Agenda

for the

Planning & Amenity Committee Meeting

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

on

Tuesday, 27 March, 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
   4.1 241 - 245 Bay Road, Cheltenham Notice of Decision to Amend a Planning Permit Application No: 1998/3813/3 Ward: Southern 7
   4.2 6 Fernhill Road, Sandringham Secondary Consent - Approve Application No: 2016/372/1 Ward: Southern 79
   4.3 17 Rooding Street, Brighton Support the Grant of a Planning Permit Application No: 2017/396/1 Ward: Northern 117
   4.4 2 Graham Road, Highett Notice of Decision to Grant a Planning Permit Application No: 2017/687/1 Ward: Central 173
   4.5 1/3 and 2/3 Banksia Avenue, Beaumaris Notice of Decision to Grant a Planning Permit Application No: 2017/398/1 Ward: Southern 207
   4.6 1 & 2 St. Andrews Street, Brighton Support the Grant of a Planning Permit Application No: 2017/259/1 Ward: Northern 261

5. Confidential Business
   Nil
Next Meetings 2018

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

2. **Declarations of Interest**

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

   3.1 Confirmation of the Minutes of the Planning & Amenity Committee Meeting held on 13 March 2018.
4. Matters of Decision

4.1 241 - 245 BAY ROAD, CHELTENHAM
NOTICE OF DECISION TO AMEND A PLANNING PERMIT
APPLICATION NO: 1998/3813/3 WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/54182

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant an Amended Permit</th>
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<tbody>
<tr>
<td>Applicant</td>
<td>Donnan Consulting</td>
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<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
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<tr>
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<td>24 May 2017</td>
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<td>Current statutory days</td>
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<td>Zoning</td>
<td>Commercial 2 Zone</td>
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<tr>
<td>Overlays</td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>6</td>
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Proposal
The application proposes an amendment to Planning Permit 1998/3813/2 pursuant to Section 72 of the Planning and Environment Act 1987 which allows for ‘Development and use of the site for a private health club/gymnasium with associated car parking, advertising signage and landscaping’.

The application proposes to amend Condition 4 of the Permit to allow for an extension to the approved hours of operation from;

- Monday to Friday 6am to 10pm;
- Saturday 7am to 8pm;
- Sunday 9am to 8pm;

To the proposed:
- 24 hours, 7 days a week.

The development plan and reports are provided at Attachment 1.

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

History
Planning permit 1998/3813/1 was issued under delegation on 5 October 1998 and allows for the ‘development and use of the site for a private health club/gymnasium with associated car parking, advertising signage and landscaping, in accordance with the endorsed plans’. Plans were consecutively endorsed.

Amendment to the Plans endorsed under the Permit were approved on 27 September 1999 and allowed for the ‘extension of the Junior Care area of the Heathlands Gymnasium, to comply with the Department of Human Services Requirements.’
An amendment to delete Condition 16 of the Permit that required the rear car-parking of the subject site to be paved and line marked was refused on 7 May 2001 at Councils Approvals Committee Meeting.

Compliance with Condition 16 was completed to the satisfaction of the Responsible Authority in June 2001.

2. **Planning controls**

   **Original planning permit requirements**
   
   - Clause 33.01 – Industrial 1 Zone - Use of land for private health club/gymnasium with associated signage and landscaping.
   
   - Clause 52.05 – Advertising signs – The total advertisement area of all signs exceed 8 sqm.
   
   - Clause 52.06 – Car Parking - Reduction of car parking requirement

   **Planning permit requirements**

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

   **Planning Scheme Amendments**

   Pursuant to Clause 22.04 - Business Employment Area Policy of the Bayside Planning Scheme, the policy applies to all Business 3 Zoned land. Gazetted on 15 July 2013, VC100 introduced 2 new Commercial Zones and deleted Business 3 Zone, however the reference to B3Z in Clause 22.04 has not been updated and continues to take effect.

   Planning Scheme Amendment C150 outlines the overall policy direction for the commercial areas in the Bayside Municipality. Amendment C150 was adopted by Council at its 16 August 2016 Ordinary Meeting. An independent Planning Panel has been appointed to consider the submissions received. The Panel hearing was scheduled for 22 March 2018.

   Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and Adopted.

3. **Stakeholder consultation**

   **External referrals**

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

   **Internal referrals**

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

   **Public notification**

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

   - Impacts to adjoining residents.
   - Noise from gym members/users.
   - Vehicular noise in early hours.
   - Lack of noise abatement measures.
• 24 hour use.
• Noise from leisure centre (basketball courts) and surrounding businesses on Advantage Road.

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

Consultation meeting

A consultation meeting was held on 31 January 2018 attended by the permit applicant. No objectors attended the meeting and no objections have been withdrawn.

4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Grant an Amended Planning Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 1998/3813/2 for the land known and described as 241 – 245 Bay Road Cheltenham for the Development and use of the site for a private health club/gymnasium with associated car parking, advertising signage and landscaping in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the use and/or development starts, three copies of amended plans drawn to scale and dimensioned, 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 generally in accordance with the plans submitted with the application, or some other specified plans, but modified to show:
   a) Provision of two bike rails near the drop off zone/entrance;
   b) An obstruction provided to the east of the entrance to the staff car park to provide protection for the south side of the car park, to the satisfaction of Council;
   c) Provision of outdoor lighting, to the satisfaction of Council; and
   d) Clarification that all advertising signs are to be internally illuminated.
   e) Before the operations approved under amendment 1998/3813/2 commence, 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 site plan prepared by Donnan Consulting, job number 3433, dated July 2017 but modified to show:
      i. Directional signage to the allocated after-hours carparking provided.
      ii. The carparking spaces must be line marked to the satisfaction of the Responsible Authority.

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

3. Before the use and/or development starts, a site layout plan drawn to scale and dimensioned must be approved by a Building Practitioner registered
under the Building Act 1993 and submitted to the Responsible Authority. The plans must show:

a) drainage scheme providing for the collection of stormwater within the site and for the conveying of the stormwater to Council’s nominated point of discharge to the satisfaction of the Responsible Authority.

4. The use may operate 24 hours, 7 days a week.

5. Before occupation all buildings and works specified in this permit must be completed to the satisfaction of the Responsible Authority. The Responsible Authority must be advised in writing when all construction and works are completed to enable the site to be inspected.

6. No goods must be stored or left exposed outside the building so as to be visible from any public road or thoroughfare.

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


9. Mechanical noise emanating from the premises must comply with the State Environment Protection Policy N-1 ‘Control of Noise from Commerce, Industry and Trade.

10. No sound or amplified equipment or loudspeakers shall be installed so as to be audible from outside the building.

11. All noise emanating from any mechanical plant (air conditioners etc.) on the site must comply with the State Environment Protection Policy N-1.

12. Street numbers contrasting in colour to the background shall be fixed at the front boundary of the property as near as practicable to, or on the letterboxes. Separate unit numbers shall be placed adjacent to the front entrance of each dwelling, such numbers to be clearly legible from the access driveway.

13. Conditions required by VicRoads

   • Layout plans of the access conditions shall be submitted for approval to VicRoads.
   
   • A kerb return radius between 3 to 5 metres shall be constructed between the vehicular crossover and the existing road pavement.
   
   • All carparking spaces shall be designed to allow all vehicles to drive forwards when both entering and leaving the property.
   
   • Unrestricted access shall be provided within the site, with no parking on or directly off the driveway for a minimum distance of metres from the property boundary.
   
   • The driveway within the site shall be at least 6.0 metres wide for the first 12 metres to allow two way traffic flow.
• Adequate signs, pavement markings and traffic islands shall be provided to direct and control the flow of traffic within the site.

• The applicant shall pay the full costs of all roadworks, service relocations, signage and other costs associated with these works.

14. All service pipes, (excluding downpipes), fixtures and fittings must be concealed on exposed elevations to the satisfaction of the Responsible Authority.

15. All plant and equipment (including air conditioning units, heating units, hotwater systems, et.) which is proposed to be located externally shall be identified on plans and located to part of this permit. Such plan must be endorsed prior to commencement of construction and shall include plan and elevation details.

16. Before the use and/or development starts, areas set aside for parked vehicles and access lanes as shown on the endorsed plans must be:
   a) constructed to the satisfaction of the Responsible Authority;
   b) properly formed to such levels that they can be used in accordance with the plans;
   c) surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority;
   d) drained, maintained and not sued for any other purpose to the satisfaction of the Responsible Authority; and
   e) line-marked to indicate each car space and all access lanes to the satisfaction of the Responsible Authority.

   Parking areas and access lanes must be kept available for these purposes at all times.

17. Outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.

18. A sign(s) to the satisfaction of the Responsible Authority must be provided directing staff to the area set aside for staff car parking and must be located and maintained to the satisfaction of the Responsible Authority. The sign must not exceed 0.3 square metres.

19. The loading and unloading of goods from vehicles must only be carried out on the land.

20. Unless specified elsewhere in this permit, all parking spaces provided in association with a business, professional or commercial use shall be made available to the customers or clients of such use and shall not be restricted to the proprietors or employees, entirely or in part.

   Unless specified elsewhere in this permit, all parking spaces provided in association with a business, professional or commercial use shall remain available during the hours of operation of the particular business or activity and shall be made available to users free of charge.

21. Before the development hereby permitted starts three copies of a site layout plan drawn to scale and dimensioned must be submitted to and approved by the Responsible Authority. The plan must show the proposed landscape treatment of the site including the location of all existing and proposed species. The plan must also include indigenous species and screen planting adjacent to the plant room. Planting adjacent to the property frontage must
not exceed a height of 1 metre. When approved the plan will be endorsed and will then form part of the permit.

22. Prior to the use allowed by this permit starting or the occupation of the building hereby permitted, landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority and then maintained to the satisfaction of the Responsible Authority.

23. The location and details of signs shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

24. Signs must not contain any flashing light.

25. All signs must be constructed and maintained to the satisfaction of the Responsible Authority.

26. Signs must not be illuminated by external lights except with the written consent of the Responsible Authority.

27. The part of this permit relating to advertising signage expires four years after the date it is issued.

28. Once the development/use has started it must be continued and completed to the satisfaction of the Responsible Authority.

Permit Notes:

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

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

- Unless no permit is required under the planning scheme other signs must not be constructed or displayed without a further permit.

- The existing street tree/s must not be removed or damaged.

- Reticulated sewerage must be provided to the requirements of the Sewerage Authority.

<table>
<thead>
<tr>
<th>Date</th>
<th>Amendment</th>
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<tr>
<td>27 March 2018</td>
<td>Amendment to the permit under Section 72 of the Planning and Environment Act 1987 to:</td>
</tr>
<tr>
<td></td>
<td>- Addition of the following condition 1 requirement:</td>
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<td></td>
<td>e) Before the use 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 site plan prepared by Donnan Consulting, job number 3433, dated July 2017 but modified to show:</td>
</tr>
<tr>
<td></td>
<td>i. Direction signage to the allocated after-hours carparking provided.</td>
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</tbody>
</table>
ii. The carparking spaces must be line marked to the satisfaction of the Responsible Authority.
  - Condition 4 amended to allow for 24/7 operations.

5. **Council Policy**

**Council Plan 2017-2021**

Relevant objectives of the Council plan include:

- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
- With village-style activity centres, combining retail at ground floor with increased opportunities for apartment-style living above.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 9 Plan Melbourne
- Clause 17 Economic Development
- Clause 18 Transport
- Clause 19 Infrastructure
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.07 Economic Development
- Clause 21.09 Transport and Access
- Clause 21.10 Infrastructure
- Clause 21.11 Local Areas (Bayside Business Employment Area)
- Clause 22.04 Business Employment Area Policy
- Clause 34.02 Commercial 2 Zone
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 45.06 Development Contributions Plan Overlay
- 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. **Site Context**

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

Positioned on the northern side of Bay Road, the site comprises of one lot with a total site area of 8,859 square metres. Occupied by an existing double storey commercial building, the use of the site as a restricted recreation facility (gym) over two levels equates to a site coverage of approximately 3,346 square metres.

Access to the site is provided via a double crossover located at the southeast corner of Bay Road. The arterial road is characterised as a Road Zone Category 1 and contains a dual carriageway that carries traffic in an east-west direction with collector roads serving to move traffic to adjacent commercial and residential areas.

Situated within the Bayside Business Employment Area (Clause 21.11-9 Local Areas of the Bayside Planning Scheme) the subject site borders a residential area to the north. New large scale commercial and residential developments are emerging within the area including a child care centre and further industry that are renewing the commercial uses of Bay Road.

Adjoining uses in the immediate vicinity include several leisure and recreational facilities including a 24 hour storage facility located to the western boundary. Residentially zoned land is located to the north and north east and further commercial uses to the east, south and west.

Dwellings located to the northern boundary are approximately 7 metres from buildings northern façade that is occupied by the gyms covered car park. The carpark is located at ground floor within the double storey building and internal concrete block work separates the gym area from the carpark. The closest gym area is situated in excess of 40m from the nearest dwelling located to the northern title boundary.

Overflow parking is located at grade to the eastern boundary and access and ingress is from the covered carpark. Timber paling fencing provides visual separation from Avoca Street and the building is partially screened on this elevation by the leisure centre at 247 Bay Road.

6.2. Extension to approved operating hours

The application proposes to amend Condition 4 of the Permit to allow for an extension to the approved hours of operation to 24 hours, 7 days a week.

A copy of the endorsed plans and permit are provided at Attachment 3 and 4.

Permit conditions 7 – 11 (inclusive) relate to the noise attenuation measures regarding the emission of noise, music, mechanical noise, amplified equipment/loudspeakers and mechanical plants and is required due to the location of the subject site. The amendment will not impact upon these conditions and will continue to take effect.

The permitted operating hours are;

- Monday to Friday 6am to 10pm,
- Saturday 7am to 8pm and;
- Sunday 9am to 8pm.

The proposed staffing hours during the proposed 24 hour period are;

- Monday to Wednesday 6am to 10pm,
- Thursday to Friday 6am to 8pm
- Saturday 7am to 6pm and;
- Sunday 9am to 6pm.

Evidently, the applicant proposes to reduce the gyms staffed hours from Thursday to Sundays whilst operating 24 hours. Safety measures have been outlined in the submitted
24.7 Safety Management Plan by Fitness First in support of the amendment. To assist patrons and ensure safety both on and off site, a range of measures are intended to be implemented including the provision of security swipe card access outside of the hours of Monday to Friday, 9am to 5pm.

The applicant proposes that no group classes are to operate outside of the existing hours. Proposed patron numbers are anticipated to be between 1 and 15 during the extended operating hours.

Members accessing the gym during the extended hours will be directed via the induction process to park immediately outside the club entry. Directional signage is proposed to be provided and access to the covered carparking adjacent to the northern residential interface will be closed. These matters can be addressed by way of the addition of permit conditions.

It is intended that background music will be reduced and monitored to comply with Condition 8 and 10. It is proposed that the air-conditioning system will cease to operate outside of the approved hours whilst ventilation will continue to operate.

The submitted Noise Impact Assessment by Norman, Disney & Young dated 31 August 2017 in support of the application, models the proposed gym noise and vibration from the closest gym room to the nearest dwellings in Maxflo Court.

Modelling of noise emissions and measurements were taken at 12.45am on 31 August 2017. The results demonstrate that the gym will comply with the EPA SEPP N-1 requirements during early hours and no additional significant vibration transfer will occur.

There is a reasonable expectation that dwellings located adjacent to commercially zoned properties, will not benefit from the same level of residential amenity or protection from offsite impacts associated with commercial uses than dwellings exclusively positioned within a residential area and isolated from commercial uses.

A balance between economic development and the provision of commercial services adjacent to residential interfaces must be struck. The changing nature of employment and demand for goods and services has resulted in the provision of gymnasiums with 24 hour service.

Accordingly, having regard to the location of the gym and the significant separation between the adjacent dwellings, the impacts of the proposed operating hours will not detrimentally impact or affect the safety and amenity of the residential interfaces.

6.3. Lighting

For safety reasons, the external lighting to the car parking areas will continue to operate during the 24 hour period. A Lighting Calculation report by Leggero, dated 16 August 2017 was submitted with the amendment. The report assessed compliance of the existing conditions with the relevant AS/NZS standards for Indoor/outdoor Carparking Zones.

Extensive calculations of luminous emittance and light output demonstrates that sufficient illuminance is provided to ensure the safe movement of patrons to and from the site, whilst light overspill is contained to the non-sensitive interface of Bay Road.

Condition 17 of the permit requires Outdoor lighting to be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.

One (1) sports field mounted light is located to the Bay Road frontage. Eight (8) floodlights are mounted only on the facades facing Bay Road. Accordingly, the impacts of surplus light spill as a result of the extended trading hours are considered to be inconsequential.
6.4. **Objector issues not already addressed**

**Vehicular noise in early hours**

Noise and vehicle movements from the surrounding commercial areas and businesses are unavoidable consequences consistent with living adjacent to these areas. Residents are no more or less likely to generate excessive noise than the occupiers of the surrounding dwellings and businesses and Noise emissions associated with vehicles coming and going will not be so unreasonable that it would disturb the amenity of neighbours.

This is just one of the costs associated with living in an area of high business activity.

**Lack of noise abatement measures**

Several permit conditions ensure that the operation of the gym will not exceed the Environmental Protection Authority (EPA) guidelines. The noise levels generated by the existing use will not be significantly above that of the surrounding area.

**Support Attachments**

1. Development Plan and Reports ↓
2. Sites and Surrounds ↓
3. Planning Permit 1998/3813 ↓
4. Endorsed Plans to 1998/3813 ↓
Report

Acoustics

FITNESS FIRST 24/7 NOISE IMPACT ASSESSMENT – BAYSIDE, 241-245 BAY ROAD, HIGHETT, VICTORIA

Fitness First
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   1.2 Major Recommendations  
   1.3 Conclusion  
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4 ACOUSTIC ASSESSMENT  
   4.1 Proposed Fitness First Operations  
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5 DISCUSSION AND CONCLUSION
1 EXECUTIVE SUMMARY

NDY has conducted a noise assessment of the Fitness First proposal to undertake 24/7 operations at the Fitness First Bayside at 241-245 Bay Road, Highett, Victoria.

