Agenda

for the

Planning & Amenity Committee Meeting

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

on

Tuesday, 23 January, 2018 at 7:00pm

Chairperson: Cr Rob Grinter
Councillors: Cr Alex del Porto
           Cr Laurence Evans (Mayor)
           Cr Michael Heffernan
           Cr James Long BM JP
           Cr Clarke Martin
           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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   4.2 76 - 78 Beach Road, Sandringham & 1/81 Beach Road, Sandringham Notice of Decision to Grant a Planning Permit Application No: 2016/766/1 Ward: Central ................................. 25
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   4.7 184 Bluff Road, Black Rock Refuse to Grant an Amended Permit Application No: 2009/558/2 Ward: Southern ....................... 247
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5. Confidential Business
   Nil
## Next Meetings 2018

- Tuesday 13 February 2018
- Tuesday 27 February 2018
- Tuesday 13 March 2018
- Tuesday 27 March 2018
- Tuesday 17 April 2018
- Tuesday 1 May 2018
- Tuesday 15 May 2018
- Tuesday 29 May 2018
- Tuesday 12 June 2018
- Tuesday 17 July 2018
- Tuesday 14 August 2018
- Tuesday 28 August 2018
- Tuesday 11 September 2018
- Tuesday 16 October 2018
- Tuesday 13 November 2018
- Monday 10 December 2018
- Thursday 20 December 2018
1. Apologies

2. Declarations of Interest

3. Adoption and Confirmation of the minutes of previous meeting

   3.1 Confirmation of the Minutes of the Planning & Amenity Committee Meeting held on 21 December 2017.
4. Matters of Decision

4.1 25B BOLTON STREET, BEAUMARIS
(FORMERLY LOT 12, 489 BALCOMBE ROAD)
NOTICE OF REFUSAL TO GRANT A PERMIT
APPLICATION NO: 2016/73/1 WARD: SOUTHERN

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

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Refusal to Grant a Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Peter Trusch</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The application contravenes the requirements of the S173 Agreement</td>
</tr>
<tr>
<td>Date application received</td>
<td>9 February, 2016</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>657</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Vegetation Protection Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay</td>
</tr>
<tr>
<td>Number of objections</td>
<td>0</td>
</tr>
</tbody>
</table>

Proposal

The application seeks construction of one double storey dwelling on a lot less than 500 square metres. The site has an area of 435 square metres. Key details of the proposal are as follows:

- Basement level – garage, gym and theatre
- Ground floor – guest bedroom, living/dining and kitchen
- First floor – three bedrooms and amenities
- Site coverage 42%
- Permeability 37%

The application plans are provided at Attachment 1.

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

History

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

The section 173 agreement on each title imparts obligations on the owner in relation to the building envelope, height of development and tree protection fencing and requires landscape plans to be prepared for each site and arborist reports where trees are to be retained.
It is noted that no landscape plan or arborist report has been submitted with the application, despite the requests of Council. Therefore, the failure to provide this information will form part of the recommended refusal grounds.

2. **Planning controls**

   **Planning Permit requirements**

   A planning permit is required pursuant to:
   - Clause 32.09-5 (Neighbourhood Residential Zone) – construction of one dwelling on a lot less than 500 square metres

   **Planning Scheme Amendments**

   There are no Planning Scheme Amendments relevant to this application.

3. **Stakeholder consultation**

   **External referrals**

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

   **Internal referrals**

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

   **Public notification**

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

4. **Recommendation**

   That Council resolve to:

   Issue a Notice of Refusal to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2016/73 for the land known and described as 25B Bolton Street, for the construction of one double storey dwelling on a lot less than 500 square metres in accordance with the following grounds of refusal:

   1. The proposal contravenes the requirements of clause 6.4 of the Section 173 Agreement pertaining to the land by the failure to provide a landscape plan with the application.

   2. The proposal fails to accord with the preferred neighbourhood character (precinct H1) of the area in accordance with Clause 22.06 (neighbourhood character policy) on the following grounds:
      a) The application fails to detail an appropriate level of post-construction landscaping.
      b) The application fails to ensure that the proposed development will not have an unreasonable impact on existing vegetation.
      c) The application fails to ensure that the building is not dominant when viewed from adjoining properties.

   3. The proposal fails to meet the following objectives of Clause 54 (ResCode) of the Bayside Planning Scheme:
      a) Standard A1 – Neighbourhood character – the proposed design response fails to respect the existing or preferred character of the area.
b) Standard A8 – Significant trees – the proposed development will unreasonably impact upon the existing vegetation on the adjoining property to the west (25 Bolton Street, Beaumaris) and fails to ensure an appropriate post-construction landscaping outcome.

c) Standard A10 – Side and rear setbacks – the proposed development unreasonably impacts on the amenity of adjoining properties and wider character of the area.

d) Standard A15 – Overlooking – the proposed development will unreasonably overlook adjoining properties.

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 42.03 Vegetation Protection Overlay (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 45.06 Development Contributions Plan Overlay (Schedule 1)
- Clause 54 One dwelling 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 and the individual merits of the application.
6.1. **Section 173 Agreement**

Clause 6.4 of the Section 173 Agreement requires the following:

*Planning application for the construction of Dwellings on Lots less than 500 square metres*

The Owner must lodge with Council for its approval a Landscape Plan with a planning application for the construction of a Dwelling on a Lot less than 500 square metres, that is consistent with the Concept Landscape Plan, to the satisfaction of Council.

It is noted that no landscape plan has been submitted with the application, despite the requests of Council. Therefore, the failure to provide this information will form part of the recommended refusal grounds.

Clause 6.6 of the Section 173 Agreement requires the following:

*Arborist Report*

Prior to the commencement of any Buildings and Works (including demolition) on any Lot which contains a tree protection within a Tree Protection Zone, including tress on abutting land covered by the Tree Protection Zones the Owner must engage a suitably qualified arborist to prepare, lodge and get approved by Council, an Arborist Report, to the satisfaction of Council.

It is noted that no arborist report has been submitted with the application, despite the requests of Council. The adjoining property to the west at 25 Bolton Street has trees that may be impacted upon by the proposed development.

Therefore, in the absence of an arborist report, the potential impact of the proposed development on adjoining vegetation will form part of the recommended refusal grounds.

6.2. **Neighbourhood character**

The site is located within Neighbourhood Character Precinct H3. An assessment against the Neighbourhood Character Policy is provided at Attachment 3.

The application has failed to respond to the characteristics of the site, with substantial variations to the side boundary setbacks proposed when measured against natural ground level (see variations proposed in section 6.3 below).

This is considered to be indicative of a poorly resolved design response that has failed to have appropriate regard to the site characteristics (rise/fall).

The application fails to minimise the impact of the development on existing vegetation and adjoining properties. Further, as detailed previously the absence of a landscape plan fails to ensure an appropriate post-construction landscape plan as sought by the character statement.

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

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

Those non-compliant standards are discussed below:

**Significant trees (Standard A8)**

As discussed previously, no landscape plan or arborist report has been provided with the application.

The adjoining property to the west at 25 Bolton Street has trees that may be impacted upon by the proposed development.

Therefore, the application fails to ensure the proposed development respect the landscape character of the neighbourhood.

**Side and rear setbacks (Standard A10)**
The ground floor eastern wall has a height of 4.4 metres, thereby requiring a 2.4 metre setback. Therefore, a 0.4 metre variation to the setback requirements is sought.

The ground floor western wall has a height of 5.5 metres, thereby requiring a 3.1 metre setback. Therefore, a 1.1 metre variation to the setback requirements is sought.

The first floor eastern wall has a height of 7.7 metres, thereby requiring a 5.5 metre setback. Therefore, a 2.2 metre variation to the setback requirements is sought.

The first floor western wall has a height of 8.0 metres, thereby requiring a 6.1 metre setback. Therefore, a 2.5 metre variation to the setback requirements is sought.

The first floor northern wall has a height of 5.5 metres, thereby requiring a 4.1 metre setback. Therefore, a 0.1 metre variation to the setback requirement is sought.

Due to the significant rise/fall of the land across the site, there are substantial variations to the setback requirements sought (in areas). The variations are more prominent towards to the front of the site (towards Bolton Street) and therefore adjoin the less sensitive interfaces to the east and west.

Notwithstanding this, there are areas of sensitivity adjoining the proposed. As such, it is not considered that the proposal adequately responds to the site features and provides a response which is both responsive to the streetscape and the character of the area.

Overlooking (Standard A15)

The development generally appears to have been designed to avoid any unreasonable overlooking of adjoining properties. However, the screening annotations are ambiguous and do not detailed the level of transparency. Further, it does not appear that all windows that would require screening, are screened.

6.4. Car parking and traffic

The dwelling is provided with a basement car parking area which allows space for two car parking spaces in accordance with Clause 52.06. The proposed vehicle access from Bolton Street is considered appropriate.

The level of increased traffic generated by the proposed development will not adversely impact the local road network.

Support Attachments
1. Application plans ↓
2. Site Surrounds and Imagery ↓
3. Neighbourhood Character Assessment ↓
4. Clause 54 Assessment ↓
ATTACHMENT 2
Site Surrounds and Imagery

Figure 1. Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
</tbody>
</table>
ATTACHMENT 3
Neighbourhood Character (Precinct H3) Assessment

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To strengthen the bushy garden character of the area through the planting of appropriate species. | • Retain large established trees and understorey, and provide for the planting of new indigenous trees wherever possible (locate footings outside root zone).  
  • Prepare a landscape plan to accompany all applications for new dwellings that utilises appropriate native, preferably indigenous, vegetation.  
  • Minimise impervious surfaces particularly in front garden spaces to ensure space for plantings. | Lack of landscaping and substantial vegetation.  
Removal of large established trees.  
Planting of environmental weeds | Does not respond  
A landscape plan has not been submitted in support of the application. |
| To maintain the rhythm of spacious visual separation between buildings and ensure adequate space is provided around buildings for the retention and planting of vegetation. | • Buildings should be sited to allow space for a garden, including trees and shrubs.  
  • Buildings should be sited to create the appearance of space between buildings and accommodate vegetation. | Loss of front garden space. | Responds  
The dwelling is within the building parcel approved as a part of the subdivision permit (2014/516/2) which allows for an appropriate spread of dwellings within the new site. |
| To minimise the loss of front garden spaces and the | • Locate garages and carports behind the line of the dwelling. | Car parking structures that | Responds |

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<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>dominance of car parking structures.</strong></td>
<td>- Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.</td>
<td>dominate the façade or view of the dwelling.</td>
<td>The application proposes a basement level for the garage. This is considered to be an acceptable outcome.</td>
</tr>
</tbody>
</table>
| **To minimise site disturbance and impact of the building on the landscape.** | - Buildings should be designed to follow the contours of the site on sloping sites.  
- Minimise the use of retaining walls and battering of slopes.  
- Design new buildings and extensions so as not to exceed the predominant tree canopy height. | Major excavation works and site levelling.  
Buildings that protrude above the tree canopy height. | Does not respond  
The application fails to minimise the impact of the development on existing vegetation and adjoining properties.  
Further, the application has failed to respond to the characteristics of the site, with substantial variations to the side boundary setbacks proposed due to the heights when measured against natural ground level. |
| **To ensure that new buildings provide an articulated and interesting façade to the street.** | - Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.  
- Recess upper levels from the front façade. | Large, bulky buildings Poorly articulated front and side wall surfaces. | Responds  
This proposal incorporates a variety of materials and screening in order to present an interesting and naturally complementary built form. |
| **To use building materials and finishes that complement the natural setting.** | - Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick. | Period reproduction styles and detailing. | Responds  
As discussed, the variety of materials will complement the natural surrounds. |
| **To maintain the openness of the front garden to the street.** | - Provide open style front fences, other than along heavily trafficked roads.  
- Use vegetation as an alternative where possible. | High or solid front fences. | Responds  
No front fencing is proposed. |
<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A1 Neighbourhood Character</strong></td>
<td>No</td>
<td>Refer Attachment 3.</td>
</tr>
<tr>
<td>Design respects existing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>contributes to a preferred</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development responds to</td>
<td></td>
<td></td>
</tr>
<tr>
<td>features of the site and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A2 Integration with Street</strong></td>
<td>Yes</td>
<td>The dwelling appropriately addresses the street and the pedestrian entry is clearly identifiable from the Bolton Street.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td>Yes</td>
<td>Minimum: 6m</td>
</tr>
<tr>
<td><strong>A3 Street Setback</strong></td>
<td>Yes</td>
<td>Minimum: 6m</td>
</tr>
<tr>
<td>Setbacks of buildings from a</td>
<td></td>
<td>Proposed: 6m</td>
</tr>
<tr>
<td>street respect the existing or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>preferred neighbourhood character</td>
<td></td>
<td></td>
</tr>
<tr>
<td>and make efficient use of the site</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A4 Building Height</strong></td>
<td>Yes</td>
<td>Required: 8m</td>
</tr>
<tr>
<td>Building height respects the</td>
<td></td>
<td>Proposed: 8m</td>
</tr>
<tr>
<td>existing or preferred</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A5 Site Coverage</strong></td>
<td>Yes</td>
<td>Maximum: 50%</td>
</tr>
<tr>
<td>Site coverage should respect the</td>
<td></td>
<td>Proposed: 42%</td>
</tr>
<tr>
<td>existing or preferred</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>respond to the features of the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A6 Permeability</strong></td>
<td>Yes</td>
<td>Minimum: 20%</td>
</tr>
<tr>
<td>Reduce the impact of stormwater</td>
<td></td>
<td>Proposed: 37%</td>
</tr>
<tr>
<td>run-off on the drainage system and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>facilitate on-site stormwater</td>
<td></td>
<td></td>
</tr>
<tr>
<td>infiltration.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A7 Energy Efficiency</strong></td>
<td>Yes</td>
<td>All habitable areas, including habitable rooms and secluded private open spaces would be appropriately located in relation to the orientation of the site.</td>
</tr>
<tr>
<td>Achieve and protect energy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>efficient dwellings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Ensure the development’s orientation and layout reduce fossil fuel energy use and makes appropriate use of daylight and solar energy.

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

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
</table>
| No | The application fails to ensure the proposed development respect the landscape character of the neighbourhood.

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

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td>East (side)</td>
<td>2.4m</td>
</tr>
<tr>
<td>West (side)</td>
<td>3.1m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>3m</td>
</tr>
</tbody>
</table>

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

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
</table>
| Yes | No walls on boundaries are proposed as part of this application.

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

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
</table>
| Yes | The proposal will ensure daylight to existing windows is maintained.

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

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

### A14 Overshadowing Open Space

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
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</thead>
</table>
| Yes | Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded

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Item 4.1 – Matters of Decision
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Yes/No/Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.1</td>
<td>Ensure buildings do not unreasonably overshadow existing secluded private open space.</td>
<td></td>
</tr>
<tr>
<td>A15</td>
<td>Overlooking Limit views into existing secluded private open space and habitable room windows</td>
<td>No</td>
</tr>
<tr>
<td>A16</td>
<td>Daylight to New Windows Allows adequate daylight into new habitable room windows.</td>
<td>Yes</td>
</tr>
<tr>
<td>A17</td>
<td>Private Open Space Provide adequate private open space for the recreation and service needs of residents.</td>
<td>Yes</td>
</tr>
<tr>
<td>A18</td>
<td>Solar Access to Open Space Allow solar access into secluded private open space of a new dwelling.</td>
<td>Yes</td>
</tr>
<tr>
<td>A19</td>
<td>Design Detail Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
</tr>
<tr>
<td>A20</td>
<td>Front Fences Encourage front fence design that respects the exiting or preferred neighbourhood character.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
4.2  76 - 78 BEACH ROAD, SANDRINGHAM &  
1/81 BEACH ROAD, SANDRINGHAM  
NOTICE OF DECISION TO GRANT A PLANNING PERMIT  
APPLICATION NO: 2016/766/1 WARD: CENTRAL

City Planning & Community Services - Development Services  
File No: PSF/15/8755 – Doc No: DOC/18/798

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>D Lurie c/ St Wise Pty Ltd</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>25 November 2016 (Amended)</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>103 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Commercial 1 Zone (C1Z)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Overlays</th>
<th>Design and Development Overlay Schedule 1 (DDO1)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Development Contributions Overlay Schedule 1 (DCPO1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>8</td>
</tr>
</tbody>
</table>

Proposal

The application proposes the use of the site as a restricted recreation facility (gymnasium) for the purposes of a fitness studio operated by F45 Training and car parking to the satisfaction of the Responsible Authority, on a lot with an approximate combined site area of 2,750 square metres at 76 – 78 Beach Road and 1/81 Beach Road, Sandringham.

Key details of the proposal are as follows:

- The proposed use will operate from Unit 1 of the site which comprises a two storey commercial building;
- The existing building will remain unchanged externally and internally;
- The studio will run with a maximum of six (6) classes per day with each class having a maximum of 27 patrons and running for a duration of 45 minutes;
- A maximum of 3 fitness instructors would be present at any given time;
- The proposed class times are as follows:
  - Monday to Friday:
    - 5:30am – 8:15am
    - 9:30am to 10:15am
    - 5:30pm to 7:30pm
  - Saturday:
    - 7:00am to 10:00am
- The proposed land use will have a total of 19 car parking spaces available for
patrons and staff members. The premises at 76 – 78 Beach Road, Sandringham and 1/81 Beach Road Sandringham are under one ownership and the three car spaces available within the undercroft car park accessed from the rear laneway at the rear of 81 Beach Road will be allocated to future patron and staff members with the remaining 16 car parking spaces at the front of 76 – 78 Beach Road to be utilised by patrons of the proposed use. The existing spaces at 76 – 78 Beach Road will be available for future patrons before and after business hours during weekdays (before 9:00 am and after 5:00 pm) and on Saturdays.

The application plans are provided at Attachment 1.

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

History

There is no planning permit history relevant to this application.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 34.01-1 (Commercial 1 Zone) – use of the site as a restricted recreation facility (gymnasium).
- Clause 52.06-5 (Car Parking) – the proposed use is not listed under Table 1 within Clause 52.06-5 and accordingly an appropriate number of car spaces needs to be provided to the satisfaction of the Responsible Authority pursuant to Clause 52.06-5A of the Bayside Planning Scheme.

Note: The proposed sign demonstrated on the development plans does not require a planning permit as the total advertisement area of all signs to each premises does not exceed 8m² pursuant to Clause 52.05-7 (Advertising signs) of the Bayside Planning Scheme.

Planning Scheme Amendments

Council publicly exhibited Amendment C126 in April 2017 and received 90 submissions. At its 23 May 2017 Ordinary Meeting, Council resolved to review the Small Activity Centres Strategy 2014 and Amendment C126 to have regard to the submissions received and the changes which have occurred in the centres over time. This review is currently underway and a report will be presented to Council in early 2018 for a decision as to how to proceed with the amendment. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and Adopted.

Amendment C155 proposes to apply an Environmental Audit Overlay to the subject land at 76 – 78 Beach Road, Sandringham. An independent Planning Panel has considered the submissions received to the Amendment and the Panel Report will be presented to Council for consideration early in 2018.

3. Stakeholder consultation

External referrals

The application was referred to the following authorities:

<table>
<thead>
<tr>
<th>Referral Authority</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>VicRoads</td>
<td>No objection. No permit conditions required.</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 Engineer</td>
<td>Objection due to location of the car parking on a different site and parking availability within the surrounding the local streets.</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 nine (9) objections were received. One objection was subsequently withdrawn following the consultation meeting as detailed below.

The following concerns were raised:
- Noise disturbance to surrounding residential properties resulting from the proposed use and hours of operation;
- Car parking congestion within the local streets; and
- Traffic safety.

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

Consultation meeting
A consultation meeting was held on 5 April 2017 attended by the permit applicant and objectors.

Following this meeting, the permit applicant formally amended the application on 22 September 2017 to include the use of the land at 76 – 78 Beach Road, Sandringham, along with the provision of a Car Parking Management Plan (CPMP). The applicant in this amendment also agreed to the inclusion of permit conditions relating to the restriction of throwing medicine balls on the floor and adherence with the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade).

The amended application was circulated to all objectors. No objections were withdrawn.

4. Recommendation
That Council resolve to:

Issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/766/1 for the land known and described as 76 – 78 Beach Road, Sandringham and 1/81 Beach Road, Sandringham, for the use of the site as a restricted recreation facility (gymnasium) and car parking to the satisfaction of the Responsible Authority 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 Council date stamped 25 September 2017 but modified to show:
   a) The proposed plans to correctly identify the number of existing car parking spaces at 76 – 78 Beach Road, Sandringham generally in
accordance with the Car Parking Assessment prepared by TraffixGroup dated August 2017.

b) 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.

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. The use 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.

5. 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.

6. 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.

7. 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.

8. The location of gym equipment as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

9. Medicine balls (and the like) must not be thrown on the floor as part of any activity associated with the proposed use.

10. A maximum of 3 staff members and 27 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.

11. Unless otherwise agreed by the Responsible Authority, the restricted recreation facility must only operate, including deliveries, loading and unloading, between the following hours (with a maximum of six classes per day);
   a) Monday to Friday, 5:30am to 7:30pm
   b) Saturday, 7:00am to 10:00am

Permit Expiry

12. This permit will expire if one of the following circumstances applies:
   a) The use is not started within five 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, 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.

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

- Local opportunities for business and employment are protected and enhanced and opportunities for economic innovation are embraced.
- Where significant development is directed to specified and planned activity centres and strategic locations, providing a transition to surrounding residential areas and incorporating improved infrastructure and open space.

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 17 Economic Development
- Clause 21.07 Economic Development
- Clause 21.11 Local Areas
- Clause 34.01 Commercial 1 Zone
- Clause 43.02 Design and Development Overlay (Schedule 1)
- Clause 45.06 Development Contributions Plan Overlay (Schedule 1)
- 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. 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.

The site is located within the Beach Road and Georgiana Street Centre, which is classified as a Small Commercial Activity Centre – Mixed Use under the Bayside Small
Activity Centres Strategy 2014. These centres include services, offices and limited retail uses, but do not have a milk bar or supermarket function.

Planning Scheme Amendment C126 for Beach Road and Georgiana Street Centre Amendment C126 proposes to rezone part of 72 Beach Road from the Neighbourhood Residential Zone to the Commercial 1 Zone (an anomaly for the petrol station site), and apply a new Design and Development Overlay Schedule 17 to the centre (which includes specific building design controls).

The existing and proposed strategic direction for the site encourages the provision of a diverse mix of appropriate services that cater to needs of local residents and visitors.

The gymnasium is proposed to operate with a maximum of six classes per day, with each class running for approximately 45 minutes and a maximum of 27 patrons. A total of three staff members will be present at any given time. The classes will run between the following hours of operation:

- Monday to Friday:
  - 5:30am – 8:15am
  - 9:30am to 10:15am
  - 5:30pm to 7:30pm
- Saturday:
  - 7:00am to 10:00am

The proposed use of the land as a restricted recreation facility meets the relevant policy objectives. There are potential conflicts that arise between commercial uses and residential properties in activity centres, however these will be appropriately managed through the restriction of operating hours, patron numbers and noise management requirements by way of permit conditions. It is considered that these conditions will satisfy and address any concerns regarding noise disturbance from the site.

