Agenda

for the

Planning & Amenity Committee Meeting

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

on

Wednesday, 19 April, 2017 at 7.00pm

Chairperson: Cr Laurence Evans

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

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

Section 92 The Chair’s Duties and Discretions

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

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

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

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

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

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

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

Your cooperation is appreciated

Chairperson of Council
Planning & Amenity Committee Meeting

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

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

Membership of the Committee
All Councillors

Order of Business

1. Apologies

2. Declarations of Interest

3. Adoption and Confirmation of the minutes of previous meeting

4. Matters of Decision
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   4.3 493A & 493-495 Highett Road, Highett Notice of Decision to Grant a Planning Permit Application No: 2016/183/1 Ward: Central .. 59
   4.4 23 North Concourse, Beaumaris Notice of Decision to Grant a Planning Permit Application No: 2016/498/1 Ward: Southern .. 93
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   4.6 25 Park Avenue, Sandringham Notice of Decision To Grant A Planning Permit Application No: 2016/169/1 Ward: Southern 135
   4.7 4 Lilian Court, Beaumaris Notice of Decision to Grant a Planning Permit Application No: 2015/692/1 Ward: Southern .......... 159
   4.8 19-25 Donald Street, Highett Notice of Decision to Grant a Planning Permit Application No: 2015/675/1 Ward: Central ... 189
   4.9 270 Highett Road, Highett Notice of Decision to Grant a Planning Permit. Application No: 2016/193/1 Ward: Central ......... 213
   4.10 1/30 and 2/30 Rooding Street, Brighton Notice of Decision to Grant a Planning Permit Application No: 2016/168/1 Ward: Northern ......................................................... 225

5. Confidential Business
   Nil
**Next Meetings 2017**

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

2. **Declarations of Interest**

3. **Adoption and Confirmation of the minutes of previous meeting**

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

4.1 VCAT REPORT

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/53208

Executive summary

To inform Council of Victorian Civil and Administrative Tribunal (VCAT) determinations received the previous month and to show the progress of VCAT outcomes for the financial year.

Summary details for the decisions handed down are attached.

<table>
<thead>
<tr>
<th>Month</th>
<th>Year</th>
<th>Council Upheld</th>
<th>Council Over-turned</th>
<th>Delegate Upheld</th>
<th>Delegate Over-turned</th>
<th>Other (e.g. Varied, by Consent or Sec87A)</th>
<th>Withdrawn</th>
<th>Total</th>
<th>LGPRF* Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>July</td>
<td>2016</td>
<td>0</td>
<td>3</td>
<td>0</td>
<td>4</td>
<td>4</td>
<td>1</td>
<td>12</td>
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<tr>
<td>August</td>
<td>2016</td>
<td>0</td>
<td>0</td>
<td>4</td>
<td>9</td>
<td>0</td>
<td>1</td>
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<td>September</td>
<td>2016</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>3</td>
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<tr>
<td>October</td>
<td>2016</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>3</td>
<td>2</td>
<td>0</td>
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<tr>
<td>November</td>
<td>2016</td>
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<td>2</td>
<td>1</td>
<td>0</td>
<td>4</td>
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<tr>
<td>January</td>
<td>2017</td>
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<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>1</td>
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<tr>
<td>February</td>
<td>2017</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>4</td>
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<tr>
<td>March</td>
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<td>0</td>
<td>1</td>
<td>2</td>
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<td>0</td>
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<td>TOTAL</td>
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<td>2</td>
<td>4</td>
<td>11</td>
<td>25</td>
<td>13</td>
<td>2</td>
<td>57</td>
<td>29</td>
</tr>
</tbody>
</table>

Recommendation

That the report on the VCAT decisions on the planning applications handed down during the previous month be received and noted.

Support Attachments

1. VCAT Report ↓
Considerations and implications of recommendation

Liveable community

Social
The recommendation will not have any social effects.

Natural Environment
The recommendation will not have any effect on the natural environment.

Built Environment
The recommendation will not have any effect on the built environment.

Customer Service and Community Engagement
The recommendation will not have any effect on customer service or on community engagement.

Human Rights
The recommendation will not have any effect on human rights.

Legal
The recommendation does not create any legal issues for Council.

Finance
The recommendation does not have any strategic financial implications for Council.

Links to Council policy and strategy
The decisions of the VCAT may affect Council’s capacity to achieve objectives set out in the Council Plan.

insert text
VCAT Determined Appeals from 01/03/2017 to 31/03/2017

<table>
<thead>
<tr>
<th>Subject land</th>
<th>4 Arthur AVE, BRIGHTON</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application no.</td>
<td>2015.578.1</td>
</tr>
<tr>
<td>VCAT reference no.</td>
<td>P1459/2016</td>
</tr>
<tr>
<td>Applicant</td>
<td>S Anderson</td>
</tr>
<tr>
<td>Referral Authority</td>
<td>N/A</td>
</tr>
<tr>
<td>Respondents</td>
<td>Kerstin Greenwood, Elizabeth &amp; Geoffrey Knight, Jenny Dix, Brent Severino, Rodney &amp; Michelle Jeffrey, Kate Savage</td>
</tr>
<tr>
<td>Before</td>
<td>C Wilson</td>
</tr>
<tr>
<td>Date of hearing</td>
<td>31/01/2017</td>
</tr>
<tr>
<td>Date of order</td>
<td>03/03/2017</td>
</tr>
<tr>
<td>Proposal</td>
<td>2 New Dwelling</td>
</tr>
<tr>
<td></td>
<td>The construction of two dwellings and front fence exceeding a height of 1.2 metres</td>
</tr>
<tr>
<td>Officer recommendation</td>
<td>Refusal</td>
</tr>
<tr>
<td>Council recommendation</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Appeal type</td>
<td>Failure to Grant a Permit</td>
</tr>
<tr>
<td>Plans substituted</td>
<td>Yes</td>
</tr>
<tr>
<td>(prior to hearing)</td>
<td></td>
</tr>
<tr>
<td>VCAT determination</td>
<td>Permit to issue</td>
</tr>
<tr>
<td>LGPRF outcome</td>
<td>SET ASIDE</td>
</tr>
<tr>
<td><strong>Subject land</strong></td>
<td>18 Railway CRES, HAMPTON</td>
</tr>
<tr>
<td>----------------------</td>
<td>--------------------------</td>
</tr>
<tr>
<td><strong>Application no.</strong></td>
<td>2016.416.1</td>
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<tr>
<td><strong>VCAT reference no.</strong></td>
<td>P2228/2016</td>
</tr>
<tr>
<td><strong>Applicant</strong></td>
<td>Upscale Property Group Pty Ltd</td>
</tr>
<tr>
<td><strong>Referral Authority</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Respondents</strong></td>
<td>Hugh and Sally Anderson; John Anderson; Leslie Pamensky</td>
</tr>
<tr>
<td><strong>Before</strong></td>
<td>S R Cimino</td>
</tr>
<tr>
<td><strong>Date of hearing</strong></td>
<td>26/04/2017</td>
</tr>
<tr>
<td><strong>Date of order</strong></td>
<td>17/03/2017</td>
</tr>
<tr>
<td><strong>Proposal</strong></td>
<td>26 or More Dwellings Construction of a three storey multi-dwelling building and a reduction in visitor car parking</td>
</tr>
<tr>
<td><strong>Officer recommendation</strong></td>
<td>Support</td>
</tr>
<tr>
<td><strong>Council recommendation</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Appeal type</strong></td>
<td>Failure to Grant a Permit</td>
</tr>
<tr>
<td><strong>Plans substituted (prior to hearing)</strong></td>
<td>No</td>
</tr>
<tr>
<td><strong>VCAT determination</strong></td>
<td>Permit to issue</td>
</tr>
<tr>
<td><strong>LGPRF outcome</strong></td>
<td>SET ASIDE</td>
</tr>
<tr>
<td>Subject land</td>
<td>42 Carpenter ST, BRIGHTON</td>
</tr>
<tr>
<td>-------------------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>Application no.</td>
<td>2015.722.1</td>
</tr>
<tr>
<td>VCAT reference no.</td>
<td>P1737/2016</td>
</tr>
<tr>
<td>Applicant</td>
<td>K Degering &amp; Assoc</td>
</tr>
<tr>
<td>Referral Authority</td>
<td>N/A</td>
</tr>
<tr>
<td>Respondents</td>
<td>N/A</td>
</tr>
<tr>
<td>Before</td>
<td>M Deidun</td>
</tr>
<tr>
<td>Date of hearing</td>
<td>09/03/2017</td>
</tr>
<tr>
<td>Date of order</td>
<td>21/03/2017</td>
</tr>
</tbody>
</table>
| Proposal          | 3 New Dwellings
<pre><code>              | Construction of a three storey building containing three dwellings and a front fence greater than 1.2 metres in height |
</code></pre>
<p>| Officer recommendation | Refusal                  |
| Council recommendation | Refusal                  |
| Appeal type       | Refusal to Grant a Permit |
| Plans substituted | Yes                       |
| (prior to hearing)|                           |
| VCAT determination| No Permit                 |
| LGPRF outcome     | AFFIRMED                  |</p>
<table>
<thead>
<tr>
<th><strong>Subject land</strong></th>
<th>9 Teddington RD, HAMPTON</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Application no.</strong></td>
<td>2015.646.1</td>
</tr>
<tr>
<td><strong>VCAT reference no.</strong></td>
<td>P1734/2016</td>
</tr>
<tr>
<td><strong>Applicant</strong></td>
<td>C Barbagallo</td>
</tr>
<tr>
<td><strong>Referral Authority</strong></td>
<td>Melbourne Water</td>
</tr>
<tr>
<td><strong>Respondents</strong></td>
<td>K &amp; M Lewit</td>
</tr>
<tr>
<td><strong>Before</strong></td>
<td>V Davies</td>
</tr>
<tr>
<td><strong>Date of hearing</strong></td>
<td>10/03/2017</td>
</tr>
<tr>
<td><strong>Date of order</strong></td>
<td>24/03/2017</td>
</tr>
<tr>
<td><strong>Proposal</strong></td>
<td>2 New Dwellings Construction of two (2) dwellings on a lot and in a Special Building Overlay (SBO).</td>
</tr>
<tr>
<td><strong>Officer recommendation</strong></td>
<td>Refusal</td>
</tr>
<tr>
<td><strong>Council recommendation</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Appeal type</strong></td>
<td>Refusal to Grant a Permit</td>
</tr>
<tr>
<td><strong>Plans substituted</strong></td>
<td>Yes</td>
</tr>
<tr>
<td>(prior to hearing)</td>
<td></td>
</tr>
<tr>
<td><strong>VCAT determination</strong></td>
<td>No Permit</td>
</tr>
<tr>
<td><strong>LGPRF outcome</strong></td>
<td>AFFIRMED</td>
</tr>
</tbody>
</table>
1. Purpose and background

To report a secondary consent application to allow:

- Internal layout changes to dwelling 1 and 2 ground and first floor,
- Window modifications and placement changes to dwelling 1 and 2 ground floor involving the deletion of kitchen highlight window; addition of external door to relocated laundry; placement of master bedroom and ensuite windows reversed and the modification of windows to living areas adjacent to eastern and western boundary to bi-fold doors,
- Additional decking adjacent to living areas to eastern and western boundary,
- Internal front fence modified from a maximum 1.8m high varied open timber post design to 1m masonry wall, and
- Pergola structure updated to reflect structural changes and louvre system correctly annotated,

on a lot with an area of 635 square metres (refer Attachment 1) at 10 Lileura Avenue, Beaumaris (refer Attachment 2).

Planning permit 2014/913/1 was issued at the direction of the Victorian Civil and Administrative Tribunal (VCAT) on 30 March 2016. The permit allows the construction of two double storey dwellings and removal of vegetation in a Vegetation Protection Overlay on a lot less than 500 square metres (refer Attachment 3).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>JKBD Building Design</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>24 January 2017</td>
</tr>
</tbody>
</table>

2. Policy implications

There are no primary policy matters to consider as part of this application which seeks to amend the endorsed plans pursuant to the secondary consent provisions afforded by Condition 2 of Planning Permit 2014/913/1.

3. Stakeholder Consultation

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</td>
</tr>
</tbody>
</table>

Public notification

Applications made in accordance with the provisions of Secondary Consent are not subject to the notice requirements of Sections 52(1)(a), (b) and (d) of the Planning and Environment Act 1987. Therefore these changes to the plans cannot be advertised.
4. Recommendation

That Council:

Approve the Amended Plans in accordance with the Secondary Consent Provisions of Planning Permit No. 2014/913/1 issued for the construction of two double storey dwellings and removal of native vegetation in a Vegetation Protection Overlay and the following table be added at the end of the permit.

<table>
<thead>
<tr>
<th>Date</th>
<th>Amendments</th>
</tr>
</thead>
<tbody>
<tr>
<td>18 April 2017</td>
<td>Secondary Consent Amended Plans</td>
</tr>
<tr>
<td></td>
<td>• Internal layout changes to dwelling 1 and 2 ground and first floor.</td>
</tr>
<tr>
<td></td>
<td>• Window modifications and placement changes to dwelling 1 and 2 ground floor involving the deletion of kitchen highlight window; addition of external door to relocated laundry; placement of master bedroom and ensuite windows reversed and the modification of windows to living areas adjacent to eastern and western boundary to bi-fold doors.</td>
</tr>
<tr>
<td></td>
<td>• Additional decking adjacent to living areas to eastern and western boundary.</td>
</tr>
<tr>
<td></td>
<td>• Internal front fence modified from a maximum 1.8m high varied open timber post design to 1m masonry wall.</td>
</tr>
<tr>
<td></td>
<td>• Pergola structure updated to reflect structural changes and louvre system correctly annotated.</td>
</tr>
</tbody>
</table>

This amends and supersedes sheets 1 – 4 (inclusive) of the previously endorsed plans dated 30 December 2016. Sheets 5 – 6 (inclusive) remain in accordance with the endorsed plans dated 30 December 2016.

5. Council Policy

There are not any primary relevant Council policy matters to consider as part of the request to consider amending plans pursuant to the secondary consent provisions afforded by the planning permission.

6. Considerations

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

The tests include the following:

6.1 The proposed amendment does not result in a transformation of the proposal.

The proposed amendments pertain to design changes to the internal front fence, fenestration, decking, the illustration of the pergola due to structural/engineering changes and general layout modifications to both dwellings. The proposed changes are considered to be minor in nature and will have limited impact to the amenity of adjoining properties and will not cause material detriment to any third parties. The proposed changes do not conflict with any permit conditions, objections raised in the application for which primary consent was granted for and do not result in a transformation of the proposal. The changes comply with the relevant Planning Scheme policies including Neighbourhood Character, pertain appropriate areas of landscaping and does not
increase site coverage.

6.2 **The proposed amendment does not authorise something for which primary consent is required under the planning scheme.**

The primary consent was issued at the direction of VCAT for the construction of two double storey dwellings and removal of native vegetation in a Vegetation Protection Overlay. The amendments sought under this application are consistent with the proposal and do not authorise something for which primary consent is required under the Planning Scheme.

6.3 **The proposed amendment is of no consequence having regard to the purpose of a planning control under which the permit was granted.**

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

6.4 **The proposed amendment is not contrary to a specific requirement (or condition of the permit) as distinct from an authorisation within the permit, which itself cannot be altered by consent.**

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

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Planning Permit 2014/913/1 Endorsed Plans ↓
ATTACHMENT 2

Site and Surrounds Imagery

Figure 1. Aerial Overview of subject site.

<table>
<thead>
<tr>
<th>Legend</th>
<th>Subject site</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Figure 2. View towards the site from the north.
PLANNING PERMIT
5/2014/913/1

Address Of The Land: No. 10 Lileura Avenue BEAUMARIS

The Permit Allows: Construction of two double storey dwellings and removal of native vegetation in a Vegetation Protection Overlay in accordance with the endorsed plans and subject to the following conditions.

The Following Conditions Apply To This Permit:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
   a) A schedule of construction materials, external finishes and colours (incorporating two
      (2) paint samples)
   b) A landscape plan in accordance with Condition 6 of this planning permit
   c) Compliance with Standard B6 of Clause 55.03-1, Bayside Planning Scheme (street
      setback ie 9 metres).
   d) Compliance with Standard B29 of Clause 55.05-5 Bayside Planning Scheme (Solar
      Access to Open Space ie at least 5.2 metres at ground floor and 8.03 metres at first
      floor).
   e) The rear habitable room windows associated with bedrooms 3 of both dwellings to be
      screened in accordance with Standard B22 of Clause 55.04-6 Overlooking of the
      Bayside Planning Scheme (and there be no openings below 1.7 metres above finished
      floor level).
   f) The double garage to have a minimum 4.8 metre wide door opening.
   g) The single garage to have a minimum 3 metre wide door opening.
   h) All pedestrian doors to be provided outwards of the garage.
   i) Splays in accordance with Design Standard 1 – Accessways of Clause 52.06-8 of the
      Bayside Planning Scheme.
   j) The onsite driveway of dwelling 1 reduced to a maximum width of 3metres

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

Date issued: 30 March 2016

Planning and Environment Regulations 2006 Form 4

Signature for the Responsible Authority

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
3. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

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

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

6. Before the 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 landscaping plan must show:
   a) A survey of all existing vegetation to be retained and/or removed (including botanical names)
   b) Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary whose Tree Protection Zone extend into the subject site
   c) Details of surface finishes of pathways and driveways
   d) Details of water sensitive urban design elements to be incorporated and the plant species to be used
   e) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant
   f) At least 80% indigenous vegetation by both species and plant count
   g) An indigenous canopy tree in the front setback of each dwelling and two canopy trees within the rear yard of each dwelling.
   h) Landscaping and planting within all open areas of the site.
   i) Landscaping at the northern end of the east boundary to grow to a mature height of at least 3 metres.

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

8. Before the occupation of the site commences or by such later date as is agreed 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.

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. The Arboricultural Impact Assessment, prepared by Tree-mendous Consulting, Version 2, dated 5 June 2015, to be updated to include Tree Protection fencing/ground protection for tree 5 - *Syzygium sp.* (Lilly Pilly), located in the rear yard south west corner of 12 Lileura Avenue.

11. Tree Protection Fencing is to be established around the street tree - *Tristaniaopsis laurina* (Kanoka) prior to demolition and maintained until all works on site are complete:
   a) The fencing is to be constructed and secured so its positioning cannot be modified by site workers.
   b) The fencing is to encompass the entire naturestrip under the drip line of the tree.
   c) The Tree Protection Zone is to be established and maintained in accordance with Australian Standards 4970 Protection of trees on development sites.
   d) 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.

12. Root pruning within the TPZ (Tree Protection Zone):
   a) Prior to soil excavation, a trench along the line of the proposed crossover must be dug by hand.
   b) All affected roots must be correctly pruned according to AS 4373:2007.

13. Before the commencement of works, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be in accordance with the guidelines outlined in Clause 22.08 of the Bayside Planning Scheme and must show:-
   a) The type of water sensitive urban design stormwater treatment measures to be used;
   b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaping areas;
   c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections;

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

Date issued: 30 March 2016

Planning and Environment Regulations 2005 Form 4

Signature for the Responsible Authority

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

14. The existing crossover of dwelling 2 to be re-constructed to Council's satisfaction.
15. The proposed internal drainage must be connected to the existing legal point of discharge. The applicant may apply for legal point of discharge and local drain information, or carry out on site verification.
16. Stormwater discharge must be retained on site to the pre-development level of peak stormwater discharge. The development is to have a Stormwater Detention System installed, the design capacity to be to the satisfaction of the Responsible Authority.
17. 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.
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.
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. 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.
21. 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.
22. 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.
23. 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

Date issued: 30 March 2016

Signature for the Responsible Authority
b) Shaping the driveway so that water is collected in a grated pit on the property and/or

c) Another Council approved equivalent.

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

25. The driveway / Parking areas / paved courtyards / paths and ‘permeable’ pavements must be
graded / drained to prevent stormwater discharge onto the front footpath and into adjacent
properties.

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

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

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

   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) Build Over Easement

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

(b) Permits to be acquired

   i) 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.

   ii) 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.

(c) Flood Zone

   Property is not in a ‘Flood Zone’.

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Signature for the Responsible Authority

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the
responsible authority that this permit is the current permit and can be acted upon.
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;
(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.
Arboricultural Impact Assessment
10 Lileura Avenue Beaumaris

Report Prepared By:
Nicholas Buckley
Consulting Arborist
Certificate 5 Horticulture (Arboriculture)

Report Commissioned by: Ben Nelm of JKBD Building Design Consultants
Date of Assessment: Tuesday, May 26, 2015
Date: Wednesday, November 30, 2016

Planning Permit: 2014/913/1
Sheet: 5 of 6
(pages 1-26)

Issued: 30 March 2016
Endorsed: 30 December 2016

Tree-mendous Consulting Pty Ltd
Phone: 0401442604
Email: treemendousconsulting@gmail.com
Web: www.treemendousconsulting.com
Responsible Authority
1. Assignment

1.1 Author

Name
Nicholas Buckley – (AQF) Level 5,
Diploma Horticulture, Arboriculture
Company
Tree-mendous Consulting Pty Ltd

Phone
0401 442 604
Email
treemendousconsulting@gmail.com
Web
www.treemendousconsulting.com

1.2 Client

Name
JKBD Building Design Consultants
Site Address
10 Lileura Avenue Beaumaris
Phone
(03) 9877 4446

1.3 Brief

The purpose of this report is to provide an independent arboricultural assessment of significant
trees located within the subject site and within three metres of adjoining properties.

