levels from the front façade.</td>
<td></td>
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</tr>
<tr>
<td><strong>To use building materials and finishes</strong></td>
<td>Use a mix of materials, textures and finishes including render, Period reproduction styles and detailing.</td>
<td>While the proposal includes a variety of materials including horizontal timber</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
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<tr>
<td>------------------------------------------------</td>
<td>------------------------------------------------------</td>
<td>--------------------------------------------</td>
</tr>
<tr>
<td>that complement the natural setting.</td>
<td>timber, non-masonry sheeting, glazing, stone and brick.</td>
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</tbody>
</table>
| To maintain the openness of the front garden to the street. | • Provide open style front fences, other than along heavily trafficked roads.  
• Use vegetation as an alternative where possible. | High or solid front fences.               | The proposal would maintain an openness of the front garden with the exception of the retaining wall and privacy screen to 2.3 metres in height to the Balcombe Road frontage. As discussed above, the privacy screen fence is considered contrary to the bushy garden character sought for the area and would undermine the openness of the streetscape and result in excessive alteration to the sloped site. No detail has been provided regarding the material for the privacy screen fence; however the drawings indicate it is required to comply with AS1926-2010 (swimming pool safety standards) and is likely to have been required for an earlier iteration of the proposal which included a pool in the Balcombe Road setback.  
A condition of approval is recommended to remove this privacy screen fence and the retaining wall that creates the flat area that is stepped down to from the patio. Given the bushy character sought by the preferred character statement for the area and the intent of the original VCAT decision, it is considered more appropriate for any |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
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<td>screened sought in this front setback to be achieved with vegetation.</td>
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</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</td>
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<tr>
<td>neighbourhood character or</td>
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<td>contributes to a preferred</td>
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<td>neighbourhood character.</td>
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<tr>
<td>Development responds to</td>
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<td>features of the site and</td>
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<td>surrounding area.</td>
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<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The construction of a</td>
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<tr>
<td>Residential development is</td>
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<td>medium density dual</td>
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<td>consistent with housing</td>
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<td>lot development is</td>
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<td>policies in the SPPF, LPPF</td>
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<td>supported by relevant</td>
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<td>including the MSS and local</td>
<td></td>
<td>policies for this site.</td>
</tr>
<tr>
<td>planning policies.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Support medium densities in</td>
<td></td>
<td></td>
</tr>
<tr>
<td>areas to take advantage of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>public transport and community</td>
<td></td>
<td></td>
</tr>
<tr>
<td>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</td>
<td></td>
<td></td>
</tr>
<tr>
<td>sizes and types in</td>
<td></td>
<td></td>
</tr>
<tr>
<td>developments of ten or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>The dwellings will</td>
</tr>
<tr>
<td>Provides appropriate</td>
<td></td>
<td>make use of existing</td>
</tr>
<tr>
<td>utility services and</td>
<td></td>
<td>infrastructure servicing</td>
</tr>
<tr>
<td>infrastructure without</td>
<td></td>
<td>the site. The developer</td>
</tr>
<tr>
<td>overloading the capacity.</td>
<td></td>
<td>will be responsible for</td>
</tr>
<tr>
<td></td>
<td></td>
<td>upgrading this</td>
</tr>
<tr>
<td></td>
<td></td>
<td>infrastructure if</td>
</tr>
<tr>
<td></td>
<td></td>
<td>necessary to</td>
</tr>
<tr>
<td></td>
<td></td>
<td>accommodate the</td>
</tr>
<tr>
<td></td>
<td></td>
<td>development.</td>
</tr>
<tr>
<td>**B5 Integration with the</td>
<td>Yes</td>
<td>Both dwellings would be</td>
</tr>
<tr>
<td>Street**</td>
<td></td>
<td>oriented toward Ruxton</td>
</tr>
<tr>
<td>Integrate the layout of</td>
<td></td>
<td>Rise and the pedestrian</td>
</tr>
<tr>
<td>development with the street.</td>
<td></td>
<td>entrance to both dwellings</td>
</tr>
<tr>
<td></td>
<td></td>
<td>would be clearly</td>
</tr>
<tr>
<td></td>
<td></td>
<td>delineated with</td>
</tr>
<tr>
<td></td>
<td></td>
<td>walkways amongst the</td>
</tr>
<tr>
<td></td>
<td></td>
<td>landscaping. The</td>
</tr>
<tr>
<td></td>
<td></td>
<td>development will</td>
</tr>
<tr>
<td></td>
<td></td>
<td>integrate appropriately</td>
</tr>
<tr>
<td></td>
<td></td>
<td>with the street.</td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>Ruxton Rise</td>
</tr>
<tr>
<td>The setbacks of buildings from</td>
<td></td>
<td>Required: 4m</td>
</tr>
<tr>
<td>a street respect the existing</td>
<td></td>
<td>Proposed: 6.17m</td>
</tr>
<tr>
<td>or preferred neighbourhood</td>
<td></td>
<td></td>
</tr>
<tr>
<td>character and make efficient</td>
<td></td>
<td></td>
</tr>
<tr>
<td>use of the site.</td>
<td></td>
<td>Balcombe Road</td>
</tr>
<tr>
<td>Required: 9m</td>
<td></td>
<td>Proposed: 9m</td>
</tr>
<tr>
<td>Proposed: 9m</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Yes</td>
<td>Maximum: 8m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 7.6m</td>
</tr>
</tbody>
</table>

---

**Item 4.7 – Matters of Decision**
<table>
<thead>
<tr>
<th>Item Code</th>
<th>Description</th>
<th>Decision</th>
<th>Maximum</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>B8 Site Coverage</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Yes</td>
<td>Maximum: 50%</td>
<td>Proposed: 37%</td>
</tr>
<tr>
<td>B9 Permeability</td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
<td>Minimum: 20%</td>
<td>Proposed: 38%</td>
</tr>
<tr>
<td>B10 Energy Efficiency</td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>Yes</td>
<td>All habitable areas, including habitable rooms and secluded private open space areas would be appropriately located in relation to the orientation of the site.</td>
<td></td>
</tr>
<tr>
<td>B11 Open Space</td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B12 Safety</td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Yes</td>
<td>Both dwellings entries would be clearly recognisable while living areas of both units would provide for the passive surveillance of Ruxton Rise and Balcombe Road.</td>
<td></td>
</tr>
<tr>
<td>B13 Landscaping</td>
<td>To provide appropriate landscaping. To encourage: Development that respects the landscape character of the neighbourhood. Development that maintains and enhances habitat for plants and animals in locations of habitat importance. The retention of mature vegetation on the site.</td>
<td>Yes</td>
<td>Refer to report.</td>
<td></td>
</tr>
<tr>
<td>B14 Access</td>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td>Yes</td>
<td>Maximum: 33% of street frontage</td>
<td>Proposed: 25.7%</td>
</tr>
</tbody>
</table>

Note: The height limit is specified in sheet 3 of 7 of the previously endorsed plans for the original subdivision permit (2014/516/2).
### B15 Parking Location
Provide resident and visitor vehicles with convenient parking.
Avoid parking and traffic difficulties in the development and the neighbourhood.
Protect residents from vehicular noise within developments.

| Yes | On site car parking is provided with a double garage for each dwelling. 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. |

### Ground floor

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>South (side)</td>
<td>0m</td>
<td>0m, 2.4m</td>
<td>2.06m – 2.36m</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2.36m – 3.104m</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2.72m – 2.9m</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2.9m – 3.2m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>0m or 2m</td>
<td>2.5m</td>
<td>3.384m – 4.23m</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2.24m – 4.08m</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 | Maximum Height: 3.6m  
Proposed: 1.8m & 2.68m  
Maximum Average Height: 3.2m  
Proposed: Less than the allowed 3.2 metres  
Maximum Length: 14.67m  
Proposed: 11.7m |

### 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 existing 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%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 December.  
It is noted the application would also comply with this control in relation to the development proposed at No.4 Ruxton Rise. |
<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>Appropriate screening measures are employed to avoid any overlooking between the two 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 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. The ground floor studies of both dwellings could be converted into bedrooms in the future.</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 pedestrian entrance to both dwellings would be clearly delineated with landscaping and walkways from Ruxton Rise.</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>
<tr>
<td>B28 Private Open Space</td>
<td>Provide reasonable recreation and service needs of residents by adequate private open space.</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall Proposed: 70m² and 78m² secluded for dwelling one and two respectively.</td>
</tr>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Yes</td>
<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>No</td>
<td>Addressed via condition.</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 to Attachment 3.</td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Maximum: 1.2m Proposed: 0.9 – 2.3 metre privacy screen fence to Balcombe Road frontage</td>
</tr>
<tr>
<td><strong>B33 Common Property</strong></td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-------------------------</td>
<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>
<td></td>
</tr>
<tr>
<td>Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B34 Site Services</strong></th>
<th>No</th>
<th>Addressed via condition.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
4.8 3 RUXTON RISE, BEAUMARIS
(FORMERLY LOT 4 - 489 BALCOMBE ROAD)
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/617/1 WARD: SOUTHERN

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

1. Purpose and background
To report a planning permit application for the construction of a single storey dwelling on
a lot with an area of 398 square metres (refer Attachment 1) at 3 Ruxton Rise, Beaumaris
(refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Redstar Pty Ltd C- Studiofour</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>16 March 2017 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>15 May 2017</td>
</tr>
</tbody>
</table>

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

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

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

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

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

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

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

   **Planning permit requirements**

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

   **Planning scheme amendments**

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

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

3. **Stakeholder Consultation**

   **External referrals**

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

   **Internal referrals**

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>Changes requested to Arborist report. Addressed via condition.</td>
</tr>
<tr>
<td>Drainage</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic</td>
<td>Objection to originally proposed parking waiver (Plans formerly amended to address this). Conditions requested for other matters.</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 32 objections were received. The following concerns were raised:

   - Proposed waiver of car park (and associated issues with parking, traffic, rubbish collection vehicle routes and safety in surrounding streets);
   - Precedent set if waiver of car park approved;
   - No visitor car park; and
   - Landscaping.
Consultation meeting

The applicant elected not to take up Council’s offer to facilitate a consultation meeting.

In response to the concerns expressed by Council and objectors, the applicant formerly amended the application and requested the amendments be re-advertised to the objectors. The amendments include an additional on-site parking space and the relocation of the rainwater tank, external storage shed and air conditioning unit. Following the re-advertising, one objection was withdrawn and no further objections were received.

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 2016/617/1 for the land known and described as 3 Ruxton Rise, Beaumaris, for the construction of a dwelling on a lot less than 500 square metres in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the amended plans (Drawing No: A126 (Rev 03), A150 (Rev 05), A200 (Rev 05), A250 (Rev 05), A251 (Rev 03), A400 (Rev 04), A401 (Rev 04), A402 (Rev 04), A403 (Rev 04), A500 (Rev 04), A501 (Rev 04), A502 (Rev 04)) but modified to show:
   a) The wall separating the dwelling entry and carport to be setback a minimum of 4 metres from the street frontage. The wall may be retained forward of this 4 metre setback to the minimum height needed for the driveway retaining wall.
   b) The internal dimensions of the carport to be a minimum of 6m and 3.5m in length and width respectively.
   c) The carport setback from the site frontage to enable a minimum 5.5m length for the tandem parking space.
   d) The gradient of tandem parking space to not exceed a gradient of 1:16 (6.25%) in accordance with AS2980.1.
   e) The driveway to be finished with concrete or similar sealed surface.
   f) Sightlines where the driveway meets the crossover in accordance with Clause 52.06-9 of the Bayside Planning Scheme.
   g) An amended Landscape Plan that identifies the tree protection measures specified in the Tree Management Plan and Tree Protection Plan provided in accordance with Condition 12 of this report.
   h) An amended a Tree Management Plan (report) and Tree Protection Plan (drawing) in accordance with Condition 12 of this permit.

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

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

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

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

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

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

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

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

10. 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 the Himalaya Cedar (Cedrus deodara) remain viable post-construction. The tree management plan must address;

a) Tree protection measures through all phases of the development, including landscaping;

b) Address the incursion into the TPZ as a result of trenching that occurred during the installation of infrastructure in the easement running through the site; and

c) 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 the Himalayan Cedar; and

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

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

15. 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.

16. 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.

17. Council records indicate that there is a 3.0m wide drainage and sewerage easement along the eastern 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.

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.
- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a 'Road Opening Permit' must be obtained to facilitate such work.
- A 'Road Opening / Stormwater Tapping Permit' is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.
- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.

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.
6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct H3 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The proposal would achieve a level of planting across the site consistent with the endorsed landscape concept plan and the bushy garden character sought by the preferred future character for the area. Sufficient space is retained around the proposed dwelling to accommodate this level of vegetation.

The proposal is single storey, small in scale and presents a simple and modern frontage to Ruxton Rise. The proposal would be set into the slope of the site and is designed around the large Himalayan Cedar (Cedrus deodara). The remaining natural ground levels outside the building footprint and driveway would be retained and the front setback would be well vegetated. The effect is a dwelling that integrates well into the natural setting of the area. The proposed variety of materials is limited. The materials in addition to the scale of the dwelling and its setting into the site slope amongst planting complements the setting of the site.

The proposed carport would be flush with the facade of the dwelling. The front door of the property would be set into the dwellings frontage; however it would be clearly delineated with the natural grey block work wall and stairs. The proposal is considered to represent an alternative design approach that is appropriate in this instance.

The proposal would maintain an openness of the front garden with no front fence proposed. Given the slope and undulation of the site, a level of disturbance is unavoidable, particularly given the 8 metre height limit prescribed for the site in the endorsed subdivision plans. The need to establish a useable area of private open space...
for each dwelling is also acknowledged. The proposed site cuts for the site is restricted to the building footprint and the driveway. The level of site disturbance is considered appropriate in this context.

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

An assessment against the requirements of Clause 54 is provided at Attachment 4. Those non-compliant standards are discussed below:

**Street setback (Standard A3)**

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>4m</td>
<td>2.7m</td>
<td>1.3m</td>
</tr>
</tbody>
</table>

The proposal would vary the street setback standard imposed by the building envelope established through the subdivision permit issued at the direction of VCAT. The objective of this standard is to ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.

A wall that separates the dwelling entry from the carport would project 1.3 metres forward of the building envelope. The remainder of the frontage would be setback between 4 and 4.9 metres from the street. It is acknowledged the projecting wall is a feature that signifies the dwellings entrance; however the level of incursion into the street setback established through the subdivision permit would disrupt the uniform building line the development of the larger site sought to establish.

A condition of approval is recommended to increase the setback of the feature wall to a minimum of 4 metres. It is noted this would still enable the wall to project 900mm from the frontage of the dwelling, which would continue to delineate the dwellings entry. Subject to the recommended condition, the proposal would achieve the street setback objective and standard.

**Side and rear setbacks (Standard A10)**

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

The proposal would vary the setback standards in relation to the North, South and East boundaries. The objective of standard A10 is to ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

A small portion of the southern wall along the boundary would exceed 3.6 metres in height (to a maximum of 3.775m). This small portion of wall would need to be setback 2.105 metres to accord with the standard. Given the minor area of wall this variation relates to, it is considered there would be no discernible neighbourhood character impact. The adjacent property, No.5 Ruxton Rise, is vacant; and the variation would not compromise the future development of this site or the amenity of any future occupier.

The northwest corner of bedroom two would vary the building envelope rear setback by 100mm. Given the minor nature of the variation at the rear of the property, there would
be no impact on the neighbourhood character of the area. In addition, the variation is significantly setback from the private open space and habitable room windows of No.487 Balcombe Road. The variation would have no amenity impact on this neighbouring property.

The portion of the living and sitting room that extends above 3.6 metres in height above natural ground level would vary the side setback from the northern boundary up to a maximum of 480mm. The adjacent No.1 Ruxton Rise is currently vacant; however given the building envelope established for this site through the original subdivision permit, the area adjacent to the proposed variation is likely to be built to the boundary. In this context the proposed variation is not considered to compromise the future development of the adjacent site and would limit any amenity impacts on future occupiers.

The proposed side setback variation in relation to the northern boundary would not impact on the neighbourhood character of the area. It is noted a two metre vegetated setback from the northern boundary would ensure separation between the proposal and the future development of No.1 Ruxton Rise. Given all of the above, the proposal is considered to achieve the objective of the standard.

Walls on boundaries (Standard A11)

<table>
<thead>
<tr>
<th></th>
<th>Maximum</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Height</td>
<td>3.6m</td>
<td>3.775m</td>
<td>175mm</td>
</tr>
<tr>
<td>Max Average Height</td>
<td>3.2m</td>
<td>2.98m</td>
<td>None</td>
</tr>
<tr>
<td>Maximum Length</td>
<td>14.29m</td>
<td>18.145m</td>
<td>3.855m</td>
</tr>
</tbody>
</table>

The proposal seeks to vary the maximum height and maximum length of a wall on the boundary in relation to the wall proposed on the southern boundary. The objective of the standard is to ensure that 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 southern elevation provided in the drawing set indicates the minor area of the boundary wall which does not comply with the 3.6 metre maximum height. It is noted the boundary wall complies with the maximum average height across the length of the wall. It is acknowledged that the slope and undulation of these sites, that compliance with the walls on boundaries and side/ rear setback controls can be difficult. The adjoining property, No.5 Ruxton Rise is currently vacant; however the location of the built form and private open space can be reasonably assumed given the building envelope provided for the site. The variation of the maximum height for the portion of the wall has no amenity impact on No.5 Ruxton Rise currently and would not unreasonably impact on the future development of this neighbouring property.

The wall on the boundary would be contained wholly within the building envelope specified for the site by the subdivision permit issued at the direction of VCAT. Again the length of the wall on the boundary would have no amenity impact on No.5 Ruxton Rise currently and would not unreasonably impact on the future development of this neighbouring property. Given the majority of the wall would be below Ruxton Rise, the visibility of the wall’s length from the street and most neighbouring properties is restricted. Views would be further restricted once No.5 Ruxton Rise is developed. The length of the wall is not considered to have any significant impact on the neighbourhood character of the area. Given all of the above, the proposal is considered to achieve the objective of this standard.

6.3. Car parking and traffic

The application originally proposed a single parking space provided in the carport for the three bedroom dwelling.
Pursuant to Clause 52.06, two on-site parking spaces are required. Council’s Traffic Engineer objected to this aspect of the proposal and similar concerns were raised by a number of objectors. Council’s Traffic Engineers suggested a tandem parking arrangement be adopted by the proposal.

The application was subsequently formerly amended to include one carport space and one tandem parking space. This accords with the standard for a dwelling of this size.

Council’s Traffic Engineer also suggested a number of conditions in relation to the tandem parking arrangement, the gradient of the driveway, the use of gravel for the driveway and sightlines. Conditions of approval are recommended to reflect these requests.

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

6.4. Vegetation & Landscaping

A landscape concept plan, prepared by John Patrick Landscape Architects Pty Ltd, was endorsed in accordance with subdivision permit 2014/516/2. Pursuant to the Section 173 agreement all development applications for individual sites must be accompanied by a landscape plan that is generally consistent with the endorsed landscape concept plan. The landscape concept plan identifies a Coast Manna Gum to be planted in the front setback and a Coast Banksia planted at the rear of the site and provides a planting schedule with shrubs, groundcovers, grasses and climbers.

A landscape plan for the site, prepared by Studio Four and dated 20 August 2016, has been submitted in support of the application. Council’s Arborist has reviewed the application and advises that the proposed landscape plan is consistent with the endorsed landscape plan; however varies the planting schedule. The wording “consistent with” is considered to be a higher test than the commonly used “generally in accordance with”.

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

The proposed landscape plan would include a number of proposed indigenous canopy trees across the site, including 12 x Coast Banksia (*Banksia integrifolia*) and 3 x Snow Gum (*Eucalyptus pauciflora*), which are considered to contribute to the bushy garden character sought for the area. The endorsed landscape concept plan shows the retention of the Himalayan Cedar Tree (*Cedrus deodara*) at the rear of the site. The proposal seeks to retain this existing tree.

The proposed landscape plan also details a range of shrubs and smaller planting that while not entirely in accordance with the planting palette in the endorsed landscape concept plan contains a number of native species. It is acknowledged the Olives (*Olea europaea*) would be planted in the internal courtyard of the property and would not be visible from the street or surrounding properties. The proposed landscape plan is considered to appropriately respond to the preferred bushy garden character sought for the area and be consistent with the endorsed landscape concept plan.

An Arborist report for the former 489 Balcombe Road, prepared by Greenwood Consulting dated 29 September 2015, was submitted to satisfy condition 6 of the original subdivision permit. The Section 173 agreement lodged on the title requires that an Arborist Report is submitted to Council prior to the commencement of any works where a tree protection zone extents into a site.

The Himalayan Cedar (*Cedrus deodara*) on site is identified for retention in the endorsed subdivision plan. Council’s Arborist advises in June 2016 installation of stormwater
infrastructure occurred in the easement through No.1, 3 and 5 Ruxton Rise. Trenching to install this infrastructure occurred despite the Arborist report for the site restricting any trenching from occurring with the Tree Protection Zone (TPZ) of any trees to be retained. The trenching resulted in an incursion into the TPZ of the Himalayan Cedar of approximately 30%.

An Arborist report, prepared by Treelogic dated 21 November 2016, has been submitted in support of the application. The Arborist report identifies the 22% incursion into the TPZ of the built form is reduced to 12% due to the use of the suspended concrete slab and the retention of natural ground levels outside of the building footprint. The report identifies generic tree protection measures including mulching and irrigating the TPZ and to the installation of TPZ fencing during all phases of construction. The report does not identify the existing incursion into the TPZ as a result of trenching in June 2016 and as a result fails to consider the combined impact of further incursion or suggest any remediation measures.

Council's Arborist has reviewed the report and advises that the location of the TPZ fencing will curtail the construction of the dwelling and as such is unlikely to be installed or maintained to the extent identified in the report. Council's Arborist has requested the report be amended to provide specific tree protection measures for all phases of development, including landscaping. A tree protection plan that demonstrates the location of these measures through all phases of development is also needed and these measures should be shown on the landscape plan prior to endorsement. Conditions of approval are recommended to reflect this advice. Council’s Arborist has advised there are no trees on neighbouring properties that would be impacted by the proposal.

6.5. **Objections received**

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

**Waiver of car parking**

The majority of objections raised related directly to the proposed car parking waiver and the associated issues with overspill parking, traffic and safety impacts on surrounding streets. It is noted the applicant formerly amended the proposal to provide two car parking spaces which accords with the car parking requirement under Clause 52.06 of the Bayside Planning Scheme. The application no longer proposes a waiver in the car parking requirements.

**Visitor parking**

An objection was made on the grounds the development didn't provide for visitor car parking. It is noted that visitor car parking requirements in Clause 52.06 of the Bayside Planning Scheme only apply to developments of five or more dwellings.

**Support Attachments**

1. Development Plans ↓
2. Site Surrounds and Imagery ↓
3. Neighbourhood Character (Precinct H3) Assessment ↓
4. Clause 54 (ResCode) Assessment ↓
Item 4.8 – Matters of Decision
Item 4.8 – Matters of Decision
Item 4.8 – Matters of Decision
<table>
<thead>
<tr>
<th>Item 4.8 – Matters of Decision</th>
</tr>
</thead>
</table>

### Table: Materials and Finishes Schedule

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>123</td>
<td>Wood Panel</td>
</tr>
<tr>
<td>456</td>
<td>Concrete</td>
</tr>
<tr>
<td>789</td>
<td>Steel Frame</td>
</tr>
</tbody>
</table>

### Diagram:

- Wooden panel
- Concrete slab
- Steel frame

---

**Notes:**
- Wood panel: oak
- Concrete: high-strength
- Steel frame: galvanized

---

**Materials and Finishes Schedule**

- List of materials and finishes used in the project.
**Figure 1** Aerial overview of the site and surrounds

*The objection received from 20, 22, 23, 25, 25A, 26, 27 and 29 Summerhill Road, 2, 17, 18, 23 and 23A Hepburn Ave, 4, 13 and 17-19 Mary Street, 511 and 514 Balcombe Road and 29 Hilton Street, Beaumaris is not indicated above.

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>⚫</td>
</tr>
<tr>
<td>Withdrawn</td>
<td>▲</td>
</tr>
</tbody>
</table>
Figure 2 View from Ruxton Rise across the site looking Northeast

Figure 3 View of interface between subject site and No.487 Balcombe and 79 Haydens Rd
Figure 4 View across site and No.5 Ruxton Rise (currently vacant)
ATTACHMENT 3
Neighbourhood Character Policy (Precinct H3)

Preferred Future Character

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To strengthen the bushy garden character of the area through the planting of appropriate species.</td>
<td>- Retain large established trees and understorey, and provide for the planting of new indigenous trees wherever possible (locate footings outside root zone).&lt;br&gt; - Prepare a landscape plan to accompany all applications for new dwellings that utilises appropriate native, preferably indigenous, vegetation.&lt;br&gt; - Minimise impervious surfaces particularly in front garden spaces to ensure space for plantings.</td>
<td>Lack of landscaping and substantial vegetation.&lt;br&gt; Removal of large established trees.&lt;br&gt; Planting of environmental weeds.</td>
<td>Responds&lt;br&gt; A landscape plan has been submitted in support of the application. The trees to be retained and the level of planting across the site is informed by the original VCAT decision and endorsed landscape concept plan. The proposal would achieve a level of planting across the site consistent with the endorsed landscape concept plan and the bushy garden character sought by the preferred future character for the area. This is discussed in greater depth in the report.</td>
</tr>
</tbody>
</table>

<p>| To maintain the rhythm of spacious visual separation between buildings and ensure adequate space is | - Buildings should be sited to allow space for a garden, including trees and shrubs.&lt;br&gt; - Buildings should be sited to create the appearance of space between | | Responds&lt;br&gt; The footprint of the proposal would be located wholly within the building envelope established by the endorsed subdivision plans (Ref: 2014/516/2) with a minor |</p>
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>provided around buildings for the retention and planting of vegetation.</td>
<td>buildings and accommodate vegetation.</td>
<td></td>
<td>variation at the rear the only exception. This envelope ensures space is retained between the proposal, existing dwellings to the rear and the future development of No.1 and 5 Ruxton Rise. Sufficient space is retained around the proposed dwelling to accommodate a level of vegetation consistent with the bushy character identified in the preferred neighbourhood character and endorsed concept landscape plan prepared by John Patrick Landscape Architects.</td>
</tr>
</tbody>
</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.
- Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.

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

Responds

The proposed carport would be flush with the frontage of the dwelling. The front door of the property would be set into the dwellings frontage; however it would be clearly delineated with the natural grey block work wall and stairs. It is noted a condition of approval is recommended to delete the wall forward of the building line; however the effect of the remainder of the wall would still draw the view to the entrance. The proposal is considered to represent an alternative design approach that is appropriate in this instance.