6.2. 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>27</td>
</tr>
</tbody>
</table>

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.

A total of 19 car spaces are provided on the site, with three accessed from the rear of the 81 Beach Road via Georgiana Street and the remaining spaces accessed from 76 – 78 Beach Road, Sandringham. The two sites are under single ownership and the applicant has provided confirmation from the owner that the existing car spaces at 76 - 78 Beach Road can be used outside of standard trading hours (before 9am and after 5pm).

The anticipated car parking demands associated with the proposed fitness studio comprise of long term (staff) parking demands and short term (patron) parking demands. The existing building has three on-site allocated parking spaces accessed via Georgiana Street. These spaces can comfortably accommodate the staff parking demand should all staff choose to drive to and from the site.

The remaining 16 spaces can be provided for patrons visiting the site before 9am and after 5pm on weekdays at 76 – 78 Beach Road, Sandringham. In considering the remaining car parking demand of 11 spaces (should all patrons choose to drive to the site), the subject site is contained within an activity centre characterised by a variety of on street parking. While no kerbside parallel parking is permitted along Beach Road adjacent to the site, Georgiana Street comprises a mixture of long term and short term parking with restricted two hour parking located along the site’s frontage. In addition, car parking is available at the Trevor Barker Oval which accommodates 16 car spaces (including two disabled car spaces) and is generally restricted to ‘P Ticket 8:00am to 8:00pm including public holidays.

The site also has reasonable accessibility to public transport with Bus Routes 600, 922 and 823 operating along Beach Road directly past the site and the Sandringham Railway Station which is located approximately 760 metres walking distance to the south east of the site.

Council’s Traffic Engineer does not support the application largely due to the location of car parking associated with the proposed use to be provided on an adjacent site.

Notwithstanding, the proposal is within short walking distance to the site and the applicant has confirmed that patrons will be encouraged to utilise this car park rather than local surrounding streets.

The proposed Car Parking Assessment (Attachment 3) confirms that there is sufficient scope for the likely parking demands associated with future patrons of the proposed use to be accommodated within the available nearby parking resources surrounding the site, including the parking to be made available at 76 – 78 Beach Road and that there were no fewer than 16 vacant spaces within the car park at 76 – 78 Beach Road at any given time.

The applicant has also provided a Car Parking Management Plan that outlines specific measures to be adopted by the applicant and the owner of the land at 76 - 78 Beach Road to ensure that the car park is appropriately managed and available for use by clients of the proposed gymnasium.

In light of the surrounding car parking availability of the site it is considered that the proposed car parking demand of the use can be comfortably accommodated within the local area without compromising the amenity for existing residents.

While safety matters associated with the proposed use were raised by objectors, Council’s Traffic Engineer and VicRoads did not raise substantial concerns with regards to impacts of the proposed use on the safety of the existing residents.
Condition 1a) has been included in the recommendation as the Car Parking Assessment has confirmed a total of 16 existing car parking spaces at 76 – 78 Beach Road, Sandringham. However the proposed plans only show 14. The condition will work to rectify this discrepancy on the plan.

6.3. **Objector issues not already addressed**

The objections have been adequately considered and addressed in the body of the report.

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Proposed Car Parking Assessment & Management Plan ↓
proposed group fitness
training centre
AT: SUITE 1/81 BEACH RD,
SANDRINGHAM

for: mr. d. lurie
town planning application
ISSUE 'B'

_job No: 16/002 Date: - 20/03/17

ABN 26866834235
Phone: 0404404907
louis.mckenzie@outlook.com
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1. Aerial overview of the site and surrounds.

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⚫</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>🔴</td>
</tr>
</tbody>
</table>
Figure 2. View of the south west corner of the subject site.

Figure 3. View of the southern side of the subject site taken from Georgiana Street, Sandringham.
Figure 4. View of the existing frontage to 76 – 78 Beach Road, Sandringham.

Figure 5. View of the existing vehicle access to the east (rear) of the subject site along Georgiana Street, Sandringham.
Car Parking Assessment

Proposed Fitness Studio Development at
Unit 1/81 Beach Road, Sandringham

Prepared For
F45 Sandringham

August 2017
G22787R-01C
Car Parking Assessment

Proposed Fitness Studio Development at
Unit 1/81 Beach Road, Sandringham

Document Control

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<th>Date</th>
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<th>Approved By</th>
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<td>7/8/2017</td>
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Our Reference: G22787R-01C

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G22787R-01C
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    2.3.1 Bicycle Network and Walkability .................................................................................. 4
    2.3.2 Public Transport ............................................................................................................... 5
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  4.2 Anticipated Parking Demands ................................................................................................. 6
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1 Introduction

Traffic Group has been engaged by F45 Sandringham to prepare a car parking assessment report for a proposed fitness studio development at Unit 1/81 Beach Road, Sandringham.

This report has been prepared to address car parking issues associated with the proposed development.

2 Existing Conditions

2.1 Subject Site

The subject site is located at the northeast corner of the Beach Road/Georgiana Street intersection in Sandringham, as shown in the locality plan in Figure 1.

![Locality Map](image)

*Figure 1: Locality Map*

The subject site is rectangular in shape and is currently occupied by a multi-storey commercial building which accommodates a number of separate retail/commercial businesses. An under-croft car park is provided on site for the different businesses, accessed via a rear right of way (RoW) which runs along the site’s eastern boundary.

Unit 1 within the building is the subject of this application and is currently vacant. We are instructed that three car spaces within the under-croft car park are allocated for use by Unit 1.
Car Parking Assessment
Unit 1/81 Beach Road, Sandringham: Proposed Fitness Studio Development

The subject site is situated within a Commercial 1 Zone (C12) under the Bayside Planning Scheme, as shown in the zoning map in Figure 2.
**2.2 Road Network**

*Beach Road* is in the Road Zone Category 1 (RDZ1) and is under the control of VicRoads. In the vicinity of the subject site, Beach Road has an undivided carriageway which accommodates two lanes of traffic in each direction. No kerbside parallel parking is permitted along Beach Road adjacent to the site.

A speed limit of 60 km/h applies to Beach Road past the site.

Beach Road is shown in Figures 3 and 4.

*Georgiana Street* is a local street which extends in an east-west direction between Moor Street to the east and Beach Road to the west.

In the vicinity of the subject site, Georgiana Street has a 7.2m wide carriageway with kerbside parallel parking provided on both sides.

On-street parking along Georgiana Street comprises a mixture of long-term and short-term parking. Parking along the site’s frontage is short-term in nature, typically ‘2P 8:00am-6:00pm Monday-Friday, 8:00am-12noon Saturday’.

The intersection of Georgiana Street and Beach Road operates under standard ‘Stop’ conditions and provides for all turning movements.

Georgiana Street is shown in Figures 5 and 6.
Car Parking Assessment
Unit 1/81 Beach Road, Sandringham: Proposed Fitness Studio Development

Figure 5: Georgiana Street - View East
Adjacent to Subject Site

Figure 6: Georgiana Street - View West
Adjacent to Subject Site

A rear dead-end right of way (RoW) runs along the site’s eastern boundary and extends from Georgiana Street. The RoW is constructed with a concrete pavement and has a trafficable width of approximately 3.5m adjacent to the site.

The RoW provides vehicle access to the car park associated with the subject site and the abutting land at 79 Beach Road.

The RoW is shown in Figures 7 and 8.

Figure 7: RoW - View North from Georgiana Street

Figure 8: RoW - View South Towards Georgiana Street

2.3 Sustainable Modes of Transport

2.3.1 Bicycle Network and Walkability

The City of Bayside is well serviced by the Principal Bicycle Network (PBN), with on-road and off-road bicycle paths directly linking the City of Bayside with surrounding municipalities.

The subject site has good access to bicycle infrastructure with on-road bicycle lanes and informal bicycle routes on many roads in the immediate vicinity of the subject site, including Bridge Street and Abbott Street. Further, the Bay Trail runs on the west side of Beach Road directly opposite the site.
The subject site is also highly walkable. The site achieves a 'walk score' of 77 out of 100 and is classified as 'Very Walkable' by the walk score website.

2.3.2 Public Transport

The subject site has good accessibility to public transport, with the following services operating nearby:

- **Bus Routes 600, 922 and 823** operate along Beach Road directly past the site. These routes provide a service between Southland Shopping Centre and St Kilda Station.
- **Sandringham Railway Station** is on the Sandringham Line and is located approximately 760m walking distance to the southeast of the site.

These routes and services provide access to other public transport services, as shown in the public transport map in Figure 9.

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3 [https://www.walkscore.com/](https://www.walkscore.com/)
3 The Proposal

It is proposed to utilise Unit 1 on the site for the purposes of a fitness studio operated by F45 Training. We are advised by the applicant that the studio will run with a maximum of six classes per day, with each class having a maximum of 27 clients and running for a duration of 45 minutes. We are also advised that no more than three staff members are to be on site at any one point in time.

The proposed class times are as follows:

- Monday-Friday: 5:30am to 8:15am
  9:30am to 10:15am
  5:30pm to 7:30pm
- Saturday: 7:00am to 10:00am

The studio will run one class at a time, with a 15 minute gap provided between the end of one class and the beginning of another.

The existing three spaces available on the site are to be utilised by staff of the studio. No on-site car parking is to be provided for clients.

The applicant has an agreement with the owner of the land at 77 Beach Road for clients of the fitness studio to utilise 16 of the available 22 parking spaces on this land before and after business hours during weekdays (i.e. before 9:00am and after 5:00pm), and on the Saturday.

A Car Parking Management Plan (CPMP) has been prepared in order to address this arrangement and is attached at Appendix A.

4 Car Parking Considerations

4.1 Statutory Car Parking Requirements

Clause 52.06 of the Planning Scheme outlines the statutory car parking requirements for a range of land uses.

The proposed use is not listed under Table 1 within Clause 52.06-5 of the Planning Scheme and accordingly, an appropriate number of car spaces needs to be provided to the satisfaction of the Responsible Authority, in accordance with Clause 52.06-5A of the Planning Scheme.

4.2 Anticipated Parking Demands

The anticipated car parking demands associated with the proposed fitness studio will comprise long-term (staff) parking demands and short-term (client) parking demands.

Based on the information provided by the applicant and having consideration to the surrounding land uses, existing parking conditions, and the available sustainable modes of transport within the area, the

---

2 This land is addressed as 76-78 Beach Road under the Planning Maps.
anticipated car parking demands associated with the proposed development have been calculated on a first-principles basis, assuming:

- All staff will drive to/from the site (i.e. three staff members);
- 80% of customers will drive to/from the site, with 20% relying on other modes of transport (such as public transport, walking and/or cycling) to access the site; and
- There will be no overlap of clients arriving to the site for a class and others leaving the site after a class.

On this basis, the proposed development is anticipated to generate a parking demand for up to 25 car spaces, comprising three long-term (staff) spaces and 22 short-term (client) spaces.

Three car spaces are available on site for use by staff, which is sufficient to accommodate the likely staff parking demands.

Parking demands associated with clients will need to be accommodated off site.

4.3 Availability of Parking

Traffic Group undertook car parking occupancy surveys within no more than approximately 200m walking distance from the site. The survey area is shown in Figure 10.

Legend

- Subject Site
- On-street Parking
- Off-street Car Park
- 77 Beach Road Car Park

Figure 10: Parking Survey Area
Car Parking Assessment
Unit 1/81 Beach Road, Sandringham: Proposed Fitness Studio Development

It is noted that the surveys only included on-street parking along the section of Georgiana Street which accommodates short-term kerbside parallel parking. The survey area did not include Beach Road as this road does not provide for on-street parking.

The survey area included the following off-street car parks:

- Trevor Barker Oval – an informal gravel Council car park located at the northwest corner of the Beach Road/Jetty Road intersection. This car park is estimated to accommodate in the order of 16 car spaces (including two disabled car spaces) and is generally restricted to ‘P Ticket 8:00am to 8:00pm (including public holidays)’.

- 77 Beach Road Car Park – located immediately to the north of the subject site and accommodates a total of 22 car spaces. Whilst this car park is on private land, the applicant has an agreement with the land owner for clients of the fitness studio to utilise 16 of the available 22 parking spaces before and after business hours during weekdays (i.e. before 9:00am and after 5:00pm), and on the Saturday.

The parking surveys were undertaken at the following times:

- Friday 19 May, 2017 from 6:30am to 9:30am and from 5:30pm to 6:30pm (at hourly intervals); and
- Saturday 20 May, 2017 from 7:00am to 10:00am (at hourly intervals).

Details of the surveys, including parking restrictions and occupancies, are attached at Appendix B.

In summary, the parking surveys found the following:

- On-street parking within the vicinity of the site comprises a mixture of short-term and long-term ticketed parking.
- There were a total of 38 on-street spaces available within the survey area, comprising 15 short-term spaces and 38 long-term/ticketed spaces.

- During the morning weekday survey period (i.e. from 6:30am to 9:30am):
  - The peak on-street parking demand occurred at 9:30am when 12 on-street spaces were occupied (32% occupancy), leaving 26 vacant spaces within the survey area. Before 9:30am, there were no fewer than 28 vacant spaces within the survey area.
  - The peak parking demand at the Trevor Park Oval car park occurred at 9:30am when 14 spaces were occupied (88% occupancy), leaving two vacant spaces within the car park. Before 9:30am, there were no fewer than 15 vacant spaces within the car park.
  - The peak parking demand at the 77 Beach Road car park occurred at 9:30am when 13 spaces were occupied (59% occupancy), leaving nine vacant spaces within the car park. Before 9:30am, there were no fewer than 20 vacant spaces within the car park.

- During the afternoon weekday survey period (i.e. from 5:30pm to 6:30pm):
  - The peak on-street parking demand occurred at 6:30pm when 15 on-street spaces were occupied (39% occupancy), leaving 23 vacant spaces within the survey area.
  - The peak parking demand at the Trevor Park Oval car park occurred at 5:30pm when 15 spaces were occupied (94% occupancy), leaving one vacant space within the car park.
Car Parking Assessment
Unit 1/81 Beach Road, Sandringham: Proposed Fitness Studio Development

- The peak parking demand at the 77 Beach Road car park occurred at 5:30pm when six spaces were occupied (27% occupancy), leaving 16 vacant spaces within the car park. At 6:30pm, there were 19 vacant spaces within the car park.
- During the morning weekend survey period (i.e. from 7:00am to 10:00am):
  - The peak on-street parking demand occurred at 10:00am when 34 on-street spaces were occupied (89% occupancy), leaving four vacant spaces within the survey area. Before 10:00am, there were no fewer than ten vacant spaces within the survey area.
  - The peak parking demand at the Trevor Park Oval car park occurred at 10:00am when ten spaces were occupied (63% occupancy), leaving six vacant spaces within the car park. Before 10:00am, there were no fewer than 14 vacant spaces within the car park.
  - The peak parking demand at the 77 Beach Road car park occurred at 10:00am when four spaces were occupied (18% occupancy), leaving 18 vacant spaces within the car park. Prior to 10:00am, there were no fewer than 19 vacant spaces within the car park.

Based on these survey results, Tables 1 and 2 show the impact on the availability of car parking in the locality based on the projected parking demands associated with the proposal, and while taking into account the 16 car spaces that will be available for use by clients on the land at 77 Beach Road.

Table 1: Car Parking Impact (Friday)

<table>
<thead>
<tr>
<th></th>
<th>6:30am</th>
<th>7:30am</th>
<th>8:30am</th>
<th>9:30am</th>
<th>5:30pm</th>
<th>6:30pm</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>On-Street Parking</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Demand</td>
<td>10</td>
<td>5</td>
<td>4</td>
<td>12</td>
<td>13</td>
<td>15</td>
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<tr>
<td>Vacancies</td>
<td>28</td>
<td>33</td>
<td>34</td>
<td>26</td>
<td>25</td>
<td>23</td>
</tr>
<tr>
<td><strong>Trevor Baker Oval</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Demand</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>14</td>
<td>15</td>
<td>14</td>
</tr>
<tr>
<td>Vacancies</td>
<td>16</td>
<td>16</td>
<td>15</td>
<td>2</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td><strong>77 Beach Road</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Demand</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>13</td>
<td>6</td>
<td>3</td>
</tr>
<tr>
<td>Availability 1)</td>
<td>22 (16)</td>
<td>22 (16)</td>
<td>20 (16)</td>
<td>9 (16)</td>
<td>16 (16)</td>
<td>19 (16)</td>
</tr>
<tr>
<td>Total Available Parking</td>
<td>60</td>
<td>65</td>
<td>65</td>
<td>28</td>
<td>42</td>
<td>41</td>
</tr>
<tr>
<td>Development Projected Demand</td>
<td>22</td>
<td>22</td>
<td>0</td>
<td>22</td>
<td>22</td>
<td>22</td>
</tr>
<tr>
<td>Remaining Available Parking</td>
<td>38</td>
<td>43</td>
<td>65</td>
<td>6</td>
<td>20</td>
<td>19</td>
</tr>
</tbody>
</table>

(1) Total vacant within car park (Parking to be made available for Clients).
Table 2: Car Parking Impact (Saturday)

<table>
<thead>
<tr>
<th>On-Street Parking</th>
<th>Saturday 29 May, 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>7:00am</td>
</tr>
<tr>
<td>Demand</td>
<td>16</td>
</tr>
<tr>
<td>Vacancies</td>
<td>22</td>
</tr>
<tr>
<td>Trevor Baker Oval</td>
<td></td>
</tr>
<tr>
<td>Demand</td>
<td>0</td>
</tr>
<tr>
<td>Vacancies</td>
<td>16</td>
</tr>
<tr>
<td>77 Beach Road</td>
<td></td>
</tr>
<tr>
<td>Demand</td>
<td>0</td>
</tr>
<tr>
<td>Availability (1)</td>
<td>22 (16)</td>
</tr>
<tr>
<td>Total Available Parking</td>
<td>54</td>
</tr>
<tr>
<td>Development Projected Demand</td>
<td>22</td>
</tr>
<tr>
<td>Remaining Available Parking</td>
<td>32</td>
</tr>
</tbody>
</table>

(1) Total vacant within car park (Parking to be made available for Clients).

Tables 1 and 2 indicate that there is sufficient scope for the likely parking demands associated with clients of the proposed development to be accommodated off-site within the available nearby parking resources surrounding the site, including the parking to be made available on the land at 77 Beach Road. It is noted that the surveys show that during all surveyed periods, there were no fewer than 16 vacant spaces available within the car park on the land at 77 Beach Road.

The CPMP attached at Appendix A outlines specific measures to be adopted by the applicant and the owner of the land at 77 Beach Road in order to ensure that the car park on this land is appropriately managed and available for use by clients of the fitness studio.

5 Conclusions

Having undertaken a detailed car parking assessment of the proposed fitness studio development at Unit 1/81 Beach Road, Sandringham, we are of the opinion that:

1. Sufficient parking is available on site to accommodate the likely staff parking demands associated with the proposed development.
2. The proposed development is anticipated to generate an off-site parking demand for up to 22 car spaces associated with clients.
Car Parking Assessment
Unit 1/81 Beach Road, Sandringham: Proposed Fitness Studio Development

3. There is sufficient scope for the likely parking demands associated with clients to be accommodated off-site within the available nearby parking resources surrounding the site, including the parking to be made available on the land at 77 Beach Road.

4. Subject to the Car Parking Management Plan attached at Appendix A being adopted, the car park on the land at 77 Beach Road will be appropriately managed and available for use by clients of the proposed fitness studio.

5. There are no traffic engineering reasons why a planning permit should not be issued for the proposed development.
Appendix A:
Car Parking Management Plan
Car Parking Management Plan

Proposed Fitness Studio Development at
Unit 1/81 Beach Road, Sandringham
Car Parking Management Plan
Unit 1/81 Beach Road, Sandringham: Proposed Fitness Studio Development

1 Introduction

This Car Parking Management Plan (CPMP) will provide a management tool designed to manage the operation of the car park on the land at 77 Beach Road, which is to be partly utilised by clients of the proposed fitness studio development at Unit 1/81 Beach Road, Sandringham.

This plan sets out a range of measures/actions to be implemented by the applicant and the owner of the land at 77 Beach Road to ensure the appropriate operation and availability of the car park for clients of the proposed fitness studio.

2 77 Beach Road

The land at 77 Beach Road\(^1\) is located on the east side of Beach Road approximately 5.0m to the north of the subject site (81 Beach Road), as shown in the aerial map in Figure 1.

---

\(^1\) This land is addressed as 76-78 Beach Road under the Planning Maps.
Car Parking Management Plan
Unit 1/01 Beach Road, Sandringham: Proposed Fitness Studio Development

The land accommodates a mixture of commercial uses with associated on-site car parking for 22 spaces provided within the site’s front setback to Beach Road. On-site car parking is currently reserved for the various businesses on the site.

Vehicle access to the land is taken via two crossovers to Beach Road.

3 Proposal

It is proposed to utilise Unit 1 on the site for the purposes of a fitness studio operated by F45 Training. The studio will run with a maximum of six classes per day, with each class having a maximum of 27 clients and running for a duration of 45 minutes. Further, there will be no more than three staff members are to be on site at any one point in time.

The proposed class times are as follows:

- Monday-Friday: 5:30am to 8:15am
  9:30am to 10:15am
  5:30pm to 7:30pm
- Saturday: 7:00am to 10:00am

The studio will run one class at a time, with a 15 minute gap provided between the end of one class and the beginning of another.

Three car spaces are available on the site and will be allocated to staff. Clients of the development will utilise off-site parking available within the area, including 16 of the available 22 parking spaces on the land at 77 Beach Road. Parking associated with the land at 77 Beach Road will only be utilised by clients before and after business hours during weekdays (i.e. before 9:00am and after 5:00pm), and on the Saturday.

The owner of the land at 77 Beach Road has agreed to this arrangement, as indicated in the letter attached at the end of this plan.

4 Information for Clients and Staff

Following discussions with the applicant, we understand that the implementation of the CPMP will involve providing clients of the fitness studio with welcome packs and associated information. The welcome packs will provide clients with various information, including (but not limited to) information regarding class times, suitable areas available for clients to park their vehicles and any relevant parking restrictions which apply to such parking etc. Further as part of the membership agreement to be signed by clients, clients will be informed and made aware of the available suitable parking areas for them to park their vehicles, should they choose to drive to/from the site.

With regards to staff, inductions will be undertaken for all new staff members in order to ensure that they are aware of the operation of the development and are informed about suitable parking areas available for them and clients.

The applicant will also provide all the relevant information electronically via the business’ webpage.
Car Parking Management Plan
Unit 1/61 Beach Road, Sandringham: Proposed Fitness Studio Development

5 Measures/Actions

The CPMP aims to ensure that clients and staff are aware of the suitable areas available for them to park their vehicles in the event that they choose to drive to/from the site. Further, it aims to ensure that the car park associated with the land at 77 Beach Road is appropriately managed and readily available for use by clients of the proposed fitness studio during the agreed upon times.

To achieve the aims of the CPMP, both the applicant/business operator and the owner of the land at 77 Beach Road will be responsible for the ongoing implementation of the measures/actions detailed in Table 1.