Detail was requested in relation to the potential impact that the proposed development may have
on the subject trees health and/or structural integrity.

1.4 Instructions

• To provide an objective assessment of the trees in their current state.
• To provide an objective assessment of the retention value of the subject trees.
• To recommend any tree protection measures necessary.
• To propose tree and site management options to minimise any potential impact that the
  future development may cause and to preserve the subject trees overall health.

2 Data collection

2.1 Site Visit

Nicholas Buckley, of Tree-mendous Consulting Pty Ltd, visited the site for an
Arboricultural assessment on Tuesday the 26th of May 2015 at 2.00pm. The weather at the
time of inspection was mildly sunny with a slight breeze.
2.2 Method of data collection

- The subject trees were assessed from observations made as viewed from ground level.
- Assessment was limited only to parts of the trees that were visible from within the subject site.
- The height and spread were estimated.
- Field notes were documented in the form of hard copy. The summary of observations is an accurate account of notes gathered whilst in the field.
- A digital camera was used at ground level to gather photographic evidence. No alterations have been made to any photographs.
- A diameter tape was used to determine D.B.H. Access was not permitted to adjoining properties. The trunk dimensions of neighbouring trees were therefore estimated.
- Site plan used in relation to this report; Prepared by JKBD Building Design Consultants, Drawn by Ben Nehmes, Dated 18/05/2015, Sheet Numbers 1 – 10.

3 Site overview

The subject site is a predominantly flat block of land that is located within the City of Bayside. A residential dwelling is situated in the approximate centre of the lot.

The proposed development is the demolition of the existing dwelling to make way for the construction of two new dwellings.

3.1 Existing trees

A total of 11 trees and two hedges were assessed for the purpose of this report.

- Four trees (#1, 2, 3 & 10) are located in the Southern adjoining property,
- Four trees (#4, 6, 7 & 8) are located within the subject site,
- Two trees (#5 & 9) are located within the Eastern adjoining property
- One tree (#11) is located on the nature strip in front of the subject site.
- Two hedges (#12 & 13) are located within the Western adjoining property.

No additional vegetation of significant was observed within the subject site or within 3 metres of adjoining properties.
3.2 Planning context

A search on the planning maps online website indicates that the site is subject to, but not limited to the following:

- Schedule to the Neighbourhood Residential Zone – Schedule 3 (NRZ3)
- Design and Development Overlay – Schedule 1 (DDO1)
- Vegetation Protection Overlay – Schedule 3 (VPO3)

VPO3 states the following:

VPO3 states that a permit is required to remove, destroy or lop any vegetation native to Australia. This does not apply to:

- The removal, destruction or lopping of vegetation which is less than 2 metres high or has a single trunk circumference of less than 0.5 metre at a height of 1 metre above ground level.
- The pruning of vegetation to remove that part of any branch which overhangs an existing dwelling or is within 2 metres of an existing dwelling.
### Observations

The following table represents the tree data obtained from the site visit.

<table>
<thead>
<tr>
<th>#</th>
<th>Common Name</th>
<th>Scientific Name</th>
<th>Age</th>
<th>Health</th>
<th>Size</th>
<th>Height</th>
<th>Condition</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Cocos Palm</td>
<td><em>Cocos nucifera</em></td>
<td>Mature</td>
<td>Good</td>
<td>7×4</td>
<td>310 mm</td>
<td>Fair</td>
<td>Good</td>
</tr>
<tr>
<td>2</td>
<td>Romaniolamnus</td>
<td><em>Romaniolamnus</em></td>
<td>Mature</td>
<td>Good</td>
<td>7×4</td>
<td>310 mm</td>
<td>Fair</td>
<td>Good</td>
</tr>
<tr>
<td>3</td>
<td></td>
<td><em>Romaniolamnus</em></td>
<td>Mature</td>
<td>Good</td>
<td>7×4</td>
<td>310 mm</td>
<td>Fair</td>
<td>Good</td>
</tr>
<tr>
<td>4</td>
<td></td>
<td><em>Sebestaia</em></td>
<td>Mature</td>
<td>Good</td>
<td>4×5</td>
<td>290 mm</td>
<td>Fair</td>
<td>Good</td>
</tr>
<tr>
<td>5</td>
<td></td>
<td><em>Sesbania</em></td>
<td>Mature</td>
<td>Good</td>
<td>6×10</td>
<td>390 mm</td>
<td>Fair</td>
<td>Good</td>
</tr>
<tr>
<td>6</td>
<td></td>
<td><em>Pittosporum</em></td>
<td>Mature</td>
<td>Good</td>
<td>4×3</td>
<td>230 mm</td>
<td>Fair</td>
<td>Good</td>
</tr>
</tbody>
</table>

### Item 4.2 – Matters of Decision

- Located in rear yard of existing property amongst a row of other palms.
- Located in rear yard of existing property amongst a row of other palms.
- Located in rear yard of existing property amongst a row of other palms.
- Located along Southern boundary line of the subject site.
- Located along Southern boundary line of the subject site.
- Located along Southern boundary line of the subject site.

### Comments

<table>
<thead>
<tr>
<th>#</th>
<th>Attachment Value</th>
<th>HZ</th>
<th>Radius</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td>3</td>
<td>High</td>
<td>Located in rear yard of existing property amongst a row of other palms.</td>
</tr>
<tr>
<td>2</td>
<td></td>
<td>3</td>
<td>High</td>
<td>Located in rear yard of existing property amongst a row of other palms.</td>
</tr>
<tr>
<td>3</td>
<td></td>
<td>3</td>
<td>High</td>
<td>Located in rear yard of existing property amongst a row of other palms.</td>
</tr>
<tr>
<td>4</td>
<td></td>
<td>3.48</td>
<td>Moderate</td>
<td>Located along Southern boundary line of the subject site.</td>
</tr>
<tr>
<td>5</td>
<td></td>
<td>4.68</td>
<td>Moderate</td>
<td>Located along Southern boundary line of the subject site.</td>
</tr>
<tr>
<td>6</td>
<td></td>
<td>2.76</td>
<td>Low</td>
<td>Located in rear yard of existing property amongst a row of other palms.</td>
</tr>
</tbody>
</table>

### Attachment 3

- Tree data obtained from the site visit.
- Observations table with common names and scientific names of trees.
- Comments on the attachment value, HZ, and radius.
<table>
<thead>
<tr>
<th>Tree #</th>
<th>Botanical Name</th>
<th>Common Name</th>
<th>Age</th>
<th>Origins</th>
<th>HxW (m)</th>
<th>DBH (mm)</th>
<th>Health</th>
<th>Structure</th>
<th>ULE</th>
<th>Hazard</th>
<th>Retention Value</th>
<th>TPZ Radius</th>
<th>SRZ Radius</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td><em>Romanoxxifolium</em></td>
<td>Cocos Palm</td>
<td>Semi</td>
<td>Mature</td>
<td>4 x 3</td>
<td>180</td>
<td>Fair</td>
<td>Fair</td>
<td>10 - 20 years</td>
<td>Low</td>
<td>Low</td>
<td>2 metres adjusted TPZ</td>
<td>1.5 metres adjusted SRZ</td>
<td>Located in the rear yard of the subject site along the Eastern boundary line.</td>
</tr>
<tr>
<td>8</td>
<td><em>Romanoxxifolium</em></td>
<td>Cocos Palm</td>
<td>Semi</td>
<td>Mature</td>
<td>4 x 3</td>
<td>230</td>
<td>Fair</td>
<td>Fair</td>
<td>10 - 20 years</td>
<td>Low</td>
<td>Low</td>
<td>2 metres adjusted TPZ</td>
<td>1.5 metres adjusted SRZ</td>
<td>Located in the rear yard of the subject site along the Eastern boundary line.</td>
</tr>
<tr>
<td>9</td>
<td><em>Ulmus</em> x <em>hollendica</em></td>
<td>Dutch Elm</td>
<td>Mature</td>
<td>Exotic</td>
<td>6 x 8</td>
<td>420</td>
<td>Fair</td>
<td>Fair</td>
<td>20 + years</td>
<td>Low</td>
<td>Moderate</td>
<td>5.04 metres</td>
<td>2.61 metres</td>
<td>Located in the Eastern adjoining property along the Western boundary line.</td>
</tr>
<tr>
<td>10</td>
<td><em>Washingtonia</em> robusta</td>
<td>Mexican Fan Palm</td>
<td>Mature</td>
<td>Exotic</td>
<td>8 x 5</td>
<td>500</td>
<td>Fair</td>
<td>Fair</td>
<td>20 + years</td>
<td>Low</td>
<td>High</td>
<td>6 metres</td>
<td>2.13 metres</td>
<td>Located in rear yard of the Southern adjoining property amongst a row of other palms.</td>
</tr>
<tr>
<td>11</td>
<td><em>Pittosporum</em> undulatum</td>
<td>Sweet Pittosporum</td>
<td>Young</td>
<td>Native</td>
<td>2 x 1</td>
<td>80</td>
<td>Good</td>
<td>Good</td>
<td>20 years</td>
<td>Low</td>
<td>Low</td>
<td>2 metres</td>
<td>1.5 metres</td>
<td>Council owned tree that is located in the front nature strip.</td>
</tr>
<tr>
<td>12</td>
<td><em>Pittosporum</em> tomentosum (Hedge #1)</td>
<td>Silver Sheen</td>
<td>Semi</td>
<td>Mature</td>
<td>4 x 2</td>
<td>&lt;170</td>
<td>Good</td>
<td>Fair</td>
<td>10 + years</td>
<td>Low</td>
<td>Low</td>
<td>2.04 metres</td>
<td>1.71 metres</td>
<td>Hedge comprised of two trees. Located along the Eastern boundary line of the Western adjoining property.</td>
</tr>
<tr>
<td>13</td>
<td><em>Pittosporum</em> tomentosum (Hedge #2)</td>
<td>Silver Sheen</td>
<td>Semi</td>
<td>Mature</td>
<td>4 x 2</td>
<td>&lt;170</td>
<td>Good</td>
<td>Fair</td>
<td>10 + years</td>
<td>Low</td>
<td>Low</td>
<td>2.04 metres</td>
<td>1.71 metres</td>
<td>Hedge comprised of four trees. Located along the Eastern boundary line of the Western adjoining property.</td>
</tr>
</tbody>
</table>
6 Discussion

A living tree is a dynamic organism that needs specific environmental conditions to continue healthy, stable growth. It is rarely possible to repair stressed and injured trees, so substantial injury needs to be avoided during all stages of development and construction.

For trees to be retained and their requirements met, procedures must be in place to protect trees at every stage of the development process. This should be taken into account at the earliest planning stage of any outdoor event or design of a development project where trees are involved. Trees and their root systems may occupy a substantial part of any development site and because of their potential size, can have a major influence on planning the use of the site.

Existing trees of appropriate species and sound structure can significantly enhance new development by providing immediate benefits such as shade and stormwater reduction as well as complementing new development.

Most trees will take many years and possibly decades to establish but can be injured or killed in a very short time as their vulnerability is commonly not understood. This is especially so in relation to tree root systems which cannot usually be seen. Irreparable injury frequently occurs in the early stages of site occupation and remedial measures routinely fail.
Early identification and protection of important trees on development sites is essential from the outset and will minimize the problems of retaining inappropriate trees.

All trees to be retained shall have appropriate tree protection measures put in place before any construction works or delivery of materials on site.

Tree Protection Zones (T.P.Z.) should be established and any clearance issues for machinery and the building should be identified. Any pruning works required should be performed by suitable qualified persons at the earliest time.

The tree protection zone is determined by multiplying the trunk diameter of the tree at breast height, 1.4m from ground level, by 12. A 10% encroachment on one side of this zone is acceptable without investigation into root distribution or offset of the lost area.

The structural root zone (SRZ) is the setback required to avoid damage to stabilising structural roots. The loss of roots within the SRZ must be avoided. The SRZ is determined by applying the formula or graph noted below.

\[
R_{SRZ} = (D \times 5.0)^{0.47} \times 0.64
\]

NOTES:
1. \( R_{SRZ} \) is the structural root zone radius.
2. \( D \) is the stem diameter measured immediately above root buttress.
3. The SRZ for trees less than 0.15 m diameter is 1.5 m.
4. The SRZ formula and graph do not apply to palms, other monocots, cycads and tree ferns.
5. This does not apply to trees with an asymmetrical root plate.
The following table represents the proposed encroachments into the TPZ's and SRZ's of the subject trees.

<table>
<thead>
<tr>
<th>Tree #</th>
<th>Encroachment into TPZ</th>
<th>Encroachment into SRZ</th>
<th>Enroachment Category</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>0%</td>
<td>0%</td>
<td>N/A</td>
<td>The proposed development does not encroach into the TPZ or SRZ.</td>
</tr>
<tr>
<td>2</td>
<td>0%</td>
<td>0%</td>
<td>N/A</td>
<td>The proposed development does not encroach into the TPZ or SRZ.</td>
</tr>
<tr>
<td>3</td>
<td>0%</td>
<td>0%</td>
<td>N/A</td>
<td>The proposed development does not encroach into the TPZ or SRZ.</td>
</tr>
<tr>
<td>4</td>
<td>23.43%</td>
<td>0%</td>
<td>Major</td>
<td>The proposed deck encroaches into the TPZ.</td>
</tr>
<tr>
<td>5</td>
<td>4.51%</td>
<td>0%</td>
<td>Minor</td>
<td>The proposed deck encroaches into the TPZ.</td>
</tr>
<tr>
<td>6</td>
<td>38.53%</td>
<td>33.77%</td>
<td>Major</td>
<td>The proposed gravel path encroaches into the TPZ and SRZ.</td>
</tr>
<tr>
<td>7</td>
<td>34.35%</td>
<td>29.18%</td>
<td>Major</td>
<td>The proposed gravel path encroaches into the TPZ and SRZ.</td>
</tr>
<tr>
<td>8</td>
<td>34.35%</td>
<td>29.18%</td>
<td>Major</td>
<td>The proposed gravel path encroaches into the TPZ and SRZ.</td>
</tr>
<tr>
<td>9</td>
<td>15.25%</td>
<td>0%</td>
<td>Major</td>
<td>The proposed gravel path encroaches into the TPZ by (11.27%) The proposed dwelling 1 encroaches into the TPZ by (3.98%)</td>
</tr>
<tr>
<td>10</td>
<td>0%</td>
<td>0%</td>
<td>N/A</td>
<td>The proposed development does not encroach into the TPZ or SRZ.</td>
</tr>
<tr>
<td>11</td>
<td>0%</td>
<td>0%</td>
<td>N/A</td>
<td>The proposed development does not encroach into the TPZ or SRZ.</td>
</tr>
<tr>
<td>12</td>
<td>34.55%</td>
<td>31.65%</td>
<td>Major</td>
<td>The proposed Garage of Dwelling 2 encroaches into the TPZ and SRZ.</td>
</tr>
<tr>
<td>13</td>
<td>35.64%</td>
<td>31.65%</td>
<td>Major</td>
<td>The proposed Garage of Dwelling 2 encroaches into the TPZ and SRZ.</td>
</tr>
<tr>
<td>14</td>
<td>4.74%</td>
<td>1.40%</td>
<td>Major</td>
<td>The proposed Garage of Dwelling 2 encroaches into the TPZ and SRZ.</td>
</tr>
<tr>
<td>15</td>
<td>0%</td>
<td>0%</td>
<td>N/A</td>
<td>The proposed development does not encroach into the TPZ or SRZ.</td>
</tr>
<tr>
<td>16</td>
<td>0%</td>
<td>0%</td>
<td>N/A</td>
<td>The proposed development does not encroach into the TPZ or SRZ.</td>
</tr>
<tr>
<td>17</td>
<td>0%</td>
<td>0%</td>
<td>N/A</td>
<td>The proposed development does not encroach into the TPZ or SRZ.</td>
</tr>
</tbody>
</table>
7 Conclusion

The Australian Standard: Protection of Trees on Development Sites (AS4970–2009) states that proposed encroachment into a TPZ is acceptable if it is into less than 10% of the TPZ area and outside the SRZ. If a proposed encroachment is greater than 10% of a TPZ, or inside the SRZ, a consulting arborist must demonstrate that the tree(s) would remain viable. Determining this may require root investigation by non-destructive methods. The TPZ area lost to encroachment is to be compensated for elsewhere and is to be contiguous with the TPZ.

The proposed development does not encroach into the TPZ’s and/or SRZ’s of Trees 1, 2, 3, 10, 11 and Trees 15, 16 and 17 of Hedge 2. It is therefore not expected that the proposed development will compromise the trees’ health and/or structure provided that tree protection measures that comply with the Australian Standard AS4970 –2009 the Protection of Trees on Development Sites are implemented.

The proposed deck encroaches into the TPZ of Tree 4 by more than 10%. As the deck is proposed to be constructed via pier and beam footings with the beam above grade, the tree’s health and/or structural integrity is therefore not expected to be compromised provided that tree protection measures that comply with the Australian Standard AS4970 –2009 the Protection of Trees on Development Sites are implemented.

The proposed decking encroaches into the TPZ of Tree 5 by less than 10%. This is considered to be a minor encroachment and is therefore not expected to compromise the tree’s health and/or structural integrity provided that tree protection measures that comply with the Australian Standard AS4970 –2009 the Protection of Trees on Development Sites are implemented (e.g. ground protection).

The proposed gravel path encroaches into the TPZ’s of Trees 6, 7 and 8 by more than 10% in addition to encroaching into their SRZ’s. The proposed gravel path also encroaches into the TPZ of Tree 9 by more than 10%. As the gravel path is proposed to be laid as close to grade as possible roots are not expected to be compromised. Therefore the trees are expected to remain viable provided that tree protection measures that comply with the Australian Standard AS4970 –2009 the Protection of Trees on Development Sites are implemented.

The proposed dwelling 1 encroaches into the TPZ of Tree 9 by less than 10%. This is considered to be a minor encroachment and is therefore not expected to compromise the tree’s health and/or structural integrity provided that tree protection measures that comply with the Australian Standard AS4970 –2009 the Protection of Trees on Development Sites are implemented.
The proposed garage of dwelling 2 encroaches into the TPZ of Hedge 1 and Tree 14 (of Hedge 2). It is therefore expected that the proposed garage of dwelling 2 will compromise the health and/or structural integrity of Hedge 1 and Tree 14 (of Hedge 2). However, the use of pier and beam or screw pile footings are expected to significantly reduce the impact on the trees' root systems from the proposed garage of dwelling 2.

It therefore concluded that provided that the garage of dwelling 2 is constructed via pier and beam (with the beam above grade) or screw pile footings, the trees are expected to remain viable throughout and following the construction process.

Pooting design which allows the structure to bridge over the top of a tree’s root has been described by Harris et al (2004) and Roberts et al (2006). Pier and beam and screw piles (figures below) are two methods of achieving this outcome. This must be designed by an appropriately qualified engineer.

![Image of pier foundation plan](image1.png)

![An example of pier and beam construction (google images)](image2.png)
8 Recommendations

- Trees 1, 2, 3, 5, 9, 10 & 11 must be retained.

- Trees 4, 6, 7, 8, Hedge 1 & Hedge 2 must be removed prior to construction (including demolition). An offset planting program to accommodate the loss of the subject trees should be undertaken.

- As Hedge 1 & Hedge 2 are neighbouring trees, written consent from the trees owner(s) must be obtained prior to their removal.

- If Hedge 1 and Tree 14 (of Hedge 2) are retained, the proposed garage of dwelling 2 must be constructed with pier and beam or screw pile footings in addition to a floating slab or pier and beam footings. This is to ensure that the trees will remain viable throughout and following the construction process.

- Tree protection measures that comply with the Australian Standard AS4970 –2009 the Protection of Trees on Development Sites must be implemented for trees that are retained.

Protection for Tree 5

- The decking within the area of the TPZ must be constructed towards the end of the development process.

- Ground protection must be installed prior to demolition and construction commencing (refer to page. 19 for diagrams and ground protection specifications).

- Ground protection must be located within the exposed TPZ within the subject site and no greater than 1m from the footprint of the proposed works within the TPZ.

- Ground protection must remain intact until the completion of the development.

- Ground protection may be removed for landscaping purposes with the approval of the Project Arborist.
Ground protection

Ground Protection must consist of a layer of permeable membrane such as geotextile fabric beneath a 100mm thick layer of mulch or single-grade (no fines) crushed rock, then cover the mulch or crushed rock with a layer of strapped rumble boards.

The following diagram represents the recommended location for ground protection:

![Diagram showing the recommended location for ground protection.]

The following diagram is an example of ground protection:

![Diagram showing an example of ground protection.]

---

1. A crack and branch protection are needed and points that will prevent damage to both. Bands are to be replaced by means to reflect on a service head with a surface road.
2. RAISED ground structure to avoid an excessive base in ground and protection and flood damage.

---

TREE MENDOUS CONSULTING PTY LTD
8.1 Tree Protection Measures

Tree protection measures must comply with Australian Standard: Protection of Trees on Development Sites (AS4970–2009). Tree Protection Zones must be fenced off temporarily during all works on the site (demolition, site preparation and construction) and before any machinery is brought onsite.

Where approved works encroach within Tree Protection Zones the fence must be as close to the works as is practically possible. Fencing should be minimum 1.8m wire mesh and must remain in place at all times. Signs labelled “Tree Protection Zone – Keep Out”, or with similar wording, must be placed on the fence and be visible from all sides. Existing site perimeter fencing may be used as tree protection fencing.