1.1 Purpose

The purpose of this report is to provide acoustic input into the following areas:

- Development Application Noise Impact Assessment to Bayside City Council.

1.2 Major Recommendations

- Due to attenuation distances and shielding and restricted activity at night are no major recommendations associated with this report. Noise emissions were determined to comply with the criteria in all cases.

1.3 Conclusion

- Based upon the assessment undertaken, it is predicted that noise emissions from proposed activities to be undertaken inside the Fitness Centre will meet the requirements of State Environment Protection Policy No. N-1.

1.4 Revision History

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<th>Revision</th>
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<tbody>
<tr>
<td>1.0</td>
<td>31 August 2017</td>
<td>Initial issue</td>
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1.5 Professional Accreditation

Modelling and reporting have been undertaken by acoustics engineers Thomas Warren of Norman Disney & Young. Thomas Warren is a certified member of the Australian Acoustical Society (MAAS).

Additionally, NDY Acoustics Melbourne is a member firm of the Association of Australasian Acoustical Consultants (AAAC).
2 INTRODUCTION

Norman Disney & Young (NDY) were engaged by Fitness First to undertake a noise impact assessment for Bayside Council submission for a gymnasium, located at 241-245 Bay Road, Highett, Victoria. We understand that Fitness First wish to extend the gymnasium’s opening hours into a 24 hour, seven days per week operation.

The Fitness First gymnasium location is shown in Figure 1.

![Figure 1: Site location and surrounding area.](image)

The gymnasium currently operates from 6am – 10pm Monday to Wednesday, 6am – 9pm Thursday to Friday, 7am – 7pm Saturday, and 9am – 7pm Sunday.

This report assesses the environmental noise impact of the gym during the new night-time period of the new proposed 24 hour operation. For the purpose of this assessment, it is assumed that the activities to be undertaken at night will consist of simple free weights and cardio activity in the open plan area of the gym, along with low levels of background music. No group exercise classes or spin cycle class involving loud amplified music will be undertaken during the proposed after-hours operation.

The layout of the gym can be seen below, with the main workout areas on level 1 (the upper and main level) shown. The main uses of the ground level are changing rooms, offices, reception areas and lounges.
Figure 2: Plan view of Fitness First
3 NOISE EMISSION LIMITS – STATE ENVIRONMENT PROTECTION POLICY NO. N-1

Victorian planning rules do not explicitly address gymnasium noise. We have used State Environment Protection Policy No. N-1 as the most applicable policy to set noise limits for the gymnasium night-time operation.

3.1 Environment Protection Act and SEPP N-1

Section 46 of the Environment Protection Act 1970 relating to noise emissions applies to this site and states the following:

“46. Emission of noise to comply with policy

The emission of noise shall at all times be in accordance with State environment protection policy specifying acceptable conditions for emitting noise and shall comply with any standards or limitations prescribed therefore under this Act.”

Therefore the appropriate noise regulations for the proposed development are outlined in the Environmental Protection Authority document State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 (referred to as SEPP N-1 throughout this document).

Determining the acceptable noise emission levels using SEPP N-1 is a multi-step process, involving:

- Determining a zoning level, based on the location of the subject site
- Adjusting the zoning level, based on background noise level measurements conducted around the subject site.

The limits determined by SEPP N-1 apply to residential properties affected by noise emissions from the subject site.

3.2 Zoning Level

To determine the zoning level, two concentric circles of diameter 140 and 400 metres are drawn around the noise sensitive location on the Victoria - Environment, Land, Water and Planning - Planning Maps Online. The area of the different zones (as scheduled in EPA’s Publication: "Designation of Types of Zones and Reservations in the Metropolitan Region Planning Schemes for the purposes of ... No. N-1") is measured and the Influencing Factor is then calculated.

Figure 3 below shows the zoning types for the area in question along with the concentric circles located at the nearest residential receiver on Maxflo Court.
Figure 3 – SEPP N-1 Zoning Diagram

For the most affected residential zone receiver, the Influencing Factor (IF) is calculated to be 0.52. The Zoning Level for Day, Evening and Night is then calculated as per Table 1 below.

Table 1 – Zoning Levels

<table>
<thead>
<tr>
<th>Designated Period</th>
<th>Day and Time</th>
<th>Zoning Level (dBA)</th>
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<tbody>
<tr>
<td><strong>Day</strong></td>
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</tr>
<tr>
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</tr>
<tr>
<td>Sunday and Public Holidays</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td><strong>Evening</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Monday - Friday</td>
<td>1800 - 2200</td>
<td>53</td>
</tr>
<tr>
<td>Saturday</td>
<td>1300 - 2200</td>
<td></td>
</tr>
<tr>
<td>Sunday and Public Holidays</td>
<td>0700 - 2200</td>
<td></td>
</tr>
<tr>
<td><strong>Night</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>All days</td>
<td>2200 - 0700</td>
<td>48</td>
</tr>
</tbody>
</table>

3.3 Existing Noise Environment

According to SEPP N-1, a minimum of two hand-held representative measurements are required during each period that the premises will normally operate, i.e. day, evening or night periods, to determine whether the background noise level is "neutral", "high" or "low".

The relevant assessment period for this assessment is the night period.

Background noise measurements were completed at the subject site to determine the existing noise environment and any corrections to be applied to the Zoning Level noise limits.

Attended measurements were taken on the morning of 31 August 2017 at 12.45am. Measurements were taken on Maxflo Court, to represent the typical noise in the residential area adjacent to Fitness First.

The measured background levels were as follows:
### 3.3.1 Noise Limits Based on Background Levels

Table 2 below schedules the background-corrected noise limits for day, evening and night.

<table>
<thead>
<tr>
<th>Time of Day</th>
<th>Zoning Level (dBA)</th>
<th>Measured Background, L90 (dBA)</th>
<th>Background Noise Level Classification</th>
<th>Calculated Noise Limit (dBA)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Day</td>
<td>59</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Evening</td>
<td>53</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Night</td>
<td>48</td>
<td>35</td>
<td>Low</td>
<td>45</td>
</tr>
</tbody>
</table>

**Table 2 – Noise Limits Based on Background**

The proposed night-time gym operations will therefore be assessed against a 45 dBA compliance limit at the nearest residential receiver.
4 ACoustic Assessment

4.1 Proposed Fitness First Operations

For the purpose of this assessment it was assumed that the proposed Fitness First centre will be operating 24-hours a day, 7 days a week, 52 weeks a year. Based upon our discussions with Fitness First, we understand that the night time use of the fitness centre will be limited to activities which do not involve group exercise classes with over-loud amplified music.

The gym is in a commercial precinct and is shielded by other commercial buildings on all sides from the nearest residential receivers. The closest distance between gym and residential property is 20m, though there is no line-of-sight to this resident. The distance and shielding makes it highly likely that the gymnium will comply with the SEPP N-1 requirements to the nearest residential receivers. To confirm this, NDY has analysed the expected noise emission from the gym.

4.2 Data Sources

Source power levels are modelled based on a previous assessment carried out by NDY where benchmarking of a similar gymnasium was undertaken at 2 Elizabeth Street, North Sydney. This data was converted into a sound power level using a reverberant room correction, and applied to Fitness First, Bayside. Table 3 outlines the octave-band sound power levels (SWL) that were modelled from the Elizabeth Street Fitness First measurements for night time periods, which will be used to model the noise emission from the proposed Fitness First.

Table 3: Derived Sound Power Levels from the Freestyle area of the Elizabeth Street club, dB.

<table>
<thead>
<tr>
<th>Source</th>
<th>Octave band centre frequency (Hz)</th>
<th>dBA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Night time average noise level in Freestyle area of Elizabeth Street North Sydney – L_{eq}</td>
<td>103 102 96 88 82 79 72 73</td>
<td>92</td>
</tr>
<tr>
<td>Night time noise level in Freestyle area of Elizabeth Street North Sydney – L$_{1}$</td>
<td>109 109 100 92 89 86 82 81</td>
<td>98</td>
</tr>
</tbody>
</table>

The Fitness First is not directly adjacent to any residential receivers – it is separated on all sides by other commercial buildings as shown in Figure 1. The potential transmission paths to residential receivers are through the facade: the glass facade on the southeast boundary of the gym, and through the roof.

We have assumed a 10.38 mm laminated glazing configuration for the facade as a conservative approach (noting that the roof will perform significantly better than this, and only a small portion of the facade is actually glazed). The octave-band transmission losses for the glazing are shown in Table 4. These values allow us to model the breakout noise from the gymnium facade into the surrounding environment.

Table 4: Glazing configuration of the facade and corresponding octave-band transmission losses, dB.

<table>
<thead>
<tr>
<th>Glazing configuration</th>
<th>Octave band centre frequency (Hz)</th>
</tr>
</thead>
<tbody>
<tr>
<td>10.38 mm Laminated Glass</td>
<td>63 125 250 500 1k 2k 4k 8k</td>
</tr>
</tbody>
</table>
4.3 Vibration and Structure-borne Impacts

There are no structural connections between Fitness First Bayside and the nearest residences, and significant horizontal distance separation. There will be no significant vibration transfer from typical gym activities and no detailed assessment or upgrades are required.

4.4 Modelling Results

We have modelled the gym noise to the nearest residential receivers with the following assumptions, which are conservative (unfavourable to the gym) in all cases. We expect the actual noise levels will be below the predicted level. The assumptions are:

- Gym relatively reverberant, with minimal absorption
- The entire facade and roof performing no better than the glass transmission loss data from the table above
- Distance attenuation between gym and residence has been included in the calculation
- No barrier effects from surrounding buildings have been included in the calculation

Estimated noise emissions from the proposed Fitness First Activity (presented below in Table 5) are predicted to comply with night time criteria in all cases. This is largely attributable to distance attenuation from the facility and shielding from surrounding commercial buildings.

**Table 5: Modelled noise levels at nearest affected receivers, L_{eq}**

<table>
<thead>
<tr>
<th>Period</th>
<th>Receiver</th>
<th>Gymnasium areas in use</th>
<th>Closest Receiver distance</th>
<th>Predicted Noise Level at receiver</th>
<th>Criteria</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Night time</td>
<td>Maxflex Court</td>
<td>Open plan gym area</td>
<td>20m</td>
<td>35dB(A)</td>
<td>45dB(A)</td>
<td>Yes</td>
</tr>
</tbody>
</table>
5 DISCUSSION AND CONCLUSION

This assessment was undertaken to review the proposed operational noise impacts of Fitness First Bayside at 241-245 Bay Road, Highett, Victoria. The assessment was undertaken in accordance with SEPP N.1. To adequately assess the impacts of the proposed extension of hours, noise benchmarking of an existing facilities was undertaken to accurately determine typical worst case airborne noise levels, which were used to determine the impacts from the proposed Fitness First facility. All calculations were carried out as conservatively as possible.

The results of the study show that noise emissions from the facility will readily comply at the nearest residential building during the night time period, as described in this report.

Based upon the above assessment, NDY are satisfied that the proposed 24/7 operations for Fitness First will not result in excessive noise impacts to surrounding residential buildings.

Based upon the proposed activity and noise levels anticipated in this report, we anticipate that no additional noise or vibration mitigation measures will be required.
LIGHTING CALCULATION FOR INDOOR/OUTDOOR CARPARKING ZONES

Fitness First Bayside VIC

Standard Compliance

AS/NZS 1680.2:2008 - Table D1, 11-Indoor Carparks-
11.3.11.5, Aisles, ramps, pedestrian crossings, normal parking and disable parking, minimum illuminance of 40lux.

AS/NZS 1158.3.1:2005 Part 3.1: Pedestrian area (Category P) lighting—Performance and design requirements:
P11b, Ehp(Ave horizontal) >7lux, Ehp(Point Horizontal) >1.5lux, UE2 of 10, Point Vertical illuminance EPV >1.5lux.

Designated parking for people with disabilities P12, EPV >14 and >=Eh.
**LIGHTING CALCULATION FOR INDOOR/OUTDOOR CARPARKING ZONES**

16/08/2017

<table>
<thead>
<tr>
<th>Quantity</th>
<th>Luminaire (Luminous emittance)</th>
<th>See our luminaire catalog for an image of the luminaire.</th>
</tr>
</thead>
<tbody>
<tr>
<td>13</td>
<td>SULAND LIGHTING PTY LTD - SL-22158 4FT LED W/P Batton</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Luminous emittance 1 Fitting: 1x Light output ratio: 99.96% Lamp luminous flux: 3992 lm Luminaire luminescent flux: 3991 lm Power: 42.1 W Luminous efficacy: 94.8 lm/W Colorimetric data 1x: CCT 3000 K, CRI 100</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>SULAND LIGHTING PTY LTD - SL-8L-120W-E-C 120W Nichia Highbay 115D Luminous emittance 1 Fitting: 1x Nichia 757 5000K Light output ratio: 99.99% Lamp luminous flux: 16444 lm Luminaire luminous flux: 16443 lm Power: 122.8 W Luminous efficacy: 133.9 lm/W Colorimetric data 1x: CCT 3000 K, CRI 100</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>SULAND LIGHTING - SL-FL-200WA Slim LED Floodlight 200W Luminous emittance 1 Fitting: 1x Nichia LED Light output ratio: 100.11% Lamp luminous flux: 24630 lm Luminaire luminous flux: 24628 lm Power: 201.2 W Luminous efficacy: 122.4 lm/W Colorimetric data 1x: CCT 3000 K, CRI 100</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>SULAND LIGHTING - SL-T400-300W LED SPORTS FIELD LIGHT Luminous emittance 1 Fitting: 1xPHILIPS LUMILEDS Light output ratio: 99.88% Lamp luminous flux: 42123 lm Luminaire luminous flux: 42069 lm Power: 302.1 W Luminous efficacy: 139.3 lm/W Colorimetric data 1x: CCT 3000 K, CRI 100</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>SULAND LIGHTING - SL-T400-300W LED SPORTS FIELD LIGHT Luminous emittance 1 Fitting: 1xPHILIPS LUMILEDS Light output ratio: 99.97% Lamp luminous flux: 42021 lm Luminaire luminous flux: 39954 lm Power: 303.3 W Luminous efficacy: 131.7 lm/W Colorimetric data 1x: CCT 3000 K, CRI 100</td>
<td></td>
</tr>
</tbody>
</table>

Total lamp luminous flux: 521149 lm, Total luminaire luminous flux: 520686 lm, Total Load: 4169.6 W, Luminous efficacy: 124.9 lm/W
### Site 1

**SULAND LIGHTING SL-T400-300W LED SPORTS FIELD LIGHT**

<table>
<thead>
<tr>
<th>No.</th>
<th>X [m]</th>
<th>Y [m]</th>
<th>Mounting height [m]</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>13.618</td>
<td>31.993</td>
<td>7.100</td>
</tr>
<tr>
<td>2</td>
<td>12.635</td>
<td>31.963</td>
<td>7.100</td>
</tr>
</tbody>
</table>

**SULAND LIGHTING SL-T400-300W LED SPORTS FIELD LIGHT**

<table>
<thead>
<tr>
<th>No.</th>
<th>X [m]</th>
<th>Y [m]</th>
<th>Mounting height [m]</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>13.142</td>
<td>33.448</td>
<td>7.100</td>
</tr>
</tbody>
</table>

**SULAND LIGHTING SL-FL-200WA Slim LED Floodlight 200W**

<table>
<thead>
<tr>
<th>No.</th>
<th>X [m]</th>
<th>Y [m]</th>
<th>Mounting height [m]</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>31.450</td>
<td>53.772</td>
<td>5.000</td>
</tr>
<tr>
<td>5</td>
<td>36.703</td>
<td>48.371</td>
<td>6.000</td>
</tr>
<tr>
<td>6</td>
<td>35.508</td>
<td>40.099</td>
<td>6.000</td>
</tr>
<tr>
<td>7</td>
<td>35.508</td>
<td>36.683</td>
<td>8.000</td>
</tr>
<tr>
<td>8</td>
<td>42.193</td>
<td>37.872</td>
<td>6.000</td>
</tr>
<tr>
<td>9</td>
<td>60.255</td>
<td>37.872</td>
<td>6.000</td>
</tr>
<tr>
<td>10</td>
<td>74.070</td>
<td>37.872</td>
<td>6.000</td>
</tr>
<tr>
<td>11</td>
<td>87.642</td>
<td>27.448</td>
<td>6.000</td>
</tr>
</tbody>
</table>
Calculation surface 1 / Horizontal illuminance

Calculation surface 1: Horizontal Illuminance (Grid)
Light scenes: Light scenes 1
Average: 48.0 lx, Min: 20.4 lx, Max: 188 lx, Min/Max: 0.30, Min/Max: 0.11
Height: 0.000 m
DIALux

Value grid [lx]

Scale: 1 : 124
Calculation surface 5 / Horizontal illuminance

Calculation surface 5: Horizontal illuminance (Grid)
Light scenes: Light scenes 1
Average: 13.0 lx, Min: 7.43 lx, Max: 20.0 lx, Min/average: 0.56, Min/max: 0.63
Height: 0.000 m

Isolines [lx]

Scale: 1 : 89
False colors [lx]

Value grid [lx]

Scale: 1 : 99
Bayside City Council
Planning & Amenity Committee Meeting - 27 March 2018
Attachment 1

Attachment 1

Item 4.1 – Matters of Decision
Page 43 of 315
Item 4.1 – Matters of Decision

Undercover Carpark 1

Height of room: 3.000 m, Reflection factors: Ceiling 70.0%, Walls 59.1%, Floor 20.0%, Light loss factor: 0.8