To minimise site disturbance and impact of the building on the landscape.

- Buildings should be designed to follow the contours of the site on sloping sites.
- Minimise the use of retaining walls and battering of slopes.
- Design new buildings and extensions so as not to exceed

Major excavation works and site levelling.

Buildings that protrude above the tree canopy height.

Responds

Given the slope and undulation of the existing site, a level of disturbance is unavoidable, particularly given the 8 metre height limit prescribed for the site in the endorsed subdivision plans. The need to
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>the predominant tree canopy height.</td>
<td></td>
<td></td>
<td>establish a useable area of private open space for each dwelling is also acknowledged. The proposed site cuts for the site is restricted to the building footprint and the driveway. The level of site disturbance is considered appropriate in this context.</td>
</tr>
</tbody>
</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.  
• Recess upper levels from the front façade. | Large, bulky buildings  
Poorly articulated front and side wall surfaces. | Responds  
The proposal is small in scale and presents a simple and modern frontage to Ruxton Rise. The proposal would be set into the slope of the site and designed around the large Himalayan Cedar (Cedrus deodara). The remaining natural ground levels outside the building footprint and driveway would be retained and the front setback would be well vegetated. The effect is a dwelling that integrates well into the natural setting of the area.  
While the dwelling does not utilise a wide array of design elements to articulate its form, the proposal is considered to provide an acceptable level of visual interest to the street scene. |
<p>| To use building materials and finishes that complement the natural setting. | • Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick.                                                                                      | Period reproduction styles and detailing.                              | While the proposal would be constructed in concrete blockwork and natural grey render with a membrane roofing system with a stone ballast seal. The variety of materials is limited. However, the materials in additional to the scale of the dwelling and its setting into the site slope amongst planting complements the setting of the |</p>
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain the openness of the front garden to the street. | • Provide open style front fences, other than along heavily trafficked roads.  
• Use vegetation as an alternative where possible. | High or solid front fences. | The proposal would maintain an openness of the front garden with no front fence proposed. |

site. As the roofing would be clearly visible from other sites and the upper portion of Ruxton Rise, the membrane roofing with stone ballast seal is appropriate.
<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Requirement and Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A1 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>A2 Integration with Street</strong></td>
<td>Yes</td>
<td>The dwelling would be primarily oriented inwards to take advantage of the internal courtyard. However, the pedestrian entry and master bedroom would be oriented towards Ruxton Rise. Due to site levels views from the street down to the development will be provided; however the development will not overlook the street.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A3 Street Setback</strong></td>
<td>No</td>
<td>Required: 4m</td>
</tr>
<tr>
<td>Setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site</td>
<td>Proposed: 2.7m, 4m – 4.9m</td>
<td>Refer to report</td>
</tr>
<tr>
<td><strong>A4 Building Height</strong></td>
<td>Yes</td>
<td>Maximum: 8m</td>
</tr>
<tr>
<td>Building height respects the existing or preferred neighbourhood character.</td>
<td>Proposed: 4.35m</td>
<td></td>
</tr>
<tr>
<td><strong>A5 Site Coverage</strong></td>
<td>Yes</td>
<td>Maximum: 50%</td>
</tr>
<tr>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Proposed: 48%</td>
<td></td>
</tr>
<tr>
<td><strong>A6 Permeability</strong></td>
<td>Yes</td>
<td>Minimum: 20%</td>
</tr>
<tr>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Proposed: 36.7%</td>
<td>Note: Calculated by officer. Applicant states 56% permeable.</td>
</tr>
<tr>
<td><strong>A7 Energy Efficiency</strong></td>
<td>Yes</td>
<td>All habitable areas, including habitable rooms and secluded private open space areas would be appropriately located in relation to the orientation of the site.</td>
</tr>
</tbody>
</table>
Ensure the development’s orientation and layout reduce fossil fuel energy use and makes appropriate use of daylight and solar energy.

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

Yes  Refer to report.

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

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

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

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

No, refer to report.

**Maximum Height:** 3.6m  
**Proposed:** 3.775m  
**Maximum Average Height:** 3.2m  
**Proposed:** 2.98m  
**Maximum Length:** 14.29m  
**Proposed:** 18.145m

1. **A12 Daylight to existing windows**  
To allow adequate daylight into existing habitable room windows.

Yes  
The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained. All setbacks are consistent with the requirements of Standard B19.

### A13 North Facing Windows
Allow adequate solar access to existing north-facing habitable room windows.

Yes  
No north facing windows on adjoining properties are affected.

### A14 Overshadowing Open Space
Ensure buildings do not unreasonably overshadow existing secluded private open space.

Yes  
Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 December.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Outcome</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>A15</td>
<td>Overlooking</td>
<td>Yes</td>
<td>All ground floor windows serving habitable rooms have finished floor levels no greater than 800mm above natural ground level. Boundary fencing above 1.8 metres in height is indicated to the north and east boundary.</td>
</tr>
<tr>
<td>A16</td>
<td>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>A17</td>
<td>Private Open Space</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall Proposed: 102m² secluded</td>
</tr>
<tr>
<td>A18</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>A19</td>
<td>Design Detail</td>
<td>Yes</td>
<td>Refer to Attachment 3.</td>
</tr>
<tr>
<td>A20</td>
<td>Front Fences</td>
<td>N/A</td>
<td>None proposed</td>
</tr>
</tbody>
</table>
This matter has been reported to the Planning and Amenity Committee for a decision as a result of Councillor call-in.

1. Purpose and background

To report a planning permit application for the construction of a double storey dwelling on a lot with an area of 399 square metres (refer Attachment 1) at 4 Ruxton Rise, Beaumaris (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Trusch Design Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>1 July 2017 (Amended)</td>
</tr>
<tr>
<td>Statutory days expire</td>
<td>1 August 2017</td>
</tr>
</tbody>
</table>

Site History

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

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

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

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

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

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

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

Planning permit requirements

Clause 32.09-6 (Neighbourhood Residential Zone) – Construction of a dwelling on a lot less than 500 square metres.

Planning scheme amendments

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

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

3. Stakeholder Consultation

External referrals

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

Internal referrals

The application was referred to the following Council departments for comment

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>Changes sought through conditions.</td>
</tr>
<tr>
<td>Drainage</td>
<td>No objection. Conditions requested.</td>
</tr>
<tr>
<td>Traffic</td>
<td>No objection. Conditions requested.</td>
</tr>
</tbody>
</table>

Public notification

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

- Overlooking;
- No landscape plan accompanying application;
- Advertising undertaken incorrectly;
- Over-development; and
- Tree removal.

Consultation meeting

A consultation meeting was held on 3 August 2016. One objection was withdrawn as a result of this meeting; however the objector expressed further concerns and as such the objection is not considered to be 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 2016/17/1** for the land known and described as **4 Ruxton Rise, Beaumaris**, for the **construction of a double storey dwelling on a lot less than 500 square metres** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the amended plans (Drawing No: DWG2 – DWG6 (all Rev A) and L-TP01 Rev D) but modified to show:
   a) A longitudinal section of both driveways showing the grades and lengths of grades in accordance with AS2890.1.
   b) Sightlines where the driveway meets the crossover in accordance with Clause 52.06-9 of the Bayside Planning Scheme.
   c) A schedule of construction materials, external finishes and colours (incorporating for example paint samples).
   d) A Water Sensitive Urban Design response in accordance with Condition 7 of this permit.
   e) A Landscape Plan in accordance with Condition 10 of this permit.

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

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

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

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

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

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

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

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

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

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape plan (drawing no. L-TP01 Rev D by John Patrick Landscape Architects, dated July 2016) and be drawn to scale with dimensions and three copies must be provided. The plan must show:

   a) Quantities of shrubs and ground covers to be detailed; and
   b) Minimum supply size of the Black Sheoak (Allocasuarina littoralis) to be increased to 2 metres in height.

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

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

13. The 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.

14. Stormwater discharge must be retained for the portion above the discharge calculated using a Coefficient of Runoff of 0.35. The development is to have a Stormwater Detention System installed, the design capacity to be to the satisfaction of the Responsible Authority.

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

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

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

c) Another Council approved equivalent.

17. Before the development begins, detailed plans indicating the method of stormwater discharge to the nominated Legal Point of Discharge (and Stormwater Detention Systems where applicable) must be approved by Council’s Infrastructure Assets department.

18. 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.

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.

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

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

5. Council Policy

Council Plan 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 (Precinct H3)
- Clause 22.08 Water Sensitive Urban Design
6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct H3 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The proposal provides sufficient space surrounding the dwelling to accommodate a level of vegetation consistent with the bushy character identified in the preferred neighbourhood character and endorsed concept landscape plan. Subject to the recommended conditions of approval the proposal would achieve a level of planting across the site consistent with the endorsed landscape concept plan and the bushy garden character sought by the preferred future character for the area.

The proposed double garage would present as the frontage to the dwelling as the site is approached moving along Ruxton Rise. The front door of the property would be set rearward of the garage; however it would be clearly delineated with a walkway, stairs and a porch. The proposal is considered to represent an alternative design approach that is appropriate given the site constraints imposed through the subdivision process. It is acknowledged that the upper level of the dwelling provides an activation down Ruxton Rise towards Balcombe Road.

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

The proposal incorporates a number of recessed elements, changes in materials, finishes/ textures and design features that break up the mass of the dwelling into smaller forms. While the proposal includes a variety of materials including horizontal and vertical timber cladding, render and stone, limited detail has been provided in regards to these materials. A condition of approval is recommended to require details and samples of the proposed materials be submitted.
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 A10)**

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (Side)</td>
<td>2m</td>
</tr>
<tr>
<td></td>
<td>3.32m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m</td>
</tr>
<tr>
<td></td>
<td>3.32m – 3.8m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>4m</td>
</tr>
<tr>
<td></td>
<td>3.96m</td>
</tr>
</tbody>
</table>

The proposal seeks a variation to the setback standard in relation to the southern boundary at first floor level. The objective of standard A10 is to ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

At 20mm the proposed variation to the side setback standard is extremely minor in nature and would be indiscernible from street level. The variation is adjacent to the proposed driveway and garage at No.6 Ruxton Rise and would not impact on the amenity of this adjacent property. The proposal is considered to achieve the objective of this standard.

**Overlooking (Standard A15)**

The north facing bedroom four first floor window would be within 9 metres of No.2 Ruxton Rise. A concurrent application for No.2 Ruxton Rise (2016/16/1) has been submitted by the same applicant as this proposal. The north facing window to bedroom four would be within 9 metres of the secluded private open space (SPOS) proposed at No.2 Ruxton Rise; however the location of the kitchen/dining room walls for dwelling two would obscure any views from this window to the SPOS within 9 metres. It is considered appropriate for the north facing bedroom four window to remain as proposed.

The south facing bedroom four window at first floor would be within 9 metres of 6 Ruxton Rise. A concurrent application for No.6 Ruxton Rise (2017/227/1) has been submitted by the same applicant as this proposal. The window to bedroom four would be within 9 metres of a highlight first floor bedroom window proposed at No.6 Ruxton Rise. Given the window proposed at No.6 Ruxton is a highlight window with a sill height of 1.7 metres above internal floor level and the two applications are made by the same applicant, it is considered appropriate for the south facing bedroom four window to remain as proposed. It is noted the south facing window to the first floor study would overlook the Road.
6.3. Car parking and traffic

A double car garage has been proposed which accords with the car parking requirement for a single dwelling pursuant to Clause 52.06. Council’s Traffic Engineer has reviewed the application and advises they have no objection subject to conditions regarding the driveway grades, sightlines and crossover. The crossover has since been constructed in accordance with the endorsed subdivision plans. Conditions of approval in relation to the driveway grades and sightlines are included in the recommendation.

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

6.4. Vegetation & Landscaping

A landscape concept plan, prepared by John Patrick Landscape Architects Pty Ltd, was endorsed in accordance with subdivision permit 2014/516/2. Pursuant to the Section 173 Agreement all development applications for individual sites must be accompanied by a landscape plan that is generally consistent with the endorsed landscape concept plan. The landscape concept plan identifies three Black Sheoaks to be planted on the site and provides a planting palette with shrubs, groundcovers, grasses and climbers.

A landscape plan for the site, prepared by John Patrick Landscape Architects Pty Ltd and dated July 2016, has been submitted in support of the application. Council’s Arborist has reviewed the application and advises that the proposed planting is not completely consistent with the endorsed landscape plan. The wording “consistent with” is considered to be a higher test than the commonly used “generally in accordance with”.

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

The proposed landscape plan provides three Black Sheoak, six Silver Banksia and one Baby Blue Silver Dollar Tree. The endorsed landscape concept plan shows two street trees in the nature strip fronting the property. It is noted the minimum supply size of the Black Sheoak (Allocasuarina littoralis) specified in the proposed landscape plan is less than the 2 metres in height specified in the endorsed landscape concept plan. A condition of approval is recommended to address this. Council’s Arborist has requested the Silver Banksia (Banksia marginata) adjacent to Ruxton Rise be replaced with Coast Banksia (Banksia intergrifolia). Given the canopy trees proposed along the western boundary and the two street trees shown in the endorsed subdivision plans, the landscape plan as proposed is considered to achieve the bushy garden character sought for the area.

The proposed landscape plan also details a wide variety of shrubs and smaller planting that while not entirely in accordance with the planting palette in the endorsed landscape concept plan contain a significant number of native and indigenous species. Quantities of shrubs and groundcovers are not provided and a condition of approval is recommended to address this. The proposed landscape plan is considered to appropriately respond to the preferred bushy garden character sought for the area and subject to the recommended conditions is consistent with the endorsed landscape concept plan.

The original proposal sought to retain a Monterey Cypress (Hesperocyparis macrocarpa) located on the western boundary of the site. Due to the site cuts required at the rear of the site to provide a usable secluded private open space area for the dwelling, the tree is now proposed to be removed. It is noted the original permit issued at the direction of VCAT allowed for the removal of this tree.
An Arborist report for the former 489 Balcombe Road, prepared by Greenwood Consulting dated 29 September 2015, was submitted to satisfy condition 6 of the original subdivision permit. The Section 173 agreement lodged on the title requires that an Arborist Report is submitted to Council prior to the commencement of any works where a tree protection zone extents into a site.

There are no Tree Protection Zone’s relating to trees to be retained in accordance with the endorsed subdivision plans that extend into the subject site. There is a small tree at No.491 Balcombe Road adjacent to the Monterey Cypress. Council’s Arborist advises that due to the setback from the boundary and the location of the Cypress, the proposed site cuts and retaining walls would be located outside the TPZ of this tree.

6.5. **Objections received**

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

**Overdevelopment**

Concerns have been raised that the proposal is an overdevelopment of the site. The subdivision permit issued at the direction of VCAT provides for the development of the former Beaumaris RSL site. An application for a single dwelling on one of those lots is consistent with the VCAT decision.

**Advertising**

Concerns were raised that the advertising notice was not displayed for the correct length of time. The advertising notice was erected, maintained and removed by an independent contractor who provided a statutory declaration that the advertising notice was erected for the minimum prescribed 14 day notice period.

**Support Attachments**

1. Development Plans ↓
2. Site Surrounds and Imagery ↓
3. Neighbourhood Character (Precinct H3) Assessment ↓
4. Clause 54 (ResCode) Assessment ↓
Item 4.9 – Matters of Decision
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

*The objection received from 2 Te Hongi Court, Beaumaris is not indicated above.

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>🌟</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>⚪</td>
</tr>
</tbody>
</table>
Figure 2 View from Ruxton Rise across the site looking West

Figure 3 View from Ruxton Rise across the site looking South-West
Figure 4 View of site interface with No.491 Balcombe Road

Monterey Cypress to be removed
ATTACHMENT 3
Neighbourhood Character Policy (Precinct H3)

Preferred Future Character

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To strengthen the bushy garden character of the area through the planting of appropriate species. | • Retain large established trees and understorey, and provide for the planting of new indigenous trees wherever possible (locate footings outside root zone).
• Prepare a landscape plan to accompany all applications for new dwellings that utilises appropriate native, preferably indigenous, vegetation.
• Minimise impervious surfaces particularly in front garden spaces to ensure space for plantings. | Lack of landscaping and substantial vegetation.
Removal of large established trees.
Planting of environmental weeds. | Responds
A landscape plan has been submitted in support of the application. The trees to be retained and the level of planting across the site is informed by the original VCAT decision and endorsed landscape concept plan. Subject to the recommended conditions of approval the proposal would achieve a level of planting across the site consistent with the endorsed landscape concept plan and the bushy garden character sought by the preferred future character for the area. This is discussed in greater depth in the report. |

| To maintain the rhythm of spacious visual separation between buildings and ensure | Buildings should be sited to allow space for a garden, including trees and shrubs. | responds |
|-------------------------------------------------------------------------------|---------------------------------------------------------------------------------|---------------------------------|--------------------------------------------------|

Responds
The footprint of the proposal would be located wholly within the building envelope.
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>adequate space is provided around buildings for the retention and planting of vegetation.</td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate vegetation.</td>
<td></td>
<td>established by the endorsed subdivision plans (Ref: 2014/516/2). This envelope ensures space is retained between the proposal, existing dwellings and the development proposed on No.2 and 6 Ruxton Rise. Sufficient space is retained around the proposed dwelling to accommodate a level of vegetation consistent with the bushy character identified in the preferred neighbourhood character and endorsed concept landscape plan prepared by John Patrick Landscape Architects.</td>
</tr>
<tr>
<td>To minimise the loss of front garden spaces and the dominance of car parking structures.</td>
<td>• Locate garages and carports behind the line of the dwelling. • Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.</td>
<td>Car parking structures that dominate the façade or view of the dwelling.</td>
<td>Responds</td>
</tr>
<tr>
<td>To minimise site disturbance and impact</td>
<td>• Buildings should be designed to follow the contours of the site on sloping sites.</td>
<td>Major excavation works and site levelling.</td>
<td>The proposed double garage would present as the frontage to the dwelling as the site is approached moving along Ruxton Rise. Given the shape of the building envelope and location of the crossover as shown on the endorsed subdivision plans (both an element of the VCAT decision), another location for the garage would not be practical in this instance. The front door of the property would be set rearward of the garage; however it would be clearly delineated with a walkway, stairs and a porch. The proposal is considered to represent an alternative design approach that is appropriate given the site constraints imposed through the subdivision process.</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
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</tbody>
</table>
| of the building on the landscape.                                         | • Minimise the use of retaining walls and battering of slopes.  
• Design new buildings and extensions so as not to exceed the predominant tree canopy height.                                                       | Buildings that protrude above the tree canopy height.                                                                                                                                               | Given the slope and undulation of the existing site, a level of disturbance is unavoidable, particularly given the 8 metre height limit prescribed for the site in the endorsed subdivision plans. The need to establish a useable area of private open space for each dwelling is also acknowledged.  
The proposed site cuts for the dwelling is not considered excessive in this context. Refer to the vegetation and landscaping section of the report for the assessment in relation to the impact of the proposed site cuts and retaining walls at the rear of the site on a neighbouring tree. |

To ensure that new buildings provide an articulated and interesting façade to the street. | • Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.  
• Recess upper levels from the front façade.                                                                                                     | Large, bulky buildings  
Poorly articulated front and side wall surfaces.                                                                                       | Responds                                                                                                                                                                                                                                                                         |
|                                                                           |                                                                                                                                                                                                             |                                                                                                                                                                                                       | The proposal incorporates a number of recessed elements, changes in materials, finishes/ textures and design features that break up the mass of the dwelling into smaller forms.  
While the first floor would project 300mm forward of the lower floor to the Ruxton Rise frontage; the first floor is significantly smaller in scale than the ground floor and would be appear visually subservient in this context. The proposal is considered to contribute an acceptable level of visual interest to the streetscape. |

To use building materials and finishes                                     | • Use a mix of materials, textures and finishes including render,                                                                                                                                          | Period reproduction styles and detailing.                                                                                                                                                           | While the proposal includes a variety of materials including horizontal and vertical timber cladding, render and stone, limited |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>that complement the natural setting.</td>
<td>timber, non-masonry sheeting, glazing, stone and brick.</td>
<td>detail has been provided in regards to these materials. A condition of approval is recommended to require details and samples of the proposed materials be submitted to the satisfaction of the Responsible Authority.</td>
<td></td>
</tr>
<tr>
<td>To maintain the openness of the front garden to the street.</td>
<td>• Provide open style front fences, other than along heavily trafficked roads.&lt;br&gt;• Use vegetation as an alternative where possible.</td>
<td>High or solid front fences.</td>
<td>The proposal would maintain an openness of the front garden with no front fence proposed.</td>
</tr>
<tr>
<td>Title and Objective</td>
<td>Complies with Standard?</td>
<td>Requirement and Proposed</td>
<td></td>
</tr>
<tr>
<td>-----------------------------------------</td>
<td>-------------------------</td>
<td>------------------------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td><strong>A1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer to Attachment 3.</td>
<td></td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A2 Integration with Street</strong></td>
<td>Yes</td>
<td>The dwelling would be oriented toward Ruxton Rise. While the pedestrian entrance would be behind the building line of the garage, it would be clearly delineated with a walkway and porch. The development will integrate appropriately with the street.</td>
<td></td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A3 Street Setback</strong></td>
<td>Yes</td>
<td><strong>Required</strong>: 4m&lt;br&gt;<strong>Proposed</strong>: 4m, 5.37m, 5.67m</td>
<td></td>
</tr>
<tr>
<td>Setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A4 Building Height</strong></td>
<td>Yes</td>
<td><strong>Maximum</strong>: 8m&lt;br&gt;<strong>Proposed</strong>: 7.64m (north-eastern corner)&lt;br&gt;Note: The height limit is specified in sheet 3 of 7 of the previously endorsed plans for the original subdivision permit (2014/516/2)</td>
<td></td>
</tr>
<tr>
<td>Building height respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A5 Site Coverage</strong></td>
<td>Yes</td>
<td><strong>Maximum</strong>: 50%&lt;br&gt;<strong>Proposed</strong>: 44%</td>
<td></td>
</tr>
<tr>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A6 Permeability</strong></td>
<td>Yes</td>
<td><strong>Minimum</strong>: 20%&lt;br&gt;<strong>Proposed</strong>: 38%</td>
<td></td>
</tr>
<tr>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A7 Energy Efficiency</strong></td>
<td>Yes</td>
<td>All habitable areas, including habitable rooms and secluded private open space areas would be appropriately located in relation to the orientation of the site.</td>
<td></td>
</tr>
<tr>
<td>Achieve and protect energy efficient dwellings.&lt;br&gt;Ensure the development's orientation and layout reduce fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
A8 Significant Trees
Development respects the landscape character of the neighbourhood and retains significant trees on site.

Yes
Refer to report.

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

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

<table>
<thead>
<tr>
<th></th>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (Side)</td>
<td>2m</td>
<td>2m, 4m</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>South (side)</td>
<td>0m</td>
<td>0m, 2m</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>West (rear)</td>
<td>4m</td>
<td>4m, 5.5m</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

Yes

**Maximum Height:** 3.6m
**Proposed:** 2.4m

**Maximum Average Height:** 3.2m
**Proposed:** 1.6m

**Maximum Length:** 13.42m2
**Proposed:** 10.1m

2. A12 Daylight to existing windows
To allow adequate daylight into existing habitable room windows.

Yes
The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained. All setbacks are consistent with the requirements of Standard B19.

A13 North Facing Windows
Allow adequate solar access to existing north-facing habitable room windows.

Yes
No north facing windows on adjoining properties are affected.

A14 Overshadowing Open Space
Ensure buildings do not unreasonably overshadow existing secluded private open space.

Yes
Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 December.

It is noted the application would also comply with this control in relation to the development proposed at No.6 Ruxton Rise.

A15 Overlooking
Limit views into existing secluded private open space and habitable room windows

No
Refer to report.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>A16 Daylight to New Windows</td>
<td>Allows adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>All habitable windows will open out onto a space clear to the sky.</td>
</tr>
<tr>
<td>A17 Private Open Space</td>
<td>Provide adequate private open space for the recreation and service needs of residents.</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall Proposed: 90m²</td>
</tr>
<tr>
<td>A18 Solar Access to Open Space</td>
<td>Allow solar access into secluded private open space of a new dwelling.</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>A19 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer to Attachment 3.</td>
</tr>
<tr>
<td>A20 Front Fences</td>
<td>Encourage front fence design that respects the exiting or preferred neighbourhood character.</td>
<td>N/A</td>
<td>None proposed</td>
</tr>
</tbody>
</table>
4.10 25F BOLTON STREET, BEAUMARIS  
(FORMERLY LOT 16 - 489 BALCOMBE ROAD)  
GRANT OF A PLANNING PERMIT  
APPLICATION NO: 2016/166/1 WARD: SOUTHERN

City Planning & Community Services - Development Services  
File No: PSF/15/8755 – Doc No: DOC/17/129000

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

1. Purpose and background

To report a planning permit application for the construction of a double storey dwelling and front fence exceeding 1.2 metres in height on a lot with an area of 457 square metres (refer Attachment 1) at 25F Bolton Street, Beaumaris (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Moull Murray Architects Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>19 May 2017 (Amended)</td>
</tr>
<tr>
<td>Statutory days expire</td>
<td>19 July 2017</td>
</tr>
</tbody>
</table>

Site History

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

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

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

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

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

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

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

Planning permit requirements

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

Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of a fence exceeding 1.2 metres in height on a lot less than 500 square metres.

Planning scheme amendments

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

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

3. **Stakeholder Consultation**

External referrals

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

Internal referrals

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

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

Public notification

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

It is noted the development description on the advertising notice and letters did not identify that the front fence would exceed 1.2 metres in height. The advertised plans clearly indicate the front fence proposed. It is considered that no person would experience material detriment from the front fence by the grant of a permit.
4. **Recommendation**

That Council:

Issues a **Planning Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning Application 2016/116/1** for the land known and described as **25F Bolton Street, Beaumaris**, for the construction of a double storey dwelling and a front fence exceeding 1.2 metres in height on a lot less than 500 square metres in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the amended plans (Drawing No: TP.01.03(A), TP.02.01(A) – TP.02.04(A), TP.03.01(A) – TP.03.03(A), TP.04.01(A) – TP.04.02(A) and TP.05.01(A) – TP.05.02(A)) but modified to show:
   a) Solid render wall along eastern site boundary to be deleted within 3 metres of the frontage of the site. This can be replaced with a visually permeable option similar in design to the front fence.
   b) Visual barrier to 1.8 metres in height to ensure ground floor habitable room windows to north and east elevations comply with Standard A15.
   c) Rear facing first floor windows to bedroom two and three to be obscure glazed, screened or have raised sill heights in accordance with Standard A15.
   d) The pool and store room setback three metres from the stem of the Coast Banksia.
   e) Sightlines where the driveway meets the crossover in accordance with Clause 52.06-9 of the Bayside Planning Scheme.
   f) A Water Sensitive Urban Design response in accordance with Condition 7 of this permit.
   g) A Landscape Plan in accordance with Condition 10 of this permit.