Tree Protection Zones should be mulched with a 50-mm layer of organic material such as composted woodchips. A sprinkler system must be used to water the root zones of trees during dry spells, as advised by a consulting arborist. Watering once a fortnight when there is no rain, to provide 30 mm of water, will meet the needs of most trees.

When scaffolding must be erected within Tree Protection Zones, cover the ground with a 10cm layer of mulch, and then cover this with boards and plywood to prevent soil compaction.

No filling or excavation is to occur within Tree Protection Zones except as approved by the responsible authority. Any roots encountered when excavating must be cut cleanly with a saw.

A consulting arborist must supervise any excavation works within Tree Protection Zones. Materials and machinery are not to be stored in Tree Protection Zones. Waste is not to be dumped. No residual herbicides are to be used within the Tree Protection Zones.

Utilities must be routed outside Tree Protection Zones. If utilities must pass through this zone, there will be no machine trenching. Rather, a consulting arborist must supervise hand digging and determine if roots may be cut or if services must be tunnelled beneath the roots.

Removal pruning should be done prior to the commencement of all construction works. Pruning of tree canopies for building or vehicle clearance, or for other reasons, is to be performed by a qualified arborist in accordance with Australian Standard: Pruning of Amenity Trees (AS4373–2007). All landscaping within Tree Protection Zone radius must be on the existing soil grade and with minimal impervious surfaces.
9 Limitation of Liability

Tree-mendous Consulting Pty Ltd and their employees are tree specialists who use their qualifications, education, knowledge, training, diagnostic tools and experience to examine trees, recommend measures to enhance the beauty and health of trees, and attempt to reduce the risk of living near trees. Clients may choose to accept or disregard the recommendations of this assessment and report.

Trees are living organisms that fail in ways the arboriculture industry does not fully understand. Conditions are often hidden within trees and below ground. Unless otherwise stated, observations have been made from ground level and limited to accessible components without dissection excavation or probing. There is no guarantee that a tree will be healthy or safe under all circumstances, or for a specified period of time. Likewise, remedial treatments cannot be guaranteed.

Treatment, pruning and removal of trees may involve considerations beyond the scope of this report, such as property boundaries and ownership, disputes between neighbours, sight lines, landlord-tenant matters, and related incidents. Such issues cannot be taken into account unless complete and accurate information is given prior to or at the time of site inspection.

Information contained in this report covers those items that were examined and reflect the condition of those items at the time of inspection. There is no warranty or guarantee expressed or implied that the problems or deficiencies of the trees or property in question may not arise in the future. Trees can be managed, but they cannot be controlled. To live or work near a tree involves a degree of risk. The only way to eliminate all risks involved with a tree is to eliminate the tree.

All written reports must be read in their entirety, at no time shall part of the written assessment be referred to unless taken in full context of the whole written report.

10 References


AS 4970-2009 Australian Standard for Protection of Trees on Development Sites.
11 Definition of Terms

- DBH – The total diameter of the tree trunk at 1.4 m from ground level.
- Where there is a multi-stemmed tree the assessor will estimate the ‘TOTAL’ DBH of the stems combined.
- TPZ – Tree Protection Zone
  A specified area at a given distance from the trunk, set aside for the protection of the trees roots during development process.
- SRZ – Structural Root Zone
  Area around the base for the trees stability in the ground.
- Project Arborist
  Responsible for assessment, report preparation, consultation with designers, specifying TPZ measures and supervising any necessary works on development site.

11.1 Tree health

Good: The tree is demonstrating good or exceptional growth for the species. The tree should exhibit a full canopy of foliage and have only minor pest or disease problems. Foliage colour size and density should be typical of a health specimen of that species.

Fair: The tree is in reasonable condition and growing well for the species. The tree should exhibit an adequate canopy of foliage. There may be some dead wood in the crown, some grazing by insect or animals may be evident, and/or foliage colour, size or density may be atypical for a healthy specimen of that species.

Poor: The tree is not growing to its full capacity. Extension growth of the laterals may be minimal. The canopy may be thinning or sparse. Large amounts of dead wood may be evident throughout the crown, as well as significant pest and disease problems. Other symptoms of stress indicating tree decline may be present.

Very poor: The tree appears to be in a state of decline, and the canopy may be very thin and sparse. A significant volume of dead wood may be present in the canopy, or pest and disease problems may be causing a severe decline in tree health.

Dead: The tree is no longer alive.
11.2 Structure

- Good
- Fair
- Poor
- Very poor
- Failed

The definition of structure is the likelihood of the tree to fail under normal condition. A tree with good structure is highly unlikely to suffer any significant failure, while a tree with poor to very poor structure is likely or very likely to fail.

Good: The tree has a well-defined and balanced crown. Branch unions appear to be strong, with no defects evident in the trunks or the branches. Major limbs are well defined. The tree would be considered a good example for the species. Probability of significant failure is highly unlikely.

Fair: The tree has some minor problems in the structure of the crown. The crown may be slightly out of balance at some branch unions or branches may be exhibiting minor structural faults. If the tree has a single trunk, this may be on a slight lean, or be exhibiting minor defects. Probability of significant failure is low.

Poor: The tree may have a poorly structured crown, the crown may be unbalanced, or exhibit large gaps. Major limbs may not be well defined; branches may be rubbing or crossing over. Branch unions may be poor or faulty at the point of attachment. The tree may have suffered major root damage. Probability of significant failure is moderate.

Very poor: The tree has a poorly structured crown. The crown is unbalanced, or exhibits large gaps. Major limbs are not well defined. Branch unions may be poor or faulty at the point of attachment. A section of the tree has failed, or is in imminent danger of failure. Active failure may be present, or failure is probably in the immediate future.

Failed: A significant section of the tree or the whole tree has failed.
11.3 Useful Life Expectancy (ULE)

- Unsafe or 0 years
- Less than 5 years
- 5 to 10 years
- 10 to 20 years
- 20+

Useful life expectancy is approximately how long a tree can be retained safely and usefully in the landscape providing site conditions remain unchanged and the recommended works are completed.

It is based on the principals of safety and usefulness in the landscape and should not reflect personal opinions on species suitability.

Unsafe or 0 years: The tree is considered dangerous in the location and/or no longer provides any amenity value.

Less Than 5 years: The tree under normal circumstances and without extra stress should be safe and have value of maximum of 5 years. The tree will need to be replaced in the short term. Replacement plants should be established as soon as possible if there is efficient space, or consideration should be given to the removal of the tree to facilitate replanting.

5 to 10 Years: The tree under normal circumstances and without extra stress should be safe and have value of maximum of 10 years. Trees in this category may require regular inspections and maintenance particularly if they are large specimens. Replacement plants should be established in the short term if there is sufficient space, or consideration should be given to the removal of the tree to facilitate replanting.

10 to 20 Years: The tree under normal circumstances and without extra stress should be safe and of value of up to 20 years. During this period, regular inspections and maintenance will be required.

20 + Years: The tree under normal circumstances and without extra stress should be safe and of value of more than years. During this period, regular inspections and maintenance will be required.
11.4 Tree Retention Value

- High
- Moderate
- Low

High: The tree may be significant in the landscape, offer shade and other amenities such as screening. The tree may assist with erosion control, offer a windbreak or perform a vital function in the location (e.g. habitat, shade, flowers or fruit). The tree is free from structural defects and is vigorous.

Moderate: The tree may offer some screening in the landscape or serve a particular function in the location and have minor structural defects. The tree may entering the mature stage of its life cycle.

Low: The tree offers very little in the way of screening or amenity and may have significant structural defects. The tree may also be mature and entering the senescent stage of its life cycle.

11.5 Amenity Value

Very Low: Tree makes little or no amenity value to the site or surrounding areas. In some cases the tree might be detrimental to the areas amenity value (e.g. unsightly, risk of weed spread).

Low: Tree makes some contribution of amenity value to the site but makes no contribution to the amenity value of surrounding areas. The removal of the tree may result in little loss of amenity. Juvenile trees, including street trees are generally included in this category. However, they may have the potential to supply increased amenity in the future.

Medium: The tree makes a moderate contribution to the amenity of the site and/or may contribute to the amenity of the surrounding area.

High: The tree makes a significant contribution to the amenity value of the site, or the tree makes a moderate contribution to the amenity value of the larger landscape.

The amenity value rating considered the impact that the tree has on any neighbouring sites as being equally important to that supplied to the subject site. However, trees that contribute to the general area (e.g. streetscape) are given a greater weight.
11.6 Hazard assessment matrix

The table below demonstrates how tree hazard ratings are to be calculated. Hazard ratings are calculated by correlating two factors within the table together; first being the 'Size of tree likely to fall', second being the 'Likelihood' of failure occurring. The point each axis aligns is the relevant Hazard rating. Listed below each rating is a description of the 'Target consequences' to people and property.

<table>
<thead>
<tr>
<th>Size of Tree Part Likely to Fall</th>
<th>Insignificant &lt; 20cm dia.</th>
<th>Minor 25-100mm dia.</th>
<th>Moderate 100-200mm dia./2.3m length</th>
<th>Major 200-400mm dia./&gt;2.5m length</th>
<th>Catastrophic &gt;400mm dia. or vehicle tree</th>
</tr>
</thead>
<tbody>
<tr>
<td>Likelihood</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>Almost Certain</td>
<td>Medium</td>
<td>High</td>
<td>High</td>
<td>Extreme</td>
<td>Extreme</td>
</tr>
<tr>
<td>Likely</td>
<td>Medium</td>
<td>Medium</td>
<td>High</td>
<td>High</td>
<td>Extreme</td>
</tr>
<tr>
<td>Possible</td>
<td>Low</td>
<td>Medium</td>
<td>Medium</td>
<td>High</td>
<td>High</td>
</tr>
<tr>
<td>Unlikely</td>
<td>Low</td>
<td>Medium</td>
<td>Medium</td>
<td>High</td>
<td>High</td>
</tr>
<tr>
<td>Rare</td>
<td>Low</td>
<td>Low</td>
<td>Medium</td>
<td>Medium</td>
<td>High</td>
</tr>
</tbody>
</table>

Target Consequence

- **People**: Injuries or ailments not requiring medical treatment.
- **Property**: No significant damage likely.

<table>
<thead>
<tr>
<th></th>
<th>Minor injury or First Aid Treatment Case.</th>
<th>Serious injury causing hospitalisation or multiple medical treatment cases.</th>
<th>Life threatening injury or multiple serious injuries causing hospitalisation.</th>
<th>Death or multiple life threatening injuries.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>People</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Property</strong></td>
<td>Light Cosmetic damage to house and landscape features or vehicles.</td>
<td>Significant Cosmetic damage to house, landscape or vehicles.</td>
<td>Light Structural Damage to house, landscape features or vehicles.</td>
<td>Significant Structural Damage to house, landscape features or vehicles.</td>
</tr>
</tbody>
</table>
**STORM Rating Report**

<table>
<thead>
<tr>
<th>Description</th>
<th>Impervious Area (m²)</th>
<th>Treatment Type</th>
<th>Treatment Area/Volume (m² or L)</th>
<th>Occupants / Number Of Bedrooms</th>
<th>Treatment %</th>
<th>Tank Water Supply Reliability (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>all impv</td>
<td>378.00</td>
<td>Raingarden 300mm</td>
<td>2.20</td>
<td>0</td>
<td>101.10</td>
<td>0.00</td>
</tr>
</tbody>
</table>

**Planning and Environment Act 1987**

Bayside Planning Scheme

This plan complies with Condition No. 1

Planning Permit: 2014/913/1 Shee 6 of 6

Issued: 30 March 2016 Endorsed: 30 December 2016

Responsible Authority

**Date Generated:** 02-Nov-2016  **Program Version:** 1.0.0

Received

14 Nov 2016

Planning Department
1. Purpose and background

To report a planning permit application for the construction of a building containing 12 dwellings and two shops, a reduction in the provision of car parking and a waiver of the loading bay requirement (refer Attachment 1) on three lots with a combined area of 470 square metres at 493A & 493-495 Highett Road, Highett (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Belfield Planning Consultants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>28 September 2016 (amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>27 November 2016</td>
</tr>
</tbody>
</table>

2. Policy implications

Planning permit requirements

Clause 34.01-4 (Commercial 1 Zone) – Construction of buildings and works;
Clause 43.02-2 (Design and Development Overlay) – Construction of buildings and works;
Clause 52.06 (Car Parking) – Reduction in provision of car parking;
Clause 52.07 (Loading and Unloading of Vehicles) – Waiver of loading bay requirement.

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 site is within the SBO and will continue to remain within the SBO.

Better Apartments Design Standards (BADS)

The Better Apartments Design Standards (BADS) have been published by the State Government to improve the liveability and sustainability of apartments in Victoria, but they have not yet been introduced into Planning Schemes. The BADS would apply to the assessment of the application in conjunction with selected standards of Clause 55.

Although a formal assessment against the Design Guidelines isn’t required, issues of internal amenity can be assessed with reference to the BADS as an appropriate assessment technique.
The BADS have been considered with reference to the internal amenity of the proposed apartments and they are generally compliant, with minor variations identified in terms of bedroom sizes and cross-ventilation.

3. **Stakeholder Consultation**

   **External referrals**

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

   **Internal referrals**

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>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 five objections were received. The following issues were raised:
   - Excessive scale of development;
   - Poor internal amenity of proposed dwellings;
   - Noise, waste and odours from use of rear laneway for loading vehicles and waste collection;
   - Inappropriate vehicular access to the site;
   - Overshadowing;
   - Overlooking;
   - Construction management issues;
   - Noise from car stackers;
   - Increase in demand for on-street car parking;
   - Noise from occupation of units;

   **Consultation meeting**

   The applicant did not request a consultation meeting and as such a consultation meeting was not held.

4. **Recommendation**

   That Council:

   Issues a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning Application 2016/183/1** for the land known and described as **493A & 493-495 Highett Road, Highett**, for the **construction of a building containing ten dwellings and a restaurant, a reduction in the provision of car parking and a waiver of the loading bay requirement** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

   1. Before the use and/or development start/s, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible
Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans (Point Architects, Dwg no 1-12) Council date stamped 6 July 2016 and 28 September 2016 (Dwg 11) but modified to show:

a) The deletion of the fourth floor from the development.

b) Appropriate weather protection measures benefitting pedestrians on Highett Road at the front of the premises above ground floor level, such measures to be at least 1.8m deep from the edge of the building over the footpath.

c) Screening to the southern edge of the balconies of Dwellings 1, 3, 6 & 8 to prevent internal overlooking to other balconies within the development in accordance with Standard B23 of Clause 55 of the Bayside Planning Scheme.

d) The removal of the wall to the north of the balconies of Dwellings 4 & 9 to improve solar access to said balconies.

e) Screening of the balconies for Dwellings 1, 2, 6 & 7 to prevent overlooking of the Secluded Private Open Space of 2 Train Street in accordance with Standard B22 of Clause 55 of the Bayside Planning Scheme.

f) The wall on the eastern boundary of the site is to be cutback in line with the roller door to the car stackers at ground level.

g) Location nominated for the installation of a pole-mounted convex mirror at the bend in the laneway to provide adequate sightlines for motorists and of a pole-mounted convex mirror at the end of the laneway to provide adequate sightlines into and out of the garage.

h) Design for the pole-mounted convex mirrors.

i) Car stacker system (Hercules Expanderpark 2+1) to be annotated on the plans, together with the following minimum dimensions:
   i. Minimum setback of 6.9m between the edge of the car stacker system and the northern side of the right of way;
   ii. Minimum platform length of 5.2m;
   iii. Minimum platform width of 2.4m;
   iv. Minimum vehicle clearance height of 1.8m for at least 25% of the parking supply.

j) Minimum 20% of car parking spaces provided at ground level.

k) 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.

l) 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.

m) Water sensitive urban design measures in accordance with Condition 8 of this permit.

n) Landscaping plan in accordance with Condition 15 of this permit.

o) A Public Realm Improvement Plan in accordance with Condition 20 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. Noise emanating from the subject land must not exceed the permissible noise levels when determined in accordance with State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1, to the satisfaction of the Responsible Authority.

6. 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.

7. 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.

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

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

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

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

11. No more than 50 seats may be made available at any one time to patrons on the premises, without the prior written consent of the responsible authority.
12. 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.

13. 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.

14. The restaurant and each dwelling must be allocated and have made available one car parking space.

15. 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.

16. 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.

17. 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.

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

19. 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.

20. 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 reconstruction of the kerb and channel in front of the site so that the kerb more generally aligns with the angled parking.

b) The planting of street trees on Highett Road.

c) The reconstruction of the footpath on Highett Road.

d) Bicycle hoops on the footpath on Highett Road.

e) The provision of a bench seat in front of the property in the location of the bench shown on the ground floor plan.

f) The reinstallation of parking signs on Highett Road.

g) The relocation of any Council assets or infrastructure required on Highett Road as a direct result of this development.

All to the satisfaction of the Responsible Authority.

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

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

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

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

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

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

f) Fully detailed plan indicating where construction hoardings would be located.
g) A waste management plan including the containment of waste on site: disposal of waste, stormwater treatment and on-site facilities for vehicle washing.

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

i) Site security.

j) Public safety measures.

k) Construction times, noise and vibration controls.

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

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

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

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


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

r) Details of crane activities, if any.

22. At the request of the Responsible Authority, the owner/occupier must undertake noise measurements by a suitably qualified acoustic consultant and a report must be submitted to the Responsible Authority for compliance in relation to the N-1 and/or EPA Technical Guidelines.

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

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

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

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

Permit Notes

- 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 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 17 Economic Development
- Clause 18 Transport
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.07 Economic Development
- Clause 21.09 Transport and Access
- Clause 21.11 Local Areas
- Clause 22.08 Water Sensitive Urban Design
- Clause 34.01 Commercial 1 Zone
- Clause 43.02 Design and Development Overlay (Schedule 4)
- Clause 52.06 Car Parking
- Clause 52.07 Loading and unloading of Vehicles
- 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. Strategic Justification

The Planning Policy Frameworks support the intensification of development in and around public transport nodes and in activity centres. The local areas policy contains a subsection relating specifically to Highett (Clause 21.11-6) that seeks to revitalise Highbert Road shopping centre as an attractive, vibrant and well used main street and community focal point that provides a wide range of local shopping, business and community services. That part of the Highett Shopping Centre to the west of the railway is to provide opportunity for a mix of retail, employment, other associated activities and residential uses in a form that complements the core of the centre located to the east of the railway, and to better link the two parts of the centre for pedestrians.

Furthermore, the policy seeks to provide an opportunity for as many people as is appropriate given the character of the area and the opportunities for change to live and work in Highett, with access to public transport and within walking and cycling distance of activity centres, and hence to provide a real transport option for people other than the private car. It is considered that the proposal broadly meets the above policy aims.

6.2. Design and Development Overlay (Schedule 4)

The site is contained within the Design and Development Overlay Schedule 4 (DDO4). The Overlay states that buildings and works must not exceed a maximum height of 7.5 metres (two storeys) other than near the corner of Highbert & Graham Roads, Highbert Road & Train Street and Highbert Road & Middleton Street, where there is potential to
increase the height to a maximum of 11.0 metres (3 storeys).

It is considered that the site is in the vicinity of Train Street and Highett Road and has the potential to be developed to a height greater than 7.5 metres.

The DDO4 goes on to state that buildings and works must not exceed a maximum overall height of 11.0 metres (comprising 3 storeys), except if a fourth storey can be accommodated without being visible from any part of Highett Road within 100 metres of the building. The fourth storey would be visible from Highett Road from vantage points to the south east of the site. The applicant has referred to several other buildings on the street which have clearly visible fourth storeys, however, these buildings differ in that they were either approved prior to the DDO4 being applied (15 February 2007 was the date of the original iteration) or are not subject to the DDO4.

Consequently, a condition has been included in the recommendation requiring the removal of the top floor of the building. The applicant could consider re-applying for a fourth floor in the future should neighbouring development result in a fourth floor not being clearly visible from Highett Road, or in the event that the provisions of the DDO4 were altered.

6.3. **Commercial 1 Zone**

The Commercial 1 Zone provides a number of decision guidelines, in addition to the requirement to consider Clause 55, and an assessment against those guidelines shows the development to be generally acceptable.

It is considered that the development has an appropriate interface with the residential area to the rear of the rear laneway. Existing uses around the site are not likely to have an adverse effect on the development or its occupants. The upgrading of any infrastructure, if required, is to be the responsibility of the developer.

The building is relatively attractive and generally accords with the emerging character that is evident on Highett Road to the east of the railway. One concern is the lack of weather protection for passing pedestrians. A condition has been included in the recommendation requiring the provision of such weather protection measures.

Rubbish and materials for recycling are to be stored in the northwest corner of the land. This is considered to be a suitable area for such materials.

6.4. **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, noting that in many instances a strict application of the Standards is not particularly relevant in a commercial area.

**Site Coverage (Standard B8)**

<table>
<thead>
<tr>
<th>Standard</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>60%</td>
<td>73%</td>
</tr>
</tbody>
</table>

The neighbourhood character envisaged for this part of Highett supports higher site coverages. The site is within a Neighbourhood Activity Centre within which higher-density development is envisaged. Consequently, the proposal accords with preferred future neighbourhood character.

**Permeability (Standard B9)**

<table>
<thead>
<tr>
<th>Standard</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>20%</td>
<td>1%</td>
</tr>
</tbody>
</table>
Impermeable sites are not uncommon in commercial areas. Consequently, it is considered that providing negligible permeability is acceptable provided that the impact of stormwater run-off is suitably mitigated. A condition in the recommendation has been included to ensure that principles of Water Sensitive Urban Design are appropriately considered.