Table 1: Car Parking Management Plan Measures/Actions

<table>
<thead>
<tr>
<th>Action</th>
<th>Responsibility</th>
<th>Implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Information and Promotion</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Undertake staff inductions for new staff in order to inform them of the operation of the development, including maps and information regarding suitable parking areas available for staff and clients.</td>
<td>Business Operator</td>
<td>Ongoing</td>
</tr>
<tr>
<td>2. Provide clients with welcome packs to include maps and information regarding class times, areas available for clients to park their vehicles, any relevant car parking restrictions etc.</td>
<td>Business Operator</td>
<td>Ongoing</td>
</tr>
<tr>
<td>3. Provide relevant information on the business’ webpage regarding class times, car parking areas available for clients and any relevant parking restrictions etc.</td>
<td>Business Operator</td>
<td>Ongoing</td>
</tr>
</tbody>
</table>

Car Parking

<table>
<thead>
<tr>
<th>Action</th>
<th>Responsibility</th>
<th>Implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Staff and clients of the fitness studio will be made aware of suitable car parking areas available for them to use, including any relevant parking restrictions.</td>
<td>Business Operator</td>
<td>Ongoing</td>
</tr>
<tr>
<td>2. Owner of land at 77 Beach Road will ensure that 16 on-site car spaces are readily accessible for clients of the fitness studio during the agreed upon times (i.e. before 9am and after 5pm on weekdays, and on Saturdays). Suitable signage should be included within the on-site car park advising of the relevant parking times suitable for clients of the fitness studio to utilise the car park.</td>
<td>Land Owner (77 Beach Road)</td>
<td>Ongoing</td>
</tr>
</tbody>
</table>
Car Parking Assessment
Unit 1/81 Beach Road, Sandringham: Proposed Fitness Studio Development

Appendix B:
Parking Survey Results
Item 4.2 – Matters of Decision
<table>
<thead>
<tr>
<th>Location</th>
<th>Roadside</th>
<th>Capacity</th>
<th>Saturday 2018</th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
<th>2014</th>
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<tr>
<td><strong>ON- and OFF-STREET CAR PARKING</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Georgianna Street</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>North Side</td>
<td>No Stopping</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
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<tr>
<td>Beach Road to Park</td>
<td>Offside</td>
<td>3</td>
<td>3</td>
<td>3</td>
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<td>3</td>
<td>3</td>
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<td>Full Park</td>
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<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
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<td>South Side</td>
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<td>0</td>
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<td>0</td>
</tr>
<tr>
<td>Arthur Street to Beach Road</td>
<td>Offside</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>1</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Georgianna Street</td>
<td>No Stopping</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
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<tr>
<td>No. of Cars Parked</td>
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<td>No. of Spots Available</td>
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<td>8</td>
<td>9</td>
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<tr>
<td>Percentage Occupancy</td>
<td>77%</td>
<td>60%</td>
<td>71%</td>
<td>71%</td>
<td>71%</td>
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<td><strong>SUMMARY – ON- and OFF-STREET CAR PARKING</strong></td>
<td></td>
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<td></td>
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</tr>
<tr>
<td>Car Parking Supply</td>
<td>38</td>
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<td>38</td>
<td>38</td>
<td>38</td>
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<tr>
<td>Total Number of Cars Parked</td>
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<td>16</td>
<td>16</td>
<td>16</td>
<td>16</td>
<td>16</td>
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</tr>
<tr>
<td>Total Number of Vacant Spots</td>
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<td>22</td>
<td>22</td>
<td>22</td>
<td>22</td>
<td>22</td>
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<tr>
<td>Percentage Occupancy</td>
<td>42%</td>
<td>47%</td>
<td>74%</td>
<td>74%</td>
<td>74%</td>
<td>74%</td>
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<td><strong>KEY</strong></td>
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<td></td>
<td></td>
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<tr>
<td>Travel Barker Oval</td>
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<td>14</td>
<td>14</td>
<td>14</td>
<td>14</td>
<td>14</td>
</tr>
<tr>
<td>Percentage Occupancy</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td><strong>17 BEACH ROAD</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Card via of Beach Road</td>
<td>No Stopping</td>
<td>0</td>
<td>0</td>
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<td>0</td>
</tr>
<tr>
<td>No. of Cars Parked</td>
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<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>No. of Spots Available</td>
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<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Percentage Occupancy</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Item 4.2 – Matters of Decision
1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Support the Grant of a Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Ratio</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>24 March, 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>227 Days</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone, Schedule 2 (GRZ2)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay, Schedule 11 (DDO11)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>12</td>
</tr>
</tbody>
</table>

Proposal

The application seeks the development of a three storey residential building consisting of 8 apartments, a front fence exceeding 1.5 metres in height and basement car park on a lot with an area of 1,012 square metres. Key details of the proposal are as follows:

- 8 x three bedroom dwellings;
- Site coverage - 72.5%;
- Building height - 10.7 metres;
- Permeability - 27.5%;
- Basement car parking - 18 spaces;
- Provision of 8 bicycle spaces; and,
- Located within the Church Street Major Activity Centre;

The application plans are provided at Attachment 1.

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

History

There is no planning permit history relevant to this application.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.08-4 - General Residential Zone, Schedule 2 (GRZ2) - Construction of two or more dwellings on a lot;
- Clause 32.08-6 - General Residential Zone, Schedule 2 (GRZ2) - Construction of a front fence within 3 metres of a street exceeding a height of 1.5 metres; and,
• Clause 43.02-2 - Design and Development Overlay, Schedule 11 (DDO11) – Construct a building or construct and carry out works exceeding a height of 9 metres.

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

3. Stakeholder consultation

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

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

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

Public notification
The application was advertised pursuant to Sections 52(1) (a) and (d) of the Planning and Environment Act 1987 and 12 objections were received. The following concerns were raised:

• Heritage;
• Overdevelopment;
• Noise;
• Side and rear setbacks;
• Inappropriate location of car parking;
• Building mass, scale and bulk;
• Disturbance during construction;
• Location of air conditioning units;
• Inconsistency with neighbourhood character;
• Loss of privacy/overlooking;
• General ResCode non-compliances;
• Inconsistent with the Design and Development Overlay – Schedule 11;
• Tree protection;
• Front fencing;
• Rear fencing height;
• Building height;
• Permeability; and,
• Limited landscaping opportunities.

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

A consultation meeting was held on 30 August 2017 attended by the permit applicant and 11 objectors. As a result of this meeting no objections were withdrawn.

4. Recommendation

That Council:

Determines to Support the application under the provisions of the Bayside Planning Scheme in respect of Planning Application 2017/151/1 for the land known and described as at 157 Church Street, Brighton for the development of a three storey residential building consisting of 8 apartments, a front fence exceeding 1.5 metres in height and basement car park in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

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

   a) The provision of external security lighting within the site;
   
   b) Details of the pedestrian sight triangle on the north-west side of the accessway must have a minimum 1m offset from the north-west property boundary provide adequate sight triangle;
   
   c) Ground and floor levels to be shown in Australian Height Datum;
   
   d) Location of all plant and equipment, including hot water services and air conditioners etc. Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms.

   All to the satisfaction of the responsible of the responsible authority.

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

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

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

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

Landscaping

7. Before commencement of development, a 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 be generally in accordance with
the landscape plan prepared by John Patrick, Drawing no. L-TP01, dated May
2017 and must show:

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

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

c) Provision of an additional 4 small canopy trees (greater than 8 metres
in height and greater than 4 metres canopy spread) throughout the site;

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

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

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

g) Details of surface finishes of pathways and driveways.

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

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

10. Before the development starts, a construction impact report and tree
protection methodology for trees on neighbouring properties must be provided
in relation to the two (2) Silver Birches (Betula pendula) are located within
the side setback of 159 Church Street (southeast), to the satisfaction of the
Responsible Authority, must be submitted to and be endorsed by the
Responsible Authority. The report should be in accordance with the
Australian Standard Protection of Trees on Development Sites and should
identify impacts that may be detrimental to the tree and include any design
responses required to reduce any identified negative impact.

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

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

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

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

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

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

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

15. Before the development starts 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.

Water Sensitive Urban Design

16. Before commencement of development, 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 be generally in accordance with the landscape plan prepared by:

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.

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

Traffic / Drainage

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

19. 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.

20. 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.

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

22. Clearly marked allocation of car parking spaces for each dwelling.

23. Clearly line marked / signed visitor parking spaces.

Construction Management Plan

24. Before commencement of development, 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.

Development Contributions

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

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

Permit Expiry

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

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

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

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

Permit Notes

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

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

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

- Prior to commencement of any building works, an Asset protection Application must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.
5. **Council Policy**

Council Plan 2017-2021

Relevant strategies of the Council plan include:

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

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.10 Infrastructure
- Clause 21.11 Local Areas (Church Street, Brighton)
- Clause 22.06 Neighbourhood Character Policy (Precinct B2)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.08 General Residential Zone (Schedule 2)
- Clause 43.02 Design and Development Overlay (Schedule 11)
- Clause 45.06 Drainage Contributions Plan Overlay
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

6. **Considerations**

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

6.1. **Strategic Justification**

The Planning Policy Framework supports the intensification of development in and around public transport nodes and in activity centres. The local areas policy contains a subsection relating specifically to the Church Street Major Activity Centre (Clause 21.11-3) that seeks to encourage residential development close to shops and services to provide a transition from the business precinct to low scale residential areas.

Furthermore Clause 21.11 encourages redevelopment of larger sites and grade level car parks for residential with basement car parking and encourages the provision of
adequate off-street parking for all new dwellings.

Additionally, the policy in Clause 21 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 Brighton, 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 meets the above policy aspirations because the proposed development is located within walking distance to Middle Brighton Station, is located within an activity centre (Church Street Major Activity Centre) and is located within walking distance to the commercial sector.

6.2. **Design and Development Overlay Schedule 11 (DDO11)**

The design objectives of this schedule are as follows:

- To ensure that the height of new development is compatible with the preferred future role and character of the Church Street Major Activity Centre;
- To develop the centre in a way that conserves and enhances its valued urban character and heritage places;
- To ensure that new development contributes to safe and active streets; and,
- To maintain a strong landscape character with residential buildings set within vegetated front gardens and streetscapes in the residential precincts.

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

Precinct E has the following build form provisions:

**Table to built form precinct provisions**

Refer to Built Form Precinct Map at the end of the schedule.

<table>
<thead>
<tr>
<th>Precinct</th>
<th>Preferred building height</th>
<th>Maximum building height</th>
</tr>
</thead>
<tbody>
<tr>
<td>B</td>
<td>13.5m (4 storeys)</td>
<td>-</td>
</tr>
<tr>
<td>C</td>
<td>11.0m (3 storeys)</td>
<td>-</td>
</tr>
</tbody>
</table>
| D        | 9.0m (2 storeys) fronting Well Street  
           11.0m (3 storeys) fronting any other street | -                       |
| E        | 11.0m (3 storeys); or  
           12.0m (3 storeys) where the slope of the natural ground level at any cross section of the site of the building wider than 8m is 2.5 degrees or more | |

For clarity purposes, the following map shows where the proposed development is located in relation to the ‘E Built Form Precinct Map’:
The proposal retains the low rise, neighbourhood character of the Church Street Major Activity Centre by respecting the scale of built form. The amended plans comply with the Design and Development Overlay – Schedule 11 for the following reasons:

- The proposed development consists of a maximum height of 10.7 metres (above NGL) / three storeys development. There are no portions that exceed the 10.7 metres;
- The bulk, location and appearance of the development is considered to be in keeping with the emerging character and appearance of adjacent buildings located within close proximity and is considered to enhance the streetscape;
- The proposed development does not overshadow any public space nor any adjoining streets to an unsatisfactory level;
- The proposed use of a mixture of building materials provides a level of articulation and breaks up the perceived bulk from all abutting allotments;
- The subject is located within walking distance to Middle Brighton Station which encourages the use public transport and furthers The Church Street Centre Framework Plan;
- The proposed development will contribute to creating a vibrant residential activity centre;
The proposed development is considered to be consistent with the Church Street Centre Framework Plan;

The site abuts a heritage dwelling (159 Church Street), however the design, form, layout, proportion and scale of the proposed building is considered to be compatible with the style, form, proportion, and scale of the neighbouring properties. The setback of 3 metres between the two sites allows for sufficient separation whilst the design response does not seek to replicate nor mimic heritage buildings found in the immediate and wider area;

The proposed development is sufficiently separated from nearby heritage buildings to minimise any detrimental impact on heritage grounds;

The layout and appearance of areas set aside for car parking is considered sufficient as it will not be dominant to the streetscape due to the location (basement).

Those non-compliant standards are discussed below. The variations to the DDO11 are:

- The second floor should be setback a minimum of 4 metres behind the front wall of the floor immediately below.

The proposed development does not meet the above requirement as the proposed development provides a 2 metre setback. A variation to this requirement is considered to be appropriate as the second floor is sufficiently recessed from the side boundaries from the level below, thus allowing the second floor to appear as a centrally recessed element. The proposed use of mixed building materials allows for sufficient articulation to occur along the streetscape.

It is considered that a proposed 2 metre variation will not be detrimental to the abutting allotments as the proposed second storey will not be visually intrusive to the streetscape of Church Street. It is noted that the proposed development provides a high level of compliance with B17 – side and rear setbacks.

In principle, the proposed development and the diversity of the housing stock is supported. The precinct as a whole offers a variety of dwelling sizes and types therefore the increase in assortment of dwellings for the subject site is an appropriate outcome for the precinct. In general, this form of medium density development is encouraged under the Church Street Centre Framework Plan therefore, the proposed development is considered to be consistent with the objectives of the DDO11.

6.3. Neighbourhood character

The site is located within the Neighbourhood Character Precinct B2. The proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The development incorporates appropriate boundary setbacks to reflect the built form pattern of the area while promoting adequate visual separation between the adjoining dwellings. It is noted that the character of Church Street consists of various built form elements, therefore the proposed contemporary design will not seem at odds with the immediate area. Furthermore, the northern side of Church Street contains examples of three storey development at 171 Church Street as well as recently approved three storey (ten dwelling) development at 179-181 Church Street.

The development will sit comfortably within the context largely due to the articulated facades, roof form responsive to dwelling forms in the neighbourhood, appropriate front setbacks in accordance with the DDO, materials and finishes that are complementary to the existing and the preferred character of the area.

The contemporary design of the development provides a level of visual interest along with various forms of articulation along all boundaries. The various forms of external...
building materials including brick veneer assists in integrating the development in to the emerging neighbourhood character.

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

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

6.4. **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:

**Integration with the street (Standard B5)**

The development addresses the street and entries are clearly identifiable from Church Street, however; fencing ranging from 1.9m – 2.4m is proposed along street frontage.

Whilst the fence is high, it is not considered unreasonable given the context of the site and the ability for west-facing windows and balconies to provide for passive surveillance of the public realm.

It is noted that there are similar developments located within close proximity to the subject site that contain a similar fencing heights, these include 171 Church Street, 162 Church Street, 160 Church Street; and, 1/149 Church Street.

**Street setback (Standard B6)**

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>157 Church Street</td>
<td>9m</td>
<td>8.6m</td>
<td>0.4m</td>
</tr>
</tbody>
</table>

Standard B6 requires the setback to be the average distance of the setbacks of the front walls of the existing buildings on the abutting allotments facing the front street or 9 metres, whichever is the lesser. The objective of the street setback is to ensure the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of a site.

The abutting allotments (149 Church Street and 159 Church Street) contain a setback of 7.2m and 14.8m respectively, therefore the setback should be 9 metres.

The applicant proposes the setback of 8.6 metres. The variation of 0.4 metres is sought.

The proposed variation of 0.4 metres is supported as:

- Church Street provides various street setbacks that range from 22.1m to 3.6, therefore there is no prevailing street setback;
- The proposed 0.4 metres is considered to be minimal as the level of articulation will break up the massing of the built form when viewed from the street;
- The proposed setback is not considered be detrimental to the immediate area;
- The proposal of vegetation along street frontage would reduce the visual impact of the proposed development; and
- Considering the siting and the scaling of the upper floors, the proposed setback is considered to be appropriate.
Site coverage (Standard B8)

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>60%</td>
<td>72.5%</td>
<td>12.5%</td>
</tr>
</tbody>
</table>

The site is located within a General Residential Zone – Schedule 2, therefore the site coverage should be 60%, the proposed site coverage is 72.5% and therefore a variation of 12.5% is sought.

The extent of site coverage would not be obvious beyond the parameters of the site and it is considered that the proposed site coverage would not have any detrimental amenity impacts on neighbouring residential properties. This is reflected in the proposal’s high level of compliance with Clause 55.

The proposal is responsive to the site opportunities and constraints along with the preferred character of the area which encourages medium density development as reflected in the Church Street Centre Framework Plan. The provision of medium density developments within activity centres is considered to reduce the pressure on the neighbouring Neighbourhood Residential Zone.

Importantly, a recommendation to the require compliance with the maximum allowable site coverage would require a redesign of the proposed development, and/or make certain rooms unusable. It is for the reasons above that no such conditions form part of the recommendation.

Storage (Standard B30)

All units are provided with 3.7m³ of storage at basement level. While the size doesn’t meet the 6m³ required, the variation of 2.3³ is not considered unreasonable given the generous areas of the apartment and internal opportunities for storage.

Front Fences (Standard B32)

<table>
<thead>
<tr>
<th>Location</th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>157 Church Street</td>
<td>1.5m</td>
<td>1.9m – 2.4m</td>
<td>0.4m – 1.2m</td>
</tr>
</tbody>
</table>

A 1.9m – 2.4m fence is proposed, therefore a variation of 0.7m – 1.2m is sought. The reason for the 1.9m – 2.4m fence is due to the slope of the land at street frontage. The variation is considered to be appropriate as:

- The 1.9m - 2.4m fence provides seclusion to the private open space of apartment 1;
- There are various examples of similar fencing heights throughout Church Street;
- Landscaping within the intervening planter box will assist in softening its appearance when viewed from the street; and,
- The proposed fence will not appear to be at odds with the immediate area as the abutting allotment (149 Church Street) contains a 2m (approx.) front fence.

6.5. Landscaping

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

The table below identifies those trees protected by the Local Law and those which are not protected by any statutory mechanism. Native trees are marked with a *. 
Local Law protected trees | Trees not protected
--- | ---
**Proposed for removal** | **Proposed for retention**
N/A | N/A
N/A | N/A
N/A | N/A

Council’s Arborist in their referral response advised that there is no objection to the proposed removal of all trees on their low amenity value and subject to replacement value. Conditions will be placed on any permit issued requiring replacement planting to occur throughout the development.

Council’s Arborist advised that the two (2) Silver Birches (*Betula pendula*) are located within the side setback of 159 Church Street (southeast), therefore it was recommended that a *construction impact report* and *tree protection methodology* be provided as part of any permit issued in order to protect their health. This is included in the recommendation.

With regards to the future planting on the site, the proposed development incorporates landscaping opportunities to achieve an outcome consistent with the existing and preferred character of the area. The Bayside City Council Landscape Guidelines (2015) specify that for medium density applications (three to ten units) 1 small tree for each dwelling should be provided (small canopy tree are greater than 8 metres tall / greater than 4 metres canopy spread).

Council arborist advised that the site should either accommodate 8 small trees or 4 large trees. The development proposes 1 large tree and one small tree (located at street frontage). The provision of one small and one large at frontage is considered to assist in screening the development and further contributes to the neighbourhood character of the area.

Nevertheless the proposed development fails to provide any sufficient vegetation throughout the site. It is for this reason that a condition is included in the recommendation requiring the provision of an additional 4 small trees throughout the site. Sufficient soil volume has been provided for the additional 4 small trees to grow to their full potential. The provision of landscaping will reduce and soften the built form when viewed from abutting properties.

The proposed development is considered to comply with The Bayside City Council Landscape Guidelines (2015) subject to conditions. The landscape plan also includes a variety of shrubs and ground covers within the front and rear setbacks, and along the side boundaries. The landscape plan will achieve an outcome consistent with the preferred landscaped character of the area.

### 6.6. Car parking and traffic

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

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

<table>
<thead>
<tr>
<th>Use (resident)</th>
<th>Size</th>
<th>Planning Scheme Parking Rate</th>
<th>Car Parking Requirement</th>
<th>Car Parking Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling</td>
<td>8 x 3 Bedroom</td>
<td>2 spaces to each 3 bedroom dwelling</td>
<td>16 spaces</td>
<td>17 spaces</td>
</tr>
<tr>
<td>Dwellings</td>
<td>8 dwellings</td>
<td>1 space for visitors to every 5 dwellings</td>
<td>1 visitor spaces</td>
<td>1 visitor spaces</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
<td>17 SPACES</td>
<td>18 SPACES</td>
</tr>
</tbody>
</table>

Pursuant to Clause 52.06 a minimum of 17 spaces are required to be provided for the proposed development with an additional 1 visitor spaces. The proposal provides a surplus of 1 parking space. Accordingly, the proposed development is considered to comply with Clause 52.06.

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

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

6.7. Bicycle Facilities

The purpose of Clause 52.34 (bicycle facilities) is to:

- To encourage cycling as a mode of transport; and;
- To provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities.

The bicycle facilities table in Clause 52.34-3 of the Bayside Planning Scheme does not specify a numeric requirements for the provision of bicycle spaces in residential developments of ‘less 4 storeys’. However, Clause 52.34-3 states that parking spaces should be provided at a rate of 1 space per 5 dwellings for residents and 1 space per 10 dwellings for visitor parking in residential developments of four or more storeys.

While the requirements of Clause 52.34-3 do not strictly apply, the development provides 8 spaces for shared use between residents and visitors (located within the basement car parking). Secure bicycle parking is proposed to be provided via wall mounted spaces. The spaces satisfy the specifications of the ‘Bicycle Victoria - Bicycle Parking Handbook’ and AS2890.3-2015 and is considered to be satisfactory.

6.8. Objector issues not already addressed

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

Heritage (protection of the existing dwelling)

Though acknowledged that local residents may identify the site with social significance, there is no heritage overlay encumbering the site necessitating the building’s preservation.

Heritage policy through State and local planning framework at Clause 15.01-2 and Clause 22.05 discourages replication and mimicry of existing built form and rather
encourages contemporary and interpretative design, an outcome which is evidently
demonstrate through the advertised plans.

The Bayside Planning Scheme does not call for new development to be invisible,
particularly in a heritage streetscape. If invisibility was required, the objectives of
Council’s Activity Centres Policy would be thwarted as little new development would be
accepted. The true planning test is instead determining whether the new built form
provides a reasonable response in policy and site context.

Overdevelopment

State and Local Planning Policy envisage an increase in housing density in well serviced
areas such as this. Clause 21.11 State Planning Framework of the Bayside Planning
Scheme encourages higher density housing development on sites that are well located
in relation to activity centres, employment corridors and public transport. The increase in
population and density at this site is considered an appropriate response to the
underutilised state of the site and the proximity of the site to public transport, shops and
other services. While any increase in population density will likely increase the level of
activity around the site and area, it is not envisioned that such an increase would be
detrimental or substantially more intensive than what is currently experienced.

Noise

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

The noise levels generated by the development will not be significantly above that of the
surrounding area. Residents are no more or less likely to generate excessive noise than
the occupiers of the surrounding dwellings.

