Agenda

for the

Planning & Amenity Committee
Meeting

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

on

Tuesday, 26 June, 2018
at 7:00pm

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

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

**Section 92 The Chair’s Duties and Discretions**

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

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

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

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

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

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

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

Your cooperation is appreciated

**Chairperson of Council**
Planning & Amenity Committee 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 94 Ludstone Street, Hampton Secondary Consent - Approve Application No: 2014/86/1 Ward: Central ...............................17
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5. Confidential Business
   Nil
Next Meetings 2018

Tuesday 17 July 2018
Tuesday 14 August 2018
Tuesday 28 August 2018
Tuesday 11 September 2018
Tuesday 16 October 2018
Tuesday 30 October 2018
Tuesday 13 November 2018
Monday 10 December 2018
Thursday 20 December 2018
1. **Apologies**

2. **Declarations of Interest**

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

   3.1 Confirmation of the Minutes of the Planning & Amenity Committee Meeting held on 12 June 2018.
4. Matters of Decision

4.1 LOCAL LAW TREE REMOVAL APPEAL: 47 NEW STREET, BRIGHTON

City Planning & Community Services - Amenity Protection
File No: PSF/15/8764 – Doc No: DOC/18/100202

1. Executive summary

The purpose of the report is to consider an appeal to Council to permit the removal of one White cedar (*Melia azedarach*) tree from 47 New Street, Brighton. The value of the tree using the Bayside Tree Valuation Calculator is estimated to be $59,094.45. The owner seeks removal of the tree due to infrastructure damage caused by tree roots.

An application to remove the White cedar (*Melia azedarach*) tree located in the front yard of the property was refused by Council officers on 17 February 2016 and 4 August 2017. A new application was received on 18 March 2018. **Attachment 1** includes photographs of the tree and its location on the property.

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

The property owner wrote to Council on 17 April 2018, seeking to appeal the decision not to grant a tree removal permit and requested to have the decision considered by Council in accordance with Clause 16 of Local Law No. 2 (“Neighbourhood Amenity”).

2. Key issues

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

The applicant has a number of concerns about the White cedar (*Melia azedarach*) tree at 47 New Street which are:

- Damage to driveway, underground pipes, fencing and gates.
- Expensive costs to maintain the gates or greater costs to fix the problem with underpinning.
- Cost of repaving the driveway.
- Tree has outgrown its location and spread into neighbouring property pushing the boundary fence out of alignment.
- Neighbours support for tree removal

The property owner also supplied a report from Kaplonyi & Associates Pty Ltd Design, Drafting, Civil & Structural Engineers; key statements in the report to support tree removal include:

1. “the gate pier closest to the tree, appeared to be out of plumb and appears to have caused movement at the top of the vehicle access gates, making it difficult to close them”;
2. “the existing gate footing (and hence the pier) has been significantly affected by its [the tree’s] presence.”;
3. “Without significant treatment of the tree roots and/or expensive structural measures … no further damage and/or issues cannot be guaranteed”, and “The structural integrity of the pier, should the tree remain, also cannot be guaranteed.”
In the relatively short period of existence of the gate pier, the tree has had a significant detrimental effect on the pier footing and the reasonably likely possibility of further such effects will always be present. Measures like underpinning with deeper footings, or better still, a screw pile underpin, would assist in maintaining the stability of the pier, however, in such a case, no further detrimental effect cannot be guaranteed and would be an expensive process”.

4. “It is recommended that the tree on the subject property be removed”

See Attachment 2 for the Engineer report and neighbours support

Council’s Arborist’s Assessment:

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

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

- The tree is large in size, good health, fair structure and provides a high level of amenity to the neighbourhood.
- Infrastructure damage raised by the applicant was evident, however it should be noted that the damage caused and an estimated repair cost would be substantially less than the amenity value of the tree.

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

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

The infrastructure damage has occurred over a period of time, it is considered that the value of the tree, $59,094.45 outweighs the cost of the infrastructure repair.

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

The current policy does not allow a favourable decision at officer level for the above reasons.

3. Stakeholder Consultation

**Internal referrals**

The application (and associated supporting documents) were referred to the Municipal Building Surveyor for comment:

<table>
<thead>
<tr>
<th>Supporting Documents</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Inspection Report</td>
<td>The tree removal seems to be extreme for the purpose of repair or replacement of the brick fence piers.</td>
</tr>
<tr>
<td>Report by Kaplonyi &amp; Associates Pty Ltd Design Drafting, Civil &amp; Structural Engineers</td>
<td></td>
</tr>
</tbody>
</table>
Recommendation
That Council refuse to grant a permit for the removal of one White cedar (*Melia azedarach*) tree at 47 New Street, Brighton.

Support Attachments
1. Tree Location and Photos
2. Applicant Engineer Report
White cedar viewed from East

Aerial image of White cedar
Various photos of the White cedar tree tree and damage
SITE INSPECTION REPORT

Our Ref: 140316

CLIENT: Ms. R. Crabtree,
47 New Street,
BRIGHTON Vic. 3186

Date: 11th March 2016

SITE: No. 47 NEW STREET, BRIGHTON.

1.0 INTRODUCTION

1.1 Job Description

This Company has been engaged to carry out,
1. An inspection of the property adjacent to the tree near the front boundary.
2. Ascertain the feasibility of removing the tree.
3. Provide recommendations (if appropriate) for remedial measures.

2.0 SITE CONDITIONS

2.1 General

<table>
<thead>
<tr>
<th>Date of Inspection:</th>
<th>11th March 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Time of Inspection:</td>
<td>1030 Hrs.</td>
</tr>
<tr>
<td>Slope of Block:</td>
<td>Negligible.</td>
</tr>
<tr>
<td>Subfloor access:</td>
<td>N.A.</td>
</tr>
</tbody>
</table>

2.2 Site Description

The site is the front yard, single double storey residence. There is a large (approximately 30m high) Ash tree located close to the south east corner of the property, adjacent to the southern boundary fence and approximately 2 - 3 metres from the street frontage and the vehicle access gate. (Photograph 1) The foliage canopy appears to extend at least 10m either side of the trunk, along the boundary and into the neighbour’s property. (Photographs 1 & 2) The vehicle access to the site, i.e. the driveway pavement, extends from the gates at the south east corner of the property, passing towards the rear of the site, directly adjacent to the tree trunk. (Photographs 2 & 3)

2.3 Existing Structure

The vehicle access gates in south east corner of the property are metal gates, with brick supporting piers. In observing the type of gates and their estimated age, it would appear that the piers are most likely founded on concrete footings.
2.4 Existing Conditions

The inspection was required, as the Owner was considering the removal of the tree and the possible consequences of both its removal and/or its retention.

Large portions of the driveway pavement slabs have significantly shifted (Photographs 4 & 5) and considerable further, and according to the Owner more recent, cracks were observed (Photograph 6). In addition to the damage to the driveway pavement, the gate pier closest to the tree, appeared to be out of plumb and appears to have caused movement at the top of the vehicle access gates, making it difficult for them to close. (Photograph 7) According to the owner, they have adjusted the gate over a considerable time to enable them to be able to close it.

On inspection of the neighbour’s property, directly adjacent to the tree, very large surface roots were observed (Photograph 8). Due to the garden bed adjacent to the boundary/tree, the extent of these roots was not possible to be determined, however, some cracking was observed in the neighbour’s residence wall, at the closest portion to the tree (Photograph 9). The branches of the tree appeared to extend well into the neighbour’s property and over their roof gutter. In addition, according to the Owner of the subject site, the neighbour (to the south) would like to extend their patio pavement, into the area of the current garden bed, but are reluctant to do so due to the adjacent tree and the presence of the large surface roots.

Also according to the owner, the footpath in front of the subject site has been relatively recently repaired/replace, due to the presence of tree roots having damaged it.

3.0 DISCUSSIONS/CONCLUSIONS

3.1 Discussion/Conclusions/Recommendations

From the observations made during the inspection/investigation, it can be generally concluded that the tree in question is currently having an effect on the driveway paving and the gate pier on the subject site, in that the existing gate footing (and hence the pier) has been significantly affected by its presence. Without significant treatment of the tree roots and/or expensive structural measures to allow the pavement to span over the ever growing and expanding tree roots, no further damage and/or issues cannot be guaranteed.

The structural integrity of the pier, should the tree remain, also cannot be guaranteed. In the relatively short period of existence of the gate pier, the tree has had a significant detrimental effect on the pier footing and the reasonably likely possibility of further such effects will always be always present. Measures like underpinning with deeper footings, or better still, a screw pile underpin, would assist in maintaining the stability of the pier, however, in such a case, no further detrimental effect cannot be guaranteed and would be an expensive process.

Whether the tree is having an effect on the structure of the neighbour’s residence is unclear and cannot be determined by a single inspection. Further examination would need to be carried out, before any definitive conclusions can be reached. It is however a likely possibility that, given the extent of the effects of the roots on the paving of the subject site, the tree may be the cause cracking, in which case, some measures such as a root barrier may need to be constructed to reduce or minimise any future effects of the presence and/or growth of the roots. In order to carry out such measures, the advice of a qualified Arborist should be sought, as to what effects (if any) of cutting the offending roots and constructing the root barrier would have on the stability and the health of the tree.
tree. Likewise, cutting the overhanging branches may have unstabilising effects and an arborist’s advice for this, as well, would need to be sought.

In conclusion, it is recommended that the tree on the subject property be removed, and an Arborist’s advice should be sought as to how this should be carried out and how to deal with the presence of the roots, both on the subject site and the neighbour’s property. No remedial action should be taken for at least 18 – 24 months after its removal, in order to allow the soil moisture content to come to an “equilibrium”. The most structurally effective and “rigorous” remedial action for the piers, would be to demolish the existing pier, provide deeper footings to account for any disturbed soil due to the trees’ removal, and a plumb pier then be rebuilt. If the existing pier is to be retained, then the footing should be underpinned, preferably with a screw pile, however, the pier may not be able to be “pushed” back to its vertical position.

Finally, NO responsibility will be taken for this report if it is altered in any way or not reproduced in full.

For and on behalf of
Kaplonyi and Associates Pty. Ltd.

[Signature]

JOHN KAPLONYI
B.E. (Civil), F.I.E. Aust., C.P.Eng.
Hi Rebecca. Apologies for the delay in response to your request to remove the big tree. After much deliberation and carefully weighing the pros and cons, we have decided to give you our consent to the removal of the tree.

For the past 12 years we have endured the irritation it causes by nature of its size and position. It appears that its removal will end all problems and obstacles to both parties.

When you are ready, we’ll talk about the realignment of the fence and types of trees with which we can replace it.

I hope you have come right with Council’s permission, and that your renovation plans are ready to go ahead.

Kind regards
Martha & Anthos Yannakou
42 New Street, Brighton
4.2  94 LUDSTONE STREET, HAMPTON
SECONDARY CONSENT - APPROVE
APPLICATION NO: 2014/86/1  WARD: CENTRAL

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/129760

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Approve the secondary consent amended plans</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street address</td>
<td>94 Ludstone Street, Hampton</td>
</tr>
<tr>
<td>Application No.</td>
<td>2014/86/1</td>
</tr>
<tr>
<td>Applicant</td>
<td>Mr C Brett</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The site is subject to restrictive covenant 1485653. The proposed amendments do not contravene the requirements of the covenant.</td>
</tr>
<tr>
<td>Date application received</td>
<td>8 May 2018</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>Application plans and documents TRIM Ref No</td>
<td>DOC/18/101682</td>
</tr>
</tbody>
</table>

Proposal
Planning Permit 5/2014/86/1 allows:

Construction of two double storey dwellings

The application seeks approval to amend the endorsed plans pursuant to condition 2 of Planning Permit 2014/86/1 on a lot with an area of 788.69 square metres.

The proposed amendments are as follows:

- Installation of a plunge pool to the rear of Townhouse 2
- Extension of rear decking to Townhouse 2

An aerial image of the site and surrounds are provided at Attachment 1.

History

- Planning Permit 5/2014/86/1 was issued on 11 February 2015 under delegation. Planning Permit 5/2014/86/1 was amended at the direction of VCAT on 25 August 2015 after an appeal by the applicant against conditions of permit.
- An extension of time of 1 year to commence and complete the development was granted on 9 May 2017.

2. Planning controls

Planning Permit requirements

There are no primary permit triggers to consider as part of this application. The application seeks to amend the endorsed plans pursuant to the secondary consent provisions afforded by Condition 2 of Planning Permit 5/2014/86/1.
3. **Stakeholder consultation**

**External referrals**

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

**Internal referrals**

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

**Public notification**

Applications made in accordance with the secondary consent provisions are not subject to the notice requirements of Section 52 of the Planning and Environment Act 1987. Therefore, the amended plans have not been advertised.

4. **Recommendation**

That Council resolve to:

1. Approve the amended plans in accordance with secondary consent provisions of Planning Permit 5/2014/86/1.

2. Plans identified as Ground Floor Plan, prepared by Ryehill Design Services and dated 8 December 2016; and Elevations Plan dated 5 October 2017 be endorsed. These plans are to be read in conjunction with plans currently endorsed on 29 June 2017.

3. Previously Endorsed Ground Floor Plan endorsed on 29 June 2017; and Elevation Plan endorsed on 3 November 2017 be superseded.

5. **Council Policy**

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

6. **Considerations**

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

The tests include the following:

- **Does the proposed amendment result in a transformation of the proposal?**

  The amendment does not result in a transformation of the proposal. The installation of the proposed works are largely inconsequential with respect to the nature and merits of the previously approved application.

- **Does the proposed amendment authorise something for which primary consent is required under the planning scheme?**

  The amendment sought under this application is considered to be consistent with the proposal and does not authorise something for which primary consent is required for under the Bayside Planning Scheme.