Side and Rear Setbacks (Standard B17)

<table>
<thead>
<tr>
<th>Direction</th>
<th>Ground Floor</th>
<th>First, Second &amp; Third Floors</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m or 1m</td>
<td>0m</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 1m</td>
<td>2.44m</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>North (rear)</td>
<td>0m or 1m</td>
<td>1.27m</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The neighbourhood character envisaged for this part of Highett does not support substantial side and rear setbacks. The site is within a Neighbourhood Activity Centre within which higher-density development is envisaged. Consequently, the proposal accords with preferred future neighbourhood character.

Walls on Boundaries (Standard B18)

As per the above, the neighbourhood character envisaged for this part of Highett includes high walls on boundaries.

Overlooking (Standard B22)

The Secluded Private Open Space of 2 Train Street is within 9 horizontal metres and could be overlooked from the north facing balconies. A condition has been included in the recommendation requiring screening to be applied to limit such potential overlooking.

Internal Views (Standard B23)

The balconies of Dwellings 1, 3, 6, 8 & 12 are located along the side of the building and would overlook each other. The removal of the top floor would subsequently result in the removal of Dwelling 12. A condition has been included in the recommendation requiring screening at the southern end of the balconies of Dwellings 1, 3, 6 & 8 to address this issue thus ensuring compliance with the Standard.

Solar Access to Open Space (Standard B29)

Dwellings 4, 5, 9 & 10 all have limited solar access to their areas of secluded private open space. This could be improved for Dwellings 4 & 9 by removing the proposed wall at the northern end of each of those private open spaces. That section of wall has no discernible purpose. A condition has been included in the recommendation to that effect. Solar access to the private open space for Dwelling 10 will be greatly improved by the removal of the top floor. There is little that can be done for Dwelling 5, but this is considered to be a reasonable overall result for an apartment building in a commercial area, where south-facing balconies are often common.
6.5. **Car parking and traffic**

<table>
<thead>
<tr>
<th>Component</th>
<th>Required Rate</th>
<th>Required provision</th>
<th>Proposed provision</th>
<th>Shortfall</th>
</tr>
</thead>
<tbody>
<tr>
<td>Restaurant</td>
<td>0.4 per patron permitted</td>
<td>20*</td>
<td>0</td>
<td>20</td>
</tr>
<tr>
<td>Residential</td>
<td>1 per 1/2 bedroom apartment</td>
<td>12</td>
<td>11</td>
<td>1</td>
</tr>
<tr>
<td>Visitor</td>
<td>1 per 5 dwellings</td>
<td>2</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>34</strong></td>
<td><strong>11</strong></td>
<td><strong>23</strong></td>
</tr>
</tbody>
</table>

*Based on floor area (figure sourced from the applicant’s Traffic Report).

Council’s Traffic Engineer has considered the proposal and considers the reduction in car parking for the restaurant to be acceptable in this instance. The site has previously been used as a restaurant for which no off-street car parking was provided and hence, the proposal really continues the status quo. Furthermore, the premises is within an easy walk of Highett Train Station and many residential units which have recently been completed or under-construction within the Neighbourhood Activity Centre. It is considered that a condition ought to be imposed on permit in regards to the number of patrons that can be accommodated in the restaurant so that the shortfall in parking is not exacerbated by an increase in patron numbers. This should be set at 50 as per the assumed rate above. This has been included as a condition in the recommendation.

Council’s Traffic Engineer stated that car parking provision would be made acceptable provided an additional two car parking spaces were provided, equating to one to each dwelling and one for the restaurant. With the removal of the upper floor, there are only ten dwellings, meaning that the proposed 11 car parking spaces can provide the suggested minimum rate.

It is considered that the waiver of the visitor car parking space and loading bay requirement are acceptable given that there is on-street parking at the front of the site and that such parking is far more convenient than access to the rear of the site would be for such vehicles. As stated earlier, the site is within an easy walk of the Highett Train Station and has good public transport accessibility.

Additional traffic generated by the proposal is expected to be accommodated within the local road network. The laneway access is tight, but is preferable to providing access via the front of the site, which would have an impact on the appearance and function of the Highett Road commercial area. The laneway is sufficiently wide to enable two cars to queue for the car stackers at the same time. Council’s Traffic Engineer has recommended that part of the wall be cut back at the east of the site to ensure that adequate sight lines are maintained into and out of the car stackers and that a convex mirror be installed at the bend to the laneway to ensure that adequate visibility is maintained along the laneway. These items have been included in the recommendation.

While the proposed waste collections from the rear of the site are not ideal, there is little other option given the constraints of the site. Consequently, a condition should be imposed limiting collection from occurring during the weekday AM and PM peak periods.
6.6. **Vegetation & Landscaping**

There is no significant vegetation on site. The site’s position within a Commercial 1 Zone means that there is little opportunity to provide landscaping at the front of the site and the interface to the alleyway and the railway carpark to the rear means there is little public benefit in providing landscaping at the rear. The area currently contains little landscaping. It is considered that greater public benefit results from increased density of construction in these areas than by provision of landscaping. Opportunities for a green wall were considered, but the site faces south and the lack of solar access to the front face of the building means this is unviable.

6.7. **Street tree removal**

No street trees are proposed for removal.

6.8. **Objections received**

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

**Excessive scale of development**

It is considered that the scale won’t be excessive following removal of the top floor of the building, and be generally similar to the built form which VCAT found to be acceptable at the time of the previous application.

**Noise, waste and odours from use of rear laneway for loading vehicles and waste collection**

The area for bin storage is some distance from any potentially affected residential uses. Waste collection via the rear alleyway is appropriate, and certainly more desirable than street front pick-up. Potential noise from waste collection can be addressed through the submission of a waste management, to ensure that such noise does not occur during anti-social times. In terms of odour, it is expected that the development will in many ways be self-regulated, as the first people who would be affected by odour would be the occupants of the proposed dwellings.

**Overlooking and Overshadowing of child care centre**

The building currently under construction to the west is to contain a child care centre. The operators are concerned that the building will overshadow and overlook the nominated outdoor play areas. The play areas are to the north of that building at first and second floor levels. The second floor level will have good access to sunlight given its orientation. The proposed building will result in some overshadowing of the play areas at 9am during the spring equinox, although the first floor level will suffer much greater overshadowing from the floor above than from the proposed building. The impact to the second floor level play area is expected to lessen significantly after 9am. The impacts are considered to be not unreasonable, especially given that the site is within a commercial zone in which amenity expectations are tempered by the desire for more intense forms of development.

In relation to overlooking, there is no requirement to provide screening to prevent overlooking of a child care centre. Additional screening of the balconies would have a negative effect on the amenity values that they are supposed to offer. Furthermore, it is considered that the times that most people would have to use the balconies (outside work hours) would not conflict with the use of the play areas (inside work hours).
Construction management issues

Construction management issues can be dealt with by way of a Construction Management Plan. A condition requiring one has been included in the recommendation.

Noise from car stackers

It is not expected that the car stackers will result in unreasonable noise impacts. Such stackers are now generally reasonably quiet. A condition has been included in the recommendation requiring the submission of acoustic testing should the stackers result in noise complaints.

Noise from occupation of units

The noise from the proposed dwellings is not expected to exceed what is expected from normal residential occupation.

Support Attachments

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. ResCode Assessment ↓
Item 4.3 – Matters of Decision
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds

Legend

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>🔴</td>
</tr>
</tbody>
</table>

NB. Two objections were received from 491 Highett Road.
Figure 2 View towards the site from the SSE

Figure 3 View of the site from the southwest (building at 491-493 Highett Road in foreground)
Figure 4 View of the rear of the site and the adjoining alleyway from the east
## ATTACHMENT 3
**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>Yes</td>
<td>Refer Section 6.3.</td>
</tr>
<tr>
<td>Design respects existing neighbour...</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development responds to features of ...</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located.</td>
</tr>
<tr>
<td>Residential development is consistent</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Support medium densities in areas to...</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><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...</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly i...</td>
</tr>
<tr>
<td>Integrate the layout of development...</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>Minimum: No setback</td>
</tr>
<tr>
<td>The setbacks of buildings from a st...</td>
<td></td>
<td>Proposed: No setback</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Item 4.3</strong> – Matters of Decision</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-----------------------------------</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| **B7 Building Height**  
Building height should respect the existing or preferred neighbourhood character. |
| No | **Required:** 11m  
**Proposed:** 13.3m |
| **B8 Site Coverage**  
Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. |
| No | **Maximum:** 60%  
**Proposed:** 73% |
| **B9 Permeability**  
Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. |
| No | **Minimum:** 20%  
**Proposed:** 1% |
| **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 | The proposal provides appropriate solar access to the dwellings. |
| **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 | No safety issues are considered to be likely to arise. |
| **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 | Refer 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.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Appropriate vehicular access is provided.</td>
<td></td>
</tr>
<tr>
<td><strong>Maximum:</strong> 33% of street frontage</td>
<td></td>
</tr>
<tr>
<td><strong>Proposed:</strong> 0%</td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>The proposed car parking areas are appropriately located.</td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First, Second &amp; Third Floors</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m or 1m</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 1m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>0m or 1m</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Refer report.</td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Daylight to existing windows is not affected.</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>No north facing windows on adjoining properties are affected.</td>
</tr>
</tbody>
</table>

### B21 Overshadowing Open Space
Ensure buildings do not

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>There are no adjoining dwellings.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
</tr>
<tr>
<td><strong>B22 Overlooking</strong></td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
</tr>
<tr>
<td><strong>B23 Internal Views</strong></td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
</tr>
<tr>
<td><strong>B24 Noise Impacts</strong></td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
</tr>
<tr>
<td><strong>B25 Accessibility</strong></td>
<td>Consider people with limited mobility in the design of developments.</td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong></td>
<td>Provide a sense of identity to each dwelling.</td>
</tr>
<tr>
<td><strong>B27 Daylight to New Windows</strong></td>
<td>Allow adequate daylight into new habitable room windows.</td>
</tr>
<tr>
<td><strong>B28 Private Open Space</strong></td>
<td>Provide reasonable recreation and service needs of residents by adequate pos.</td>
</tr>
<tr>
<td><strong>B29 Solar Access to Open Space</strong></td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
</tr>
<tr>
<td><strong>B30 Storage</strong></td>
<td>Provide adequate storage facilities for each dwelling.</td>
</tr>
<tr>
<td><strong>B31 Design Detail</strong></td>
<td>Encourage design detail that respects the existing or preferred neighbourhood</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
</tr>
<tr>
<td>B33 Common Property</td>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
</tr>
<tr>
<td>B34 Site Services</td>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
</tr>
</tbody>
</table>
1. **Purpose and background**

To report a planning permit application for the construction of a two storey addition to the existing building in a Special Building Overlay (SBO), to allow for the use of land as a restricted recreation facility (personal training studio), building and works including the construction of a fence at the rear of the property, removal of existing vegetation, the display of business identification signs in excess of 8 square metres and a reduction in the number of car parking spaces associated with the restricted recreation facility, on a lot with an area of 222 square metres (refer Attachment 1) at 23 North Concourse, Beaumaris (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Perry Town Planning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>11 August 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>16 January 2017</td>
</tr>
</tbody>
</table>

2. **Policy implications**

**Planning permit requirements**

Clause 34.01-1 (Commercial 1 Zone) – Use of the land as a restricted recreation facility.

Clause 34.01-4 (Commercial 1 Zone) – Construct a building and construct and carry out works.

Clause 42.02 (Vegetation Protection Overlay Schedule 3) - Remove, destroy or lop any vegetation native to Australia.

Clause 43.02-2 (Design and Development Overlay Schedule 7) - Construct a building and construct and carry out works otherwise exempt including the construction of a fence.

Clause 44.05-1 (Special Building Overlay) – Construct a building and construct and carry out works including a fence.

Clause 52.05 (Advertising Signs) – Installation of business identification signage in excess of 8 square metres.

Clause 52.06-5 (Car Parking) – Reduction of the required number of car parking spaces associated with the restricted recreation facility.

**Planning scheme amendments**

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

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

3. Stakeholder Consultation

External referrals

The application was referred to the following authorities:

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

Internal referrals

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

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

Public notification

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

- Overlooking
- Car parking
- Incompatible use with location
- Noise
- Amenity impacts
- Traffic safety issues and
- Rear lane way width (Moysays Run)
- Current gym hours
- Current business owners afraid to object
- Residential interface to subject site

Consultation meeting

A consultation meeting was held on 22 March 2017 and attended by the permit applicant. No objectors attended and no objections have been 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 2016/498/1 for the land known and described as 23 North Concourse, Beaumaris, for the construction of a two storey addition to the existing building in a Special Building Overlay (SBO) to allow for the use of land as a restricted recreation facility (personal training studio), building and works including the construction of a fence, removal of
existing vegetation, the display of business identification signs in excess of 8m² and a reduction in the number of 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 amended plans with date stamped 2 November 2016 but modified to show:
   a) The addition of a 2m wide planter box at the rear of the top level with a maximum height of 1m to limit overlooking to adjoining properties in accordance with Standard B22 of Clause 55 of the Bayside Planning Scheme.
   b) Screening of all north facing windows and the balcony in accordance with Standard B22 of Clause 55 of the Bayside Planning Scheme.
   c) The provision of three bicycle spaces and associated facilities in accordance with Clause 52.34 of the Bayside Planning Scheme.
   d) Details of the business identification signage to the ground floor shop façade.
   e) At least 80 per cent of the building façade at ground floor level is maintained as an entry or window with clear glazing in accordance with Clause 34.01-4 of the Bayside Planning Scheme.
   f) An amended Landscape Plan in accordance with Condition 4 of this permit.
   g) Linemarking of the car spaces including provision of signage to indicate the relevant user group in accordance with the Bayside Planning Scheme and AS 2890.1.
   h) Allocation of two tandem car spaces to the shop.
   i) Allocation of two tandem car spaces to the restricted recreation facility.
   I. 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 prior written consent of the Responsible Authority.

3. The layout of the uses and development on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

4. 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 plan must be generally in accordance with the landscape concept plan drawn by John Patrick, reference TPO1-A, dated August 2016 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) Replacement of the Olive tree (Olea europaea) with a tree species native to Australia and preferably indigenous to Bayside.
   b) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
   c) Plantings must be 80% indigenous by species type and count.
   d) Specification of root-system anchorage methods to be used within the raised planter box. The applicant must demonstrate to the satisfaction of
the responsible authority that the tree in the raised planter will have a stable and structurally sound root system.

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.

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

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

7. 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.

8. 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.

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

10. Provide a seal surface for the car parking areas and driveway (i.e. preferably concreted) to the satisfaction of the Responsible Authority.

11. All pipes (except downpipes), 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.

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

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

   b) Appearance of any building, works or materials.

   c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.

13. No external sound amplification equipment or loudspeakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose on the top level.

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

15. 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.

16. The location of gym equipment as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
17. A maximum of 4 staff members and 5 patrons associated with the restricted recreation facility may be present on the premises at any one time without the prior written consent of the Responsible Authority.

18. Unless otherwise agreed by the Responsible Authority, the restricted recreation facility must only operate, including deliveries, loading and unloading, between the following hours:
   a) Monday to Friday – 5:30am to 9.00pm.
   b) Saturday – 5:30am to 12.00pm.
   c) Sundays – Closed

Melbourne Water Conditions (19 - 23)

19. No polluted and / or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or waterways.

20. Finished floor levels of the extended ground floor area must be constructed no lower than the floor level of the existing building.

21. Imported fill must be kept to a minimum on the property and must only be used for the sub floor areas of the extended building.

22. The open space areas within the property including car spaces must be maintained at natural surface levels and no fill or retaining walls should be used in the development of this land.

23. Any new internal or external fencing must be open style (50%) of construction or timber paling to allow for the conveyance of overland flow.

Permit Expiry

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

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

Permit Notes

- This permit does not 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.
- 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.
- The applicable flood level is 13.6 metres to Australian Height Datum (AHD).
- If further information is required in relation to Melbourne Water’s permit conditions shown above, please contact Melbourne Water on 9679 7517, quoting Melbourne Water’s reference 276924.
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 17 Economic Development
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.04 Environmental and Landscape Values
- Clause 21.06 Built Environment and Heritage
- Clause 21.07 Economic Development
- Clause 21.11 Local Areas
- Clause 22.08 Water Sensitive Urban Design
- Clause 34.01 Commercial 1 Zone
- Clause 42.02 Vegetation Protection Overlay (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 7)
- Clause 44.05 Special Building Overlay
- Clause 52.06 Car Parking
- Clause 52.05 Advertising Signs
- Clause 53.34 Bicycle Facilities
- Clause 65 Decision Guidelines

6. Considerations

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

6.1. Strategic Justification

The proposal demonstrates a high level of compliance with State and Local Planning Policy that supports the development of vibrant commercial, retail and service activities in Bayside’s Activity Centres.

Located within the retail core of the Beaumaris Concourse’s Neighbourhood Activity Centre (Clause 21.11-5 – Local Areas), the policy encourages development opportunities for a diverse mix of appropriate services that cater to needs of local residents and visitors.

The proposed use and development of the land as a restricted recreation facility meets the above policy aims. There are potential conflicts that arise between commercial uses and residential properties in activity centres, however they should be appropriately managed.
Patron access to the restricted recreation facility is proposed from three separate ground floor entrances. Access for people with limited mobility is provided by a lift that services the first and second floor.

The first floor of the restricted recreation facility has a total floor area of 167 square metres and contains 2 suites for ancillary services such as massage and a change room. Gym equipment is located to the southern section of the first floor, facing North Concourse. The second floor has a total floor area of 138 square metres of which 33 square metres is covered by the building’s roof. A running track is proposed to run the length of the second floor. No gym equipment is proposed to be located on this floor.

The personal training studio is proposed to operate with a maximum of 4 staff members and host a maximum of 5 patrons within the operating hours of:

- Monday to Friday – 5.30am to 9pm
- Saturday – 1am to 12pm
- Sunday – Closed.

For the most part, the proposed personal training studio will be consistent with the commercial operations of the centre, however potential noise and light spill impacts may occur due to the proposed hours that fall outside of normal retail trading hours. In particular, the proposed Saturday trading hours with a 1am start is considered to be inappropriate. A condition has been included to restrict the starting time from 5.30am consistent with the weekday trading hours.

In addition, conditions are included to restrict the use of gym equipment and amplified music on the third level to reduce impacts to surrounding properties.

6.2. Commercial 1 Zone

The Commercial 1 Zone provides for a number of relevant decision guidelines discussed below that are applicable to the proposal. An assessment against these guidelines shows the development and use demonstrates a high level of compliance with the guidelines.

The proposals two storey addition provides a quality design response to the North Concourse that is additionally sympathetic to the residential interface to the rear. The design outcome and siting of the proposal is discussed in greater detail below under Section 6.4 – Design and Development Overlay (Schedule 7).

The storage of rubbish and materials for recycling will continue to occur to the rear of the existing ground floor shop and the restricted recreation facility proposal is not likely to generate any significant additional waste that would detrimentally impact upon the existing uses in the immediate area.

Overshadowing impacts have been assessed and the development demonstrates that no overshadowing impacts to the existing secluded private open space located to the rear of the residential properties on Agnes Street will occur. In addition, the proposal will not impact upon the movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport.

6.3. Compliance with Clause 55 (ResCode)

Pursuant to Clause 34.01-8, the Responsible Authority must consider, as appropriate, the objections, standards and decision guidelines of Clause 54/55 (ResCode).

The application of the Standards is not particularly relevant in this application as there are no dwellings proposed. However, matters of height, setbacks, overshadowing, overlooking and site coverage are discussed throughout this report.
6.4. **Design and Development Overlay (Schedule 7)**

Contained within the Design and Development Overlay Schedule 7 (DDO7), the subject site is subject to mandatory height, setbacks and screening requirements. The overlay states that the building must not exceed a maximum height of 11.0 metres and 3 storeys. In addition, the third storey must be setback 4 metres from the front and rear title boundaries.

Comprising of three storeys, the proposal demonstrates compliance with an overall maximum height of 10.5 metres and the stipulated setback requirement of 4 metres from the front and rear title boundaries, providing an appropriate transition to the adjoining residential zone to alleviate amenity impacts.

As discussed further in Section 6.5 of the report, in combination with all north facing windows to demonstrate compliance with the overlooking Standard B22, a planter box at the rear of the proposals top storey will be required to mitigate overlooking to the secluded private open space of the adjoining rear properties.

Located in the retail core, the contemporary development will improve the retail function of North Concourse with the provision of a high quality site responsive architectural design that will positively contribute to the emerging character that is distinct from the current single storey typology of the centre.

The provision of an active frontage with a built scale appropriate to the street and pedestrians is enhanced by the glass verandah/awning that will provide continuous weather protection and mitigate reduced sun penetration over the footpath to support high quality pedestrian and public spaces and promote pedestrian safety and comfort.

Whilst conditions are required to mitigate amenity impacts of the proposed use and development, the proposal provides a design response that balances tensions associated with the sites residential interface and will contribute to the quality public environment of North Concourse.

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6.5. **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 the one tree from the site that is protected by the VPO3. The table below identifies those trees protected by the VPO3. There are no trees protected by the Local Law or any other statutory mechanism.