Support Attachments

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment ↓
4. Clause 55 Assessment ↓
PROPOSED RESIDENTIAL DEVELOPMENT
157 CHURCH STREET, BRIGHTON
MAY 2017
The project is a three-storey residential development with associated parking at basement level. The proposed development comprises 18 residential apartments and 18 car spaces (17 residents - 11+1 garages).
### Item 4.3 – Matters of Decision

#### Table 1: Development Summary

| Level | GF Area (m²) | NET Adj (m²) | Bedrooms | P.O. & Car spaces | Apartment Access Site Area (m²) | Net Area (m²) | Car spaces | Apartment Access
<table>
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<td>Level</td>
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<tr>
<td>5</td>
<td>100</td>
<td>100</td>
<td>3</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Total Car spaces:** 15

**Total Apartment Access Site Area:** 500 m²

**Total Net Area:** 500 m²

**Total Apartments:** 15

---

**Advertised Plan:**

- **Received:** 30 April 2017
- **Planning Department:**

---

**Proposed Revised Development:**

- **100 Church Street, Brighton:**

---

**Artisan Architects:**

- **Architecture and Project Management:**
- **www.artisanarchitects.com.au**
- **info@artisanarchitects.com.au**

---

**Bayside City Council:**

- **Planning & Amenity Committee Meeting:**
- **23 January 2018**

---

**Attachment 1**
Item 4.3 – Matters of Decision
Figure 1 Aerial overview of the site and surrounds, two objections were received from properties located outside of this map. These properties are 72 Black St, Brighton and 27 Halifax Street, Brighton.

<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 towards the site from the southeast
Figure 3 View towards the site from the south (Church Street)

Figure 3 View towards the site from the southwest
Figure 4 View along the existing sites street frontage

Figure 5 View along the existing sites street frontage
Attachment 2

Neighbourhood Character Precinct B2

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.</td>
<td>• Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development. • Alterations and extensions should retain the front of these dwellings.</td>
<td>Demolition of dwellings that contribute to the valued character of the Precinct.</td>
<td>Responds</td>
</tr>
<tr>
<td>To maintain and enhance the garden settings of the dwellings.</td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs.</td>
<td>Lack of landscaping and substantial vegetation.</td>
<td>Respond</td>
</tr>
<tr>
<td>To maintain the rhythm of spacious visual separation between buildings and provide space for front gardens.</td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs. • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td>Loss of front garden space.</td>
<td>Responds, subject to conditions</td>
</tr>
<tr>
<td>To minimise the loss of front garden space and the dominance of car parking facilities.</td>
<td>• Locate garages and carports behind the line of the dwelling. • Provide only one vehicular crossover per typical site frontage. • Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.</td>
<td>Car parking facilities that dominate the façade or view of the dwelling.</td>
<td>Responds</td>
</tr>
</tbody>
</table>

Basement parking is proposed with a single vehicular access.
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer</th>
<th>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. | • Articulate the form of buildings and elevations, particularly front facades.  
• Recess upper storey elements from the front façade. | Large buildings with poorly articulated facades. | Responds Church Street contains various forms of development including contemporary design. The proposed development will enhance the existing and emerging character of the area by utilising similar forms of materials, finishes; and, landscaping.  
The dwellings feature articulated forms and second storey elements will be recessed from the side walls and surfaces. The recessed upper storey elements from the front façade response to the neighbourhood character of the street.  
It is considered that due to the architectural designs found throughout Church street, the proposed development is considered to be appropriate as it meets the existing and emerging neighbourhood character of the street. |                       |
| To respect the identified heritage qualities of adjoining buildings. | • Where adjoining an identified heritage building, respect the height, building forms, siting and materials of the heritage building/s, in the new building design. | Buildings that dominate heritage buildings by height, siting or massing. Imitation or reproduction of historic building styles and detailing. | N/A The proposed development is located within close proximity to heritage dwellings, however the proposed development does not adjoin any heritage dwelling |                       |
| To use a variety of building materials and finishes that provide visual interest in the streetscape. | • Incorporate a variety of building materials such as brick, render, timber and non-masonry into the building design.  
• Use simple building details. | Exclusive use of one material on external wall facades. | Responds The proposal utilises a variety of materials, including stone cladding, render and timber cladding. The palette of colours is considered appropriate and assists in reducing visual bulk. |                       |
| To improve the visual connection between the dwellings and the streetscape and encourage views to front gardens. | • Provide open style front fences, other than along heavily trafficked roads.  
• Front fence style should be appropriate to the building era. | High, solid fences | Responds The front fencing would range between 1.9m and 2.3m. It is considered the fence does not present as a dominant feature as it is in keeping with the surrounding area. The fencing material is considered to be appropriate and will not seem juxtaposed to the |                       |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Assessment</th>
<th>Officer</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>immediate area. It is noted that there various examples of similar fencing found throughout Church Street.</td>
<td></td>
</tr>
</tbody>
</table>
### ResCode Clause 55 (Two or More Dwellings on a Lot and Residential Buildings)

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong>&lt;br&gt;Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.&lt;br&gt;Development responds to features of the site and surrounding area.</td>
<td>Yes</td>
<td>Refer report.</td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong>&lt;br&gt;Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.&lt;br&gt;Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to the services and facilities required to support the proposed residential development.</td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong>&lt;br&gt;Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td>Yes</td>
<td>Refer report.</td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong>&lt;br&gt;Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer.</td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong>&lt;br&gt;Integrate the layout of development with the street.</td>
<td>Variation required.</td>
<td>Refer to report.&lt;br&gt;The development addresses the street and entries are clearly identifiable from the road however fencing ranging from 1.9m – 2.4m is proposed along street frontage. Whilst the fence is high, it is not considered unreasonable given the context of the site and the ability for west-facing windows and balconies to provide for passive surveillance of the public realm.&lt;br&gt;It is noted that there are similar developments located within close proximity to the subject site that contain a similar design layout.</td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong>&lt;br&gt;The setbacks of buildings from a street respect the existing or</td>
<td>Variation required.</td>
<td>Refer to report.&lt;br&gt;Standard B6 requires the setback to be the average distance of the setbacks of the front walls</td>
</tr>
</tbody>
</table>
preferred neighbourhood character and make efficient use of the site.
of the existing buildings on the abutting allotments facing the front street or 9 metres, whichever is the lesser.
The abutting allotments (149 Church Street and 159 Church Street) contain a setback of 7.2m and 14.8m, therefore the setback should be 9 metres.
The applicant proposes the setback of 8.6 metres. The variation of 0.4 metres is sought.
Refer to report for justification.

<table>
<thead>
<tr>
<th>Item</th>
<th>4.3 – Matters of Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B7 Building Height</strong></td>
<td><strong>Yes</strong></td>
</tr>
<tr>
<td><strong>B8 Site Coverage</strong></td>
<td><strong>Variation required.</strong></td>
</tr>
<tr>
<td><strong>B9 Permeability</strong></td>
<td><strong>Yes</strong></td>
</tr>
<tr>
<td><strong>B10 Energy Efficiency</strong></td>
<td><strong>Yes</strong></td>
</tr>
<tr>
<td><strong>B11 Open Space</strong></td>
<td><strong>N/A</strong></td>
</tr>
<tr>
<td><strong>B12 Safety</strong></td>
<td><strong>Yes</strong></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
</tr>
<tr>
<td><strong>B13 Landscaping</strong></td>
<td>To provide appropriate landscaping. To encourage: Development that respects the landscape character of the neighbourhood. Development that maintains and enhances habitat for plants and animals in locations of habitat importance. The retention of mature vegetation on the site.</td>
</tr>
<tr>
<td><strong>B14 Access</strong></td>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
</tr>
<tr>
<td><strong>B15 Parking Location</strong></td>
<td>Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.</td>
</tr>
<tr>
<td><strong>B17 Side and Rear Setbacks</strong></td>
<td>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.</td>
</tr>
</tbody>
</table>
### Bayside City Council
#### Planning & Amenity Committee Meeting - 23 January 2018

**Attachment 4**

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>North-west (side)</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td>Required</td>
<td>0-0.2m or 2m</td>
</tr>
<tr>
<td>South-east (side)</td>
<td>0-0.2m or 1m</td>
</tr>
<tr>
<td>North-east (rear)</td>
<td>0-0.2m or 1m</td>
</tr>
</tbody>
</table>

**Second floor**

<table>
<thead>
<tr>
<th><strong>Required</strong></th>
<th><strong>Proposed</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>North-east (rear)</td>
<td>5.09m</td>
</tr>
<tr>
<td>South-east (side)</td>
<td>4m, 3.9m, 3.5</td>
</tr>
<tr>
<td>North-west (side)</td>
<td>4.6m, 4.1m</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.

| **N/A** | **No walls on boundary is proposed.** |

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

| **Yes** | The proposal is set back from property boundaries sufficiently to ensure daylight to existing windows is maintained. |

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

| **Yes** | There are no north facing windows within 3 metres of the boundary. The building to the south is a medical centre. |

**B21 Overshadowing Open Space**
Ensure buildings do not significantly overshadow existing secluded private open space.

| **Yes** | The submitted Shadow Diagrams indicate that there will be some shade to the secluded private open space of No. 159 Church Street, however as the abutting site is a medical centre, the overshadowing is considered to be appropriate. Additional, overshadowing occurs along the boundary of unit 1-4/149 Church street, however impacts are fairly minor and the shadow only just exceeds that cast by boundary fencing. Overall the proposal is well within the allowances of the Standard. |

**B22 Overlooking**
Limit views into existing secluded private open space and habitable room windows.

| **Yes** | The development provides the requirement of B22 by providing external screens, planter boxes and highlight windows in order to minimise overlooking and achieve compliance. |

**B23 Internal Views**

| **Yes** | Windows and balconies are designed to prevent overlooking into secluded private open space and |

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Item 4.3 – Matters of Decision

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<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.3</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>Plant room have been incorporated into the design of the building and is located on the roof centrally within the building away from the sensitive boundary interfaces.</td>
</tr>
<tr>
<td>B24</td>
<td>Noise Impacts</td>
<td>Yes</td>
<td>The development has been designed to accommodate people with limited mobility.</td>
</tr>
<tr>
<td>B25</td>
<td>Accessibility</td>
<td>Yes</td>
<td>The building has been designed with a sense of address to the street and allowing for shelter and a transitional space around the entry.</td>
</tr>
<tr>
<td>B26</td>
<td>Dwelling Entry</td>
<td>Yes</td>
<td>All habitable room windows have direct access to daylight.</td>
</tr>
<tr>
<td>B27</td>
<td>Daylight to New Windows</td>
<td>Yes</td>
<td>All dwellings provide sufficient private open space for future residents.</td>
</tr>
<tr>
<td>B28</td>
<td>Private Open Space</td>
<td>Yes</td>
<td>Where practicable, private open space for each bedroom is located on the northern elevation (or east or west).</td>
</tr>
<tr>
<td>B29</td>
<td>Solar Access to Open Space</td>
<td>Yes</td>
<td>Refer to report.</td>
</tr>
<tr>
<td>B30</td>
<td>Storage</td>
<td>Variation</td>
<td>All units are provided with 3.7m³ of storage at basement level. While the size doesn’t meet the 6m³ required, it is not considered unreasonable given the generous areas of the apartment and internal opportunities for storage. Refer to report.</td>
</tr>
<tr>
<td>B31</td>
<td>Design Detail</td>
<td>Yes</td>
<td>Refer discussion in Attachment 3.</td>
</tr>
</tbody>
</table>
### B32 Front Fences
Encourage front fence design that respects the existing or preferred neighbourhood character.

<table>
<thead>
<tr>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Refer to report.</td>
</tr>
<tr>
<td>While it is acknowledged that the fence exceeds the 1.5m requirement, the stepped treatment of the proposed fence ensure it will not appear visually dominant while also responding to the typical fence heights in the immediate area. The 1.9m-2.4m front fence is considered to be in keeping with the existing fence heights found throughout Church Street.</td>
</tr>
</tbody>
</table>

### B33 Common Property
Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.

| Yes |
| Complies, all common areas including pathways and basement car parking are easily delineated. These area can be managed by an Owners Corporation. |

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

| Yes |
| There is adequate space in and around the development for required services and facilities. |
This application is reported to this Planning and Amenity Committee meeting for a decision as it was deferred from the 21 December 2017 Committee meeting to enable further consideration.

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Bellfield Planning Consultants Pty Ltd</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>13 June 2017 (Amended)</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>140 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone (Schedule 2)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 12)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>9</td>
</tr>
</tbody>
</table>

Proposal

Through this application a planning permit is sought for the construction of a three storey building comprising seven (7) dwellings, a waiver of the visitor car parking requirements, alteration of an access to a road in a Road Zone, (Category 1) and the construction of a front fence in excess of 1.5 metres in height, on a lot with an area of 957.49 metres square at 324 Hampton Street, Hampton.

Key details of the proposal are as follows:

- 3 Storey building with basement parking measuring 11.57 metres in height;
- 7 Dwellings;
- Side setback variations sought at first and second floor;
- Site coverage 74.62%;
- Permeability 24.27%; and
- 15 car parking spaces with a waiver sought for 1 visitor car parking space.

The application plans are provided at Attachment 1.

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

History

There is no planning permit history relevant to this application.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:
- Clause 32.08-4 (General Residential Zone Schedule 2) – Construction of two or more dwellings on a lot and construction of fence in excess of 1.5 metres in height.

  **Note:** Clause 32.08-4 requires that for the construction of a dwelling or residential building on a lot greater than 650 square metres, a lot must provide a minimum of 35% garden area at ground floor level. The development plans confirm that this requirement is achieved.

- Clause 43.02-2 (Design and Development Overlay Schedule 12) – Construct a building and carry out works exceeding a height of 10 metres overall where the slope of the natural ground level at any cross section of the site of the building wider than 8 metres is 2.5 degrees or more.

- Clause 52.06-3 – (Car parking) – A reduction in car parking spaces required under Clause 52.06-5.

- Clause 52.29 – (Land Adjacent to a Road Zone Category 1) – Alterations to an access to a Road Zone, Category 1.

### Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.

### 3. Stakeholder consultation

#### External referrals

The application was referred to the following authorities:

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

#### Internal referrals

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

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

#### Public notification

The application was advertised pursuant to Sections 52(1)(a) and (d) of the *Planning and Environment Act 1987* and nine (9) objections were received. The following concerns were raised:

- Visual bulk, height, massing and lack of articulation;
- Overdevelopment of site;
- Disrespectful to elements of the neighbourhood character;
- Non-compliance with Clause 55 of the Bayside Planning Scheme;
- Overlooking;
- Overshadowing;
- Shortfall in on-site parking provision;
- Increased parking demand;
- Loss of vegetation from the site;
- Property devaluation;
- Noise disturbance during construction; and
- Noise from occupiers of the development and visitors to it.

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

Consultation meeting

The applicant was offered a consultation meeting on 30 November and declined the offer advising that the plans had been amended pursuant to Section 57A of the Planning & Environment Act 1987 to work to address objector concerns.

Those amendments to the plans included a reduction in the number of dwellings from 10 to 7 and correspondingly the number of car parking spaces from 19 to 15 parking spaces. The configuration of the access to the site and consequently the basement of the development has been altered. The development is now comprised of 3 bedroom apartments as opposed to a mix of both two and three bedroom apartments and overall the massing of the building has been reduced.

These application plans are provided at Attachment 1 of this report.

No objections were withdrawn as a result of the amendments.

4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2016/518/1 for the land known and described as 324 Hampton Street, Hampton for the construction of a three storey building comprising seven (7) dwellings, a waiver of the visitor car parking requirements, alteration of an access to a road in a Road Zone (Category 1) and the construction of a front fence in excess of 1.5 metres in height in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans prepared by Blue Print Drafting, Council date stamped 13 June 2017 but modified to show:

   a) 25 square metres of private open space associated with Apartment 2 in accordance with Standard B28 (Private Open Space) of the Bayside Planning Scheme.

   b) Column locations to be shown on the basement plan and 4.9m bays with a 250mm offset from the parking aisle.

   c) Unit numbers to be attributed to each dwelling signed or line marked.

   d) A vehicle crossover with a minimum width of 5.6 metres centred to the ramp.

   e) The vehicular access offset 1m from the northern property boundary.
f) A 1m separator between the vehicular access to the site and the
neighbouring vehicular access to the north.
All to the satisfaction of the Responsible Authority.

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

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

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

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

6. Before 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.

Traffic

7. Garbage collection to occur on site via a 6.4m rear mini loader.

Vic Roads

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

9. Vehicles must enter and exit the site in a forward direction at all times.

Water Sensitive Urban Design

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

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

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

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

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

**Landscaping**

12. Before the development starts, a detailed Landscape Plan/s generally in accordance with the Landscape Plan/s prepared by Keystone Alliance Council date stamped 13 June 2017 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 be modified to show:

   a) The existing Canary Island Palm within the rear setback transplanted to the northeast corner of the site with a 2m offset from each boundary fence.

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

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

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

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

   f) 80% indigenous coastal vegetation (by species and quantity).

   g) Details of surface finishes of pathways and driveways.

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

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

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

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

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

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

18. The transplantation of the Canary Island Palm within the rear setback shall be supervised by an Arborist with minimum AQF Certificate 5 to ensure the survival of the palm following transplantation.

Waste Management

19. Before the development starts, 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 presentation of bins for waste collection;
   i) Strategies for how the generation of waste and recyclables will be minimised;
   j) 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.

Street trees

20. There is to be no soil excavation within 2 metres of the *Lophostemon confertus* street tree asset measured from the edge of the trunk.

21. Prior to soil excavation for a Council approved crossover within the Tree Protection Zone of the street tree assets, a trench must be excavated along the line of the crossover adjacent to the tree using root-sensitive, non-destructive techniques. All roots affected must be pruned in consultation with a suitably qualified Arborist.

22. Before the development starts, tree protection fencing is to be established around the street tree 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 Tree Protection Zone established and maintained in
accordance with AS 4970-2009. During construction the crossover, tree protection fencing may be reduced to the edge of the Council approved crossover to facilitate the construction of the crossover.

Drainage

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

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

24. 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.

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

26. 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”.

Permit Expiry

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

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

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

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

Permit Notes

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

- Prior to commencement of any building works, an Asset protection Application must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.

- 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.

- Before the vehicle crossing application will be approved, the applicant must pay $2,829.46 to the Responsible Authority for the removal and replacement of the existing street tree(s). This amount has been determined in accordance with Council’s current policy for the removal of street trees. This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by
the Responsible Authority, must undertake the removal and replacement of the street tree. Any replacement planting will be at the discretion of the responsible authority.

- The existing street tree/s to be retained must not be removed or damaged.
- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.
- The applicant is to bear the cost to reinstate/relocate the Council assets to provide the required access to the proposed development.
- The northern Lophostemon confertus street tree asset can be removed under Clause 6.5 of the Street and Park Tree Management Policy (2016) to allow the development to proceed with the installation of the proposed vehicle crossing in the proposed location.

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
- Clause 21.06 Built Environment and Heritage
- Clause 21.08 Open Space
- Clause 21.11 Local Areas
- Clause 22.06 Neighbourhood Character Policy (Precinct F1)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.08 General Residential Zone (Schedule 2)
6. Considerations

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

6.1. Strategic Justification

The site is located within the General Residential Zone in the Hampton Street Major Activity Centre (Precinct E), which is also a ‘Moderate Residential Growth Area’ as identified on Map 2 of Clause 21.02-5. The overarching principles of the Bayside Planning Scheme encourage medium density development in such areas.

Such a development however must strike a suitable balance between the purpose of the General Residential Zone and the relevant design objectives of the DDO12. It is considered that the site is a suitable location for this type of medium density development.

Pursuant to Map 1 of Clause 21.11-4, the site is identified as being in ‘Precinct 4: Residential Precinct.’ An objective of this precinct is to strengthen the role of the Hampton Street Centre as a multi-use centre offering retail, office, entertainment and community services.

Strategies to achieve this in Precinct 4 include:

- To provide for increased housing densities and diversity of housing types within the centre and direct larger developments to larger sites within or immediately adjoin the business precincts.

- Provide adequate off-street parking for all new dwellings.

The development would increase density on the site and in providing apartment living, allow for a diversity of dwelling type in the centre. The development is relatively modest in scale and is suitable within its predominantly residential context.

The General Residential Zone has many purposes, one seeking:

“To provide a diversity of housing types and moderate housing growth in locations offering good services and transport.”

The site is approximately 85 metres walk to the peripheral business and local shopping area of Hampton and just over 400 metres to the Hampton retail core and Train Station. In its arterial road location the site is considered to offer good access to community services and transport. A total of 7 dwellings complies with the moderate residential growth of the area.

The site is strategically located to accommodate higher density development that is in close proximity to community services and public transport where moderate residential growth will assist in strengthening the role of the Hampton Street Activity Centre. This area has been identified for such moderate residential growth as opposed to neighbourhood residential zones that seek to limit number of dwellings, heights and maintain low scale development. Whilst it may be strategically supported, the proposal
must also achieve the objectives of Clauses 22.06 and Clauses 55 to receive officer support.

**Building Height**

The site is covered by the Design and Development Overlay Schedule 12 which identifies the site as being located within Precinct E of the Hampton Street Centre Framework Plan, which specifies a maximum (mandatory) height of 11 metres (3 storeys) or 12 metres where the slope of the natural ground level at any cross section of the site of the building wider than 8 metres is 2.5 degrees or more. In this instance, the 12 metre height limit prevails.

The development proposes a maximum height of 11.57 metres (three storeys) which falls within the maximum allowable height of 12 metres. The siting and height of the building has had regard to its context in the Activity Centre as well as respecting the use and built form of directly abutting properties. The design response is suitably responsive to the site opportunities and constraints. The height and built form is appropriate and satisfies the objectives of the DDO12. The development conserves and enhances urban character and is considered compatible with the preferred future role of the Hampton Street Activity Centre.

**Building Setbacks**

Pursuant to the design requirements of the DDO12, buildings in a Residential Zone should be setback in accordance with the relevant Clause 55 standards, except that the second floor level should be setback a minimum of 4 metres behind the front wall of the floor immediately below, unless the second floor is an attic.

At second floor level, the proposal complies with the 4 metre setback requirement of the DDO12. The proposal presents a suitable design response which offers a reasonable level of articulation and visual interest to the street through the provision of recessed design elements and softening of built form through the provision of balconies and choice of external finishes. The extent of fenestration featured throughout the facade works to alleviate visual bulk to the street and will ensure that the development adopts an appropriate design response for the site and broader precinct.

**6.2. Neighbourhood character**

The tension between the strategic direction of Clause 21.11, the Design and Development Overlay Schedule 12 (DDO12) and the considerations of Neighbourhood Character referenced in Clause 22.06, has been the subject of a variety of Victorian Civil Administrative Tribunal (VCAT) decisions. In particular, *Adams v Bayside CC* [2014] VCAT 514 considered that greater weight should be given to Clause 21.11 and DDO11 over Clause 22.06 for the following reasons;

- The neighbourhood character precinct includes a large area with sub-precincts that are both within and outside the major activity centre.
- Clause 22.06 encourages development to respond to the prevailing neighbourhood character, but that is not the intent of other parts of the scheme that apply to land within the major activity centre.
- Clause 22.06 is a local policy. It is not a mandatory or prescriptive control. With respect to the exercise of discretion, the policy itself acknowledges that it is relevant to take into account “the extent to which the characteristics of the built and natural environment in the immediate vicinity may determine a preferred future character that is different from that applying to the remainder of the precinct in which the site is located.”