- **Is the proposed amendment of consequence having regard to the purpose of a planning control under which the permit was granted?**

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

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

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

**Support Attachments**

1. Site and Surrounds Imagery
2. Amended Plans
3. Endorsed Plans
Site and Surrounds

Figure 1 Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐️</td>
</tr>
</tbody>
</table>
4.3 67-69 WELL STREET, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/804  WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/139013

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Keen Planning</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>27 December 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>74</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone, Schedule 2</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay, Schedule 11</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay</td>
</tr>
<tr>
<td>Number of objections</td>
<td>6</td>
</tr>
</tbody>
</table>

Proposal

The application seeks construction of a three storey building comprising 10 dwellings above a basement level on a lot with an area of 1,220 square metres. Key details of the proposal are as follows:

- 10 x three bedroom dwellings
- 10.9m building height
- 55% site coverage
- 25% permeability
- Two car spaces per dwelling and two residential visitor car spaces in accordance with the car parking requirements

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 for this land.

NB: The Planning and Amenity Committee on 15 May 2018 determined to issue a Notice of Decision to Grant a Planning Permit on the adjoining property to the north-west at 65 Well Street, Brighton. The determination authorised the construction of a three storey building (above basement level) comprising five dwellings on a lot of 806 square metres.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.08 (General Residential Zone) – Construction of two or more dwellings on a lot and construction of a front fence exceeding a height of 1.5 metres.
Planning Scheme Amendments
There are no Planning Scheme Amendments relevant to this application.

3. Stakeholder consultation

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

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

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

- Demolition
- Neighbourhood character
- Building height
- Overdevelopment
- Density
- Overlooking
- Boundary fencing
- Noise
- Materials and colours

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 May 2018 attended by the permit applicant and five objectors. No objections were withdrawn subsequent to the consultation.

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 2017/804 for the land known and described as 67-69 Well Street, Brighton for the construction of a three storey building comprising 10 dwellings above a basement level in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When
approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application prepared by Christopher Doyle PD04-16, Rev A, but modified to show:

a) The basement envelope to have a minimum 2.2 metre setback from the north-eastern (rear) and 4.5 metres from the south-western (front) boundaries respectively, with an associated reduction in paving at ground level. Any consequential changes to the basement layout/configuration must comply with the prescriptive requirements of Clause 52.06 (car parking) of the Bayside Planning Scheme.

b) The ground floor north-eastern (rear) setbacks of the living areas associated with dwellings 3 and 4 increased to 4.9 metres, while the setbacks of bedrooms 2 and 3 may be reduced to 3.2 metres respectively.

c) The first floor north-eastern (rear) balconies setbacks of dwellings 7 and 8 increased to 3.9 metres and absorbed within the building envelope.

d) The second floor north-east (rear) balconies of dwellings 9 and 10 lowered in height and modified to incorporate alternative screening techniques to obscure glazing. No overlooking in accordance with ResCode Standard B22 (overlooking) may occur, with detailed sections of the screening measures to be provided.

e) The planter boxes along the second floor south-east and north-west balcony areas of dwellings 9 and 10 extended to replace the 1.7 metre high obscure glazing. No overlooking in accordance with ResCode Standard B22 (overlooking) may occur, with detailed sections of the screening measures to be provided.

f) The front fence reduced to a maximum height of 1.8 metres above natural ground level.

g) The internal fence adjacent the secluded private open space of dwelling 1 and the common pedestrian pathway to have a maximum height of 1.8 metres.

h) Provision of an acoustic fence to a maximum height of 1.8 metres along the vehicle accessway and secluded private open for dwelling 2.

i) Provision of acoustic measures to the kitchen window, bedroom three window and the south-west family room window of dwelling 2.

j) All air conditioning units to be located within the basement.

k) Provision of sky lights (or similar) to all upper level bathrooms, ensuites and walk in robes where direct daylight access is not provided.

l) Provision of two skylights above the lobby at second floor.

m) Provision of a security door to access the storage room within the basement.

n) The proposed development to comply with the requirements of ResCode Standard B41 (accessibility), Clause 57.07-7 of the Bayside Planning Scheme.

o) The first floor terrace areas to comply with the requirements of ResCode Standard B43 (private open space above ground floor), Clause 55.07-9 of the Bayside Planning Scheme.

p) Deletion of boundary fence notations.
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.

The power pole relocated to a position to the satisfaction of the Responsible Authority.

Water Sensitive Urban Design measures in accordance with condition 10 of this permit.

A Landscape plan in accordance with condition 12 of this permit.

Provision of a rooftop garden and landscape management plan in accordance with condition 13.

Provision of a tree management and tree protection plan in accordance with condition 16.

Provision of an environmental sustainable design report in accordance with condition 23.

Provision of a waste management plan in accordance with condition 24.

Provision of the development contributions levy in accordance with condition 25.

All to the satisfaction of the Responsible Authority.

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.

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.

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.

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.

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

The walls on the boundary of the adjoining properties cleaned and finished.

Prior to the occupation of the development, the existing 2P parking sign mounted on the utility pole to be relocated 5 metres south of the new crossover, or otherwise to the satisfaction of the Responsible Authority at a cost to the applicant.

A STOP-GO traffic signal system must be adopted to avoid traffic conflict, with priority given for vehicles entering the site.

Prior to the endorsement of plans pursuant to Condition 1, detailed plans of the water sensitive urban design measures generally in accordance with the EcoResults report dated December 2017.

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. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plans drawn by Jack Merlo 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) Plantings in accordance with the Bayside landscaping guidelines.

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) Inclusion of permeable paving where paving is not proposed above the basement envelope.

g) Details of surface finishes of pathways and driveways

13. Before the development starts a landscape management plan detailing the maintenance regime and management responsibilities for the rooftop garden associated with the development must be prepared and submitted to the satisfaction of the Responsible Authority.

The Landscape Management Plan must include the following:

a) State the agreed purpose of the rooftop garden

b) State the systems and products in the rooftop garden and how they are designed to achieve the rooftop garden purpose

c) How ongoing maintenance of the rooftop garden will occur

d) Outline access to the rooftop garden

e) Outline any management risks, and how these will be managed

f) State the annual maintenance budget

g) Summarise the type of maintenance tasks required

h) Outline the skills and certification required in the maintenance team to perform these tasks

i) Outline communication requirements

j) State when the management plan is due for review

If the Rooftop garden fail, details of an alternative treatment must be submitted to, and approved by, the Responsible Authority. The alternative treatment must be implemented within three months of approval.
14. 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.

15. 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

16. 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 Council Street trees and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site.
b) The location of tree protection measures to be utilised.
c) Details of Tree Protection Zones for all Bayside City Council street trees to be retained.
d) Comment on methods to be utilised and instruction on how to deploy them;
e) Comment on when the protection measures are to be deployed;
f) Comment on when the protection measures can be modified;
g) Process that will be followed if any damage occurs to a tree;
h) Process that will be followed if construction works require alteration to protection measures outlined in report; and
i) Stages of development at which inspections will occur.
j) Site specific plan clearly showing what protection measures are to be utilised with their dimension and location.

17. 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.

18. 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.

Street tree protection

19. Before the development starts, tree protection fencing is to be established the 3 street trees prior to demolition and maintained until all works on site are complete. The fencing is to be constructed and secured so its positioning cannot be modified.
by site workers. The Tree Protection Zone is to be established and maintained in accordance with AS 4970-2009.

20. Street trees must not be removed, damage or pruned by any party other than Bayside City Council authorised arborist contractors

21. There is to be no soil excavation within 3 metres of the street trees asset measured from the edge of the trunk, or otherwise with the prior written consent of the Responsible Authority.

Environmental Sustainable Design report

22. Prior to the commencement of development, an Environmental Sustainable Design (ESD) report prepared by a qualified professional must be endorsed by the Responsible Authority. The ESD Report must specify and deal with the following:
   a) Indoor Environment Quality;
   b) Provision of renewable energy facilities;
   c) Energy;
   d) Roof top garden;
   e) Water resources;
   f) Integrated storm water treatment;
   g) Building Materials;
   h) Transport;
   i) Environmental waste management;
   j) Urban Ecology;
   k) Innovation/ESD Excellence;
   l) Ongoing Building & Site Management.

The development must be carried out and maintained in accordance with the recommendations and requirements as described in the endorsed Environmental Sustainability Report.

Waste management plan

23. Prior to the endorsement of plans pursuant to Condition 1, a Waste Management Plan must approved by the Responsible Authority. The Waste Management Plan must clearly indicate that waste collection is to be via a private contractor, not Council, and include:
   a) Dimensions of storage waste areas.
   b) Storm water drains in storage areas should be fitted with a litter trap.
   c) The number and size of bins to be provided.
   d) Facilities for bin cleaning.
   e) Method of waste and recyclables collection.
   f) Types of waste for collection, including colour coding and labelling of bins.
   g) Hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines).
   h) Method of hard waste collection.
   i) Method of presentation of bins for waste collection.
Sufficient headroom within the basement to accommodate waste collection vehicles.

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

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

Compliance with relevant policy, legislation and guidelines.

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

Construction Management Plan

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

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

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

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

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

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

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

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

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

i) Site security.

j) Public safety measures.

k) Construction times, noise and vibration controls.

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

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

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

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

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

r) Details of crane activities, if any.

Drainage

25. 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.

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

Development contributions

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

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

Permit Expiry

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

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

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

Permit Notes:

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

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

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

- A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.
5. **Council Policy**

**Council Plan 2017-2021**

Relevant objectives of the Council plan include:

- Where significant development is directed to specified and planned activity centres and strategic locations, providing a transition to surrounding residential areas and incorporating improved infrastructure and open space.
- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
- Where 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:

- 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 21.03 Settlement and Housing
- Clause 21.11 Local Areas (Church Street, Brighton)
- Clause 22.06 Neighbourhood Character Policy, Precinct B2
- Clause 32.09 General Residential Zone, Schedule 2
- Clause 43.02 Design and Development Overlay, Schedule 11
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

6. **Considerations**

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

6.1. **Neighbourhood character**

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

The proposed development is appropriately sited and designed to ensure that the garden character of Well Street will be retained. Notwithstanding this, conditions of permit have been recommended to lower the fence height to Well Street and reduce the extent of the basement envelope to improve post-construction landscaping opportunities.

It is considered that the introduction of these conditions will ensure that the preferred neighbourhood character of the precinct is satisfied.
6.2. **Compliance with Clause 55 (ResCode)**

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

Street setback (Standard B6)

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>8.5m</td>
<td>7.5 - 12.5m</td>
<td>1m</td>
</tr>
</tbody>
</table>

A street setback of 8.5 metres is based on the average of the existing conditions at 65 Well Street (8 metres) and 71 Well Street (8.9 metres). As discussed above, the Planning and Amenity Committee on 15 May 2018 determined to support the construction of a three storey building at 65 Well Street. This proposal has a street setback of 7.7 metres.

The application proposes a street setback of 7.5 - 8.5 metres at ground floor, increasing to 10.5 metres and 12.5 metres respectively at the upper levels.

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.

It is considered that the proposed setbacks are comparable to both the immediate and wider context of the site, with setbacks as small as 5.1 metres (72 Well Street) evident.

Furthermore, the articulated façade at all levels of the development, in conjunction with the emerging built form context, ensures that the proposal will not be unreasonably dominant to the streetscape and is reflective of the emerging built form context of the area.

Overlooking (Standard B22)

All first and second floor habitable room windows and balconies are screened to ensure no unreasonable overlooking of adjoining secluded private open space areas and habitable room windows.

Notwithstanding this, it is recommended that the screening measures be modified to improve the internal amenity of future residents, while also ensuring no unreasonably amenity impacts on adjoining properties.

Accordingly, it is recommended that the second floor north-east (rear) balconies of dwellings 9 and 10 be lowered in height and incorporate alternative screening techniques to obscure glazing, while also ensuring no unreasonable overlooking in accordance with ResCode Standard B22 (overlooking) occurs.

Furthermore, it is recommended that the planter boxes along the entire second floor south-east and north-west balcony areas be extended to replace the 1.7 metre high obscure glazing. This will deliver an improved internal amenity outcome, while also softening the presentation of the development from adjoining properties.

Front Fences (Standard B32)

Owing to the significant rise/fall across the land, a 1.9-2.2 metre high front fence is proposed. It is recommended that the fence height be lowered to a maximum height of 1.8 metres and include a minimum 25% transparency. The reduction in the front fence height will ensure a greater level of compatibility with the fencing heights in the area.

Energy efficiency (Standard B35)

The site orientation maximises the solar access and does not unreasonably reduce energy efficiency and solar access to adjoining properties.
Notwithstanding, opportunities to improve the energy efficiency of the development exist by way of an environmentally sustainability design report, the inclusion of further daylight opportunities to dwellings through the provision of skylights (or similar) at upper levels and provision of a rooftop garden. This is recommended to be rectified as a condition of permit.

**Noise impacts (Standard B40)**

Air conditioning units are interspersed throughout the site and on the rooftop, while no acoustic measures to the sensitive areas of dwelling 2 are proposed when adjacent the vehicle accessway. These issues are recommended to be rectified as a condition of permit.

**Accessibility (Standard B41)**

**Requirement:** 50 per cent of dwellings should have:

- A clear opening width of at least 850mm at the entrance to the dwelling and main bedroom.
- A clear path with a minimum width of 1.2 metres that connects the dwelling entrance to the main bedroom, an adaptable bathroom and the living area.
- A main bedroom with access to an adaptable bathroom.
- At least one adaptable bathroom that meets all of the requirements of either Design A or Design B specified in Table B7.

**Proposed:** The development drawings do not accurately detail dimensions to enable an understanding if this standard is complied with. This is recommended to be clarified as a condition of permit.

**Private open space above ground floor (Standard B43)**

**Requirement:** A balcony with an area of 12m² with a minimum dimension of 2.4 metres.

**Proposed:** The first floor terrace areas are 13-21 square metres in area, however they do not include a 2.4 metre dimension for the 12 square metres required. It is recommended that this be rectified as a condition of permit. The second floor balcony areas exceed the minimum total area and dimensions required for balconies.