<table>
<thead>
<tr>
<th>VPO3 protected trees</th>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed for removal</td>
<td>Proposed for retention</td>
<td>Proposed for removal</td>
</tr>
<tr>
<td>Tree 1 Willow Myrtle</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

The application plans show the removal of one native Willow Myrtle (*Agonis flexuosa*) located to the rear of the sites western boundary. Councils Arborists have viewed the proposal and have no objection to the removal of the tree due to its low amenity value.
The proposed landscaping plan demonstrates roof top planting in a raised planter box and planter boxes along the eastern façade containing self-clinging climbers. Council’s arborists have no objection to the proposed landscaping, subject to the substitution of the Olive tree (*Olea europaea*) with a tree preferably indigenous to Bayside and specification of root-anchorage systems for the proposed plantings. A permit condition is included requesting an amended landscaping plan.

Despite been located in the retail core of the Beaumaris Concourse’s Neighbourhood Activity Centre, it is considered that the greening of the site will provide a greater benefit to the public realm than what currently exists on site and will enhance the sites coastal setting and treed location.

**6.6. Car parking and traffic**

<table>
<thead>
<tr>
<th>Proposed Use</th>
<th>Car Parking Rate</th>
<th>Proposed No. Patrons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Restricted recreation facility</td>
<td>To the satisfaction of the Responsible Authority</td>
<td>5</td>
</tr>
</tbody>
</table>

**Total anticipated car parking demand**

| Total car spaces proposed     | 9 (including staff)                                  |
| Anticipated shortfall          | 7                                                   |

Whilst Clause 52.06 – Car parking, requires a permit to reduce the number of car parking spaces associated with a new use of the land, the proposed use is not specified in the table 1 of the clause. However, clause 52.06-6-5A states that;

*Where a use of land is not specified in Table 1 or where a car parking requirement is not specified for the use in another provision of the planning scheme or in a schedule to the Parking Overlay, before a new use commences or the floor area or site area of an existing use is increased, car parking spaces must be provided to the satisfaction of the responsible authority.*

As outlined above, the shortfall of car parking spaces must be provided to the satisfaction of the responsible authority. The relevant decision guidelines include;

- On street parking in residential zones in the locality of the land that is intended to be for residential use.
- The practicality of providing car parking on the site, particularly for lots of less than 300 square metres.
- Any adverse economic impact a shortfall of parking may have on the economic viability of any nearby activity centre.
- The impact of fewer car parking spaces on local amenity, including pedestrian amenity and the amenity of nearby residential areas.
- Access to or provision of alternative transport modes to and from the land.

Four car spaces are provided on the site accessed from the rear of the site off Moyesys Run. Whilst the narrow lane way width impacts upon access and egress to the site, the development allows adequate sightlines to the rear carpark to facilitate safe vehicular movement.

The shop benefits from the existing use and is not subject to a review of the car parking requirements. Accordingly, the four spaces will be shared between the shop and personal training studio, with 2 car spaces allocated to each use.
The subject site is contained within an activity centre characterised by restricted parking, a high car parking demand, single lane traffic with parallel and angled parking adjacent to the site that is largely restricted to 90 minutes between 8.30am and 6.00pm Monday to Friday and 8.30am and 12.00pm Saturday. The peak operating hours of the personal training studio are early morning and evenings during the weekdays with peak patronage occurring on Saturdays as outlined by the Transport Impact Assessment submitted with the application and dated 28 October 2016. The anticipated parking demand is noted to be between 9 or 10 car parking spaces (including staff) and noted to generate an anticipated shortfall of up to 7 car spaces. The submitted survey indicates that during peak periods, there was an excess of 56 spaces observed in the Concourse between 6:00am and 9:00am and between 2:30am and 9:00pm on Thursday 6th October 2016 and between 9:00am and 1:00pm on Saturday 8th October 2016.

Council's traffic engineer has reviewed the proposal and supports the application subject to conditions. Both Councils traffic engineer and the applicants report have not identified any overflow parking issues from the Concourse to surrounding on street parking in residential zones in the locality of the land that is intended to be for residential use. Moreover, the impact of fewer car parking spaces on local amenity, including pedestrian amenity and the amenity of nearby residential areas has not been identified as an issue in the Concourse by Councils traffic engineer and the applicants traffic report and the development manages to retain all four car parking spaces. Additionally, it is considered that future growth and development of the concourse may be thwarted were a reduction in car parking not supported. Whilst the provision of public transport in Beaumaris is limited, three bus routes service the Concourse Activity Centre. An opportunity exists to provide additional alternative modes of transport by way of the provision of bicycle facilities which will be discussed below.

Upon further review and subject to the reasons listed above, the outstanding issues can be addressed by way of relevant permit conditions and Council is satisfied with the associated car parking reduction.

### 6.7. Bicycle facilities

In accordance with Clause 52.34 – Bicycle facilities, a new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land. Nested under ‘Minor sports and recreation facility’ in Clause 75.06 – Definitions, the proposal generates a statutory requirement of 1 bicycle space per 4 employees and 1 bicycle space to each 200 square metres of net floor area for visitors (total of 305 square metres). Accordingly, 1 space is required for staff and 2 spaces are required for visitors. The development plans do not demonstrate the provision of any bicycle spaces.

A bicycle space for an employee or resident must be provided either in a bicycle locker or at a bicycle rail in a lockable compound. A bicycle space for a visitor, shopper or student must be provided at a bicycle rail. Considering the nature of the proposed use and the facilities provided, an opportunity exists to encourage cycling as a mode of sustainable transport. The provision of the bicycle spaces is addressed by way of permit conditions.
6.8. **Advertising Signs**

Three business identification signs are proposed with a total of approximately 11.23 square metres located on the ground floor southern elevation and the first floor southern and eastern elevation.

The first floor signs are comprised of a film which is appropriate given the location of the gym equipment and patronage privacy. Material and construction details of the business identification signage to the ground floor have not been specified and have been requested by way of a permit condition.

The proposed signage will not impact on any views or vistas, is of a scale and form relative to the proposed building and will not detract from or detrimentally impact upon the streetscape and is supported.

6.9. **Objections received**

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

**Business owners in the Concourse afraid to object**

The Planning Permit application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987. This process allows affected people to view plans and decide if they wish to make a submission. Business owners are also afforded this right. The consideration if this application is limited to those who make submissions.

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds. ↓
Item 4.4 – Matters of Decision
Item 4.4 – Matters of Decision
Item 4.4 – Matters of Decision
Item 4.4 – Matters of Decision
Item 4.4 – Matters of Decision
Item 4.4 – Matters of Decision
Item 4.4 – Matters of Decision
ATTACHMENT 2

Site and Surrounds Imagery

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

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
</tr>
</thead>
<tbody>
<tr>
<td>![Star]</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Objector(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>![Black Dot]</td>
</tr>
</tbody>
</table>
Figure 2. View towards the site from the south.

Figure 3. View towards the site from the north.
Figure 4. View South east of Moyseys Run and the adjoining residential properties.

Figure 5. View South west of Moyseys Run and the adjoining residential properties.
4.5 2 TEDDINGTON ROAD, HAMPTON
SECONDARY CONSENT - APPROVE
APPLICATION NO: 2014/781/1  WARD: CENTRAL

1. Purpose and background

To report a secondary consent application to allow the roof of the Townhouse 2 carport to be a retractable design, on a lot with an area of 766 square metres (refer Attachment 1) at 2 Teddington Road, Hampton (refer Attachment 2).

Planning Permit 2014/781/1 was issued at the direction of the Victorian Civil and Administrative Tribunal (VCAT) on 13 November 2015 for the construction of two dwellings on a lot in a Neighbourhood Residential Zone (Schedule 3) (refer Attachment 3).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Chris O'Keefe</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>28 December 2016</td>
</tr>
</tbody>
</table>

2. Policy implications

There are no primary policy matters to consider as part of this application, which seeks to amend the endorsed plans pursuant to the secondary consent provisions afforded by Condition 2 of Planning Permit 2014/781/1.

3. Stakeholder consultation

Referrals

There were no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme and no internal referrals required to be made to other Council departments for comment.

Public notification

Applications made in accordance with the provisions of Secondary Consent are not subject to the notice requirements of Sections 52(1)(a), (b) and (d) of the Planning and Environment Act 1987. Therefore, these changes to the plans cannot be advertised.

4. Recommendation

That Council:

Approve the Amended Plans in accordance with the Secondary Consent provisions of Planning Permit No. 2014/781/1 for the land known and described as 2 Teddington Road, Hampton issued for the construction of two dwellings on a lot in a Neighbourhood Residential Zone (Schedule 3) and the following table be added at the end of the permit:

<table>
<thead>
<tr>
<th>Date</th>
<th>Amendments</th>
</tr>
</thead>
<tbody>
<tr>
<td>18 April 2017</td>
<td>Secondary Consent Amended Plans</td>
</tr>
<tr>
<td></td>
<td>• Inclusion of a note on the endorsed plans to indicate that the roof of the Townhouse 2 carport, which is to be constructed over the easement adjacent to the site’s western (side) boundary, will be of a retractable design.</td>
</tr>
</tbody>
</table>
5. **Council policy**

There are not any primary relevant Council policy matters to consider as part of the request to consider amending plans pursuant to the secondary consent provisions afforded by the planning permission.

6. **Considerations**

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

The tests include the following:

6.1 **The proposed amendment does not result in a transformation of the proposal.**

   The amendment to the plans relates to the inclusion of a notation on the endorsed plans stating that the roof of the Townhouse 2 carport, which is to be constructed over the easement adjacent to the site’s western (side) boundary, will be of a retractable design. The dimensions and flat form of the carport roof will be unchanged. The amendment is generally consistent with the approved development and does not result in a transformation of the proposal.

6.2 **The proposed amendment does not authorise something for which primary consent is required under the planning scheme.**

   The primary consent was issued by VCAT for the construction of two dwellings on a lot in a Neighbourhood Residential Zone (Schedule 3). The amendment sought under this application is consistent with the proposal and do not authorise something for which primary consent is required under the Planning Scheme.

6.3 **The proposed amendment is of no consequence having regard to the purpose of a planning control under which the permit was granted.**

   The changes are considered appropriate with regards to the approved construction of two dwellings on the lot and will not result in material detriment to the adjoining properties or residents. The proposed amendment is purely cosmetic, with the carport roof retaining its flat form. The change is required to satisfy the requirement of Melbourne Water for the 2m wide easement along the western (side) boundary to be clear of any solid structure that would impede access to the easement for asset maintenance purposes.

   The proposed amendments are of no consequence having regard to the purpose of the Neighbourhood Residential Zone.

6.4 **The proposed amendment is not contrary to a specific requirement (or condition of the permit) as distinct from an authorisation within the permit, which itself cannot be altered by consent.**

   The proposed amendments to the endorsed plans will not contravene any specific requirement or condition of the permit.

**Support Attachments**

1. Site and Surrounds Imagery ↓
2. Proposed Development Plans ↓
3. Planning Permit 2014/781 Endorsed Plans ↓
ATTACHMENT 1

Site and Surrounds Imagery

Figure 1. Aerial overview of subject site.

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
</tr>
</thead>
<tbody>
<tr>
<td>★</td>
</tr>
</tbody>
</table>
Item 4.5 – Matters of Decision
4.6 25 PARK AVENUE, SANDRINGHAM
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/169/1 WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/69306

1. Purpose and background
To report a planning permit application for the construction of a two double storey dwellings on a lot with an area of 585 metres square (refer Attachment 1) at 25 Park Avenue, Sandringham (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Mr Joel Lava of Design Worx Architects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>10 March 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>11 November 2016</td>
</tr>
</tbody>
</table>

2. Policy implications
Planning permit requirements
Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two dwellings on a lot.

Planning scheme amendments
Planning Scheme Amendment C139 has been prepared by Council and requires development to provide a financial contribution for drainage 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 the case now, the site will not be located within the area covered by the SBO.

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>
</tbody>
</table>
Public notification

The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and three objections were received. One objection has since been withdrawn. The following concerns were raised:

- Loss of daylight;
- Loss of a view;
- Visual bulk;
- Overshadowing;
- Out of character;
- Not in keeping with the NRZ3 objectives; and,
- Non-compliance with Clause 55.

Consultation meeting

The applicant declined the offer of a consultation meeting. No meeting was held.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2016/0169/1 for the land known and described as 25 Park Avenue, Sandringham, 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 in accordance with the advertised plans submitted with the application but modified to show:

   a) The first floor north and south (side) setback of dwelling 1 and 2 to be compliant with Standard B17 (Side and rear setbacks) of Clause 55 of the Bayside Planning Scheme.

   b) Amended landscape plan in accordance with Condition 9 of this permit.

   c) Adequate sightlines must be provided where the proposed driveway intersects with the front footpath as per the diagram shown in AS2890.0.

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:

   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 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 Zenith Concepts Rev B July 2016 25 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) 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) 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:

- 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;
- Comment on methods to be utilised and instruction on how to deploy them;
- Comment on when the protection measures are to be deployed;
- Comment on when the protection measures can be modified;
- Process that will be followed if any damage occurs to a tree;
- Process that will be followed if construction works require alteration to protection measures outlined in report; and
- 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. 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.

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

17. 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.

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

19. 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.

20. 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.

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

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

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

6. **Considerations**  

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

6.1. **Neighbourhood character**  

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

The development incorporates appropriate boundary setbacks to reflect the built form pattern of the area while promoting adequate visual separation between the adjoining dwellings. The dwellings will sit comfortably within its context largely due to the articulated facades, roof form, 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 9 metres setback which provides an opportunity for the provision of medium to large trees; consequently enhancing the vegetated streetscape.  

The proposed 1 metre high front fence ensures that the garden characteristics will be fully visible to the streetscape, taking into consideration the prominence of garden characteristics which positively contribute to the neighbourhood character and define the neighbourhood character.  

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>North (side)</td>
<td>0m or 2m</td>
<td>0m or 1m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>0m or 3m</td>
<td>5.7 m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 2m</td>
<td>0 or 2m</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 no variation in terms of building material between the lower and first floor (white render), therefore no visual break up is provided which creates for visual bulk.

It is for this reason that a condition (condition 1(a)) is included in the recommendation that requires both north and south first floor setbacks of dwelling 1 and 2 to comply with Standard B17 of the Bayside Planning Scheme.

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 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**

There are no street trees located abutting the site.

6.5. **Vegetation & Landscaping**

Council’s Arborist has attended the site and has advised that the existing vegetation on the site is generally insignificant and has little amenity value that would require retention. It is noted that no trees are protected by any overlay or local laws.

Council’s Arborist in their referral response advised that there is no objection to the proposed removal of the Syzygium Smithii (Lilly Pilly) and the Camellia Japonica (Camellia). The removal of low amenity trees is considered acceptable if replaced by suitable new planting; this has been addressed via conditions in the recommendation.

Tree protection measurements are required to ensure that trees located on the abutting allotments are protected and remain viable post-construction. Appropriate conditions have been included requiring a tree management and protection plan.
With regards to the future planting on the site, the proposed development incorporates limited 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) tree are planted in the rear of the site.

The landscape plan submitted with the application is not sympathetic to the Landscape Guidelines as it does not includes sufficient large vegetation. Consequently a condition will be included to increase the number of trees in the rear setback to three.

The landscape plan must also include a variety of shrubs and ground covers within the front and rear setbacks, and along the side boundaries. The requirements 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.

**Overshadowing**

The shadow diagrams submitted with the application demonstrate that at least 75%/40 square metres of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September in accordance with Standard B21 of the Bayside Planning Scheme.

**Loss of a view**

With regard to the concerns with regard to a 'loss of a view' it should be noted that the Victorian Civil and Administrative Tribunal has consistently found that although impact upon views can be considered amongst the amenity impacts of a proposal, there cannot be considered a right to any particular view.

**Devaluation of property**

The Victorian Civil and Administrative Tribunal has consistently found that property values are speculative and not a planning matter.

**Inconsistent with single storey development**

Whilst dwellings within Park Avenue may be predominately single storey it is not uncharacteristic to find double storey dwellings within a residential area and the proposal is considered to be respectful of the streetscape through the use of similar building materials, setbacks and density of the development.

**Support Attachments**

1. Development Plans ⇩
2. Site & Surrounds Imagery ⇩
3. Neighbourhood Character Assessment Precinct G1 ⇩
4. Clause 55 (ResCode) Assessment ⇩
ATTACHMENT 2
Site and Surrounds Imagery

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

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th>⭐</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objector(s)</td>
<td>●</td>
</tr>
</tbody>
</table>
Figure 2 View of the site as seem from Park Avenue
Neighbourhood Character Precinct G1

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain and enhance the garden settings of the dwellings. | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation.  
• Retain large, established trees and provide for the planting of new trees wherever possible.  
• Buildings should be sited to allow space for the planting of trees and shrubs. | Lack of landscaping and substantial vegetation.  
Removal of large trees.  
Planting of environmental weeds. | Responds  
There is sufficient space to provide substantial trees and to maintain and enhance the garden settings of the dwellings. |
| To maintain the rhythm of visual separation between buildings. | • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | | Responds  
The dwellings are appropriately setback from the side boundaries to maintain the rhythm of visual separation between buildings. |
| To ensure that new buildings provide an articulated and interesting façade to the street. | • Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.  
• Use pitched roof forms with eaves. | Large, bulky buildings with poorly articulated front and side wall surfaces. | Responds  
The dwellings feature articulated forms and second storey elements are recessed from the side walls and surfaces. The first floor front façade of both dwelling is not recessed from grown floor walls. However it is considered that due to architectural design the first floors of both dwellings is considered to be articulated, the proposed landscaping opportunities within the from |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain the openness of the streetscape.   |                  | High, solid front fencing. | Responds
The proposed 1 metre high front fence ensures that the garden characteristics will be fully visible to the streetscape. |
### 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>Yes</td>
<td>Refer Attachment 2.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support 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>Development is capable of being connected to necessary reticulated services. Permit conditions from engineering further ensure compliance.</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>Both dwellings will integrate with Park Avenue.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>Minimum: 9m</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient</td>
<td>Proposed: 9.1m</td>
<td></td>
</tr>
</tbody>
</table>
### B7 Building Height
Building height should respect the existing or preferred neighbourhood character.

- **Yes**
- **Required:** 9m
- **Proposed:** 6.1m

### B8 Site Coverage
Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.

- **Yes**
- **Maximum:** 50%
- **Proposed:** 49%

### B9 Permeability
Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.

- **Yes**
- **Minimum:** 20%
- **Proposed:** 39%

### 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**
- Due to the north-south orientation of the land, solar access to all bedrooms of dwelling 2 is limited. In response to Council concerns, skylights have been added to the upper floors of both dwellings, thus improving energy efficiency.

### B11 Open Space
Integrate layout of development with any public and communal open space provided in or adjacent to the development.

- **N/A**
- There is no adjoining public or communal open space abutting the subject site.

### B12 Safety
Layout to provide safety and security for residents and property.

- **Yes**
- The entrances of both dwellings will be clearly seen from Park Avenue.
The secluded private open space areas of both dwellings will be appropriately fenced so that public thoroughfares are avoided.

### 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

- **Yes**
- Refer report.
vegetation on the site.

**B14 Access**
Ensure the safe, manageable and convenient vehicle access to and from the development.
Ensure the number and design of vehicle crossovers respects neighbourhood character.

Yes

**Maximum:** 33% of street frontage

**Proposed crossovers:** 33% of street frontage

A 3.0 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.

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

Yes

The car space of each of the dwellings will be located in proximity to their respective dwellings.

**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.

Condition (Conditions 1(a))
Refer report and table below. Areas of non-compliance are underlined.

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

Yes

**Maximum Height:** 3.2m

**Proposed:** 3.2m

**Maximum Average Height:** 3.2m

**Maximum Length:** 6.5 m

**Proposed:** 6.05 m (North Boundary) 5.02 m (South boundary)

**B19 Daylight to Existing**

Yes

All habitable room windows adjoining the subject site will have a light court that is 3sqm in area and
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Windows</strong></td>
<td>Allow adequate daylight into existing habitable room windows.</td>
<td></td>
<td>1m 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.</td>
</tr>
<tr>
<td><strong>B20 North Facing Windows</strong></td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td>Yes</td>
<td>No north facing windows on adjoining properties are affected.</td>
</tr>
<tr>
<td><strong>B21 Overshadowing Open Space</strong></td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September.</td>
</tr>
<tr>
<td><strong>B22 Overlooking</strong></td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>Yes</td>
<td>A combination of fence heights, fixed and obscure glazing and landscaping have been incorporated within the design.</td>
</tr>
<tr>
<td><strong>B23 Internal Views</strong></td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>Yes</td>
<td>There will not be any internal overviewing within the development.</td>
</tr>
<tr>
<td><strong>B24 Noise Impacts</strong></td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
</tr>
<tr>
<td><strong>B25 Accessibility</strong></td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
<td>Entries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong></td>
<td>Provide a sense of identity to each dwelling.</td>
<td>Yes</td>
<td>The entries to both dwellings are easily identifiable from the street.</td>
</tr>
<tr>
<td><strong>B27 Daylight to New Windows</strong></td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>Each dwelling will have habitable room windows that will face an open outdoor space of adequate proportions.</td>
</tr>
<tr>
<td><strong>B28 Private Open Space</strong></td>
<td>Provide reasonable recreation and service needs of residents by adequate pos.</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall Proposed: Both dwelling consist of 62.25sqm of secluded private open space.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
<td>Notes</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
<td>-------</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>Yes</td>
<td>6m³ within the SPOS for Dwelling 1 and within the rear yard of Dwelling 2</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer Attachment 2.</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>Required: 1.2m  Proposed: 1 m</td>
</tr>
<tr>
<td>B33 Common Property</td>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>B34 Site Services</td>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td>Yes</td>
<td>Site services are nominated on the plans and are adequate.</td>
</tr>
</tbody>
</table>
4.7 4 LILIAN COURT, BEAUMARIS
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2015/692/1 WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/16/162343

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 537 square metres (refer Attachment 1) at 4 Lilian Court, Beaumaris (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Spectrum Architectural Design Group</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>21 October 2015 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>24 December 2016</td>
</tr>
</tbody>
</table>

2. Policy implications
Planning permit requirements
Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two dwellings on a lot.