In addition there has been more recent VCAT commentary in relation to changes to the purpose of the General Residential Zone under Amendment C110, which deleted the word “moderate” in relation to housing growth and removed the reference to
“implementing neighbourhood character policy and adopted neighbourhood character guidelines”. In particular, Bsidesix Pty Ltd v Bayside Cc [2017] VCAT 625 considered the amendment has weakened the relevance of the preferred neighbourhood character precinct guidelines in Clause 22.06 in relation to a site within the General Residential Zone 2 and the DDO8 (Sandringham Major Activity Centre).

Notwithstanding the above, the site is located within Neighbourhood Character Precinct F1 and the proposal is considered to demonstrate a reasonable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The building incorporates appropriate boundary setbacks to reflect built form spacing of the area while promoting adequate visual separation between the adjoining dwellings. The building will sit comfortably within its context and will adopt a reasonable built form transition with the adjoining single and two storey dwellings. In addition, meaningful landscaping will be introduced to the front and rear setbacks which will maintain and enhance the landscaped character of the area, subject to conditions.

Pedestrian entry to the development is via a clearly defined and suitably designed access along the side boundary. This design is a suitable response to the site opportunities and will work to adopt a safe and visually interesting building entry.

While low, permeable front fencing is the preferred character, the use of a high, permeable front fence is consistent with the character of fencing within the immediate area.

Concerns have been raised in relation to the dominance and height of the proposed form. However the scale, siting and boundary spacing is responsive to the preferred built form character objective of the DDO12 and the design response is a suitable outcome for the existing and preferred character of the area. Importantly, the development is well articulated and offers a contemporary form responsive to the emerging character of medium density development featured within the area.

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

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

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

<table>
<thead>
<tr>
<th></th>
<th>Ground floor</th>
<th>First Floor</th>
<th>Second Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
<td>Required</td>
</tr>
<tr>
<td>North (side)</td>
<td>0m - 1m</td>
<td>2.4m - 0m</td>
<td>3.05m - 2.99m - 1.98m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m - 1m</td>
<td>2.4m - 4.8m</td>
<td>2.98m - 1.96m - 1.98m</td>
</tr>
<tr>
<td>East (rear)</td>
<td>0m - 1m</td>
<td>4.33m</td>
<td>1.84m</td>
</tr>
</tbody>
</table>

The proposal would vary the site setbacks as detailed in the table above. The objective of Standard B17 is to ensure the height and setback of a building from a boundary respect the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

The following variations are sought on the northwest side of the development:

- 0.73m and 0.69m at first floor; and
2.15m at second floor.
The following variations are sought relative to the south east side of the development:
- 0.68m at first floor.
- 1.51m - 2.69m at second floor.
The variations sought at both first and second floor on the north (side) and at the second floor on the south (side) of the development are opposite existing driveways of the neighbouring residential properties to the north and south respectively and as such do not have a sensitive interface with those neighbouring properties. Otherwise the varied and compliant setbacks retain a sufficient level of visual separation with neighbouring properties and are distant enough from habitable room windows and area of private open space associated with them so as not to give rise to detrimental amenity impacts as a result of overlooking or overshadowing.

There would be a combined separation of 9m at first floor and 10.75m at second floor on the north side of the building and 5.9m at second floor on the south side of the building between the built form to the north and south of the site. This coupled with the articulation of the north and south elevations and front facade would satisfactorily reduce the visual bulk of the building.

The proposed variations are appropriate as the setbacks do not negatively impact the neighbouring properties, are consistent with the positional relationship of built form to plot ratio within the immediate area and overall, the proposal has a high level of compliance with ResCode.

### Site coverage (Standard B8)

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>60%</td>
<td>74.62%</td>
<td>14.62%</td>
</tr>
</tbody>
</table>

The proposed site coverage of the development is 74.62% which is 14.62% greater than the 60% required standard. Notwithstanding the variation being sought development would, subject to conditions, provide sufficient areas of private open space and landscaping to create a setting to the development. The extent of site coverage would not be obvious out-with the site and would not have any detrimental amenity impacts on neighbouring residential properties.

### Private Open Space (Standard B28)

The proposed ground floor apartments 1 and 3 each have an area of private open space in excess of 25 square metres required by the standard with convenient access from a living area and a minimum dimension of 3 metres or more.

Ground floor apartment 2 has an alfresco area measuring 23.08 square metres. This is 1.92 metres short of the required standard. It is included in the officer recommendation, that the private open space associated with apartment 2 be increased to meet the standard.

Otherwise, the private open space associated with the first and second floor apartments of the development take the form of balconies that are each greater than 8 square metres with a minimum width of 2m or more.

### Front Fences (Standard B32)

A 1.7 metres high front fence is proposed which exceeds the maximum height of 1.5 metres required by the standard. However, the extent of front fence enclosure is limited with the front setback being otherwise permeable. Landscaping would soften the visual impact of the fencing. Furthermore, the fencing would be seen in relation to other high front fence enclosures found elsewhere within the streetscape.
6.4. Landscaping

The Council’s Arborist advises that the development would encroach into the Tree Protection Zone of a mature Canary Island Palm (*Phoenix canariensis*) shown for retention within the front setback of the site. It is recommended that a tree protection plan be submitted to ensure this tree as well as others on neighbouring properties that have Tree Protection Zones that encroach the site remain viable post construction.

Other trees within the front setback include Chinese Elms (*Ulmus parvifolia*), Bull Bay ‘Little Gem’ (*Magnolia grandiflora* ‘Little Gem) and Lemon (*Citrus limon*). These trees have low amenity values and their removal is considered acceptable subject to mitigation planting.

A similar sized Canary Island Palm (*Phoenix canariensis*) is located within the rear setback. The Council’s Arborist recommends that this be transplanted within the northeast corner of the site with an offset of 2m from the fence on the north and east boundary to satisfy the guidelines of the Neighbourhood Character Policy for Precinct F1 which states design responses should ‘retain established trees and vegetation.’

It is further recommended that the landscape plan be amended to include coastal species and at least 80% indigenous coastal vegetation (by species and quantity).

The Council’s further advises that Chinese Elms (*Ulmus parvifolia*) and Bull Bay ‘Little Gem’ (*Magnolia grandiflora* ‘Little Gem) are also present to the rear of the site and have low amenity value. He therefore raises no objection to their removal.

Matters concerning the provision of an Arborists report, and amended landscape plan and tree transplantation can reasonably be controlled by conditions and are included in the officer recommendation.

6.5. Street tree(s)

The Council’s Open Space Arborist confirms two street tree assets exist within the roadside verge outside the property both of which are *Lophostemon confertus*. It has been advised that one of the trees can be removed to facilitate the construction of the altered crossover. It was also recommended that there be no soil excavation within 2 metres of the *Lophostemon confertus* to be retained measured from the edge of its trunk. This matter can be controlled by a condition of a permit and is included as part of the recommendation.

6.6. Car parking and traffic

Clause 52.06-5 of the Bayside Planning Scheme requires that a total of 2 parking spaces be provided for each three bedroom dwelling. Furthermore, that 1 visitor parking space be provided per 5 dwellings. In this regard, a total of 15 parking spaces are required to serve the development.

Whilst it is indicated on the application drawings that a total of 15 car parking spaces are to be provided, their allocation is to each apartment as shown in the table below:

<table>
<thead>
<tr>
<th>Apartment</th>
<th>No. of Car Parking Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>5</td>
<td>2</td>
</tr>
<tr>
<td>6</td>
<td>2</td>
</tr>
<tr>
<td>7</td>
<td>3</td>
</tr>
</tbody>
</table>
The applicant therefore seeks a waiver of the 1 visitor parking space. Justification for the reduction of on-site parking provision is in the form of a car parking demand assessment submitted in support of the application. In considering the likely parking demand generated by the development the assessment states the following:

**On-site Parking provision**

The 15 resident parking spaces to be provided is in excess of the Planning Scheme requirements.

The short-stay and long-stay car parking demand likely to be generated by the proposed use

Long stay parking will primarily be generated by residents of the subject site and are adequately accommodated for within the on-site parking provisions.

Short stay parking will be generated by resident visitors to the subject site and is proposed to be accommodated on-street. Parking demand surveys undertaken by TTM Consulting (Vic) Pty Ltd on behalf of the applicant indicate that adequate parking is available within the surrounding street network to accommodate the anticipated demand by visitors. See table below:

<table>
<thead>
<tr>
<th>Location</th>
<th>Side</th>
<th>Control</th>
<th>Inventory</th>
<th>Date &amp; Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Linacre Road</td>
<td>N</td>
<td>(B)</td>
<td>8</td>
<td>Wed 22 Feb 17 3:27pm</td>
</tr>
<tr>
<td></td>
<td>S</td>
<td>(A)</td>
<td>14</td>
<td>Fri 23 Dec 16 2:18pm</td>
</tr>
<tr>
<td>Hampton Street</td>
<td>E</td>
<td>(A)</td>
<td>8</td>
<td>Thurs 17 Nov 16 8:36am</td>
</tr>
<tr>
<td></td>
<td>W</td>
<td>(A)</td>
<td>8</td>
<td>Sun 28 Aug 16 1:23pm</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>38</td>
<td>19 19 34 29</td>
</tr>
<tr>
<td>Available Parking Spaces</td>
<td></td>
<td></td>
<td>19 19 4 9</td>
<td></td>
</tr>
</tbody>
</table>

**Availability of public transport in the locality of the land**

The site is within close proximity to train and bus routes. With a total of 5 bus routes from approximately 33 – 570 metres north of the subject site and Hampton Railway Station some 535 metres north of the subject site.

**The convenience of pedestrian and cyclist access to the land**

The site is within a primarily residential area. Footpaths are provided along the frontage of the site providing convenient pedestrian access and formal bicycle lanes in the surrounding area and will allow for convenient cyclist access.

**The provision of bicycle parking and end of trip facilities for cyclists in the locality of the land**

The applicant proposed a total of 9 bicycle parking spaces on site. With one bicycle parking space to be assigned to each of the dwellings in addition to 2 visitor bicycle parking spaces.

The Council’s Traffic Engineer concurs with the conclusions of the parking demand assessment and raises no objection to the proposal being satisfied that the development will be safely accessed and accommodated by a sufficient level of parking both on and off site. Matters raised by Council Traffic Engineer concerning the width of the altered crossover, the allocation and offsets of parking spaces to each dwelling and garbage collection vehicles can reasonably be controlled by conditions and are included in the
officer recommendation.

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

Vehicle access to the site is proposed via the existing crossover to the site which will be enlarged to create two-way access and egress to and from the basement car park. This will ensure vehicle accommodation is largely concealed from the street.

Vic Roads raises no objection to the application subject to conditions being imposed on a permit for the redundant section of the vehicle crossover site being re-instated with kerb, channel, footpath and verge to the satisfaction of the Responsible Authority and vehicle entering and existing the site in a forward direction at all times. These matters are included in the officer recommendation.

6.7. **Objector issues not already addressed**

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

**Overlooking**

All habitable room windows with views towards the secluded private open space and habitable room windows of adjoining properties have been designed to incorporate appropriate screening measures in accordance with Standard B22 of Clause 55 of the Bayside Planning Scheme.

The first floor balcony on the north elevation requires no additional screening as it is demonstrated in section on drawing no. TP A09 submitted in support of the application that the raised balustrade that would enclose the north side of it, will limit overlooking of habitable room windows in the south elevation of the neighbouring residential properties of 1/ 326 and 2/ 326 Hampton Street to the north.

**Overshadowing**

The shadow diagrams submitted in support of the application indicate that between 9am and 3pm parts of the neighbouring residential property of 322 Hampton Street to the south of the subject site would be overshadowed. Namely a small part of it fronts setback, driveway and the roof of both the dwelling and the garage and shed associated with it, including a small part of the rear garden. However, the degree of overshadowing would be to a decreasing extent between those hours. Moreover, at least 75%/40m² of that neighbouring secluded private open space will receive at least five hours of sunlight between 9am and 3pm on 22 September Equinox.

No other neighbouring residential properties would be overshadowed by the development.

On the matter of overshadowing the proposed development is consistent with Standard B22.

**Property devaluation**

The planning system does not exist to protect the financial interest of one party over another. The matter of property devaluation is not therefore a material consideration in the determination of an application for a planning permit.

**Noise disturbance during construction**

Any noise attributed to the potential construction of a development is controlled under legislation other than planning legislation.

**Noise from occupiers of the development and visitors to it**

There would be nothing extraordinary in the residential use of the development that
would require Council to exercise control over any noise and disturbance which may result from it. Matters of noise and disturbance to residents as a result of the use of the building in a domestic setting are considered under separate legislation other than planning legislation and are not a material consideration in the determination of this application.

Support Attachments

1. Development Plans ↓
2. Site & Surrounds Imagery ↓
3. Neighbourhood Character Precinct F1 ↓
4. Clause 55 Assessment ↓
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>
Figure 2 View of subject site from the west

Figure 3 View towards the site from public footpath on west side of triangle park
Figure 4 View towards site from southwest

Figure 5 Interface with neighbouring property of 322 Hampton Street to the south
Figure 6 Interface with neighbouring properties of 1/326, 2/326 & 3/326 Hampton Street to the north

Figure 7 View of subject site from the northwest
Figure 8 Mixed scale development examples of Dwellings on Linacre Road to the northwest of the site

Figure 9 Mixed scale development examples at Linacre Road/ Hampton Street
Preferred Future Character Statement

The dwellings, including a continued frequent presence of pre WW2 dwellings, sit within garden settings. Buildings are occasionally built to the side boundary, however the impression of the streetscape is of informality and openness due to the open front fencing, and well articulated building designs. Buildings and gardens are clearly visible from the street despite the presence of front fences, and these are appropriate to the building era. Buildings fronting the foreshore reflect their setting and provide a visually attractive built form interface with the reserve.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development. • Alterations and extensions should retain the front of these dwellings and be appropriate to the building era. | Demolition of dwellings that contribute to the valued character of the Precinct. | Responds
The existing building is not protected under the provisions of the Bayside Planning Scheme. |

To maintain and enhance the garden settings of the dwellings, and enhance the bayside vegetation character. | • Retain established trees and vegetation. • Replace any trees removed with species that will grow to a similar height. • Encourage replanting of indigenous sandbelt vegetation. • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs, and indigenous coastal vegetation. | Lack of landscaping and substantial vegetation. Removal of trees. Planting of environmental weeds. | Responds
There is ample opportunity within the site front and rear setback to provide landscape setting to the development. The extent of landscaping would be little different to that which exists within the curtilage of three dwellings to the north of the subject site. Established trees of amenity value are and can be retained subject to conditions for their retention and transplantation. Mitigation planting for exotic species to be removed from the site, can be replaced with coastal indigenous species and count at a rate of 80% and can be controlled by conditions. |

To ensure the building setbacks reflect the existing spacious visual | • Buildings should be sited to allow space for the planting of trees and shrubs. | Loss of front garden space. | Responds
In repositioning the vehicular access to the site |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>separation of buildings and contribute to the informality of the dwelling setting.</td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td>this has allowed for a greater</td>
<td></td>
</tr>
</tbody>
</table>
| To minimise the loss of front garden spaces and the dominance of car parking structures. | • Locate garages and carports behind the line of the dwelling.  
• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space. | Car parking structures that dominate the façade or view of the dwelling.                  | Responds/Does not respond  
The existing access is to be altered in lieu of a new centralised access which will allow access to basement parking.  
Due to the scale of development other car parking options are not possible.  
The entrance to the basement would dominate the façade, given the gradient of the ramp to it. |
| To ensure that new buildings and extensions do not dominate the streetscape. | • Recess second storey elements from the front façade.                                                                                                                                                    | High pitched or mansard roof forms with dormer windows.                                       | Responds  
The proposed height and form of the development is consistent with the preferred character of the area while appropriate spacing ensures the development will sit comfortably within its streetscape context. |
| To respect the identified heritage qualities of adjoining buildings.     | • Where adjoining an identified heritage building, respect the height, building forms, siting and materials, in the new building design.                                                                     | Large bulky buildings with flat, poorly articulated front wall surfaces.                      | Responds  
The proposed development would not compromise the significance of Heritage assets within the surrounding area. Nor would it be harmful to the setting of those nearby heritage places. |
| To reflect the lightness of the streetscape created through the use of a mix of appropriate building materials and finishes. | • Incorporate a variety of timber or other non-masonry wall materials where possible.                                                                                                                     | Heavy materials and design detailing (eg. Large masonry columns and piers).                  | Responds  
The building is finished in materials and textures that are reflective of the external finishes of other buildings within the area. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To maintain the openness of the streetscape and views to the dwellings.</td>
<td>● Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High, solid front fencing.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>● Front fence style should be appropriate to the building era.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To create a visually interesting and attractive built form interface with the foreshore reserve.</td>
<td>● Articulate the form buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies, verandahs, non-reflective glazing and light-transparent balustrading.</td>
<td>Buildings that have no relationship to the foreshore setting. Poorly articulated roof and building forms. Highly reflective materials or glazing.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>● Use a mix of contemporary and traditional coastal materials, textures and finishes, including render, timber, non-masonry sheeting, glazing, stone and brick.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>● Provide articulated roof forms to create an interesting skyline when viewed from the beach.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## ATTACHMENT 4
CLAUSE 55 ASSESSMENT

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer report.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The construction of a three storey building comprising seven (7) dwellings is supported by relevant policies for this site.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>The dwellings will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly identifiable from the streetscape. Vehicular access will be taken from Hampton Street via the existing vehicle access and crossover, the width of which is to be altered to accommodate two way vehicle movement. Pedestrian access would be formed in a part of the west property boundary and would be punctuated with a pergola.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Decision</td>
<td>Details</td>
</tr>
<tr>
<td>-----------------------------</td>
<td>----------</td>
<td>---------</td>
</tr>
</tbody>
</table>
| **B6 Street Setback**       | Yes      | Required: 9m  
Proposed: 11.48m |
| The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site. | |
| **B7 Building Height**      | Yes      | Maximum allowed: 12m  
Proposed: 11.57m |
| Building height should respect the existing or preferred neighbourhood character | |
| **B8 Site Coverage**        | No       | Maximum allowed: 60%  
Proposed: 74.62% |
| Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. | |
| **B9 Permeability**         | Yes      | Minimum: 20%  
Proposed: 24.27% |
| Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. | |
| **B10 Energy Efficiency**   | Yes      | The proposal provides appropriate solar access to the dwellings. |
| Achieve and protect energy efficient dwellings and residential buildings.  
Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy. | |
| **B11 Open Space**          | N/A      |          |
| Integrate layout of development with any public and communal open space provided in or adjacent to the development. | |
| **B12 Safety**              | Yes      | The proposal provides clear legibility and access to the dwellings from the Hampton Street. The proposal allows for stairs and a lift to each apartment. |
| Layout to provide safety and security for residents and property. | |
| **B13 Landscaping**         | Yes      | Refer report. |
| To provide appropriate landscaping. To encourage:  
Development that respects the landscape character of the neighbourhood.  
Development that maintains and enhances habitat for plants and animals in locations of habitat importance. | |
The retention of mature vegetation on the site.

<table>
<thead>
<tr>
<th>Item</th>
<th>Required</th>
<th>Proposed</th>
<th>Required</th>
<th>Proposed</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>B14 Access</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development.</td>
<td>Yes</td>
<td>Refer report.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B15 Parking Location</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.</td>
<td>Yes</td>
<td>Refer report.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B17 Side and Rear Setbacks</td>
<td>No</td>
<td>Refer to report the table below. Areas of non-compliance are underlined.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>First Floor</th>
<th>Second Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>North (side)</strong></td>
<td><strong>South (side)</strong></td>
<td><strong>East (rear)</strong></td>
</tr>
<tr>
<td>Required</td>
<td>Proposed</td>
<td>Required</td>
</tr>
<tr>
<td>0m - 1m</td>
<td>2.4m - 0m - 2.4m</td>
<td>2.4m - 4.8m - 2.4m</td>
</tr>
<tr>
<td>3.05m - 2.29m - 1.98m</td>
<td>2.32m - 1.6m - 2.32m</td>
<td>2.32m - 4.8m - 2.32m</td>
</tr>
</tbody>
</table>

<p>| B18 Walls on Boundaries | Yes | The only wall on boundary is the north elevation wall of the shower room of Apartment 1. Both its length and height comply with the standard. |
| B19 Daylight to Existing Windows | Yes | The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained and comfortably complies with the setback requirements of the standard. |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>B20 North Facing Windows</th>
<th></th>
<th>Yes</th>
<th>Whilst windows existing in the north elevation of the neighbouring property of 322 Hampton Street to the south, they are in excess of 3 metres of the mutual property boundary. In this, those windows would receive adequate solar access.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>B21 Overshadowing Open Space</td>
<td></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></td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>B22 Overlooking</td>
<td></td>
<td>Yes</td>
<td>Refer report. All habitable room windows with views towards the secluded private open space and habitable room windows of adjoining properties have been designed to incorporate appropriate screening measures. The first floor balcony on the north elevation requires no additional screening as it is demonstrated on drawing no. TP A09 in section that the raised balustrade will limit overlooking.</td>
</tr>
<tr>
<td></td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>B23 Internal Views</td>
<td></td>
<td>Yes</td>
<td>All habitable room windows have been screened and sited appropriately in accordance with this Standard.</td>
</tr>
<tr>
<td></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></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>B24 Noise Impacts</td>
<td></td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
</tr>
<tr>
<td></td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>B25 Accessibility</td>
<td></td>
<td>Yes</td>
<td>Entries are accessible for people with limited mobility owing to the ramped communal access to the south of the building. A lift is provided for access to the upper level dwellings. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td></td>
<td>Consider people with limited mobility in the design of developments.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>B26 Dwelling Entry</td>
<td></td>
<td>Yes</td>
<td>The entries to the dwellings are easily identifiable from the street via a clear pedestrian entry and walkway to the south of the building.</td>
</tr>
<tr>
<td></td>
<td>Provide a sense of identity to each dwelling.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>B27 Daylight to New Windows</td>
<td></td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td></td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>B28 Private Open Space</td>
<td></td>
<td>No</td>
<td>Refer report. The proposed ground floor apartments 1 and 3 have an area of private open space in excess of 25sqm with convenient access from a living area and a minimum dimension of 3 metres or more. Apartment 2 has an alfresco area measuring 23.08</td>
</tr>
<tr>
<td><strong>Item 4.4 – Matters of Decision</strong></td>
<td><strong>Bayside City Council – Planning &amp; Amenity Committee Meeting - 23 January 2018</strong></td>
<td><strong>Attachment 4</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>----------------------------------</td>
<td>--------------------------------------------------------------------------------</td>
<td>------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>4.4 – Matters of Decision</strong></td>
<td><strong>B29 Solar Access to Open Space</strong> Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td><strong>Yes</strong></td>
<td><strong>B29 Solar Access to Open Space</strong> Allow solar access into the secluded private open space of new dwellings/buildings. <strong>Yes</strong></td>
<td><strong>Appropriate solar access to the private open space areas is provided.</strong></td>
</tr>
<tr>
<td></td>
<td><strong>B30 Storage</strong> Provide adequate storage facilities for each dwelling.</td>
<td><strong>Yes</strong></td>
<td><strong>B30 Storage</strong> Provide adequate storage facilities for each dwelling. <strong>Yes</strong></td>
<td><strong>External storage is to be provided in the basement of the apartment block to meet the requirements of the standard.</strong></td>
</tr>
<tr>
<td></td>
<td><strong>B31 Design Detail</strong> Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td><strong>Yes</strong></td>
<td><strong>B31 Design Detail</strong> Encourage design detail that respects the existing or preferred neighbourhood character. <strong>Yes</strong></td>
<td><strong>Refer Attachment 1.</strong></td>
</tr>
<tr>
<td></td>
<td><strong>B32 Front Fences</strong> Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td><strong>No</strong></td>
<td><strong>B32 Front Fences</strong> Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td><strong>No</strong></td>
</tr>
<tr>
<td></td>
<td><strong>B33 Common Property</strong> 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><strong>Yes</strong></td>
<td><strong>B33 Common Property</strong> 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><strong>Yes</strong></td>
</tr>
<tr>
<td></td>
<td><strong>B34 Site Services</strong> Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td><strong>Yes</strong></td>
<td><strong>B34 Site Services</strong> Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td><strong>Yes</strong></td>
</tr>
</tbody>
</table>
1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>DD Planning</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>21 March 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>81 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Vegetation Protection Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Special Building Overlay</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay</td>
</tr>
<tr>
<td></td>
<td>(Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>4</td>
</tr>
</tbody>
</table>

Proposal

The application seeks the development of a double storey dwelling and an outbuilding and associated lopping of a native tree in a Vegetation Protection Overlay Schedule 3 on a lot with an area of 968 square metres. Key details of the proposal are as follows:

- The construction of a new double storey dwelling and outbuilding on Special Building Overlay land.
- A large branch of Tree 3 in the front garden is proposed to be lopped to facilitate the development.