### 6.3 Internal amenity

The dwellings are generally afforded generous living spaces and private open space provisions. Where private open space provisions fall below the minimum requirements, conditions of permit have been recommended to ensure that the minimum provisions are satisfied.

The natural topography of the land rises approximately 3 metres from front to back. Due to the level of cut-fill proposed across the site to create for even floor levels, the actual built form impacts of the development on adjoining properties, in particular at the rear of the site, are somewhat mitigated. For example, the floor level of dwellings 3 and 4 are two metres below natural ground level, while the floor levels of dwellings 7 and 8 at first floor are only approximately 2 metres above natural ground level.

However, as a consequence of the significant cut/fill proposed across the site, importantly at the rear of the land, the ground floor finished floor level of dwellings 3 and 4 are approximately 4.92 metres below the common boundary fence line with 178-180 Church Street.

The secluded private open space areas for dwellings 3 and 4 include a raised garden bed with a width of approximately 2.2 metres. Therefore, the usability of the private open space is restricted to 1.0-2.6 metres and will be cast in shadow by the fence line and the garden bed. This is considered to be an inappropriate outcome that compromises the amenity afforded to these dwellings. Furthermore, due to the finished floor level of the
dwellings and their orientation, the secluded private open spaces will not be afforded an appropriate level of sunlight and daylight.

Accordingly, it is recommended that the ground floor built form be modified to improve the internal amenity of future occupants by swapping the setbacks associated with the living area (3.2 metres) with the setbacks of bedrooms 2 and 3 (4.9 metres). This condition will allow the more usable secluded private open space area to have the benefit of greater connectivity with the side boundary open space areas, while also having the additional benefit of reducing the built form adjacent the secluded private open spaces along all three property boundaries and subsequently softening the presentation the development from these areas.

In addition to this, it is recommended that the rear boundary setbacks associated with the first floor balconies of dwellings 7 and 8 be increased by 0.5 metres to 3.7 metres, therefore reducing the level of cantilever over the lower level secluded private open space, while also allowing an informal verandah.

### 6.4. Landscaping

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

From an arboriculture perspective Council’s Arborist has reviewed the application and advises that the removal of the existing vegetation from the subject land is acceptable.

However, tree protection measures for adjoining trees is required (this is recommended to form a condition of permit) to ensure their ongoing viability, while a reduction in the building footprint is recommended to improve post-construction landscaping opportunities (noting that an oversupply of three car spaces is proposed).

Due to the significant level of cut/fill proposed across the site, it creates difficulties with post-construction landscaping. Effectively, the landscaping is dealt with as an afterthought (also noting that the application proposes an oversupply of three car spaces within the basement envelope).

Therefore, to ensure that post-construction landscaping at ground floor can appropriately be facilitated, it is recommended that the north-eastern (rear) setbacks associated with the basement be increased to a minimum 2.2 metres (in line with the width of the garden beds) and the street setback of the basement is recommended to be increased from 3.5-4.5 metres, with a subsequent reduction in paving.

Furthermore, noting that a parapet roof form is proposed for the development and the overall size of the roof form (in excess of 400 square metres), it is considered that there is significant scope to incorporate a rooftop garden. This is recommended as a condition of permit to help offset the compromised post-construction landscaping.

### 6.5. Street tree(s)

Three existing street trees are located in front of the subject site. The application was reviewed by Council’s Open Space Arborist, who supported the proposal, subject to the retention and protection of all existing street trees. This is included as a condition of permit.
6.6. **Car parking and traffic**

Pursuant to the car parking requirements at Clause 52.06 of the Bayside Planning Scheme, 20 residential car spaces and two residential visitor car spaces are required.

The application proposes 23 resident car spaces (therefore an oversupply of three car spaces) and two visitor car spaces. Noting the issues raised by Council’s arborist in relation to post-construction landscaping opportunities, the oversupply of car spaces provided and the compromised internal amenity, a reduced basement envelope has been recommended.

Furthermore, it is noted that additional efficiencies in the basement envelope may be created through the reconfiguration of the storage and waste bin locations.

6.7. **Design and Development Overlay, Schedule 11**

The site is identified within Precinct E of the Design and Development Overlay, Schedule 11. Precinct E has a 12 metre maximum building height. Therefore the proposed 10.9 metre maximum building height satisfies this requirement.

The design and development overlay also seeks that the uppermost floor be setback a minimum of 4 metres behind the front wall of the floor immediately below. The first floor is setback 8.5 metres from Well Street, while the uppermost floor is setback 12.5 metres, thereby satisfying this requirement.

The application proposes an articulated façade across the uppermost floor, through the use of planter boxes, terrace areas and a stepped building form. This design outcome is considered to meet the overriding objectives of the Design and Development Overlay by enhancing the urban character of the area.

6.8. **Development contribution levy**

The subject site is located within catchment area 11A.

Based on the proposed application at the recommendation, a payment of $8,000 is required. The payment of the development contributions will be recommended as a condition of permit.

6.9. **Objector issues not already addressed**

**Density**

The planning scheme does not restrict the number of units that can be located within a given area. Therefore each planning permit application must be assessed against the relevant provisions of the Bayside Planning Scheme. The existence of a high number of dwellings in the area would not be sufficient grounds for Council to justify refusal of the application before the Victorian Civil and Administrative Tribunal.

**Boundary fencing**

Boundary fencing falls outside the scope of Council’s responsibility and is governed by the Fences Act 1968 and the relevant land owners.

**Support Attachments**

1. Advertised Plans
2. Site & Surrounds Imagery
3. Neighbourhood Character Precinct B2
4. ResCode Assessment
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds.

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐️</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>⬜️</td>
</tr>
</tbody>
</table>

NB: Two of the objectors properties are located outside the borders of the map.
Figure 2 View of subject site from Well Street
Neighbourhood Character Precinct B2

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
• Alterations and extensions should retain the front of these dwellings. | Demolition of dwellings that contribute to the valued character of the Precinct. | Responds  
The proposed dwellings are not affected by the Heritage Overlay. |
| To maintain and enhance the garden settings of the dwellings.              | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. | Lack of landscaping and substantial vegetation. | Responds, subject to conditions  
A landscape plan was submitted with the application which details an appropriate post-construction landscaping outcome.  
Notwithstanding this, conditions of permit have been recommended to reduce the basement footprint to allow greater landscaping opportunities. |
| To maintain the rhythm of spacious visual separation between buildings and provide space for front gardens. | • Buildings should be sited to allow space for the planting of trees and shrubs.  
• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | Loss of front garden space. | Responds  
The proposed development is setback from all side boundaries, thereby ensuring an appropriate level of visual amenity through the site. |
| To minimise the loss of front garden space and the dominance of car parking facilities. | • Locate garages and carports behind the line of the dwelling.  
• Provide only one vehicular crossover per typical site frontage.  
• Underground car parking accessed from the front of | Car parking facilities that dominate the façade or view of the dwelling. | Responds  
A basement carpark is proposed to be utilised by all dwellings. The siting and design of the basement carpark (including accessways) ensures that the streetscape is not |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.</td>
<td></td>
<td>dominated by car parking facilities.</td>
<td></td>
</tr>
<tr>
<td>To ensure new development respects the dominant buildings forms and scale of buildings in the Precinct, through the use of innovative architectural responses.</td>
<td>• Articulate the form of buildings and elevations, particularly front facades. • Recess upper storey elements from the front façade.</td>
<td>Large buildings with poorly articulated facades.</td>
<td>Responds The built form is suitably articulated and recessed to ensure it results in an appropriate form and scale to the streetscape.</td>
</tr>
<tr>
<td>To respect the identified heritage qualities of adjoining buildings.</td>
<td>• Where adjoining an identified heritage building, respect the height, building forms, siting and materials of the heritage buildings/s, in the new building design.</td>
<td>Buildings that dominate heritage buildings by height, siting or massing. Inclusion or reproduction of historic building styles and detailing.</td>
<td>Responds Neither the subject land nor adjoining properties are affected by the Heritage Overlay.</td>
</tr>
<tr>
<td>To use a variety of building materials and finishes that provide visual interest in the streetscape.</td>
<td>• Incorporate a variety of building materials such as brick, render, timber and non-masonry into the building design. • Use simple building details.</td>
<td>Exclusive use of one material on external wall facades.</td>
<td>Responds, subject to conditions A variety of materials across the streetscape is proposed, thereby ensuring an appropriate level of visual interest in the streetscape.</td>
</tr>
<tr>
<td>To improve the visual connection between the dwellings and the streetscape and encourage views to front gardens.</td>
<td>• Provide open style front fences, other than along heavily trafficked roads. • Front fence style should be appropriate to the building era.</td>
<td>High, solid fences</td>
<td>Responds, subject to conditions Owing to the significant rise/fall across the land, a 1.9-2.2 metre high front fence is proposed. It is recommended that the fence height be lowered to a maximum height of 1.8 metres and include a minimum 25% transparency.</td>
</tr>
</tbody>
</table>
## ResCode Clause 55 (Two or More Dwellings on a Lot and Residential Buildings)

<table>
<thead>
<tr>
<th>Application type</th>
<th>Applicable clauses</th>
</tr>
</thead>
<tbody>
<tr>
<td>To construct or extend an apartment development; or To construct or extend a dwelling in or forming part of an apartment development.</td>
<td>All of Clause 55 except Clause 55.03-5 (energy efficiency), Clause 55.03-6 (open space), Clause 55.04-8 (noise impacts), Clause 55.05-1 (accessibility), Clause 55.05-2 (dwelling entry) and Clause 55.05-6 (storage).</td>
</tr>
</tbody>
</table>

## CLAUSE 55.02 NEIGHBOURHOOD CHARACTER AND INFRASTRUCTURE

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong> Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td>Complies</td>
<td>Refer to Attachment 3.</td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong> Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td>Complies</td>
<td>The subject site is appropriately located with regard to services and facilities to support the construction of two dwellings.</td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong> Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td>Complies</td>
<td>A variety of dwelling layouts and configurations are proposed.</td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong> Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td>Complies</td>
<td>The proposal will make use of existing infrastructure servicing the site. Council's drainage engineers have reviewed the application and raise no issues with infrastructure capacity in the area. It is noted that the developer will be required to pay a development</td>
</tr>
</tbody>
</table>
**B5 Integration with the Street**
Integrate the layout of development with the street

| Complies | contributions levy in accordance with the requirements of Clause 45.06 of the Bayside Planning Scheme. The development will integrate appropriately with Well Street. Clearly identifiable vehicle and pedestrian links are proposed. A reduction in the front fence height will further enhance the integration. |

---

**CLAUSE 55.03 SITE LAYOUT AND BUILDING MASSING**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>
| **B6 Street Setback**  
The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site. | No | Minimum: 8.5 metres  
Proposed: 7.5-12.5 metres  
Refer Section 6.2 of report for discussion. |
| **B7 Building Height**  
Building height should respect the existing or preferred neighbourhood character. | Complies | Maximum: 12 metres  
Proposed: 10.9 metres |
| **B8 Site Coverage**  
Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. | Complies | Maximum: 60%  
Proposed: 55% |
| **B9 Permeability**  
Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. | Complies | Minimum: >20%  
Proposed: 25% |
<p>| <strong>B10 Energy Efficiency</strong> | N/A | Assessed below within the apartment Standards (Standard B35) |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Compliance</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.3</td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B11</td>
<td>Open Space</td>
<td>N/A</td>
<td>Assessed below within the apartment Standards (Standard B36)</td>
</tr>
<tr>
<td>B12</td>
<td>Safety</td>
<td>Complies</td>
<td>The pedestrian entry points are clearly recognisable while upper levels allow for the passive surveillance of the street.</td>
</tr>
<tr>
<td>B13</td>
<td>Landscaping</td>
<td>Complies</td>
<td>Refer section 6.3 of the report for discussion.</td>
</tr>
<tr>
<td>B14</td>
<td>Access</td>
<td>Complies</td>
<td>The existing access from 67 Well Street is proposed to be modified, while the access to service 69 Well Street is proposed to be reinstated.</td>
</tr>
<tr>
<td>B15</td>
<td>Parking Location</td>
<td>Complies</td>
<td>On site car parking is provided within the basement level. Access to and from the basement is easy and convenient for all residents.</td>
</tr>
<tr>
<td>Title and Objective</td>
<td>Complies with Standard?</td>
<td>Comments</td>
<td></td>
</tr>
<tr>
<td>---------------------</td>
<td>-------------------------</td>
<td>----------</td>
<td></td>
</tr>
<tr>
<td><strong>B17 Side and Rear Setbacks</strong></td>
<td>Yes</td>
<td>Refer to Section 6.2 of the Report.</td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Second floor</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Requirement</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td>North-east (rear)</td>
<td>3.2m</td>
</tr>
<tr>
<td>North-west (side)</td>
<td>3.7m</td>
</tr>
<tr>
<td>South-east (side)</td>
<td>3.3m</td>
</tr>
</tbody>
</table>

| **B18 Walls on Boundaries** | N/A | No walls on boundaries are proposed as part of this application. |

| **B19 Daylight to Existing Windows** | Complies | The development has been sufficiently setback from all habitable room windows to abutting properties. |

<p>| <strong>B20 North Facing Windows</strong> | N/A | There are no north facing windows within 3m of the shared boundary. |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Compliance</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>B21</td>
<td>Overshadowing Open Space</td>
<td>Complies</td>
<td>Additional overshadowing will occur over the adjoining private open space areas. However, the overshadowing requirements are satisfied.</td>
</tr>
<tr>
<td>B22</td>
<td>Overlooking</td>
<td>Complies</td>
<td>All first and second floor habitable room windows and balconies are appropriately screened to ensure no unreasonable overlooking of adjoining secluded private open space areas and habitable room windows. See section 6.2 of the report for discussion.</td>
</tr>
<tr>
<td>B23</td>
<td>Internal Views</td>
<td>Complies</td>
<td>No internal overlooking will occur as a result of this development.</td>
</tr>
<tr>
<td>B24</td>
<td>Noise Impacts</td>
<td>N/A</td>
<td>Assessed below within the apartment Standards (Standard 40)</td>
</tr>
</tbody>
</table>