Workplane

<table>
<thead>
<tr>
<th>Surface</th>
<th>Result</th>
<th>Average</th>
<th>Target</th>
<th>Min</th>
<th>Max</th>
<th>Min/Max</th>
<th>Minimax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Undercover Carpark 1</td>
<td>Perpendicular illuminance (adaptive) [lx]</td>
<td>143 (≥40.0)</td>
<td>44.6</td>
<td>290</td>
<td>0.31</td>
<td>0.16</td>
<td></td>
</tr>
<tr>
<td>Height: 0.000 m, Wall zone: 0.000 m</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>#</th>
<th>Luminaire</th>
<th>Φ(Luminaire) [lm]</th>
<th>Power [W]</th>
<th>Luminous efficacy [lm/W]</th>
</tr>
</thead>
<tbody>
<tr>
<td>13</td>
<td>SULAND LIGHTING PTY LTD - SL-2218B 4FT LED WP Batten</td>
<td>3991</td>
<td>42.1</td>
<td>94.8</td>
</tr>
<tr>
<td></td>
<td>Total via all luminaires</td>
<td>51883</td>
<td>547.3</td>
<td>94.8</td>
</tr>
</tbody>
</table>

Lighting power density: 2.70 W/m² (Floor area of room 202.70 m²)
Consumption: 1200 kWh/a of maximum 7100 kWh/a
**Lighting Calculation for Indoor/Outdoor Carparking Zones**

Site 1 / Building 1 / Storey 1 / Undercover Carpark 1 / Luminaire Layout plan

### Undercover Carpark 1

<table>
<thead>
<tr>
<th>No.</th>
<th>X [m]</th>
<th>Y [m]</th>
<th>Mounting height [m]</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>0.246</td>
<td>2.575</td>
<td>3.000</td>
</tr>
<tr>
<td>2</td>
<td>0.246</td>
<td>5.033</td>
<td>3.000</td>
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<tr>
<td>3</td>
<td>4.005</td>
<td>2.575</td>
<td>3.000</td>
</tr>
<tr>
<td>4</td>
<td>4.005</td>
<td>8.033</td>
<td>3.000</td>
</tr>
<tr>
<td>5</td>
<td>6.387</td>
<td>12.586</td>
<td>3.000</td>
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<tr>
<td>6</td>
<td>6.387</td>
<td>15.182</td>
<td>3.000</td>
</tr>
<tr>
<td>7</td>
<td>6.387</td>
<td>19.779</td>
<td>3.000</td>
</tr>
<tr>
<td>8</td>
<td>3.397</td>
<td>12.955</td>
<td>3.000</td>
</tr>
<tr>
<td>9</td>
<td>3.484</td>
<td>16.170</td>
<td>3.000</td>
</tr>
<tr>
<td>10</td>
<td>3.484</td>
<td>19.757</td>
<td>3.000</td>
</tr>
<tr>
<td>11</td>
<td>1.641</td>
<td>12.901</td>
<td>3.000</td>
</tr>
<tr>
<td>12</td>
<td>1.728</td>
<td>16.106</td>
<td>3.000</td>
</tr>
<tr>
<td>13</td>
<td>1.728</td>
<td>19.703</td>
<td>3.000</td>
</tr>
</tbody>
</table>
LIGHTING CALCULATION FOR
INDOOR/OUTDOOR CARPARKING ZONES
Site 1 Building 1 / Undercover Carpark 1 / Views

Undercover Carpark 1

Undercover Carpark 1
LIGHTING CALCULATION FOR
INDOOR-OUTDOOR CARPARKING ZONES
Site 1 / Building 1 / Storey 1 / Undercover Carpark 1 / Views
Undercover Carpark 1 (False Colors), Illuminance values in [lx]
LIGHTING CALCULATION FOR INDOOR/OUTDOOR CARPARKING ZONES

Site 1 / Building 1 / Story 1 / Undercover Carpark 1 / Undercover Carpark 1 / Perpendicular illuminance (adaptive)

Undercover Carpark 1 / Perpendicular illuminance (adaptive)

Undercover Carpark 1: Perpendicular illuminance (adaptive) (Surface)
Light scenes: Light scenes 1
Average: 143 lx, Min: 44.6 lx, Max: 260 lx, Min/average: 0.31, Min/max: 0.16
Height: 0.003 m, Wall zone: 0.000 m
Undercover Carpark 2

Height of room: 7.800 m, Reflection factors: Ceiling 70.0%, Walls 56.1%, Floor 20.0%, Light loss factor: 0.67

**Workplane**

<table>
<thead>
<tr>
<th>Surface</th>
<th>Result</th>
<th>Average (Target)</th>
<th>Min</th>
<th>Max</th>
<th>Min/average</th>
<th>Min/max</th>
</tr>
</thead>
<tbody>
<tr>
<td>Undercover Carpark 2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Perpendicular illuminance (adaptive) [lx]</td>
<td>39.8 (x 75.0)</td>
<td>10.3</td>
<td>81.8</td>
<td>0.26</td>
<td></td>
<td>0.13</td>
</tr>
<tr>
<td>Height; 0.000 m, Wall zone; 0.500 m</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Luminaire**

<table>
<thead>
<tr>
<th># Luminaire</th>
<th>Φ(Luminaire) [lx]</th>
<th>Power [W]</th>
<th>Luminous efficacy [lm/W]</th>
</tr>
</thead>
<tbody>
<tr>
<td>9 SULAND LIGHTING PTY LTD - SL-BL-120W-E C 120W Nichia Highbay 110D</td>
<td>16443</td>
<td>122.8</td>
<td>133.9</td>
</tr>
<tr>
<td>Total via all luminaires</td>
<td>147967</td>
<td>1105.2</td>
<td>133.9</td>
</tr>
</tbody>
</table>

Lighting power density: 0.60 W/m² (Floor area of room 2734.55 m²)
Lighting power density: 0.42 W/m² (1.06 W/m²/1000lx (Area of working plane 2630.05 m²)
Consumption: 2400 kWh/a of maximum 95750 kWh/a

DIALux
Undercover Carpark 2

<table>
<thead>
<tr>
<th>No.</th>
<th>X [m]</th>
<th>Y [m]</th>
<th>Mounting height [m]</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>39.274</td>
<td>9.831</td>
<td>7.500</td>
</tr>
<tr>
<td>2</td>
<td>39.241</td>
<td>29.364</td>
<td>7.500</td>
</tr>
<tr>
<td>3</td>
<td>39.209</td>
<td>48.896</td>
<td>7.500</td>
</tr>
<tr>
<td>4</td>
<td>23.726</td>
<td>9.805</td>
<td>7.500</td>
</tr>
<tr>
<td>5</td>
<td>23.693</td>
<td>29.338</td>
<td>7.500</td>
</tr>
<tr>
<td>6</td>
<td>23.661</td>
<td>48.870</td>
<td>7.500</td>
</tr>
<tr>
<td>7</td>
<td>8.178</td>
<td>9.779</td>
<td>7.500</td>
</tr>
<tr>
<td>8</td>
<td>8.146</td>
<td>29.312</td>
<td>7.500</td>
</tr>
<tr>
<td>9</td>
<td>8.113</td>
<td>48.845</td>
<td>7.500</td>
</tr>
</tbody>
</table>
LIGHTING CALCULATION FOR
INDOOR/OUTDOOR CARPARKING ZONES
Site 1 / Building 1 / Storey 1 / Undercover Carpark 2 / Views

Undercover Carpark 2

Undercover Carpark 2
Undercover Carpark 2 (False Colors), Illuminance values in [lx]
Undercover Carpark 2 / Perpendicular illuminance (adaptive)

Undercover Carpark 2: Perpendicular illuminance (adaptive) (Surface)
Light scenes: Light scenes 1
Average: 42.8 lx, Min: 10.3 lx, Max: 81.8 lx, Min/average: 0.24, Min/max: 0.13
Height: 0.000 m, Wall zone: 0.500 m
LIGHTING CALCULATION FOR INDOOR/OUTDOOR CARPARKING ZONES

False colors [lx]

Scale: 1 : 308

16/08/2017

DIALux
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>Objectors</td>
<td>∙</td>
</tr>
</tbody>
</table>
Figure 2 View towards the sites frontage from Bay Road.
Figure 3 View internally towards the site from the south east.

Figure 3 View internally towards the rear of the site showing the entrance to the undercover carpark from the south. Note the gym entrance to the left.
Figure 4 Internal view towards the rear of the gym carpark showing the roller door to the over flow parking located to the eastern boundary (Avoca street).

Figure 5 View towards the over flow parking located to the eastern boundary (Avoca street). Note the absence of access to Avoca Street and the boundary fencing of the residential interface.
Figure 6 View towards the northern boundary from the east, showing the ~7 metre setback to the title boundary of the residential interface (Maxflo Court).
The Permit Allows
Development and use of the site for a private health club/gymnasium with associated car parking, advertising signage and landscaping, in accordance with the endorsed plans.

The Following Conditions Apply to this Permit

1. Before the use and/or development starts, three copies of amended plans drawn to scale and dimensioned, 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 generally in accordance with the plans submitted with the application, or some other specified plans, but modified to show:

(a) provision of two bike rails near the drop off zone/entrance;
(b) an obstruction provided to the east of the entrance to the staff car park to provide protection for the south side of the car park, to the satisfaction of Council;
(c) provision of outdoor lighting, to the satisfaction of Council; and
(d) clarification that all advertising signs are to be internally illuminated.

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

3. Before the use and/or development starts, a site layout plan drawn to scale and dimensioned must be approved by a Building Practitioner registered under the Building Act 1993 and submitted to the Responsible Authority.

The plans must show:

a) a drainage scheme providing for the collection of stormwater within the site and for the conveying of the stormwater to Council’s nominated point of discharge to the satisfaction of the Responsible Authority.

4. The use may operate only between the hours of Monday to Friday 6am to 10pm, Saturdays 7am to 8pm and Sundays 9am to 8pm unless the Responsible Authority gives consent in writing.

5. Before occupation all buildings and works specified in this permit must be completed to the satisfaction of the Responsible Authority. The Responsible Authority must be advised in writing when all construction and works are completed to enable the site to be inspected.

6. No goods must be stored or left exposed outside the building so as to be visible from any public road or thoroughfare.

Date: 5th October, 1998

Signature of the Responsible Authority

Planning & Environment Regulations 1988 Form 4.4
The Following Conditions Apply to this Permit

7. The amenity of the area must not be detrimentally affected by the use or development, through the:
   a) transport of materials, goods or commodities to or from the land;
   b) appearance of any building, works or materials;
   c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
   e) presence of vermin;

8. Music emanating from the premises must comply with the State Environment Protection Policy N-2 'Control of Music Noise from Public Premises.'

9. Mechanical noise emanating from the premises must comply with the State Environment Protection Policy N-1 'Control of Noise from Commerce, Industry and Trade.'

10. No sound or amplified equipment or loudspeakers shall be installed so as to be audible from outside the building.

11. All noise emanating from any mechanical plant (air conditioners etc.) on the site must comply with the State Environment Protection Policy N-1.

12. Street numbers contrasting in colour to the background shall be fixed at the front boundary of the property as near as practicable to, or on the letterboxes. Separate unit numbers shall be placed adjacent to the front entrance of each dwelling, such numbers to be clearly legible from the access driveway.

13. Conditions required by Vic Roads
   • Layout plans of the access conditions shall be submitted for approval to VicRoads.
   • A kerb return radius between 3 to 5 metres shall be constructed between the vehicular crossover and the existing road pavement.
   • All carparking spaces shall be designed to allow all vehicles to drive forwards when both entering and leaving the property.
   • Unrestricted access shall be provided within the site, with no parking on or directly off the driveway for a minimum distance of 6 metres from the property boundary.
   • The driveway within the site shall be at least 6.0 metres wide for the first 12 metres to allow two way traffic flow.
   • Adequate signs, pavement markings and traffic islands shall be provided to direct and control the flow of traffic within the site.
   • The applicant shall pay the full costs of all roadworks, service relocations, signage and other costs associated with these works.

14. All service pipes, (excluding downpipes), fixtures and fittings must be concealed on exposed elevations to the satisfaction of the Responsible Authority.

Date: 5th October, 1998

Signature of the Responsible Authority
The Following Conditions Apply to this Permit

15. All plant and equipment (including air conditioning units, heating units, hotwater systems, etc.) which is proposed to be located externally shall be identified on plans and located to part of this permit. Such plan must be endorsed prior to commencement of construction and shall include plan and elevation details.

16. Before the use and/or development starts, areas set aside for parked vehicles and access lanes as shown on the endorsed plans must be:
   a) constructed to the satisfaction of the Responsible Authority;
   b) properly formed to such levels that they can be used in accordance with the plans;
   c) surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority;
   d) drained, maintained and not used for any other purpose to the satisfaction of the Responsible Authority.
   e) line-marked to indicate each car space and all access lanes to the satisfaction of the Responsible Authority.

Parking areas and access lanes must be kept available for these purposes at all times.

17. Outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.

18. A sign(s) to the satisfaction of the Responsible Authority must be provided directing staff to the area set aside for staff car parking and must be located and maintained to the satisfaction of the Responsible Authority. The sign must not exceed 0.3 square metres.

19. The loading and unloading of goods from vehicles must only be carried out on the land.

20. Unless specified elsewhere in this permit, all parking spaces provided in association with a business, professional or commercial use shall be made available to the customers or clients of such use and shall not be restricted to the proprietors or employees, entirely or in part.

   Unless specified elsewhere in this permit, all parking spaces provided in association with a business, professional or commercial use shall remain available during the hours of operation of the particular business or activity and shall be made available to users free of charge.

Date: 5th October, 1998

Signature of the Responsible Authority

Planning & Environment Regulations 1988 Form 4.4
The Following Conditions Apply to this Permit

21. Before the development hereby permitted starts three copies of a site layout plan drawn to scale and dimensioned must be submitted to and approved by the Responsible Authority. The plan must show the proposed landscape treatment of the site including the location of all existing and proposed species. The plan must also include indigenous species and screen planting adjacent to the plant room. Planting adjacent to the property frontage must not exceed a height of 1 metre. When approved the plan will be endorsed and will then form part of the permit.

22. Prior to the use allowed by this permit starting or the occupation of the building hereby permitted, landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority and then maintained to the satisfaction of the Responsible Authority.

23. The location and details of signs shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

24. Signs must not contain any flashing light.

25. All signs must be constructed and maintained to the satisfaction of the Responsible Authority.

26. Signs must not be illuminated by external lights except with the written consent of the Responsible Authority.

27. The part of this permit relating to advertising signage expires four years after the date it is issued.

28. Once the development/use has started it must be continued and completed to the satisfaction of the Responsible Authority.

Permit Note:

- Building approval must be obtained prior to the commencement of the above approved works.
- Premises used for the sale or storage of food in any manner whatsoever are to be registered under the Food Act and require Council approval via the Chief Environmental Health Officer before occupation.
- Unless no permit is required under the planning scheme other signs must not be constructed or displayed without a further permit.
- The existing street tree/s must not be removed or damaged.
- Reticulated sewerage must be provided to the requirements of the Sewerage Authority.

Date: 5th October, 1998

Signature of the Responsible Authority
4.2 6 FERNHILL ROAD, SANDRINGHAM
SECONDARY CONSENT - APPROVE
APPLICATION NO: 2016/372/1 WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/35682

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Approve the secondary consent amended plans</th>
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<tbody>
<tr>
<td>Street address</td>
<td>6 Fernhill Road, Sandringham</td>
</tr>
<tr>
<td>Application No.</td>
<td>2016/372/1</td>
</tr>
<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>Zoning</td>
<td>General Residential Zone (Schedule 2)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 8)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
</tbody>
</table>

Proposal
Planning Permit 2016/372/1 allows:

construction of a three storey building containing 22 dwellings and 47 car spaces in the General Residential Zone Schedule 2 and Design and Development Overlay 8.

The application seeks approval to amend the endorsed plans pursuant to condition 2 of Planning Permit 2016/372/1 on a lot with an area of 1,606 square metres.

The proposed amendments is as follows:

- Relocation of the water meter assembly located in The Lower Ground Basement,
- Rearrangement of site services including electrical and booster cabinets located to front title boundary, and
- Modification to front fence to accommodate the rearrangement of site services.

The development plans are provided at Attachment 1.

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

History
Planning Permit 2016/372/1 (refer Attachment 3) was issued on 24 May 2017 at the direction of the Victorian Civil and Administrative Tribunal (VCAT).

Plans were endorsed (refer Attachment 4) by Council on 13 October 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 2016/372/1.
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 2016/372.
2. Plans identified as TP1.01 dated 21/12/2017, TP1.03 and TP2.00 dated 08/02/2018 prepared by Martin Friedrich Architects be endorsed. These plans are to be read in conjunction with the plans endorsed on 13 October 2017.
3. Plans identified as TP02 and TP04 Revision H prepared by Jack Merlo Design & Landscape and dated 13/03/2018 be endorsed. These plans are to be read in conjunction with the plans endorsed on 13 October 2017.
4. Sheet 3, 5, 8, 16 and 18 of the endorsed plans dated 13 October 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 amendment would provide for modifications to the site services within a basement level and to the streetscape. The changes are as a result of the siting requirements to the facilities associated with the relevant service providers.
Importantly, the proposed changes will not impact upon the circulation and safe entry and egress of vehicles in the basement level.
The changes to the first floor (located at grade), will not detrimentally impact upon the presentation of the dwelling to the streetscape or reduce the area required for landscaping.
No other changes to the overall building fabric are proposed. Accordingly, it is considered that the proposed change is minor in nature and will have no impact to the amenity of adjoining properties and will not cause material detriment to any third parties.
The proposed changes do not conflict with any permit conditions, objections raised in the application for which primary consent was granted for; and does not result in a transformation of the proposal.