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

Planning Scheme Amendment C153 has been initiated by Council and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process concluded on 16 January 2017 and a report considering submissions will be presented to Council early in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be 'seriously entertained' and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and adopted. As such, there is no statutory weight which can be given to Amendment C153. Amendment C153 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 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>The proposed landscaping is acceptable, subject to conditions</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objections, subject to conditions.</td>
</tr>
<tr>
<td>Drainage Engineer</td>
<td>No objections, subject to conditions.</td>
</tr>
<tr>
<td>Street Trees Arborist</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 three objections were received. The following concerns were raised:

- Overdevelopment of site;
- Inconsistent with neighbourhood character;
- Insufficient landscaping;
- Overshadowing;
- Inconsistent with C140 planning amendment; and
- Traffic/ Car parking/ On-street parking pressures.

Consultation meeting

A consultation meeting was held on the 9 January 2016 attended by Council officers, the permit applicant. Objectors did not attend the meeting.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Planning Permit under the provisions of the Bayside Planning Scheme in respect to Planning Application 2015/692/1 for the land known and described as 4 Lilian Court, Beaumaris, 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 plans prepared by Spectrum Architectural Design Group and Council date stamped 3 October 2016 submitted with the application but modified to show:

   a) Demonstrate that the car parked in the single garage abutting the western wall to the living area can reverse without the interruption to the proposed landscaping.

   b) All pedestrian doors are to be provided outwards from the garages.

   c) The single garage abutting the western wall of the living area to be further setback 1.25 metres from Lillian Court.

   d) All internal dimensions proposed for the garages must comply with Clause 52.06 of the Bayside Planning Scheme.

   e) A 3.6m wide new crossover to be constructed with 1m offset from the western and southern property boundary. Accordingly the driveway where it intersects with the footpath to be adjusted to meet this provision.

   f) The existing crossover to the east boundary to Dwelling 1 to be removed.

   g) For a dividing fence at least 1.8 metres in height between the courtyard to Dwelling 2 and the private open space to Dwelling 1 in accordance with Standard B23.

   h) External Storage facilities for each dwelling in accordance with Standard B30.
i) An amended Landscape plan in accordance with Condition 3 of this permit.

j) A Tree Protection report and a Tree Management Plan is required in accordance with Conditions 7 of this permit.

k) Water sensitive urban design measures is required in accordance with Condition 10 of this permit.

l) Any other reductions in the development area required to comply with the above conditions.

All to the satisfaction of the Responsible Authority.

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

3. 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 show:

a) The planting of a Black She-oak (*Allocasuarina littoralis*) directly under the canopy of the neighbouring Robina (Tree A) be relocated in an area not under existing canopy trees.

b) Show an encroachment of greater than 10% into the tree protection zones (TPZ) of two Native Frangipanis (*Hymenosporum flavum*) growing in 2 Lilian Court as well as additional information to demonstrate that these trees will remain viable.

c) The width of the footpath to the entrances of Dwelling 1 and Dwelling 2 must be 1 metres wide to allow more landscaping to the front garden of the dwellings.

d) The proposed coloured concrete along the footpath to the entrance of Dwelling 1 and Dwelling 2 be replace with paving.

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

5. Before 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.

6. 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.

7. 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
8. All protection measures identified in the Tree Management and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction of the Responsible Authority.

9. Before the development, 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.

10. 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.

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

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

13. Before development commences the applicant must pay $9,584.30 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.

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

15. Before the occupation of the development starts, 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.

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.
- The applicant must clearly identify what impact, if any, the proposed vehicle crossings will have Council assets such as pits and trees, power poles etc. Such items must be accurately shown on the plan. A street tree may require to be removed at applicants cost.
- The applicant is to bear the cost to reinstate/relocate the Council assets to provide the required access to the proposed development.
- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- Prior to commencement of any building works, an Asset Protection Application must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.

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 – H7
- 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 H2 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.

Both dwellings are proposed with generous separation to maintain a rhythm of spacious visual separation between buildings and to allow space for trees and shrubs. Dwelling 1 has a 5 metre front setback to the corner of the dwelling and a 3 metre side setback to accommodate vegetation. Whist dwelling 2 has a 3 metre and a 2 metre side setback for planting and vegetation. Although there is adequate space for planting to the frontage of each dwelling there are areas with unnecessary impervious surfaces. Areas such as the footpaths to the entrances to the dwellings. These areas are considered too wide and need to be reduced to 1 metre in width to allow more landscaping.

The proposed location of garages to the dwellings is acceptable. The garage abutting the wall of the living area to dwelling 1 is in line with the dwelling frontage, and the garage on the east boundary to dwelling 2 is behind the line of the dwelling. The proposal is acceptable because the garages do not dominate the facade or view of the dwellings.

The dwellings are two-storey with a pitched roof which reflects the low scale form of the area. The incorporation of recessed portions on the upper levels from the ground level front façade, pitched roof and the combination of fenestrations to both dwellings is satisfactory. This is because when viewed from Lilian Court the dwellings will not create visual bulk to the streetscape. The use of a variety of materials, textures and finishes including timber and brick is considered acceptable as it complements the natural setting.

The height of the 1.2 metres front fence to both dwellings will enhance the transparency and informality to the streetscape, as well as maintain views into the front gardens.

6.2. Compliance with Clause 55 (ResCode)

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

<table>
<thead>
<tr>
<th>Standard B6</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
</tr>
<tr>
<td>Dwelling 1: 6.47m</td>
</tr>
</tbody>
</table>

Standard B6 seeks to ensure that buildings are setback from a street to respect the existing or preferred neighbourhood character and make effective use of the site. The standard requires that proposal to be setbacks to the front wall of the existing building on the abutting allotment facing the front Street or 9 metres, whichever the lesser.

The property at No. 2 Lilian Court is an L-shape property fronting a circular court and has
two front setback of 6.47 metres and 7.4 metres. The front setback that is used in this instance is 6.47 metres because it is closest to the court ball of the road and it is the lesser setback to the street.

The proposed setback to dwelling 1 does not meet the required front setback. The proposal seeks a variation of 1.3 metres to the setback. It is considered that the variation of 1.3 metres is acceptable because the proposed setback will not be noticeable from Lilian Court due to landscaping provision to the corner of dwelling 1 and a 3 metre side setback on the west boundary is also provided for further vegetation. Also, the existing neighbourhood character precinct guideline states that the front setbacks are large, and sometimes variable. Therefore, the proposed setback is consistent with the existing neighbourhood character.

Internal view (Standard B23)
No details has been provided in regards to the height and type of fencing between the courtyards to the bed/study room (north boundary) of the two dwellings. To ensure that overlooking does not occurs between the two areas of open space, a requirement for a dividing fence to at least 1.8 metres in height between the courtyard to dwelling 2 and the private open space to Dwelling 1 is required. A permit condition will be imposed as part of the recommended approval.

Storage (Standard 30)
The proposal has not provided appropriate storage for each dwelling as required by Standard B30. A condition is included in the permit recommendation.

Site Services (Standard B34)
The proposal does not show provision for a clotheslines and mailboxes for both dwellings. A condition be imposed as part of the permit recommendation.

6.3. Car parking and traffic
Each dwelling is provided with at least two car spaces in accordance with Clause 52.06. Council’s Traffic Engineer has reviewed the application and raised no objection subject to a number of minor changes.

The proposal of a staggered garage to dwelling 1 though unusual responds to the concerns raised by Council’s Arborist regarding the impact of the garage to the adjoining tree at No.1 Lilian Court. The setback to the garages to the east of dwelling 1 is considered to be unacceptable. The safety of pedestrians on the public footpath will be put at risk if a car is parked in front of the garage. It is reasonable to impose a permit condition to require the single garage abutting the western wall to the living area be further setback 1.2 metres from Lilian Court.

The crossover to dwelling 1 is also unacceptable as there will not be enough room for reversing out of the driveway if a car is parked on the driveway on the west boundary. Imposing a 3.6 metre crossover will ensure adequate area for the manoeuvre to take place safely.

The level of increased traffic generated by the proposed development will not adversely impact the local road network and Council’s Traffic Engineer has not raised objections.

6.4. 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 objectives of the VPO3 must be considered in association with the other statutory controls governing the site and relevant State and Local Planning Policies. This includes the overarching purposes of the relevant zone and overlays and the need to ensure
decisions reflect broader strategic policy objectives. Such strategic policy objectives include encouraging urban consolidation and the efficient use of established residential land to reduce the outward expansion of the metropolitan area.

Council’s Arborist has reviewed the application and advises that the trees proposed for removal on the site are not protected under the provision of the VPO3.

From an arboriculture perspective Council’s Arborist has reviewed the application, the submitted arborist report, visited the site and advises that the proposed indigenous species is satisfactory. Although the landscaping is acceptable, the proposed planting of a Black She-oak (*Allocasuarina littoralis*) directly under the canopy of the neighbouring Robina (Tree A) at No. 2 Lilian Court is not acceptable. It is considered that the tree will not grow in such a shaded location and must be placed outside of the canopy drip-line. A condition will be included in the recommendation to ensure growth of the proposed tree.

Due to the lack of existing indigenous vegetation at the site, the proposed landscaping is considered an enhancement of the current situation and considered to comply with the objective of the Scheme. However, greater landscaping can be achieved by reducing the hard landscaping to the front of both dwelling. Introducing paving materials instead of coloured concrete, reducing the walkway to 1 metre in width to both entrances to the dwellings is a better outcome to what is proposed. A permit condition will be imposed to the recommendation.

An arboriculture report by Treetec Professional Tree Services dated 13 July 2016 was submitted as part of the application as an amendment to respond to comments made by Council’s Arborist. Council’s Arborist identified the proposal required an encroachment of greater than 10% into the tree protection zones (TPZ) of two native Frangipanis (*Hymenosporum flavum*) growing in 2 Lilian Court. A condition is included in the recommendation to ensure that the health and longevity of the tree will be maintained.

6.5. Street tree

No street trees have been proposed for removal at the site however, the new crossovers to both dwellings will have an impact to the health and stability of the street trees on the northern and eastern boundary. Council’s Street Tree Arborist advised that:

- The tree *Callistemon viminalis* (Weeping Bottlebrush) on the northern boundary be condition in the permit requiring a setback of 2.6 metres for the retention of the street tree.

It is considered that achieving a setback of 2.6 metres will be impossible because there is no other alternative for the crossover. Therefore, the street tree is recommended for removal for the development to go ahead.

Council’s Street Tree Arborist also advised that:

- The tree *Callistemon viminalis* (Weeping Bottlebrush) on the south-eastern frontage to dwelling 2 is to be conditioned in the permit to require the soil excavation not occur within 2.5 metres from the edge of the tree.

With the permit conditions, the proposal is recommended for approval.

6.6. Objections received

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

**Overdevelopment of site**

The application has been assessed and does not present an overdevelopment of the site subject to conditions relating to the protection of trees on adjoining properties and the protection of street trees on the nature strip.
Overshadowing to adjoining properties (No.2 Lilian Court)

Standard B21 states that new buildings are to ensure they do not significantly overshadow existing secluded private open space. Where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres within minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September.

The proposal is compliant, the shadow diagrams show that the overshadowing to existing secluded private open space at No. 2 Lilian Court only occurs at 9 am. The requirement seeks that a minimum of five hours of sunlight between 9 am and 3 pm be provided. The proposal has complies with this requirement.

Property at No. 25 Alfred Street is overshadowing between 12 pm and 3 pm. The shadow shown on the overshadow diagrams between 12 pm and 3 pm is acceptable because at least 75 per cent, or 40 square metres of sunlight is provided to the private open space at No.25 Alfred Street.

Inconsistent with C140 planning amendment

The matter for the amendment to C140 went to Council, and it was recommended to be abandoned in August 2016. As such, C140 is not a consideration for this application.

Support Attachments

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Policy ↓
4. ResCode (Clause 55) Assessment ↓
Item 4.7 – Matters of Decision
ATTACHMENT 2
Aerial Surrounds and Imagery

Figure 1: Aerial overview of the site and surrounds

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th>✭</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objector(s)</td>
<td>*</td>
</tr>
</tbody>
</table>
Figure 2 View towards the site from the north

Figure 3 View towards the site from the east
Figure 4 View from the site towards the north showing properties at No. 7, 9 and 11.

Figure 5 View from the site towards the northwest
Figure 6 View from the site towards the south

Figure 6 View from the site towards the northwest towards properties at No.1 and 3 Lilian Court
ATTACHMENT 3
Neighbourhood Character Policy (Precinct H2)

Preferred Future Character

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain and enhance the garden settings of the dwellings. | • Prepare a landscape plan to accompany all applications that includes substantial trees and shrubs, preferably indigenous species.  
• Retain large, established trees and provide for the planting of new trees and shrubs wherever possible (locate footings outside root zone). | Lack of landscaping and substantial vegetation.  
Removal of large trees.  
Planting of environmental weeds. | The existing site is not highly vegetates with significant trees and vegetation valuable for retention.  
The proposal has enhanced the garden settings of the dwelling by introducing indigenous species suitable to the area. |
| To maintain the rhythm of spacious visual separation between buildings and allow space for trees and other planting. | • Buildings should be sited to create the appearance of space between buildings and accommodate vegetation.  
• Buildings should be sited to allow space for a garden including trees and shrubs.  
• Minimise impervious surfaces, particularly in the front garden. | The dwellings at 4 Lilian Court have maintained the rhythm of spacious visual separation of 3 metres on the side setbacks to Lilian Court to allow space for trees and other planting. |
<p>| To minimise the loss of front garden spaces and the dominance of car parking structures. | • Locate garages and carports at or behind the line of the dwelling. | Car parking structures that dominate the | The proposed car parking structures are set either in line of the dwelling or behind the frontage of the dwelling minimising car |</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 reflect the low scale forms of the area, and 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, pitched roof forms, combinations of materials, textures or colours or other elements providing appropriate articulation.  
  - Recess upper levels from the front façade. | façade or view of the dwelling.                                                   | dominance to the façade and views to the dwellings.                        |
| 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. | Large, bulky buildings  
  Poorly articulated roof, front and side wall surfaces | The proposal has reflected adequately to the existing and preferred character of the area by having low scale built form with a pitched roof a feature which is evident in the area. The incorporation of recessed upper level front the front façade has provided interesting elevation to the street. |
| To enhance the openness and informality of the streetscape and maintain views into front gardens. | - Provide open style front fencing, other than along heavily trafficked roads.  
  - Use vegetation as an alternative where possible. | Period reproduction styles and detailing. | A mixture of materials, textures and finishes including render, timber to garage doors, glazing complements the natural setting. |


## 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>
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<tr>
<td>neighbourhood character.</td>
<td></td>
<td></td>
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<tr>
<td>Development responds to</td>
<td></td>
<td></td>
</tr>
<tr>
<td>features of the site and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Residential development is</td>
<td></td>
<td></td>
</tr>
<tr>
<td>consistent with housing</td>
<td></td>
<td></td>
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<tr>
<td>policies in the SPPF, LPPF</td>
<td></td>
<td></td>
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<tr>
<td>including the MSS and local</td>
<td></td>
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<tr>
<td>planning policies.</td>
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<tr>
<td>Support medium densities in</td>
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<tr>
<td>areas to take advantage of</td>
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<tr>
<td>public transport and</td>
<td></td>
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<tr>
<td>community infrastructure and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>dwelling sizes and types in</td>
<td></td>
<td></td>
</tr>
<tr>
<td>developments of ten or more</td>
<td></td>
<td></td>
</tr>
<tr>
<td>dwellings.</td>
<td></td>
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</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer.</td>
</tr>
<tr>
<td>Provides appropriate utility</td>
<td></td>
<td></td>
</tr>
<tr>
<td>services and infrastructure</td>
<td></td>
<td></td>
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<tr>
<td>without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly identifiable from either the streetscape or the common pedestrian access.</td>
</tr>
<tr>
<td>Integrate the layout of</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>No</td>
<td>Minimum: 6.47m, 3m</td>
</tr>
<tr>
<td>The setbacks of buildings from</td>
<td></td>
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<tr>
<td>a street respect the existing or</td>
<td></td>
<td></td>
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<tr>
<td>preferred neighbourhood</td>
<td></td>
<td>Proposed Dwelling 1: 5.17m</td>
</tr>
<tr>
<td>character and make efficient</td>
<td></td>
<td>Proposed Dwelling 2: 4.54m</td>
</tr>
<tr>
<td>use of the site.</td>
<td></td>
<td>Refer report for discussion.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>------</td>
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</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td>Yes</td>
</tr>
</tbody>
</table>
 Proposed Dwelling 1: 7.14m  
 Proposed Dwelling 2: 6.93m |
| **B8 Site Coverage** | Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. | Yes | Maximum: 50% | Proposed: 49.9% |
| **B9 Permeability** | Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. | Yes | Minimum: 20% | Proposed: 37% |
| **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 would be appropriately located to utilise the northern orientation of the site. |
| **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 | No safety issues are considered to be likely to arise. | |
| **B13 Landscaping** | To provide appropriate landscaping. To encourage: Development that respects the landscape character of the neighbourhood. Development that maintains and enhances habitat for plants and animals in locations of habitat importance. The retention of mature vegetation on the site. | Yes | The proposal allows for the provision of meaningful landscaping opportunities across the site. Refer to report for further discussion. |
### B14 Access
Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.

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<tbody>
<tr>
<td></td>
<td>Yes</td>
<td></td>
<td></td>
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<tr>
<td>Appropriate vehicular access is provided.</td>
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<tr>
<td><strong>Maximum:</strong></td>
<td></td>
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<tr>
<td>40% of street frontage</td>
<td></td>
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<tr>
<td><strong>Proposed Dwelling 1:</strong></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>15.5% of street frontage</td>
<td></td>
<td></td>
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<tr>
<td><strong>Proposed Dwelling 2:</strong></td>
<td></td>
<td></td>
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<tr>
<td>17.9% of the street frontage</td>
<td></td>
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</tbody>
</table>

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

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

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

<p>| | | | | |</p>
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<tbody>
<tr>
<td></td>
<td>Yes</td>
<td></td>
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<tr>
<td>Refer report and table below. Areas of non-compliance are underlined.</td>
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</table>

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</tr>
</thead>
<tbody>
<tr>
<td><strong>Dwelling 1 Ground Floor</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Required</td>
<td>Proposed</td>
<td>Required</td>
<td>Proposed</td>
<td></td>
</tr>
<tr>
<td>North (side)</td>
<td>0m</td>
<td>0m</td>
<td>3.14m - 3.56m</td>
<td>4.7m to stairs, 4.07m to bedroom</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2m</td>
<td>0m</td>
<td>3.14m</td>
<td>3.20m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>0m or 3m</td>
<td>3m to living area, 4.52m to garage and 2m to kitchen</td>
<td>3.14m</td>
<td>3.80m</td>
</tr>
</tbody>
</table>

<p>| | | | | |</p>
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</thead>
<tbody>
<tr>
<td><strong>Dwelling 2 Ground Floor</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Required</td>
<td>Proposed</td>
<td>Required</td>
<td>Proposed</td>
<td></td>
</tr>
<tr>
<td>North (side)</td>
<td>0m</td>
<td>0m, 1m</td>
<td>3.14m</td>
<td>3.80m</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2m</td>
<td>2m</td>
<td>3.14m</td>
<td>3.20m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>0m or 3m</td>
<td>0m, 4m</td>
<td>3.14m</td>
<td>4m, 5.82m</td>
</tr>
</tbody>
</table>

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

<p>| | | | | |</p>
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<thead>
<tr>
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</thead>
<tbody>
<tr>
<td></td>
<td>Yes</td>
<td></td>
<td></td>
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<tr>
<td><strong>Maximum Height:</strong></td>
<td>3.6m</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Dwelling 1 Proposed:</strong></td>
<td>2.8m</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Maximum Average Height:</strong></td>
<td>3.15m</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Dwelling 2 Proposed:</strong></td>
<td>3.15m</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Maximum Average Height:</strong></td>
<td>3.15m</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Maximum Length:</strong></td>
<td>9m</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item 4.7 – Matters of Decision</td>
<td>Page 187 of 251</td>
<td></td>
<td></td>
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<tr>
<td>----------------------------------</td>
<td>----------------</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Dwelling 1 Proposed</strong>: 6m <strong>Dwelling 2 Proposed</strong>: 6m</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| **B19 Daylight to Existing Windows**  
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. | |
| **B20 North Facing Windows**  
Allow adequate solar access to existing north-facing habitable room windows. | Yes  
No north facing windows on adjoining properties are affected. | |
| **B21 Overshadowing Open Space**  
Ensure buildings do not significantly overshadow existing secluded private open space. | Yes  
Shadow diagrams submitted with the application demonstrate that overshadowing to No. 2 Lilian Court at 9 am and No 25 Alfred Street at 12 pm and 3 pm. It is considered that the development is highly compliant because five hours of sunlight is provided to each property and at least 75 per cent of sunlight is also provided to secluded private open space. | |
| **B22 Overlooking**  
Limit views into existing secluded private open space and habitable room windows. | Yes  
Refer report Section 6.2. | |
| **B23 Internal Views**  
Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development. | No  
At ground level courtyard to dwelling 2 (north boundary) has no provision of a fence to limit views into secluded private open space to Dwelling 2. Refer to section 6.2 of the report.  
Apart from the courtyard a fence of 2.7 metres is proposed between dwellings, and there is a 3.8 metre gap on the first floor between the dwellings. The windows to the first floor have been adequately located and designed to limit internal overlooking to less than 50%. | |
| **B24 Noise Impacts**  
Protect residents from external noise and contain noise sources in developments that may affect existing dwellings. | Yes  
The development will not generate any noise above that typically expected from a residential building. | |
| **B25 Accessibility**  
Consider people with limited mobility in the design of developments. | Yes  
Enteries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required. | |
| **B26 Dwelling Entry**  
Provide a sense of identity to each dwelling. | Yes  
The entries to both dwellings are easily identifiable from the street. | |
| **B27 Daylight to New Windows**  
Allow adequate daylight into new habitable room windows. | Yes  
All habitable windows have direct access to daylight. |
<table>
<thead>
<tr>
<th><strong>B28 Private Open Space</strong></th>
</tr>
</thead>
</table>
| Provide reasonable recreation and service needs of residents by adequate pos. | Yes | **Minimum:** 25m² secluded, 40m² overall  
**Dwelling 1 Proposed:** 43 m² secluded, 60 m² overall  
**Dwelling 2 Proposed:** 45 m² secluded, 45 m² overall |
| **B29 Solar Access to Open Space**  |
| Allow solar access into the secluded private open space of new dwellings/buildings. | Yes | Appropriate solar access to the private open space areas is provided. |
| **B30 Storage**  |
| Provide adequate storage facilities for each dwelling. | No | A storage shed of 6m² in size is not provided in the rear open space of each dwelling, a condition will be attached. |
| **B31 Design Detail**  |
| Encourage design detail that respects the existing or preferred neighbourhood character. | Yes | Refer Attachment 1. |
| **B32 Front Fences**  |
| Encourage front fence design that respects the existing or preferred neighbourhood character. | Yes | **Required:** 1.2m  
**Dwelling 1 Proposed:** 1.2m  
**Dwelling 2 Proposed:** 1.2m |
| **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. | N/A |
| **B34 Site Services**  |
| Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. | No | Plans show does not show clotheslines, mailboxes and storage areas as required however, this can be achieved by a condition. |
1. **Purpose and background**

To report a planning permit application for the use of the land for a childcare centre, buildings and works, and display of business identification sign on a lot with an area of approximately 2,070 square meters (refer Attachment 1) at 19-25 Donald Street, Highett (refer Attachment 2).