**CLAUSE 55.05 ON-SITE AMENITY AND FACILITIES**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>B25 Accessibility</td>
<td>N/A</td>
<td>Assessed below within the apartment Standards (Standard B41)</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>N/A</td>
<td>Assessed below within the apartment Standards (Standard B42)</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Complies</td>
<td>All habitable windows will open out onto a space clear to the sky.</td>
</tr>
</tbody>
</table>
| **B28 Private Open Space** | Complies | Minimum (ground level dwellings): 40 square metres  
Proposed:  
Dwellings 1-4: 83 square metres  
Minimum (upper level dwellings): 8 square metres  
Proposed:  
Dwellings 5-10: 12 square metres |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B29 Solar Access to Open Space</strong></td>
<td>Complies</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td><strong>B30 Storage</strong></td>
<td>N/A</td>
<td>Assessed below within the apartment Standards (Standard B44)</td>
</tr>
</tbody>
</table>

### CLAUSE 55.06 DESIGN DETAIL

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B31 Design Detail</strong></td>
<td>Complies</td>
<td>Refer to Attachment 3 for further discussion.</td>
</tr>
<tr>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B32 Front Fences</strong></td>
<td>Complies, subject to conditions</td>
<td>Owing to the significant rise/fall across the land, a 1.9-2.2 metre high front fence is proposed. It is recommended this be rectified as a condition of permit. Refer to section 8.2 of the report for discussion.</td>
</tr>
<tr>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B33 Common Property</strong></td>
<td>Complies</td>
<td>The common areas are suitable located and accessible for all residents.</td>
</tr>
</tbody>
</table>
| Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained.  
Avoid future management difficulties in common ownership areas. |
<table>
<thead>
<tr>
<th><strong>B34 Site Services</strong></th>
<th>Complies</th>
<th>All appropriate site services are nominated on the site.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Clause 55.07 Apartment Developments

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard B35 Energy efficiency objectives</strong>&lt;br&gt;To achieve and protect energy efficient dwellings and buildings.&lt;br&gt;To ensure the orientation and layout of development reduce fossil fuel energy use and make appropriate use of daylight and solar energy.&lt;br&gt;To ensure dwellings achieve adequate thermal efficiency</td>
<td>Complies, subject to conditions</td>
<td>The site orientation maximises the solar access and does not unreasonably reduce energy efficiency and solar access to adjoining properties. Notwithstanding, opportunities to improve the energy efficiency of the development exist. This is recommended to be rectified as a condition of permit. See section 6.2 of report for discussion.</td>
</tr>
<tr>
<td><strong>Standard B36 Communal open space</strong>&lt;br&gt;To ensure that communal open space is accessible, practical, attractive, easily maintained and integrated with the layout of the development.&lt;br&gt;Developments with 40 or more dwellings should provide a minimum area of communal open space of 2.5 sqm per dwelling or 250 sqm, whichever is lesser.</td>
<td>N/A</td>
<td>This standards relates to developments with 40 or more dwellings.</td>
</tr>
<tr>
<td><strong>Standard B37 Solar access to communal outdoor open space</strong>&lt;br&gt;To allow solar access into communal outdoor open space.</td>
<td>N/A</td>
<td>There is no communal outdoor open space provided within this development.</td>
</tr>
<tr>
<td><strong>Standard B38 Deep soil areas and canopy trees objective</strong>&lt;br&gt;To promote climate responsive landscape design and water management in developments to support thermal comfort and reduce the urban heat island effect.</td>
<td>Complies</td>
<td>Required: 7.5% of the site area with a minimum dimension of 3 metres and 1 medium tree per 50 square metres of deep soil.&lt;br&gt;Proposed: 9.3% and two medium trees.&lt;br&gt;Please refer to Section 6.3 of this report for further discussion regarding</td>
</tr>
<tr>
<td>Standard B39 Integrated water and stormwater management</td>
<td>Complies</td>
<td>A storming rating report has been prepared by Eco Results, which details a STORM rating of 100%.</td>
</tr>
<tr>
<td>--------------------------------------------------------</td>
<td>----------</td>
<td>--------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Standard B40 Noise impacts</td>
<td>Complies, subject to conditions</td>
<td>Air conditioning units are interspersed throughout the site, while rooftop plant equipment is proposed and no acoustic measures to the Dwelling 2 adjacent the vehicle accessway is proposed. This is recommended to be rectified as a condition of permit. See section 6.2 of the report for discussion.</td>
</tr>
</tbody>
</table>
| Standard B41 Accessibility                            | Does not comply | **Requirement**: 50 per cent of dwellings should have:
- A clear opening width of at least 850mm at the entrance to the dwelling and main bedroom.
- A clear path with a minimum width of 1.2 metres that connects the dwelling entrance to the main bedroom, an adaptable bathroom and the living area.
- A main bedroom with access to an adaptable bathroom.
- At least one adaptable bathroom that meets all of the requirements of either Design A or Design B specified in Table B7.  
**Proposed**: The development drawings do not accurately detail dimensions to enable an understanding if this standard is complied with. See section 6.2 of the report for discussion. |
| Standard B42 Building entry and circulation            | Complies | The building entry and foyer area provides a clearly identifiable area which benefits from direct solar |
| Standard B43 Private open space above ground floor | Complies, subject to conditions. | Requirement: A balcony with an area of 12m² with a minimum dimension of 2.4 metres. | Proposed: the first floor terrace areas are 13-21 square metres in area, however they do not include a 2.4 metre dimension for the 12 square metres required. The second floor terrace areas are 92 square metres in area, with a minimum 2.4 metres dimension for 12 square metres. |
| Standard B44 Storage | Complies | Required: 3 bed apartments require 18m³ total minimum storage volume and 12m³ minimum storage volume with the dwelling. | Provided: a minimum of 22m³ has been provided internally for all apartments, while a minimum 6m³ is located within the basement. |
| Standard B45 Waste and recycling | Complies | The proposal provides for appropriate and conveniently located areas for waste collection on site. A waste management Plan has been included as a condition of permit requiring on-site waste collection services. |
| Standard B46 Functional layout | Complies | Requirement: Bedrooms should provide for a main bedroom with a minimum dimensions of 3mx 3.4m. All other bedrooms should have a minimum dimension of 3m x 3m. 2 or more bedroom dwellings should have a minimum living area width of 3.6m with a minimum area of 12m². | Proposed: All apartments comply |
| Standard | Room depth |  | Complies | Requirement: Single aspect habitable rooms should not exceed a room depth of 2.5 times the ceiling height.  
Proposed: Many rooms have double aspects but all single aspect rooms comply with this standard.  

| Standard | B48 Windows |  | Complies | Requirement: Habitable rooms should have a window in an external wall of the building. A window may provide daylight to a bedroom from a smaller secondary area within the bedroom where the window is clear to the sky. The secondary area should be:  
- A minimum width of 1.2 metres.  
- A maximum depth of 1.5 times the width, measured from the external surface of the window.  
Proposed: All rooms have a window in an external wall of the building.  

| Standard | B49 Natural ventilation |  | Complies | Requirement: At least 40 per cent of dwellings should provide effective cross ventilation that has:  
- A maximum breeze path through the dwelling of 16 metres.  
- A minimum breeze path through the dwelling of 5 metres.  
- Ventilation openings with approximately the same area.  
Proposed: All dwellings are provided with natural ventilation.  

|
4.4 427-461 HAMPTON STREET & 82 HOLYROOD STREET, HAMPTON SUPPORT THE GRANT OF A PLANNING PERMIT (VCAT CONSENT ORDER) PLANNING APPLICATION NO.: 2017/499 WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/142484

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Support the grant of a Planning Permit (VCAT Consent Order)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Steller 202 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>17 August 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>N/A</td>
</tr>
<tr>
<td>Zoning</td>
<td>Commercial 1 Zone</td>
</tr>
<tr>
<td></td>
<td>General Residential Zone, Schedule 2</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay, Schedule 12</td>
</tr>
<tr>
<td></td>
<td>Special Building Overlay</td>
</tr>
<tr>
<td>Number of objections</td>
<td>22 (only three objectors, including the Hampton Neighbourhood Association, are party to the appeal)</td>
</tr>
</tbody>
</table>

Purpose

The purpose of this report is to endorse a consent position reached by all parties at a Compulsory Conference at VCAT on 19 June 2018.

History

At the Planning and Amenity Committee on 27 February 2018, Council determined to refuse the planning application at the subject site. The grounds of refusal are included at Attachment 1. Key details of the proposal were as follows:

- Five storey building adjacent Hampton Street & Holyrood Street
- Three storey building along Holyrood Street
- Two shops, one restaurant and one supermarket
- 59 dwellings in total
- Loading bay and vehicle access via Holyrood Street
- One level of basement car park, comprising 123 car spaces (reduction of 79 car spaces.

22 objections were received for this application.
VCAT

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

The application was heard at a Compulsory Conference (mediation) on 19 June 2018. Three objectors are parties to the appeal, including the Hampton Neighbourhood Association.

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

- Modifications to dwelling layouts, resulting in the dwelling yield increasing from 59 to 62 (the increased dwelling yield has not resulted in an increased level of built form).
- Deletion of the bridging built form above ground floor that connected the eastern building with the western building
- Increased setbacks to the northern, southern and western boundary setbacks
- Modifications to the resident gym and supermarket
- Introduction of a winter garden and other general improvements to the internal amenity of residents

It is noted that the without prejudice plans address a lot of the recommended officer conditions outlined in the Planning and Amenity Committee on 27 February 2018 and respond to the objector’s property to the south at 11-15/417 Hampton Street, Hampton (See Pickle).

A full list of the without prejudice changes and plans are included at Attachment 2 and 3.

At the Compulsory Conference, the permit applicant agreed to:

- Introduction of a second basement car park level, resulting in:
  - Total 191 car spaces. The car parking requirements for all land uses is compliant with the car parking requirements at Clause 52.06 (car parking) of the Bayside Planning Scheme, with a surplus of one car space provided.
    - Previously 123 car spaces were provided, which resulted in a reduction of 79 car spaces
  - The breakdown of the proposed car parking provision against the previous scheme and the car parking requirements at Clause 52.06 is outlined below:
    - 80 residential car spaces – compliant
      - Previously 78 - compliant
    - 12 residential visitor car spaces – compliant
      - Previously 6 - reduction of five car spaces
    - 98 commercial car spaces – compliant
      - Previously 39 - reduction of 74 car spaces
- Increased northern boundary setbacks to Holyrood Street
- Increased private open space provisions for dwellings, including the provision of communal areas
- Improved post construction landscaping opportunities, including the provision of a rooftop garden
The permit applicant and all parties to the appeal (including objectors) agreed to a consent position. If the consent order is not endorsed by the Planning and Amenity Committee, the application will proceed to a full hearing on 8 August 2018.

2. Recommendation

Support the Grant of a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/499 for the land known and described as 427-461 Hampton Street & 82 Holyrood Street, Hampton, for the construction of a five storey mixed use development (above two basement levels) comprising not more than 62 dwellings, a supermarket, two shops and a restaurant, alteration of access to a Road in a Road Zone, Category 1 in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the use and development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans prepared by Ewert Leaf date stamped 31 October 2017 (the Advertised Plans), but modified to show:

   (a) The changes shown on TP100.C, TP101.C, TP102.C, TP103.C, TP104.C, TP105.C all dated 6 June 2018 prepared by Ewert Leaf Architects except for dwelling 2.10 which will continue to abut the southern boundary in accordance with the Advertised Plans.

   (b) The northern boundary setback associated with the built form of dwellings 3.01, 3.02, 4.01 and 4.02 increased by 1.5 metres

   (c) All south facing windows for the resident gym, supermarket/grocery and shop to be double glazed and un able to be opened.

   (d) Removal of the external double doors associated with the resident gym.

   (e) The ground floor garden courtyard along the southern boundary to be landscaped and un-trafficable except as required for maintenance.

   (f) Screening provided to the secondary balconies associated with dwellings 1.10 and 2.10 to a height of 1.7m with a minimum transparency of 25%.

   (g) The southern edge of all balconies associated with dwellings 1.09, 1.10, 1.19, 2.09, 2.10, 2.17, 3.07, 3.08, 4.05 and 4.06 to be screened to a height of 1.7m with a maximum transparency of 25%.

   (h) All south facing operable windows associated with dwellings 1.09, 1.10, 1.19, 2.09, 2.10, 2.17, 3.07, 3.08, 4.05 and 4.06 to be screened to a height of 1.7m with a maximum transparency of 25%.

   (i) The south facing operable windows of the north-south hallway on the first, second, third and fourth levels to be screened to a height of 1.7m with a maximum transparency of 25%.
(j) The western boundary setback of the master bedroom associated with dwelling 4.05 increased by 1.2 metres. This area must be converted to balcony/terrace area with appropriate screening.

(k) All habitable room windows and terrace areas of dwellings TH02, 1.03, 2.03, 3.02 and 4.02 that adjoin the accessways to be acoustically treated.

(l) The terrace areas of dwellings 1.04-1.08 (excluding 1.06) setback a minimum of 2.5 metres from the communal walkway associated with dwellings 1.13-1.20. This area is to be set aside for landscaping (within a raised landscape bed). Appropriate glazing is to be provided along the walkway, with screening adjacent the landscape bed to the secluded private open spaces of dwellings 1.04-1.08.

(m) The walls that surround the car park entry/accessway to be artistically treated by way of a variety of finishes and materials and/or urban artwork where visible from the public realm.

(n) Provision of a pergola style element over the entry/accessway to the basement car park.

(o) The terrace of TH02 setback an additional 0.5 metres from Holyrood Street.

(p) The front fence for TH01 and TH02 to have a maximum height of 1.5 metres, with at least 25% permeability.