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

The primary consent was issued at the direction of VCAT for the ‘Construction of a three storey building containing 22 dwellings and 47 car spaces in the General Residential Zone Schedule 2 and Design and Development Overlay 8’. 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 nature of the planning controls and policies affecting the land. It is considered that the changes are appropriate, will not detrimentally impact on the amenity of adjoining properties nor cause material detriment to any third parties.

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. Development Plans ↓
2. Sites and Surrounds Imagery ↓
3. Planning Permit 2016/0372/1 ↓
4. Endorsed Plans 2016/0372/1 ↓
Figure 1 Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
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<tbody>
<tr>
<td>Subject site</td>
</tr>
</tbody>
</table>
Figure 2 View towards the sites frontage from the east showing the adjoining neighbour at 4 Fernhill.

Figure 3 View towards the sites southern side boundary from the east.
PLANNING PERMIT
5/2016/372/1

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

Address Of The Land: No. 6 Fernhill Road SANDRINGHAM

The Permit Allows: Construction of a three storey building containing 22 dwellings and 47 car spaces in the General Residential Zone Schedule 2 and Design and Development Overlay 8 in accordance with the endorsed plans and subject to the following conditions.

The Following Conditions Apply To This Permit:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the substituted plans prepared by Martin Friedrich Architects (identified as TP0.00, TP0.01, TP0.02, TP0.03, TP0.04, TP0.05, TP0.06, TP1.00, TP1.01, TP1.02, TP1.03, TP1.04, TP1.05, TP2.00, TP2.01, TP3.00, TP3.01, TP3.02, TP3.04, TP4.00, TP4.01, TP5.00 and TP6.00 - all dated 17 January 2017 (Revision 3)) but modified to show:

(a) The dwelling schedule to be corrected notated and reflected on all plans.

(b) The finished floor levels of the Basement and Lower Ground level to be correctly notated and reflected on all plans.

(c) Storage cases in Basement and Lower Ground level to be correctly numbered.

(d) All obscured windows to be fixed to a height of 1.7 metres above finished floor level.

(e) The pool equipment relocated into the basement or positioned away from the south boundary so as to be no closer to the south boundary than the southern side of the pool.

(f) A notation that the boundary fence with 25 Sandringham Road to be replaced at the cost of the Permit Applicant/Permit Holder.

(g) A notation that the eastern most section of the boundary fence with 8 Fernhill Road extending to the step in the brickwork is to be replaced by a new fence with a height of 1.8 metres. The fence to be at the cost of the Permit Applicant/Permit Holder.

(h) A notation of the correct levels to the private open space of the adjoining property at 8 Fernhill Road, Sandringham.

(i) As necessary, the upper levels of the building set back further from the southern boundary to ensure that there is no additional shadowing of the small north western courtyard at 8 Fernhill Road in compliance with standard B21 of Clause 55. Revised shadow diagrams including a cross-section demonstrating compliance with the standard must be provided.

Date issued: 24 May 2017

Planning and Environment Regulations 2005 Form 4

Michael Henderson
Signature for the Responsible Authority

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
(j) The west facing window of Bedroom 2 in Dwelling 1.05 removed and replaced by either a solid wall or a highlight window.

(k) Appropriate child proof fencing for the spa and pool to be shown on the Roof Plan to comply with the Building Regulations.

(l) Any changes required to implement the Water Sensitive Urban Design Measures in accordance with Condition 7 of this permit.

(m) The clear width of the passing area at the top of the ramp be widen to 6.1m (as it abuts a wall on either side) in accordance with AS2890.1. A permit condition is required.

(n) 'Stop-Go' signals installed as per the recommendations in the GTA report.

(o) No gates to be installed within first 7m from the front property boundary.

(p) Details on how visitor parking would occur (i.e. intercom etc).

(q) Provision of a 5.5m wide new crossover with 0.6m offset from the northern property boundary along with a separator with adjoining crossing.

(r) If required, relocation of car space 43.

(s) The existing light pole and street light to be relocated to the south (within the subject site frontage) at applicants cost. Approval needs to be sought from United Energy first.

(t) Relocation of an existing Telstra pit outside of the new crossover at applicants cost. Approval needs to be sought from Telstra first.

(u) Any changes required to implement the Landscape Plan in accordance with Condition 12.

(v) Any changes required to implement the Waste Management Plan in accordance with Condition 20 of this permit.

(w) Any changes required to implement the Construction Management Plan in accordance with Condition 21 of this permit.

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

3 All plant and equipment to be located away from habitable room windows of the dwellings and the adjoining properties habitable rooms. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

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

Date issued: 24 May 2017

Signature for the Responsible Authority

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
5 Before occupation, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

6 The boundary fence with 25 Sandringham Road is to be replaced at the cost of the Permit Applicant/Permit Holder.

7 The eastern most section of the boundary fence with 8 Fernhill Road extending to the step in the brickwork is to be replaced by a new fence with a height of 1.8 metres. The fence to be at the cost of the Permit Applicant/Permit Holder.

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

9 Before the endorsement of Condition 1 plans, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plans 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.

10 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.

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

12 Before the occupation of the development starts, the area(s) set aside for vehicle parking and access ways must be constructed, drained and line marked to the satisfaction of the Responsible Authority. Such areas must be kept available for these purposes at all times.
13 Before the use starts, a traffic and parking management plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. Traffic and parking operations on and adjacent to the site must conform to this endorsed plan. Three copies of the plan must be submitted. The plan must be generally in accordance with the basement plan dwg no. and include:

(a) The allocation of car parking spaces to each apartment with the building.
(b) The allocation of visitor car parking spaces.
(c) Detailed longitudinal sections of the proposed ramps that show all levels, headroom etc.

14 Before the development starts, Landscape Plans generally in accordance with the Landscape Plans prepared by Jack Merlo Design and Landscape (TP01, TP02, TP03, TP04, TP05 and TP06 all dated 17.02.17 and marked Revision P) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must be similar to the one referred to above but modified to replace the Climbing Star Jasmine and to accommodate all changes required under this permit.

15 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.

16 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.

17 A Tree Protection Fence is for the protection of the replacement street tree’s canopy and root zone. Conditions for street tree protection fencing during development are as follows:

(a) Fencing is to be secured and maintained prior to demolition and until all site works are complete.
(b) Fencing must be installed to comply with AS 4970–2009, Protection of trees on development sites.
(c) Fencing should encompass the Tree Protection Zone (TPZ) for all street trees adjacent to the development.
(d) Fencing is to be constructed and secured so its positioning cannot be modified by site workers.
(e) If applicable, prior to construction of the Council approved crossover, TPZ fencing may be reduced to the edge of the new crossover to facilitate works.
(f) Any installation of services and drainage within the TPZ must be undertaken using root sensitive non-destructive techniques.
18 Before the development starts, including any related demolition or removal of vegetation, a Tree Management Plan (report) and Tree Protection Plan (drawing), to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority. The Tree Management Plan must be specific to the trees shown on the Tree Protection Plan, in accordance with AS4970-2009, prepared by a suitably qualified arborist and provide details of tree protection measures that will be utilised to ensure all trees to be retained remain viable post-construction. Stages of development at which inspections are required to ensure tree protection measures are adhered to must be specified. The Tree Protection Plan must be in accordance with AS4970-2009, be drawn to scale and provide details of:

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

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

19 All protection measures identified in the Tree Management and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction of the Responsible Authority. A tree protection fence is for the protection of a tree's canopy and root zone. Conditions for street tree protection fencing during development are as follows:

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

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

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

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

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

(f) Prior to soil excavation for a Council approved crossover within the TPZ a trench must be excavated along the line of the crossover adjacent to the tree using root sensitive non-destructive techniques. All roots that will be affected must be correctly pruned.

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

21 Before the commencement of any works, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council’s Infrastructure Assets Department.
PLANNING PERMIT
5/2016/372/1

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

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

23 Before the commencement of any works, a Waste Management Plan (generally in
compliance the Waste Management Plan author Solution Traffic Engineers dated April 2016)
must be submitted to and approved by the Responsible Authority. The Waste Management
Plan must clearly indicate that waste collection is to be via a private contractor, not Council.
When approved, the plan will be endorsed and will then form part of the permit. Waste
collection from the development must be in accordance with the plan, to the satisfaction of
the Responsible Authority.

24 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 must thereafter be complied with.

25 This permit as it relates to development (buildings and works) will expire if one of the
following circumstances applies:
(a) The development is not started within two (2) years of the issue date of this permit.
(b) The development is not completed within four (4) years of the issue date of this permit.

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

Permit Notes:

• A permit must be obtained from Council for all vehicular crossings. These must be
constructed under Council’s supervision for which 24 hours’ notice is required.
• This permit does not constitute any authority to carry out any building works or
occupy the building or part of the building unless all relevant building permits are
obtained.
• Prior to commencement of any building works, an Asset Protection Application must
be taken out. This can be arranged by calling Asset Protection Administrator on 9599
4638.
**PLANNING PERMIT**

**IMPORTANT INFORMATION ABOUT THIS PERMIT**

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

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

**WHEN DOES A PERMIT EXPIRE?**
1. A permit for the development of land expires if:
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act
     1988 and the plan is not certified within two years of the issue of the permit, unless the permit contains a
different provision; or
   * the development or any stage is not completed within the time specified in the permit, or, if no time is specified,
     within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of
     the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.
2. A permit for the use of land expires if:
   * the use does not start within the time specified in the permit, or if no time is specified, within two years after the
     issue of the permit; or
   * the use is discontinued for a period of two years.
3. A permit for the development and use of land expires if:
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development or any stage of it is not completed within the time specified in the permit, or, if no time is
     specified, within two years after the issue of the permit; or
   * the use does not start within the time specified in the permit, or, if no time is specified, within two years after the
     completion of the development; or
   * the use is discontinued for a period of two years.
4. If a permit for the use of land or the development and use of land or relating to any of the circumstances
   mentioned in section 6A(2) of the Planning and Environment Act 1987, or to any combination of use,
   development or any of those circumstances requires the certification of a plan under the Subdivision Act 1988,
   unless the permit contains a different provision:
   * the use or development of any stage is to be taken to have started when the plan is certified; and
   * the permit expires if the plan is not certified within two years of the issue of the permit.
5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

**WHAT ABOUT APPEALS?**
* The person who applied for the permit may apply for a review of any condition in the permit unless it was granted
  at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of review exists.
* An application for review must be lodged within 60 days after the permit was issued, unless a notice of decision to
  grant a permit has been issued previously, in which case the application for review must be lodged within 60 days
  after the giving of that notice.
* An application for review is lodged with the Victorian Civil and Administrative Tribunal.
* An application for review must be made on an Application for Review form which can be obtained from the
  Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
* An application for review must state the grounds upon which it is based.
* An application for review must also be served on the Responsible Authority.
* Details about applications for review and the fees payable can be obtained from the Victorian Civil and
  Administrative Tribunal.
WASTE MANAGEMENT PLAN

Proposed Development:
6 Fernhill Road, Sandringham, Victoria

Prepared for:
B sidesix Pty Ltd

PLANNING AND ENVIRONMENT ACT 1987
BAYSIDE PLANNING SCHEME

This plan complies with Condition No. 1
Planning Permit: 2016/372/1 Sheet: 21 of 21
(sheets 1-12)
Issued: 24 May 2017 Endorsed: 13 October 2017

Document Control

Report Date: 27 July 2017 (supersedes report dated 13-5-16)
Prepared By: Carlos Leigh, GradIEAust

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1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Support the Grant of a Permit</th>
</tr>
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<tbody>
<tr>
<td>Applicant</td>
<td>Ratio Consultant Pty Ltd</td>
</tr>
<tr>
<td>Title/Covenant</td>
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</tr>
<tr>
<td>Date application received</td>
<td>26 June 2017</td>
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<tr>
<td>Current statutory days</td>
<td>179 days</td>
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<tr>
<td>Zoning</td>
<td>General Residential Zone (Schedule 2)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 10)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Over (Schedule 1)</td>
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<tr>
<td>Number of objections</td>
<td>23</td>
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<td></td>
<td>12 objecting parties to the appeal</td>
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</table>

Proposal

To report an in-principle agreement reached by all parties at a VCAT Compulsory Conference for the construction of ten dwellings with basement car parking on a lot with an area of 1,273 square metres at 17 Rooding Street, Brighton.

The outcome of the first Compulsory Conference was to amend the plans and issue a planning permit. In the interim period between the Compulsory Conferences, the permit applicant formally amended the plans on 1 March 2018.

A detailed list of all changes are included at Attachment 4 but are summarised as follows:

- Consolidation of dwellings TH-05, TH-06 and TH-07 into two dwellings (TH-05 and TH-06); reducing the total number of dwellings from eleven to ten;
- Basement access ramp widened at entry to accommodate a waiting area;
- Increased to basement setbacks to the north-east and western boundaries to improve landscaping opportunities;
- Stair/lift lobbies introduced at the northern and southern ends of the basement level;
- Reduction of two car parking spaces to reflect a reduction in the number and type of dwellings;
- Common walkway relocated along to western site boundary adjacent to 15 Rooding Street (subject to a recent approval by the Planning and Amenity Committee Meeting on 27 February 2018 2017/565/1);
- Setback to Rooding Street reduced by 1 metre from 6.2 metres to 5.2 metres;
• Increased setbacks to the northern and western site boundary at ground and first floor levels;
• Increased first floor setbacks to TH-05 and TH-06;
• New entry lobby and access stairs from basement relocated further away from the northern boundary;
• Feature canopies to entry doors and consequential changes to internal layouts;
• 1.8m high obscured glass to southern windows; and
• Front fence height reduced to 1.5 metres.

The outcome of the second Compulsory Conference on 8 March 2018 was to include the following changes via Conditions of permit:

• Alteration of planting along the northern site boundary (refer Condition 1(b));
• Deletion of the first floor level associated with TH-10 resulting in the provision of a single level dwelling, 1 bed dwelling (Condition 1(c));

The application plans are provided at Attachment 1, with further changes to these plans recommended as conditions of permit.

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

History

At the Planning and Amenity Committee Meeting on 21 December 2017 Council considered an application for the development of the construction of eleven, two storey townhouses with basement car parking and a front fence exceeding a height of 1.5 metres. Council determined to Not Support the proposal in accordance with officer’s recommendation on the following grounds:

1. The proposed development fails to meet the vision of the Bay Street Major Activity Centre (Clause 21.11-2 of the Bayside Planning Scheme) to retain its spacious and leafy character and appropriately integrate new housing within the streetscape.

2. The proposal fails to respond to the objectives of Clause 22.06 (Neighbourhood Character, Precinct B1) 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 maintain and enhance the garden settings of dwellings.
   c) The scale, siting and boundary setbacks of the proposal fail to complement the built form character, resulting in an outcome which dominates the streetscape.

3. 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 B3 – Dwelling Diversity – the proposal fails to provide a range of dwelling sizes and types.
   c) Standard B5 – Integration with the Street – the proposal fails to integrate the layout and proposed built form within the streetscape.
   d) Standard B6 – Street Setback – The proposed front setbacks are proposed at 6.21m and 5.91m to ground and first floor respectively in lieu of 6.72m.

f) Standard B12 – Safety – The proposed layout fails to provide safety and security for residents.

g) Standard B13 – The proposed development fails to provide sufficient post-construction landscaping and protect existing vegetation on adjoining properties.

h) Standard B14 – Access – The proposed access arrangements fails to ensure safe and convenient access to and from the development.

i) Standard B17 – Side and Rear Setbacks
   - The ground floor rear (northern setback) is proposed at 1.67 metres in lieu of 2 metres.
   - The proposed setbacks to the southern boundary to the rear of 13 and 15 Rooding Street are proposed at 1.15m and 1.22m in lieu of 2m.

j) Standard B22 – Overlooking – the proposal may result in unreasonable views being gained into habitable room windows and private open space areas located on the adjacent land without appropriate limitation.

k) Standard B23 – Internal Views – the proposal may result in unreasonable overlooking between adjoining properties within the development.

l) Standard B26 – Dwelling Entries – the proposed entries fail to provide a sense of address or a transitional space around each entry.

m) Standard B28 – Private Open Space – The proposal fails to meet a minimum overall area of 40 square metres of private open space for all townhouses.

n) Standard B29 – Solar Access to Open Space – the proposal fails to allow solar access into the secluded private open space for all townhouses.

o) Standard B30 – Storage – the development fails to provide adequate on-site storage for each townhouse.

p) Standard B31 – Design Detail – the proposal fails to adopt any design details of the existing and preferred neighbourhood character.

q) Standard B32 – front fences – the proposal exceeds the preferred fence height and does not facilitate open views to complement the gardens setting.

4. The application fails to afford a suitable level of internal amenity for future residents by way of the poor pedestrian accessway, excessive use of screening and inadequate dwelling layout.

5. The application fails to ensure that vehicles can safely egress to and from the site and manoeuvre within the site in accordance with Clause 52.06 (car parking) of the Bayside Planning Scheme.

The plans previously considered by the Planning and Amenity Committee meeting are provided at Attachment 3.

VCAT

The applicant lodged an appeal under Section 79 of the Planning and Environment Act 1987 with the Victorian Civil and Administrative Tribunal (VCAT) against Council’s failure to grant a permit. VCAT directed a Compulsory Conference be held on 20 February 2018, this was attended by the permit applicant, a Council Officer and representatives for 12 objecting parties to the appeal. An in-principle agreement was tentatively reached between all
parties and the permit applicant gave an undertaking that amended plans may reflect in-principal changes reached by all parties. The Compulsory Conference was adjourned and scheduled to recommence on 8 March 2018.

The outcome of the first Compulsory Conference was to amend the plans and issue a planning permit. In the interim period between the Compulsory Conferences, the permit applicant formally amended the plans on 1 March 2018.