The proposed childcare centre is for 88 children with a maximum number of 17 staff. The proposed hours of operation will be 7:00am to 7:30pm Monday to Friday. The site front yard will contain 19 car spaces including 5 tandem spaces for customers and staffs.

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Dean Clarke</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>17 November 2015</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>22 April 2016</td>
</tr>
</tbody>
</table>

2. **Policy implications**

**Planning permit requirements**

Clause 32.09-1 (Neighbourhood Residential Zone) – use of land for a Section 2 use (Childcare Centre).

Clause 32.09-7 (Neighbourhood Residential Zone) – construct a building or construct or carry out works for a use in Section 2.

Clause 52.05-9, (Advertising Signs) a permit is required for business identification sign.

**Planning scheme amendments**

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

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

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

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

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

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

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

- Inadequate car parking
- Noise
- Tree removal
- Waste management
- Hours of operation

Consultation meeting
A consultation meeting was held on 11 May 2016 attended by the permit applicant and objectors. 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 2015/675/1 for the land known and described as 19-25, Donald Street, Highett, for the use of the land for a childcare centre, buildings and works, and display of business identification sign in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the use and development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans advertised Council date stamped 17 November 2015 but modified to show:

   a) Removal of car parking 1-5 spaces and replaced with landscaping.

   b) Details of the proposed business identification sign, the proposed signage content is limited to what is required for identification purposes to the satisfactory of Responsible Authority, e.g. business name, logo, address and telephone number.

   c) Reduction of the proposed children number to a maximum of 65.

   d) Fence details in accordance with the Acoustic Control Report prepared by
Acoustic Control Pty Ltd, Report No DL154-1.

e) A landscaping design in accordance with Condition 5 of this permit.

f) An arborist report in accordance with Condition 7 of this permit.

g) Waste management plan in accordance with Condition 12 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. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

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

5. Prior to the endorsement of plan 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 proposed plan TP02 prepared by Perkins Architects, Council dated 17 November 2016 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

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

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

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

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

e) Details of surface finishes of pathways and driveways

f) Provision of two trees capable of reaching minimum dimensions at maturity of 8 metres in height and a minimum canopy width of 6 metres, and one tree capable of reaching minimum dimensions at maturity of 10 metres in height and a minimum canopy width of 8 metres.

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

7. Prior to the endorsement of plan pursuant to Condition 1, an Arborist Report is required to be submitted to the satisfactory of Responsible Authority. The arborist report must include, a Tree Management Plan (report) and Tree Protection Plan (drawing) for the trees to be retained on site and for trees on neighbouring properties whose tree protection zone extends into the subject site.

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 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.

8. The use may only operate between the hours of 7.00am to 6.30pm Monday to Friday.

9. No more than 65 children and 11 staff may be present on the premise at any one time.

10. The amenity of the area must not be detrimentally affected by the use or development, by the:

   a) transport of materials, goods or commodities to or from the land;
   
   b) appearance of any building, works or materials;
   
   c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
   
   d) presence of vermin;
   
   e) by any other circumstances

11. 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.

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

   a) Dimensions of storage waste areas.
   
   b) Storm water drains in storage areas should be fitted with a litter trap.
   
   c) The number and size of bins to be provided.
   
   d) Facilities for bin cleaning.
   
   e) Method of waste and recyclables collection.
   
   f) Types of waste for collection, including colour coding and labelling of bins.
   
   g) Hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines).
   
   h) Method of hard waste collection.
   
   i) Method of presentation of bins for waste collection.
   
   j) Sufficient headroom within the basement to accommodate waste collection vehicles.
   
   k) Sufficient turning circles for the waste collection vehicles to enter and exit
the site in a forward direction.

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

m) Compliance with relevant policy, legislation and guidelines.

n) An intention to collect the bins within the property via a 6.4m rear mini loader.

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.

13. Before the 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;

to the satisfaction of the Responsible Authority.

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

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

16. Vehicular crossing(s) must be constructed to the road to suit the proposed driveway(s) 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.

17. The recommendations contained in the approved acoustic reports must be implemented and completed and where they are recommendations of an ongoing nature, must be implemented and maintained to the satisfaction of the Responsible Authority.

18. Prior to the commencement of any 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.

19. The location and details of the sign/s, including those of the supporting structure, as shown on the endorsed plans, must not be altered without the written consent of the Responsible Authority.

20. The sign/s must be constructed and maintained to the satisfaction of the Responsible Authority.

21. The sign/s must not be illuminated by external or internal light except with 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 permit for the sign expires 15 years from the date of issue.

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.

the written consent of the Responsible Authority.

Permit Notes
• A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council’s supervision for which 24 hours notice is required. Council must be notified of the vehicular crossing and reinstatement works.
• This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
5. **Council Policy**

_Council Plan 2013-2017_

Relevant strategies of the Council plan include:
- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside's liveability along with its natural and built environment.
- 3.1.3 Advocating Council’s planning and urban design objectives.

_Bayside Planning Scheme_

- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 17 Economic Development
- Clause 18 Transport
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
- Clause 21.06 Built Environment and Heritage
- Clause 21.07 Economic Development
- Clause 22.07 Discretionary Uses in Residential Areas
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 52.05 Advertising Signage
- 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. **Appropriateness of Use**

The site is zoned Neighbourhood Residential, the final purpose of which reads to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

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 subject site does not abut a collector road or a Road Zone. Donald Street is a local road.</td>
</tr>
<tr>
<td>Site consolidation is encouraged to ensure adequate on-site parking, landscaping and setbacks are provided.</td>
<td>The site represents three parcels of land which together have an area of 2,072 square metres. As will be discussed adequate on-site car parking, landscaping and setbacks are provided on site.</td>
</tr>
<tr>
<td>The discretionary use is on a corner site.</td>
<td>The site is not located on a corner being approximately 190m north of the intersection of James Avenue.</td>
</tr>
<tr>
<td>The discretionary use is located on the periphery of commercial areas or adjacent to other discretionary uses to provide a transition between commercial and residential areas.</td>
<td>The site is located in an established residential area but within walking distance (approximately 400m) to Highett Supermarket which is a Neighbourhood Activity Centre.</td>
</tr>
<tr>
<td>The discretionary use is located near similar community and support facilities.</td>
<td>The site is located near similar community facilities with the Highett Neighbourhood Community House and Highett Youth Club being situated within approximately 400 metres north of the site.</td>
</tr>
<tr>
<td>The discretionary use is located within walking distance of public transport and promotes safe and convenient pedestrian access.</td>
<td>The site is located within 500m walking distance to the Highett Train Station. There are two bus routes (708 and 828) running along Highett Road which is 250m north from the site.</td>
</tr>
</tbody>
</table>

The site is considered to satisfy the locational criteria outlined above except for it not being located on a corner and not abutting a Road Zone or collector Road. As stated previously however, it is not compulsory for a proposal to meet all six locational criteria. In this instance the site is considered to be an acceptable location for the proposed use. The proposal easily meets the other preferred location criteria and importantly is considered to meet the objectives of this clause particularly in respect to neighbourhood community needs.
character, preserving residential amenity and traffic/car parking. Accordingly, it is considered that the site represents an appropriate location for the use proposed.

6.2. **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 new buildings and works will connect the two existing buildings. It does not alter the existing spacing which ensures the existing rhythm of visual separation between buildings is retained. The building façade is not altered significantly by the proposed works and therefore the streetscape is not impacted unreasonably. The openness of the existing streetscape is also protected as no proposed front fence is included in this proposal. The existing neighbourhood character is further protected by the retention of the Tree #3 and more landscape areas to replace the car spaces 1-5.

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>Childcare Centre</td>
<td>88 Children</td>
<td>19 spaces (0.22 car spaces per child)</td>
</tr>
<tr>
<td></td>
<td>Total car spaces required</td>
<td>19</td>
</tr>
<tr>
<td></td>
<td>Total car spaces proposed</td>
<td>19</td>
</tr>
</tbody>
</table>

A total of 88 children and 17 staff are proposed on site at any one time.

Clause 52.06 (Car Parking) prescribes a rate of 0.22 car spaces per child which equates to a requirement for 19 car spaces.

Council’s Discretionary Uses in Residential Areas Policy at Clause 22.07 seeks car parking ratios of 0.1 car spaces per child and 0.7 car spaces per staff member, which equates to a total of 20 car spaces.

The application was referred internally to Council’s Traffic Engineers who are not supportive of the proposed tandem car parking spaces. They are supportive of a child care centre on the site.

An assessment has been undertaken and the proposal can be supported, with 14 spaces for the following reasons:

- The layout and design of the proposed car parking spaces meets the design standards for car parking under the Clause 52.06-8 of the Bayside Planning Scheme.
- The 14 car spaces will be independent, ensuring that all staff and visitors can use the site practically and effectively without requiring a car parking management plan.
- The removal of car parking spaces 1-5 will assist in the retention of Tree #3 which contributes to the existing neighbourhood character.
- The removal of car parking spaces 1-5 will provide additional landscaping opportunities for the site and move noise associated from vehicles further away from the adjoining properties.

The removal of these five car spaces will however require the reduction in capacity of the child care centre from 88 children to 65 children. The reduction in children places and car spaces will ensure that the proposal complies with the car parking requirements of the Planning Scheme and does not cause any burden to the immediate area from a car parking perspective. Council’s Traffic Engineers are supportive of the proposal with 14 independent car spaces to service the child care centre.
6.4. **Off-site Amenity Impacts**

Given the site’s residential context, it is considered that an appropriate tool for measuring potential off-site amenity impacts are the objectives and standards in Clause 54 ResCode. The existing buildings are being retained with limited extensions to connect them. The proposal will have minimal amenity impact to adjoining residential properties.

The full capacity of 88 children may create some noise impacts to adjoining properties. The applicant submitted an acoustic assessment from Acoustic Control to support the proposal with the following recommendations:

- Acoustic fences to minimise outdoor play area noise to adjoining residential properties. The treatments include a 2.4m high acoustic fence enclosing the rear play area and a 2.1m acoustic fence along the north boundary adjacent to the front play area.

- Maximum noise emissions from mechanical plant and equipment should not exceed limits recommended under State Environment Protection Policy No. N-1 “Control of Noise from Commerce, Industry and Trade” (SEPP N-1). The relevant noise limit to meet will be the daytime limit of 50 dB(A).

- No specific acoustic treatments will be required for music noise control.

- A 1.8m high timber paling fence along the south boundary will be sufficient to minimise any adverse impacts from staff cars arriving early.

It is noted the proposal accords with the recommended operating hours prescribed under Clause 22.07-3, however the applicant has agreed to restrict the trading hours to between 7:30pm to 6:30pm to further address any potential amenity concerns. The reduced number of places will further address this concern. Therefore the proposal will not cause unreasonable noise impacts to adjoining properties.

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. **Landscaping/Vegetation**

Council’s Arborist has undertaken a site visit and reviewed the documentation and development as a whole. Council’s Arborist has no objection to the proposed removals of Tree #2, Tree #4, Tree #6 and Tree #7 provided that appropriate replacement is undertaken. Tree protection report is required for the trees on the subject site and the two Ash trees at 17 Donald Street.

The Tree #3 (Agonis Flexuosa, A Wlliow Myrtle) located in between car parking spaces 2 and 3 is in good health and contributory to the amenity of the neighbourhood. The proposed condition to remove the car parking spaces 1-5 and be replaced by landscaping will improve and increase the permeable area around the tree and further assist in its retention.

6.7. **Advertising Signage**

The business identification sign is proposed to be located within the front setback to the east of the proposed car space19. The proposed sign is 2.5m wide and 1.5m high with a clearance of 0.8m above the ground. No details of the proposed sign were submitted with the application.

The site is categorised as high amenity area which requires planning permit for any business identification sign. The requirements are listed under the Clause 22.07 - Advertising Signage and state the proposed signage is limited to what is required for identification purposes. Council officers raised no concerns in relation to its size and scale of the proposed business identification sign given:
• it is the only sign for the proposed childcare.
• the scale of the proposed sign is not considered as excessively large given it locates in an approximately 45m wide front yard.
• the proposed sign is not illuminated.

Given the content of the proposed sign is not provided, it will be conditioned in the permit that the proposed signage content is limited to what is required for identification purposes to the satisfaction of Responsible Authority, e.g., business name, logo, address and telephone number.

6.8. **Objections received**

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

**No demand/need for another childcare centre**

The VCAT has found that need (or lack of need) is not a material planning consideration for most use applications. In respect of potential impact on existing centres this too is not a planning consideration, with Section 57(2A) of the Planning and Environment Act 1987 specifically allowing the Responsible Authority to reject any objection made to secure or maintain a direct or indirect commercial advantage.

**Plan inaccuracies**

The plan inaccuracies alleged include that the plans depict rear fence height. The plan shows 2.1m rear fence but the recommendation from the Acoustic Control report is 2.4m. This can be addressed as a condition in the permit to revise the plan showing the fence height in accordance with the recommendation from the report prepared by Acoustic Control.

**Support Attachments**

1. Development Plans
2. Site surrounds and imagery
3. Neighbourhood Character Precinct E3
Item 4.8 – Matters of Decision
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

Not shown above: 2/51 Beaumaris Parade, Highett, and 8 Eddie Street, Highett

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
<tr>
<td>Objector(s)</td>
</tr>
<tr>
<td>Supporter(s)</td>
</tr>
</tbody>
</table>
Figure 2 View from Highett Road towards the subject site from the north
Figure 3 View from Donald Street towards the subject site from the South
Figure 4 View from Donald Street towards the subject site from the North
Neighbourhood Character Precinct E3

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain and enhance the garden settings of the dwellings. | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation.  
• Retain large, established trees and provide for the planting of new trees wherever possible.  
• Buildings should be sited to allow space for the planting of trees and shrubs. | Lack of landscaping and substantial vegetation.  
Removal of large trees.  
Planting of environmental weeds. | Responds  
Comments  
The proposed tree removals (Tree #2, Tree #4, Tree #6 and Tree #7) do not raise any concerns to the Council’s Arborist. They are either small or not in good health. The conditions to request the replacement tree will maintain and enhance the garden settings.  
The retention of Tree #3 in the front yard will further maintain and enhance the garden settings. |
| To maintain the rhythm of visual separation between buildings. | • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. |  | Responds  
Comments  
The proposed new buildings and works will connect the two existing buildings. The proposed new works do not alter the existing spacing which ensures the existing rhythm of visual separation between buildings is retained. |
| To ensure that new buildings provide an articulated and interesting façade to the street. | • Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.  
• Use pitched roof forms with eaves. | • Large, bulky buildings with poorly articulated front and side wall surfaces. | Responds  
Comments  
The proposed new buildings and works will not alter the building façade significantly and therefore the streetscape is not altered by the proposal unreasonably. |
| To maintain the openness of the streetscape. |  | High, solid front fencing | Responds  
Comments  
No front fence is proposed. |
4.9 270 HIGHTETT ROAD, HIGHTETT
NOTICE OF DECISION TO GRANT A PLANNING PERMIT.
APPLICATION NO: 2016/193/1 WARD: CENTRAL

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/16/269029

1. Purpose and background
To report a planning permit application for the sale and consumption of liquor (General Licence) in association with an existing café (food and drink premises), a reduction of car parking and increase of indoor seating from 6 to 24 on a lot with an area of 200 square metres (refer Attachment 1) at 270 Highett Road, Highett (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Michael Van Dort and Andrew Van Dort</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>3 February 2017 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>5 April 2017</td>
</tr>
</tbody>
</table>

2. Policy implications

Planning permit requirements
Clause 52.06 (Car Parking) – a permit is required for an existing use if the floor area is increased.
Clause 52.27 (Licensed Premises) – a permit is required to sell or consume liquor.

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

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

Public notification
The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and three objections were received. The following areas of concern were raised:
• Increase to noise.
• Increase to vehicular traffic.
• Proximity to residential dwellings.
• Increase to public disorder.
• Excessive operating hours.
• Seating on footpath.
• Use of the upstairs apartment.

Consultation meeting

A consultation meeting was held on 22 September 2016 and none of the parties attended.

The plans were amended on 3 February 2017 to include the store, office and kitchen as part of the red line plan.

The application was re-advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987. One further objection was received, raising issues consistent with other objectors, as such, no further consultation meeting was organised.

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 2016/193/1 for the land known and described as 270 Highett Road, Highett, for the Sale and consumption of liquor (General Licence) in association with an existing café (food and drink premises), a reduction of car parking and to increase indoor seating from 6 to 24 in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

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

2. The use may operate only between the following hours, unless with the prior written consent of the Responsible Authority.
   • 7 am and 11 pm Monday to Saturday.
   • 10 am and 11 pm Sunday.
   • 12 noon and 11 pm Good Friday and ANZAC Day.

3. No more than 24 seats may be made available at any one time to patrons on the premises, without the prior written consent of the Responsible Authority.

4. No external sound amplification equipment or loudspeakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose.

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

6. This permit will expire if one of the following circumstances applies:
   a) The use is not started within two years of the date of this permit.
   b) The use is discontinued for a period of two years or more.

In accordance with Section 69 of the Planning and Environment Act 1987, the Responsible Authority may extend the periods referred to if a request is made in writing within the prescribed timeframes, where the use allowed by the permit has not yet started.

Permit Notes
   • Unless a permit is not required under the Bayside Planning Scheme, signs must not be constructed or displayed without a further planning permit.
   • Premises used for the sale or storage of food are to be registered under the Food Act 1984 and require Council approval via the Environmental Health Officer before occupation.
   • A Local Law permit may be required for Foot Path Trading or display of A-frame signage.

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 17 Economic Development
• Clause 21.02 Bayside Key Issues and Strategic Vision
• Clause 21.07 Economic Development
• Clause 21.11 Local Areas
• Clause 22.08 Water Sensitive Urban Design
• Clause 34.01 Commercial 1 Zone
• Clause 43.02 Design and Development Overlay (Schedule 4)
• Clause 44.05 Special Building Overlay
• Clause 52.06 Car Parking
• Clause 52.27 Licenced Premises
• 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. Previous Planning Permits

Planning permit 2011/381/1 was lodged 28 June 2011 for a change of use to the ground floor from a shop (pharmacy) and upstairs dwelling to a café and an ancillary gift shop at ground floor and a first floor dwelling retained. The proposed café included 6 internal seats.

A letter of consent was supplied to the applicant on 1 September 2011, in accordance with Clause 52.06-1 of the Bayside Planning Scheme, with the maximum number of seats to not exceed six unless with prior written consent of the Responsible Authority and with no more than two staff at any one time, to operate between the hours of 10am to 5.30pm, 7 days a week, unless with the prior written consent of the Responsible Authority.