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

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

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

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

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

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

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

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

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

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

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

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

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape plan (drawing no. TP.05.01(A) – TP.05.02(A) by John Patrick Landscape Architects, dated 18 May 2017) and be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) Quantities of shrubs and ground covers to be detailed; and

b) Minimum supply size of the Coast Manna Gum (*Eucalyptus viminalis ssp. Pryoriana*) and Coast Banksia (*Banksia integrifolia*) to be increased to 2 metres in height.

c) Two Little Gem Magnolia (*Magnolia grandiflora ‘Little Gem’*) and the Chinese Elm (*Ulmus parvifolia ‘Burnley Select’*) to be replaced with native species, including one Coast Manna Gum (*Eucalyptus viminalis ssp. pryoriana*) in the front setback.

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

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

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

14. Before the development, detailed plans indicating, but not limited to, the method of storm-water discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council’s Infrastructure Assets Department.
15. This permit will expire if one of the following circumstances applies:
   a) The development is not started within two years of the date of this permit.
   b) The development is not completed within four years of the date of this permit.

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

Permit notes
- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a 'Road Opening Permit' must be obtained to facilitate such work.
- A 'Road Opening / Stormwater Tapping Permit' is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.
- Council records indicate that there is no easement within the property.
- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.

5. Council Policy
   Council Plan 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 (Precinct H3)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 42.03 Vegetation Protection Overlay (Scheduled 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct H3 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The proposal provides sufficient space around the dwelling to accommodate a level of vegetation consistent with the bushy character identified in the preferred neighbourhood character and endorsed concept landscape plan prepared by John Patrick Landscape Architects. Subject to the recommended conditions of approval the proposal would achieve a level of planting across the site consistent with the endorsed landscape concept plan and the bushy garden character sought by the preferred future character for the area.

The use of basement parking ensures a large portion of the frontage of the dwelling can be glazed and open to the street. The design provides a significantly greater level of visual connection to, and passive surveillance of the street. The proposal is considered to represent an alternative design approach that is appropriate in this instance.

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

The proposal incorporates recessed fenestration at ground floor level. The frontage of the proposal is dominated by the four robust rendered columns. While the proposal does not employ a range of projecting and recessed elements, materials or colours, the design is typical of a number of contemporary properties in the area. The proposal is considered to contribute an acceptable level of visual interest to the streetscape.

The dwelling would employ smooth and rough rendered finishes painted in white and light grey. The window and door joinery would be timber with a clear seal. A number of dwellings in Bolton Street and the surrounds are finished in predominately light coloured render.

The character of the area is typified by a range of front boundary treatments. Examples in the immediate surrounds range from no fencing and open front gardens to high solid fencing that obscures any visual connection between the street and front gardens. A low stone front boundary wall is proposed with white rendered piers and vertical metal slats between. A timber gate would demark the pedestrian entrance between two piers. Planting is proposed in front of the front fence which would soften its appearance and the metal slats would enable a level of visual permeability.

A rendered wall from 1.5 – 2m in height would return back along the boundary with No.25G Bolton Street. Given the open and bushy garden character sought for the area, this boundary wall is not considered appropriate. A condition of approval is recommended to address this issue. This is further discussed in the Compliance with Clause 55 section 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:

**Side and rear setbacks (Standard A10)**

<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>West (Side)</td>
<td>0m</td>
<td>3.32m - 4.096m</td>
</tr>
<tr>
<td>East (side)</td>
<td>2m</td>
<td>3.14m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>4m</td>
<td>4.32m</td>
</tr>
</tbody>
</table>

The proposal would vary the side setback standards in relation to the East and West boundaries. The objective of Standard A10 is to ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

At 96mm, the proposed variation to the western side setback is considered to be minor and would be indiscernible from the street. The adjacent property No.25E Bolton Street is vacant and an application for development has yet to be received. The application would not have a significant amenity impact on this property.

Bedroom three, the associated walk in robe, bathroom two and the stairs would vary the side setback standard in relation to the eastern boundary to a maximum of 336mm. It is acknowledged that the shape of the eastern boundary in addition to the slope of the site, makes the compliance with the setback standards at first floor level a challenge. The majority of this proposed variation would sit behind the building line formed by bedroom four at first floor level. The proposed variation would have limited visibility to the street and would not undermine the neighbourhood character of the area. A concurrent application (2016/166/1) has been made for No.25G Bolton Street; however the site is currently vacant. The proposed variation is considered to limit any amenity impacts on this neighbouring property.

Bathroom two at first floor level would project to within 2.2 metres of the eastern boundary. This small projecting element would sit behind the first floor eastern elevation formed by bedroom four, a walk in robe and the stair case and would not be visible from the street. As such this variation to the side setback standards would have only limited impact on the neighbourhood character of the area. The variation would be adjacent to garden beds and bedroom windows proposed at No.25G Bolton Street in a concurrent application. The proposed variation would have a limited impact on the future amenity of the dwelling proposed for the adjacent property. The proposal is considered to achieve the objective of this standard.

**Walls on boundaries (Standard A11)**

<table>
<thead>
<tr>
<th></th>
<th>Requirement</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum height</td>
<td>3.6m</td>
<td>3.2m</td>
<td>None</td>
</tr>
<tr>
<td>Maximum average height</td>
<td>3.2m</td>
<td>2.8m</td>
<td>None</td>
</tr>
<tr>
<td>Maximum length</td>
<td>14.75m</td>
<td>16.7m</td>
<td>1.95m</td>
</tr>
</tbody>
</table>
The proposal would include a wall along the western property boundary that varies the walls on boundaries standard. The objective of the standard is to ensure that 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.

It is noted approximately the rear 5.5 metres of the wall on the boundary would be below two metres in height. The wall would comfortably comply with the maximum height and average height control. The building envelope of the site and No.25E Bolton Street imposed by the subdivision permit provides for the two properties to build up to the shared boundary. As such the proposal is considered to be consistent with the character of the development anticipated by the subdivision permit and associated building envelopes.

While no application has yet been submitted for No.25E Bolton Street any design would account for the adjoining building envelopes on the two properties. The proposal would have no amenity impact on No.25 Bolton Street and would not compromise the reasonable development of this neighbouring property. Given the above, the proposal is considered to achieve the objective of this standard.

Overlooking (Standard A15)

The finished floor levels of habitable rooms at ground floor level facing north and east would not exceed 800mm above natural ground level. A condition of approval is recommended to require a visual barrier adjacent to these windows to ensure the proposal complies with the overlooking standard. It is anticipated this would be achieved with a boundary fence.

At first floor level, windows are proposed in the north, east and west elevations within 9 metres of the neighbouring properties. A first floor balcony would be within 9 metres of No.25E Bolton Street. The eastern facing windows are treated with fixed metal louvers; although they serve the staircase and are therefore non-habitable.

The north facing first floor windows would serve two bedrooms that would be within 9 metres of No.9 Ruxton Rise. While No.9 Ruxton Rise is currently vacant, a concurrent application (2017/382) has been submitted for the construction of a single dwelling. Given the building envelope provided for the development of this site, it is reasonable to assume regardless of the application submitted that the rear of the property will be developed as secluded private open space. As such a condition of approval is recommended to ensure these rear facing windows are appropriately screened.

The proposal includes windows serving the first floor rumpus room and a first floor balcony within 9 metres of No.25E Bolton Street, which is vacant and no application has yet been submitted for the development of the property. Given the building envelope provided for the development of this neighbouring site, the area within 9 metres of the first floor windows and balcony is unlikely to be developed as the secluded private open space of this dwelling. In addition, any windows that may be within 9 metres of the proposal can be screened to avoid overlooking between the two properties. In this context, the screening of the western facing windows and balcony is not required.

Front fences (Standard A20)

<table>
<thead>
<tr>
<th>Maximum</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.2m</td>
<td>1.1m – 1.6m, 1.5m to 1.8m</td>
<td>0m – 0.6m</td>
</tr>
</tbody>
</table>

The proposal would vary the front fences standard as detailed in the table above. The objective of the standard is to encourage front fence design that respects the existing or preferred neighbourhood character.

As noted above in the Neighbourhood Character section of the report the character of the area is typified by a range of front boundary treatments. A low stone front boundary wall is proposed with white rendered piers and vertical metal slats between. A timber
gate would demark the pedestrian entrance between two piers. Planting is proposed in front of the front fence which would soften its appearance and the metal slats would enable a level of visual permeability. In the surrounding context, this portion of the front boundary treatment is considered to appropriately respond to the existing neighbourhood character of the area.

A rendered wall from 1.5 – 2m in height would return back along the eastern boundary with No.25G Bolton Street. Due to the shape of the site and the development constraints placed on No.25 Bolton Street, this boundary wall will be visible from the street and will impede the visual connection between the street and the front garden of the proposal site. It is acknowledged the concurrent application at No.25G Bolton Street proposes planting along this boundary. However, given the open and bushy garden character sought for the area, this boundary wall is not considered appropriate. A condition of approval is recommended to address this.

6.3. **Bolton Street setback**

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

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

The proposal would be setback by 7 metres from the front boundary to the five columns at the frontage of the dwelling, while the windows and doors between the columns would be setback further. The dwelling would step back where it adjoins the western boundary to be in excess of 11 metres from Bolton Street. The dwelling would adjoin the western property boundary but be setback at ground and first floor from the eastern property boundary.

The four properties either side of the site (No.25B – 25E & 25G – 25J Bolton Street) are all currently vacant; however a number of concurrent applications have been made for these sites. It is noted no application has been submitted as yet for 25E Bolton Street; however an application has been made and is under consideration for 25G Bolton Street with a front setback of 6.2 metres to front balconies and 8.2 metres to the front elevation of the two dwellings.

Given the shape of the lots and the building envelopes specified through the VCAT issued permit, it can be assumed that, whatever form it takes, the development at 25G Bolton Street will sit forward of the proposal. The building envelopes for 25B – 25F are consistently setback from Bolton Street at 6 metres. In this context the proposed seven metre setback is considered to fit comfortably with the development anticipated along these nine sites fronting Bolton Street and the existing properties in the surrounding area.
6.4. **Car parking and traffic**

A basement with three parking spaces is proposed which accords with the car parking requirement for a single dwelling pursuant to Clause 52.06. Council’s Traffic Engineer has reviewed the application and advises they have no objection subject to conditions regarding the basement entrance grades, sightlines and crossover. The crossover has since been constructed in accordance with the endorsed subdivision plans and a cross section of the basement entry ramp has now been provided that complies with Clause 52.06. A condition of approval in relation to the sightlines are included in the recommendation.

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

6.5. **Vegetation & Landscaping**

A landscape concept plan, prepared by John Patrick Landscape Architects Pty Ltd, was endorsed in accordance with subdivision permit 2014/516/2. Pursuant to the Section 173 Agreement all development applications for individual sites must be accompanied by a landscape plan that is generally consistent with the endorsed landscape concept plan. The landscape concept plan identifies a Coast Manna Gum to be planted in the front setback and a Coast Banksia planted at the rear of the site and provides a planting schedule with shrubs, groundcovers, grasses and climbers.

A landscape plan for the site, prepared by John Patrick Landscape Architects Pty Ltd and dated 18 May 2017, has been submitted in support of the application. Council’s Arborist has reviewed the application and advises that the proposed landscape is not consistent with the endorsed landscape plan. The wording “consistent with” is considered to be a higher test than the commonly used “generally in accordance with”.

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

The proposed landscape plan provides two Little Gem Magnolia (*Magnolia grandiflora* ‘Little Gem’) in the street setback and one Coast Banksia (*Banksia integrifolia*), one Chinese Elm (*Ulmus parvifolia* Burnley Select) and one Eumundi Quandong (*Elaeocarpus Eumundi*) in the rear setback. It is noted the Chinese Elm is not noted in the planting schedule and may be mistakenly annotated in place of the Coast Manna Gum (*Eucalyptus viminalis* ssp. *Pryoriana*). The endorsed landscape concept plan shows a Coast Manna Gum in the front setback and a Coast Banksia at the rear of the site.

The two Little Gem Magnolia are small exotic trees that are inconsistent with the landscape concept plan, the bushy garden character sought for the area or the objectives of the Vegetation Protection Overlay 3 (VPO3). In addition the Chinese Elm is also exotic and is not consistent with the landscape concept plan or the objectives of the VPO3. As discussed above, the proposed landscape plan must be consistent with the endorsed landscape concept plan. The term “consistent with” is considered to require canopy tree planting to accord with the landscape concept plan unless there is a functional reason for not doing so and a suitable alternative design is proposed. There is no compelling reason to not locate a Coast Manna Gum in the front setback as sought by the endorsed landscape concept plan. A condition of approval is recommended for the two Little Gem Magnolia and the Chinese Elm to be replaced with native species, including at least one Coast Manna Gum in the front setback of the site.

Council’s Arborist advises there is insufficient soil volume for the Coast Banksia to the reach the height and width at maturity sought in the endorsed landscape concept plan,
due to the proximity of the proposed pool. In addition the location of the pool is likely to lead to future conflict with the deposition of leaf litter in the pool and likely repeated pruning. Council’s Arborist has advised a soil volume of 25sqm is required to for the Coast Banksia to establish and has requested a setback of 3 metres of the pool and store room from the stem of the Coast Banksia. This setback should also minimise future conflicts with the pool. A condition of approval is recommended to reflect the above. It is noted the minimum supply size of the Coast Manna Gum and Coast Banksia specified in the proposed landscape plan is less than the 2 metres in height specified in the endorsed landscape concept plan. A condition of approval is recommended to address this.

The proposed landscape plan also details a wide variety of shrubs and smaller planting that while not entirely in accordance with the planting palette in the endorsed landscape concept plan contain a significant number of native and indigenous species. Quantities of shrubs and groundcovers are not provided and a condition of approval is recommended to address this. Subject to the recommended conditions of approval, the proposed landscape plan would respond to the preferred bushy garden character sought for the area and be consistent with the endorsed landscape concept plan.

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

Support Attachments

1. Development Plans ↓
2. Site Surrounds and Imagery ↓
3. Neighbourhood Character (Precinct H3) Assessment ↓
4. Clause 54 (ResCode) Assessment ↓
Item 4.10 – Matters of Decision
Item 4.10 – Matters of Decision
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>
</tbody>
</table>
Figure 2 View of site from Bolton Street

Figure 3 View from Bolton Street across site and No.25G Bolton Street
Figure 4 View across site facing west with No.25 Bolton Street in background
**ATTACHMENT 3**

**Neighbourhood Character Policy (Precinct H3)**

### Preferred Future Character

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

### Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To strengthen the bushy garden character of the area through the planting of appropriate species. | • Retain large established trees and understorey, and provide for the planting of new indigenous trees wherever possible (locate footings outside root zone).  
• Prepare a landscape plan to accompany all applications for new dwellings that utilises appropriate native, preferably indigenous, vegetation.  
• Minimise impervious surfaces particularly in front garden spaces to ensure space for plantings. | Lack of landscaping and substantial vegetation.  
Removal of large established trees.  
Planting of environmental weeds. | **Responds**  
A landscape plan has been submitted in support of the application. The trees to be retained and the level of planting across the site is informed by the original VCAT decision and endorsed landscape concept plan. Subject to the recommended conditions of approval the proposal would achieve a level of planting across the site consistent with the endorsed landscape concept plan and the bushy garden character sought by the preferred future character for the area. This is discussed in greater depth in the report. |
| To maintain the rhythm of spacious visual separation between buildings and ensure | • Buildings should be sited to allow space for a garden, including trees and shrubs. |  | **Responds**  
The footprint of the proposal would be located wholly within the building envelope |
### Objectives

**adequate space is provided around buildings for the retention and planting of vegetation.**

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

### Design Responses

- Locate garages and carports behind the line of the dwelling.
- Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.

### Avoid

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

### Planning Officer Assessment

established by the endorsed subdivision plans (Ref: 2014/516/2). This envelope ensures space is retained between the proposal and the development of 25G Bolton Street. Sufficient space is retained around the proposed dwelling to accommodate a level of vegetation consistent with the bushy character identified in the preferred neighbourhood character and endorsed concept landscape plan prepared by John Patrick Landscape Architects.

### To minimise the loss of front garden spaces and the dominance of car parking structures.

- Buildings should be designed to follow the contours of the site on sloping sites.
- Minimise the use of retaining walls and battering of slopes.
- Design new buildings and extensions so as not to exceed the predominant tree canopy height.

### Responds

The proposed basement entrance would be set back well behind the frontage of the dwelling. The use of basement parking ensures a large portion of the frontage of the dwelling can be glazed or open to the street. The design provides a significantly greater level of visual connection to, and passive surveillance of, the street. The proposal is considered to represent an alternative design approach that is appropriate in this instance.

### To minimise site disturbance and impact of the building on the landscape.

- Buildings should be designed to follow the contours of the site on sloping sites.
- Minimise the use of retaining walls and battering of slopes.
- Design new buildings and extensions so as not to exceed the predominant tree canopy height.

### Major excavation works and site levelling.

- Buildings that protrude above the tree canopy height.

### Responds

Given the slope and undulation of the existing site, a level of disturbance is unavoidable, particularly given the 8 metre height limit prescribed for the site in the endorsed subdivision plans. The need to establish a useable area of private open
<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.  
- Recess upper levels from the front façade. | Large, bulky buildings  
Poorly articulated front and side wall surfaces. | The proposal incorporates recessed fenestration at ground floor level. The frontage of the proposal is dominated by the four robust rendered columns. While the proposal does not employ a range of projecting and recessed elements, materials or colours, the design is typical of a number of contemporary properties in the area. The proposal is considered to contribute an acceptable level of visual interest to the streetscape. |
| **To use building materials and finishes that complement the natural setting.** | - Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick. | Period reproduction styles and detailing. | The dwelling would employ smooth and rough rendered finishes painted in white and light grey. The window and door joinery would be timber with a clear seal.  
While white and light grey render being the prominent finishes is not considered to complement the natural setting, the use of light coloured render for a large portion of the dwelling is common in the area. A number of dwellings in Bolton Street and the surrounds are finished in predominately light coloured render. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain the openness of the front garden to the street. | • Provide open style front fences, other than along heavily trafficked roads.  
• Use vegetation as an alternative where possible. | High or solid front fences. | In this context, the proposal is considered to appropriately respond to the existing neighbourhood character. |

<p>| | | The character of the area is typified by a range of front boundary treatment. Examples in the immediate surrounds range from no fencing and open front gardens to high solid fencing that obscures any visual connection between the street and front gardens. |
| | | A low stone front boundary wall is proposed with white rendered piers and vertical metal slats between. A timber gate would demark the pedestrian entrance between two piers. Planting is proposed in front of the front fence which would soften its appearance and the metal slats would enable a level of visual permeability. |
| | | A rendered wall from 1.5 – 2m in height would return back along the boundary with No.25G Bolton Street. Due to the shape of the site and the development constraints placed on No.25G Bolton Street, this boundary wall will be visible from the street and will impede the visual connection between the street and the front garden of the proposal site. |
| | | It is acknowledged the concurrent application at No.25G Bolton Street proposes planting along this boundary. However, given the open and bushy garden character sought for the area, this boundary |</p>
<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><em>wall is not considered appropriate. A condition of approval is recommended to address this issue.</em></td>
</tr>
</tbody>
</table>
## ATTACHMENT 4
### ResCode (Clause 54) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Requirement and Proposed</th>
</tr>
</thead>
</table>
| **A1 Neighbourhood Character**  
Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.  
Development responds to features of the site and surrounding area. | Yes | Refer to Attachment 3. |
| **A2 Integration with Street**  
Integrate the layout of development with the street. | Yes | The dwelling would be oriented toward Bolton Street and the front entrance would be clearly delineated with a walkway and porch. The development would integrate appropriately with the street. |
| **A3 Street Setback**  
Setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site | Yes |  
**Required:** 6m  
**Proposed:** 7m  
Refer to Section 6.3 of the report. |
| **A4 Building Height**  
Building height respects the existing or preferred neighbourhood character. | Yes |  
**Maximum:** 8m  
**Proposed:** 6.958m  
Note: The height limit is specified in sheet 3 of 7 of the previously endorsed plans for the original subdivision permit (2014/516/2) |
| **A5 Site Coverage**  
Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. | Yes |  
**Maximum:** 50%  
**Proposed:** 41% |
| **A6 Permeability**  
Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. | Yes |  
**Minimum:** 20%  
**Proposed:** 41% |
| **A7 Energy Efficiency**  
Achieve and protect energy efficient dwellings.  
Ensure the development's orientation and layout reduce fossil fuel energy use and makes appropriate use of daylight and solar energy. | Yes | All habitable areas, including habitable rooms and secluded private open space areas would be appropriately located in relation to the orientation of the site. |
| **A8 Significant Trees** | Yes | Refer to report. |
Development respects the landscape character of the neighbourhood and retains significant trees on site.

**A10 Side and Rear Setbacks**

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

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>West (Side)</td>
<td>0m</td>
<td>0m</td>
<td>3.32m - 4.096m</td>
</tr>
<tr>
<td>East (side)</td>
<td>2m</td>
<td>2m</td>
<td>3.14m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>4m</td>
<td>5.5m</td>
<td>4.32m</td>
</tr>
</tbody>
</table>

Refer to table below and report. Non-compliances are underlined below.

**A11 Walls on Boundaries**

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

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

**A12 Daylight to existing windows**

To allow adequate daylight into existing habitable room windows.

Yes

All adjoining properties are currently vacant; however a concurrent application has been made at No.25G Bolton Street (2016/185/1).

The proposal is well setback from property boundaries to ensure daylight to the proposed windows at No.25G would be consistent with the requirements of Standard B19.

**A13 North Facing Windows**

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

Yes

No north facing windows on adjoining properties are affected.

**A14 Overshadowing Open Space**

Ensure buildings do not unreasonably overshadow existing secluded private open space.

Yes

This standard requires at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 December.

It is noted a concurrent application has been made at No.25G Bolton Street (2016/185/1). The application would comply with this control in relation to the development proposed at No.25G Bolton Street.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>A15</td>
<td>Overlooking Limit views into existing secluded private open space and habitable room windows</td>
<td>No</td>
<td>Refer to report.</td>
</tr>
<tr>
<td>A16</td>
<td>Daylight to New Windows Allows adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>All habitable windows will open out onto a space clear to the sky.</td>
</tr>
<tr>
<td>A17</td>
<td>Private Open Space Provide adequate private open space for the recreation and service needs of residents.</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall Proposed: 83m² secluded</td>
</tr>
<tr>
<td>A18</td>
<td>Solar Access to Open Space Allow solar access into secluded private open space of a new dwelling.</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>A19</td>
<td>Design Detail Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer to Attachment 3.</td>
</tr>
<tr>
<td>A20</td>
<td>Front Fences Encourage front fence design that respects the exiting or preferred neighbourhood character.</td>
<td>No</td>
<td>Maximum: 1.2m Proposed: 1.1m – 1.6m Refer to report</td>
</tr>
</tbody>
</table>
4.11 298 NEW STREET, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/739/1 WARD: NORTHERN

1. **Purpose and background**
   To report a planning permit application for the construction of a two storey building over basement car parking and use of the site as a Child Care Centre for 60 children on a lot with an area of 676.51 square metres (refer Attachment 1) at 298 New Street, Brighton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>JDA Architects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>11 November 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>31 January 2017</td>
</tr>
</tbody>
</table>

2. **Policy implications**
   **Planning permit requirements**
   Clause 32.09-1 (Neighbourhood Residential Zone Schedule 3) – Use of the site as a Child Care Centre (Section 2 Use).
   Clause 32.09-7 (Neighbourhood Residential Zone Schedule 3) – Buildings and works associated with a Section 2 Use.
   Clause 43.02-2 (Design and Development Overlay Schedule 3) – Construction of a non-residential building exceeding a height of 8 metres.

   **Planning scheme amendments**
   Planning Scheme Amendment C139 has been prepared by Council and requires development to provide a financial contribution for drainage in this area. Council has adopted Amendment C139 and has submitted it to the Minister for Planning for approval. Whilst the Amendment is now considered ‘seriously entertained’, the Minister has not yet made a decision on the Amendment.
   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 subject site is not covered by the Special Building Overlay and the proposed amendment does not seek to alter this.

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>Open Space Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<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>
</tbody>
</table>

Public notification

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

- The proposal is inconsistent with the objectives of Clause 22.07;
- Inappropriate development;
- Inconsistent with Neighbourhood Character;
- Loss of views;
- Loss of daylight and overshadowing;
- Loss of privacy;
- Increased car parking congestion / Inadequate provision of car parking;
- Increased noise disturbance as a result of construction and the proposed use;
- Structural integrity of boundary fencing; and
- Inappropriate landscaping proposed.

Consultation meeting

A consultation meeting was held on 1 May 2017 attended by the permit applicant and seven objectors. 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 2016/739/1 for the land known and described as 298 New Street, Brighton, for the **construction of a two storey building with basement car parking and use of the site as a Child Care Centre** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the use and development starts, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the decision plans, prepared by JDA Architects and Council date stamped 14 November 2016 plans submitted with the application but modified to show:

   a) Dimensions of the height clearance of car space 4 and the proposed stairs.
b) The driveway where it intersects with the footpath shall be 6.1 metre wide with 5.3 metre offset from the northern property boundary.

c) The existing vehicular crossover to be replaced with a new 6.1 metre wide crossover with 5.3 metre offset from the northern property boundary.

d) Adequate sightlines to be provided where the driveway intersects with the front footpath in accordance with AS2890.1.

e) The recommendations outlined in the Acoustic Assessment Report dated 2 December 2016 to be demonstrated on the plans.

f) A Car Parking Management Plan in accordance with Condition 14 of this permit.

g) A Landscape Plan in accordance with Condition 16 of this permit.

h) A Tree Management and Protection Plan in accordance with Condition 18 of this permit.

i) A STORM Report and associated information in accordance with Condition 21 of this permit.

j) A Waste Management Plan in accordance with Condition 22 of this permit.

All to the satisfaction of the Responsible Authority.

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

3. The proposal must only operate between 7:00am and 6:30pm, Monday to Friday with a maximum number of 60 children and 10 staff to be on the premises at any given time.

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

5. 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.