The application plans are provided at Attachment 1.

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

*Note: A permit is not required pursuant to the Neighbourhood Residential Zone for the construction of one dwelling. Therefore, ResCode does not apply to this assessment.*

History

There is no planning permit history relevant to this application.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 42.02-2 (Vegetation Protection Overlay) – A permit is required to remove, destroy or lop any vegetation native to Australia.
- Clause 44.05-1 (Special Building Overlay) – A permit is required to construct a
building or to construct or carry out works.

Planning Scheme Amendments

Planning Scheme Amendment C153 has been initiated by Council at Melbourne Water’s request 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. An independent Planning Panel has considered the submissions received to the amendment and the Panel Report will be presented to Council early in 2018. 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.

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 of permit.</td>
</tr>
</tbody>
</table>

Internal referrals

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

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

Public notification

The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and five (5) objections were received. The following concerns were raised:

- Neighbourhood character;
- Vegetation removal;
- Overlooking;
- Lack of proposed landscaping;
- Access and egress to the rear.

Consultation meeting

A consultation meeting was held on 28 August 2017 attended by the permit applicant and 3 objectors. The original application sought to removal of a number of native trees protected by the vegetation protection overlay for the land. These were subsequently removed from the plans following consultation with planning officers.

As a result of this consultation, amended plans were lodged pursuant to Section 57A of the Planning and Environment Act 1987. The new plans were circulated to objectors and 1 objection was withdrawn. 4 objections to the application remain.
4. **Recommendation**

That Council resolve to:

Issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning application 2017/155/1** for the land known and described as **12 Agnes Street, Beaumaris**, for the **development of a double storey dwelling and an outbuilding and associated lopping of a native tree in a Vegetation Protection Overlay Schedule 3** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted 9 June 2017 but modified to show:
   a) A site plan outlining only proposed development with all indicative landscaping removed;
   b) Changes required by Melbourne Water at conditions 12 and 13 below;
   c) Provision of a landscape plan in accordance with Condition 4.
   d) Provision of a tree management and tree protection plan in accordance with condition 7.

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

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

**Landscaping**

4. Prior to the endorsement of plans pursuant to Condition 1, 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 PATH Design Studio, reference TP02, dated October 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.
   b) An additional indigenous canopy in the rear garden area capable of reaching a minimum of 10 metres height at maturity with a minimum canopy spread of 8 metres.
   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. Plantings must be 80% indigenous by species type and count.
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.

Tree Management and Protection Plan

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 part of the Tree Protection Zone falls within the subject site.

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

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

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

10. Any pruning that is required to be done to the canopy of any tree to be retained is to be done by a qualified Arborist to Australian Standard – Pruning of Amenity Trees AS4373-1996. Any pruning of the root system of any tree to be retained is to be done by hand by a qualified Arborist.

Drainage

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

Melbourne Water Conditions

12. The dwelling must be constructed with finished floor levels set no lower than 13.74 metres to Australian Height Datum (AHD), which is 300mm above the applicable floor level of 13.44 metres to AHD.
13. The garage must be constructed with finished floor levels set no lower than 13.59 metres to AHD, which is 150mm above the applicable floor level of 13.44 metres to AHD.

14. Imported fill must be kept to a minimum on the property and only be used for the subfloor areas of the dwelling, garage and driveway ramp.

15. A separate build-over application must be made directly to Melbourne Water’s Asset Services Team for approval of any works within close proximity to the existing drain.

16. Any building or permanent structure including footings, eaves, etc. must be set outside of the easement or a minimum 1.5 metres laterally clear of the outside edge of the existing main drain, whichever is greater.

17. Details of any landscaping to be located within close proximity to the easement/drain are to be forwarded to Melbourne Water for approval.

18. Any new or modified stormwater connection Melbourne Water’s drainage system must obtain separate approval from Melbourne Water.

Permit Expiry

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

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

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

Permit Notes:

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

- 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.

- A Road Opening Permit is to be obtained from the Infrastructure Department prior to the commencement of any access to and from Moyseys Run.

5. Council Policy

   Council Plan 2017-2021

   Relevant objectives of the Council plan include:

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

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

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

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

**Bayside Planning Scheme**

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 13 Environmental Risks
- Clause 16 Housing
- Clause 19 Infrastructure
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
- Clause 21.10 Infrastructure
- Clause 22.06 Neighbourhood Character Policy (Precinct H3)
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 42.02 Vegetation Protection Overlay (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 44.05 Special Building Overlay
- Clause 45.06 Development Contribution Plan Overlay (Schedule 1)
- Clause 65 Decision Guidelines

6. **Considerations**

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

6.1. **Special Building Overlay**

The application was referred to Melbourne Water who advised that they do not object to the proposal, subject to conditions of permit. These conditions are reflected within the recommendation (conditions 12-18).

As such, Council is satisfied that the proposed building will not unreasonably impact upon the overland flow paths in the area.

6.2. **Landscaping and Vegetation**

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 seeks the lopping of one branch to tree 3 as shown on the landscape plan. This is demonstrated on page 2 of attachment 1. Tree 3 is a semi-mature Manna Gum (*Eucalyptus viminalis*) with fair health, good structure and high amenity and retention values. It is a 15 metre high native tree with significant neighbourhood character value and proposed to be setback 4.7 metres from the proposed parapet of the new dwelling. The canopy of the tree overhangs the proposed new dwelling considerably and the lopping of the branch would represent a removal of 10% of the live foliage mass of the Manna Gum. The planning department supports the lopping of this
branch as it will not be detrimental to the health of the tree while providing adequate clearance for the building.

The table below identifies those trees on-site protected by the VPO3, those protected by the Local Law and those which are not protected by any statutory mechanism. Indigenous trees are marked with a ‘*’.

<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></td>
<td></td>
<td>Proposed for retention</td>
</tr>
<tr>
<td>Tree 1, 2, 3, 4, 6, 7, 9, 15, 16, 17, 18, 19</td>
<td>Tree 8</td>
<td>Tree 10, 11, 12, 13</td>
</tr>
</tbody>
</table>

Tree 8 is an exotic Narrow Leaf Ash (*Fraxinus angustifolia*) located 1 metre from the western boundary and 25 metres from the southern boundary. It was previously permitted for removal by Council’s Local Laws department under local laws permit number 2016/408. The removal of this tree is supported as it is not considered a neighbourhood amenity tree and does not enjoy protection under the vegetation protection overlay as it is not native to Australia.

Tree 14 is a 16 metre high exotic Cocos Palm (*Syagrus rommanzoffiana*) in the rear garden. Due to the limited diameter of this tree’s trunk, it does not enjoy protection under the VPO3 or Council’s local law. Its removal is supported as it will not detrimentally impact on neighbourhood character.

An amended landscape plan is recommended as a condition of permit in order to facilitate an additional indigenous canopy tree in the rear garden. The site is well vegetated typical of the preferred character of Beaumaris. An endorsed landscape plan will facilitate the ongoing bushy nature of the 12 Agnes Street.

A total of 17 trees are proposed to be retained on the subject land, 12 of which enjoy protection under the VPO3. A condition of permit requiring a tree management plan and tree protection plan to demonstrate tree protection measures is recommended in order to satisfy the ongoing health of the trees. These must be submitted to satisfaction of Council’s Arborist prior to endorsement.

6.3. **Objector issues not already addressed**

**Neighbourhood character**

The construction of a dwelling in a Special Building Overlay is not subject to the considerations of Clause 22.06. The impacts on neighbourhood character with regard to vegetation removal have been addressed in Section 6.1.

**Overlooking**

As there is no planning permit trigger under the Neighbourhood Residential Zone, issues relating to ResCode must be handled under the Report & Consent process through the Building Regulations.

**Access from Moyseys Run**

It is noted that although the garage is to the rear of 12 Agnes Street, no indication has been given as to whether access is sought from Moyseys Run. A permit note has been added requiring the applicant to apply separately to Council’s Infrastructure department for an access separate to the planning permit process.
Support Attachments

1. Development Plans ✷
2. Site Surrounds and Imagery ✷
Figure 1 – Recommended Clearance Pruning
Item 4.5 – Matters of Decision
Item 4.5 – Matters of Decision
Item 4.5 – Matters of Decision
ATTACHMENT 2
Site Surrounds and Imagery

Figure 1. Aerial overview of the site and surrounds

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

Note. One additional objection not shown in Figure 1
Figure 2. View to 12 Agnes Street looking south from the streetscape

Figure 3. View toward 12 Agnes Street looking south from to crossover
Figure 4. Northern side of Agnes Street demonstrating well-vegetated character
1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Amend a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Alex Scott Green</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>21 September 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>69 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>3</td>
</tr>
</tbody>
</table>

Proposal

The application seeks an amendment to an existing planning permit for the construction of a double storey dwelling and a front fence exceeding 1.2 metres on a lot with an area less than 500 square metres. Key details of the proposal are as follows:

- Internal layout changes including the removal of one bedroom;
- Changes to north-facing first floor setbacks;
- Adjustments to external cladding and materials;
- Removal of approved basement and car stacker; and
- Removal of a number of redundant conditions of permit.

The application plans are provided at Attachment 1 and the endorsed plans are provided at Attachment 5.

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

History

Planning permit 2013/375/1 was issued at the direction of VCAT on 31 July 2014 for the construction of a double storey dwelling and a front fence exceeding 1.2 metres on a lot less than 500sqm. This came after the original applicant appealed Council’s failure to determine the application with the prescribed timeframe.

Condition 19 of the planning permit directed the permit to expire if development has not commenced within two years of the date of the permit. Council has twice extended the time to act on the permit with the current date for commencement of development 31 July 2019.

2. Planning controls

Planning Permit requirements
A planning permit is required pursuant to:

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

Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.

3. Stakeholder consultation

External referrals

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

Internal referrals

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

Public notification

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

- Neighbourhood character;
- Overlooking;
- Walls on boundaries;
- Inaccurate plans for boundary fence;
- Overshadowing; and
- Reduced side setbacks.

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

Consultation meeting

The applicant declined a consultation meeting and preferred to proceed directly to a committee meeting for a decision.

4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Amend a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2013/375/2 for the land known and described as 26 Lynch Street, Brighton, for the construction of a double storey dwelling and a front fence exceeding 1.2 metres on a lot with an area less than 500 square metres in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans prepared by Cramer Building Designers and Development Consultants, Drawing numbers A2 to A10, C1, C2, and C3 dated May 2014, but modified to show:
a. Removed.

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

c. A landscape plan in accordance with Condition 12 of this planning permit.

d. Removed.

e. The underground rain water tank must be relocated at least 1 metre away from the side and rear boundaries to allow for the planting along boundaries.

f. The locations of plant and equipment including air conditioning units, condensers and pump to rain water tank to ensure that they do not cause unreasonable detriment to the amenity of the adjoining properties.

g. A Tree Management Plan in accordance with Condition 16.

h. Removed.

i. Provision of vehicle crossing splays in accordance with the diagram at Appendix A to the Report of Russell Fairlie dated June 2014, Ref No. 12095-at01/TC

j. All habitable room windows at the first floor level designed and/or screened in accordance with Standard A15 of the Bayside Planning Scheme.

k. The maximum and average height of walls on the southern boundary to comply with Standard A11 of the Bayside Planning Scheme.

l. Removal of reference to boundary fence notations and timber shed on 27 Whyte Street Brighton on all plans.

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

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

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

7. Before the occupation of the development, the area 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
to the satisfaction of the Responsible Authority.

8. Car spaces and driveways must be kept available for these purposes at all times.

9. Vehicular crossings must be constructed to the road to suit the proposed driveways to the satisfaction of the Responsible Authority and any existing crossing or crossing opening must be removed by hand and replaced with footpath, nature strip, and kerb and channel to the satisfaction of the Responsible Authority.

10. Removed.

11. Removed.

12. Before the developments starts, an amended 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 two copies must be provided. It must be generally in accordance with the existing endorsed landscape plan L-GA-01 dated May 2014 and prepared by OCULUS but modified to reflect the updated development plans.

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

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. Prior to commencement of development a Tree Protection Management Plan for all trees on adjoining sites with part of their TPZ inside the subject site must be submitted to the Responsible Authority for approval. The management plan will provide advice on design specifications and construction management techniques to ensure all trees covered by the plan. The management plan will be to the satisfaction of the Responsible Authority and will part of the permit. The development will occur in accordance with recommendations in the plan.

16. 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 generally in accordance with the Water Sensitive Urban Design report by Ark Resources and dated 25 July 2013.

17. 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.

18. The site must be drained to the satisfaction of the Responsible Authority.

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

   a) The development is not started within two years of the date of this permit.
b) The development is not completed within four years of the date of this permit. The Responsible Authority may extend the periods referred to above if a request is made in writing before the permit expires; or
a) within 6 months afterwards if development has not commenced; or
b) within 12 months afterwards if development has lawfully commenced.

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

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

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 E1)
- 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 54 One dwelling 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 E1. 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 amendments to the existing planning permit are not considered to adversely impact on existing or preferred neighbourhood character. The dwelling is a contemporary and innovative additional to the Lynch Street streetscape. Furthermore, the amendments will decrease impacts of the development by removing the car stacker in the front garden previously approved at the direction of VCAT. An appropriate level of landscaping has been retained and the amendments will not generate any negative externalities to adjoining landowners.

6.2 Compliance with Clause 54 (ResCode)

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

Side and rear setbacks (Standard A10)

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Endorsed</td>
</tr>
<tr>
<td>North (side)</td>
<td>0m or 2m</td>
<td>0m &amp; 1.17m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 2m</td>
<td>0m, 0.95m &amp; 1m</td>
</tr>
<tr>
<td>East (rear)</td>
<td>0m or 3m</td>
<td>3.167m-3.323m</td>
</tr>
</tbody>
</table>

It is noted that there are minor amendments to previously approved non-compliant side setbacks at both the ground and first floors.

At the ground floor, the southern wall is proposed 0.05m closer to the boundary. This change will be virtually imperceptible and, when combined with other amendments, will not result in adverse amenity impacts. There is no change to the northern ground floor setback that was previously approved.

At the first floor, there are a number of changes to the design along the north-facing wall that result in changes to side setbacks. Importantly, there are no additional encroachments into the previously approved side setback. This is further reflected at the south-facing first floor level where the walls are further inset from this boundary or subject to a 0.02m encroachment.

Overall, the proposed amendments to non-compliant side setbacks are considered to result in a neutral amenity result to objector properties at 24 and 28 Lynch Street. The changes proposed by the applicant are generally in-line with the previously approved planning permit. Amended setbacks at the first floor will result in design changes but will not result in adverse amenity impacts. Officers recommend that the side setbacks achieve the objective to the standard.

Walls on boundaries (Standard A11)

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Endorsed</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Max. Height</td>
<td>3.6m</td>
<td>3.58m</td>
<td><strong>3.74m</strong></td>
</tr>
<tr>
<td>Avg. Height</td>
<td>3.2m</td>
<td>3.2m</td>
<td><strong>3.22m</strong></td>
</tr>
<tr>
<td>Max. Length</td>
<td>14.59m</td>
<td>4.01m</td>
<td>5.48m</td>
</tr>
</tbody>
</table>
There are a number of variations to the walls on boundaries standard proposed along the southern interface through this application. No variations to Standard A11 were approved in the existing endorsed plans along the southern boundary.

Officers note that although the variations to Standard A11 are minor, the sensitive nature of the interface with 24 Lynch Street is such that variations to the standard may result in adverse amenity impacts. In order to ensure that the walls on boundaries objective can be achieved, a condition of permit is recommended for the height of the southern wall on boundary to be compliant with Standard A11.

It is noted that the endorsed plans issued at the direction of VCAT approved a number of variations to Standard A11 – the variations on the northern interface are reduced or remain the same. As such, no additional amenity impacts are likely along the northern boundary from the proposed walls on boundaries.

**Overlooking (Standard A15)**

Several upper level habitable room windows are within 9.0 metres of existing windows and private open space areas of 28 Lynch Street.

It is recommended that a condition is included to ensure full compliance with the relevant standards of Clause 54 of the Bayside Planning Scheme to ensure there is no unreasonable overlooking of the adjacent property. This will enable the amended proposal to sufficiently achieve the overlooking objective.

### 6.3 Landscaping

Condition 12 of planning permit 2013/375/1 required a landscape plan to be endorsed prior to the commencement of development on the site. A copy of the existing endorsed landscape plan was lodged with the amendment application. A condition of permit is recommended to update the landscape to reflect the development changes. Officers are generally supportive of the existing endorsed landscape plan.

### 6.4 Proposed amendments to existing permit 2013/375/1

**Internal layout changes including the removal of one bedroom**

The amendment proposes the removal of a first floor bedroom and internal layout changes. These changes are supported as they will not fundamentally amend the external presentation of the dwelling to the streetscape. Furthermore, the removal of the third bedroom also leads to a reduction in the statutory rate of car parking to be required, facilitating the removal of the car stacker.

**Removal of existing conditions and car stacker**

Existing conditions 1a and 1h both relate to the alignment of the first floor north facing wall, specifically requiring it to be angled with relation to the northern boundary. Given the amended proposal seeks a more linear design recommended for support by officers, it is recommended that these two conditions are removed.

Existing conditions 1d, 10 and 11 relate to the installation of a car stacker in the front garden of the new dwelling. The applicant is seeking to remove the car stacker from the plans leaving these conditions redundant. The car stacker is no longer required however
there is no provision to require additional car parking because Clause 52.06 (Car parking) does not apply to a single dwelling. The removal of the car stacker will result in a positive influence on the existing neighbourhood character and is recommended for support. As such, the conditions should also be removed and Sheet 8 of 9 is recommended to be superseded.

Removal of basement
The applicant contends that the basement is surplus to their needs and requests it’s removal from the development plans. Officers support the removal of the basement from the plans. Sheet 3 of 9 is recommended to be superseded.

Amendments to external cladding and materials
A number of changes are proposed to the external cladding of the building including a variety of render, timber and metal cladding. The changes to external materials reflects the contemporary design of the dwelling and positively contributes to the preferred character of the area. The changes are recommended for support.

6.5 Objector issues not already addressed

Overshadowing/North Facing Windows
The submitted shadow diagrams comply with the requirements of Clause 54. At least 75 per cent / 40m\(^2\) with a minimum dimension of 3m of the secluded private open space located on adjacent land will receive a minimum of five hours of sunlight between 9am and 3pm on 22 September.

As discussed in Attachment 4, there will be no additional impacts on the north facing windows at 24 Lynch Street when compared to the endorsed plans.

Site Coverage
The existing endorsed plans reflect an approved site coverage of 64%, equating to 148m\(^2\). The proposal would result in site coverage of 62.7% of 142.25m\(^2\), reflecting a slight reduction in building area.

The reduction in site coverage is achieved through the proposed recessing of the porch awning from the street setback. This offsets a slight increase in the ground floor area.

As the proposal reflects a minor reduction in the proportion of the site covered by buildings, officers support this element of the amendment as no additional amenity impacts will result.

Neighbourhood Character
The amendments to the plans are not considered to have a detrimental impact on the existing or preferred neighbourhood character of the area. Any changes to materials or cladding reflect the contemporary design and, as outlined in Attachment 3, the proposal reflects the preferred future character of Precinct E1.