(q) Provision of two levels of basement car parking with any consequential changes (including to show the relevant one additional lift from the basement levels on the ground floor plan) to the satisfaction of the Responsible Authority in accordance with the without prejudice plans labelled TP150.D and TP151.B prepared by Ewert Leaf Architects dated 29 January 2018.

(r) Provision of 12 residential visitor car spaces clearly delineated on the plans.

(s) The gradient of the ramp into the loading bay to be 1:16.

(t) The 2.0 metre section of 1:8 gradient at the bottom of the ramp between basement levels 1 and 2 to be increased to 2.5 metres.

(u) Bicycle parking facilities designed and provided in accordance with Clause 52.34 (bicycle facilities) of the Bayside Planning Scheme.

(v) Provision of a trolley loading bay within the basement level one.

(w) The supermarket, shop #1 and restaurant to have direct access to the loading bay (not through the lobby area). Doors from the commercial areas to the lobby must be removed. There should a dedicated lift for these commercial spaces to access the basement car park.

(x) The internal elevations associated with TH02, the communal dining and the lift shaft to incorporate a variety of finishes and materials.

(y) The seating area of the restaurant to be even with the footpath level. If the seating area is raised a 1.0 metre clear balustrade is required.

(z) Provision of a pergola element above the townhouse entry point.
(aa) The entry and hallway to the townhouses to have a minimum width of 2.0 metres all the way to the apartment access door.

(bb) The proposed substation relocated to the north by a minimum of 15 metres and redesigned to limit its impact on the public realm through the use of details and finishes.

(cc) Any modifications to the plans arising from the Water Sensitive Urban Design (WSUD) measures in accordance with Condition 9 of this permit.

(dd) Any modifications to the plans arising from the Loading/unloading management plan in accordance with Condition 10 of this permit.

(ee) Any modifications to the plans arising from the Car park management plan in accordance with Condition 11 of this permit.

(ff) Any modifications to the plans arising from the Waste management plan in accordance with Condition 13 of this permit.

(gg) Any modifications to the plans arising from the Tree management plan in accordance with Condition 15 of this permit.

(hh) Any modifications to the plans arising from the Landscape plan in accordance with Condition 19 of this permit.

(ii) Any modifications to the plans arising from the Public works plan in accordance with Condition 27.

(jj) Provision of a Green travel plan in accordance with Condition 30.

(kk) Any modifications to the plans arising from VicRoads Conditions 31 and 32.

(ll) Any modifications to the plans arising from Transport for Victoria Conditions 33 and 34.

(mm) The proposal to comply with the private open space requirements of Standard D19, Clause 58.05-3 of the Bayside Planning Scheme.

(nn) The proposal to comply with the window requirements of Standard D26, Clause 58.07-3 of the Bayside Planning Scheme.

(oo) All air conditioning units to be located within the basement level.

(pp) Provision of a landscape management plan in accordance with Condition 26.

(qq) The provision of planter boxes around the perimeter of all roof terraces, excluding where the roof terraces adjoin the core or stair access, to a width of 800mm.

(rr) Provision of a verandah with a height of no more than 2.4 metres to all rooftop terraces, to extend no more than 2.0 metres from the access structure to each rooftop terrace.

(ss) The communal rooftop terrace relocated to be positioned on the northern side of the lift core, running in an east-west alignment, with setbacks of 4.0 metres from the east parapet, 1.0 metre from the parapet of the northern wall of the northern bed 2 of Apartment 4.02, and 1.0 metre from the parapet of the western wall of the southern bed 2 of Apartment 4.02.
(tt) The provision of a rooftop garden to Council’s satisfaction.

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 Resident gym must only be used by residents of the development permitted by the permit.

4 Music must not be amplified within the resident gym outside the hours of 9am to 4pm.

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

6 All 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.

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

8 Before occupation, screening of windows including fixed privacy screens be designed to limit overlooking and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

9 Any advertising signage used for the land, including access to the car park, must be a cohesive design response to the satisfaction of the Responsible Authority.

10 Noise emanating from the subject land must comply with State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2, 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 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.

**Water Sensitive Urban Design**

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

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

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

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

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

**Car Parking**

12 Prior to the endorsement of plans pursuant to Condition 1, a loading/unloading management plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. Three copies of the plan must be submitted and must include:

(a) The frequency of loading/unloading
(b) The hours and days that loading/unloading is to occur
(c) The type of trucks proposed for loading/unloading
(d) Measures in place to limit the impact on the residential amenity
(e) Measures in place to protect pedestrian safety
(f) Provision of directional signage as necessary

13 Prior to the endorsement of plans pursuant to Condition 1, a traffic and parking management plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. Traffic and parking operations on and adjacent to the site must conform to this endorsed plan. Three copies of the plan must be submitted and must include:

(a) The location of all areas on-and/or off-site to be used for staff and patron parking.
(b) Specification of staff numbers adequate to enable efficient operation of car parking areas both on- and off-site.
(c) The number and location of all on- and off-site security staff.
(d) The means by which the direction of traffic and pedestrian flows to and from car parking areas will be controlled both on- and off-site.
(e) Measures to discourage patron car parking on Holyrood Street.
(f) Measures to preclude staff parking in designated patron car parking areas.
(g) Staffing and other measures to ensure the orderly departure and arrival of patrons especially any large groups departing at closing time.
(h) Servicing of the drainage and maintenance of car parking areas.
(i) Clarification on how the customer car park will be managed.
(j) Clarification if there will be any car parking signage and where it will be displayed.

14 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 to the satisfaction of the Responsible Authority.
Waste Management Plan

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

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

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

Construction Management Plan

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

(a) A detailed schedule of works including a full project timing.
(b) A traffic management plan for the site, including when or whether any access points would be required to be blocked, an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services, preferred routes for trucks delivering to the site, queuing/sequencing, excavation and swept-path diagrams.
(c) The location for the parking of all construction vehicles and construction worker vehicles during construction.
(d) Delivery of materials including times for loading/unloading, unloading points, expected frequency and details of where materials will be stored and how concrete pours would be managed.

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

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

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

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

(i) Site security.

(j) Public safety measures.

(k) Construction times, noise and vibration controls.

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

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

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

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


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

(r) Details of crane activities, if any.

**Landscaping**

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

The Tree Management Plan (report) must be specific to the site, be in accordance with Australian Standard: Protection of Trees on Development Sites AS4970-2009 and include:
• Details of Tree Protection Zones for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site;
• Comment on methods to be utilised and instruction on how to deploy them;
• Comment on when the protection measures are to be deployed;
• Comment on when the protection measures can be modified;
• Process that will be followed if any damage occurs to a tree;
• Process that will be followed if construction works require alteration to protection measures outlined in report; and
• Stages of development at which inspections will occur.

Any proposed alteration to the plan must be assessed by the site arborist and can only occur following the approval of the site arborist. Such approval must be noted and provided to the Responsible Authority within 28 working days of a written request.

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

The Tree Protection Plan must be drawn to scale and show the location of all tree protection measures to be utilised.

If tree protection measures are proposed to be changed during the development, one plan for each stage of tree protection measures must be submitted.

18 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.

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

20 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 AS4373-2007. Any pruning of the root system of any tree to be retained is to be done by hand by a qualified arborist.

21 Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan submitted with the application and be drawn to scale with dimensions and three copies must be provided.

The Landscape plan must show:

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

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

(d) Details of surface finishes of pathways and driveways

(e) Plant selection and soil requirements for green infrastructure (including soil containment) will reference Growing Green Guide (A Guide To Green Roofs, Walls And Facades) DEPI 2014


22 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.

23 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.

24 There is to be no soil excavation within 2 metres of all street tree assets (to be retained) measured from the edge of the trunk.

25 Tree protection fence is to be installed around all street trees in compliance with AS 4970–2009, Protection of trees on development sites.

26 Before the development starts a landscape management plan detailing the maintenance regime and management responsibilities for the rooftop garden associated with the development must be prepared and submitted to the satisfaction of the Responsible Authority.

The Landscape Management Plan must include the following:

(a) State the agreed purpose of the rooftop garden

(b) State the systems and products in the rooftop garden and how they are designed to achieve the rooftop garden purpose

(c) How ongoing maintenance of the rooftop garden will occur

(d) Outline access to the rooftop garden

(e) Outline any management risks, and how these will be managed

(f) State the annual maintenance budget

(g) Summarise the type of maintenance tasks required
(h) Outline the skills and certification required in the maintenance team to perform these tasks

(i) Outline communication requirements

(j) State when the management plan is due for review

If the Rooftop garden fail, details of an alternative treatment must be submitted to, and approved by, the Responsible Authority. The alternative treatment must be implemented within three months of approval at no cost to Council and to the satisfaction of the Responsible Authority.

Drainage

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

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

Development contributions

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

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

Public Works Plan

30 Prior to the endorsement of plans pursuant to Condition 1, a Public Works Plan must be prepared and developed in collaboration with Council. It must be submitted and approved to the satisfaction of the Responsible Authority, showing:

(a) Details of upgrades to existing Council footpaths

(b) Details of the reinstatement of existing crossovers

(c) Details of new street tree plantings

(d) Details of new street furniture

(e) Details of new bicycle parking facilities

(f) Details of the relocated/redesigned substation

(g) Details of the relocated/redesigned bus stop

(h) Details of any public lighting
(i) Details of any weather protection elements over the naturestrip/footpath (ie a canopy/verandah)

When approved, such plan will form part of the endorsed plans under this permit.

31 Prior to the occupation of the site associated with the development hereby approved, all public works associated with that stage must be completed in accordance with the endorsed Public Works Plan to the satisfaction of the Responsible Authority. The cost of all works associated with the endorsed plan must be borne by the developer/owner of the land.

**Green travel plan**

32 Prior to the endorsement of plans pursuant to Condition 1, a Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Green Travel Plan will be endorsed and will form part of this permit. The Green Travel Plan is to include details of the proposed design initiatives and sustainable management practices to reduce car usage and improve sustainable transport options (including walking, cycling, public transport and carpooling) available to residents and visitors. The Green Travel Plan should include, but not be limited to the following:

(a) Consider end of trip facilities such as showers, change rooms, secure storage and bicycle storage;

(b) Education and awareness initiatives and incentives for residents and visitors to encourage more sustainable modes of travel to/from the site;

(c) Management practices identifying sustainable transport alternatives;

(d) Consider the provision of electric vehicle charging facilities;

(e) Lobby areas of building to include real time information of train, tram and bus services;

(f) Details of bicycle spaces for visitors and residents;

(g) Allocation of parking for food and drink premises and restaurant tenancies to be provided within the on-site car park;

(h) Employee and resident packs (e.g. myki cards for new residents/workers); and

(i) Any other relevant matters.

When approved to the satisfaction of the Responsible Authority, the plan will be part of the documents endorsed as part of this planning permit. The Green Travel Plan must be implemented to the satisfaction of the Responsible Authority.

**VicRoads conditions**

33 Prior to the commencement of works amended plans must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the substituted plans and amended to show:
(a) The canopy in the road reserve is set back no less than 750 mm from the back of the Hampton Street kerb and at a height no less than 3 m above the level of the footpath.

34 Prior to the commencement of the use or occupation of the development, all disused or redundant vehicle crossings must be removed and the area reinstated to the satisfaction of the Responsible Authority (RA) and at no cost to VicRoads or the RA.

- End VicRoads conditions -

Transport for Victoria conditions

35 Before the commencement of the access works along Holyrood Street, the bust stop and all associated infrastructure, must be relocated or replaced at a cost borne by the permit holder to the satisfaction of Public Transport Victoria and compliant with the Disability Discrimination Act – Disability Standards for Accessible Public Transport 2002.

36 The permit holder must take all reasonable steps to ensure that disruption to bus operation along Holyrood Street is kept to a minimum during the construction of the development. Foreseen disruptions to bus operations and mitigation measures must be communicated to Public Transport Victoria eight (8) weeks prior by emailing customerservice@ptv.vic.gov.au

- End Transport for Victoria conditions -

Permit Expiry

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

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

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

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

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

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

Support Attachments

1. Notice of Refusal
2. Without prejudice - list of changes
3. Without prejudice - plans
Refusal to Grant a Planning Permit
2017/499/1

| Address Of The Land:          | No. 427-461 Hampton Street & 82 Holyrood Street HAMPTON |
| What has been_Refused?       | Construction of a five storey mixed use development (above one basement level) comprising 59 dwellings, a supermarket, two shops and a restaurant, alteration of access to a Road in a Road Zone, Category 1 and reduction in the associated car parking requirements |

What are the reasons for Refusal?

1. The proposal fails to respond to the objectives of Clause 21.11-4 (Hampton Street) of the Bayside Planning Scheme, by way of the following:
   a) The application fails to result in appropriate public realm improvements.
   b) The application fails to provide for adequate off-street parking for all dwellings.

2. The proposal fails to respond to the design objectives and built form standards for the Hampton Street Major Active Centre of the Design and Development Overlay, Schedule 12 (Clause 43.02) of the Bayside Planning by way of the following:
   a) The height of the development fails to meet the built form standards and respond to the future character of the area.
   b) The application results in an unreasonable impact on adjoining residential properties.
   c) The applications fails to result in a high quality urban design outcome.

3. The application fails to ensure a high level of internal amenity for future residents.

4. The application fails to provide for adequate car parking in accordance with Clause 52.06 (car parking) of the Bayside Planning Scheme.

5. The application fails to ensure that vehicles (including loading vehicles) can safely manoeuvre within the site and egress from the site.

Date issued: 27 February 2018

Arthur Vatsalis
Signature for the Responsible Authority
FORM 7

Sections 65(1) and 66(4)

REFUSAL TO GRANT A PERMIT
IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?
* The responsible authority has decided to refuse to grant a permit.
   (Note: This is not a refusal under Division 5 of Part 4 of the Planning and Environment Act 1987.)
* This notice sets out the reasons for the refusal.
* The reasons or grounds on which the application has been refused are those of the responsible authority unless otherwise stated.

WHAT ABOUT APPEALS?