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

7. Provision must be made on the land for the storage and collection of garbage and other solid waste. This area must be graded and drained and screened from public view to the satisfaction of the responsible authority.

8. Before the use or occupation of the development starts, the area(s) set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:

   a) Constructed;

   b) Properly formed to such levels that they can be used in accordance with the plans;

   c) Surfaced with an all-weather-seal coat;

   d) Drained;

   e) Line marked to indicate each car space and all access lanes;

   f) Clearly marked to show the direction of traffic along access lanes and driveways;

All to the satisfaction of the Responsible Authority.
9. Car spaces, access lanes and driveways must be kept available for these purposes at all times, including the accessway contained within the self-storage facility.

10. All car parking spaces must be designed to allow all vehicles to drive forwards both when entering and leaving the property.

11. Vehicular crossings must be constructed to the road to suit the proposed driveways to the satisfaction of the Responsible Authority and any existing crossing or crossing opening must be removed and replaced with footpath, nature strip, and kerb and channel to the satisfaction of the responsible authority.

12. All disused or redundant vehicle crossings must be removed and the area reinstated to kerb and channel to the satisfaction of the responsible authority.

13. Construction and maintenance of the building must be in accordance with the recommendations of the Acoustic Assessment Report submitted with the application and dated 2 December 2016 and endorsed by the Responsible Authority.

Car Parking Management

14. Prior to the endorsement of plans pursuant to Condition 1, a Car Parking Management Plan to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. The Car Parking Management Plan must include, but is not limited to, details of:
   a) Signing and linemarking of parking spaces.
   b) Details of any proposed access controls such as boom gates securing access to the car parking.
   c) Plan on how staff parking and parents/carers pick up and drop off during peak hours be will managed.
   d) All car spaces and access lanes line marked in accordance with Design Standard 2 of Clause 52.06-8 and AS2890.1-2004 and AS2890.6-2009 as relevant.
   e) A parking direction sign at the vehicular entrance to the site directing vehicles to the various uses within the premises.

Construction Management

15. Before the commencement of works, a Construction Management Plan must be submitted to and approved by the Responsible Authority. The Construction Management Plan must address, but is not limited to:
   a) Hours of construction, control of noise and airborne matter, deliveries, vehicle access, worker car parking, damage to public assets, and contact numbers for complaints.
   b) All traffic management plans for the site demolition, excavation, deliveries and other construction related activities that will affect vehicle and pedestrian traffic;
   c) The location of all areas on-and/or off-site to be used for construction staff parking;
   d) A parking management plan for all associated construction vehicles;
   e) All site sheds, portable toilet, storage and materials, etc. must be confined to the site;
f) The covering and maintenance of all roads/storage areas/external stockpiles/or vacant areas to avoid dust nuisance to any residential and commercial premises;

g) A truck wheel-wash must be installed and used so vehicles leaving the site do not deposit mud or other materials on roadways;

h) No water containing oil, foam, grease, scum or litter will be discharged to the stormwater drainage system from the site;

i) All stored wastes are kept in designated areas or covered containers that prevent escape into the stormwater system;

j) The amount of mud, dirt, sand, soil, clay or stones deposited by vehicles on the abutting roads is minimised when vehicles are leaving the site; and

k) No mud, dirt, sand, soil, clay or stones are washed into, or are allowed to enter the stormwater drainage system.

All works must accord with the approved Construction Management Plan to the satisfaction of the Responsible Authority.

Landscaping

16. Prior to the endorsement of plans pursuant to Condition 1, a landscape plan generally in accordance with the Landscape Plan submitted with the application and prepared by John Patrick and Council date stamped 14 November 2016 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 plan must show:

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

b) Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary

c) Details of surface finishes of pathways and driveways

d) 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.

e) The proposed Dwarf Yellow Gum within the front setback to be replaced with a tree which has a capacity to reach a mature height of 10 metres and a spread of 6 metres at maturity.

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

g) Any stormwater requirements in accordance with Condition 22 of this permit

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

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

17. Before the use/occupation of the development starts or by such later date as is approved by the responsible authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority.
Tree Protection

18. 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.

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

20. 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.

Stormwater Management

21. 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 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.
Waste Management Plan

22. Prior to the endorsement of plans pursuant to Condition 1, a revised Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan be generally in accordance with the Waste Management Plan prepared by Leigh Design and Council date stamped 14 November 2016, must clearly indicate the location for bin cleaning and that waste collection is to be via a private contractor, not Council, and specifically reference the following:

- All waste collection shall occur within the basement only, during after-hours through a private collection contractor, not Council.
- General waste shall be placed in tied plastic bags and stored within bins.
- All recyclables shall be commingled into a single type of collection bin (for paper, cardboard, glass, aluminum, steel and plastic codes 1-7). Plastic bags not allowed in recycling. Bulk cardboard shall be collected in dedicated bins (privately).
- Instructions and signage concerning recycling items as noted in Section 4.4.
- Hard waste collections shall not be placed on the nature strip or kerbside collections shall be carried out inside the property.

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

24. All operations of the site (internally and externally) must comply with SEPPN-1 and/or SEPPN-2 policies and/or EPA Technical Guidelines. The Responsible Authority may direct the owner and/or occupier, at the sole cost of the owner and/or occupier, to undertake and submit a report to Council demonstrating compliance in relation to the N-1 and/or N-2 policies and/or EPA Technical Guidelines.

Drainage

25. Before the development starts, the permit holder must apply to Council 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.

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

27. 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.

28. 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.

29. This permit will expire if one of the following circumstances applies:
a) The development is not started within two years of the date of this permit.
b) The development is not completed within four years of the date of this permit.
c) The use is not started within five years of the date of this permit.
d) The use is discontinued for a period of two years or more.

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

Permit notes:

- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a ‘Road Opening Permit’ must be obtained to facilitate such work.
- The existing parking bay linemarking shall be modified at the applicant’s cost and shall be removed via water blasting method.
- Before the development commences, the applicant must pay $3, 039.65 to the Responsible Authority of the removal and replacement of the existing street tree. This amount has been determined in accordance with Council’s current policy for the removal of street trees. This amount may be increased by the responsible authority if an extension of time to commence work is granted and the amenity value of the street tree has increased. The responsible authority, or a contractor or agent engaged by the responsible authority, must undertake the removal and replacement of the street trees. Any replacement planting will be at the discretion of the responsible authority.

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 9 Plan Melbourne
- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 17 Economic Development
- Clause 18 Transport
- Clause 19 Infrastructure
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.07 Economic Development
- Clause 21.09 Transport and Access
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. Appropriateness of Use

The site is located within the Neighbourhood Residential Zone (Schedule 3) which seeks to recognise areas of predominately single and double storey residential development while allowing a limited range of educational, recreational, religious, community and other non-residential uses to serve the local community needs in appropriate locations.

A child care centre is considered to represent a ‘community’ use irrespective of whether it is publicly or privately run. Clause 21.10-1 of the Bayside Planning Scheme refers to private child care centres as community facilities and the Victorian Civil and Administrative Tribunal has concurred with this view previously.

The two key aspects to this purpose are whether the non-residential use serves ‘local community needs’ and whether the site represents an ‘appropriate location’. In respect to whether a proposal serves ‘local community needs’ there is no set criteria defining what constitutes the local community. A child care centre is however considered to serve local community needs given they usually serve a relatively local catchment.

In relation to the appropriateness of the location, a child care centre is a permissible use within the Neighbourhood Residential Zone, with the opening statement of Clause 22.07 Discretionary Uses in Residential Areas reading “The MSS recognises that there a number of important uses that should be located within residential areas of the municipality, including child care centres.” Clause 22.07 provides 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.

The preferred locational criteria and an assessment against these criteria is as follows:

<table>
<thead>
<tr>
<th>Policy:</th>
<th>Response:</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
<td>The site abuts New Street, which is listed as a Category 2 road pursuant to Clause 36.04. The northern boundary of the site is also located approximately 7 metres south of the Commercial 1 Zone periphery. This area is considered an appropriate area for the use and development of Child Care Centre.</td>
</tr>
<tr>
<td>Site consolidation is encouraged to ensure adequate on-site parking,</td>
<td>The site has an area of 676.51 square metres. The generous size of the allotment enables the provision of suitable boundary spacing and landscaping, as demonstrated</td>
</tr>
</tbody>
</table>
landscaping and setbacks are provided. on the development plans and subject to additional landscaping conditions.

The discretionary use is on a corner site. The site is not located on a corner.

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. The site is located on the periphery of a commercial area (to the north of the site) and adjacent to an existing discretionary use (a restaurant at 300 New Street directly north of the site).

The discretionary use is located near similar and support facilities. The site is located on the periphery of a commercial area (to the north of the site) and adjacent to a restaurant at 300 New Street directly north of the site. The provision of a Child Care Centre along this site is supported by various existing non-residential uses within the area.

The discretionary use is located within walking distance of public transport and promotes safe and convenient pedestrian access. The site is within walking distance to a variety of commercial facilities which are located to the north of the site, towards the corner of New Street and Bay Street, Brighton. The provision of a Child Care Centre along this site is supported by various existing non-residential uses within the area.

While the site is not located on a corner, Clause 22.07 applies to all discretionary uses in a residential zone and these requirements are discretionary requirements for a discretionary use. It is considered that the location of the use remains appropriate given its general compliance with the guidelines of Clause 22.07.

Objectors have raised concerns in regards to the proposed use and have expressed concern with regards to excessive noise generated by the use and increased car parking and traffic congestion. These considerations are discussed later in this report.

Although there is no site consolidation, the purpose of which is to ensure adequate on-site parking, landscaping and setbacks. The site is substantial in size at 676.51 square metres. Moreover, the proposal offers a small scale Child Care Centre, consistent with the context of the area and encompassing a capacity of 60 children and 10 staff.

The statutory requirement of 13 car parking spaces are provided within an on-site basement carpark to ensure that visual and amenity impacts on the surrounding area are appropriately managed. Moreover, the proposed design response allows for reasonable landscaping and setbacks in accordance with Clause 55.

The proposed operating hours of 7:00am and 6:30pm, Monday to Friday are consistent with those stipulated under Clause 22.07. These hours are appropriate being business days and no operation during the sensitive early morning and after evening hours. These hours will, in addition, work to alleviating any unreasonable amenity impacts to the adjoining residential interfaces.

The proposed use is an appropriate response to Clause 22.07 of the Bayside Planning Scheme.

6.2. Neighbourhood Character

The Bayside Planning Scheme offers two relevant planning policies to provide guidance on the appropriateness of non-residential development in a predominately residential context. These policies include Clause 22.06 (Neighbourhood Character Policy) and Clause 22.07-3 (Discretionary Uses in Residential Areas).

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.

Siting, built form, design guidelines of Clause 22.07-3 are as follows:

- Setbacks from front, side and rear boundaries for buildings or additions must be in accordance with the setback provisions contained in Clauses 54 and 55 of the Bayside Planning Scheme.
- Any increased in building height is transitional and represents a height increase of no more than one storey above the prevailing building height.
- The materials and finishes reflect that prevailing in the rea.
- The discretionary use respects the prevailing built form, scale and materials of surrounding buildings, established neighbourhood character and responds to the preferred neighbourhood character.

Streetscape guidelines of Clause 22.07-3 are as follows:

- Front setbacks are consistent with the prevailing setbacks in the area and meet requirements at Clause 54, Standard A3.
- Vehicle car parking and access areas do not form a dominant element in the streetscape.
- Car parking is provided at the rear of the premises.
- Where car parking is provided within the front setback, a minimum landscape buffer of 3 metres from the front boundary is provided. A reduction may be considered where it can be demonstrated that such a reduction will not reduce the effectiveness of the landscaping or unreasonably impact on the streetscape.

The two storey scale of the proposed development is consistent with preferred height and existing character of residential and non-residential land uses within the immediate area. The proposed development offers a suitable design response to complement the character of residential development in the area, while achieving a contemporary built form outcome for the precinct. The siting of the development is responsive to the sensitive residential interfaces to the east and south, while utilising the commercial context to the north through the construction of a two storey along the northern boundary. The generous spacing to the east and south offer reasonable landscaping opportunities and built form relief to ensure the amenity of adjoining properties is uncompromised.

Concerns have been raised by objectors that the proposed form is out of character with the existing context of residential properties. The proposal offers a centralised vehicle entry to the basement level parking, with a high level of visual interest, innovation and articulation along the streetscape frontage. The proposed curved elevations of the front façade reflect art deco design featured within the area and the glass fins provide vertical modulation that references the modern developments to the west of the site.

The front setback fails to meet the required 4 metre front setback of Standard A3 however the north western corner of the development is setback 1.82 metres and transitions to a maximum 3 metres to the south western corner to allow a suitable built form transition to the residential development to the south.

The development exceeds the 8 metre requirement of the Design and Development Overlay (Schedule 3) however the proposed height is consistent with the built form character of the area, particularly in reference to the existing residential developments to the west of the site. The maximum building height of 8.43 metres is a result of the pitched roof form allowing north light into the building and will not unreasonably compromise the amenity of the adjoining properties, particularly as the pitched roof element is located centrally above the built form.
6.3. **Off-site Amenity Impacts**

The siting and scale of the proposed form has ensured unreasonable impacts on the adjoining residential properties are limited, with particular regards to visual bulk, overshadowing and overlooking. While Clause 55 does not strictly apply to the consideration of non-residential land uses, the requirements pertaining to setbacks, overshadowing and overlooking provide a useful indication of the suitability of the application. Moreover, whilst not mandatory, reference to Clause 55 is made in Clause 22.07-3 with regards to siting and built form. In particular, concerns have been raised by objectors in regards to overlooking, overshadowing and visual bulk of the proposed development.

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

Having regards to Standard B17 (Side and Rear Setbacks), the following table outlines the proposed side and rear setbacks as modified by Schedule 3 of the Neighbourhood Residential Zone. Non-compliant setbacks are underlined.

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td><strong>South (side)</strong></td>
<td>0m or 2m</td>
<td>1.72m</td>
</tr>
<tr>
<td><strong>East (rear)</strong></td>
<td>3m</td>
<td>4.55m – 17.55m</td>
</tr>
</tbody>
</table>

As noted above, the proposal fails to strictly comply with the modified side and rear setbacks as required by Standard B17. However these setbacks are not mandatory and are used as a guide to ensure suitable spacing is generally consistent with the existing and preferred character of the area.

The proposed 1.72 metre setback of the ground floor southern wall, a variation of just under 300mm is negligible will still ensure appropriate spacing for landscaping while minimising visual bulk impacts to the neighbouring southern property. The lightweight upper levels work towards alleviating unreasonable visual bulk to the southern interface.

**Overshadowing (Standard B21)**

Shadow plans submitted with the application demonstrate some shadowing to the open space area of the southern property along the existing driveway. The extent of daylight to the secluded private open space area and habitable room widows will remain unaffected. Concerns have been raised in regards to the extent of overlooking and overshadowing of the proposed development. As demonstrated above, the proposed impacts will be largely contained within the existing conditions of the site and are subsequently considered acceptable having regards to visual bulk, overshadowing and overlooking.

**Overlooking (Standard B22)**

Existing boundary fencing will limit overlooking opportunities from the ground floor level in accordance with Standard B22.

To limit unreasonable overlooking to the existing habitable room windows and open space areas of the adjoining properties to the east and south, all relevant terraces and windows are screened with obscure glazing or timber cladding in accordance with the overlooking requirements of Standard B22.
Noise
The full capacity of 60 children may create some noise impacts to adjoining properties.

The applicant has submitted an acoustic assessment from Acoustic Advisory & Consulting Services in support of the proposal subject to recommendations including appropriate location of external plant and equipment, control of music levels, external noise abatement measures, and acoustic fence design. A condition has been included in the recommendation requiring all recommendations of the report to be integrated into the amended plans.

Subject to conditions, the report considers that the ‘design of the proposed Child Care Centre meets the design principles of the AAAC Guideline for Child Care Centres including the location of the external play areas as far as practicable from the property boundaries to minimise spillage of children’s activity noise into the neighbouring residential properties.’ It also noted that ‘the building is shaped in a based L or U shape to provide external noise barriers effectively reducing the direct radiation of noise from the Child Care Centre towards the closets dwellings which is assisted by the upper level play area acoustic barrier.’

In addition, the proposal accords with the recommended operating hours prescribed under Clause 22.07-3.

Subject to conditions, the proposal will not cause unreasonable noise impacts to adjoining properties.

6.4. 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>Childcare Centre</td>
<td>60 Children</td>
<td>13 spaces (0.22 car spaces per child)</td>
</tr>
<tr>
<td>Total car spaces required</td>
<td>13</td>
<td></td>
</tr>
<tr>
<td>Total car spaces proposed</td>
<td>13</td>
<td></td>
</tr>
</tbody>
</table>

Pursuant to Clause 52.06-5 (Car Parking Requirement), a Child Care Centre generates a requirement of 0.22 spaces per child. The development proposes up to 60 children which generates the requirement for 13 spaces. The development incorporates the provision of 13 spaces in a basement level and therefore meets the statutory car parking requirement.

The proposal incorporates 10 staff and seeks to operate 7:00am to 6:30pm, Monday to Friday and this is to be included as a condition of permit.

Concerns have been raised in regards to the proposed car parking congested generated by the proposed development. Car parking availability within the basement will be used to accommodate parents/carers undertaking pick up/drop off to this site as well as for staff parking needs. To ensure the basement car parking appropriately manages traffic flow, Council’s Traffic Engineer has requested the provision of a Car Parking Management Plan to include (but not limited to) signing and linemarking, details of any proposed access controls and how parking during peak hours will be managed. This is included as a condition of permit. In addition, Council’s Traffic Engineer has raised no concern with the estimated traffic generation and SIDRA assessment.

Additional permit conditions include dimensions and height clearances, removal of the existing crossover and construction of a new crossover, and sightlines.

6.5. Waste Management Plan

The applicant did not submit a waste management plan however a condition is included in the recommendation to ensure collection is appropriate and does not impact the surrounding area.
6.6. Vegetation & Landscaping

A proposed landscape plan accompanies the application and includes the provision of some landscaping along the eastern and southern boundaries, and within the front setback.

Council’s Arborist has reviewed the existing site and proposed landscape plan and have advised that the existing trees on the site have low amenity values and their removal is acceptable if replaced with suitable new canopy tree plantings.

Council’s Arborist has confirmed that the proposed landscape plan is generally acceptable with the exception of the proposed planting of the Dwarf Yellow Gum (Eucalyptus leucoxylon ‘Euky dwarf’) in the front setback. This selection is too small to be considered a substantial canopy tree; therefore, the landscape plan is not in accordance with the objectives of the Neighbourhood Character Policy, precinct B2 landscaping guidelines. The proposed planting of Dwarf Yellow Gum must be replaced with a tree which has the capacity to reach a mature height of 10 metres and spread of 6 metres at maturity. This is included as a condition of permit.

It has been confirmed that 300 New Street, to the north of the site, has three existing trees growing adjacent to the northern boundary of the site. These include an Umbrella Tree (Schefflera actinophylla), a Silver Birch (Betula pendula) and a Queen Palm (Syagrus romanzoffiana). Tree protection planning in accordance with AS4970-2009 Protection of Trees on Development Sites is required for trees on neighbouring properties and is included as a condition of permit.

The owners of 298 New Street have expressed concern with regards to the possible overhanging of the proposed landscaping along the property boundary. It is proposed to plant a variety of Dwarf Pink Lemon Scented Gums and Silver Banksias along the southern boundary of the site. Council’s Arborist has raised no concern with the proposed landscaping along this boundary.

The existing Platanus orientalis (Oriental Plane) located with the centre of the front of the property will be removed to accommodate the proposed crossover. Council’s Open Space Arborist has supported the application subject to conditions which are included should a permit issue.

6.7. Objections received

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

Loss of views

This is not a planning consideration under the Planning and Environment Act 1987.

Increased noise disturbance as a result of construction and from the proposed use

A Construction Management Plan is included as a condition of permit. Construction and external noise must fall within accordance with the relevant requirements of the Environment Protection Act 1970.

Structural integrity of boundary fencing

Boundary fencing is controlled under the Fences Act 1968 and is not controlled by Council.

Support Attachments

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

**Legend**

<table>
<thead>
<tr>
<th>Subject site</th>
<th>Objector(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>✭</td>
<td>●</td>
</tr>
</tbody>
</table>
Figure 2. View of the subject site (shown left) and 296 New Street, Brighton (shown right).

Figure 3. View of the existing built form to the north of the subject site.
Figure 4. Existing built form along New Street, Brighton opposite the subject site.

Figure 5. Existing built form along New Street, Brighton to the north west of the subject site.
ATTACHMENT 3
Neighbourhood Character Policy (Precinct B2)

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
  • Alterations and extensions should retain the front of these dwellings. | Demolition of dwellings that contribute to the valued character of the Precinct. | N/A  
The existing building on the subject site does not make a valued contribution to the character of the Precinct. |
| To maintain and enhance the garden settings of the dwellings.             | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. | Lack of landscaping and substantial vegetation.                     | N/A  
The proposal involves the construction of a non-residential development. The proposed landscape concept is responsive to the existing and preferred character of the area subject to conditions. |
| To maintain the rhythm of spacious visual separation between buildings and provide space for front gardens. | • Buildings should be sited to allow space for the planting of trees and shrubs.  
  • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | Loss of front garden space.                                            | Responds  
The design response incorporates built form spacing to complement the character of the area and address the sensitive residential interfaces to the east and south of the site. Appropriate spacing is incorporated to allow reasonable |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To minimise the loss of front garden space and the dominance of car parking 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  
Car parking is provided with a basement level to minimise the loss of garden space and the dominance of car parking within the front setback. |
| To ensure new development respects the dominant buildings forms and scale of buildings in the Precinct, through the use of innovative architectural responses. | • Articulate the form of buildings and elevations, particularly front facades.  
• Recess upper storey elements from the front façade. | Large buildings with poorly articulated facades. | Responds  
The proposed two storey scale is consistent with the scale of built form featured within the immediate area. The building facade incorporates reasonable visual interest and articulation to create an innovative architectural response to the precinct. |
| 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.  
Imitation or reproduction of historic building styles and detailing. | N/A  
There are no heritage properties adjoining the subject site. |
| To use a variety of building materials and finishes that | • Incorporate a variety of building materials such as brick, render, timber and non-masonry into the building design. | Exclusive use of one material on external wall facades. | Responds  
The materials and finishes proposed are reflective of the character of the |

Item 4.11 – 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>provide visual interest in the streetscape.</td>
<td>• Use simple building details.</td>
<td></td>
<td>streetscape and will work towards enhancing visual interest of the site.</td>
</tr>
<tr>
<td>To improve the visual connection between the dwellings and the streetscape and encourage views to front gardens.</td>
<td>• Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High, solid fences</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Front fence style should be appropriate to the building era.</td>
<td></td>
<td>No front fencing is proposed as part of this application. Reasonable fenestration is included at ground and first floor level to improve passive surveillance.</td>
</tr>
</tbody>
</table>
4.12 9 GRAMATAN AVENUE, BEAUMARIS
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/775/1 WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/129132

1. Purpose and background
To report a planning permit application for the removal of two native trees on a lot with an area of 669 square metres (refer Attachment 1) at 9 Gramatan Avenue Beaumaris (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Clayrust Holdings Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>29 November 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>18 February 2017</td>
</tr>
</tbody>
</table>

2. Policy implications
Planning permit requirements
Clause 42.02-2 (Vegetation Protection Overlay 3) – Removal of vegetation native to Australia.

Planning scheme amendments
There are no Planning Scheme Amendments of relevance to this application.

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

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

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

Public notification
The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and eight objections and one letter of support were received. The following concerns were raised in the objections:
- Loss of two significant trees within the area;
- Suspected poisoning of one of the tree;
- The removal of the trees does not comply with the Vegetation Protection Overlay (VPO); and
- Cumulative loss of trees within Beaumaris.

Consultation meeting
The applicant declined an offer of a 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 2016/775/1** for the land known and described as **9 Gramatan Avenue Beaumaris**, for the **removal of two native trees** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. The vegetation removal as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
2. Unless with the further consent of the Responsible Authority, planting in accordance with the endorsed plan must be undertaken within 18 months of the date of this permit.
3. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority.
4. This permit will expire if the vegetation removal is not completed within two years of the date of this permit.

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

5. **Council Policy**

**Council Plan 2017-2021**

Relevant strategic objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 13 Environmental Risks
- Clause 14 Natural Resource Environment
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.04 Environmental and Landscape Values
- Clause 21.05 Environmental Risks
- Clause 22.06 Neighbourhood Character Policy
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
• Clause 43.02 Design and Development Overlay (Schedule 3)
• Clause 42.02 Vegetation Protection Overlay (Schedule 3)
• Clause 65 Decision Guidelines

6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct H3. The proposal is consistent with the objective “to enhance the bayside vegetation character of the area through the planting of indigenous coastal species” with replacement plantings being indigenous tree species which will enhance the natural vegetation of the area more than the existing trees in the long-term.

6.2. Vegetation & Landscaping

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

The application plans show the removal of two native tree species from the front setback of site that are protected by the VPO3. The table below identifies those trees protected by the VPO3, those protected by the Local Law and those which are not protected by any statutory mechanism. Indigenous trees are marked with ‘*’.

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

From an arboriculture perspective Council’s Arborist has reviewed the application and advises that the Lemon-scented Gum (*Corymbia citriodora*) referred to as Tree 1 is in poor condition in regards to health and life expectancy as it has started to die and therefore it can be removed. The Arborist has stated that there is no evidence to suggest that the tree has been poisoned resulting in its poor condition.

For the Coast Tea-Tree (*Leptospermum laevigatum*) referred to as Tree 2, whilst it is in good health with a long life expectancy, the Arborist is concerned that the structural integrity of the tree has been compromised as it is being propped up by the larger Lemon-scented Gum (*Corymbia citriodora*, Tree 1) thus its removal is supported. Further detail of each tree is provided at Attachment 4.

Importantly, the proposed extent of vegetation removal is considered to be acceptable when assessed against the decision guidelines of the VPO3. The character of the area, including the extent of indigenous vegetation present, will be maintained once replacement plantings are undertaken. The applicant has nominated a Narrow-Leafed Peppermint Tree (*Eucalyptus radiata*) capable of reaching a mature height of 15 metres and a canopy width of 10 metres and a Black She Oak (*Allocasuarina littoralis*) capable of reaching a mature height of 8 metres with a canopy width of 6 metres.
The proposed vegetation removal will not impact on the overall quality of habitat within the broader area and the extent of removal is justified when considered against the replacement trees. Therefore the proposed vegetation removal is considered to comply with the objectives of the VPO3. A detailed assessment against the decision guidelines of the VPO3 is provided at Attachment 4.