Rear Boundary Fence Alignment
Disputes with regard to boundary fencing are handled through the Fences Act 1968 and not a relevant planning consideration. A planning permit condition will be added to require the removal of all boundary fencing notations and the relevant outbuilding.
Support Attachments

1. Development Plans
2. Site Surrounds and Imagery
3. Neighbourhood Character Assessment
4. Clause 54 Assessment
5. Endorsed Development Plans
6. Planning Permit
Item 4.6 – Matters of Decision
Figure 1. Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
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</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐️</td>
</tr>
<tr>
<td>Objectors</td>
<td>●</td>
</tr>
</tbody>
</table>
Figure 2. View to 24 & 26 Lynch Street looking east from the streetscape

Figure 3. View toward 26 & 28 Lynch Street interface demonstrating spacing between dwellings
Figure 4. Existing presentation of 26 Lynch Street to streetscape
ATTACHMENT 3
Neighbourhood Character (Precinct E1) Assessment

Preferred Future Character Statement
The well articulated dwellings with roof eaves are set within spacious landscaped grounds. In some streetscapes, there is a continued presence of pre WW2 era dwellings, with complementary new development. Dwellings do not dominate the streetscape and vegetation appears to wrap around the buildings. The sense of spaciousness is retained by the dwellings being set back from front and side boundaries, which also provides space for garden planting. Buildings incorporate a variety of materials or design details providing visual interest within the streetscape.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in the design of new development.  
• Alterations and extensions should retain the front of these dwellings. | Demolition of dwellings that contribute to the valued character of the Precinct. | Responds  
No additional impact. |
| To maintain and enhance the garden settings of the dwellings. | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs.  
• Retain large trees and provide for additional trees wherever possible. | Lack of landscaping and substantial vegetation.  
Removal of large trees. | Responds  
A landscape plan has been submitted with an appropriate level of planting. |
| To provide space for front gardens. | • Buildings should be sited to allow space for the planting of trees and shrubs. | Loss of front garden space. | Responds  
Space for front garden has been retained. |
| To maintain the rhythm of spacious visual separation between buildings. | • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. |  | Responds  
The first floor is appropriately recessed to create perceptible visual separation. |
| To minimise the loss of front garden spaces and the | • Locate garages and carports behind the line of the dwelling. | Car parking structures that dominate the façade | Responds  
<p>| | | | |
|  |  |  |  |</p>
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>dominance of car parking structures.</td>
<td>• Minimise paving in front garden areas including driveways and crossovers.</td>
<td>or view of the dwelling.</td>
<td>The car stacker has been removed and one at-grade car parking space has been provided.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Front setbacks dominated by impervious surfaces.</td>
<td></td>
</tr>
<tr>
<td>To ensure new development respects the dominant building form and scale of</td>
<td>• Recess second storey elements from the front façade.</td>
<td>Reproduction of historic building styles.</td>
<td>Responds The first floor is recessed behind the primary façade and the dwelling is well</td>
</tr>
<tr>
<td>buildings in the Precinct.</td>
<td>• Articulate front facades, and provide roofs with eaves.</td>
<td></td>
<td>articulated.</td>
</tr>
<tr>
<td>To respect the identified heritage qualities of adjoining buildings.</td>
<td>• Where adjoining an identified heritage building, respect the height, building</td>
<td>Buildings that dominate heritage buildings by height, siting or massing.</td>
<td>Responds No adjoining dwellings have overt heritage protections.</td>
</tr>
<tr>
<td></td>
<td>forms, siting and materials, of the heritage building/s in the new building</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>design.</td>
<td>Period reproduction detailing.</td>
<td></td>
</tr>
<tr>
<td>To encourage building facades to add visual interest to the streetscape.</td>
<td>• Use a mix of materials, colours and finishes in building facades, drawn from</td>
<td>Excessive use of render or one material on external wall surfaces.</td>
<td>Responds The dwelling will present a contemporary and innovative addition to the neighbourhood.</td>
</tr>
<tr>
<td></td>
<td>the palette commonly found in the area.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### ATTACHMENT 4

**Clause 54 (ResCode) Assessment**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>
| **A1 Neighbourhood Character**  
Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.  
Development responds to features of the site and surrounding area. | Yes | Refer Attachment 3. |
| **A2 Integration with Street**  
Integrate the layout of development with the street. | Yes | The dwelling appropriately addresses the street. |
| **A3 Street Setback**  
Setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site | N/A | No change to existing condition. |
| **A4 Building Height**  
Building height respects the existing or preferred neighbourhood character. | Yes | Required: 9m  
Proposed: 6.62m |
| **A5 Site Coverage**  
Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. | No | Maximum: 50%  
Proposed: 57% |
| **A6 Permeability**  
Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. | Yes | Minimum: 20%  
Proposed: 43% |
| **A7 Energy Efficiency**  
Achieve and protect energy efficient dwellings. | Yes | All habitable areas, including habitable rooms and secluded private open spaces would be appropriately located in relation to the orientation of the site. |
Ensure the development's orientation and layout reduce fossil fuel energy use and makes appropriate use of daylight and solar energy.

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

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

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

<table>
<thead>
<tr>
<th>A11 Walls on Boundaries</th>
<th>No</th>
<th>South</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.</td>
<td></td>
<td>Max. Height: 3.6m – proposed 3.74m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Average Height: 3.2m – proposed 3.22m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Max. Length: 14.59m – proposed 5.48m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>North</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Max. Height: 3.6m – proposed 3.6m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Average Height: 3.2m – proposed 3.24m</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>--------</td>
<td>-----------------------------------------------------------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>A12</td>
<td>Daylight to existing windows</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>To allow adequate daylight into existing habitable room windows.</td>
<td></td>
</tr>
<tr>
<td>A13</td>
<td>North Facing Windows</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td></td>
</tr>
<tr>
<td>A14</td>
<td>Overshadowing Open Space</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>Ensure buildings do not unreasonably overshadow existing secluded private open space.</td>
<td></td>
</tr>
<tr>
<td>A15</td>
<td>Overlooking</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Limit views into existing secluded private open space and habitable room windows</td>
<td></td>
</tr>
<tr>
<td>A16</td>
<td>Daylight to New Windows</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Allows adequate daylight into new habitable room windows.</td>
<td></td>
</tr>
<tr>
<td>A17</td>
<td>Private Open Space</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Provide adequate private open space for the recreation and service needs of residents.</td>
<td></td>
</tr>
<tr>
<td>A18</td>
<td>Solar Access to Open Space</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Allow solar access into secluded private open space of a new dwelling.</td>
<td></td>
</tr>
<tr>
<td>A19</td>
<td>Design Detail</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td></td>
</tr>
<tr>
<td>A20</td>
<td>Front Fences</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>Encourage front fence design that respects the exiting or</td>
<td></td>
</tr>
<tr>
<td>preferred neighbourhood character.</td>
<td></td>
<td></td>
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<tr>
<td>-----------------------------------</td>
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</tr>
</tbody>
</table>
PLANNING PERMIT
5/2013/375/1

Address Of The Land: 26 Lynch Street BRIGHTON

The Permit Allows:
The construction of a double storey dwelling and a front fence exceeding 1.2 metres in height on a lot less than 500 sq m 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 prepared by Cramer Building Designers and Development Consultants, Drawing numbers A2 to A10, C1, C2, and C3 dated May 2014, but modified to show:
   a) The north facing angled part of the first floor sitting room to be setback to align with the 1.075 metres setback at its western end and 1.343 metres at the eastern end.
   b) A schedule of construction materials, external finishes and colours (incorporating paint samples).
   c) A landscape plan in accordance with Condition 12 of this planning permit.
   d) Specifications of the car stacker.
   e) The underground rain water tank must be relocated at least 1 metre away from the side and rear boundaries to allow for the planting along boundaries.
   f) The locations of plant and equipment including air conditioning units, condensers and pump to rain water tank to ensure that they do not cause unreasonable detriment to the amenity of the adjoining properties.
   g) A Tree Management Plan in accordance with Condition 16.
   h) Increase the setback of the northern elevation by deleting the part of the wall that is at an angle so that no part of this elevation is less than 1.075 metres from the northern boundary.
   i) Provision of vehicle crossing splays in accordance with the diagram at Appendix A to the Report of Russell Fairlie dated June 2014, Ref No. 12095-at01/TC.

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, 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.

Date issued: 31 July 2014

Planning and Environment Regulations 2005 Form 4

Signature for the Responsible Authority

Note: Under Part 4, Division 1A of the Planning and Environment Act 1997, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
IMPORTANT INFORMATION ABOUT THIS NOTICE

WHAT HAS BEEN DECIDED?

The responsible Authority has issued a permit.

WHEN DOES A PERMIT BEGIN?

A permit operates:
- from the date specified in the permit, or
- if no date is specified, from:
  a) the date of the decision of the Victorian Civil and Administrative Appeals Tribunal, if the permit was issued at the direction of the Tribunal, or
  b) 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 appeal against any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Appeals Tribunal where, in which case no right of appeal exists.
- An appeal 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 appeal must be lodged within 60 days after the giving of that notice.
- An appeal is lodged with the Victorian Civil and Administrative Appeals Tribunal.
- An appeal must be made on a Notice of Appeal form which can be obtained from the Victorian Civil and Administrative Appeals Tribunal, and be accompanied by the prescribed fee.
- An appeal must state the grounds upon which it is based.
- An appeal must also be served on the Responsible Authority.
- Details about appeals and the fees payable can be obtained from the Victorian Civil and Administrative Appeals Tribunal.
5. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building without the written consent of the Responsible Authority.

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

7. Before the occupation of the development, the area set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
   a) Constructed
   b) Property formed to such levels that they can be used in accordance with the plans
   c) Surfaced with an all-weather-seal coat
   d) Drained
   to the satisfaction of the Responsible Authority.

8. Car spaces and driveways must be kept available for these purposes at all times.

9. Vehicular crossings must be constructed to the road to suit the proposed driveways to the satisfaction of the Responsible Authority and any existing crossing or crossing opening must be removed by hand and replaced with footpath, nature strip, and kerb and channel to the satisfaction of the Responsible Authority.

10. The mechanical stackers must be routinely serviced and maintained to the satisfaction of the Responsible Authority to ensure satisfactory access to all car spaces and to prevent any adverse effect on adjoining land by the emission of noise.

11. The car stacker platform must be returned to the at grade position, and must be maintained at that position at all times when not in use, and to the satisfaction of the Responsible Authority.

12. Before the developments 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 two copies must be provided. It must be generally in accordance with the landscape plan prepared by Mark Jacques in his expert statement of evidence dated 18 June 2014, and not modified without the consent of the Responsible Authority.

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

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. Prior to commencement of development a Tree Protection Management Plan for all trees on adjoining sites with part of their TPZ inside the subject site must be submitted to the

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Date issued: 31 July 2014

Planning and Environment Regulations 2005 Form 4

Signature for the Responsible Authority

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
Item 4.6 – Matters of Decision

WHAT HAS BEEN DECIDED?

- The responsible Authority has issued a permit.

WHEN DOES A PERMIT BEGIN?

A permit operates:
- from the date specified in the permit, or
- if no date is specified, from:
  a) the date of the decision of the Victorian Civil and Administrative Appeals Tribunal, if the permit was issued at the direction of the Tribunal, or
  b) 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 6 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, if no time is specified, within two years after the issue of the permit, 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 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 appeal against any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Appeals Tribunal where, in which case no right of appeal exists.
- An appeal 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 appeal must be lodged within 60 days after the giving of that notice.
- An appeal is lodged with the Victorian Civil and Administrative Appeals Tribunal.
- An appeal must be made on a Notice of Appeal form which can be obtained from the Victorian Civil and Administrative Appeals Tribunal, and be accompanied by the prescribed fee.
- An appeal must state the grounds upon which it is based.
- An appeal must also be served on the Responsible Authority.
- Details about appeals and the fees payable can be obtained from the Victorian Civil and Administrative Appeals Tribunal.
PLANNING PERMIT
5/2013/375/1

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

Responsible Authority for approval. The management plan will provide advice on design specifications and construction management techniques to ensure all trees covered by the plan. The management plan will be to the satisfaction of the Responsible Authority and will part of the permit. The development will occur in accordance with recommendations in the plan.

16. 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 generally in accordance with the Water Sensitive Urban Design report by Ark Resources and dated 25 July 2013.

17. 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.

18. The site must be drained to the satisfaction of the Responsible Authority

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

The Responsible Authority may extend the periods referred to above if a request is made in writing before the permit expires; or
   a) within 6 months afterwards if development has not commenced; or
   b) within 12 months afterwards if development has lawfully commenced.

END OF CONDITIONS

Date issued: 31 July 2014

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.
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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:
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- An appeal must be made on a Notice of Appeal form which can be obtained from the Victorian Civil and Administrative Appeals Tribunal, and be accompanied by the prescribed fee.
- An appeal must state the grounds upon which it is based.
- An appeal must also be served on the Responsible Authority.
- Details about appeals and the fees payable can be obtained from the Victorian Civil and Administrative Appeals Tribunal.
This matter has been reported to the Planning and Amenity Committee for a decision as a result of Councillor call-in.

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Refuse to Grant an Amended Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>R. Umbers c/- Peninsula Planning Consultants</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>27 September 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>106</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3) Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>11</td>
</tr>
</tbody>
</table>

Proposal
The application proposes an amendment to Planning Permit 2009/558/1 pursuant to Section 72 of the Planning and Environment Act 1987 which allows a ‘Buildings and works in association with a Section 2 use and waiver of car parking’.

The application seeks to extend the allowable trading hours from 7am to 7pm, seven days a week to 7am to 11:30pm, seven days a week.

The application plans are provided at Attachment 1.

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

History
Planning Permit 2009/558/1 was issued at the direction of the Victorian Civil and Administrative Tribunal (VCAT) on 17 January 2011 and allows ‘Buildings and works in association with a Section 2 use and waiver of car parking’.

Condition 4 of the permit states the following:

The café use may operate only between the hours of 7am to 7pm seven days a week with the exception of a maximum of 24 ‘special occasions’ in any one calendar year when the use may operate between the hours of 7am and 11:30pm. Special occasions must be recorded in a register which is to be available for inspection on demand by the Responsible Authority.

The site has an existing permit for the café use approved under Planning Permit 2000/5977 and issued on 4 January 2001. This permit allows the use and development of the site for a 20 seat café in conjunction with an existing hairdressing business. Condition 3 of this permit allows the use to operate between the hours of 7am to 7pm seven days per week. This permit’s hours are consistent with the 2009/558 permit with
the only difference being that the 2009/558 permit includes 24 ‘special occassions’.

Prior to the issue of Planning Permit 2000/5977, a previous application was refused by Council for the part use of the building as a café, with outdoor seating on the adjacent nature strip, for a total of 35 people. The proposed hours of operation were Monday – Friday 8am to 5pm and Saturday – Sunday, 7am – 5pm. The grounds of refusal were as follows:

1. The proposal will detrimentally affect the amenity of the residential area.
2. The proposal does not provide sufficient carparking for the proposed use.
3. The proposal is an inappropriate use of the site.
4. The proposal represents an inappropriate intensification of the site.

An Application for Review pursuant to Section 77 of the Planning and Environment Act 1987 was lodged VCAT against Council’s refusal to grant a planning permit.

The Tribunal in its determination considered whether it is appropriate to further alter the use and if the proposed use would alter the amenity of the area. The Tribunal considered that the low key nature of the existing hairdressing salon with an added service of a massage therapist was acceptable in its location however to intensity that use and extend onto the nature strip is not seen as appropriate. It was also noted that the use should not be in this residential street of Tulip Street but should be located in a suitable business zone. Subsequently, the Tribunal considered that the proposal is not an appropriate use on this land and upheld Council’s decision to refuse the issue of a planning permit.

2. Planning controls

Original planning permit requirements

- Clause 32.01 (Residential 1 Zone) – a permit was required pursuant to Clause 32.01-6 for the proposed buildings and works associated with a Section 2 Use.
- Clause 52.06 (Car Parking) – a permit was required to waive the car parking requirements
- Clause 52.27 (Licensed Premises) – a permit was required to increase the hours of the existing liquor licence and for the increase to the number of patrons.

Planning permit requirements

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

The proposal does not trigger additional permit requirements outside of the previous planning approval as listed above. However an amendment is required to vary the wording of condition 4 of the existing permit.

Planning Scheme Amendments

Council publicly exhibited Amendment C126 in April 2017 and received 90 submissions. At its 23 May 2017 Ordinary Meeting, Council resolved to review the Small Activity Centres Strategy 2014 and Amendment C126 to have regard to the submissions received and the changes which have occurred in the centres over time. This review is currently underway and a report will be presented to Council in early 2018 for a decision as to how to proceed with the amendment. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and Adopted.
The site is located within the Bluff Road and Edward Street Centre which is classified as a Small Neighbourhood Activity Centre. These centres provide convenience retailing for the daily ‘top up’ shopping needs of local residents and passing motorists. They have a small supermarket, or milk bar as well as other commercial/retail premises such as takeaway food, cafes, hairdressers, medical, offices, or specialist retailers.

3. **Stakeholder consultation**

**External referrals**

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

**Internal referrals**

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

**Public notification**

The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and 9 objections were received. The following concerns were raised:

- Amenity impacts;
- Proposed trading hours inconsistent with the character of the area;
- Traffic and car parking congestion as a result of patron traffic; and
- Possible unruly behaviour from patrons.

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

**Consultation meeting**

A consultation meeting was not held as Council’s Planning Officers were recommending refusal of the application.

Following discussions with Council’s Planning Officers, the applicant suggested amended trading hours as follows:

*The café use may operate only between the hours of:*

- Monday, 7 am to 7 pm
- Tuesday, 7 am to 10 pm
- Wednesday, Thursday, Friday and Saturday, 7 am to 11.30 pm
- Sunday and Public Holidays, 7 am to 9 pm

While these suggested trading hours are considered an improvement to the proposed trading hours, the hours do not sufficiently align with the prevailing residential character of the area. As such, these hours are not supported.

4. **Recommendation**

That Council resolve to:

Issue a **Notice to Refuse to Grant an Amended Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning Application 2009/558/2** for the land known and described as **184 Bluff Road, Black Rock**, which allows **Buildings and works in association with a Section 2 Use and waiver of car parking in accordance with the endorsed plans** for the following reasons:

1. The proposed amendment is inconsistent with the purpose of the
Neighbourhood Residential Zone (Schedule 3) of the Bayside Planning Scheme and will result in an outcome which will cause unreasonable amenity impacts on the surrounding residential area.

5. **Council Policy**

**Council Plan 2017-2021**

Relevant objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 9  Plan Melbourne
- Clause 15  Built Environment and Heritage
- Clause 16  Housing
- Clause 17  Economic Development
- Clause 21.07  Economic Development
- Clause 22.07  Discretionary Uses in Residential Areas
- Clause 32.09  Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02  Design and Development Overlay (Schedule 3)
- Clause 65  Decision Guidelines

6. **Considerations**

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

6.1 **Extension of approved trading hours to 7am to 11:30pm, Monday to Sunday**

Condition 4 of Planning Permit 2009/558/1 reads as follows:

*The Café use may operate only between the hours of 7am to 7pm seven days a*
week, with the exception of a maximum number of 24 ‘special occasions’ in any one calendar year when the use may operate between the hours of 7am and 11:30pm. Special Occasions must be recorded in a register which is to be available for inspection on demand by the Responsible Authority.

The application proposes an amendment to Condition 4 of the permit to extend the currently approved hours of operation from 7am to 7pm seven days a week to 7am to 11:30pm, seven days a week.

In considering the extension to the approved hours of operation, consideration is made to the existing planning controls for the site and surrounding area.

The site is located in a Neighbourhood Residential Zone that has a purpose to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

The site is located within the Bluff Road and Edward Street Centre which is classified as a Small Neighbourhood Activity Centre. These centres provide convenience retailing for the daily ‘top up’ shopping needs of local residents and passing motorists. They have a small supermarket, or milk bar as well as other commercial/retail premises such as takeaway food, cafes, hairdressers, medical, offices, or specialist retailers.

The surrounding land uses are largely residential in nature and include single storey residential dwellings to the north, east and south at 182 and 186 Bluff Road, and 1 Tulip Street, and a small block of commercial uses to the immediate west.

The café operates under Planning Permit 2000/5977 which allows the use to remain open under 7pm, seven days a week. These hours are suitable having regards to the surrounding residential context and the small area of commercially zoned land to the west.

The proposal to increase the hours of operation to 11:30pm, seven days a week is inconsistent with the current residential zoning of the land. The extended hours of operation may cause unreasonable material detriment to the adjoining residential properties and this is reflective in the concerns raised by objectors. Concerns have also been expressed by objectors that the proposed hours may attract anti-social behaviour, littering, vandalism and security issues to the surrounding residential area. The use of the café after standard business hours of operation will cause additional amenity impact to adjoining properties with regards to noise from vehicular traffic.

The approved café currently caters for the social needs of the local and broader community. The operation of the café in the evening is not a use that is necessary in this residential area to serve the needs of the local community. The scale of the café/restaurant has extended beyond what was previously expected by Council in its support to approve a small scale café in this area. Consequently, the increased hours of operation fails to respect the prevailing residential character of the area and would be inconsistent with the Bluff Road and Edward Street Centre, Black Rock/Sandringham as defined within the Bayside Small Activity Centres Strategy 2014.

6.2 **Objector issues not already addressed**

The concerns raised by objectors has been discussed and considered in the body of the report.

Support Attachments

1. Endorsed plans
2. Planning Permit 2009/558/1
3. Site and Surrounds Imagery
Item 4.7 – Matters of Decision
Item 4.7 – Matters of Decision
PLANNING PERMIT
2009/558/1

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

Address Of The Land: No. 184 Bluff Road SANDRINGHAM

The Permit Allows: Buildings and works in association with a Section 2 use and waiver of car parking 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) The deletion of the 12 outdoor footpath seating and the deletion of the three outdoor tables (Tulip Street footpath).
   b) The outdoor decking (Bluff Road frontage) must be lowered in height to 300mm above natural ground level and reduced in area to allow sufficient areas within the front setbacks for canopy tree planting.
   c) Landscape buffers and acoustic barriers must be provided along the north and east residential boundaries.
   d) The planter beds along the Bluff Road frontage must be increased in size - width, and depth to ensure that they are capable of supporting substantial planting.
   e) The location of all plant and equipment must be identified on the plans.
   f) Provision must be made for the storage of rubbish and recycling bins. All garbage storage areas must be screened from public view.
   g) Details of the internal works, including the new coolrooms, freezer room, store/pantry and bar areas.
   h) Landscaping plan in accordance with the requirements of Condition 11 of this permit. The plan must show increased areas for landscaping along the northern and eastern residential abutters and two (2) mature canopy trees planted within the front (Bluff Road setback - one on each corner).

   i) The inclusion of rain gardens/water tanks to aid in the control stormwater discharge.
   j) A red line plan showing additional areas for sale and consumption of alcohol.

2. The development as shown on the endorsed plans must not be altered unless with prior written consent of the Responsible Authority.

3. No more than 60 seats may be made available at any one time to the patrons of the Cafe, unless with prior written consent of the Responsible Authority.

Date issued: 17 January 2011

Planning and Environment Regulations 2005 Form 4

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

Signature for the Responsible Authority
4. The Café use may operate only between the hours of 7am to 7pm seven days a week with the exception of a maximum of 24 'special occasions' in any one calendar year when the use may operate between the hours of 7am and 11.30pm. Special Occasions must be recorded in a register which is to be available for inspection on demand by the Responsible Authority.

5. All signs not approved in Planning Permit No. 2004/328/1 must be removed.

6. All works must be completed in compliance with Council's Environmental Health Department requirements.

7. The amenity of the area must not be detrimentally affected by the use and development by:
   - Transport of materials, goods or commodities to or from the land
   - Appearance of any buildings and works
   - Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil
   - Presence of vermin
   - By other circumstances to the satisfaction of the Responsible Authority.

8. Any new development, alterations/renovations of existing facilities must be designed so that the noise emissions do not affect the amenity of the area. The Responsible Authority may direct noise measurements to be undertaken by a suitably qualified acoustic consultant and a report be submitted to Council for compliance in relation to N1 and/or N2 policies and/or Environment Protection Authority Technical Guidelines.

9. All noise emanating from any mechanical plant (air conditioners etc) on the site must be kept at a level satisfactory to the Environment Protection Authority and the Responsible Authority.

10. Noise associated with the delivery or collection of goods from the premises or staff activity on the site must be kept at a level satisfactory to the Environment Protection Authority and the Responsible Authority.

11. Before the occupation of the development hereby permitted 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.

12. Before the occupation of the development hereby permitted commences, 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 two copies must be provided. The landscaping plan must show:

Date issued: 17 January 2011
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.
a) 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;
b) Landscaping and planting within all open areas of the site.
c) Provision of an in-ground irrigation system to all landscaped areas.

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

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

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. This permit will expire if one of the following circumstances applies:
   a) The development has 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 if a request is made in writing before the permit expires, or within three months afterwards.