For the Applicant:
* The person who applied for the permit may apply for a review of the refusal.
* The application for review must be lodged within 60 days of the giving of this notice.
* An application for review is lodged with the Victorian Civil and Administrative Tribunal.
* An application for review must be made on the Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal and be accompanied by the applicable fee.
* An application for review must state the grounds upon which it is based.
* An application for review must also be served on the Responsible Authority.
* Notice of the application for review must be given in writing to all other parties to the review as soon as practicable after an application for review is lodged.
* An applicant who applies for a review must give notice of the application to—
   (a) All objectors; and
   (b) Any recommending referral authority that objected to the amendment of the permit.
* Details about applications for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.

For an Objector:
* If the applicant applies for a review of this decision, the applicant must give notice in writing to all objectors as soon as practicable after an application for review is lodged.
12 June 2018

By email

The Principal Registrar
Planning and Environment List
VCAT
55 King Street
MELBOURNE VIC 3000

Dear Registrar

VCAT Reference PS26/2018
427-461 Hampton Street and 82 Holyrood Street, Hampton

Further to the Order of the Tribunal dated 1 May 2018, please find enclosed amended plans circulated on a without prejudice basis for discussion purposes at the forthcoming Compulsory Conference on 19 June 2018.

The changes shown on the amended plans can be generally described as follows:

- The resident gym and supermarket at ground level have been setback 3.5m from the southern boundary with this area set aside for a landscaped courtyard. The supermarket has reduced in size from 922m2 to 820m2 and the gym has reduced from 109m2 to 100m2. (TP100C)
- A winter garden has been introduced to the ground floor lobby, south of the Lift 3 (TP100C).
- The foyer areas adjacent to the Lifts 1 and 2 on all levels have been widened to 2.1m (TP100C-TP104C).
- The western pedestrian walkway has been widened to 2m and a 2.5m wide landscape strip has been introduced to its eastern side. This change has resulted in a consequential reduction in the terrace areas associated with Apartments 1.04, 1.05, 1.07 and 1.08 to between 68m2 to 96m2 (TP101C).
- The communal dining room has been converted to a two-bedroom apartment (Apartment 109) with a 63m2 terrace area (TP101C).
- The communal outdoor space has been deleted resulting in a setback to Apartment 1.09 of 7m (TP101C).
- The southern boundary wall associated with Apartment 1.19 (previously Apartment 1.20) has been setback 3.5m from the southern boundary where located adjacent to the approved courtyard to the south (TP101C).
- The 7, two-level townhouses in the western section of the site have been converted to 2 x one-bedroom apartments, 6 x two bedroom apartments and 1 x three bedroom apartment. No change is proposed to the setbacks from the west boundary. This change results in a net increase in apartments within the development from 59 to 62. (TP101C and TP102C).
- Apartment 2.10 has been setback 2m from the southern boundary (TP102C).
• Apartment 3.08 has been setback 6m from the southern boundary and its southern balcony has been deleted (TP103C).
• An outdoor communal rooftop terrace has been introduced in the north east corner of the site, resulting in the relocation of the solar panels.

Please contact the undersigned if you require any further information in relation to this matter.

Yours sincerely,

[Signature]

Rachael Bowden
Town Planning Manager
0412 570 742
rachael@steller.com.au

cc. all parties
4.5 1-1A CENTRE ROAD, BRIGHTON SUPPORT THE GRANT OF A PLANNING PERMIT (VCAT CONSENT ORDER) PLANNING APPLICATION NO.: 2017/686 WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/143067

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Support the grant of a Planning Permit (VCAT Consent Order)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Little Projects 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>31 October 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>N/A</td>
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<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 1</td>
</tr>
<tr>
<td>Number of objections</td>
<td>11 (only three objectors, plus VicRoads, are party to the appeal)</td>
</tr>
</tbody>
</table>

Purpose
The purpose of this report is to endorse a consent position reached by all parties at a Compulsory Conference at VCAT on 20 June 2018.

History
At the Planning and Amenity Committee meeting on 13 March 2018, Council determined to defer the application on the following basis:

- That this item be deferred for further consideration following VicRoads assessment if access from Centre Road is appropriate for the development, noting the accessway is to be located approximately 30 metres from the Hampton Street intersection.

The matter was re-reported to the Planning and Amenity Committee on 15 May 2018, whereby Council determined to ‘not support’ the grant of a planning. The grounds of not support are included at Attachment 1. Key details of the proposal were as follows:

- 14 dwellings
- Building height of 7.1 metres (two storeys above basement level)
- Site coverage 50%
- Permeability 22%
- Vehicle access via Hampton Street
- Basement car parking with 28 resident car spaces (reduction of two residential
  visitor car spaces sought).

The advertised plans are included at Attachment 2.

**VCAT**

In the intervening period between the deferral of the application by Council’s Planning and
Amenity Committee on 13 March 2018 and the determination of the application on 15 May
2018, an Application for Review against Council’s failure to grant a permit was lodged with
VCAT pursuant to Section 79 of the Planning and Environment Act 1987.

If Council had determined the application at the Planning and Amenity Committee on 13 to
grant a permit would have been avoided.

In accordance with an appeal lodged with VCAT pursuant to Section 79 of the Planning and
Environment Act 1987, Council is liable for costs for the application fees made by the
applicant in the proceeding.

The application was heard at a Compulsory Conference (mediation) on 20 June 2018.
Three objectors and VicRoads are parties to the appeal.

At the Compulsory Conference, the permit applicant agreed to:

- Include the provision of two residential visitor car spaces (therefore, comply with the
car parking requirements outlined at Clause 52.06 of the Bayside Planning Scheme
- Provision of an intercom system for residential visitors to access the car park
- Increased setbacks to Hampton Street
- Provision of increase post-construction landscaping

Furthermore, the Applicant for Review did not contest any of the conditions that formed part
of the planning officer recommendation that was reported to the Planning and Amenity
Committee on 13 March and 15 May 2018.

The permit applicant and all parties to the appeal (including both VicRoads and objectors)
agreed to a consent position. If the consent position is endorsed by the Planning and
Amenity Committee, Council will not be liable to costs.

If the consent order is not endorsed by the Planning and Amenity Committee, the
application will proceed to a full hearing on 13 August 2018.

2. **Recommendation**

That Council resolve to:

**Support** the Grant of a Permit under the provisions of the Bayside Planning Scheme in
respect of **Planning application 2017/686** for the land known and described as **1-1A
Centre Road, Brighton** for the **construction of two, two storey buildings comprising a
total of 14 dwellings above a basement level and alteration of access to a Road in a Road Zone, Category 1** in accordance with the endorsed plans and subject to the
following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible
Authority must be submitted to and approved by the Responsible Authority. When
approved, the plans will be endorsed and will then form part of the permit. The plans
must be drawn to scale with dimensions and three copies must be provided. The plans
must be generally in accordance with the plans (submitted with the application)
prepared by Addarc TP01-TP13 dated 19.10.17 but modified to show:

   a) Provision of two residential visitor car spaces (and associated layout changes)
in accordance with the plans by ADDARC, drawings SK01 and SK02, Revision 1 dated 8 February 2018.
b) The powder room to Townhouse 1 setback not less than 9.5 metres from Hampton Street.

c) Provision of a centrally located intercom system at the entry to the basement car park to facilitate use of the visitor car parking spaces.

d) Provision of advanced landscaping, including trees, along that part of the landscape strip adjacent to the basement ramp and the north boundary. This does not apply to the first 2.5 metres of the landscape strip, measured from Hampton Street, which much include landscaping that does not exceed a mature height of 900mm.

e) A notation on the plans that the turning bay at the northern end of the basement car park be made available for use by other service vehicles when not in use for waste collection.

f) Provision of root sensitive footings and root sensitive construction techniques where any of the proposed basement comes within the TPZ of the street trees.

g) A longitudinal section of the ramp to detail compliance with AS2890.1.

h) Provision of a convex mirror at the bottom of the basement ramp.

i) The first floor north facing habitable room windows of TH07 to be designed to avoid any overlooking of secluded private open space and habitable room windows of 828 Hampton Street. Cross sections are required to detail any potential for overlooking.

j) The first floor northern elevation of terrace area of TH14 to be designed to avoid any unreasonable overlooking of 828 Hampton Street in accordance with ResCode Standard B22 (overlooking).

k) The height of the internal fence along the eastern boundary of the secluded private open space areas of TH01-TH07 to be a maximum 2.1 metres.

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

m) Deletion of existing and proposed boundary fence notations.

n) Deletion of indicative landscaping from the development plans.

o) The paving within the eastern boundary setback associated within TH08-14 to be permeable.

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

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

r) Payment of the development contributions levy in accordance with Condition 19.

s) Any modifications to the plans arising from the VicRoads conditions 20-24. All to the satisfaction of the Responsible Authority.

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

3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.
4. No plant, equipment, services or architectural features other than those shown on
the endorsed plans are permitted above the roof level of the building/s without the
written consent of the Responsible Authority.

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

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

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

Water Sensitive Urban Design

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

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

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

Landscaping

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan
to the satisfaction of the Responsible Authority must be submitted to and be
endorsed by the Responsible Authority. The plan must be generally in accordance
with the landscape concept plan, reference TP01-TP03 Revision D prepared by
Jack Merlo and be drawn to scale with dimensions and three copies must be
provided. The plan must show:
   a) A survey, including, botanical names of all existing trees to be retained on the
      site including Tree Protection Zones calculated in accordance with AS4970-
      2009.
   b) A survey including botanical names, of all existing trees on neighbouring
      properties where the Tree Protection Zones of such trees calculated in
      accordance with AS4970-2009 fall partially within the subject site.
   c) A planting schedule of all proposed trees and shrubs, including botanical
      names, common names, pot sizes, sizes at maturity, and quantities of each
      plant.
d) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.

e) Landscape detail in accordance with the requirements of condition 1(d).

f) Details of surface finishes of pathways and driveways.

g) The paving within the eastern boundary setback associated within TH08-14 to be permeable.

h) Deletion of existing and proposed boundary fence notations.

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.

Street tree protection

13. A tree protection fence is for the protection of a tree’s canopy and root zone. Conditions for street tree protection fencing during development are as follows:

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

   b) Fencing must be installed to comply with AS4970-2009, Protection of trees on development sites.

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

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

   e) If applicable, prior to construction of the Council approved crossover, TPZ fencing may be reduced to the edge of the new crossover to facilitate works.

   f) Provision of root sensitive footings and root sensitive construction techniques where any of the proposed basement comes within the TPZ of the street trees.

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

Waste Management Plan

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

   a) Dimensions of storage waste areas.

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

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

   d) Facilities for bin cleaning.

   e) Method of waste and recyclables collection.

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

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

   h) Method of hard waste collection.
i) Method of presentation of bins for waste collection.

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

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

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

m) Compliance with relevant policy, legislation and guidelines.

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

**Construction Management Plan**

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

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

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

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

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

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

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

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

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

i) Site security.

j) Public safety measures.

k) Construction times, noise and vibration controls.

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

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

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


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

r) Details of crane activities, if any.

Drainage

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

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

Development Contributions

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

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

VicRoads Conditions

20. Prior to the endorsement of plans, amended plans must be submitted to and approved by VicRoads. Once approved, the plans may then be endorsed by the Responsible Authority and will form part of the permit. The plans must be generally in accordance with the submitted plans (Ref: TP03, TP04 (Ground & basement level floor plan) dated: 19.10.2017, Rev:01, Prepared by ADDARC) and amended to show:

a) A fully dimensioned Layout Plan showing the proposed access arrangement on to Hampton Street including features along 100 m either side of the site access including existing kerb and channel, bus stop, power poles, trees and other road assets.

b) Passing area at the entrance to the site. Width of the crossover at the site boundary to allow concurrent movement of a B99 and a B85 vehicles at the entrance to the site from the kerbside using swept path analysis.

c) Prior to the commencement of use or occupation, a sealed access crossover at the property boundary with the crossover angled at 60 degrees to the road reserve boundary, at least for the first 3 metres from the edge of the road with 3.0 metres radial turnout.

21. Prior to the commencement of the use or occupation of the development, vehicle crossing on Centre Road must be removed and the area reinstated to the satisfaction of the Responsible Authority (RA) and at no cost to VicRoads or the RA.
22. Prior to the commencement of the use or the occupation of the buildings or works hereby approved, the access crossover and associated works must be provided and available for use.

23. Vehicles must enter and exit the land in a forward direction at all times.

24. The level of the footpaths must not be lowered or altered in any way to facilitate access to the site.

**Transport for Victoria Conditions**

25. The permit holder must take all reasonable steps to ensure that disruption to bus operation along Centre Road and Hampton Street is kept to a minimum during the construction of the development. Foreseen disruptions to bus operations and mitigation measures must be communicated to Public Transport Victoria fourteen days (14) prior.

26. The existing bus stop and associated infrastructure on Hampton Street must not be altered without the prior consent of Public Transport Victoria. Any alterations including temporary works or damage during construction must be rectified to the satisfaction of Public Transport Victoria and at the cost of the permit holder.

**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:**

- 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.

- Before the development starts the applicant must pay $3,038.88 to the Responsible Authority for the removal and replacement of an existing street tree. This amount has been determined in accordance with Council's current policy for the removal of street tree(s). This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by the Responsible Authority, must undertake the removal and replacement of the street tree. Any replacement planting will be at the discretion of the Responsible Authority.

- No work must be commenced in, on, under or over the road reserve without having first obtaining all necessary approval under the Road Management Act 2004, the Road Safety Act 1986, and any other relevant acts or regulations created under those Acts.