A detailed list of all changes are included at Attachment 4 but are summarised as follows:

- Consolidation of dwellings TH-05, TH-06 and TH-07 into two dwellings (TH-05 and TH-06); reducing the total number of dwellings from eleven to ten;
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- Stair/lift lobbies introduced at the northern and southern ends of the basement level;
- Reduction of two car parking spaces to reflect a reduction in the number and type of dwellings;
- Common walkway relocated along to western site boundary adjacent to 15 Rooding Street (subject to a recent approval by the Planning and Amenity Committee Meeting on 27 February 2018 2017/565/1);
- Setback to Rooding Street reduced by 1 metre from 6.2 metres to 5.2 metres;
- Increased setbacks to the northern and western site boundary at ground and first floor levels;
- Increased first floor setbacks to TH-05 and TH-06;
- New entry lobby and access stairs from basement relocated further away from the northern boundary;
- Feature canopies to entry doors and consequential changes to internal layouts;
- 1.8m high obscured glass to southern windows; and
- Front fence height reduced to 1.5 metres.

The outcome of the second Compulsory Conference on 8 March 2018 was to include the following changes via Conditions of permit:

- Alteration of planting along the northern site boundary (refer Condition 1(b));
- Deletion of the first floor level associated with TH-10 resulting in the provision of a single level dwelling, 1 bed dwelling (Condition 1(c));

The amended plans, subject to the above conditions, were agreed to by all parties at the reconvened Compulsory Conference.

These conditions are included at Condition 1 of the recommendation. The effect of these additional changes are included at Attachment 5 for clarity.

If Council agrees to support the recommendation below then a planning permit will be issued by VCAT which contains, unchanged, all of the conditions in the recommendation section of this report which have been agreed to by all parties to the appeal.

Alternatively, should Council determine to not support the issue of a permit, then the application plans (Attachment 1) will proceed to a VCAT merits hearing scheduled on 9 April 2018 for three days and will not include the further amendments agreed to by the objecting parties to the appeal.
2. **Planning controls**

**Planning permit requirements**

A planning permit is required pursuant to:

- Clause 32.08 - General Residential Zone, Schedule 2 (GRZ2) - Construction of two or more dwellings on a lot and construction of a front fence exceeding 1.5 metres.

**Planning scheme amendments**

There are no planning scheme amendments relevant to this proposal.

3. **Stakeholder consultation**

**External referrals**

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

**Internal referrals**

The amendments agreed at the Compulsory Conference required further comment from internal referrals as indicated below.

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

<table>
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<tr>
<th>Internal Referral</th>
<th>Response</th>
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<tbody>
<tr>
<td>Arborist</td>
<td>Amended plans: No objection subject to conditions.</td>
</tr>
<tr>
<td>Street Tree Arborist</td>
<td>Amended plans: No objection subject to conditions.</td>
</tr>
<tr>
<td>Drainage Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Property Officer</td>
<td>Provided street addressing details should a permit issue.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>Amended plans: No objection subject to conditions.</td>
</tr>
<tr>
<td>Waste Management Officer</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

**Public notification**

The application was advertised pursuant to Sections 52(1)(a) and (d) of the *Planning and Environment Act 1987* and 23 objections were received. The following concerns were raised:

- Neighbourhood character;
- Overdevelopment;
- Overlooking;
- Traffic volumes;
- Car parking, on-site and reduced on-street parking availability;
- Waste collection;
- Noise and light pollution;
- On-site storage;
- Pressure on infrastructure within the area;
- Loss of rental income; and
- Errors included in the application material.

Consultation meeting

Details of Council’s consultation process are detailed in the Planning and Amenity Committee Meeting Council Agenda on 21 December 2017 (Item 4.4, Section 3).

4. **Recommendation**

That Council resolve to:

Determine to **Support** the application under the provisions of the Bayside Planning Scheme in respect of **Planning application 2017/396/1** for the land known and described as **17 Rooding Street, Brighton**, for the **construction of ten dwellings on a lot** in accordance with the ‘Amended Plans’ prepared by Artisan Architects TP00 to TP08 (inclusive) all Rev C and dated 1 March 2018 and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the Amended Plans prepared by Artisan Architects TP00 to TP08 (inclusive) all Rev C and dated 2 March 2018 but modified to show:

   a) A notation on the plans that the existing boundary fences adjoining numbers 22 Cowper Street and 17-19 Asling Street are to be retained and / or rebuilt to the existing conditions.

   b) The proposed landscaping along the northern boundary is to be altered to replace the two large Fantasy Crepe Myrtle tree adjoining 18 and 22 Cowper Street with an evergreen variety;

      And;

      The replacement of the two Frontam Frontier Callery Pear trees and Ornamental Pear trees at the boundary with 16 Cowper Street with 4 Express Lilly Pilly trees.

   c) Townhouse 10 be converted to a single level dwelling within the existing footprint of the dwelling.

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

   e) The construction of a 6.4 metre wide crossover central to the accessway.

   f) The waiting bay to be a minimum length of 5 metres from the southern title boundary increasing to a length of 7.5 metres from the southern title boundary adjacent to the main basement access ramp with the area appropriately splayed. Any consequential changes to facilitate the requirements of the waiting bay area are to the satisfaction of the Responsible Authority.

   g) The ramp gradients within the splayed area of the waiting bay to match the main driveway ramp gradients.

   h) An amended Landscape Plan in accordance with Condition 7.

   i) A Tree Protection and Management Plan in accordance with Condition
10. Any consequential changes to facilitate the requirements of the Tree Protection and Management Plan are to the satisfaction of the Responsible Authority.

j) Drainage Contributions Levy Charge in accordance with Condition 16.

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 buildings without the written consent of the Responsible Authority.

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

6. Before occupation, screening of windows including fixed privacy screens, be designed to limit overlooking as required by Standard B22 and Standard B23 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

7. Prior to the endorsement of plans pursuant to Condition 1, an amended landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the Landscape Plan prepared by Urbis ND2134 LA-01 & LA02, dated 2 March 2018 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) The proposed landscaping along the northern boundary is to be altered to replace the two large Fantasy Crepe Myrtle tree adjoining 18 and 22 Cowper Street with an evergreen variety;

And;

The replacement of the two Fronzam Frontier Callery Pear trees and Ornamental Pear trees at the boundary with 16 Cowper Street with 4 Express Lilly Pilly trees.

b) All plants in the landscape plan must be coastal adapted; preferentially indigenous species.

c) Details of construction methods and Tree Management measures approved pursuant to the requirements of Condition 10 of this permit.

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

e) Details of surface finishes of pathways and driveways

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

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

10. Before the development starts, 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) Details of Tree Protection Zones for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site;
b) Comment on methods to be utilised and instruction on how to deploy them;
c) Comment on when the protection measures are to be deployed;
d) Comment on when the protection measures can be modified;
e) Process that will be followed if any damage occurs to a tree;
f) Process that will be followed if construction works require alteration to protection measures outlined in report; and
g) Stages of development at which inspections will occur.

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

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

The Tree Protection Plan must be drawn to scale and show:

a) The location of all tree protection measures to be utilised, specifically the *Schinus aeria* (Peppercorn Tree) at 13 Rooding Street.
b) If tree protection measures are proposed to be changed during the development, one plan for each stage of tree protection measures must be submitted.

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

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

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

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

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

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

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

14. 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.

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

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

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

17. Before the commencement of works, 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.

18. 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.
p) Traffic management measures to comply with provisions of AS 1742.3-
2009 Manual of uniform traffic control devices – Part 3: Traffic control
devices for works on roads.

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.

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

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

Permit notes

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

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

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

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

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

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

• Before the vehicle crossing application will be approved, the applicant must
  pay $1,635.69 to the Responsible Authority for the removal and replacement
  of the existing street tree. This amount has been determined in accordance
  with Council’s current policy for the removal of street trees. This amount may
  be increased by the Responsible Authority if an extension of time to
  commence work is granted and the amenity value of the street tree has
  increased. The Responsible Authority, or a contractor or agent engaged by
  the Responsible Authority, must undertake the removal and replacement of
  the street tree. Any replacement planting will be at the discretion of the
  responsible authority.

5. Council Policy

Council Plan 2017-2021

Relevant strategies of the Council plan include:

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

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

Relevant strategies of the Council plan include:
- Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.

**Bayside Planning Scheme**
- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.11 Local Areas (Bay Street Major Activity Centre Area)
- Clause 22.06 Neighbourhood Character Policy
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.08 General Residential Zone (Schedule 2)
- Clause 43.02 Design and Development Overlay (Schedule 10)
- Clause 45.06 Drainage Contributions Plan Overlay
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

6. **Considerations**

Justification in respect of the Strategic Considerations are detailed in Item 4.4 of the Planning and Amenity Committee Meeting Agenda for 21 December 2017.

6.1. **Amended Plans Assessment**

This report will detail how the amended plans at Attachment 1 and further requirements of Condition 1 respond to the previous Grounds for Refusal and relevant planning policies.

**Grounds for Refusal 1 and 2**

Council previously contended that the proposed development failed to meet the vision of the Bay Street Major Activity Centre (Clause 21.11-2 of the Bayside Planning Scheme) as the development did not retain the spacious and leafy character and appropriately integrate new housing within the streetscape.

The second ground for refusal focused on the development failing to respond to the existing and preferred neighbourhood character objectives for Neighbourhood Character Precinct B1. Council previously considered the development failed to achieve an acceptable garden setting while the scale and proposed setbacks resulted in a built form that would dominate Rooding Street.

The revised proposal adopts a smaller building footprint and increases the side and rear setbacks of the building from all adjoining property boundaries. The proposed basement level has also been reduced in size, with increased setbacks to the north-eastern and north-western corner of the site.

The increase to soil volumes along the side and rear boundaries allows landscaping to wrap around the site perimeter and soften the presentation of the remaining built form to the streetscape and abutting properties.
Further to this, the increased setbacks of the basement provides a high level of comfort that the *Schinus aeria* (Peppercorn Tree) located within the rear setback of 13 Rooding Street will not be impacted as a result of the proposed development. The retention of this tree is further facilitated by the deletion of the first floor associated with TH-10 and will prevent conflict between the tree canopy and the roof / gutting of the proposed dwellings.

The proposed inclusion of the waiting bay and the reduction of the front setback from 6.2 metres to 5.2 metres at ground and first floor is offset with an increase in the setback of the basement from the street frontage. This unobstructed setback now provides a sufficient soil volume and area to establish canopy trees. The applicant has nominated two canopy trees for this setback but conditions of permit have been included to require the suitability of these plantings to be further reviewed to the satisfaction of the Responsible Authority.

The introduction of a 6.4 metre wide crossover and associated waiting bay introduces a larger area of hard standing to the streetscape that was not previously contemplated by Council. Whilst this is not ideal from a neighbourhood character perspective, it is not uncommon along the Rooding Street streetscape with narrow lots dominated by single width crossovers, wider plots often featuring two single or one double width crossovers. This trend, in-part, is a result of the narrow width of Rooding Street (approximately 6 metres wide) necessitating off-street car parking and wide crossovers for ease of access and manoeuvrability. This response has compromised the street scene to a degree and resulted in an emerging trend of pedestrian and traffic safety taking precedence over preferred neighbourhood character objectives to limit the dominance of car parking structures. The acceptability of this response from a traffic and safety aspect is discussed in greater detail at Ground for Refusal 5.

The amended plans also introduce an entry lobby to the western boundary of the subject site. This element provides a sense of address to the residential development and coupled with the reduced front fence height of 1.5 metres, which now incorporates visually permeable elements, contributes to a more open streetscape and provides opportunities for passive surveillance.

The amended plans and further conditions agreed via the VCAT Compulsory Conference process have addressed these concerns through a reduction in the scale and massing of the built form, improved articulation provided by increased side and rear boundary setbacks (at all levels) and the introduction of further opportunities for landscaping, particularly to the front setback, along the perimeter of the site and interspersed throughout the site. These changes have resulted in a finer grain development and a well-composed design which now makes an acceptable fit within the streetscape.

The proposed changes are considered to satisfactorily respond to these grounds for refusal.

**Ground for Refusal 3**

The third ground for refusal in respect of the original application related to the development's non-compliances with the Objectives and Standards of Clause 55 of the Bayside Planning Scheme. Each of the standards that Council relied upon are discussed below:

a) **Standard B1 – Neighbourhood Character** – Refer to discussion associated with Ground 1 and 2.

b) **Standard B3 – Dwelling Diversity** – The proposal introduces a revised mix of dwellings from that previously proposed with the proposed. The requirements of Condition 1(C) will result in the provision of 7 no. x 3 bed dwellings, 2 no. x 2 bed dwellings and 1 no. x 1 bed dwelling. The proposed schedule of accommodation provides for a diversity of dwellings types and sizes with at least one dwelling that contains a kitchen, bath or shower, and a toilet and wash basin at ground floor.
level to assist with disability access. The proposed changes in dwelling mix provides for a range of affordability within the community.

c) **Standard B5 – Integration with the Street** – The proposed amendments relocate the pedestrian accessway and introduce an entry lobby area. These elements provide a ‘sense of address’ to Rooding Street for those dwellings located further from the street frontage. The reduction in the front fence height further allows for the development and associated landscaping to contribute to the streetscape in a meaningful manner.

d) **Standard B6 – Street Setback** – The amended proposal seeks a front setback of 5.21 metres at both ground and first floor. This fails to meet the 6.27 metres front setback requirements (as dedicated by the front wall of the current adjoining property at 15 Rooding Street). The proposed variation is acceptable and meets the objectives of this Standard on the basis that the gable wall to 15 Rooding Street is setback approximately 3.5 metres from the site frontage. The side setback associated with the childcare centre at 13-15 Asling Street is setback 3.06 metres and therefore the proposal provides for an acceptable transition between the abutting built forms.

The proposed street setback does not disturb the street rhythm of Rooding Street and the provision of improved opportunities for landscaping forward of the built form would soften any perception of visual bulk to the streetscape.

It is further noted the Notice of Decision Granted by the Planning and Amenity Committee at its meeting on 27 February 2018 for the apartment development at 15 Rooding Street (2017/565/1) approved a setback of 5.6 metres which is comparable to the proposed variation.

e) **Standard B10 – Energy Efficiency** – The revised plans relocates the garden areas associated with the dwellings to the eastern and northern site boundaries. The relocation of the pedestrian access path along the shorter perimeter of the site provides for improved pedestrian access and makes appropriate use of northern solar access. Further, the increased setbacks ensure the energy efficiency of existing dwellings on adjoining lots is suitable maintained.

f) **Standard B12 – Safety** – The revised layout now satisfies the safety objectives of this Standard through the incorporation of an entry lobby to the western site boundary. This revised design response now presents the entry point to be easily recognisable from streetscape. The reduced length of the gun-barrel access way coupled with some level of passive surveillance to the area also demonstrates a high level of safety for future residents of the building. The inclusion of a second pedestrian access point from the basement level also improves the internal access arrangements for future residents.

g) **Standard B13 – Landscaping** - As per the comments outlined in the discussion for Grounds 1 and 2, the proposed development now provides an appropriate level of landscaping within the front setback and along the perimeter of the site. The reduction in the extent of the basement area to the western site boundary and the deletion of the first floor level associated with TH-10 allows for the successful retention of the *Schinus aeria* (Peppercorn Tree) located within the rear setback of 13 Rooding Street. Conditions 7 and 10 require management plans for the successful retention of trees on adjoining property boundaries.

h) **Standard B14 – Access** – The amended plans now provide for safe access arrangements. Refer to Ground for Refusal 5 for further discussion.

i) **Standard B17 – Side and Rear Setbacks** - The revised proposal now provides full compliance (and exceeds) the requirements of this Standard as detailed in the below table.
<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>East (side)</td>
<td>0,1m</td>
<td>5m</td>
<td>1.93m to 2.94m</td>
</tr>
<tr>
<td>West (side)</td>
<td>0,1m</td>
<td>0m to the entry lobby</td>
<td>1.87m to TH-01 to TH05 walls</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2.8m to TH-01 to TH05 walls</td>
<td>2.09m to the western wall of TH-09.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3.5 to TH-10</td>
<td>1.87m to TH-01 to TH05 walls</td>
</tr>
<tr>
<td>North (rear)</td>
<td>0, 2m</td>
<td>3m to 3.5m</td>
<td>1.78m to the northern wall of TH-06.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2.13m to the northern wall of TH-07 to TH-09</td>
</tr>
<tr>
<td>South</td>
<td>0, 2m</td>
<td>2.1m to 3m</td>
<td>1.66m to 1.78m to the southern walls of TH-07 to TH-09</td>
</tr>
</tbody>
</table>

j) Standard B22 – Overlooking – All windows have now been screened in accordance with this Standard.

k) Standard B23 – Internal Views – All windows have now been screened in accordance with this Standard.

l) Standard B26 – Dwelling Entries – The development continues to front Rooding Street but has been amended to relocate the pedestrian pathway and dwelling entries to the western and southern site boundary. The introduction of an entry lobby area provides security and a sense of address to the development whilst the individual dwelling entries are defined by being inset from the boundary and appear to have a pergola structure over. This arrangement reduces the walking distance to each dwelling from that previously proposed, creates a personal sense of address and a transitional space sought by this Standard.

n) Standard B28 – Private Open Space – The proposal fails to meet a minimum overall area of 40 square metres of private open space for all townhouses but does provide a minimum of 25 square metres of secluded private open space for each dwelling. The larger garden areas are a result of increased side and rear setbacks and a reduction in the number of dwellings.