In addition to the above assessment, Council’s Arborist has reviewed the proposed replacement planting and advised that it is considered acceptable.

Finally, the statement of significance and objectives of Clause 42.02 - Vegetation Protection Overlay (Schedule 3) identify the need to retain the amenity and aesthetic character of native vegetation in the area. Given the Arborist’s support for the tree removal and replacement planting, it is considered that removal of the trees would not adversely affect these objectives with replacement plantings ensuring the amenity of streetscape is enhanced into the future.

6.3. **Objections received**

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

**Suspected poisoning of the tree**

Council’s Arborist inspected the trees and found no evidence that any trees proposed to be removed have been poisoned.

**Support Attachments**

1. Development Plans ↓
2. Site Surround and Imagery ↓
3. Vegetation Protection Overlay (VPO3) 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>
<tr>
<td>Supporter</td>
<td>⬝</td>
</tr>
</tbody>
</table>
Figure 2 Objector and supporter locations

One objector provided a PO Box 🔄

Figure 2 View towards the site from across Gramatan Avenue
### Decision Guidelines of the Vegetation Protection Overlay (Schedule 3)

<table>
<thead>
<tr>
<th>Decision Guideline</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>The impact the vegetation removal would have on the character of the area</em></td>
<td>The current level of vegetation consists of three trees, two within the front setback and one in the north-east (rear) corner of the site. The proposed level of vegetation will be the same as existing. The trees within the front setback to be removed will be replaced. Individual sites within Gramatan Avenue has a pattern of large trees within the front setback with smaller trees and shrubs. There are also instances of large trees on the nature strip. The proposed replacement trees will be consistent with existing trees on site and the general character of Gramatan Avenue.</td>
</tr>
<tr>
<td><em>The impact the vegetation removal would have on the presence of indigenous species in the locality</em></td>
<td>Whilst the removal will see the loss of indigenous trees, the replacement trees are also indigenous to the Bayside area. The replacement trees will not have a detrimental impact on species variation in the area and is above the 80% requirement for indigenous plantings with a 100% replacement rate.</td>
</tr>
<tr>
<td><em>The impact the vegetation removal would have on the appearance of development.</em></td>
<td>The trees to be removed are within the front of the site. The site is currently vacant and no planning permit is required to construct one dwelling on a lot. The location of the trees would not have an impact on any future dwelling and their removal has not be justified by the applicant for construction purposes, but on health and structural integrity of the two trees.</td>
</tr>
<tr>
<td><em>The impact the vegetation removal would have on the habitat quality of any remaining vegetation and the fragmentation of wildlife corridors.</em></td>
<td>There is no evidence that there is any fauna living within the trees, this is especially evident within the larger of the two trees because it has started to die. The replacement trees are also indigenous trees which will provide local fauna with food and housing thus the loss of the two trees will not have a detrimental impact on the local fauna.</td>
</tr>
<tr>
<td><em>Any proposal to regenerate or plant indigenous vegetation on the site.</em></td>
<td>The replacement trees are both indigenous. The trees are Narrow Leaf Peppermint (<em>Eucalyptus Radiata</em>) and Black She Oak (<em>Allocasuarina Littoralis</em>).</td>
</tr>
</tbody>
</table>

#### Tree profile Copy from Arborists referral response

<table>
<thead>
<tr>
<th>Tree no.:</th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name/species:</td>
<td>Smooth Barked Apple Myrtle – <em>Angophora costata</em></td>
</tr>
<tr>
<td>Origin:</td>
<td>Australian</td>
</tr>
<tr>
<td>Height:</td>
<td>~14m</td>
</tr>
<tr>
<td>Canopy Spread:</td>
<td>10m</td>
</tr>
<tr>
<td>Useful Life Expectancy:</td>
<td>0-3 years</td>
</tr>
<tr>
<td>Retention value:</td>
<td>Low</td>
</tr>
</tbody>
</table>
Tree no.: 2
Name/species: Coast Tea-tree - *Leptospermum laevigatum*
Origin: Indigenous
Height: ~4m
Canopy Spread: 6m
Useful Life Expectancy: 20+ years
Retention value: Medium

**Definitions**

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

**(H) High**

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

**(M) Medium**

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

**(L) Low**

The tree is generally in fair health and structure, provides low levels of amenity and may do so for up to 10 years. The tree may be juvenile or otherwise small and easily replaced by advanced plantings or plantings that will provide similar amenity value in a reasonable timeframe.
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 606 square metres (see Attachment 1) at 9 Wilson Street, Highton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>The North Planning Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>5 April 2017 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>4 June 2017</td>
</tr>
</tbody>
</table>

This application was previously presented to the Planning and Amenity Committee Meeting on 11 October 2016. At this meeting an objector raised concerns regarding the completeness of the application material. The Committee determined to defer the application to enable further consideration of these concerns and to engage an independent consultant to review the application.

In response to concerns relating to the completeness of the application material, the applicant submitted amended plans with changes that clarify the incorrect placement of a tree within the rear yard of 11 Wilson Street, the location of services and the inclusion of screening to the additional first floor windows. The plans are now the application plans, forming the basis of this assessment and are included at Attachment 1.

An independent review of the application material and processing was undertaken by Maddocks Lawyers. The findings of this review confirm that the previous application material was sufficient to undertake a well-informed assessment and the original application previously presented to Council was, “…sound, reasonably open and no error or deficiency is apparent”.

The report to follow assesses the plans submitted to Council on 5 April 2017 as these are now the application plans.

2. **Policy implications**

**Planning permit requirements**

Clause 32.09-5 (Neighbourhood Residential Zone 3) – 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 in this area. Council has adopted Amendment C139 and has submitted it to the Minister for Planning for approval. Whilst the Amendment is now considered ‘seriously entertained’, the Minister has not yet made a decision on the Amendment.

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

3. **Stakeholder Consultation**

   **External referrals**

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

   **Internal referrals**

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

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

   **Public notification**

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

   - Neighbourhood character,
   - Traffic and parking,
   - Overlooking,
   - Landscaping,
   - Inaccuracies with plan detail and Arborist report,
   - Setback compliance,
   - Overlooking,
   - Overshadowing,
   - Noise, and
   - Overdevelopment.

   As the amended development plans do not introduce any new changes apart from clarifying the incorrect placement of a tree within the rear yard of No. 11 Wilson Street, the location of services and the inclusion of screening to the additional first floor windows it was determined these changes were not required to be re-advertised.

   Council did however send a copy of the revised plans and amended Arborist Report to both objectors for their information and review. Council did not receive any further comment from the objectors.

   **Consultation meeting**

   The applicant declined a consultation meeting for the original application.

   A further consultation meeting was not offered as this report seeks to clarify matters for the Planning and Amenity Committee to enable a decision to be made on the application.

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 2015/666/1** for the land known
and described as **9 Wilson Street, Highett**, for the **construction of two double storey dwellings** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans prepared by Finley Roberts Design, Job No 15-133, Drawing Nos TP-01 to TP-09 (Revision C) and the Landscape Plan prepared by Carter Grange, Drawing No: Sheet 1 of 1, Rev A and date stamped 5 April 2017, but modified to show:

   a) A detailed Landscape Plan showing:
      i. At least one tree capable of reaching a minimum mature height of 14 metres within the front setback of either dwelling and two trees capable of reaching a minimum mature height of 12 metres within the rear setbacks of both dwellings. The decking area to the rear of each dwelling may need to be reduced.
      ii. Notation showing the street tree to be removed.
      iii. Any other inconsistencies / errors noted in the original Arborist report shown on the original plans corrected.
      iv. 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.
      v. 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.
      vi. A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
      vii. Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
      viii. Details of surface finishes of pathways and driveways.

   b) A Tree Management Plan (report) and Tree Protection Plan (drawing).

   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:
      i. 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.
      ii. The location of tree protection measures to be utilised. Alternative protection measures (such a ground cover) must be included in tree protection plans if any proposed tree protection fencing is to be moved
to allow for works.

iii. Details on plumbing installation. There should be no excavation works for plumbing works within the Tree Protection Zones.

iv. Details of demolition works and tree protection measures during the demolition process to be deleted as demolition has occurred.

c) Notation on the Site Layout and Floor Plans detailing the offsets from adjoining properties in line with Connolly and Associated Survey Plans Job Reference 16589 Sheet 1 of 1 dated 19 August 2015.

d) Notation showing the street tree to be removed.

e) A minimum 800mm wide separator to the northern side of the dwelling 1 crossover.

f) The driveway grade for each dwelling no more than 1 in 20.

g) The fence defining the rear boundary of dwelling 1 and 2 nominated as being a minimum height of 1.8m in accordance with Standard B22 of ResCode.

h) The decking area to the rear of dwelling 1 and 2 reduced in size in accordance with Condition 1(a) of this permit.

i) Any changes to reduce the development to accommodate the requirements of the landscaping plan and tree protection measures as required by this permit.

j) Notation of the street tree to be removed.

k) Water sensitive urban design measures in accordance with Condition 11 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 buildings without the written consent of the Responsible Authority.

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

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

7. Before occupation, screening of windows designed to limit overlooking as required by Standard B22 must be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

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

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

10. 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.

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

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

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

12. 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.

13. 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.

14. 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.

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

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

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

Permit Notes:

- 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.

- 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.

- Before development commences the applicant must contact Council’s Parks Department. A fee of $6,186.49 must be paid to the Responsible Authority for the removal and replacement of the existing street tree. This amount has been determined in accordance with Council’s current policy for the removal of street tree. This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree has
increased. The Responsible Authority, or a contractor or agent engaged by the Responsible Authority, must undertake the removal and replacement of the street tree. Any replacement planting will be at the discretion of the responsible Authority.

5. Council Policy

Council Plan 2017-2021

Relevant strategic objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 11 Settlement
- Clause 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.

This assessment relates to the amendments only. Council officers rely upon the report to the Planning and Amenity Committee Meeting on 11 October 2016 for all other considerations (refer Attachment 3).

The assessment to follow below has been reviewed by Maddocks Lawyers and found to be accurate and includes an appropriate assessment.
6.1. **Title Boundaries**

A re-establishment survey confirms all proposed works are located within the title boundaries and will not impact or require the removal of any structures on adjoining properties.

All side and rear setbacks are calculated from the title boundaries.

The site layout plans and floor plans do not detail the side setbacks along the common boundaries with adjoining properties. For clarity, this has been requested as a planning permit condition.

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

**Front Setbacks (Standard B6)**

<table>
<thead>
<tr>
<th>Required:</th>
<th>Proposed:</th>
</tr>
</thead>
<tbody>
<tr>
<td>7.64 metres</td>
<td>7.86 – 8.14 metres</td>
</tr>
</tbody>
</table>

Council’s previous report noted the setback to the front wall of 7 Wilson Street as 10 metres but a revised survey notes the front setback to this property being 7.2 metres. The front setback to 11 Wilson Street is 7.64 metres.

Pursuant to Standard B6, Front Setbacks, as varied by Schedule 3 to the Neighbourhood Residential Zone a front setback of 7.64 metres is required for any development on the subject site i.e. the greater of the two adjoining setbacks.

A front setback of 7.86 metres to 8.14 metres is proposed at ground floor level. The porches of both dwellings encroach into this setback between 0.3 metres and 1 metre for Dwelling 1 and 2 respectively. The proposed upper floor setbacks are recessed with setbacks of 8.9 metres.

In light of the revised front setback requirements, the setbacks are compliant and are considered to retain the street rhythm along Wilson Street and provide a high level of visual separation as advocated by the preferred future character of the area. This is further enhanced by the location of driveways of No. 7 and No. 11 Wilson Street being located along the common boundaries. The proposed front setbacks continue to provide sufficient opportunities for meaningful landscaping subject to conditions included in the recommendation of this report.

**Daylight to Existing Windows Objective (Standard B19)**

The proposed development is appropriately offset from existing habitable room windows at 7 Wilson Street and provides for a light court with a minimum area of 3 square metres with a minimum dimension of 1 metre clear to the sky compliant with Standard B19 of Clause 55. The development will continue to provide a reasonable level of solar access in accordance with this Standard.

**North-facing Windows (Standard B20)**

There are no north facing habitable room windows within 3 metres of the common boundary. There are windows located on the northern elevation of 7 Wilson Street but these are beyond 3 metres from the common boundary and as such this Standard does not technically apply. Notwithstanding this, the offset requirements of this Standard would be 2.34 metres to the first floor wall and the proposal is setback 3.44 metres.

**Overshadowing Open Space (Standard B21)**

Some additional overshadowing will occur to the property to the south at 7 Wilson Street. The additional overshadowing falls marginally beyond the shadow cast by the existing boundary fence. The additional overshadowing complies with Standard B21 of Clause 55.
Overlooking (Standard B22)
Amended plans detailed at Attachment 1 show that all required habitable room windows and bathrooms are to be provided with fixed obscure glazing in accordance with Standard B22 of Clause 55. Condition 7 of the recommendation has been included for clarity and to ensure screening is maintained for the life of the building.

Design Details (Standard B31)
Concerns regarding the absence of clarification on the materials finishes and colours has now been clarified with plans detailed at Attachment 1. The materials are generally consistent with those commonly found within the area and complement the architectural style of the dwelling. Overall the materials, colours and finishes contribute to providing a well composed elevation to the streetscape and surrounding properties.

Site Services (Standard B34)
Amended plans detail air conditioning units to be located adjacent to the Living Room areas of both dwellings. These are away from habitable room windows or any areas of secluded private open space on adjoining properties. It is noted that such units must comply with relevant Environment Protection Agency (EPA) regulations.

The location of bins, rainwater tanks and external storage areas have also been sited in accessible and convenient areas, away from public view.

6.3. Vegetation & Landscaping
A revised survey plan confirms the incorrect placement of a tree within the rear of No. 11 Wilson Street. This tree is now correctly shown within the rear setback of 12 Dalmont Street.

A further review of Taylors Tree and Stump Removal Arboricultural Assessment (Second Assessment: 12 November 2016, Report dated: 24 March, Report Version: 5) re-affirms the findings of the original report and second assessment that:

- There is no significant vegetation on the site worthy of retention including the Chinese Maple tree within the front setback. Council’s Arborist does not dispute the species identification noted in the aforementioned Taylors Tree and Stump Arboricultural Assessment;

- There is sufficient space for suitable replacement planting to occur to enhance the landscape character of the neighbourhood. The applicant has nominated two Ornamental Pear trees to be located within the front setback which are capable of reaching a mature height of 8 metres. Council’s Arborist previously requested one tree capable of reaching a mature height of 14 metres and two trees capable of reaching a minimum mature height of 12 metres. This condition remains unchanged and an amended Landscape Plan has been included in the recommended conditions; and

- The development will not impact on adjoining vegetation subject to appropriate construction methods being adopted. A condition of permit requiring a Tree Protection Management Plan has been included in the recommendation.

6.4. Street Tree Removal
It is noted that the previous report acknowledged the proposal necessitated the removal of the street tree and a recommended condition required an annotation reflecting this. The amended plans continue to note the street tree to be retained and protected.
Support Attachments

1. Amended Development Plans
2. Site and Surrounds Imagery
3. Report - 11 October 2016 - Planning and Amenity Committee
4. Neighbourhood Character Assessment
5. Clause 55 (ResCode) Assessment
Item 4.13 – Matters of Decision
Note: The relationship between title and occupation has been exaggerated for clarity.
Item 4.13 – Matters of Decision

UNIT 1 & 2/9 WILSON STREET, HIGGINS, 3190

RECEIVED

5 APR 2017

Planning Department

Received

UNIT 1 & 2/9 WILSON STREET, HIGGINS, 3190

RECEIVED

5 APR 2017

Planning Department

Item 4.13 – Matters of Decision
UNIT 2/9 WILSON STREET, HIGHTHET, 3190

RENDER-DULLX-GRY PEBBLE

LINING BOARDS
CLADDING-DULLX-GRY
PEBBLE QUARTER

ALUMINIUM WINDOWS
MONUMENT

GUTTERS/FASCIA-
COLOUR BOND - MONUMENT

Received
5 APR 2017

Planning Department
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1. Objector map.

<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. Looking west to 9 Wilson Street
Figure 3. Looking west to 9 and 11 Wilson Street

Figure 3. Looking west to 7 and 9 Wilson Street
4.10 9 WILSON STREET, HIGHETT
NOTICE OF DECISION TO GRANT A PERMIT
APPLICATION NO: 2015/666/1 WARD: CENTRAL

Election Period Statement
The recommended decision is not a “Major Policy Decision” as defined in section 93A of the Local Government Act 1989 or a “Significant Decision” within the meaning of the Election Period policy.

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 606 square metres (refer Attachment 1) at 9 Wilson Street, Highett (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>The North Planning Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>21 July 2016 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>19 September 2016</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 in this area. Council has adopted Amendment C139 and has submitted it to the Minister for Planning for approval. Whilst the Amendment is now considered ‘seriously entertained’, the Minister has not yet made a decision on the Amendment.

3. Stakeholder Consultation

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

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objections, subject to conditions</td>
</tr>
<tr>
<td>Drainage Engineer</td>
<td>No objections, subject to conditions</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objections, 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:

- Neighbourhood character,
- Traffic and parking,
- Overlooking,
- Landscaping,
- Inaccuracies with plan detail and Arborist report,
- Setback compliance,
- Overlooking,
- Overshadowing,
- Noise, and
- Overdevelopment.

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 the Bayside Planning Scheme in respect of Planning Permit application number 2015/666/1 for the land known and described as **9 Wilson Street, Highett**, for the **construction of two double storey dwellings** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans prepared by Finley Roberts Design, Job No 15-133, Drawing Nos TP-01 to TP-09 (Revision A) date stamped 18 February 2016, but modified to show:

   a) A detailed landscape plan showing:

      i. At least one tree capable of reaching a minimum mature height of 14 metres and two trees capable of reaching a minimum mature height of 12 metres.

      ii. Notation showing the street tree to be removed.

      iii. Tree H10 shown in its correct position within the adjoining property at 12 Dalmont Street

      iv. Any other inconsistencies / errors noted in the original Arborist report shown on the original plans corrected.

      v. 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.
vi. 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.

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

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

ix. Details of surface finishes of pathways and driveways.

b) A Tree Management Plan (report) and Tree Protection Plan (drawing).

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:

i. 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.

ii. The location of tree protection measures to be utilised. Alternative protection measures (such a ground cover) must be included in tree protection plans if any proposed tree protection fencing is to be moved to allow for works.

iii. Details on plumbing installation. There should be no excavation works for plumbing works within the Tree Protection Zones.

iv. Details of demolition works and tree protection measures during the demolition process to be deleted as demolition has occurred.

c) Notation showing the street tree to be removed.

d) The front setbacks to be compliant with Standard B6 as varied by Schedule 3 to the Neighbourhood Residential Zone (9 metres). The first floor front setback must be maintain a minimum 0.5 metre setback from the floor below.

e) A minimum 800mm wide separator to the northern side of the dwelling 1 crossover.

f) The driveway grade for each dwelling no more than 1 in 20.

g) All plant and equipment to be identified and located away from habitable room windows of the dwellings and the adjoining property's habitable rooms.

h) The fence defining the rear boundary of dwelling 1 and 2 nominated as being a minimum height of 1.8m in accordance with Standard B22 of ResCode.

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

j) The decking area to the rear of dwelling 1 and 2 reduced in size in
k) Any changes to reduce the development to accommodate the requirements of the landscaping plan and tree protection measures as required by this permit.

l) Notation of the street tree to be removed in accordance with Condition 10 of this permit.

m) Water sensitive urban design measures in accordance with Condition 12 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 buildings 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. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.

7. Before occupation, screening of windows designed to limit overlooking as required by Standard B22 must be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

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

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

10. Before development commences the applicant must pay $6,186.49 to the Responsible Authority for the removal and replacement of the existing street tree. This amount has been determined in accordance with Council’s current policy for the removal of street tree. This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by the Responsible Authority, must undertake the removal and replacement of the street tree. Any replacement planting will be at the discretion of the responsible Authority.

11. 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.

12. Before the development starts, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:
a) The type of water sensitive urban design stormwater treatment measures to be used.

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

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

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

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

14. 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.

15. 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.

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:
- 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.
- 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.

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
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.

Whilst the front and side setbacks of the building show some variations to Planning Scheme requirements, the proposal is considered to be sufficiently setback from the street and adjoining properties to ensure adequate visual separation and landscaping opportunities exist throughout the site.

The ground floor single garage maintains a compliant 2 metre setback to the southern site boundary providing sufficient opportunity for landscaping and visual separation along the southern side of the building. The 3.5 metre first floor side setbacks to the front master suite bedrooms provide adequate visual separation to adjoining buildings when viewed within the Wilson Street streetscape. Car parking structures are set behind the dwelling entries and the first floor facade is recessed from the ground floor façade to ensure these elements do not dominate the street. Articulation to the upper floor and the pitched form of the roof will reduce the visual impact of the building when viewed from the street and the proposed mix of materials and finishes will ensure that the building’s presentation is complementary to the existing residential properties within the street and the surrounding area.

Conditions have been included to ensure the development will not impact vegetation on adjoining properties (Condition 1(b)).

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:

Front Setbacks (Standard B6)

<table>
<thead>
<tr>
<th>Required:</th>
<th>Proposed:</th>
<th>Variation:</th>
</tr>
</thead>
<tbody>
<tr>
<td>9 metres</td>
<td>7.86 – 8.14 metres</td>
<td>500mm - 1m</td>
</tr>
</tbody>
</table>

A setback of 7.86m to 8.14m is proposed in lieu of 9m as required by Schedule 3 to the
Neighbourhood Residential Zone. The porches of both dwellings further encroach into this setback between 0.5m and 1m for Dwelling 1 and 2 respectively.

The front setbacks to 7 Wilson Street and 11 Wilson Street are 10m and 7.6m respectively. Whilst it could be argued that the proposed setbacks provide a transition between the neighbouring dwellings, the preferred future character of the area as outlined at Clause 22.06 of the Bayside Planning Scheme specifies that front gardens are a valued characteristic of the area and notably mentioned the importance of ensuring the new developments are consistent with the street and provide for areas within which meaningful landscaping can be incorporated. Although it is acknowledged that the front setback to Dwelling 1 is greater than the adjoining property at 11 Wilson Street, as the garage wall is to be constructed on the boundary the varied front setback would present as more dominant to the streetscape.

Whilst the non-compliances are limited, it is nonetheless considered to be an important determinant in providing for an adequate setback within which to locate a garden and reduce visual bulk associated with the side by side double storey built form. As such a condition had been included requiring compliance. It is considered that the required changes will not result in any significant internal changes to accommodate the increased front setback.

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>Three or more bedroom dwelling</td>
<td>2 dwellings</td>
<td>4 spaces (2 spaces per dwelling)</td>
</tr>
<tr>
<td>Total car spaces required</td>
<td></td>
<td>4</td>
</tr>
<tr>
<td>Total car spaces proposed</td>
<td></td>
<td>4</td>
</tr>
</tbody>
</table>

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.

The Traffic Engineer has also advised that the angle of the driveway to dwelling 2 is awkward and that the dwelling 2 driveway should be 4m wide with an 800mm offset to the southern boundary having a corresponding vehicle crossover with a 1m offset to the southern boundary. Whilst these points are noted, there is no requirement under the Planning Scheme to provide a 4m wide driveway to a dwelling and requiring this with an offset of 800mm from the southern boundary would not increase ease of access the site. Further it is not considered that the current driveway and crossing arrangement would impeded safe, efficient and convenient vehicle access to the site. Therefore it is considered that the proposed access to dwelling 2 is satisfactory in this regard.

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 is complies with Bayside Planning Scheme requirements and is therefore considered to be acceptable. 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.

6.4. Street tree removal

Council’s Open Space Arborist has advised that there is a Melia azedarach (White Cedar) street tree fronting the property. The proposed crossover is approximately 1.1 metres south of the tree’s stem which will detrimentally impact on the tree’s health and stability. Therefore the tree will require removal for the proposal to go ahead.

Council’s Arborist has advised that the tree meets the criteria for removal under the
Street and Park Tree Management Policy (2012) and can therefore be removed under the conditions of Objective 5 of this Policy (Removing Trees Affected by Development) at the cost of the Applicant. Recommended conditions have been added requiring the tree to be shown as 'removed' on the plans and the requisite fee to be paid to Council to remove and replace the tree with a suitable replacement.

6.5. Vegetation & Landscaping

There is no significant vegetation on the site. The landscape plan indicates that there is sufficient space for suitable replacement planting to occur to enhance the landscape character of the neighbourhood. Council’s Arborist supports the landscape plan subject to the inclusion of additional canopy tree plantings. This has been included as a condition of the recommendation.

Council’s Arborist has noted that the proposed development is unlikely to impact on adjoining vegetation subject to appropriate construction methods being adopted. A condition of permit requiring a Tree Protection Management Plan has been included in the recommendation.

6.6. Objections received

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

Overdevelopment

The proposed development of two double storey dwellings on a lot is not prohibited on the site and is consistent with the purpose of the Neighbourhood Residential Zone. In particular the development respects the neighbourhood character and is generally consistent with the Standards of Clause 55.

Overshadowing

The shadow plans submitted with the application demonstrate compliance with Standard B21 of Clause 55 of the Bayside Planning Scheme. It is noted the majority of shadowing will fall within the existing fence line while any additional shadowing will fall over a driveway or garage roof to the south.

Overlooking

All windows have been screened in accordance with Standard B22. It is further noted all boundary fencing is proposed to a height to minimise overlooking.

Side and Rear Setbacks

All ground and first floor side and rear setbacks of the proposed development achieve or exceed the setback requirements of Standard B17.

Noise

The proposal is for a residential use within a residential area. It is not considered that the proposal will raise any noise issues which would not otherwise be expected within a residential area. Conditions of permit have been added to any plant or servicing units be located away from sensitive interfaces.