**Support Attachments**

1. Grounds of not support
2. Advertised plans
18 May 2018

Victorian Civil and Administrative Tribunal
admin@vcat.vic.gov.au

Dear Sir/Madam

APPLICATION NUMBER: 5/2017/686/1
ADDRESS: 1-1A Centre Road BRIGHTON
PROPOSAL: Construction of two, two storey buildings comprising a total of 14 dwellings above a basement level, a reduction in the visitor car parking requirements and alteration of access to a Road in a Road Zone, Category 1

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

1. The proposal fails to respond to the objectives of Clause 22.06 (Neighbourhood Character, Precinct D3) of Bayside Planning Scheme, on the following grounds:
   a) The development fails to respond to the existing and preferred Neighbourhood Character for this precinct
   b) The proposal fails to reflect the visual separation of buildings
   c) The development fails to reflect the lightness of the streetscape

2. The proposal fails to comply with the Objectives and Standards of Clause 55 of the Bayside Planning Scheme, in particular:
   a) Standard B1 – Neighbourhood Character – the proposal fails to respond to the existing and preferred Neighbourhood Character for this precinct.
   b) Standard B6 – street setback – the proposal fails to provide for an appropriate street setback
   c) Standard B18 – walls on boundaries – the proposed height of the wall on boundary is excessive, uncharacteristic and results in unreasonable amenity impacts.
   d) Standard B22 – overlooking – the proposal fails to ensure that adjoining secluded private open spaces and habitable room windows are not overlooked.
   e) Standard B28 – private open space – the proposal fails to provide for adequate private open space areas of each dwelling

3. The proposal fails to ensure an appropriate level of internal amenity for future residents by way of the overshadowing of proposed secluded private open spaces areas and the height of the associated fencing adjacent the pedestrian walkway.
4. The proposal fails to provide for adequate residential visitor car parking in accordance with Clause 52.06 (car parking) of the Bayside Planning Scheme.

5. The proposal results in unreasonable traffic and car parking impacts on the road network.

For your information please find enclosed a copy of the officer’s report. Should you have any further queries, please contact Council’s Planning Officer:-

Michael Henderson
Email: mhenderson@bayside.vic.gov.au
Telephone: 9599 4874

Please quote planning application 2017/686 – 1 Centre Road BRIGHTON, 1A Centre Road BRIGHTON in all correspondence / emails.

Yours faithfully

Michael Henderson
STATUTORY PLANNING COORDINATOR
1. **Executive summary**

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

All councils are required to report to the Local Government Performance Reporting Framework (LGPRF) each year on the timeliness (SP1), service standard (SP2), cost per application (SP3) and decision quality of Statutory Planning (SP4).

The LGPRF measure SP4 used by the State Government to assess the quality of Council’s decision making is the number of decisions made by Council that were not overturned or ‘set aside’ by VCAT on appeal by either the applicant or objectors.

Council has a target for 2017/18 that 50% of all Planning & Amenity Committee and Delegated Officer decisions should not be set aside by VCAT. This is comparable with other inner urban Council’s in Melbourne such as Port Phillip and Stonnington.

The LGPRF measure does not include applications to amend VCAT issued permits (Section 87A applications), consent orders or appeals which are withdrawn by the applicant or objector prior to a hearing.

For the 2017/18 financial year, Council has receive 105 decisions, of which 24 have been settled by consent orders, 7 have been withdrawn and 2 were struck out. The total number of LGPRF measured decisions for the year to date is therefore 72. This table below reflects the new 2017/18 LGPRF reporting requirements for Council.

<table>
<thead>
<tr>
<th>Time period</th>
<th>Decisions where the Council Delegate or Committees decision has been overturned or ‘Set Aside’</th>
<th>Decisions where the Council Delegate or Committees decision has been agreed with, either having been entirely ‘Affirmed’ or the conditions of the permit ‘varied’</th>
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<tbody>
<tr>
<td>July 2017</td>
<td>4</td>
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<td>October 2017</td>
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<tr>
<td>May 2018</td>
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<td>8</td>
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<td><strong>TOTAL DECISIONS</strong></td>
<td><strong>31</strong></td>
<td><strong>41</strong></td>
</tr>
<tr>
<td>LGPRF Result</td>
<td>43%</td>
<td>57%</td>
</tr>
<tr>
<td>--------------</td>
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</tr>
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</table>

Attachment 1 included provides a summary of each case identifying the key issues for Council policy and strategy.

The decisions reported in the attached May 2018 VCAT Report were determined by the current Councillor group.

2. Recommendation

That the report on the VCAT decisions on the planning applications handed down during May 2018 be received and noted.

Support Attachments

1. VCAT Determined appeals May 2018
VCAT Determined Appeals from - 1/05/2018 to 31/05/2018

Subject land 11A Keiller ST, HAMPTON EAST
Application no. 2016.354.1
VCAT reference no. P168/2017
Applicant Golden Prosperity Development Pty Ltd
Referral Authority N/A
Respondents Ms Miller, Dr McGee & Others, Mr Bult & Ms vendy

VCAT Member R Naylor & L Nervegna
Date of hearing 15/01/2018
Date of order 3/05/2018
Proposal Construction of a five storey building comprising 28 dwellings, removal of an easement and reduction in visitor car parking requirement on a lot

Officer recommendation/ Delegate determination Refusal
Council determination Refusal
Appeal type Refusal to Grant a Permit

Plans substituted (prior to hearing) Yes

VCAT determination No Permit to issue

LGPRF outcome AFFIRMED

Comments:

The Tribunal in an Order dated 3 May 2018 upheld Council’s decision to refuse to allow a permit for the construction of five storey building containing twenty-four (24) apartments at the subject site. The land was zoned Residential Growth Zone Schedule 1. Senior Member Naylor and Member Nervegna were not persuaded that the proposed five storey building was an acceptable response to the character of the area and the proposal was lacking in clear strategic support for a different design outcome. The Tribunal held that although there was some strategic planning policy support for a greater intensity of development on this site it was not convinced that this strategic framework supported the scale and form of development proposed. The Tribunal did not accept the Applicant’s arguments that Amendment C151 the East Hampton Structure Plan should be considered “a seriously entertained planning proposal” as Council has not endorsed all of the Amendment after the Planning Panel process.

In conclusion, the Tribunal found that although the adopted structure plan supports higher residential development on this site up to six storeys with a three storey street wall, it was no convinced that this particular proposal acceptably contributed to the land use and built form outcomes envisaged.

The Tribunal found that siting of the proposed building was unacceptable for a number of reasons. These were as follows:

- The design does not respond to the existing front garden character;
- There is a lack of certainty about the implementation of Amendment C151 that provides for a new built form with street walls;
- The front setback along Keiller Street and the construction along part of the east side boundary is too intense a development given the above two reasons;
- The front setback along Katoomba Street is insufficient to provide meaningful landscaping opportunities; and

The extent of the basement provides no opportunity for planting in natural ground.
Subject land 23 Retreat RD, HAMPTON
Application no. 2016.344.1
VCAT reference no. P1907/2017
Applicant Mr & Mrs Webster
Referral Authority N/A
Respondents Mr Darling

VCAT Member R Naylor
Date of hearing 13/02/2018
Date of order 4/05/2018
Proposal Construction of a double storey dwelling and a front fence exceeding 1.2 metres on a lot less than 500 square metres

Officer recommendation/ Delegation determination Refusal
Council determination Not applicable
Appeal type Refusal to Grant a Permit
Plans substituted No (prior to hearing)

VCAT determination No Permit to Issue
LGPRF outcome AFFIRMED

Comments:

This was an Application for Review pursuant to Section 77 of the Planning and Environment Act 1987 against Council’s refusal to grant a permit. The decision to refuse the application was issued under delegation and was largely based around the proposal’s failure to appropriately respond to neighbourhood character and comply with Clause 54 (ResCode).

The proposal involved the construction of a new double storey detached dwelling with a double garage.

Amended plans were circulated to VCAT and all parties on 21 December 2017. Council reviewed the plans and formed the position that the changes satisfied the grounds of refusal.

The Tribunal in its Order dated 4 May 2018 advised that the proposal failed to appropriately respond to neighbourhood character and resulted in unreasonable off site amenity impacts. For these reasons, the original decision of Council to refuse to grant a permit was affirmed by the Tribunal and no permit granted.
Subject land 19 Rossmith AVE, BEAUMARIS
Application no. 2018.832.1
VCAT reference no. P2158/2017
Applicant Joanne Amott
Referral Authority N/A
Respondents N/A

VCAT Member Michelle Blackburn
Date of hearing 22/03/2018
Date of order 7/06/2018
Proposal Construction of two double-storey dwellings and removal of native vegetation from land subject to a Vegetation Protection Overlay

Officer recommendation/ Refusal
Delegate determination
Council determination Not applicable
Appeal type Refusal to Grant a Permit
Plans substituted No (prior to hearing)

VCAT determination No Permit to Issue
LGPRF outcome AFFIRMED

Comments:

The subject site is located within the Neighbourhood Residential Zone and neighbourhood character precinct H2.

The application was refused on grounds relating to the boundary to boundary construction, location of a centralised vehicle accessway and the overall bulk/mass that the proposed development presents to the streetscape.

In determining the application, the Tribunal found that a centralised vehicle accessway and garage (designed in a way to facilitate the retention of the existing power pole) would present an uncharacteristic streetscape response. The tribunal affirmed Council's assertion that the centralised accessway results in the car parking structure being a focal point within the streetscape (contrary to Council Policy), which is a poor urban design outcome. Further, the location of the accessway and garage compromised the post-construction landscaping opportunities within the site, thereby mitigating the ability for the built form to be softened.

Accordingly, the Tribunal affirmed Council's refusal.
Subject land 8 Mc Naught ST, BEAUMARIS
Application no. 2017.587.1
VCAT reference no. P2796/2017
Applicant Christopher Telley
Referral Authority N/A
Respondents N/A

VCAT Member E A Bensz
Date of hearing 26/03/2018
Date of order 4/05/2018
Proposal The removal of a native tree in a Vegetation Protection Overlay 3

Officer recommendation/ Refusal
Delegate determination
Council determination Not applicable
Appeal type Refusal to Grant a Permit
Plans substituted No
(prior to hearing)

VCAT determination Permit to Issue
LGPRF outcome SET ASIDE

Comments:
The application as bought about by the permit applicant against Council’s decision to refuse the grant of a permit which would allow the removal of a large native tree located within the front yard area of the subject land.

The Tribunal, in finding for the Applicant, took the view that whilst the Objectives of the VPO-3 establish the principle of valuing native trees generally, it places strong emphasis upon the retention of indigenous Australian trees. Therefore, on the basis of this reasoning the subject trees being native, could be removed.

The Tribunal placed emphasis in its decision upon the replacement trees being two (2) indigenous with a projected height of 14 metres at maturity.
**Subject land** | 163 South RD, BRIGHTON EAST  
**Application no.** | 2017.147.1  
**VCAT reference no.** | P2218/2017  
**Applicant** | Peter Jeffrey Bick  
**Referral Authority** | Urbis Pty Ltd  
**Respondents** |  
**VCAT Member** | Christina Fong, Lorina Nervegna  
**Date of hearing** | 5/04/2018  
**Date of order** | 10/05/2018  
**Proposal** | redevelopment of part of the Senior School and Basement car park extension; and Alterations to access in a Road Zone Category 1 in a Neighbourhood Residential Zone (schedule 3), Heritage Overlay (Schedule 347), Design and Development Overlay (Schedule 3), and pursuant to Clause 52.29  
Partial demolition of buildings; Construction of new educational facilities including a Performance Arts Centre (Leonardian PAC).  
**Officer recommendation/ Delegate determination** | Notice of decision  
**Council determination** | Notice of decision  
**Appeal type** | Notice of Decision to Grant a Permit  
**Plans substituted (prior to hearing)** | No  
**VCAT determination** | Permit to Issue  
**LGPRF outcome** | N/A

**Comments:**

The Applicant for Review against Council's Notice of Decision to Grant a Permit objected to the proposed development at St Leonard's on a number of grounds including heritage, traffic noise and light spillage. He was an adjoining resident to the subject site located in Ratho Avenue whose property was more than 167 metres from the proposed Leonardian Performing Centre. Just before the close of the second day of the hearing, the Objector advised that he would remove his objection to this development subject to certain conditions. The Permit Applicant agreed to these conditions which included the requirement that amplified music in the Agora open meeting place to cease no later than 9.00pm on any day and an additional condition stating that existing car spaces at the College be made available for the use of attendees at events held at the College outside of school hours.

Council ratified this agreement at its Meeting held on 2 May and VCAT subsequently made an Order issuing the permit at the consent of the parties.
<table>
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<tr>
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<td>Applicant</td>
<td>Shangri La Constructions</td>
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<tr>
<td>VCAT Member</td>
<td>Nicholas Hadjigeorgiou</td>
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<tr>
<td>Date of hearing</td>
<td>17/04/2018</td>
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<td>Date of order</td>
<td>18/05/2018</td>
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<td>Proposal</td>
<td>Construction of three (3) double storey dwellings</td>
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<td>Officer recommendation/ Delegate determination</td>
<td>Not support</td>
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<td>Council determination</td>
<td>Not applicable</td>
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<td>(prior to hearing)</td>
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<td>VCAT determination</td>
<td>Permit to Issue</td>
</tr>
<tr>
<td>LGPRF outcome</td>
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</tr>
</tbody>
</table>

Comments:

This was an Application for Review pursuant to Section 79 of the Planning and Environment Act 1987 against Council’s failure to grant a permit, granted under delegation. The proposal involved the construction of three double storey dwellings on a lot. Following a Compulsory Conference attended by all parties, the Tribunal in its Order dated 18 May 2018 directed a permit to be issued at the request of all parties and with their consent as an outcome of a Compulsory Conference.
**Subject land**  
72 Spring ST, SANDRINGHAM

**Application no.**  
2017.353.1

**VCAT reference no.**  
P3/2018

**Applicant**  
Stephen Paul Griffiths

**Referral Authority**

**Respondents**

**VCAT Member**  
Dalia Cook

**Date of hearing**  
23/04/2018

**Date of order**  
22/05/2018

**Proposal**  
To construct two new double-storey dwellings on a lot

**Officer recommendation/Delegate determination**  
Notice of decision

**Council determination**  
Not applicable

**Appeal type**  
Conditions

**Plans substituted (prior to hearing)**  
No

**VCAT determination**  
Permit to Issue

**LGPRF outcome**  
AFFIRMED

**Comments:**

The Permit Applicant sought a review of certain conditions placed by Council on the planning permit which allowed the construction of an attached double storey dual occupancy at the subject site. One of the disputed conditions required the Applicant to convert the garage of Unit 2 to a carport. Other disputed conditions required certain modifications to the plans in order to ensure that Tree No. 2 a Pin Oak could be retained. Council called its Arborist to give expert evidence at the hearing and he advised that the Tree Protection Zone around the tree would have to be 8.4 metres. The Applicant’s Arborist agreed with this position.