The proposed landscaping along the northern boundary is to be altered to replace the two Lagerstroemia indica ‘Fantasy’ (Fantasy Crepe Myrtle) trees adjoining 18 and 22 Cowper Street with an evergreen variety and the replacement of the two Pyrus calleryana ‘Fronzam Frontier’ (Fronzam Frontier Callery Pear) trees and Pyrus calleryana ‘Capital’ (Ornamental Pear) trees at the boundary with 16 Cowper Street with 4 Syzygium austrake ‘Pinnacle’ (Express Lilly Pilly) trees. A condition of permit required an emphasis on all other vegetation to be indigenous.

n) Standard B29 – Solar Access to Open Space – The amended plans now locates areas of secluded private open space to the northern and eastern boundaries which will maximise solar access to the larger areas of secluded private open

Item 4.3 – Matters of Decision
space afforded to each dwelling. The amended plans ensures the useability and amenity of these areas now meet the objectives of this Standard.

o) Standard B30 – Storage – The amended plans now provide convenient access to secure storage with a minimum capacity of 6 cubic metres storage within the basement

p) Standard B31 – Design Detail – This ground has now been addressed further to the discussion at Grounds 1 and 2.

q) Standard B32 – Front Fences – This ground has now been addressed further to the discussion at Grounds 1 and 2.

Ground for Refusal 4
This ground has been addressed through the reduction in the number of dwellings, the resultant increase to the side and rear setbacks, the relocation of the dwelling entries and the introduction of the lobby area. These aspects are discussed in further detail at Ground 1, 2 and 3.

Ground for Refusal 5
The amended plans now relocate the vehicular access point to the eastern site boundary and features a waiting bay for car entering the property. The waiting bay, in conjunction with the signal system proposed, allows any vehicles entering the site to prop within this area as opposed to within Rooding Street (approximately 6 metres wide). This system will facilitate more efficient traffic movements within a congested street and reduce opportunities for pedestrian conflicts which is particularly important adjacent to a childcare centre. It is acknowledged this introduces a greater area of hard standing to the street frontage but when balanced with pedestrian and vehicular safety, this proposed amendment is considered an acceptable design response.

Council’s Traffic Engineer has reviewed the proposed amendments and consents to the proposed arrangements subject to a condition increasing the setback to the ground floor bedroom of TH-01 to facilitate ease of access from the waiting bay to the access ramp. The effect of these changes are shown at Attachment 5.

The proposed number of car parking spaces are fully compliant with the requirements of Clause 52.06-5 and is not envisaged that this will result in any requirements for on-street car parking.

<table>
<thead>
<tr>
<th>Use</th>
<th>Quantity</th>
<th>Rate</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resident</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 x 1 bed townhouse</td>
<td>1 per dwelling</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>2 x 2 bed townhouses</td>
<td>1 per dwelling</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>7 x three bed townhouses</td>
<td>2 per dwelling</td>
<td>14 (7 x tandem)</td>
<td>Total: 17</td>
</tr>
</tbody>
</table>

| Visitor   | 10 townhouses | 1 per 5 dwellings | 2             | 2             |

| Total     | 19             | 19               |             |

The revised access arrangements result in the removal of the street tree. Council’s Street Tree Arborist has no objection to the removal of this tree.

For the reasons outlined in this report it is concluded that the proposed changes appropriately respond to Council’s Grounds for Refusal and have been mediated to
reach an agreed position with the objecting parties to the appeal. For the reasons set out in the report it is recommended that the proposed amendments are accepted.

Support Attachments

1. Amended Application Plans ↓
2. Site and Surrounds Imagery ↓
3. Plans Previously Considered by Council ↓
4. Statement of Changes ↓
5. Draft Plans Giving Effect to the Recommended Conditions ↓
Figure 1. Aerial Overview of subject site and objector map. Please note some objectors have been received from beyond the map boundaries.

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th>⭐</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objectors</td>
<td>⚫</td>
</tr>
</tbody>
</table>
Figure 2: View of the subject site.
Figure 3: View of the adjoining childcare centre and the subject site.
Figure 4: View of the adjoining child care centre from Asling Street.
Figure 5: View of the adjoining property at 15 Rooding Street.
Figure 6: View of the opposite property at 32 Rooding Street.
Figure 7: View of opposite properties at 1 & 2/32 Rooding Street.
Figure 8: View of four dwelling development under construction at 11 Asling Street (corner of Asling and Rooding Street).
Plans previously considered by Council
Project: 17 Rooding Street, Brighton

WITHOUT PREJUDICE

Statement of changes: VCAT 2nd Compulsory Conference

This statement of changes sets out the difference between the plans previously considered by Council and plans now amended. It is considered that the amended plans result in a further improved planning outcome.

SUMMARY OF CHANGES/RESPONSE TO DRAWINGS

<table>
<thead>
<tr>
<th>Drawings</th>
<th>Response/Changes made:</th>
</tr>
</thead>
</table>
| TP00 Rev C  
Site Plan | Roof Plan updated |
| TP01 Rev C  
Ground Floor | Carpark ramp and Residential entry relocated.  
Carpark ramp widened at entry to accommodate a waiting area.  
Front fence height reduced to 1.5m  
New entry lobby introduced.  
Stair structure from basement relocated further away from the Northern boundary.  
Setback to street from TH01 reduced by 1m.  
Common walkway relocated along No 15 Rooding Street.  
3m setback introduced along the northern boundary.  
Previous TH05/06/07 consolidated into two townhouses.  
New TH10: further setbacks introduced from the western and southern boundaries.  
Feature canopies added to entry doors.  
General unit layouts revised. |
| TP02 Rev C  
Level 1 | Previous TH05/06/07 consolidated into two townhouses.  
A setback of 4.5m from the eastern boundary introduced to the new TH05/06.  
Setback from Northern boundary TH06-10 increased.  
Setback to street from TH01 reduced by 1m.  
General layouts revised as per new setbacks and siting of buildings.  
Feature canopies added to entry doors. |
| TP03 Rev C  
Basement | Carpark ramp relocated.  
Stair/lofts lobbies introduced at the northern and southern ends.  
2no parking spaces deleted.  
AC condensers are now accommodated in basement.  
All storage cages are grouped together in one location.  
General parking arrangement revised. |
| TP04 Rev C  
Roof Plan | General layouts revised to follow the lower levels |
| TP05 Rev C  
Sections | General revisions to match the changes on plans.  
Block B Level 1 RL amended. |
| TP06 Rev C  
Block A - Elevations | General revisions to match the changes on plans.  
Screening added to eastern façade. |
| TP07 Rev C  
Block B - Elevations | General revisions to match the changes on plans.  
1.8m high obscured glass to southern windows.  
Block B Level 1 RL amended. |
| TP08 Rev C  
External finishes schedule | Tilt block updated |
4.4  2 GRAHAM ROAD, HIGHE
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/687/1  WARD: CENTRAL

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/60522

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>Lot 24 on Plan of Subdivision 018998</td>
</tr>
<tr>
<td></td>
<td>The title is not subject to any restrictive covenants</td>
</tr>
<tr>
<td>Date application received</td>
<td>1 November 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>140 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone (Schedule 1)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 2)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>4</td>
</tr>
</tbody>
</table>

Proposal
The application seeks construction of three double-storey dwellings on a lot and a front fence exceeding 1.2 metres in height on a lot with an area of 867 square metres. Key details of the proposal are as follows:

- Number of dwellings: Three
- Building height in metres and storeys: 8.7 metres, two storeys
- Site coverage: 50%
- Permeability: 42%
- Car spaces total: Six (6)

The application plans are provided at Attachment 1.

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

History
There is no planning permit history relevant to this application.

2. Planning controls

Planning Permit requirements
A planning permit is required pursuant to:

- Clause 32.08-6 (General Residential Zone) – Construction of two or more dwellings on a lot.
- Clause 32.08-6 (General Residential Zone) – Construction of a front fence exceeding 1.2m in height.
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>Seeks the retention of tree No. 3 (<em>Liquidambar styraciflua</em>). No objection to removal of tree No’s 1, 2 and 4 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 four (4) objections were received. The following concerns were raised:

- Neighbourhood character;
- Visual bulk;
- Overlooking;
- Overshadowing;
- Tree removal;
- Parking / Traffic.

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

Consultation meeting

A consultation meeting was held on 28\(^{th}\) February 2018 attended by the permit applicant. No objectors attended the meeting.

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 2017/687/1** for the land known and described as **2 Graham Road, Highett**, for the **Construction of three double-storey dwellings and a front fence exceeding 1.2 metres in height** in accordance with the endorsed plans and subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part
of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans (advertised) prepared by RBi Architects referenced TP-1.05 – TP 2.09, dated October 2017 and revision number B but modified to show:

a) Pergolas along Royalty Avenue to be setback a minimum of 1.5m from the boundary.

b) Each single garage to be 3.5 metres wide and 6 metres long.

c) All pedestrian doors to open outwards of garages.

d) Crossovers to Units 2 and 3 to be individual, single width, and separated with a 1 metre wide separator and landscape buffer between. A landscape strip must also extend down the driveway to delineate each access area.

e) Each driveway to be 3 metres wide where it interests the footpath.

f) Minimum 9 metre offset to be provided between the western site boundary (squared off) and the crossover to Unit 3.

g) 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.

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

i) Water Sensitive Urban Design measures in accordance with Condition 7 of this permit.

j) A Landscaping Plan in accordance with Condition 9 of this permit.

k) Provision of the development contributions fee in accordance with Condition 21 of this permit.

All to the satisfaction of the Responsible Authority.

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

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

4. 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.

Water Sensitive Urban Design

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

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

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

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

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

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

**Landscaping**

9. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by land Concepts, reference sheet 1 of 1 dated 4 September 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

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

b) 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) Three small canopy trees with mature heights of 8 metres or greater and canopy spreads of 4 metres or greater in the building setbacks.

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

f) Details of surface finishes of pathways and driveways

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

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

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

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

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

a) 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;

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

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

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

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

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

g) Stages of development at which inspections will occur.

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

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

15. 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.

Street tree protection

16. There is to be no soil excavation within 2 metres of any street tree asset measured from the edge of the trunk.

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

Drainage

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

20. Council records indicate that there are two 1.83m wide drainage and sewerage easement along the South boundary and running parallel to the East property boundary as indicated on the drawings provided. The plans indicate that a timber decking, fence and rain water tanks shall be constructed over the easement. Any proposal to encroach into the easement will require Build Over Easement consent from the Responsible Authority/Authorities. The timber decking, fence and rain water tanks shall be partially demountable over the easement, and the proposal may require a Section 173 agreement to be created on the property title to ensure the continuation of Council rights of drainage.

Development Contributions

21. Prior to endorsement of the plans 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

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

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

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

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

Permit Notes:

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

- The installation of the vehicle crossing at the proposed location will severely impact the Prunus serrulata street tree asset (Tree 11). As the design does not allow any other option for the location of this vehicle crossing and to allow this development to proceed, the tree may be approved for removal under Clause 6.5 of the Street and Park Tree Management Policy (2016).

- Before the vehicle crossing application will be approved, the applicant must pay $5,211.72 to the Responsible Authority for the removal and replacement of the existing street tree(s). This amount has been determined in accordance with Council’s current policy for the removal of street trees. This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by the Responsible Authority, must undertake the removal and replacement of the street tree. Any replacement planting will be at the discretion of the responsible authority.
5. **Council Policy**

**Council Plan 2017-2021**

Relevant objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 18 Transport
- Clause 19 Infrastructure
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
- Clause 21.09 Transport and Access
- Clause 21.10 Infrastructure
- Clause 22.06 Neighbourhood Character Policy (Precinct G1)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.08 General Residential Zone (Schedule 1)
- Clause 43.02 Design and Development Overlay (Schedule 2)
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

6. **Considerations**

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

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

The proposal sits off the boundaries with Graham Road and Royalty Avenue which allows for sufficient landscaping opportunities and an appearance of dwellings set within gardens. The setbacks will maintain an appearance of visual separation between buildings. The proposed single garages and porches in combination with the variety of materials proposed ensures that the new buildings provide and articulated and interesting façade to the streetscape. The proposed front boundary treatment will ensure that an appearance of openness of the streetscape is maintained. The development demonstrates an appropriate level of compliance with the preferred future character statement for the precinct.

It must also be acknowledged that the subject site sits on the boundary of commercial and residential zoning, with warehouses located on the opposite side of Graham Road. The character of this particular area is therefore more robust than the hinterland areas of Precinct G1.

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:

**Energy Efficiency (Standard B10)**

The standard calls for the living and private open space of dwellings to be located to the north side of the development. However, the nature of the corner site fronting Royalty Avenue to the north and Graham Road to the west limits the flexibility of the location of living rooms and secluded private open space. The ground floor living areas at Units 1 and 2 are dual aspect and Unit 3 has windows on three sides of the living area.

In addition, the development has to meet the building requirements with a minimum of 6 star energy rating and will therefore comply with the objective of energy efficiency for this case.

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

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td>East (rear)</td>
<td>0m-0.2m or 3m</td>
</tr>
<tr>
<td></td>
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<td></td>
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</tr>
<tr>
<td>South (side)</td>
<td>0m-0.2m or 2m</td>
</tr>
<tr>
<td></td>
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</tr>
</tbody>
</table>

As can be seen above, the provided setbacks generally comply, and in fact well exceed the requirements for the most part.

The exception relates to the first floor of dwelling 3, with the encroachment associated with only the gabled roof element of this dwelling (the dwelling walls are complaint). This is a minor aspect of the overall built form and contributes to articulation and building
diversity. Amenity impacts are not considered to be unreasonable given the small area of encroachment and the outcome is therefore deemed acceptable.

**Front Fences (Standard B32)**

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Graham Road</td>
<td>1.8m</td>
<td>2m</td>
<td>200 mm</td>
</tr>
<tr>
<td>Royalty Avenue</td>
<td>1.2m</td>
<td>1.2m</td>
<td>No variation</td>
</tr>
</tbody>
</table>

A wooden, picket front fence of up to 2 metres in height is proposed along the southern portion of Graham Road. A wooden picket fence of 1.2 metres in height is proposed along the northern part of Graham Road and around the corner of the site onto Royalty Avenue.

As the proposed dwellings front onto Royalty Avenue, pursuant to Standard B32, the front fence of 1.2 metres in height along this street accords with the standard. Along Graham Road, a front fence of 1.8 metres in height is preferred. A variation of 0.2m is sought for the proposed 2 metre high fence along Graham Road.

Along Graham Road, the front fence at the property immediately to the south of the site, No. 359A Bay Road, has a height of approximately 1.8 metres with trellis above. Opposite the application site, buildings located on the western side of Graham Road are within the Commercial 2 Zone (C2Z) and industrial in nature.

Given that the fence is to be constructed of timber slats with 25% transparency and steps down to a height of 1.2 metres, it would not appear dominant in the surrounds, would maintain a sense of openness and would be a suitable transition around the corner site. The minor variation would respect the existing and preferred neighbourhood character and the variation is supported.

**6.3. Landscaping**

The application plans show the removal of four (4) trees from the site, none of these trees are native. The table below identifies those trees protected by the Local Law and those which are not protected by any statutory mechanism.

<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 removal</td>
</tr>
<tr>
<td>Proposed for retention</td>
<td>Proposed for retention</td>
</tr>
<tr>
<td>Tree No. 3.</td>
<td>Tree No’s 1, 2 &amp; 4</td>
</tr>
</tbody>
</table>

The application plans show the removal of four (4) trees from the site including one *liquidambar styraciflua* (Sweetgum) protected by the Local Law.

Tree No. 1 is a *Pittosporum tenuifolium* (Irene Patterson), Tree No. 2 is a *Syringa vulgaris* (Lilac) and Tree No. 4 is a *Syzygium paniculata* (Magenta Lilly Pilly). These trees are not protected by the Local Law and Council’s arborist in their referral response, has raised no objection to their removal.

Council’s Arborist has sought the retention of Tree No. 3, the liquidambar styraciflua (sweetgum), as this mature tree of good health that contributes to the character of the area.

Whilst the retention of the tree would undoubtedly be a positive change, the consequential changes required to afford its protection would be extremely significant, including the loss of at least one dwelling.
The bar would therefore be set very high in terms of how significant a tree is to warrant such change, and the subject tree is not considered to be so significant as to warrant such a drastic change to this application.

The sweetgum tree is an exotic species and the concept landscape plan shows that the development would include replacement planting of native species including *Brachychiton populneus x acerifolius* (Bella Pink) and *Tristaniopsis laurina*, (Luscious) which would maintain and enhance the garden setting of the dwellings.

On balance, subject to appropriate replacement planting, removal of Tree No. 3 is considered to be acceptable in this instance. A condition is recommended requiring a landscape plan to be submitted to the satisfaction of the responsible authority.

The landscape plan must be in accordance with the landscape requirements for medium density housing as set out in the Bayside Landscape Guidelines (2016), including the planting of three small canopy trees (with mature heights of 8 metres or greater and canopy spreads of 4 metres or greater) in the building setbacks. The submitted landscape plan shows replacement planting of three trees, two of which are native species, meeting these requirements.

Tree No’s. 5, 6, 7 and 8 are located on adjoining sites with their Tree Protection Zones (TPZ) extending into the subject site. As such consideration must be given to the impact of the development upon these trees. Tree No’s 5, 6, 7 and 8 are located to the south of the site, approximately 3 metres from the southern wall of the proposed development, separated by an easement within the application site. A Tree Protection Plan and Tree Management Plan will be required to be submitted to ensure these trees remain viable both during and post construction. Council’s Arborist has commented that the Tree Management Plan must be specific to the site. A condition to this effect is included in the recommendation.

6.4. Street tree(s)

Tree No’s 9 and 10 are *Lophostemon conferta* trees located within the nature strip on Graham Road and are proposed for retention. Tree No’s 11 and 12 are *Prunus semulata* trees located within the nature strip on Royalty Avenue. Tree No. 12 is proposed to be retained. Tree No 11 is proposed for removal. Council’s Street Tree Arborist has advised that as removal of Tree 11 is required for the construction of a new vehicle crossing, this is acceptable in accordance with clause 6.5 of the Street and park Tree Management Policy (2016).