Inaccuracies with plan detail and Arborist report

Concerns regarding the inaccuracies in the finished floor levels between the floor plans and elevations and tree heights noted in the arborist report have been checked and are considered accurate.
Support Attachments

1. Development Plans
2. Site and Surround Imagery
3. Neighbourhood Character Assessment Precinct G1
4. Clause 55 (ResCode) Assessment
# ATTACHMENT 4

## 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. | Council’s Arborist has identified there are no significant trees located on the site,  
The development has been sited in such a manner that will allow the planting of vegetation which will assist in the strengthening of the valued garden character of the area. Conditions relating to the front setback will provide additional opportunities for landscaping.  
The angled driveway to dwelling 2 provides opportunities for landscaping along the side boundary which reinforces the visual break with the adjoining built form. |
<p>| 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. |                                                             | The dwellings have been sited to provide visual separation from the southern boundary. Whilst a garage wall will be constructed on the northern boundary, given this is adjacent to an existing driveway and the neighbouring dwelling is |</p>
<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.       | The development proposes a simple but well-articulated design response which features a variety of materials and finishes that are characteristic of the area. The design incorporates a hipped roof form with eaves. The proposed outcome offers an articulated and visually appealing, design response for this precinct. |
| To maintain the openness of the streetscape.                             |                                                                                  | High, solid front fencing.                                                               | There is no fencing proposed for this development.                                                                                                       |
## ATTACHMENT 5

**ResCode (Clause 55) Assessment**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complied 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</td>
<td></td>
<td></td>
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<tr>
<td>neighbourhood character or</td>
<td></td>
<td></td>
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<tr>
<td>contributes to a preferred</td>
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<tr>
<td>neighbourhood character.</td>
<td></td>
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<tr>
<td>Development responds to</td>
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<tr>
<td>features of the site and</td>
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<td>surrounding area.</td>
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<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The site is appropriately located with regard to services and facilities to support a</td>
</tr>
<tr>
<td>Residential development is</td>
<td></td>
<td>two dwelling development.</td>
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<tr>
<td>consistent with housing</td>
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<tr>
<td>policies in the SPPF,</td>
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<tr>
<td>LPPF including the MSS and</td>
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<td></td>
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<tr>
<td>local planning policies.</td>
<td></td>
<td></td>
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<tr>
<td>Support medium densities in</td>
<td></td>
<td></td>
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<tr>
<td>areas to take advantage of</td>
<td></td>
<td></td>
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<tr>
<td>public transport and</td>
<td></td>
<td></td>
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<tr>
<td>community infrastructure and services.</td>
<td></td>
<td></td>
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<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>
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<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>Any upgrades will be the responsibility of the developer.</td>
</tr>
<tr>
<td>Provides appropriate utility</td>
<td></td>
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<td>services and infrastructure</td>
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<td>without overloading the</td>
<td></td>
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<tr>
<td>capacity.</td>
<td></td>
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<tr>
<td>**B5 Integration with the</td>
<td>Yes</td>
<td>The development has been appropriately orientated to integrate with the streetscape.</td>
</tr>
<tr>
<td>Street**</td>
<td></td>
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<tr>
<td>Integrate the layout of</td>
<td></td>
<td></td>
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<tr>
<td>development with the street</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>No</td>
<td>Requirement: 9m</td>
</tr>
<tr>
<td>The setbacks of buildings</td>
<td>Proposed: 7.86m to 8.14m</td>
<td>Refer to Section 6.2 of the Report. Addressed by condition.</td>
</tr>
<tr>
<td>from a street respect the</td>
<td></td>
<td></td>
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<tr>
<td>existing or preferred</td>
<td></td>
<td></td>
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<tr>
<td>neighbourhood character and</td>
<td></td>
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</tr>
<tr>
<td>make efficient use of the</td>
<td></td>
<td></td>
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<tr>
<td>site.</td>
<td></td>
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<td></td>
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</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Yes</td>
<td>Maximum: 8m</td>
</tr>
<tr>
<td>Building height should</td>
<td>Proposed: 7.81m</td>
<td></td>
</tr>
<tr>
<td>respect the existing or</td>
<td></td>
<td></td>
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<tr>
<td>preferred neighbourhood</td>
<td></td>
<td></td>
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<tr>
<td>character.</td>
<td></td>
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<td></td>
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<tr>
<td><strong>B8 Site Coverage</strong></td>
<td>Yes</td>
<td>Maximum: 50%</td>
</tr>
</tbody>
</table>
Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. | Proposed: 49.93%
---|---

**B9 Permeability**
Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. | Yes | Minimum: >20%
Proposed: 40.5%
---|---

**B10 Energy Efficiency**
Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy. | Yes | All habitable areas, including habitable rooms and secluded private open space areas have been located to maximise solar access.
---|---

**B11 Open Space**
Integrate layout of development with any public and communal open space provided in or adjacent to the development. | N/A | ---
---|---

**B12 Safety**
Layout to provide safety and security for residents and property. | Yes | The pedestrian entry point is clearly recognisable while upper levels allow for the passive surveillance of the street.
---|---

**B13 Landscaping**
To provide appropriate landscaping. To encourage:
- Development that respects the landscape character of the neighbourhood.
- Development that maintains and enhances habitat for plants and animals in locations of habitat importance.
- The retention of mature vegetation on the site. | Yes | See Section 6.4 of the Report.
---|---

**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 | See Section 6.3 of Report.
---|---

**B15 Parking Location**
Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. | Yes | All car parking facilities are conveniently located.
---|---
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>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>North (side)</td>
<td>0, 2m</td>
<td>0, 2m</td>
<td>3.38m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0, 2m</td>
<td>2m</td>
<td>3.335m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>0, 3m</td>
<td>6.6m</td>
<td>4.401m</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>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum length:</td>
<td>17.51m</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposed length:</td>
<td>6.5m</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maximum height:</td>
<td>3.6m</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposed maximum height:</td>
<td>3.2m</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maximum average height:</td>
<td>3.2m</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposed average height:</td>
<td>3.2m</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

Yes

The development is not located opposite any existing habitable room windows.

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
Ensure buildings do not significantly overshadow existing secluded private open space.

Yes

The proposed development will not overshadow existing secluded private open space of the adjoining properties.

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

Yes

All windows have been screened in accordance with Standard B22, Overlooking. It is further noted all boundary fencing is proposed to a height to prevent overlooking.

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

Yes

All habitable room windows have been screened and sited appropriately in accordance with this Standard.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>B24</td>
<td><strong>Noise Impacts</strong>&lt;br&gt;Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
<td>It is anticipated that the level of noise which will be emitted from the dwellings will not exceed levels otherwise expected from residential uses.</td>
</tr>
<tr>
<td>B25</td>
<td><strong>Accessibility</strong>&lt;br&gt;Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
<td>Entries are accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td>B26</td>
<td><strong>Dwelling Entry</strong>&lt;br&gt;Provide a sense of identity to each dwelling/residential building.</td>
<td>Yes</td>
<td>The entry provides a sense of personal address to the building and a transitional space around the entry.</td>
</tr>
<tr>
<td>B27</td>
<td><strong>Daylight to New Windows</strong>&lt;br&gt;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 or a covered external space which itself is open to the sky.</td>
</tr>
<tr>
<td>B28</td>
<td><strong>Private Open Space</strong>&lt;br&gt;Provide reasonable recreation and service needs of residents by adequate private open space.</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall Proposed 47m² to each dwelling. Adequate private open space is provided for the reasonable recreation and service needs of residents.</td>
</tr>
<tr>
<td>B29</td>
<td><strong>Solar Access to Open Space</strong>&lt;br&gt;Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Yes</td>
<td>Appropriate solar access to the secluded private open space is provided.</td>
</tr>
<tr>
<td>B30</td>
<td><strong>Storage</strong>&lt;br&gt;Provide adequate storage facilities for each dwelling.</td>
<td>Yes</td>
<td>Designated storage areas are provided within the rear gardens and have a minimum area of 6 cubic metres.</td>
</tr>
<tr>
<td>B31</td>
<td><strong>Design Detail</strong>&lt;br&gt;Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer to Section 6.1 of the Report.</td>
</tr>
<tr>
<td>B32</td>
<td><strong>Front Fences</strong>&lt;br&gt;Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>No front fence is proposed.</td>
</tr>
<tr>
<td>B33</td>
<td><strong>Common Property</strong>&lt;br&gt;Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td><strong>B34 Site Services</strong></td>
<td><strong>Yes</strong></td>
<td>The overall design of the proposal allows for effective positioning of all site services and as such the proposal is deemed to comply with the standard.</td>
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<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
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<tr>
<td>Avoid future management difficulties in common ownership areas.</td>
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</table>
1. **Purpose and background**

To report an in-principle agreement reached by all parties at a VCAT Compulsory Conference for the demolition of an existing dwelling and construction of a double storey residential building (containing three dwellings) with attic, basement parking and front fence in a Heritage Overlay; on a lot with an area of 910 square metres (refer Attachment 1) at 14 Normanby Street, Brighton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Marko Pintar C/O Keen Planning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date plans formally amended</td>
<td>20 June 2017</td>
</tr>
</tbody>
</table>

Council determined to refuse an application for the demolition of an existing dwelling and construction of a double storey residential building (containing three dwellings) with attic, basement parking and front fence exceeding a height of 1.2 metres in a Heritage Overlay at a Planning and Amenity Committee meeting on 11 December 2014.

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

On 30 November 2015 VCAT determined to set aside Council’s refusal and issued an Order directing a planning permit be issued. This decision was reached after a four day merits hearing with expert evidence relating to Heritage, Town Planning and Traffic.

An objector challenged the findings of the VCAT Order by submitting an application for leave to appeal to the Supreme Court on 29 December 2015.

On 18 March 2016 the Hon. Ginnane ordered that the application for leave to appeal to the Supreme Court be granted. The grounds for an appeal were based on questions of law surrounding the Design and Development Overlay Schedule 1, the limitations of the Neighbourhood Residential Zone Schedule 3, the consideration of Neighbourhood Character Policy, the Heritage Overlay and natural justice.

On 14 December 2016 the Honourable Justice Emerton ordered that the appeal is allowed and the VCAT decision made on 30 November 2015 was to be set aside and the proceeding was remitted to the Tribunal to re-consider the application having regard to the questions of law raised.

As part of VCAT’s re-consideration of the application, a Compulsory Conference was set down for 20 June 2017. At the VCAT Compulsory Conference held on 20 June 2017, attended by the permit applicant, Council Officers and the two objector parties to the appeal; an in-principle agreement was reached between all parties. One additional party who was not in attendance also provided written confirmation of an in-principle agreement based on the amended plans. The outcome was to:

- Relocate the driveway to the eastern side of the site and associated changes to the basement and floor plans;
- Modify the front façade detailing;
- Modify the front fencing detailing;
- Modify the boundary fencing along the eastern and western side boundaries; and
• Increase the setback to ensuite 1 of Apartments 1 and 2 from the eastern boundary by 0.3 metres (from 2.23 metres to 2.53 metres);

Amended plans outlining these are appended at Attachment 1 to this report. These plans have been formally substituted with VCAT and form the in-principle agreement in addition to the conditions noted in the recommendation. The original development plans refused by Council are included as Attachment 3.

If Council agrees to support the recommendation below then a planning permit will be issued by VCAT which contains, unchanged, all of the conditions in the recommendation section of this report. Condition 1 also refers directly to the amended plans substituted at the VCAT Compulsory Conference on 13 June 2017.

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 amended plans substituted at the VCAT Compulsory Conference on 13 June 2017. Council will be the only opposing party if this application proceeds to a merits hearing.

2. Policy implications

Planning permit requirements

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

Clause 43.01 (Heritage Overlay) – Demolition of the existing front fence, dwelling and outbuildings on site and the construction of a new building and front fence.

Clause 44.05 (Special Building Overlay) - Construction of a new building and a fence.

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

3. Stakeholder Consultation

External referrals

The original application was referred to the following authorities:

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

Internal referrals

The original application was referred to the following Council departments for comment:
Internal Referral | Response
--- | ---
Heritage | Officers sought the advice of two heritage consultants who had previous involvement with this site. Concerns raised have been deemed to have been addressed through conditions imposed by VCAT.

Traffic | No objection, subject to conditions.

Arborist | No objection, subject to conditions.

Public notification

The original application was advertised pursuant to Sections 52(1)(a) and (d) of the *Planning and Environment Act 1987* and 20 objections and 10 letters of support were received. The following concerns were raised:

- The proposal fails to sensitively integrate with the streetscape and respect surrounding heritage places;
- The visual bulk of the development as presented to the streetscape and neighbouring properties at 12 and 16 Normanby Street (contributory to the Normanby Estate Precinct), 10 Normanby Street (individual Heritage Overlay HO372) and 12 Webb Street (also within the Heritage Overlay);
- Inappropriate massing of the buildings relative to adjacent single storey dwellings;
- Limited visual separation with adjoining properties;
- Amenity impacts on the private open spaces of all adjacent properties;
- Amenity impacts through overlooking from attic terraces;
- Overshadowing of the private amenity spaces of adjoining properties;
- Overdevelopment of the site resulting in lack of landscaping opportunities;
- The limited level of car parking and impacts to on-street parking availability on Normanby Street and surrounding road network;
- Noise concerns resulting from increased traffic movements generated by the proposal;
- Impact of development on adjoining vegetation;
- Poor internal amenity for future tenants;
- Inadequate collection of waste from the site;
- Concerns if the development was approved it would set an unwelcome precedent for the street; and
- Concerns that works associated with excavation for the basement car park may impact on the structural integrity of neighbouring properties.

The Tribunal directed re-advertisement of the amended plans dated 20 June 2017 pursuant to Sections 52(1)(a) and (d) of the *Planning and Environment Act 1987*. No objections were received at the time of publishing this report reflecting the in-principle consent from parties to the appeal and original objectors.

Consultation meeting

VCAT arranged and held a Compulsory Conference on 20 June 2017. The applicant, Council representative and the two objecting parties to the VCAT proceedings were in attendance. A third objecting party provided written confirmation of an in-principle
agreement based on the amended plans.

The applicant formally amended the plans to be considered and an in-principle agreement was reached by all parties in attendance. A second Compulsory Conference is set down for 13 July 2017. This is a procedural meeting and will only occur if any new objections are received.

4. Recommendation

That Council:

Determines to Support the agreement reached by all parties at the VCAT Compulsory Conference in respect of Planning Application 2014/72/1 for the land known and described as 14 Normanby Street, Brighton, for the demolition of existing dwelling and construction of a double storey residential building (containing three dwellings) with attic, basement parking and front fence in a Heritage Overlay in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans by Jon Friedrich Architects, drawing numbers TP-01 Revision I, TP-02 Revision J, TP-03 Revision I, TP-04 Revision I, TP-05 Revision J, TP-06 Revision I, TP-07 Revision I, TP-08 Revision I and TP-09 Revision J (Revision I dated 14 June 2017 and Revision J dated 19 June 2017) and must show:
   a) Modification to the ground floor French doors/windows to a reduction to a maximum of three openings.
   b) Provision of and details of a 1.5 metre open high open fence and gates extending across the driveway.

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

3. Before the development starts, a schedule of construction materials, external finishes and colours to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the schedule will be endorsed and will then form part of the permit.

4. 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. 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.

6. All car spaces must be clearly signed and line marked with relevant unit numbers.

7. Before the development starts, a landscape plan must be submitted to and approved by the responsible authority. The landscape plan must be generally in accordance with landscaping plans prepared by Wallbrink Landscape Architecture Drawing No 1570 TP1 Rev G, TP2 Rev D and TP3 Rev F, but with the layout reversed to reflect the development shown on the plans endorsed under condition 1 of this permit. When approved, this plan will form part of the permit. The plan must show:
   a) Details of water sensitive urban design elements to the incorporated; and
b) Provision of an in-ground irrigation system to all landscaped areas.

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

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

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

10. Prior to the commencement of any site works a construction management plan to the satisfaction of the responsible authority must be submitted to and approved by the Responsible Authority. No works are permitted to occur until the Plan has been endorsed by the Responsible Authority. Once endorsed, the construction management plan will form part of the permit and must be implemented to the satisfaction of the Responsible Authority. The plan must provide details of the following:

a) Hours for construction activity in accordance with any other condition of this permit;

b) Measures to control noise, dust, water and sediment laden runoff;

c) The location and design of a vehicle washdown bay for construction vehicles on the site;

d) The location of parking areas for construction and sub-contractors’ vehicles on the site, to ensure that vehicles associated with construction activity cause minimum disruption to surrounding premises and traffic flows. Any basement carpark on the land must be made available for use by sub-contractors/tradespersons upon completion of such areas, without delay;

e) Measures to ensure that sub-contractors/tradespersons operating on the site are aware of the contents of the construction management plan;

f) Contact details of key construction site staff;

g) The location of any site sheds and the like. All site sheds (or similar structures) in association with the development must be located within the property confines;

h) Specifications of all trucks and truck movements to ensure that trucks and other vehicles associated with construction activity cause minimum disruption to surrounding premises and traffic flows in surrounding residential streets;

i) Any other relevant matters.

11. Before the commencement of building works, detailed plans must be submitted to and be approved by the Responsible Authority. When approved, these plans will form part of the permit. These plans must be drawn to scale with dimensions and three copies must be provided. The plans must accord with the provisions of 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 landscaped areas; and

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

The plans must be accompanied by a report in accordance with an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates a 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 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. 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.

13. Stormwater discharge must be retained for the portion above the discharge calculated using a Coefficient of Runoff of 0.35. The development is to have a Stormwater Detention System installed, the design capacity to be to the satisfaction of the Responsible Authority.

14. 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”.

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

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

17. 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.

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

Melbourne Water

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

20. The basement apex shown on the driveway must be no lower than 4.1 metres to the Australian Height Datum (AHD).
21. This permit will expire if one of the following circumstances applies:
   a) The development is not started within two years of the issued date of this permit.
   b) The development is not completed within four years of the issued date of this permit.

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

5. **Council Policy**

   **Council Plan 2017-2021**

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

   Relevant strategies of the Council plan include:
   - Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.

   **Bayside Planning Scheme**
   - Clause 9 Plan Melbourne
   - Clause 11 Settlement
   - Clause 12 Environmental and Landscape Values
   - Clause 13 Environmental Risks
   - Clause 15 Built Environment and Heritage
   - Clause 16 Housing
   - Clause 21.02 Bayside Key Issues and Strategic Vision
   - Clause 21.03 Settlement and Housing
   - Clause 21.04 Environmental and Landscape Values
   - Clause 21.05 Environmental Risks
   - Clause 21.06 Built Environment and Heritage
   - Clause 22.05 Heritage 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 52.06 Car Parking
   - Clause 55 Two or more dwellings on a lot
6. Considerations

On 11 December 2014 Council determined Planning Application 2014/72/1 should be refused based on the following six grounds:

1. The proposal is contrary to the objectives of Clause 32.09 (Neighbourhood Residential Zone) of the Bayside Planning Scheme which seeks to limit residential densities and prohibits more than two dwellings on a lot.

2. The proposal is contrary to the objectives of Clause 22.05 (Heritage policy) of the Bayside Planning Scheme with respect to the replacement building not displaying design excellence and not being sympathetic to the character and significance of neighbouring contributory buildings and the Normanby Estate Precinct in general.

3. The proposal is contrary to the objectives of Clause 22.05 (Heritage policy) of the Bayside Planning Scheme as the building height exceeds that of adjacent contributory buildings and will result in a dominant built form that detracts from neighbouring contributory heritage buildings. The proposed fence height at 1.8 metres exceeds the preferred height of 1.2 metres and results in an unsympathetic presentation to the street that detracts from the heritage precinct.

4. The excessive building footprint, vehicular accessway and siting of dwellings will limit landscaping opportunities and this undermines the vegetated character of the immediate surrounding area.

5. Safe vehicular access arrangements have not been provided pursuant to Clause 52.06 (Car Parking) of the Bayside Planning Scheme. The proposed basement access does not provide appropriate transitional sections between changes in ramp gradients.

6. The proposed development fails to comply with the following standards and objectives of Clause 55 and the Schedule to the Neighbourhood Residential Zone of the Bayside Planning Scheme:

   a) Standard B1 (Neighbourhood Character) – The proposed development does not respect the existing neighbourhood character or contribute to the preferred neighbourhood character or respond to the features of the site and surrounding area;

   b) Standard B17 (Side and Rear Setbacks) as varied by the Schedule to the Neighbourhood Residential Zone, Schedule 3 - The proposed west side setback proposed at 2.23m in lieu of 2.57m does not respect the preferred neighbourhood character and will accentuate the visual bulk of the development.

   c) Standard B29 (Solar Access to Open Space) - The private open space associated with Apartment 2 will be largely overshadowed throughout the day and this will undermine the useability of this space to the detriment of future residents.

   d) Standard B32 (Front Fences) as varied by the Schedule to the Neighbourhood Residential Zone, Schedule 3 - The proposed front fence at 1.8m exceeds the preferred height of 1.2m and results in an unsympathetic presentation to the street.

VCAT’s determination on 30 November 2015 directed that Council’s decision be set aside and that a planning permit be issued. VCAT determined that the development was acceptable based on Neighbourhood Character, Heritage, Built Form and Amenity Impacts. The objecting parties in light of the VCAT decision and direction of the Supreme Court have reached agreement on amended plans which introduce a number of changes details below. The acceptability of these changes are discussed below:
Relocation of the driveway to the eastern side of the frontage and associated changes to the basement and ground floor plans

The relocation of the driveway adjacent to No. 16 Normanby Street is considered to be acceptable and will not result in any adverse impacts to the heritage streetscape. This amendment necessitates flipping the ground and first floor layouts, including the pedestrian entry location. The terrace associated with Apartment 3 remains unchanged but continues to be appropriately screened in accordance with Standard A22, Overlooking. The proposed access arrangements are acceptable. Traffic generation and associated noise from traffic remains as previously approved.

The principle motive for the relocation of the driveway is to respond to concerns raised by the residents of No. 12 Normanby Street. It is noted that both abutting properties to the east and west of the subject site agree to these amendments and no concerns have been raised by properties immediately opposite at No. 9 and No. 11 Normanby Street. On this basis this proposed amendment is considered worthy of support.

Modified front façade detailing

The façade details have been altered in accordance with the floor plans changes and basement access location. Further to this, the amended plans now details three French windows in lieu of five windows originally proposed. This amendment was introduced based on the direction of VCAT and Heritage evidence relating to Victorian façade proportions. The proposed change is an improvement and supported by planning policy.

Modified the front fencing detailing

The front fence has increased in height from 1.2 metres to 1.5 metres to better respond to the prevailing streetscape where front fences in excess of 2 metres are common. The proposed fence profile continues to adopt a permeable profile and retains views to the vegetated front setback, consistent with the preferred character of the area.

This amendment was introduced at the direction of VCAT that determined the fence should be more consistent with prevailing heights in the streetscape. The lower fence height was considered to be inappropriate to the scale of the building.

Modify boundary fencing along the eastern and western side boundaries

Due to the amended site layout, a 2 metre high rendered block wall is now proposed to be constructed with the common boundary with No. 16 Normanby Street, up to the location of the adjacent garage at No. 16. This boundary treatment is typical in the streetscape with a similar approach adopted with the common boundary with No. 12 Normanby Street. It is noted the residents of No. 16 Normanby Street have provided an in-principle agreement to the amended plans.

Increase the setback to ensuite 1 of Apartments 1 and 2 from the eastern boundary by 0.3 metres (from 2.23 metres to 2.53 metres)

The setbacks have increased to provide for a wall constructed on the same plain at ground floor level. The proposed amendment does not result in any loss of articulation and is supported by the adjoining residents at No. 16 Normanby Street. Importantly the increased building setback is an improvement on the original proposal.

Support Attachments

1. Development Plans
2. Site and Surrounds Imagery
3. Plans considered by VCAT
Item 4.14 – Matters of Decision
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1: Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
</tbody>
</table>
Figure 2: View looking south to No. 16 and No. 14 Normanby Street

Figure 3: View looking south to No. 14 and No. 12 Normanby Street
Figure 4: View looking south to No. 14 and No. 12 Normanby Street.

Figure 5: View looking south to No. 12 Normanby Street
Figure 6: View looking south-west to 8 Normanby Street and the street intersection with Webb Street

Figure 7: View looking north to 5 and 7 Normanby Street
Figure 8: View looking north-east to 9 Normanby Street

Figure 9: View looking north to 11 Normanby Street
Figure 10: View looking north to 13 Normanby Street
1. **Purpose and background**

To report a planning permit application for the construction of a six storey building above a basement level containing 72 dwellings and a reduction in the provision of visitor car parking on three combined lots with a total area of 1,700 square metres (refer Attachment 1) at 1-5 Reynolds Street, Hampton East (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Planning &amp; Property Partners Limited</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>22 December 2017 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>20 February 2017</td>
</tr>
</tbody>
</table>

2. **Policy implications**

**Planning permit requirements**

Clause 32.07-5 (Residential Growth Zone Schedule 1) – Construction of two or more dwellings on a lot.

Clause 43.02-2 (Design and Development Overlay Schedule 2) - Construct a building or carry out works not otherwise exempt.

Clause 52.06-3 (Car parking) - Permit required to reduce the number of car parking spaces required under Clause 52.06-5.

**Planning scheme amendments**

Planning Scheme Amendment C151 proposes to implement the Hampton East (Moorabbin) Structure Plan, adopted by Council at its 23 February 2016 Ordinary Meeting. Amendment C151 underwent public exhibition in July / August 2016. In February 2017 Council resolved to request the Minister for Planning to appoint a Planning Panel to consider submissions received for the amendment. An independent Panel appointed by the Minister for Planning heard the submissions on the amendment in May 2017 and a Panel Report was expected by the end of June. 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 by Council. Refer to section 6.2 of this report for an assessment of the in-principle agreement against the provisions of the amendment.

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

Amendment VC136 was incorporated into the Bayside Planning Scheme on 13 April 2017 and introduced state wide planning requirements for apartment developments. The Amendment changed the Victorian Planning Provisions (VPP) and all planning schemes in Victoria by:

- Inserting a new Particular Provision at Clause 58 (Apartment developments) to introduce new requirements for apartment developments of five or more storeys (excluding a basement) in a residential zone and all apartment developments in other zones.
- Amending Clause 55 (Two or more dwellings on a lot and residential buildings) to include new requirements for apartment developments.
- Deleting Clause 52.35 (Urban context report and design response for residential development of five or more storeys). The content of Clause of 52.35 is translated into Clause 58.01.
- Amending clauses 32.04 (Mixed Use Zone), 32.05 (Township Zone), 32.07 (Residential Growth Zone) and 32.08 (General Residential Zone) to:
  - Require an application for an apartment development of five or more storeys (excluding a basement) to meet the requirements of Clause 58.
  - Update the decision guidelines to require the responsible authority to consider the objectives, standards and decision guidelines of Clause 58 before deciding on an application for an apartment development of five or more storeys (excluding a basement).
  - Specify application requirements for an apartment development in the Residential Growth Zone and the General Residential Zone.
  - Include transitional provisions for applications lodged before the approval date of this Amendment.
- Amending Clause 32.09 (Neighbourhood Residential Zone) to include transitional provisions for applications lodged before the approval date of this Amendment.
- Amending Clauses 34.01 (Commercial 1 Zone), 37.01 (Special Use Zone), 37.02 (Comprehensive Development Zone), 37.04 (Capital City Zone), 37.05 (Docklands Zone), 37.06 (Priority Development Zone) and 37.08 (Activity Centre Zone) to:
  - Require an application for an apartment development to meet the requirements of Clause 58.
  - Update the decision guidelines to require the responsible authority to consider the objectives, standards and decision guidelines of Clause 58 before deciding on an application for an apartment development.
  - Specify application requirements for an apartment development.
  - Include transitional provisions for applications lodged before the approval date of this Amendment.
- Amending Clause 43.05 (Neighbourhood Character Overlay) to prevent Standards B35 to B49 (inclusive) of Clause 55 from being modified in a schedule to the overlay.
- Amending Clause 72 (General Terms) to introduce a definition for the term ‘Apartment’.
This application was lodged prior to the approval date of Amendment VC136 and therefore benefits from the transitional provisions. The new provisions do not apply to this proposal.