The proposal in 2011 was assessed against the requirements of Clause 52.06-5 which required 4 car spaces to be provided to each 100 square metres of leasable floor area. At the time of the consent letter, the leasable floor space of the café and gift shop was 28 square metres. The leasable floor area now proposed is 71 square metres.

6.2. Liquor Licence

Pursuant to Clause 52.27 a Planning Permit is required if a licence is required under the Liquor Control Reform Act 1998. A planning permit to consume liquor on site and sell pre-packaged liquor under a general licence is sought by the applicant. In addition to the guiding principles of Bayside’s Alcohol Harm Minimisation Policy, Clause 52.27 of the Bayside Planning Scheme sets out the following Decision Guidelines to consider when determining the appropriateness of an application:

The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

The business objectives of Clause 17.01 states that the use and development should be managed to provide new commercial facilities for the needs of the local population in new residential areas and within, or immediately adjacent to, existing commercial centres and to encourage development which meet the communities’ needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.

The site is located within the Highett Neighbourhood Activity Centre (NAC), as set out in Clause 21.11-6 of the Bayside Planning Scheme. The vision of the NAC is to revitalise the shopping centre as attractive, vibrant and well used main street and community focal point that provides a wide range of shopping, business and community services suited to the needs of people living and working in the area.

The proposed inclusion of a liquor licence and increase to leasable floor area to an existing café and associated gift shop is in line with the vision for the Highett NAC to support the established mixed development on land. The proposal is considered to have support from the State and Local Planning Policy Frameworks and is considered to be appropriate.

The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.

Council’s Social Planner has reviewed the application and supports the granting of a general licence as there is no evidence to suggest this type of licence will be detrimental to the amenity of the surrounding area. Evidence suggests, as outlined in Bayside’s Alcohol Harm Minimisation Policy 2013, that venues most likely to be associated with ‘alcohol related harms’ include late night licenses such as hotels, bars and nightclubs operating after 1am. The proposal does not include operating hours for after 1am and is not associated with a venue, such as a sporting club, which may include ‘short-term risk drinking’.
The impact of the hours of operation on the amenity of the surrounding area.

The proposal hours of operation sought for the liquor licence are:

- 7 am to 11 pm Monday to Saturday (excluding ANZAC Day and Good Friday).
- 10 am to 11 pm Sunday.
- 12 noon to 11 pm ANZAC Day and Good Friday.

The proposed hours of operation are considered reasonable and are unlikely to create undue detriment to the amenity of surrounding land users on the basis that consumption will occur off site. The proposed trading hours are consistent with the Bayside Alcohol Harm Minimisation Policy and are not associated with increased alcohol related harms.

The impact of the number of patrons on the amenity of the surrounding area.

The proposed 24 internal seats has been reviewed by Council’s Social Planner and advised there is no evidence to suggest a maximum of 24 seats will result in an increased risk of harm.

The proposal is a small scale use and evidence suggests, as outlined in Bayside’s Alcohol Harm Minimisation Policy 2013, that a lack of proximity to public transport is seen as likely to have a higher impact on the amenity of the surrounding area. The subject site is within proximity of a bus stop and the Highett train station, both within 180 metres from the site.

The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.

A cumulative impact can arise from clustering of outlets, this is assessed by the Bayside Alcohol Harm Minimisation Policy 2013 as being 15 or more licenced venues within a radius of 500 metres. The proposed licence will increase the existing 12 licences within 500 metres to 13, this is not over the 15 licence threshold of increased alcohol related harms from the cumulative impact of outlet density.

Council’s Social Planner has reviewed the application and advises there is no evidence to suggest the application will result in a cluster of licensed premises resulting in a higher crime rate and alcohol related problems.

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>Food and Drink premises</td>
<td>4 car parking spaces to each 100m² of leasable floor area.</td>
<td>2.8 car spaces (71sqm)</td>
</tr>
<tr>
<td>Total car spaces required</td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>Total car spaces proposed</td>
<td></td>
<td>0</td>
</tr>
</tbody>
</table>

The proposal seeks to reduce the number of car parking spaces required under Clause 52.06-5 (Car parking) for the use of the land as a café and ancillary gift shop.

The proposal includes a leasable floor area of 71 square metres, which generates a statutory requirement of two car parking spaces. A waiver of two car parking spaces is being sought.

Before granting a permit to reduce the number of spaces, Council must consider the following relevant decision guidelines of Clause 52.06-6 (Car Parking).

- The availability of alternative car parking in the locality of the land.
- On street parking in residential zones in the locality of the land that is intended to be for residential use.
• Any car parking deficiency associated with the existing use of the land.
• The impact of fewer car parking spaces on local amenity, including pedestrian amenity and the amenity of nearby residential areas.
• Access to or provision of alternative transport modes to and from the land.
• The equity of reducing the car parking requirement having regard to any historic contributions by existing businesses.

The site is situated within a small cluster of businesses located beside a small shopping complex, comprising of a mixture of retail, commercial and residential uses. The site is characterised by its limited on street parking in both the commercial zone and adjoining residential zones, but has ample access to bicycle parking, a bus stop and is within walking distance of the Highett train station, which is located 180 metres from the site.

The benefit of convenient access to alternative transport modes, including public transport (bus and train) within 180 metres of the site and a local ‘walk-up’ catchment of visitors and locals due to its proximity to large multi-storey residential developments and adjoining residential areas, the café will serve a convenient role within the Highett Neighbourhood Activity Zone. It is not anticipated that there will be an adverse economic impact from the shortfall of parking within the commercial zone or a detrimental amenity impact to the adjoining residential areas. Likewise, the proposed use is not likely to result in an unreasonable level of vehicular movements within the surrounding road networks due to the proximity of the premises to the Highett Train Station, bus stop and bicycle parking.

It is recommended that the waiver of two car parking space be supported.

6.4. **Objections received**

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

**Increase to noise**

The use currently operates with six seats. The proposed increase to hours and seat numbers may result in some increase to noise experienced by adjoining properties.

Further methods for determining noise levels are set out in the *State Environment Protection Policy No. N1* (SEPP No. N1) as included in Condition 5, and are calculated on a case by case basis. It is however noted that the EPA *Noise Control Guidelines 2008* include guidelines for the use of loudspeakers and loudspeaker systems, including an operating level control of no more than 65 dB.

SEPP No. N1 is designed to meet the requirements of the *Environment Protection Act 1970* to protect people from commercial, industrial or trade noise that may affect the beneficial uses made of noise sensitive areas while recognizing the reality of the existing land use structure in the Metropolitan Region.

The control of noise, not at above unreasonable levels, by Condition 5 is considered to be an acceptable outcome to reduce the amenity impacts relating to noise.

**Proximity to residential dwellings**

The site currently operates as a café and gift shop within a Commercial 1 Zone (C1Z). Adjoining the south of the property is a Neighbourhood Residential Zone Schedule 3, and a General Residential Zone Schedule 1 is located north-west of the site. The other adjoining properties are located within the C1Z.
The location and use of the premises meets the purpose and objectives of both the Commercial 1 Zone and the Highett Neighbourhood Activity Centre to create vibrant, mixed commercial centres for retail, offices, business, entertainment and community use. The size and density of the premises is seen to be in line with the adjoining Commercial area.

Nuisance and vandalism

Council’s Officers have reviewed the Crime Statistics for the Southern Metro Region – Division 2 – Bayside as reported by Victoria Police. The available data covers 2012/2013 and 2013/2014 statistics as well as a wide range of crimes.

In particular to the concerns raised by objection regarding nuisance and vandalism, between the years 2012/2013 and 2013/2014 the Bayside area saw a decrease to property damage by 4.4% and a decrease of harassment by 17%.

The proposed license will not result in a cluster of licences. A cluster is defined as 15 or more licences. Evidence suggests that a cluster may lead to an increase of alcohol-related problems, however, the proposal will not result in a cluster and is therefore appropriate.

Seating on footpath

Concerns were raised relating to seating on the footpath. The control of on footpath dining is set by Council’s Local Laws and is outside the ambit of discretion for this application.

The use of the upstairs apartment

The use of the upstairs apartment is outside of the considerations of this application.

Support Attachments

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
Item 4.9 – Matters of Decision
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th>✭</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objector(s)</td>
<td>●</td>
</tr>
</tbody>
</table>
Figure 2 View east towards the site

Figure 3 View west towards the site
4.10 1/30 AND 2/30 ROODING STREET, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/168/1 WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/71285

1. Purpose and background
To report a planning permit application for the construction of a first floor addition and minor alterations and additions to the ground floor of the existing dwellings on a lot with an area of 585 square metres (refer Attachment 1) at 1/30 and 2/30 Rooding Street, Brighton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Accent Plans</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>15 March 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>24 April 2017</td>
</tr>
</tbody>
</table>

2. Policy implications
Planning permit requirements
Clause 32.08-04 (General Residential Zone) – Construction or extension of a dwelling or residential building.
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 the case now, the site will not be located within the area covered by the SBO.

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>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 two objections were received. The following concerns were raised:

- Loss of daylight;
- Overshadowing; and,
- Overlooking.

Consultation meeting

The applicant declined the offer of a consultation meeting. No meeting was held.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2016/0169/1 for the land known and described as 1/30 and 2/30 Rooding Street, Brighton, for the construction of a first floor addition, minor alterations and additions to the ground floor of the existing 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 in accordance with the advertised plans submitted with the application but modified to show:
   a) Compliance with Standard B18 (Walls on Boundaries) of Clause 55 of the Bayside Planning Scheme along the western elevation of unit 1.

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. 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.

7. 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.

8. Council records indicate that there is a 1.83m wide drainage and sewerage easement along the southern property boundary as indicated on the drawings.
provided. The plans indicate 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.

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

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

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

5. Council Policy

Council Plan 2013-2017

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy (Precinct B1)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.08 General Residential Zone (Schedule 2)
- Clause 43.02 Design and Development Overlay (Schedule 10)
- Clause 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 B1 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 development incorporates appropriate boundary setbacks to reflect the built form pattern of the area while promoting adequate visual separation between the adjoining dwellings. The dwellings will sit comfortably within its context largely due to the articulated facades, roof form, 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 maintains the existing street; therefore maintaining the vegetated streetscape. It is noted that due to the vast amount of vegetation contained within the front setback, the first floor addition to 1/30 Rooding Street will not be visible from the public realm.

No vegetation removal is proposed therefore ensuring that the garden characteristics will be maintained and continue to contribute to the neighbourhood character.

The proposed second storey additions to 1/30 and 2/30 Rooding Street will consist of a pitched roof to match that of the existing dwelling(s). The building materials will consist of timber and rendered cladding to merge in with the existing dwelling and the abutting allotments. In terms of heights, the proposed additions will not appear juxtaposed to the heights found throughout the immediate area.

On balance, it is considered that the proposal is respectful of both the prevailing and preferred neighbourhood character. The proposal appropriately responds to the characteristics of visual separation between buildings, recessed upper floors, retention of vegetation; and, maintaining the dominant building form, height and materials found within the immediate area.

6.2. Compliance with Clause 55 (ResCode)

An assessment against the requirements of Clause 55 is provided at Attachment 3. The proposal complies with the relevant objectives and standards of Clause 55 of the Bayside Planning Scheme.

6.3. Car parking and traffic

Pursuant to the Bayside City Council Planning Scheme an extension of one dwelling on a lot in the General Residential Zone is exempt from the requirements of Clause 52.06, Car parking.

It is acknowledged that if Clause 52.06 did apply to the proposal, each dwelling would require two parking spaces therefore the current proposal would not comply as only one space is provided for each dwelling.

6.4. Street tree removal

The existing street tree will not be impacted by the proposed alterations and additions.

6.5. Vegetation & Landscaping

No vegetation removal is proposed. Additionally, it is noted that no trees are protected by any overlay.

6.6. Objections received

Issues raised by objectors that have 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 3sqm in area and 1m 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.
Overshadowing

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 compliant with Standard B21 (Overshadowing) of Clause 55 of the Bayside Planning Scheme.

Overlooking

A combination of appropriate fence heights, fixed and obscure glazing have been incorporated into the first floor to ensure views to adjoining habitable room windows and private open space is minimised. The proposal complies with Standard B22 (Overlooking) of Clause 55 of the Bayside Planning Scheme.

Support Attachments

1. Development Plans ▼
2. Site & Surrounds Imagery ▼
3. Neighbourhood Character Assessment Precinct B1 ▼
4. Clause 55 (ResCode) Assessment ▼
Item 4.10 – Matters of Decision
Item 4.10 – Matters of Decision
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Item 4.10 – 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>
<tr>
<td>Objector(s)</td>
</tr>
</tbody>
</table>
Figure 2 View of the site as seen from Rooding Street

Figure 3 View of Unit 1 frontage from the north.
Neighbourhood Character Precinct B1

Preferred Future Character Statement

The diverse dwelling styles, with a continued presence of pre WW2 era dwellings, and new buildings that respect, without replicating, these styles, sit within established gardens with large trees. Garages and car ports are set behind the dwelling façade so as not to dominate the streetscape. Generous side setbacks on at least one side allow vegetation to flow around the dwellings and this, along with avenue street trees and open style front fences, contributes to the green, leafy streetscapes within the area.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
• Alterations and extensions to should retain the front of these dwellings. | Demolition of dwellings that contribute to the valued character of the Precinct. | Responds  
The proposed development maintain the front and abutting façades of each dwelling. It is noted that all additions are considered to be sympathetic to the existing dwellings. |
| To maintain and enhance the garden settings of the dwellings. | • Retain large trees wherever possible.  
• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. | Lack of landscaping and substantial vegetation.  
Removal of large canopy trees. | Responds  
No vegetation removal is proposed. |
| To maintain the rhythm of spacious visual separation between buildings and provide space for front gardens. | • Buildings should be sited to allow space for the planting of trees and shrubs.  
• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | Lack of front garden space | Responds  
The dwellings are appropriately setback from the side boundaries to maintain the rhythm of visual separation between buildings. |
| To minimise the dominance of car parking facilities, driveways and crossovers. | • Locate garages and car ports behind the line of the dwelling.  
• Provide vehicular access from a rear laneway where possible, while maintaining pedestrian access from the street frontage. | Car parking facilities that dominate the facade or view of the dwelling. | Responds  
Parking spaces for each dwelling is located behind the line of the dwellings. This is not proposed to be altered. It is noted that a single crossover continues to serve both dwellings. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To ensure new development respects the dominant buildings forms and scale of buildings in the Precinct, through the use of innovative architectural responses. | • Recess upper storey elements from the front façade.  
• Articulate the form of buildings and elevations, particularly front facades. | Dominance of crossovers and driveways. | Responds  
The dwellings feature articulated forms and second storey elements are recessed from the side walls and surfaces.                                                                                                                                                           |
| To respect the identified heritage qualities of adjoining buildings.      | • Where adjoining an identified heritage building, reflect the dominant building form, height, materials and massing of the heritage building(s), of the heritage building(s) in the new building design. | Imitation or reproduction of historic building styles and detailing. | Responds  
The proposed development does not abut a heritage dwelling, however the proposed development remains consistent with the abutting allotments in relation to height, built form and design.                                               |
| To reflect the building materials in locations where there is particular consistency. | • Where consistent materials are used in the streetscape, use similar tonings in the colours of new buildings. | Excessive use of render on external walls. | Responds  
All building materials match that of the existing dwelling(s) and the immediate neighbourhood character.                                                                                                                                                                |
| To maintain the openness of the streetscape.                              | • Provide open style front fences appropriate to the building era.                 | High, solid front fencing. | Responds  
No changes to the front fence is proposed.                                                                                                                                                                                                                                    |
## 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>Yes</td>
<td>Refer Attachment 2.</td>
</tr>
<tr>
<td>Design respects existing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character or contributes to a preferred</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character.</td>
<td></td>
<td></td>
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<tr>
<td>Development responds to</td>
<td></td>
<td></td>
</tr>
<tr>
<td>features of the site and surrounding</td>
<td></td>
<td></td>
</tr>
<tr>
<td>area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>N/A</td>
<td>The residential development is existing.</td>
</tr>
<tr>
<td>Residential development is</td>
<td></td>
<td></td>
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<tr>
<td>consistent with housing policies in</td>
<td></td>
<td></td>
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<tr>
<td>the SPPF, LPPF including the MSS and</td>
<td></td>
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<tr>
<td>local planning policies.</td>
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<td></td>
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<tr>
<td>Support medium densities in areas to</td>
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<td></td>
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<tr>
<td>take advantage of public transport</td>
<td></td>
<td></td>
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<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>The residential development is existing.</td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>and types in 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>N/A</td>
<td>Development is capable of being connected to</td>
</tr>
<tr>
<td>Provides appropriate utility services</td>
<td></td>
<td>necessary reticulated services. Permit conditions</td>
</tr>
<tr>
<td>and infrastructure without</td>
<td></td>
<td>from engineering further ensure compliance.</td>
</tr>
<tr>
<td>overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>Both dwellings continue to integrate with Rooding</td>
</tr>
<tr>
<td>Integrate the layout of development</td>
<td></td>
<td>Street.</td>
</tr>
<tr>
<td>with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>No change to the street setback is proposed.</td>
</tr>
<tr>
<td>The setbacks of buildings from a</td>
<td></td>
<td></td>
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<tr>
<td>street respect the existing or</td>
<td></td>
<td></td>
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<tr>
<td>preferred neighbourhood character and</td>
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<td></td>
</tr>
<tr>
<td>make efficient</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| B7 Building Height | Yes | Maximum: 9m  
Proposed: 7.5m |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Building height should respect the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| B8 Site Coverage | Yes | Maximum: 60%  
Proposed: 48% |
| Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. |
| B9 Permeability | Yes | Minimum: 20%  
Proposed: 31% |
| Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. |
| B10 Energy Efficiency | N/A | The residential development is existing. |
| Achieve and protect energy efficient dwellings and residential buildings.  
Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy. |
| B11 Open Space | N/A | There is no adjoining public or communal open space abutting the subject site. |
| Integrate layout of development with any public and communal open space provided in or adjacent to the development. |
| B12 Safety | Yes | The entrances of both dwellings remain the same. |
| Layout to provide safety and security for residents and property. |
| B13 Landscaping | Yes | Refer report. No vegetation removal is proposed. |
| To provide appropriate landscaping. To encourage:  
Development that respects the landscape character of the neighbourhood.  
Development that maintains and enhances habitat for plants and animals in locations of habitat importance.  
The retention of mature... |
vegetation on the site.

**B14 Access**
Ensure the safe, manageable and convenient vehicle access to and from the development.
Ensure the number and design of vehicle crossovers respects neighbourhood character.

<p>| | |</p>
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>N/A</td>
<td>No change to the existing crossover is proposed.</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.

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<table>
<thead>
<tr>
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<tbody>
<tr>
<td>N/A</td>
<td>Refer to report.</td>
</tr>
</tbody>
</table>

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

<p>| | |</p>
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Yes</td>
<td>All first floor setbacks comply with Standard B17. It is noted that no changes to ground floor setbacks (existing) is proposed therefore an assessment against B17 is not required.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
</tr>
<tr>
<td>East (side)</td>
<td>Dwelling 1 – 2.6 m</td>
</tr>
<tr>
<td></td>
<td>Dwelling 2 – 1.4 m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>Dwelling 2 – 1.8 m</td>
</tr>
<tr>
<td>West (side)</td>
<td>Dwelling 1 – 1.5 m</td>
</tr>
<tr>
<td></td>
<td>Dwelling 2 – 1.9 m</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.

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</table>
| Yes | Maximum Height: 3.2m  
 **Proposed:** Approx. 3.2m  
 **Maximum Average Height:** Approx. 3.2m  
 **Maximum Length:** Approx. 4.5m  
 **Proposed:** Approx. 4.5 m (West Boundary)  
 No detail is shown on the plans regarding the height or length of the wall on boundary, therefore a condition will be placed requiring (Condition 1(a)) compliance with Standard B18. |

**B19 Daylight to Existing**

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<table>
<thead>
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<tbody>
<tr>
<td>Yes</td>
<td>All habitable room windows adjoining the subject site will have a light court that is 3sqm in area and</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
</tr>
<tr>
<td>Windows</td>
<td>Allow adequate daylight into existing habitable room windows.</td>
</tr>
<tr>
<td>B20 North Facing Windows</td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
</tr>
<tr>
<td>B21 Overshadowing Open Space</td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
</tr>
<tr>
<td>B22 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows.</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>
</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>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Consider people with limited mobility in the design of developments.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling.</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Allow adequate daylight into new habitable room windows.</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>Provide reasonable recreation and service needs of residents by adequate pos.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>B29</td>
<td>Solar Access to Open Space</td>
</tr>
<tr>
<td></td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
</tr>
<tr>
<td>B30</td>
<td>Storage</td>
</tr>
<tr>
<td></td>
<td>Provide adequate storage facilities for each dwelling.</td>
</tr>
<tr>
<td>B31</td>
<td>Design Detail</td>
</tr>
<tr>
<td></td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
</tr>
<tr>
<td>B32</td>
<td>Front Fences</td>
</tr>
<tr>
<td></td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
</tr>
<tr>
<td>B33</td>
<td>Common Property</td>
</tr>
<tr>
<td></td>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
</tr>
<tr>
<td>B34</td>
<td>Site Services</td>
</tr>
<tr>
<td></td>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
</tr>
</tbody>
</table>
5. Confidential Business

Nil

As Chief Executive Officer, I hereby declare that the contents of this agenda relating to the closed meeting of the ordinary meeting of Council are deemed confidential and accordingly members of Council are reminded that the contents of the agenda are not to be disclosed to any other party.

Adrian Robb

Chief Executive Officer