Council’s street tree arborist has advised that Tree No’s 9, 10 and 12 will require protection during construction. Permit conditions are recommended to protect trees 9, 10 and 12.

6.5. Car parking and traffic

Pursuant to the car parking requirements at Clause 52.06, a dwelling requires car parking to be provided at a rate of 1 car space per one or two bedroom dwellings and 2 car spaces per three or more bedroom dwellings.

Dwelling 1 comprises three bedrooms and is afforded two car parking spaces in the form of a single garage and tandem outdoor parking. Dwelling 2 comprises three bedrooms and has a single garage and tandem outdoor parking. Dwelling 3 comprises three bedrooms and has a single garage and tandem outdoor parking. The proposed on site car parking meets the requirements of Clause 52.06-5.

The application was referred to Council’s Traffic Engineer who has expressed concern with the width of the proposed eastern vehicle crossing. Permit conditions are recommended requiring the application to be altered to show two 3 metre wide new vehicle crossings with a 1 metre wide separator and landscape buffer in between to provide vehicle access to Dwellings 2 and 3. A minimum 9 metres offset is to be provided between the western property boundary and the crossover to Dwelling 3.
Council’s Traffic Engineer has expressed no further concerns with the development subject to the inclusion of permit conditions relating to vehicle access, sightlines and internal parking dimensions. These are recommended as conditions of the permit.

Neighbour concerns have been raised in relation to increased car parking congestion however it is considered that the proposed development will not unreasonably impact on the car parking network in the street. In addition, car parking congestion was not raised as a concern by Council’s Traffic Engineer.

6.6 **Objector issues not already addressed**

**Overlooking**

Windows with direct views into neighbouring habitable room windows or secluded private open space of neighbouring properties with a horizontal distance of 9m will be screened or obscure glazed and fixed shut below 1.7m above floor level.

**Overshadowing**

Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September.

**Support Attachments**

1. Application Plans
2. Site and Surrounds
3. Neighbourhood Character Assessment
4. Clause 55 Assessment
Item 4.4 – Matters of Decision

AERIAL PHOTOGRAPH

STREET PHOTOGRAPHS

<table>
<thead>
<tr>
<th>No.</th>
<th>Date</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>25/11/2017</td>
<td>Fencing details for TP-M1</td>
</tr>
<tr>
<td></td>
<td>11/10/2017</td>
<td>TP issue</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Reference/permission</td>
</tr>
</tbody>
</table>

THREE TOWN HOUSE DEVELOPMENT
2 GRAHAM ROAD HIGHTHET

RBI ARCHITECTS
1/13 CROMPT STREET RICHMOND 3121
TEL: 81 940101 F: 81 9801 6279
E: rbi@adiarchitects.com.au

Advertised Plan

Page 185 of 315
Item 4.4 – Matters of Decision
Item 4.4 – Matters of Decision
Item 4.4 – Matters of Decision
Figure 1 Aerial overview of the site and surrounds

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th>✪</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objector(s)</td>
<td>◆</td>
</tr>
</tbody>
</table>

Note: One objection was received from No. 19 Scott Street, Beaumaris which is located outside of the aerial map view.
Figure 2 View towards the site from Graham Road

Figure 3 View towards the site from Royalty Avenue
Neighbourhood Character Precinct G1

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain and enhance the garden settings of the dwellings. | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation.  
• Retain large, established trees and provide for the planting of new trees wherever possible.  
• Buildings should be sited to allow space for the planting of trees and shrubs. | Lack of landscaping and substantial vegetation. Removal of large trees. Planting of environmental weeds. | Responds  
The submitted landscape plan demonstrates that space will be retained around the dwellings for planting. Whilst it is noted that some trees will be removed from the site, the proposed replacement landscaping including native species would ensure that the garden setting of the dwellings is enhanced. |
| To maintain the rhythm of visual separation between buildings. | • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. |  | Responds  
The new dwellings have been adequately set back from the front, side and rear site boundaries to create an appearance of visual separation around the dwellings which will be evident from both Graham Road and Royalty Avenue. At first floor level, Units 2 and 3 will be separated such that space between the built form, within the site will be read from Graham Road. Sufficient space will be retained around the new dwellings for the planting of substantial vegetation. |
| To ensure that new buildings provide an articulated and interesting façade to the street. | • Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours | Large, bulky buildings with poorly articulated front and side wall surfaces. | Responds  
The dwellings have pitched roof forms with eaves. Single garages are located behind the front building line, such that they do not dominate the |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain the openness of the streetscape. | or other elements providing appropriate articulation.  
• Use pitched roof forms with eaves. | High, solid front fencing. | front façade of the dwellings. The entry to each dwelling is articulated with a porch/pergola. At first floor level, all three dwellings are recessed from the ground floor to the front, side and rear elevations. The dwellings will be constructed in brick at ground floor level with cladding to the first floor walls. This combination of materials would break up the built form and provide interesting elevations. |

Responds  
The front fence will comprise wooden pickets with 25% transparency and will maintain a sense of openness. Whilst the fence will have a height of 2 metres along Graham Road, it will extend just a short way along the front of the site at a height of 1.2 metres along Royalty Avenue. This ensures that views towards the front of the dwellings will be evident from the street.
ResCode Clause 55 (Two or More Dwellings on a Lot and Residential Buildings)

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer Attachment 3.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support three new dwellings.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>The proposal will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development. Council’s drainage engineers have reviewed the application and raise no issues with infrastructure capacity in the area. It is noted that the developer will be required to pay a development contributions levy in accordance with the requirements of Clause 45.06 of the Bayside Planning Scheme.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street. Units 1, 2 and 3 face onto Royalty Avenue and pedestrian and vehicle entries are easily identifiable from the streetscape.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>Dwellings are appropriately setback in accordance with the setback requirements afforded to corner allotments</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
use of the site.

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>B7 Building Height</td>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td><strong>Yes</strong></td>
<td><strong>Required:</strong> 11m&lt;br&gt;<strong>Proposed:</strong> 9.2m</td>
</tr>
<tr>
<td>B8 Site Coverage</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td><strong>Yes</strong></td>
<td><strong>Maximum:</strong> 50%&lt;br&gt;<strong>Proposed:</strong> 50%</td>
</tr>
<tr>
<td>B9 Permeability</td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td><strong>Yes</strong></td>
<td><strong>Minimum:</strong> 20%&lt;br&gt;<strong>Proposed:</strong> 41%</td>
</tr>
<tr>
<td>B10 Energy Efficiency</td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td><strong>No</strong></td>
<td>Refer Report.</td>
</tr>
<tr>
<td>B11 Open Space</td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td><strong>N/A</strong></td>
<td>No</td>
</tr>
<tr>
<td>B12 Safety</td>
<td>Layout to provide safety and security for residents and property.</td>
<td><strong>Yes</strong></td>
<td>No safety issues are considered to be likely to arise as a result of the development.</td>
</tr>
<tr>
<td>B13 Landscaping</td>
<td>To provide appropriate landscaping. To encourage: Development that respects the landscape character of the neighbourhood. Development that maintains and enhances habitat for plants and animals in locations of habitat importance. The retention of mature vegetation on the site.</td>
<td><strong>Yes, subject to condition.</strong></td>
<td>Refer report.</td>
</tr>
</tbody>
</table>
### B14 Access

Ensure the safe, manageable and convenient vehicle access to and from the development.

Ensure the number and design of vehicle crossovers respects neighbourhood character.

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

### B15 Parking Location

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Yes</th>
<th>The proposed car parking areas and garages are appropriately located, accessed from Royalty Avenue. Permit conditions are included. Refer report.</th>
</tr>
</thead>
</table>

### B17 Side and Rear Setbacks

Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.

<table>
<thead>
<tr>
<th>Item</th>
<th>No</th>
<th>Refer report and table below. Areas of non-compliance are underlined.</th>
</tr>
</thead>
</table>

### Ground Floor

<table>
<thead>
<tr>
<th>Item</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>East (rear)</td>
<td>0m-0.2m or 3m</td>
<td>4.7m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m-0.2m or 2m</td>
<td>2m</td>
</tr>
</tbody>
</table>

### First Floor

<table>
<thead>
<tr>
<th>Item</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>East (rear)</td>
<td>4.62m</td>
<td>5.7m</td>
</tr>
<tr>
<td></td>
<td>4.74m</td>
<td>4.85m</td>
</tr>
<tr>
<td></td>
<td>4.9m</td>
<td>5.7m</td>
</tr>
<tr>
<td>South (side)</td>
<td>3.9m (Unit 1)</td>
<td>4m</td>
</tr>
<tr>
<td></td>
<td>3.9m (Unit 2)</td>
<td>4m</td>
</tr>
<tr>
<td></td>
<td>5.2 m (Unit 3)</td>
<td>4m</td>
</tr>
</tbody>
</table>

### B18 Walls on Boundaries

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

<table>
<thead>
<tr>
<th>Item</th>
<th>N/A</th>
<th>There are no walls on boundaries proposed.</th>
</tr>
</thead>
</table>

### B19 Daylight to Existing Windows

Allow adequate daylight into existing habitable room windows.

| Item | Yes | The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained. |

### B20 North Facing Windows

Allow adequate solar access to existing north-facing

<table>
<thead>
<tr>
<th>Item</th>
<th>Yes</th>
<th>There are no north facing windows within 3 metres of the site boundary.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Item</td>
<td>Description</td>
<td>Yes/No</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>--------</td>
</tr>
<tr>
<td><strong>B21 Overshadowing Open Space</strong></td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B22 Overlooking</strong></td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B23 Internal Views</strong></td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B24 Noise Impacts</strong></td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B25 Accessibility</strong></td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong></td>
<td>Provide a sense of identity to each dwelling.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B27 Daylight to New Windows</strong></td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
| **B28 Private Open Space** | Provide reasonable recreation and service needs of residents by adequate pos. | Yes | Minimum: 25m² secluded, 40m² overall  
Proposed:  
Unit 1 - 100m² secluded  
Unit 2 - 45m² secluded  
Unit 3 - 50m² secluded  
It is noted that Clause 32.08-4 of the Bayside Planning Scheme requires minimum gardens area at ground floor level of 35% of the site area. This equates to 299.9m². A total of 360m² has been provided, equating to 42% garden area. |
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>B29</td>
<td>Solar Access to Open Space</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>B30</td>
<td>Storage</td>
<td>Yes</td>
<td>Storage of 6m³ in size is provided in the garage of each dwelling.</td>
</tr>
<tr>
<td>B31</td>
<td>Design Detail</td>
<td>Yes</td>
<td>Refer Attachment 3.</td>
</tr>
</tbody>
</table>
| B32  | Front Fences | No | Areas of non-compliance are underlined. **Required:** Graham Road- 1.8m  
Royalty Avenue- 1.2m  
**Proposed:** Graham Road- 2m  
Royalty Avenue 1.2m |
| B33  | Common Property | N/A | No common areas are proposed. |
| B34  | Site Services | Yes | Plans show space for clotheslines, metres and storage areas in the side or rear setback of each dwelling. A condition has been included requiring the location of solar hot water systems and air conditioning units to be located away from adjoining habitable room windows. |
4.5 1/3 AND 2/3 BANKSIA AVENUE, BEAUMARIS
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/398/1 WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/61769

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>The Townhouse Shop 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>26 June 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>155 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Vegetation Protection Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Design and Development Overlay (Schedule 1)</td>
</tr>
<tr>
<td></td>
<td>Special Building Overlay</td>
</tr>
<tr>
<td>Number of objections</td>
<td>10</td>
</tr>
</tbody>
</table>

Proposal

The application seeks approval for the construction of four double storey dwellings on a lot with an area of 1,817 square metres and the removal of native vegetation in a Vegetation Protection Overlay (Schedule 3). Key details of the proposal are as follows:

- 4 dwellings;
- 2 storey dwellings with a maximum ridge height of 7.96 metres above natural ground level;
- Side setback variations are sought at ground floor level to the south-west property boundary;
- Site coverage of 40.6%;
- Permeability of 40.5%;
- Access is via two existing cross-overs, one providing access to Dwelling 1 fronting Banksia Avenue and the second providing access to three dwellings to the rear;
- 8 car spaces are provided with 2 spaces within double garages are allocated to each dwelling; and
- Removal of 9 native trees in a Vegetation Protection Overlay.

The application plans are provided at Attachment 1.

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

History

There is no planning permit history relevant to this application.
2. **Planning controls**

**Planning Permit requirements**

A planning permit is required pursuant to:

- Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two or more dwellings on a lot.
- Clause 42.02-2 (Vegetation Protection Overlay (Schedule 3) – Removal of native vegetation in a VPO3.

The site is located within a Design and Development Overlay (Schedule 1). The proposed works do not require a planning permit pursuant to Clause 43.02 of the Bayside Planning Scheme.

The site is subject to a Special Building Overlay. This overlay only affects the northern corner of the site. There are no works proposed which require a planning permit pursuant to Clause 44.05-1 of the Bayside Planning Scheme.

**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 10 objections were received. The following concerns were raised:

- Neighbourhood character;
- Architectural style;
- Overlooking;
- Overshadowing;
- On-site amenity and garden areas;
- Parking / Traffic;
- Loss of vegetation / limited opportunities for replacement planting / habitat value;
- Storage;
- Disturbances during construction;
- Number of dwellings; and
Property values.
The number of objections received for this application is consistent across Council’s record management systems.

Consultation meeting
A consultation meeting was held on 4 January 2018 attended by the permit applicant and 6 objectors. As a result of this meeting the applicant agreed to consider changes to the proposed development. Council has not received any declarations for a formal amendment to the application. The applicant provided Council with written confirmation on 19 January 2018 confirming they do not seek to amend the application.

The consultation meeting did not result in the withdrawal of any objections.

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 2017/398/1 for the land known and described as 1/3 and 2/3 Banksia Avenue, Beaumaris for the construction of four dwellings on a lot and removal of native vegetation in a Vegetation Protection Overlay (Schedule 3) in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans prepared by The Townhouse Shop Pty Ltd and dated 27 April 2017, TP1 to TP4 inclusive and Point 5 Landscape Plan dated 12 September 2017 but modified to show:

   a) Internal elevations for all dwellings.

   b) The southern (rear) boundary setback to the Dining and Family Room of Dwelling 3 increased by 1 metre.

   c) The southern (rear) boundary setback to Bedroom 4 of Dwelling 3 increased by 1 metre.

   d) All windows to be screened in accordance with Standard B22 (Overlooking) at Clause 55.04-6 of the Bayside Planning Scheme.

   e) All windows to be screened in accordance with Standard B23 (Internal Views) at Clause 55.04-7 of the Bayside Planning Scheme.

   f) The north-western fence provide a minimum visual barrier of 1.8 metres from Natural Ground Level as measured from the subject site.

   g) Decorative paving / brick banding along the edge of the driveway.

   h) Sectional diagrams showing driveway gradients to the satisfaction of the Responsible Authority.

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

   j) A mixed variety of construction materials, external finishes and colours to provide articulation to the south-east side elevation of Dwelling 1 and
2 and the south-west elevation of Dwelling 3 and 4 (incorporating for example a mix of contemporary and traditional coastal materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick).

k) Water Sensitive Urban Design measures in accordance with Condition 7 of this permit.

l) A Landscaping Plan in accordance with Condition 9 of this permit.

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

n) Drainage Contributions Levy Charge in accordance with Condition 22.

o) A Construction Management Plan in accordance with Condition 23

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 (Overlooking) and Standard B23(Internal Views) and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

Water Sensitive Urban Design

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

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

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

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

These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.
8. The water sensitive urban design stormwater treatment system as shown on the endorsed plans must be retained and maintained at all times in accordance with the Urban Stormwater - Best Practice Environmental Management Guidelines, CSIRO 1999, to the satisfaction of the Responsible Authority.

Landscaping

9. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Point Five, Landscape and Environmental Design, 12 September 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) Replacement planting of one additional canopy tree (in addition to the 3 canopy trees shown on the landscape plan). The tree must be indigenous and capable of reaching a mature height and canopy spread of 8 metres.
   b) The retention of Tree 45, a Laceback / Brachychiton discolor tree located to the south-west corner of the family room to Dwelling 4.
   c) 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.
   d) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   e) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. Plantings must be 80% indigenous by species type and count.
   f) All vegetation within close proximity to assets must have non-invasive roots or include a root barrier system so as to not damage the assets.
   g) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   h) Details of surface finishes of pathways and driveways

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

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

Tree Management and Protection Plan

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

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

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

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

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

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

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

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

Street tree protection

16. Soil excavation must not occur within 2 metres from the edge of the *Eucalyptus melliodora* street tree asset’s stem at ground level.

17. 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.

18. Prior to soil excavation for a Council approved crossover within the TPZ, a trench must be excavated along the line of the crossover adjacent to the tree using root sensitive non-destructive techniques. All roots that will be affected by must correctly pruned.

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

Drainage

20. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where stormwater is drained under gravity to the Council network.
21. Before the development, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council’s City Assets and Projects Department.

Development Contributions

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

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

Construction Management Plan

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

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

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

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

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

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

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

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

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

i) Site security.

j) Public safety measures.

k) Construction times, noise and vibration controls.

l) Restoration of any Council assets removed and/or damaged during construction.
m) Protection works necessary to road and other infrastructure (limited to an area reasonable proximate to the site).

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

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


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

r) Details of crane activities, if any.

Permit Expiry

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

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

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

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

Permit Notes:

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

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

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

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

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

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

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

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

Bayside Planning Scheme

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy (Precinct H4)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 42.02 Vegetation Protection Overlay (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 1)
- Clause 44.05 Special Building Overlay
- Clause 45.06 Development Contributions Plan Overlay (Schedule 1)
- 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 H4. The proposal is considered to demonstrate an acceptable level of compliance with the preferred future character statement and precinct guidelines as outlined at Attachment 3.