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>Public Transport Victoria</td>
<td>No objection</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>Strategic Planning</td>
<td>No objection.</td>
</tr>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>Conditions required.</td>
</tr>
<tr>
<td>Drainage</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>Waste Management</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>Open Space 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 seven objections were received. The following concerns were raised:

- Over-development / inappropriate density;
- Inconsistent with Neighbourhood Character;
- Overlooking;
- Overshadowing;
- Shadowing of solar panels;
- Parking congestion and traffic safety issues; and
- Noise from the vehicle accessway.

Consultation meeting

A consultation meeting was held on 29 May 2017 attended by the permit applicant and six objectors. As a result of this meeting no objections were withdrawn.

The applicant has since provided a set of “concept plans” showing how certain issues can be addressed. These have been considered as part of the assessment but are not formal amendments. The recommendation refers to these plans in Condition 1 as a means of resolving some objector concerns. These amended plans have not been advertised as the changes improve the proposal and do not cause any increase in detriment.

The applicant stated following the consultation meeting that they would accept a condition requiring windows on the western elevation at first and second level to be highlight windows only (i.e. window sills at least 1700mm above floor level). This would constitute a poor response for the internal amenity of the dwellings on these floors.
Screening techniques which limit overlooking compliant with Standard B22 are imposed as a condition in the recommendation.

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 2016/596/1** for the land known and described as **1, 3 & 5 Reynolds Street, Hampton East**, for the **construction of a six storey building above a basement level containing 71 dwellings and a reduction in the provision of visitor car parking spaces** 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 (TP00-TP12, Rev L) but modified to show:

   a) Removal of the visitor bicycle parking adjacent to the booster and service metres and its replacement with a landscaped planter box. The planter box should not exceed a height of 800mm.

   b) Windows on the top level on the southern and eastern elevations framed with dark extruded metal frames.

   c) All highlight windows along the east elevation to be increased in size to a minimum window height of 1.7 metres to provide increased passive surveillance over the public realm and improvement internal amenity to the rooms.

   d) Sightlines for vehicles entering and exiting the property in accordance with AS2890.1.

   e) Acoustic fencing to minimise noise transmission to the west from the proposed vehicular access to the site.

   f) Urban artwork on the northern section of the eastern elevation reflecting Melbourne’s laneway culture. The section is made-up of those sections of wall underneath Dwellings 104 & 105 and to the north of the balconies of Dwellings 104 & 204.

   g) A schedule of construction materials, external finishes and colours (incorporating for example paint samples), including for screens provided on the balconies and roof of the building.

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

   i) Water Sensitive Urban Design measures in accordance with Condition 7 of this permit.

   j) A Landscaping Plan in accordance with Condition 12 of this permit.

   k) A Tree Management and Protection Plan in accordance with Condition 15 of this permit.

   l) A Public Realm Improvement Plan in accordance with Condition 26 of this permit.
m) A Waste Management Plan in accordance with Condition 23 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 (except downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

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

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

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

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

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

11. Prior to the endorsement of plans pursuant to Condition 1, a traffic and 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 the permit. Traffic and parking operations on and adjacent to the site must conform to this endorsed plan. Three copies of the
plan must be submitted. The plan must be generally in accordance with the plan TP01 Rev L but must include:

a) The location of all areas on-and/or off-site to be used for staff and patron parking.

b) Owner’s permission and any required planning permission for parking on other land.

c) Specification of staff numbers adequate to enable efficient operation of car parking areas both on- and off-site.

d) The number and location of all on- and off-site security staff.

e) The means by which the direction of traffic and pedestrian flows to and from car parking areas will be controlled both on- and off-site.

f) Measures to discourage patron car parking in (specify location).

g) Measures to preclude staff parking in designated patron car parking areas.

h) Staffing and other measures to ensure the orderly departure and arrival of patrons especially any large groups departing at closing time.

i) Servicing of the drainage and maintenance of car parking areas.

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

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

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

c) Details of surface finishes of pathways and driveways.

d) Appropriate maintenance and irrigation systems, including water volumes to be supplied, for the planters shown in the landscape plan.

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

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

15. 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.

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

17. 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.

18. Soil excavation within the nature strip must not take place within 3m of the Acer negundo street tree asset.

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

20. Any installation of services and drainage within the Tree Protection Zone of the street tree to be retained must be undertaken using root-sensitive, non-destructive techniques.

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

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

23. 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). Waste collection must not take place between 6am-10am and 3pm-7pm on weekdays.
   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.

24. All sustainability measures identified in the Sustainable Management Plan, prepared by Ark Resources, must be implemented and development works undertaken in accordance with the Sustainable Management Plan, to the satisfaction of the Responsible Authority.

25. The sustainability measures must be maintained to the satisfaction of the Responsible Authority, including the replacement of any items required to produce/maintain those items.

26. Prior to the endorsement of plans pursuant to Condition 1, a detailed Public Realm Improvement Plan must be submitted to and approved by the Responsible Authority. The plan must show:

a) The construction of a concrete footpath on the northern side of Reynolds Street running from the laneway to Highbury Avenue in accordance with Council’s standard drawings.

b) The installation of bicycle parking on the nature strip in front of the site.

c) The removal of the power pole at the front of the property.

d) The relocation of any Council assets or infrastructure required on Reynolds Street as a direct result of this development.

e) The reconstruction of the laneway adjacent to the east of the property with bluestone kerb, channel and centre strip and intervening asphalt treatment, along with raised perpendicular strips of bluestone to act as traffic calming measures.

f) Planting of trees on the nature strip.

g) Introduction of street furniture (if necessary).

h) Introduction of parking signs, with “no stopping” sign to be provided from 9m to the west of the corner of Reynolds Street and the laneway.

All to the satisfaction of the Responsible Authority.

27. Before the development starts, 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.

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

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

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

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

Permit Notes

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

- Residents of the proposed development shall not be entitled to any Council parking permits for residents.

- Before the development starts, the applicant must pay $1,665.10 to the Responsible Authority for the removal and replacement of an existing street tree.
This amount has been determined in accordance with Council's current policy for the removal of street tree(s). This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by the Responsible Authority, must undertake the removal and replacement of the street tree. Any replacement planting will be at the discretion of the Responsible Authority.

5. **Council Policy**

**Council Plan 2017-2021**

Relevant strategic objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 17 Economic Development
- Clause 18 Transport
- Clause 19 Infrastructure
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.09 Transport and Access
- Clause 21.10 Infrastructure
- Clause 22.06 Neighbourhood Character Policy G1
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.07 Residential Growth Zone (Schedule 1)
- Clause 43.02 Design and Development Overlay (Schedule 2)
- Clause 52.06 Car Parking
- Clause 52.35 Urban Context Report and Design Response for Residential Development of Five or More Storeys
6. Considerations

The site is located within the Hampton East (Moorabbin) Structure Plan area which is currently the subject of a Planning Scheme Amendment (C151).

Council resolved in February 2017 to request the Minister for Planning to appoint a Planning Panel to consider submissions received for the amendment. An independent Panel appointed by the Minister for Planning heard the submissions to the amendment in May 2017 and a Panel Report is expected by the end of June. In this context, the planning amendment process has progressed since the determination of the application was made.

There is a tension between the existing and emerging policy for the Hampton East area. Given the extensive structure planning that has occurred in Hampton East, the support for the development of the activity centre at the State Planning Policy level and high level Local Planning Policy, it is considered that giving the emerging policy more weight is an appropriate and pragmatic approach. The proposal subject of this assessment reflects this approach. It is noted the Panel Report is anticipated to be released in July 2017.

6.1 Existing policy

The site is located within the Residential Growth Zone (RGZ) which seeks to provide housing at increased densities in buildings up to and including four storeys. The zone also seeks to encourage housing diversity in locations offering good access to services and public transport, and to encourage a scale of development that provides a transition between areas of more intensive use and development and other residential areas.

The Design and Development Overlay applicable to the land seeks to preserve the existing character and amenity of the area as low rise (up to two storeys) with a strong garden character. It also seeks to maintain the prevailing streetscape rhythm, building scale and height of neighbourhoods with buildings set within vegetated surrounds. The proposal goes beyond the scale of development envisaged by the Residential Growth Zone and the Design and Development Overlay 2.

6.2 Emerging policy

Plan Melbourne 2017-2050, consistent with previous metropolitan strategies identifies Hampton East (Moorabbin) as an area to support increased housing supply. The Bayside Housing Strategy 2012 identified the Hampton East (Moorabbin) Activity Centre as being one of the main long-term focus areas for medium and higher density residential development within Bayside. The Hampton East Activity Centre benefits from its strategic location close to the Moorabbin Railway Station and bus interchange as well as a range of shops, employment, services and facilities. Due to its strategic location, the Bayside Housing Strategy identified the need to develop a structure plan for the Hampton East Activity Centre in order to provide guidance on how the area should grow and develop over the next 20 to 30 years.

The Hampton East (Moorabbin) Structure Plan has been developed and adopted to ensure the future growth and development of the Hampton East activity centre is appropriately managed. Whilst the Hampton East Activity Centre is a stand-alone centre, it also forms part of the broader Moorabbin Activity Centre which comprises areas within Glen Eira City Council, Kingston City Council and Bayside City Council. Kingston has implemented an Activity Centre Zone Schedule 3 (ACZ3) over the Moorabbin Activity Centre, whilst Glen Eira is yet to undertake the Structure Planning process and does not currently have any specific built form controls that apply to that area.

Planning Scheme Amendment C151 proposes to implement the Hampton East (Moorabbin) Structure Plan into the Bayside Planning Scheme via an Activity Centre Zone and a schedule to the zone (ACZ1). The amendment seeks to guide the development of the Hampton East area with the introduction of six precincts with varying
objectives, controls and decision guidelines.

The subject site is located in Precinct 3 of the Hampton East activity centre, which is proposed to be a ‘mixed use core’ area. The objectives relevant to the subject site include providing high quality consolidated apartments and mixed use development, providing integrated basement car parking, and encouraging site consolidation to achieve the maximum heights for the precinct.

The objectives for site consolidation are translated into Amendment C151 with the provision of a discretionary building height of six storeys (20 metres) where a minimum lot size of 1500sqm can be achieved. For land that has an area of less than 1500sqm, the nominated preferred height is four storeys (14 metres). The minimum lot size and maximum building height are discretionary requirements. The subject site has an area of approximately 1,700sqm.

Council’s submission to the C151 Planning Panel Hearing explained that the purpose of the lot consolidation objective is to facilitate best practice urban design principles that leads to high quality development outcomes. The preferred 1500sqm lot size seeks to achieve a 20 metre lot frontage. Whilst not seeking to duplicate the Better Apartment Design Standards included in Clause 58 of the Bayside Planning Scheme, the lot consolidation objective seeks to ensure the best setting is provided to facilitate the application of the new apartment standards.

The site comprises three lots with a combined frontage to Reynolds Street of 45 metres and a frontage to the laneway to the east of 34 metres. The site significantly exceeds the lot frontage sought by the lot consolidation objective. The site shares an interface with commercial properties to the north and therefore has three non-sensitive interfaces. The only sensitive interface is the western boundary shared with 6, 8 and 10 Highbury Avenue.

The proposal provides suitable setbacks to minimise visual bulk to the adjoining properties ranging from 2.5 – 3 metres from Ground to Level 2 and then substantially increasing to 7.3 metres at Levels 3 and 4 and then again increasing to 9 metres at Level 5. Balconies of the dwellings located on the west side of the development have been orientated either north or south to minimise overlooking to this interface and air conditioners have been located away from this interface to minimise noise impacts. The potential for noise impact is from the basement access ramp. This may cause unreasonable amenity impacts particularly to the neighbour at 10 Highbury Avenue and so a condition is included to require acoustic treatments to protect the amenity of this neighbour.

Another precinct decision guideline for the mixed use core is for development to consider equitable development principles and avoid compromising the potential development of adjoining land. The proposal achieves an appropriate setback to the north and east boundaries that ensures the potential future re-development of the adjoining sites are not compromised.

For Reynolds Street, the structure plan seeks to create pedestrian footpaths on both sides of the street to connect Highbury Avenue with the future Central Public Open Space and Katoomba Street. The plans submitted with the application do not show any public realm works. Given the removal of vehicle crossings and the higher level of pedestrian activity proposed as a result of this development, it is considered appropriate to require the introduction and construction of the footpath on the north side of Reynolds Street at their cost. A condition is included in the recommendation to this effect.

In regard to the laneway that adjoins the eastern boundary of the site, the structure plan seeks to activate this laneway as a pedestrian laneway. The proposed east elevation in the concept plans has been substantially improved to orientate habitable rooms and balconies of the dwellings facing this laneway. The proposed elevation changes the perception of the laneway from a back-of house laneway to an area with surveillance by
apartments. Further, it is considered appropriate to reduce vehicle speeds and encourage the laneway for pedestrian traffic. Therefore, the laneway will need to be reconstructed with materials enhancing the laneway as a pedestrian environment with bluestone and other materials. A condition is included in the recommendation to this effect.

An objective for the wider structure plan area is to maintain a pedestrian scale at street level by using a podium and tower form style of development. This is translated by the C151 Amendment into the controls for the mixed use core precinct with a three storey (11 metre) street wall to Reynolds Street with three storeys above this to be setback 5 metres from the lower levels with street frontage. Facing the laneway, the structure plan calls for a three storey (11 metre) street wall with storeys above this to be setback 2 metres from the lower levels with laneway frontage. This is a discretionary requirement. The proposal achieves a three storey street wall with the levels above set behind this, albeit not compliant with the proposed upper level setbacks.

The proposal achieves a setback of the fourth and fifth storeys a minimum of 4.3 metres from the Reynolds Street street frontage, a reduction of 700mm from that sought by the structure plan. This variation is considered to be acceptable because the proposal achieves the desired street wall and pedestrian scale environment with upper levels recessed. In regard to the laneway frontage, the proposal achieves a setback of the fourth and fifth storeys a minimum of 1.5 metres, a reduction of 500mm from that sought by the structure plan. The setback here is considered to be acceptable because the interface is with the laneway and not the primary street frontage. Again, the setback achieves the objective of a recessed building with passive surveillance over the laneway.

The mixed use core precinct also seeks integrated basement car parking, which the development would achieve with a single entrance to the basement car park to Reynolds Street.

6.3 **Compliance with Guidelines for Higher Density Residential Development**

An assessment against the Guidelines is provided at Attachment 3. The development generally meets the objectives of the Guidelines, with the following exception:

5.4 Ensure that a good standard of natural lighting and ventilation is provided to internal amenity spaces

Although the use of snorkel windows has been minimised, some of those windows have insufficient external dimensions to provide for appropriate light access. Each window should have a minimum width of 1.2m to ensure adequate daylight access. This has been included as a recommendation in the conditions.

6.4 **Car parking and traffic**

Each of the proposed dwellings has been designated car parking in accordance with the statutory rates specified in Clause 52.06 of the Bayside Planning Scheme, being one for each one or two-bedroom dwelling and two for each three-bedroom dwelling. Council’s Traffic Engineer has reviewed the application and raised no objection subject to minor conditions which are included as part of the recommended permit conditions.

Parking requirements are summarised as follows:

<table>
<thead>
<tr>
<th>Use</th>
<th>Number / Area</th>
<th>Rate</th>
<th>Required Spaces</th>
<th>Spaces Provision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>13 x 1 bedroom dwellings</td>
<td>1 space per dwelling</td>
<td>13</td>
<td>13</td>
</tr>
<tr>
<td></td>
<td>47 x 2 bedroom dwellings</td>
<td>1 space per dwelling</td>
<td>47</td>
<td>48</td>
</tr>
<tr>
<td></td>
<td>12 x 3 bedroom</td>
<td>2 spaces per</td>
<td>24</td>
<td>24</td>
</tr>
</tbody>
</table>
There is a requirement for a total of 98 car parking spaces on site, with 90 spaces proposed. Due to the composition and arrangement of the car parking on the site, there is a shortfall of 9 visitor car parking spaces. There is the capacity to alter one of the car parking spaces to a visitor car parking spaces so that the shortfall is reduced to eight visitor car parking spaces. This has been included as a condition in the recommendation.

Furthermore, the removal of two crossovers onto the street provide additional space for on-street parking which is available to all road users rather than simply those using the site. It is common to informally take these spaces into account when assessing visitor car parking and hence, the shortfall would be six spaces.

Considering that a large number of car parking spaces are required for the development, it is considered that the shortfall in this instance is relatively minor. The site is located in an area with good access to public transport and is a short walk from Moorabbin Station. Car parking data submitted by the applicant shows that, although occupancy rates of car parking spaces are relatively high, there is spare capacity in the area to absorb any increase in car parking required by potential visitors to the site. Furthermore, it is noted that visitor rates to residential uses tend to be higher outside business hours, whereas demand for parking in the area tends to be lower during such periods, as a lot of the parking demand appears to be created by the retail uses in the Moorabbin retail centre.

Consequently, it is considered that the proposed development will not have an unacceptable impact on that car parking in the area.

The level of increased traffic generated by the proposed development will not adversely impact the local road network provided certain works are undertaken to improve traffic accessibility and sightlines. Such conditions have been included in the recommendation.

### 6.5 Vegetation and landscaping

The application plans show the removal of all trees from the site including trees of the following species: White Cedar, Bracelet Honey Myrtle and Tarata.

Council’s Arborist in their referral response advised that the removal of these trees is acceptable as they are small trees and have low amenity values.

In addition, Council’s Arborist has reviewed the submitted landscape plan and advised that it is considered acceptable. The trees proposed are generally small given the limited soil volumes proposed. Council’s Arborist has advised that that the landscape plan is generally acceptable.

Council’s Arborist further advised that there are small trees and shrubs in the rear garden of 8 & 10 Highbury Avenue with their Tree Protection Zones (TPZ) extending into the subject site. As such consideration must be given to the impact of the development upon these trees. Council’s Arborist has advised that a Tree Protection Plan and Tree Management Plan will be required to be submitted to ensure these trees remain viable both during and post construction. A condition to this effect is included in the recommendation.

There are two trees located within the nature strip at the front of the site. The smaller of these trees is proposed for removal. It is a *Eucalyptus mannifera*. Council’s Open Space Arborist has advised that removal of this tree is acceptable provided a financial contribution is made for the lost amenity and for re-planting of another asset. A condition has been included in the recommendation to provide for such a contribution.
Council’s Open Space Arborist has advised that the other tree within nature strip, an *Acer negundo*, should remain viable and will not be affected by the proposed crossover into the site. A condition has been included in the recommendation requiring tree protection measures to be implemented to maintain viability of this tree.

### 6.6 Objections received

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

**Overdevelopment / inappropriate density**

State Government Policy, particularly Plan Melbourne, as well as Council Policy supports higher densities in areas that are within activity centres and with good access to public transport and other services. An assessment against State and local planning policies and the Guidelines for Higher Density Residential Development has demonstrated that the proposal is not an overdevelopment despite being more intensive than what existed before.

**Overlooking**

Windows have been appropriately screened as per the relevant measure (in this case, Standard B21 of ResCode). A condition has been included in the recommendation requiring those screens to be permanently maintained.

**Overshadowing**

Adjoining properties will not be significantly overshadowed as a result of the development at the Spring Equinox. Overshadowing diagrams submitted with the application demonstrate that the application meets the relevant measure (in this case, Standard B22 of ResCode).

**Shadowing of solar panels**

The primary assessment criteria in the planning scheme relevant to this ground is found at Clause 55.03-5 in which it requires new development to achieve and protect energy efficient dwellings and residential buildings and that buildings should be sited and designed to ensure that the energy efficiency of existing dwellings on adjoining lots is not unreasonably reduced. In this instance, the solar panels would not be overshadowed at any time of the day as demonstrated on the shadow analysis in the application material.

**Noise from the vehicle accessway**

The neighbour at no. 10 Highbury Avenue has raised concerns regarding the potential for noise from vehicles accessing the site via the crossover, which is to be adjacent to the rear boundary and private open space of no. 10 Highbury Avenue. The applicant has indicated that they are satisfied with a condition requiring an acoustic treatment along this boundary to mitigate any potential noise impacts. A condition has been included in the recommendation to this effect.

### Support Attachments

1. Advertised Development Plans ↓
2. Concept Development Plans ↓
3. Site and Surrounds Imagery ↓
4. Assessment against Guidelines for Higher Density Residential Development ↓
Item 4.15 – Matters of Decision
## 1-5 Reynolds Street, Hampton East

### Contents
- Site Analysis
- Site Analysis - Aerial View
- Design Response
- Basement Floor Plan
- Level 1 Plan
- Level 2 Plan
- Level 3 Plan
- Level 4 Plan
- Level 5 Plan
- Roof Plan
- Elevations
- Diagrams

### Development Summary

<table>
<thead>
<tr>
<th>No. of Apartments</th>
<th>Total P.O.S. Area</th>
<th>Total Non-Permitted Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>1022 sq. m.</td>
<td>5%</td>
</tr>
<tr>
<td>42</td>
<td>1950 sq. m.</td>
<td>6%</td>
</tr>
<tr>
<td>80</td>
<td>1330 sq. m.</td>
<td>9%</td>
</tr>
<tr>
<td>92</td>
<td>1200 sq. m.</td>
<td>8%</td>
</tr>
</tbody>
</table>

### Site Analysis
- Site Analysis
- Aerial View

### Design Response
- Basement Floor Plan
- Level 1 Plan
- Level 2 Plan
- Level 3 Plan
- Level 4 Plan
- Level 5 Plan
- Roof Plan
- Elevations
- Diagrams

### Attachment 1

---

**Item 4.15 – Matters of Decision**

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Item 4.15 – Matters of Decision
### Item 4.15 – Matters of Decision

#### Attachment 1

**ADVERTISED PLAN**

**2.2 USC 393**

**Planning Department**

**1-5 Reynolds Street, Hampton East | TP Landscape Concept**

<table>
<thead>
<tr>
<th>Specimen Name</th>
<th>Height (m)</th>
<th>Spacing (m)</th>
<th>Planted Density</th>
<th>Planned Quantity</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Corypha umbraculifera</em></td>
<td>20</td>
<td>3</td>
<td>10</td>
<td>200</td>
</tr>
<tr>
<td><em>Ateleia crassifolia</em></td>
<td>15</td>
<td>2</td>
<td>15</td>
<td>150</td>
</tr>
<tr>
<td><em>Cercidiphyllum japonicum</em></td>
<td>12</td>
<td>3</td>
<td>12</td>
<td>100</td>
</tr>
<tr>
<td><em>Juglans nigra</em></td>
<td>10</td>
<td>2</td>
<td>10</td>
<td>50</td>
</tr>
</tbody>
</table>

**Note:**

- Images of various plant species are included in the ZLA document for visual reference.
- The table above provides a detailed list of planned specimens, including their names, heights, spacings, and planned quantities.

**Bayside City Council**

**Planning & Amenity Committee Meeting - 18 July 2017**

**Attachment 1**
Item 4.15 – Matters of Decision
### Attachment 2

<table>
<thead>
<tr>
<th>Item 4.15 – Matters of Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Hampton East</strong></td>
</tr>
<tr>
<td>1-5 Reynolds Street,</td>
</tr>
</tbody>
</table>

**Development Summary**

- **Sections**
  - TP004, TP014
  - TP008, TP014
  - TP007, TP014
  - TP006, TP014
  - TP005, TP014
  - TP004, TP014

- **Exemptions**
  - TP02, TP014

- **Design Response**

- **Site Analysis – Aerial View**

- **Site Analysis**

| Contents | }
Item 4.15 – Matters of Decision
Item 4.15 – Matters of Decision
Item 4.15 – Matters of Decision
Item 4.15 – Matters of Decision
<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>

n.b. Two objectors are located outside the scope of this image.