The Tribunal held that there were compelling reasons in terms of neighbourhood character why this tree should be retained. Member Cook regarded the existing Pin Oak as a substantial opportunity as well as a notable site constraint that should be worked into any development proposal for this site. The Tribunal held that this tree possesses a clear prominence in the streetscape and its location close to the front of the site does not preclude the efficient use of the land for two dwellings generally in the form approved by Council.

The Tribunal upheld Council’s conditions requiring this tree to be retained and it agreed with the Council that the boundary to boundary presentation of the garages across the front of the site was too intensive for this particular site and it supported the condition requiring the double garage to be changed to a conventional carport of similar dimensions. At the conclusion of the hearing the Permit Applicant resiled from his opposition to this condition and agreed that the garage should be altered to a carport.
Subject land 322 - 328 Bay RD, CHELTENHAM
Application no. 2017.369.1
VCAT reference no. P131/2018
Applicant Chandos Bay pty Ltd
Referral Authority VicRoads
Respondents N/A

VCAT Member J Templar
Date of hearing 4/05/2018
Date of order 4/05/2018
Proposal Use of the land for the purpose of the sale of packaged liquor and associated buildings and works, display of advertising signs, removal of native vegetation and alterations to a road in a Road Zone, Category 1

Officer recommendation/ Delegate determination Notice of decision
Council determination Notice of decision
Appeal type Conditions

Plans substituted No
(prior to hearing)

VCAT determination Varied Permit to Issue

LCPRF outcome N/A

Comments:
The site is located within the Commercial 2 Zone and the Development Contributions Overlay (Schedule 1).

A Planning Permit for use of the land for the purpose of the sale of packaged liquor and associated buildings and works, display of advertising signs, removal of native vegetation and alterations to a road in a Road Zone, Category 1 was issued by Council. The applicant lodged an application to the Victorian Civil and Administrative Tribunal (VCAT) under Section 80 of the Planning and Environment Act 1987 in relation to certain conditions on the permit. The applicant disputed conditions 1 (development changes), 11 (Arboricultural Assessment), 13 (Street tree removal), 16 (Loading Management Plan) and 28 (permit expiry for signage).

Following discussions between the Applicant and officers, agreement was reached in relation to the condition requirements, with some conditions being deleted (conditions 1(b, d, l and m) and 13) and the other conditions being amended. A consent order was signed by both parties and submitted to the Tribunal who directed that a permit be issued with the conditions as agreed between the parties. The Compulsory Conference and Hearing were both vacated.
### Item 4.6 – Matters of Decision

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<tr>
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<td>2017.61.1</td>
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<tr>
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<td>Applicant</td>
<td>P Annesley &amp; S Kanakaridis</td>
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<td>Helen Gibson</td>
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<tr>
<td>Date of hearing</td>
<td>11/05/2018</td>
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<tr>
<td>Date of order</td>
<td>19/05/2018</td>
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<tr>
<td>Proposal</td>
<td>Construction of two dwellings on a lot and alteration to a road in a Road Zone, Category 1</td>
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<tr>
<td>Officer recommendation/ Delegate determination</td>
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<td>Council determination</td>
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<tr>
<td>Appeal type</td>
<td>Notice of Decision to Grant a Permit</td>
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<tr>
<td>Plans substituted (prior to hearing)</td>
<td>No</td>
</tr>
<tr>
<td>VCAT determination</td>
<td>Permit to Issue</td>
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<tr>
<td>LGPRF outcome</td>
<td>AFFIRMED</td>
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**Comments:**

The application was appealed by the objector under the s82. The reasons for this appeal is in relation to the dispute of the land ownership.

The application was called for a Practice Day hearing and a few administrative mentions were ordered. The application was strike out by Tribunal given there was no planning related grounds. Council’s decision was affirmed to grant a permit.
Subject land  |  32 Arranmore AVE, BLACK ROCK  
Application no.  |  2015.768.1  
VCAT reference no.  |  P2543/2017  
Applicant  |  S M McNamee  
Referral Authority  |  N/A  
Respondents  |  Pei Good and Michael Moisaidis  

VCAT Member  |  Alison Glynn  
Date of hearing  |  14/05/2018  
Date of order  |  30/05/2018  
Proposal  |  Construction of two, double storey dwellings; Removal of native vegetation  

Officer recommendation/ Delegate determination  |  Notice of decision  
Council determination  |  Notice of decision  
Appeal type  |  Notice of Decision to Grant a Permit  
Plans substituted (prior to hearing)  |  No  

VCAT determination  |  Varied Permit to Issue  
LGPRF outcome  |  AFFIRMED  

Comments:  
This was an application for Review pursuant to Section 82 of the Planning and Environment Act 1987 against Council’s decision to grant a permit issued under delegation. The application involved the construction of two dwellings on a lot and the removal of native vegetation. The Tribunal in its Order dated 30 May 2018 directed a permit to be granted with the decision of the Responsible Authority varied to delete Condition 1n) and replaced with a new condition confirming compliance with the garden area requirement.
Subject land: 4 Caramar AVE, BRIGHTON EAST
Application no.: 2017.486.1
VCAT reference no.: P160/2018
Applicant: Graham Smart and Becci Collins
Referral Authority: Joshua Milner
Respondents: Nicholas Hadjigeorgiou
Date of hearing: 18/05/2018
Date of order: 18/05/2018
Proposal: The construction of two dwellings on a lot; and a front fence exceeding 1.2 metres in height

Officer recommendation/
Delegate determination: Refusal
Council determination: Not applicable
Appeal type: Refusal to Grant a Permit
Plans substituted (prior to hearing): No

VCAT determination: Permit to Issue
LGPRF outcome: N/A

Comments:

The subject site is located within the Neighbourhood Residential Zone (Schedule 3), the Design and Development Overlay (Schedule 3) and the Development Contributions Overlay (Schedule 1).

An application for the construction of two dwellings on a lot; and a front fence exceeding 1.2 metres in height was refused by Council. The applicant subsequently lodged an application to the Victorian Civil and Administrative Tribunal (VCAT) under Section 77 of the Planning and Environment Act 1987. One of the original objectors joined as a party to proceedings.

Following discussions between all parties, the objector withdraw his objection and agreement was reached in relation to changes to the development and acceptable conditions between Council and the Applicant. A consent order was signed by both parties and submitted to the Tribunal. A Compulsory Conference was held to clarify details on the plans and the Tribunal subsequently directed that Council’s decision be set aside and a permit be issued. The Hearing was vacated.
Subject land  181 Balcombe RD, BEAUMARIS  
Application no.  2015.835.1  
VCAT reference no.  P168/2018  
Applicant  Kylie Tennyson  
Referral Authority  
Respondents  
VCAT Member  Bill Sibonis  
Date of hearing  21/05/2018  
Date of order  21/05/2018  
Proposal  Construction of two double storey dwellings (above basement level), removal of vegetation within a Vegetation Protection Overlay (Schedule 3) and alteration of access to a road in a Road Zone, Category 1  

Officer recommendation/Delegate determination  Notice of decision  
Council determination  Notice of decision  
Appeal type  Conditions  
Plans substituted (prior to hearing)  No  

VCAT determination  Permit to Issue  
LGPRF outcome  AFFIRMED  

Comments:  
The Tribunal varied Council’s decision and removed Condition 1(g) from the Planning Permit which required the Applicant to setback the living rooms by 1 metre from their respective side boundaries. The Tribunal made an oral decision on this matter at the hearing and thus did not give reasons in their written Order dated 21 May 2018. The other conditions were renumbered accordingly.
Subject land  |  8 Henry ST, BRIGHTON EAST
---|---
Application no.  |  2018.827.1
VCAT reference no.  |  P2642/2017
Applicant  |  Ross Delhunty
Referral Authority  |  N/A
Respondents  |  L J Branton

VCAT Member  |  Alison Glynn
Date of hearing  |  24/05/2018
Date of order  |  30/05/2018
Proposal  |  Construction of second dwelling

Officer recommendation/ Delegate determination  |  Notice of decision
Council determination  |  Not applicable
Appeal type  |  Notice of Decision to Grant a Permit
Plans substituted (prior to hearing)  |  No

VCAT determination  |  Varied Permit to Issue
LGPRF outcome  |  AFFIRMED

Comments:

The subject site is located in a Neighbourhood Residential Zone (Schedule 3) and a Design and Development Overlay (Schedule 3).

On 30 October 2017 Council issued a Notice of Decision to Grant a Planning Permit, subject to conditions requiring a Tree Management Plan and changes to the roof profile.

An objector lodged an application for review pursuant to Section 82 of the Planning and Environment Act 1987.

The objecting party relied upon statement of ground relating to Neighbourhood character, impacts on adjoining vegetation and title boundary discrepancies.

The Tribunal affirmed Council’s support for the application and ruled that conditions of permit adequately addressed tree protection and neighbourhood character concerns. The Tribunal directed one additional condition to confirm setbacks from the title boundaries.
Subject land: 38 Tibrockney ST, HIGHTETT
Application no.: 2017.299.1
VCAT reference no.: P67/2018
Applicant: Shangri-La-Construction Pty Ltd
Referral Authority
Respondents
VCAT Member: Alison Slattery
Date of hearing: 28/05/2018
Date of order: 28/05/2018
Proposal: Construction of three dwellings on a lot and a front fence exceeding 1.2 metres in height

Officer recommendation/
Delegate determination: Refusal
Council determination: Not applicable
Appeal type: Refusal to Grant a Permit
Plans substituted (prior to hearing): No

VCAT determination: Permit to Issue
LGPRF outcome: N/A

Comments:
The application was lodged with Council on 24 August 2017 for the construction of three dwellings on a lot and a front fence exceeding 1.2 meters in height. Located in the Neighborhood Residential Zone, Schedule 3, the subject site is affected by the Design and Development Overlay, Schedule 3 and the Development Contributions Plan Overlay Schedule 1.

The 785 square meter shaped site is located in an area of Hightett undergoing significant change involving increased residential unit development and subsequent density. At the conclusion of the notice period, eight objections were received largely relating to neighborhood character, car parking and overdevelopment. A consultation meeting attended by all objects did not result in the withdrawal of any objections.

The application was refused on 28 December 2018 on the grounds of non-compliance with the 35% garden area, neighborhood character and various objectives and standards of Cause 55 – ResCode, indicating that the proposal was an overdevelopment of the site.

The applicant lodged an appeal under Section 77 of the Planning and Environment Act 1987 with the Victorian Civil and Administrative Tribunal (VCAT) against Council’s refusal to grant a permit. VCAT directed a Compulsory Conference be held on 27 April 2018 which was attended by the permit applicant, a Council Officer and 3 objector parties.

An in-principle agreement was reached between all parties and the permit applicant circulated amended plans to reflect the in-principal changes reached by all parties on 2 May 2018. In the amended form, the proposal satisfactorily addressed Council’s concerns and the affected parties.
Noteworthy was that the parties agreed that the three dwelling typology was an acceptable response to the evolving neighborhood character of the streetscape and intensification policy sought by the state and local policy as prescribed by the Bayside Planning Scheme. The parties came to the understanding that any the development of any site with a single dwelling could have greater offsite impacts to the neighborhood character and the streetscape than the proposal under consideration.

The application was reported to the Planning and Amenity Committee Meeting on 15 May 2018. Council determined to support the application subject to the full set of proposed conditions that remained unchanged.

A consent order agreed to was reached by all parties on 22 May 2018. A permit subject to conditions was directed to be issued by the Tribunal and the hearing listed for 12 June 2018 was vacated. The Planning permit was issued by Council on 28 May 2018.
Subject land: 42 Teddington RD, HAMPTON

Application no.: 2017.117.1

VCAT reference no.: P244/2018

Applicant: Joshua Kennedy

Referral Authority

Respondents

VCAT Member: Laurie Hewet

Date of hearing: 30/05/2018

Date of order: 31/05/2018

Proposal: Construction of two double storey dwellings

Officer recommendation/
Delegate determination: Notice of decision

Council determination: Notice of decision

Appeal type: Conditions

Plans substituted (prior to hearing): No

VCAT determination: Permit to Issue

LGPRF outcome: AFFIRMED

Comments:

This Application for Review was a short case hearing and it its Order dated 31 May 2018 the Tribunal deleted Conditions 1(a), (b), (e) and f (f). The Tribunal also directed that Condition 1(d) be amended to read that the width of the new crossover be reduced to 3.0 metres with a 1.0 metre offset provided to the nearest side boundary.

Condition 1(a) required the Applicant to convert of the double garage to a single garage and an increased side setback. Council has imposed this condition because of neighbourhood character considerations and to lessen the dominance of the garages to the streetscape. Council did not believe this condition was necessary as it held that the dominance of garage doors was part of the neighbourhood character. Condition 1(b) required the Applicant to relocate the front entrance form the side to the front façade. This condition was inextricably linked to Condition 1(a) and thus was deleted.

Condition 1(e) required the Applicant to increase the front setback from 8 metres to 8.5 metres to better address the neighbourhood character. Council did not accept Council’s submissions and held that the proposed setback of 8.05 metres was acceptable. Conditions requiring the Applicant to provide minimal dimensions for a single garage were unnecessary as they were dependent upon the success of the first disputed condition.
5. Confidential Business

Nil

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

Mick Cummins

Acting Chief Executive Officer