Permit Notes

- Building approval must be obtained prior to the commencement of the above approved works.

- Premises used for the sale or storage of food in any manner whatsoever are to be registered under the Food Act 1984 and require Council approval via the Environmental Health Officer before occupation.

- Premises used for prescribed accommodation, hairdressing, beauty therapy and skin penetration including ear piercing, electrolysis, tattooing and body piercing in any manner whatsoever are to be registered under the Health Act, 1958 and require Council approval via the Environmental Health Co-ordinator before occupation.

- Prior to commencement of any building works, an Asset protection Application must be taken out. This can be arranged by calling Asset Protection Administrator, Mon-Fri 9:00am to 1:00pm on 9599 4538.

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.
Figure 1. Aerial overview of the site and surrounds.

Note: The objections from 20 Tulip Street, 22 Tulip Street, and 80 Edward Street are not listed on the above map and the address from an additional objector was not provided.

Legend

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<table>
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<tr>
<td>Objector(s)</td>
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Figure 2. View of the subject site.

Figure 3. View of 182 Tulip Street to the south of the site.
Figure 4. View of 189 Bluff Road, opposite the subject site.
This matter has been reported to the Planning and Amenity Committee for a decision as a result of Councillor call-in.

1. Application details

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<td>Development Contributions Plan Overlay (Schedule 1)</td>
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Proposal
The application proposes an amendment to Planning Permit 2003/645/1 pursuant to Section 72 of the Planning and Environment Act 1987 which allows a ‘Liquor Licence in accordance with the endorsed plans’.

The application proposes an extension to the approved trading hours of the existing liquor licence from 7am-7pm, Monday to Sunday to 7am-11:30pm, Monday to Sunday.

The endorsed plans and permit are provided at Attachment 1.

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

History
Planning permit 2003/645/1 was issued under delegation on 16 December 2003 and allows the use of ‘liquor licence in accordance with the endorsed plans’.

Condition 2 of the permit states the following:

The liquor licence may only operate between the hours of:

7am – 7pm, Monday to Sunday, unless the Responsible Authority gives consent in writing.

The existing cafe currently operates under Planning Permit 2000/5977 which was issued on 4 January 2001 and allows ‘use and development of the land for a twenty (20) seat café in conjunction with the existing hairdressers business in accordance with the endorsed plans’.

2. Planning controls

Original planning permit requirements
• Clause 52.27 (Licensed Premises) – a permit was required to use land to sell or consume liquor for a licence required under the Liquor Control Reform Act 1998.

Planning permit requirements

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

Clause 52.27 (Licensed Premises) was amended under VC81 on 18 February 2013 and a permit is now required if the hours of trading allowed under a licence are to be extended.

Planning Scheme Amendments

Council publicly exhibited Amendment C126 in April 2017 and received 90 submissions. At its 23 May 2017 Ordinary Meeting, Council resolved to review the Small Activity Centres Strategy 2014 and Amendment C126 to have regard to the submissions received and the changes which have occurred in the centres over time. This review is currently underway and a report will be presented to Council in early 2018 for a decision as to how to proceed with the amendment. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and Adopted.

The site is located within the Bluff Road and Edward Street Centre which is classified as a Small Neighbourhood Activity Centre. These centres provide convenience retailing for the daily ‘top up’ shopping needs of local residents and passing motorists. They have a small supermarket, or milk bar as well as other commercial/retail premises such as takeaway food, cafes, hairdressers, medical, offices, or specialist retailers.

3. Stakeholder consultation

External referrals

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

Internal referrals

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
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<td>Community Partnerships and Health Planning</td>
<td>No objection.</td>
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Public notification

The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and 5 objections were received. The following concerns were raised:

• Anti-social behaviour;
• Loss of amenity on the surrounding residential precinct; and
• Noise disturbance.

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

Consultation meeting

A consultation meeting was not held as Council’s Planning Officers were recommending
refusal of the application.

Following discussions with Council’s Planning Officers, the applicant suggested an amendment to Condition 2 of the permit as follows:

*The liquor licence may only operate between the hours of:*

- Monday, 7 am to 7 pm
- Tuesday, 7 am to 10 pm
- Wednesday, Thursday, Friday and Saturday, 7 am to 11.30 pm
- Sunday and Public Holidays, 7 am to 9 pm

*unless the Responsible Authority gives consent in writing.*

While these hours are considered an improvement to the proposed trading hours, the hours do not sufficiently align with the prevailing residential character of the area. As such, these hours are not supported.

### 4. Recommendation

That Council resolve to:

Issue a **Notice to Refuse to Grant an Amended Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning Application 2003/645/2** for the land known and described as **184 Bluff Road, Black Rock**, which allows a **liquor licence in accordance with the endorsed plans** for the following reasons:

1. The proposed amendment fails to comply with the purpose of Clause 52.27 (Licensed Premises) of the Bayside Planning Scheme for the following reasons:
   
   a) The proposed hours will result in unreasonable amenity impacts to the surrounding residential area.
   
   b) The proposed hours are inconsistent with the preferred trading hours and the serving of alcohol of existing commercial uses within the area.

### 5. Council Policy

**Council Plan 2017-2021**

Relevant objectives of the Council plan include:

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

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

Bayside Planning Scheme

- Clause 9 Plan Melbourne
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 17 Economic Development
- Clause 21.07 Economic Development
- Clause 21.11 Local Areas (specify activity centre)
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 52.27 Licensed 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. Liquor Licence

The application involves an amendment to Planning Permit 2003/645 which allows a liquor licence associated with an existing café. Condition 2 of the permit allows the following:

‘The liquor licence may only operate between the hours of 7am – 7pm, Monday to Sunday, unless the Responsible Authority gives consent in writing.’

The application seeks to extend the hours of operation so that the existing use operates from 7am to 11:30pm, Monday to Sunday.

Pursuant to Clause 52.27 (Licensed Premises) a planning permit is required to use land to sell or consume liquor if a license is required under the Liquor Control Reform Act 1998 and if the hours of trading allowed under a licence are to be extended.

Clause 52.27 sets out the following Decision Guidelines to consider when determining appropriateness of an application. Those Decision Guidelines applicable to this amendment are listed and assessed below:

The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and Local Planning Policies

The business objective of Clause 17.01 states that 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 or commercial facilities.
The existing café operates within a well-established residential precinct and the current trading hours are considered suitable to the surrounding residential context.

The proposed variation to trading hours will contravene the objectives of the Neighbourhood Residential Zone Schedule 3 which seeks to recognise areas of predominantly single and double storey residential development.

The restriction of the sale and consumption of liquor to 7pm as allowed under the existing permit are more suitably aligned to the objective of the area and work to ensure that the amenity of the existing area is generally maintained. The sale and consumption of liquor to 11:30pm, Monday to Sunday would be more appropriately aligned to a commercial context.

The impact of the hours of operation on the amenity of the surrounding area.

The premises has an existing liquor licence for onsite consumption of alcohol between the hours of 7am – 7pm, Monday to Sunday. The current proposal is to extend the hours of the liquor licence to 11:30pm, Monday to Sunday.

It is noted that the applicant has also applied to extend hours of operation for the café to 11:30pm, Monday to Sunday under Planning Permit 2009/558/2.

The proposed hours of operation and associated sale of liquor to 11:30pm, Monday to Sunday are inconsistent with surrounding character of the land having regard to Neighbourhood Residential zoning of the surrounding area and is inconsistent with the liquor licensing hours generally approved within residential areas.

With the exception of a small block of Commercial zoned lots to the west of the site, the subject site is bound by residential dwellings. The Thai Rani Restaurant has an existing liquor licence to operate from Tuesday to Sunday between 6pm and 11pm and Chives Café operates with an existing on-premises licence between 10am and 4:30pm Monday to Saturday. These uses both operate within the Commercial 1 Zone to the west of the site and are separated from the residential area, being Tulip Street by Bluff Road.

The application was referred to Council’s Coordinator for Community Partnerships and Health Planning who considered the proposal against Bayside’s Alcohol Harm Minimisation Policy 2017. The purpose of this policy is to contribute to minimising harms associated with the misuse of alcohol in Bayside and thereby to enhance community health and wellbeing, local amenity and community safety. Council’s Coordinator for Community Partnerships and Health Planning confirmed that there is no evidence to suggest that the increase of hours would result in an increased risk of harm due to alcohol consumption.

Notwithstanding, the proposed sale of alcohol beyond the approved 7:00pm trading hours will have an adverse impact on the amenity of the surrounding area particularly in light of the surrounding established residential precinct. Consequently, the proposal fails to comply with the relevant decision guidelines of Clause 52.27 (Licensed Premises).

6.2. **Objector issues not already addressed**

The concerns raised by objectors has been discussed and considered in the body of the report.

**Support Attachments**

1. Endorsed Plans and Permit ↓
2. Site and Surroun ds Imagery ↓
Planning Permit

Address of the Land
184 Bluff Road, Sandringham

The Permit Allows
Liquor licence in accordance with the endorsed plans.

The Following Conditions Apply to this Permit

1. The use and/or development as shown on the endorsed plans must not be altered or modified (whether or not in order to comply with any statute, statutory rule or for any other reason) without the prior written consent of the Responsible Authority.

2. The liquor licence may only operate between the hours of: 7am – 7pm Monday to Sunday, unless the Responsible Authority gives consent in writing.

3. This permit will expire if one of the following circumstances applies:
   - The development and use is/are not started within two (2) years of the date of this permit.
   - The development is not completed within two (2) years of the date of the commencement of the works.

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

Date: 16 December 2003

Signature of the Responsible Authority

Planning & Environment Regulations 1988 Form 4.4
Item 4.8 – Matters of Decision
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1. Aerial overview of the site and surrounds.

Note: The objection from 80 Edward Street is not listed on the above map and the address from an additional objector was not provided. Notwithstanding, a total of 5 objections were received by Council.

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<tr>
<td>Objector(s)</td>
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Figure 2. View of the subject site.

Figure 3. View of 182 Tulip Street to the south of the site.
Figure 4. View of 189 Bluff Road, opposite the subject site.
4.9  37-39 WILLIS STREET, HAMPTON
SECONDARY CONSENT - APPROVE
APPLICATION NO: 2016/299/1  WARD: CENTRAL

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/1778

1. Application details

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<tr>
<td>Application No.</td>
<td>2016/299/1</td>
</tr>
<tr>
<td>Applicant</td>
<td>Shenfield Property P/L.</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>2 November 2017</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Heritage Overlay (743)</td>
</tr>
<tr>
<td></td>
<td>Design and Development Overlay (Schedule 12)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Application plans and documents TRIM Ref No</td>
<td>PSF/16/1980-03</td>
</tr>
</tbody>
</table>

Proposal

Planning Permit 2016/299/1 allows:

The construction of fifteen dwellings on two lots in a General Residential Zone; Construction of a front fence with a height of more than 1.5 metres in a General Residential Zone; Partial demolition and construction of buildings and works in a Heritage Overlay; Construction of buildings and works with a building height 10. Partial demolition and construction of buildings and works in a Heritage Overlay; Construction of buildings and works with a building height 10 metres or more in a Design and Development Overlay and reduction in the number of visitor vehicle parking spaces from 3 to 2. (refer Attachment 1) at 37-39 Willis Street, Hampton (refer Attachment 4).

The application seeks approval to amend the endorsed plans pursuant to condition 2 of Planning Permit 2016/299/1 on a lot with an area of 1361.81 square metres.

The proposed amendments are as follows:

- Construction of an additional basement level;
- Increase in the number of car spaces from 27 to 44 car spaces;
- Associated increase in storage available in basement;
- Relocation of the front garden path for Unit 1 further west.

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

History

Planning permit 2016/299/1 was issued at the direction of the Victorian and Civil Administration Tribunal (VCAT) on 19 December 2016. Plans were endorsed by Council on 19 December 2016.
2. **Planning controls**

**Planning Permit requirements**

There are no primary permit triggers to consider as part of this application. The application seeks to amend the endorsed plans pursuant to the secondary consent provisions afforded by Condition 2 of Planning Permit 2016/299/1.

3. **Stakeholder consultation**

**External referrals**

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

**Internal referrals**

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 Engineer</td>
<td>No objection</td>
</tr>
</tbody>
</table>

Council’s traffic engineer provided comments on the proposed changes to the endorsed plans and any relevant concerns have been addressed by the applicant and incorporated into the plans (refer Attachment 1).

**Public notification**

Applications made in accordance with the secondary consent provisions are not subject to the notice requirements of Section 52 of the *Planning and Environment Act 1987*. Therefore, the amended plans have not been advertised.

4. **Recommendation**

That Council resolve to:

1. Approve the amended plans in accordance with secondary consent provisions of Planning Permit 2016/299/1.

2. Plans identified as TP-05.1 revisions VE and a, TP-06, TP-10, TP-11, TP-12 prepared by JFKDESIGN and dated 26 October 2016 and LS-01 revision D dated June 2016 be endorsed. These plans are to be read in conjunction with plans TP-02, TP-07, TP-08, TP-09, TP-13 endorsed on 19 December 2016.

3. Plans TP-05, TP-06, TP-10, TP-11, TP-12 and LS-01 revision C endorsed on 19 December 2016 be superseded.

5. **Council Policy**

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

6. **Considerations**

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

The tests include the following:

**Does the proposed amendment result in a transformation of the proposal?**

The proposed amendments do not result in a transformation of the proposal. The proposed changes are primarily to the internal layout of the development, specifically the
basement through the construction of an additional level. This will increase car parking from 27 to 44 car spaces. The proposed amendment also includes the relocation of the front garden path for Unit 1 (GO1) further west and an increase of storage in the basement. Importantly, the primary floors of the development (i.e. those above ground) would remain unaltered.

The proposed changes to the endorsed plans are considered to be appropriate. The relocation of the front garden path for Unit 1 is considered extremely minor and will have limited impact upon the landscaping of the front garden. The construction of the proposed second basement level will create additional car parking spaces for the development 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.

Does the proposed amendment authorise something for which primary consent is required under the planning scheme?

The primary consent was issued at the direction of VCAT for the use of the land for the purpose of dwellings, the construction of a building and the construction of or the carrying out of works, a reduction of the required parking and a waiver of the required loading bay. The proposed amendment to construct an additional basement level, increase the number of car spaces and storage space and the relocation of a front are consistent with the proposal and do not authorise something for which primary consent is required under the Planning Scheme.

Is the proposed amendment of consequence having regard to the purpose of a planning control under which the permit was granted?

Having regard to the development and the purpose of the planning controls under which the permit was granted, the proposed amendment is considered inconsequential as there has been no material change to the nature of the planning controls and policies affecting the land. Furthermore, concerns initially raised by Council’s traffic engineer relating to the construction of a second basement level have been addressed by the applicant and have been incorporated into the plans. It is therefore considered that the changes are appropriate, will not detrimentally impact on the amenity of adjoining properties nor cause material detriment to any third parties.

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

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

Support Attachments
1. Proposed Development Plans ▼
2. Site and Surrounds Imagery ▼
3. Original Planning Permit ▼
4. Endorsed Plans ▼
Figure 1: View to the site from the southwest

Figure 2: View to the site from the South
Figure 3: Aerial Image of the Site and Surrounds
**PLANNING PERMIT**  
5/2016/299/1

**Address Of The Land:** No. 37 & 39 Willis Street HAMPTON

Construction of fifteen dwellings on two lots in a General Residential Zone; Construction of a front fence with a height more than 1.5 metres in a General Residential Zone; Partial demolition and construction of buildings and works in a Heritage Overlay; Construction of buildings and works with a building height 10 metres or more in a Design & Development Overlay and reduction in the number of visitor vehicle parking spaces from 3 to 2 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 Amended Plans dated November 2016 but modified to show:

   (a) A schedule of construction materials and external finishes and colours including paint samples.
   (b) All column locations at each grade changing point of the ramp being clearly provided and annotated on the plans; aisle widths, headroom and A1D levels.
   (c) Provision of line marking and/or signage for all car spaces including installation of relevant unit numbers. The visitor car spaces are also to be either signed and/or line marked.
   (d) The proposed basement entry to incorporate a minimum 2.2m headroom clearance at the entrance, measured perpendicular to the ramp.
   (e) The installation of a ‘STOP-GO’ signal system, with priority given for vehicles entering from the street.
   (f) Water sensitive urban design measures in accordance with Condition 7 of this permit.
   (g) A Tree Management Plan in accordance with Condition 13 of this permit.
   (h) A Waste Management Plan in accordance with Condition 19 of this permit.
   (i) A Construction Management Plan in accordance with Condition 21 of this permit.

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**Date issued:** 10 December 2016

*Signature for the Responsible Authority*

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
(j) A detailed Landscape Plan generally in accordance with the landscape concept plan prepared by JFK Design, known as Sheet LS01 rev A dated 3 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 and condition 13 of this permit.
(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 fell partially within the subject site.
(c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
(d) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
(e) Details of surface finishes of pathways and driveways.
(f) Details of a green wall installation on the west elevation of the new proposed form and the western section of the north elevation.
(g) For the three Japanese Maple trees on the east boundary opposite the apartment 3 secluded private open space substitute no less than three other species with a mature height of no less than 4 metres and located opposite that open space and opposite apartment 4 bedroom 1.
(h) Any other changes to be in accordance with all conditions in this permit. All changes to the plans must be to the satisfaction of the Responsible Authority.
(k) The correction of the section label and ramp label as shown on the drawing TP-12 Rev VB dated 5 December 2016 prepared by JFK Design.
(l) A label on the north elevation on drawing TP-11 as the ‘proposed north elevation’.
(m) Correction of the finished floor levels of the roof decks on the roof plan (TP-09) consistent with the finished floor levels shown on the elevations and sections (TP-11 & TP-12).
(n) The provision of three bicycle parking spaces for residents in the basement, generally in accordance with sections 7.1.5 & 7.1.6 of the statement of evidence prepared by Brett Young dated November 2016 tendered in Victorian Civil and Administrative Tribunal proceeding no. P1247/2016.
(o) A garden bed no less than 500 mm wide between the apartment 1 verandah and deck.

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

3 All plant and equipment to be located away from habitable room windows of the dwellings and the adjoining properties habitable rooms. 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.

Date issued: 19 December 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.
PLANNING PERMIT
5/2016/299/1

Planning Scheme: Bayside

Responsible Authority: Bayside City Council

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

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

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

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

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

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

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

10. Before the occupation of the development starts, new or altered vehicle crossing 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.

Date issued: 19 December 2016

[Signature]

Planning and Environment Regulations 2006 Form 4

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
11 Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

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

13 Before the development starts, including any related demolition or removal of vegetation, a Tree Management Plan (report) and Tree Protection Plan (drawing), to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority. The Tree Management Plan must be specific to the trees shown on the Tree Protection Plan, in accordance with AS4970-2009, prepared by a suitably qualified arborist and provide details of tree protection measures that will be utilised to ensure all trees to be retained remain viable post-construction. Stages of development at which inspections are required to ensure tree protection measures are adhered to must be specified. The Tree Protection Plan must be in accordance with AS4970-2009, be drawn to scale and provide details of:

(a) The Tree Protection Zone and Structural Root Zone for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site.
(b) The location of tree protection measures to be utilised.
(c) Any required pruning of the canopy of trees to be retained before works start.

14 All protection measures identified in the Tree Management and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction of the Responsible Authority. A tree protection fence is for the protection of a tree's canopy and root zone. Conditions for street tree protection fencing during development are as follows:

(a) Fencing is to be secured and maintained prior to demolition and until all site works are complete.
(b) Fencing must be installed to comply with AS 4970–2009, Protection of trees on development sites.
(c) Fencing should encompass the Tree Protection Zone (TPZ) for all street trees adjacent to the development.
(d) Fencing is to be constructed and secured so its positioning cannot be modified by site workers.
(e) If applicable, prior to construction of the Council approved crossover, TPZ fencing may be reduced to the edge of the new crossover to facilitate works.

15 Prior to soil excavation for a Council approved crossover within the TPZ. A trench must be excavated along the line of the crossover adjacent to the tree using root sensitive non-destructive techniques. All roots that will be affected must be correctly pruned.

Date issued: 10 December 2016

Arthur Vetschie

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

17 Before the commencement of any works, 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.

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

19 Before the commencement of any works, a Waste Management Plan (generally in compliance with the Waste Management Plan author Solution Traffic Engineers dated April 2016) 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, must be consistent with the plans endorsed under condition 1, and must include:

(a) Storm water drains in storage areas should be fitted with a litter trap.
(b) The number and size of bins to be provided.
(c) Facilities for bin cleaning.
(d) Method of waste and recyclables collection ensuring bin collection is via private collection during after hours.
(e) Types of waste for collection, including colour coding and labelling of bins.
(f) Hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines).
(g) Method of hard waste collection.
(h) Method of presentation of bins for waste collection.
(i) Strategies for how the generation of waste and recyclables will be minimised.
(j) 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.
(k) Provision must be made on the land for the storage and collection of garbage and other solid waste. This area must be graded and drained and screened from public view to the satisfaction of the Responsible Authority.
(l) All waste material not required for further on-site processing must be regularly removed from the site. All vehicles removing waste must have fully secured and contained loads so that no wastes are spilled or dust or odour is created to the satisfaction of the Responsible Authority.
Before the commencement of works, a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit and shall thereafter be complied with. The CMP must specify and deal with, but not be limited to the following as applicable:

(a) A detailed schedule of works including a full project timing.
(b) A traffic management plan for the site, including when or whether any access points would be required to be blocked, an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services, preferred routes for trucks delivering to the site, queuing/sequencing, excavation and swept-path diagrams.
(c) The location for the parking of all construction vehicles and construction worker vehicles during construction.
(d) Delivery of materials including times for loading/unloading, unloading points, expected frequency and details of where materials will be stored and how concrete pours would be managed.
(e) Proposed traffic management signage indicating any inconvenience generated by construction.
(f) Fully detailed plan indicating where construction hoardings would be located.
(g) A waste management plan including the containment of waste on site: disposal of waste, stormwater treatment and on-site facilities for vehicle washing.
(h) Containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build-up of matter outside the site.
(i) Site security.
(j) Public safety measures.
(k) Construction times, noise and vibration controls.
(l) Restoration of any Council assets removed and/or damaged during construction.
(m) Protection works necessary to road and other infrastructure (limited to an area reasonably proximate to the site).
(n) Remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site).
(o) An emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experience.
(q) All contractors associated with the construction of the development must be made aware of the requirements of the Construction Management Plan.
(r) Details of crane activities, if any.
PLANNING PERMIT
5/2016/299/1

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

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.

Date issued: 19 December 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.
FORM 4

PLANNING PERMIT

Sections 63 and 86

IMPORTANT INFORMATION ABOUT THIS PERMIT

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

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

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

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

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

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

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

WHAT ABOUT APPEALS?
* The person who applied for the permit may apply for a review of any condition in the permit unless it was granted
  at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of review exists.
* An application for review must be lodged within 60 days after the permit was issued, unless a notice of decision to
  grant a permit has been issued previously, in which case the application for review must be lodged within 60 days
  after the giving of that notice.
* An application for review is lodged with the Victorian Civil and Administrative Tribunal.
* An application for review must be made on an Application for Review form which can be obtained from the
  Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
* An application for review must 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.
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