Figure 1 Aerial overview of the site and surrounds
Figure 2 View NE towards the site from Reynolds Street

Figure 3 View NE towards the site from Reynolds Street
Figure 4 View NNW towards the site from Katoomba Street

Figure 5 View NW towards the site from the car park
Figure 6 View SW towards the site from the alleyway off the Nepean Highway

Figure 7 View W towards the site from the alleyway off the Nepean Highway
Figure 8 View S towards the site from the car park to the north
## ATTACHMENT 4
### BUILDING ASSESSMENT – Guidelines for Higher Density Residential Development

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Meets objective?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Height and Massing</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.1 Ensure that the height of new development responds to existing urban context and neighbourhood character objectives of the area</td>
<td>Yes</td>
<td>Refer to Section 6.1.</td>
</tr>
<tr>
<td>2.2 Ensure new development is appropriate to the scale of nearby streets, other public spaces, and buildings</td>
<td>Yes</td>
<td>Refer to Section 6.1.</td>
</tr>
<tr>
<td>2.3 Protect sunlight to public spaces</td>
<td>Yes</td>
<td>The development should ensure that the proposed area of public open space to the south east of the development receives adequate sunlight</td>
</tr>
<tr>
<td><strong>Street setbacks</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.4 Respond to existing or preferred street character</td>
<td>Yes</td>
<td>Refer to Section 6.1.</td>
</tr>
<tr>
<td><strong>Adjoining Development</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.5 Ensure building separation supports private amenity and reinforces neighbourhood character</td>
<td>Yes</td>
<td>The development provides appropriate setbacks from the western boundary to ensure that present and future private amenity are appropriately protected.</td>
</tr>
<tr>
<td>2.6 Ensure areas can develop with an equitable access to outlook and sunlight</td>
<td>Yes</td>
<td>The site’s location, north of a road, west of a public alleyway and south of a private alleyway, combined with the setback to the western boundary, ensure that future developments can occur with equitable access to outlook and sunlight.</td>
</tr>
<tr>
<td>2.7 Ensure visual impacts to dwellings at the rear are appropriate in the context</td>
<td>Yes</td>
<td>The adjoining area to the north, a private alleyway, has little discernible character. The development is appropriate in that context.</td>
</tr>
<tr>
<td><strong>Views to / from residential units</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.8 Maximise informal or passive surveillance of streets and other public open spaces</td>
<td>Yes</td>
<td>The development provides for appropriate passive surveillance of the street, the public alleyway, and the proposed public open space.</td>
</tr>
<tr>
<td>2.9 Maximise residential amenity through the provision of views and protection of</td>
<td>Yes</td>
<td>Privacy is appropriately maintained on the subject site. Overlooking to the site to the west is appropriately limited with reference to Standard</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
</tr>
<tr>
<td>4.15</td>
<td><em>Matters of Decision</em></td>
<td></td>
</tr>
<tr>
<td><strong>Privacy of sites</strong></td>
<td></td>
<td>B21 of ResCode. There is the potential for some overlooking of the dwelling and garden at 29 Katoomba Street on the other side of Reynolds Street. This dwelling and garden is more than fifteen metres away, substantially more than the 9m referred to in ResCode. Furthermore, there is no appetite for screening front balconies and front windows.</td>
</tr>
<tr>
<td><strong>Wind protection</strong></td>
<td>2.10 Ensure new tall buildings do not create adverse wind effects</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Roof forms</strong></td>
<td>2.11 Treat roof spaces and forms as a considered aspect of the overall building design</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Street pattern and street edge integration</strong></td>
<td>3.1 Create walkable areas within a safe and interesting public setting</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>3.2 Closely integrate the layout and occupation patterns of new development with the street</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>3.3 Ensure car parking does not dominate the street frontage</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Building entries</strong></td>
<td>3.4 Create street entrances with a strong identity that provide a transition from the street to residential interiors</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>3.5 Ensure car park entries do not detract from the street</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Front fences</strong></td>
<td>3.6 Avoid creating inactive frontages as a result of fencing private open spaces</td>
<td>Yes</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
</tr>
<tr>
<td>3.7</td>
<td>Ensure that front fences respect and contribute to the neighbourhood character</td>
<td>Yes</td>
</tr>
<tr>
<td>Parking layout</td>
<td>4.1 Provide adequate, safe and efficiently designed parking layouts</td>
<td>Yes</td>
</tr>
<tr>
<td>4.2</td>
<td>Provide safe and convenient access between car parking and bicycle areas and the pedestrian entry to buildings</td>
<td>Yes</td>
</tr>
<tr>
<td>Circulation spaces</td>
<td>4.3 Create shared internal spaces that contribute positively to the experience of living in higher density development</td>
<td>Yes</td>
</tr>
<tr>
<td>Site services</td>
<td>4.4 Minimise running and maintenance costs</td>
<td>Yes</td>
</tr>
<tr>
<td>4.5</td>
<td>Minimise water use</td>
<td>Yes</td>
</tr>
<tr>
<td>4.6</td>
<td>Incorporate provision for site services in the building design to ensure good function and ease of service and maintenance</td>
<td>Yes</td>
</tr>
<tr>
<td>Dwelling diversity</td>
<td>5.1 Provide a range of dwelling sizes and types in higher density residential developments</td>
<td>Yes</td>
</tr>
<tr>
<td>Building layout</td>
<td>5.2 Optimise the layout of buildings in response to occupants’ needs as well as identified influences and characteristics of a site</td>
<td>Yes</td>
</tr>
<tr>
<td>5.3</td>
<td>Create functional, flexible, efficient and comfortable residential apartments</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>5.4</strong> Ensure that a good standard of natural lighting and ventilation is provided to internal amenity spaces</td>
<td>No</td>
<td>Although the use of snorkel windows has been minimised, some those windows have insufficient external dimensions to provide for appropriate light access. Each window should have a minimum width of 1.2m to ensure adequate daylight access. Addressed by condition.</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td><strong>5.5</strong> Provide adequate storage space for household items</td>
<td>Yes</td>
<td>Storage spaces are provided in the basement and at ground floor for each dwelling.</td>
</tr>
<tr>
<td><strong>Design Detail</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>5.6</strong> Promote buildings of high architectural quality and visual interest</td>
<td>Yes</td>
<td>Refer Section 6.1.</td>
</tr>
<tr>
<td><strong>Private and communal open space</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>6.1</strong> Ensure access to adequate open space for all residents</td>
<td>Yes</td>
<td>Suitable private open spaces have been provided for each dwelling. The three-bedroom apartments typically have access to the larger areas of private open space afforded within the development.</td>
</tr>
<tr>
<td><strong>6.2</strong> Ensure common or shared spaces are functional and attractive for their intended users</td>
<td>N/A</td>
<td>No common open spaces are proposed.</td>
</tr>
<tr>
<td><strong>6.3</strong> Allow solar access to the private and shared open spaces of new high density residential units</td>
<td>Yes</td>
<td>Most of the private open spaces have suitable orientation and allow suitable solar access.</td>
</tr>
<tr>
<td><strong>6.4</strong> Integrate the design of shared units and private open space into the overall building design and façade composition</td>
<td>Yes</td>
<td>The private open space is appropriately integrated into the overall design response.</td>
</tr>
<tr>
<td><strong>6.5</strong> Provide for greenery within open spaces</td>
<td>Yes</td>
<td>Landscaping is provided within the proposed public open spaces.</td>
</tr>
<tr>
<td><strong>Public Open Space</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>6.6</strong> Create public open space appropriate to its context</td>
<td>N/A</td>
<td>No public open space is proposed.</td>
</tr>
</tbody>
</table>
4.16 VCAT REPORT

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/145649

This report informs the Committee of the Victorian Civil and Administrative Tribunal (VCAT) determinations received in June 2017 and to show the progress of VCAT outcomes for the financial year 2016/17. All councils are required to report to the Local Government Performance Reporting Framework (LGPRF) each year on the:

- timeliness (SP1);
- service standard (SP2);
- cost per application (SP3); and
- decision quality of Statutory Planning (SP4).

Decision Quality Performance for 2016/17 (SP4)

Council has received 77 decisions, of which 4 were withdrawn. Withdrawn appeals are not counted towards the LGPRF measurement, along with Section 87A appeals and struck out or remitted appeals. The total number of LGPRF measured decisions for Bayside for the year to date is therefore 73.

<table>
<thead>
<tr>
<th>LGPRF Statutory Planning Measure 4 (SP4) – Decision Quality</th>
</tr>
</thead>
<tbody>
<tr>
<td>Time period</td>
</tr>
<tr>
<td>------------</td>
</tr>
<tr>
<td>2016/17 Q1</td>
</tr>
<tr>
<td>2016/17 Q2</td>
</tr>
<tr>
<td>2016/17 Q3</td>
</tr>
<tr>
<td>April 2017</td>
</tr>
<tr>
<td>May 2017</td>
</tr>
<tr>
<td>June 2017*</td>
</tr>
<tr>
<td>ALL DECISIONS 2016/17</td>
</tr>
<tr>
<td>TOTAL LGPRF DECISIONS 2016/17</td>
</tr>
<tr>
<td>2017 LGPRF Result*</td>
</tr>
</tbody>
</table>

*Subject to final State Government data output (PPARS) in late July 2017, and external audit.
The attachment also included a summary of each decision received in June 2017 identifying the key issues for Council policy and strategy.

**Discussion on the results**

The LGPRF measure SP4 used by the State Government to assess the quality of Council’s decision making is the number of decisions made by Council that were not overturned or ‘set aside’ by VCAT on appeal by either the application or objectors.

*How many of our decisions were appealed in 2016/17?*

6% of our decisions were appealed and determined by VCAT.

In 2014/15 and 2015/16, the result was also 6% of decisions were appealed.

Therefore, the rate of appeal in Bayside has stayed the same for three years.

<table>
<thead>
<tr>
<th>Historic VCAT LGPRF Results – 2016 to 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>LGPRF RESULT YEAR</td>
</tr>
<tr>
<td>------------------</td>
</tr>
<tr>
<td>2015</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>2016</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>2017*</td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

*Subject to final State Government data output (PPARS) in late July 2017, and external audit.

*What are the reasons people appeal?*

The ground of appeal are split into four (4) types or ‘grounds’ of appeal.

While the June 2017 final month Planning Permit Activity Reporting System (PPARS) information was not released at the time of publication, the 11 months of information for July 2016 to May 2017 showed the following grounds. Some commentary is also provided.
<table>
<thead>
<tr>
<th>Appeal type – Grounds for appeal</th>
<th>Number of appeals</th>
<th>Commentary</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>APPLICANT APPEALS REFUSALS – SECTION 77</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appeal against Council’s refusal to issue a permit</td>
<td>31</td>
<td>46% of VCAT outcomes were where applicants appealed against a Council refusal notice. Around 100 refusals are issued each year, and 33% are appealed.</td>
</tr>
<tr>
<td><strong>APPLICANT APPEALS NOT MAKING A DECISION – SECTION 79</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appeal against failure to make a decision within 60 statutory days</td>
<td>16</td>
<td>24% of VCAT outcomes were where applicants appealed against Council’s failure to make a decision on the application within 60 statutory days. Some of these appeals would have been refusals under Section 77, had they been decision within time. VCAT has ordered 50% less failure costs against Council this financial year, evidencing a significant improvement in Council’s processing and conduct towards applicants. While the outcome on the case at VCAT is identical regardless of the Section of the Act under which the appeal is lodged, the Council Plan is focusing resources in Development Services to improve decision timeliness significantly, which will decrease the number of Section 79 appeals in the coming financial years.</td>
</tr>
<tr>
<td><strong>APPLICANT APPEALS CONDITIONS – SECTION 80</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appeal against permit conditions</td>
<td>8</td>
<td>12% of VCAT outcomes were where applicants appealed against Council’s conditions on a permit.</td>
</tr>
<tr>
<td><strong>ALL OBJECTOR / NOD APPEALS – SECTION 82</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appeal against issue of permit</td>
<td>11</td>
<td>16% of VCAT outcomes were where objectors appealed against Council’s issue of a Notice of Decision to Grant a Permit. The appeal can be against the conditions of the permit or the principle of the decision. 913 Notices of Decisions were issued between 1 July 2016 and 31 May 2017, and 11 were appealed. This equates to 1% of Notices of Decision being appealed by objectors.</td>
</tr>
</tbody>
</table>

*How many of our decision were ‘right’?*
In 2016/17, 97% of combined Committee and Delegate decisions were neither appealed by the applicant or an objector, or set aside by VCAT.

This means that only 3% of all Bayside’s planning decisions were overturned by VCAT this financial year.

Of key importance is that only 1% of Notices of Decision are appealed to VCAT by objectors. While Council understands that any objector appeal has financial and time obligations for that person, it is considered that this is a very low percentage.

*What activities and customer improvements will we focus on next?*

Bayside’s target is to have 50% of its non-VicSmart planning decisions agreed (affirmed or varied) by VCAT between July 2017 and June 2018.

A report is scheduled to come to the Council Meeting of November 2017 with further details of the improvements in Development Services which will include further consideration on VCAT matters.

**Recommendation**

That the report on the VCAT Report on decisions for the financial year, which remain subject to final state government data provision and external audit, be noted.

**Support Attachments**

1. VCAT Decisions June 2017
<table>
<thead>
<tr>
<th>Subject land</th>
<th>131 - 133 Carpenter ST, BRIGHTON</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application no.</td>
<td>2016.39.1</td>
</tr>
<tr>
<td>Applicant</td>
<td>Urbis</td>
</tr>
<tr>
<td>Referral Authority</td>
<td>Urbis</td>
</tr>
<tr>
<td>Respondents</td>
<td>Urbis</td>
</tr>
<tr>
<td>VCAT Member</td>
<td>Eileen Fiederling, Joseph Fiederling, Leonie Perry, Kris Tanoyo, Brenda Templeton</td>
</tr>
<tr>
<td>Date of hearing</td>
<td>16/06/2017</td>
</tr>
<tr>
<td>Date of order</td>
<td>06/03/2017</td>
</tr>
<tr>
<td>Proposal</td>
<td>Refusal for the construction of a two or more dwellings on a lot (three storey residential building containing ten dwellings), buildings and works with a Design &amp; Development Overlay. Construction of a front fence exceeding 1.5 metres in height.</td>
</tr>
<tr>
<td>Officer recommendation/Delegate determination</td>
<td>Refusal</td>
</tr>
<tr>
<td>Council determination</td>
<td>Refusal</td>
</tr>
<tr>
<td>Appeal type</td>
<td>Refusal</td>
</tr>
<tr>
<td>Plans substituted (prior to hearing)</td>
<td>Refusal</td>
</tr>
<tr>
<td>VCAT determination</td>
<td>Yes</td>
</tr>
<tr>
<td>LGPRF outcome</td>
<td>Permit Issued</td>
</tr>
<tr>
<td>VCAT determination</td>
<td>SET ASIDE</td>
</tr>
</tbody>
</table>
Comments:

The subject site is located within the General Residential Zone, Schedule 2 and the Design and Development Overlay (Schedule 10).

The Applicant lodged an appeal against Council’s refusal to grant a permit. Council determined to refuse the application at 6 September 2016 Planning and Amenity Committee. The refusal was based on neighbourhood character grounds, including insufficient landscaping, failure to maintain a rhythm of spacious visual separation of buildings, insufficient articulation of elevations and failure to incorporate an appropriate variety of building materials, amenity impacts on neighbouring properties, and quality of accommodation issues, including insufficient secluded private open space and storage for the proposed dwellings.

Amended plans were substituted but did not respond to Council’s grounds of refusal.

The Tribunal found the site is appropriate for medium density apartment style development given its location within the Bay Street Major Activity Centre. The Tribunal supported the level of articulation and variety of materials proposed, and found the high front fencing integrated into the design of the proposal and was acceptable in the context of the railway embankment, similar to allowing higher fencing on heavily trafficked roads. The Tribunal found the use of planter boxes to be an acceptable method of achieving the required screening to satisfy Standard B22. The proposal was found to remain within acceptable parameters and would not present an unacceptable visual bulk to neighbouring properties.

The Tribunal directed that a Planning Permit be issued.
<table>
<thead>
<tr>
<th>Subject land</th>
<th>233 New ST, BRIGHTON</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application no.</td>
<td>2016.172.1</td>
</tr>
<tr>
<td>VCAT reference no.</td>
<td>P2013/2016</td>
</tr>
<tr>
<td>Applicant</td>
<td>BG New Street Developer</td>
</tr>
<tr>
<td>Referral Authority</td>
<td>N/A</td>
</tr>
<tr>
<td>Respondents</td>
<td>Cabrini Hospital, Garth J Hill, Bibhakar &amp; Ferouza Saran, Thomas Dermott, Michael Smith, Brian Osbourne</td>
</tr>
<tr>
<td>VCAT Member</td>
<td>Laurie Hewet</td>
</tr>
<tr>
<td>Date of hearing</td>
<td>14/03/2017</td>
</tr>
<tr>
<td>Date of order</td>
<td>07/06/2017</td>
</tr>
<tr>
<td>Proposal</td>
<td>Use and development of the land for a Retirement Village and use of the land to sell or consume liquor</td>
</tr>
</tbody>
</table>

**Officer recommendation/ Delegate determination**: Not support

**Council determination**: Refusal

**Appeal type**: Failure to Grant a Permit

**Plans substituted (prior to hearing)**: Yes

**VCAT determination**: Permit issued

**LGPRF outcome**: SET ASIDE
Comments:

The Tribunal overturned Council's decision and in granting a permit for the use and development of the land as a retirement village and for the sale and consumption of alcohol held that there was strong strategic support for the provision of uses of this type in the Bayside Planning Scheme. The type of use is furthermore contemplated in the Neighbourhood Residential Zone subject to planning approval.

The Tribunal found that the proposal’s built form is acceptable on this large site which exhibits a very mixed character. Furthermore, the subject site enjoys good access to public transport and facilities due to its proximity to the Church Street Major Activity Centre. The Tribunal did not share Council's concerns with respect to the built form including its three storey nature in a residential area that is predominantly one or two storey.

The Tribunal noted that the social and community benefits proposed by this use were not in serious contention by the parties. The Tribunal held that any adverse amenity impacts occasioned by the development to adjoining properties had been well handled by appropriate setbacks and screening as well as landscaping capable of filtering the views of the proposed building.

Finally, the Tribunal held that Council’s concerns with respect to the bar and bistro were misplaced and found that they represented an ancillary component of the dominant use. Due to the relatively small size of the bar and bistro and restrictions associated with a limited licence the Tribunal did not find it necessary to impose extra conditions regulating their use.
| Subject land | 34 Grosvenor ST, BRIGHTON |
| Application no. | 2014.53.2 |
| VCAT reference no. | P1243/2016 |
| Applicant | Kenneth Oliver |
| Referral Authority | N/A |
| Respondents | N/A |

| VCAT Member | J Perlstein |
| Date of hearing | 27/03/2017 |
| Date of order | 29/06/2017 |
| Proposal | Alterations and additions to an existing dwelling on a lot less than 500 square metres within a Heritage Overlay |

| Officer recommendation/ Delegate determination | Permit granted |
| Council determination | Notice of decision |
| Appeal type | Conditions |
| Plans substituted (prior to hearing) | No |
| VCAT determination | Varied Permit |
| LGPRF outcome | N/A |
Comments:

The Tribunal noted that the effect of Council’s conditions was to considerably change the form and location of the proposed carport and fencing from the Application Plans. The Applicant proposed a solid front fence along the boundary at a height of 2.4 metres. The Tribunal held that the height of this fence would detract from the Heritage Precinct even though the subject site was not listed as a contributory building. Therefore the Tribunal upheld Council’s condition 1(f) requiring the replacement of proposed street front fencing with a 1.2 metre high retaining wall and a secondary 1.2 metre high fence setback 1.5 metres from street frontage with landscaping to be provided between fences.

The Tribunal amended Condition 1(g) to state that the proposed pool equipment should be located behind the line of the secondary 1.2 metre high fencing and relocation of the pool fencing as required.

Council’s condition 1(h) required the deletion of proposed 2.4 m high swing gate and provision of 1.2 metre high open style gate. The Tribunal however amended this condition to allow a range of options to be considered. This new condition required the deletion of the proposed 2.4 metre high swing gate at the front boundary and provision of an alternative gate at a maximum height of 1.2 metres located at the front boundary and otherwise at a height consistent with the adjacent fencing or to the satisfaction of the Council if set back further into the site.

The Tribunal upheld Condition 1(i) which stated that the proposed Carport to be flat roofed and setback 9.0 metres from street frontage. It found this condition acceptable because it would allow the carport to be on alignment with the wall of the adjacent built form at No. 32A Grosvenor and being flat roofed it would be less visible to the streetscape. Such a condition would allow the dwelling to remain the predominant feature of the streetscape and would thus have a negligible impact on the Grosvenor Estate Heritage Precinct.
<table>
<thead>
<tr>
<th>Subject land</th>
<th>28 Male ST, BRIGHTON</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application no.</td>
<td>2015.529.1</td>
</tr>
<tr>
<td>VCAT reference no.</td>
<td>P2546/2016</td>
</tr>
<tr>
<td>Applicant</td>
<td>Nino and Gabriella Gelsumini</td>
</tr>
<tr>
<td>Referral Authority</td>
<td>Melbourne Water Corporation</td>
</tr>
<tr>
<td>Respondents</td>
<td>Xiao Dong Cao, Zoe Sarantis, Diana Menzies, Christopher Murphy</td>
</tr>
</tbody>
</table>

**Proposal**

Construction of two, two storey dwellings and a front fence exceeding 1.5 metres in height in a General Residential Zone, Design and Development Overlay and Special Building Overlay

<table>
<thead>
<tr>
<th>VCAT Member</th>
<th>G Rundell</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date of hearing</td>
<td>05/05/2017</td>
</tr>
<tr>
<td>Date of order</td>
<td>02/06/2017</td>
</tr>
</tbody>
</table>

Planned site

<table>
<thead>
<tr>
<th>Referral Authority</th>
<th>Nino and Gabriella Gelsumini</th>
</tr>
</thead>
<tbody>
<tr>
<td>Melbourne Water Corporation</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Respondents</th>
<th>Xiao Dong Cao, Zoe Sarantis, Diana Menzies, Christopher Murphy</th>
</tr>
</thead>
</table>

**Officer recommendation/ Delegate determination**

Refusal

**Council determination**

Refusal

**Appeal type**

Refusal to Grant a Permit

**Plans substituted (prior to hearing)**

Yes

**VCAT determination**

Permit issued

**LGPRF outcome**

SET ASIDE
Comments:

The subject site is located within the General Residential Zone, Schedule 2 and is affected by both the Design and Development Overlay (Schedule 11) and Special Building Overlay.

The Applicant lodged an appeal against Council’s refusal to grant a permit. Council determined to refuse the application based on neighbourhood character grounds particularly relating to height, visual bulk, visual separation with adjoining properties and the garden setting. Other grounds for refusal relate to side and rear setbacks.

Amended plans were substituted but did not respond to Council’s grounds of refusal.

The Tribunal noted the site is appropriate for two dwellings on a lot given its location within the Church Street Major Activity Centre. The Tribunal supported the proposed setbacks at ground and first floor levels but considered the second floor setbacks to be unacceptably dominate to the adjoining streetscapes, primarily due to the narrow width of the site. A condition was included to require the deletion of the second floor to each dwelling.

The Tribunal did not accept arguments from the respondents that the development would unreasonably contribute to traffic within the area. The Tribunal accepted Council’s submissions regarding the high, solid front fences and conditions have been included requiring a fence re-design.

The Tribunal directed that a Planning Permit should issue.
**Proposal**: Construction of three (3) double storey dwellings with roof decks

<table>
<thead>
<tr>
<th>Subject land</th>
<th>128 Bluff RD, BLACK ROCK</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application no.</td>
<td>2010.224.4</td>
</tr>
<tr>
<td>Applicant</td>
<td>Nick Moutis, C Kairouz Architects</td>
</tr>
<tr>
<td>Referral Authority</td>
<td>N/A</td>
</tr>
<tr>
<td>Respondents</td>
<td>Michael &amp; Margot Hogarth-Scott</td>
</tr>
<tr>
<td>VCAT Member</td>
<td>Christina Fong</td>
</tr>
<tr>
<td>Date of hearing</td>
<td>12/05/2017</td>
</tr>
<tr>
<td>Date of order</td>
<td>07/06/2017</td>
</tr>
<tr>
<td>Officer recommendation/ Delegate determination</td>
<td>Not support</td>
</tr>
<tr>
<td>Council determination</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Appeal type</td>
<td>Failure to Grant a Permit</td>
</tr>
<tr>
<td>Plans substituted (prior to hearing)</td>
<td>No</td>
</tr>
<tr>
<td>VCAT determination</td>
<td>Permit not Amended</td>
</tr>
<tr>
<td>LGPRF outcome</td>
<td>AFFIRMED</td>
</tr>
</tbody>
</table>
Comments:

The subject site is located within the Neighbourhood Residential Zone, Schedule 3 and is affected by the Design and Development Overlay (Schedule 3). At the time of the original planning permit approval, the land was located within a General Residential Zone.

The Applicant lodged an appeal against Council’s failure to determine the application within the prescribed timeframe. Council formed a position to not support the application under delegation based on the failure to comply with the elevated importance of the neighbourhood character and a number of additional areas of inconsistencies between the development plans and existing on-site conditions.

The Tribunal noted that the shift in zoning from GRZ to NRZ is paramount in determining built form, urban consolidation and neighbourhood character considerations, irrespective that the application was for retrospective approval and still currently under construction. The fact that the approved development is not consistent with the intent of the current NRZ is not a justification that the boundaries set by the NRZ to be further reduced. On the issue of increased building massing, the Tribunal supported Council’s point of view that the baseline should not be further eroded.

Ultimately in affirming Council’s refusal, the Tribunal also noted that the original permit was a mediated resolution between the applicant and objecting parties and whilst the Tribunal is not bound by the ‘agreement’ amongst the parties, the Member noted frustration that something has been negotiated and agreed to in good faith, only to find that the constructed version is different, leading to amended plans and further concessions.

On that basis, the Tribunal directed that an amended Planning Permit should not issue.
Alterations and additions to an existing dwelling on a lot less than 500 square metres

38A St Andrews ST, BRIGHTON

Application no. 2015.737.1

VCAT reference no. P2053/2016

Applicant Maria Chrysanthl Georgiou

Referral Authority N/A

Respondents N/A

VCAT Member Frank Dawson

Date of hearing 13/06/2017

Date of order 09/06/2017

Proposal

Officer recommendation/ Delegate determination Refusal

Council determination Not applicable

Appeal type Refusal to Grant a Permit

Plans substituted (prior to hearing) No

VCAT determination Appeal Withdrawn

LGPRF outcome N/A
Comments:

The Applicant applied for alterations and additions to an existing dwelling on a lot less than 500 square metres.

Council determined to refuse this Application because of its neighbourhood character concerns with respect to the non-complying front setback and lack of recession for the second storey. Additionally, the proposed site coverage was excessive at 62% and the non-complying side and rear setbacks would have caused off-site amenity impacts in terms of visual bulk to the adjoining properties.

Finally, Council was opposed to this development because had it been allowed to proceed by the Tribunal it would have led to the decline of a significant tree namely a Jacarada in the front setback.

The Applicant applied for an adjournment from the scheduled hearing date of 13 June 2017. When VCAT rejected the request for an adjournment the Applicant withdrew his Application for Review.
Construction of a two storey building comprising two shops, a dwelling and a roof deck and a waiver of car parking and loading bay requirement

Officer recommendation/Delegate determination: Refusal
Council determination: Not applicable
Appeal type: Refusal Amended Permit
Plans substituted (prior to hearing): No

VCAT determination: Application is withdrawn
LGPRF outcome: N/A
Comments:

The Applicant applied to Bayside City Council on 9 January to amend Planning Permit 2015/53 to include an apartment within an alleged “attic” in land covered by a Design and Development Overlay Schedule 1 (DDO-1).

Council determined that the proposed apartment could not be construed as an attic and was therefore a third storey prohibited under the Overlay.

Council determined on 22 February 2017 to refuse the Application on the following grounds:

1. The proposed amendment to the approved development constitutes an additional storey, not defined as an attic, for which a permit cannot be granted under the Design and Development Overlay (Schedule 1).

2. The additional proposed storey does not match typical residential roof form detail of the surrounding neighbourhood in terms of roof pitch and form and proposes a scale and mass of building form which is not acceptable in this location. This is not in accordance with the permit requirements of the Design and Development (Schedule 1).

On 15 June 2017 the Applicant applied to VCAT to withdraw the Application for Review against Council's Refusal pursuant to section 77 of the Planning and Environment Act 1987.

In an order dated 28 June 2017 the Tribunal withdrew the Appeal.
AFFIRMED
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