Clause 22.06-3 of the Bayside Planning Scheme (Neighbourhood Character – Exercising Discretion) directs that developments should seek to address the objectives of the relevant precinct guidelines but due regard must also be given to that which is different from the objectives within the precinct.

The proposed development presents a single pitched roof dwelling to the streetscape with three additional dwellings located to the rear. The presentation incorporates appropriate boundary setbacks to reflect upon the built form spacing and terrain of the area while promoting adequate visual separation between the dwellings proposed. The
dwellings will sit comfortably within its context and will adopt a reasonable built form transition with the adjoining double storey dwellings and terrain changes.

Pedestrian entries to the dwellings are clearly defined and driveways suitably adopt a safe and convenient layout with sufficient room for cars to manoeuvre within the site. No front fence is proposed which facilitates views of high amenity value trees within the front setback whilst the proposed side and rear setbacks facilitate meaningful landscaping opportunities around the perimeter of the site and minimises amenity impacts to adjoining properties. Vegetation proposed to be removed has been assessed as being of poor health and structure with low amenity value.

The proposed roof form has been specifically cited as being at odds with the contemporary architecture advocated for the area and adding to the perception of visual bulk to adjoining properties. The streetscape includes both flat and pitched roof profiles and is not considered a foreign design element to the area. The roof forms are not considered to add to the visual bulk for the proposal as presented to adjoining properties and given the compliances with side and rear setbacks requirements, solar access and overshadowing requirements alteration of the roof profiles are not necessitated.

The proposed development seeks to introduce a dark palette of construction colours and finishes. The proposed use of ‘dark charcoal brown’ brickwork, ‘shale grey; rendered board and ‘metropolis bronze’ windows is not supported and it is recommended that a condition be included to amend the colours and toning’s of these materials to reflect the lightness found elsewhere along Banksia Avenue and advocated by this policy.

Concerns raised in objections notes that the proposed architecture is at odds with the preferred beach side and coastal character of the area. It is acknowledged that the proposal does not demonstrate a high degree of compliance with the preferred design response but it is important to acknowledge the context in which the site sits, where many dwellings adopt similar roof forms, materials and façade detailing to that of which is proposed.

Policy directs that consideration must be given to the immediate vicinity of an area and decisions handed down by the Victorian Civil and Administrative Tribunal (VCAT) repeatedly acknowledges that the existing character cannot be ignored in favour of a perceived better outcome.

Subject to conditions noted above relating to the schedule of construction material, colours and finishes, the proposed development is considered to appropriately respond to the preferred character of the area.

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

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

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

<table>
<thead>
<tr>
<th></th>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
<td>Requirement</td>
</tr>
<tr>
<td>North-West</td>
<td>0, 2m</td>
<td>1.3m, 1.52m, 1.6m, and 2.7m</td>
</tr>
<tr>
<td>(side)</td>
<td></td>
<td>3.59m (central to the site)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3.67m (rear of the site)</td>
</tr>
</tbody>
</table>
South-East (side) | 0, 2m | 2m and 3.54m | 3.51m (site frontage) | 3.55m (site frontage)  
| | | 3.31m (central to the site) | 5.34m (central to the site)  
| | | 3.31m (rear of the site) | 4.18m and 4.57m (rear of the site)  
South-West (rear) | 0, 3m | 3m, 4.23m and 5.84m | 4.63m | 5.15m, 6.28m, 6.34m and 7.16m  

The objective of this standard is to ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

All setbacks meet or exceed the required setbacks as varied by Schedule 3 to the Neighbourhood Residential Zone but for those to the north-west corner of the subject site. The proposed side setbacks associated with Dwelling 4 to the north-western property boundary at ground floor level vary between 1.3 metres and 1.6 metres in lieu of a minimum side setback of 2 metres. These proposed setbacks are acceptable due to their location opposite a south-east facing service area associated within 2/5 Banksia Avenue. It is further noted these non-compliances are for a short wall length due to the staggered setbacks in this location.

At first floor level the built form is offset from the common boundary between 2.63 metres and 5.75 metres in lieu of 3.31 metres. As with the justification for the proposed ground floor setbacks, these areas of non-compliance are located to the south-east of a non-sensitive interface and combined with the 3 metres setback on the adjoining property would at its closest point be setback 4.6 metres from any habitable room windows. As the proposed built form will not be constructed parallel to the common boundary, the increasing transitioning of the setback away from this shared boundary will ensure the proposed setbacks will not result in any adverse amenity impacts to adjoining properties.

The subject site is elevated above that of the adjoining property at 2/5 Banksia Avenue. To the gutter level (only reference point that height datum for both properties is available) there will be a 0.79 metre difference in height between the two dwellings. This variation is considered indiscernible based on the vantage points to appreciate this difference. Vantage points where the difference can be viewed will be read as part of the street rhythm where development generally steps down along the streetscape from Beach Road to Tramway Parade.

It is noted an objection has not been received from this property.

Concerns in relation to the visual bulk from adjoining properties, particularly to the south-east of the site, a three dwelling development, are discussed below.

At 1 Banksia Avenue visual bulk is mitigated through the built form of the site being setback approximately 3 metres behind the front façade of this dwelling and aligned generally where the secluded private open space of this dwelling transitions to the service area. The ground and first floor wall heights are generally comparable with the subject site and at to this boundary.

At 1A Banksia Avenue the north-west facing courtyard is located opposite the visual break in the built form between Dwelling 2 and 3 (break of 2 metres at ground floor and 5.2 metres at first floor level). The primary area of secluded private open space abuts the common boundary and as such these setbacks are not considered to result in any unreasonable amenity impacts through visual bulk. At first floor level to this property, only the roof forms would be visible above the screening measures to the balcony and
whilst it represents a change to their current outlook, is not considered to unreasonably impact the amenity and usability of these areas through visual bulk.

At 1B Banksia Avenue, the primary secluded private open space and first floor balcony area is located to the north-west of this property. The proposed development is to be offset 2 metres from the common boundary at ground floor and 4.57 metres at first floor.

The proposed development extends approximately 1 metre beyond the edge of the built form 1B Banksia Avenue to the ground floor and generally aligns with the balcony edge at first floor level. This is considered to impact on the amenity of this area of secluded private open space through visual bulk and would result in these areas being ‘hemmed in’ by all adjoining built forms. Whilst acknowledging the proposed setbacks at this location are technically compliant, it is considered appropriate that the setback to the Family and Dining Room of Dwelling 3 be increase by 1 metre to the southern (rear) boundary at ground floor and by 1 metre at first floor level to Bedroom 4. These recesses will not only provide for further articulation but also serve to reduce any perception of visual bulk improve upon overshadowing and solar access to this area. These changes can easily be accommodated within the proposed development.

Subject to the proposed conditions, any perception of visual bulk to the adjoining dwellings is tempered through its articulation from front and side boundaries, further complemented by the contrasting wall materials and finishes used at ground and first floor level. It is noted that a condition of permit has been included to require a mix and variation of materials to better response to the lightness of the materiality to the streetscape. The design response is suitable in a mixed streetscape of single and double storey building forms, many of which are not dissimilar to the proposed built form. The use of vegetation along the common boundaries to these properties

The proposed development is significant offset from the property boundary at 5 Banksia and is not considered to result any amenity impacts through visual bulk.

Overlooking (Standard B22)

The proposal includes a number of first floor windows serving habitable rooms that are within 9 metres of the secluded private open space (SPOS) and habitable room windows at 1A and 1B Banksia Avenue and 2/5 Banksia Avenue. A condition of permit has been included requiring these windows to be screened accordingly.

The fencing denoted along the north-west common boundary with 5 and 2/5 Banksia Avenue stands to a height of 1.6 metres from the natural ground level of the subject site. This visual barrier is insufficient to appropriately address the Overlooking Standard and a condition of permit has been included requiring this to be a minimum height of 1.8 metres when measures above from the higher terrain of the subject site. Correspondence from adjoining properties notes previous attempts to repair / upgrade the shared fence.

Internal Views (Standard B23)

The first floor windows associated with Bedroom 2 and 3 of Dwelling 1, the Rumpus Room and Bedroom 4 of Dwelling 2, Bedroom 3 of Dwelling 3 have not been provided as part of the application material. A condition of permit requires elevational drawings and the screening of habitable room windows in accordance with this Standard. Proposed screening of these windows is typical to restrict internal views and adjoining residential properties.

Solar Access to Open Space (Standard B29)

Due to the orientation of the site the secluded private open space associated with Dwellings 3 and 4 are generally orientated to the south. Standard B29 seeks that the southern boundary be setback a minimum of 5.3 metres at ground floor level and 7.58 metres at first floor level in order to maximise solar access to these areas.
The proposed southern setbacks to these dwellings range between 3 metres and 5.84 metres at ground floor (maximum proposed variations of between 2.3 metres at ground floor and 2.43 metres at first floor).

These variations are considered acceptable as these dwellings also benefit from secondary east and west facing areas of secluded private open space to Dwellings 3 and 4 respectively which benefit from a high level of solar access in the morning and afternoon respectively. The useability and amenity of these areas is considered to meet the objectives of this Standard based on the sunlight it will receive.

6.3. **Landscaping**

The objectives of the VPO3 are to retain the amenity, aesthetic character and habitat value of native vegetation by preventing the loss of native (particularly indigenous) vegetation and promoting the regeneration and replanting of indigenous species in the Beaumaris and Black Rock area.

There are a total of 28 trees on the site with 9 medium to large shrubs. The most notable tree is located within the current front setbacks, a *Eucalyptus camaldulensis* / Red River Gum which stands to a height of 20 metres with a canopy spread of 18 metres. This tree is proposed to be retained and will continue to provide a high level of amenity to the streetscape. This tree however is noted as having a patchy crown and a dead top of one of its main stems.

The application plans show the removal of 23 trees from the site including 9 trees protected by the VPO3. The table below identifies those trees protected by the VPO3,

<table>
<thead>
<tr>
<th>VPO3 protected trees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed for removal</td>
</tr>
<tr>
<td>Tree 14, 15, 16, 28, 34, 36, 37, 45 and 48</td>
</tr>
</tbody>
</table>

It is noted that two (Trees 28 and 36) of the nine VPO trees proposed for removal are *Pittosporum undulatum* / Sweet Pittosporum, which are considered an environmental weed and their removal is supported.

Of the remaining trees proposed to be removed Council's Arborist has only sought two to be retained, these being:

- Tree 16, Illawarra Flame / *Brachychiton acerifolius* located to the eastern boundary to of the kitchen associated with Dwelling 2; and
- Tree 45, a Laceback / *Brachychiton discolor* tree located to the south-west corner of the family room to Dwelling 4.

The applicant has noted that Tree 45 can be retained and Tree 16 can be replanted elsewhere on site. A condition has been included requiring the retention of Tree 45.

Council's Arborist is not satisfied the proposed transplantation can successfully occur and a condition has been included requiring a replacement indigenous planting of a canopy tree capable of reaching a mature height of 8 metres. This requirement forms conditions of permit. On balance, the removal of this tree and replacement with an indigenous planting is appropriate. This view is shared by Council's Arborist.

From an arboriculture perspective Council's Arborist has reviewed the application and advises that all other trees proposed for removal are considered to be of poor health and structure with a low amenity value.

A schedule of all trees on site is included at Attachment 5. The proposed extent of vegetation removal is considered to be acceptable when assessed against the decision guidelines of the VPO3. The character of the area, including the extent of indigenous
vegetation present, will be maintained once replacement plantings are undertaken. The proposed vegetation removal will also not impact on the overall quality of habitat within the broader area and the extent of removal is justified when considered against the level of development proposed. Therefore the proposed vegetation removal is considered to comply with the objectives of the VPO3.

Council’s Arborist has advised that to ensure that Trees 6, 8, 12, 18, 31, 44 and 46 remain viable post-construction, a Tree Management Plan and Tree Protection Plan will be required. These are included as recommended conditions.

Tree Nos. 5, 12 and 18 are located on adjoining sites with their Tree Protection Zones (TPZ) extending into the subject site. As such consideration must be given to the impact of the development upon these trees. Council’s Arborist has advised that a Tree Protection Plan and Tree Management Plan will be required to be submitted to ensure these trees remain viable both during and post construction. A condition to this effect is included in the recommendation.

In addition to the above assessment, Council’s Arborist has reviewed the submitted landscape plan and advised that it is generally considered acceptable subject to conditions requiring a minimum of 80% indigenous plantings by species type and count. The landscape plan includes the planting of 3 Maple cv / Acer ‘Armstrong’ trees capable of canopy trees (trees with mature heights of 8m or greater) in the side and rear setbacks with additional lower scale trees including Black, Hop and Coastal Wattle trees.

Concerns regarding the proposed separation of the built form on site to facilitate landscaping and outlook towards tree canopies are considered to be unfounded based on the proposed side setbacks and areas of secluded private open spaces which can accommodate canopy plantings. It is further noted the development patterns along the abutting south-eastern boundary to the site presents a contiguous built form at ground floor level with comparable, if not less, visual separation at first floor level. For this reason, the proposed extent of built form is considered appropriate and facilitates the interspersed planning of vegetation within the site.

Council’s Arborist does not object to the removal of any trees protected by the local law as they are either small in size and/or in poor condition.

6.4. **Street tree**

As the proposed development is utilising the existing crossovers to the site, the proposed development will not impact on the street tree. Conditions of permit require tree protection measures to be employed during the construction period.

6.5. **Car parking and traffic**

Pursuant to the car parking requirements at Clause 52.06, a dwelling requires car parking to be provided at a rate of 2 car spaces per three or more bedroom dwellings.

All dwellings comprise of 4 bedrooms plus study and are afforded two car parking spaces in the form of a double car garage. The proposed on site car parking meets the requirements of Clause 52.06-5.

The application was referred to Council’s Traffic Engineer who expressed no concern with the development, subject to the inclusion of permit conditions relating to driveway gradients. These are included as conditions of the permit.

Concerns have been raised in relation to increased car parking congestion however it is considered that the proposed development will not unreasonably impact on the car parking network in the street. In addition, car parking congestion was not raised as a concern by Council’s Traffic Engineer. Council’s Traffic Engineer has reviewed objector concerns and noted the following:

- The proposal is an increase from 2 dwellings to 4 (net increase is 2) resulting additional 8 – 12 daily trips which is a very minor increase to surrounding road
network.

- Banksia Avenue is 7m wide and on-street parking is therefore allowable on both sides under the Councils Managing on-street parking Policy.
- The current parking demand in Banksia Avenue is low-moderate. Although it is desirable to have off-street visitor parking, the proposal in question is for 4 dwellings and required pursuant to Clause 52.06 of the Bayside Planning Scheme.

6.6. **Objector issues not already addressed**

**Overshadowing**

The proposed overshadowing diagrams have been checked and noted as accurate.

At 9am the proposed overshadowing is largely restricted to the subject site and the shadow already cast by the existing fence along the common boundaries of 2/5 Banksia, 4/29 Bodley Street and 31 Bodley Street but for minor encroachments to non-sensitive service areas associated with these properties.

At 12 noon, the resultant over-shadowing from the proposed development is contained within the site boundaries.

By 3pm, the overshadowing extends beyond the shadowing cast the fence to the common boundaries of 1, 1A and 1B Banksia Avenue.

- To 1 Banksia Avenue the overshadowing will extend over the garage roof to the rear of this site and that of the living room. This property benefits from a second area of secluded private open space fronting Banksia Avenue. This property will continue to meet the numerical requirements of this Standard and receive a minimum of 5 hours sunlight throughout the specified times in this Standard and will not result in an unreasonable level of amenity impacts to this property.
- To 1A Banksia Avenue the overshadowing will entirely fall within that cast by the existing fence line and so the proposed built form directly opposite this dwelling will not result in any additional amenity impacts.
- To 1B Banksia Avenue, the additional overshadowing encroaches marginally beyond that of the existing fence line to the ground floor area of secluded private open space. Additional overshadowing will occur to the first floor balcony area presented to the common boundary. The level of additional shading to these areas is within the permissible encroachment allowed by this Standard. Notwithstanding this, condition requiring an increase the rear setbacks to the Family/ Dining Room and Bedroom 4 associated with Dwelling 3 will reduce the level of over-shadowing beyond that outlined in the overshadowing diagrams included at Attachment 1.

For the reasons outlined above, the proposed development is deemed to comply with this Standard.

**Number of units / Overdevelopment**

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 higher 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.

The proposal satisfies the substantive requirements of Clause 55 in respect to site coverage, setbacks, permeability, car parking, and open space provision and therefore the proposal is not considered to be an over development of the site.

Concerns relating to the proposed number of dwellings on this site setting a precedent for the area cannot be considered. Future planning permit applications on this site or
neighbouring and nearby land will be assessed against relevant planning policy and site conditions, based on their own merits at the time of assessment. The possibility of setting an undesirable precedent cannot be substantiated and is not a relevant planning consideration.

**Poor design response for this site**

The existing dwelling on site, whilst acknowledged as being indicative of the preferred character of the area is not afforded any protection from demolition and is not protected by a Heritage or Neighbourhood Character Overlay.

As discussed in Section 6.1 of this report, it is considered that some modification to the proposed development is required so that it better responds to the preferred character of the area, surrounding built form and nearby residential uses.

The design recognises and responds to the opportunities and constraints of the site and context, including vegetation, slope, and provides an appropriate and well executed response to the site.

**Property values**

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

**Insufficient information**

Sufficient information to enable an informed view of the application has been made available for viewing at Council offices as part of the notification process, which has been carried out in accordance with Section 57 of the *Planning and Environment Act 1987*. Additional information submitted with the application has been made available at the request of interested parties.

**Loss of view**

The Victorian Civil and Administrative Tribunal has consistently found that although impact upon views can be considered amongst the amenity impacts of a proposal, there cannot be considered a right to any particular view. In the absence of particular planning controls which might require the protection of, or sharing of views, loss of views is usually afforded very limited weight. This is especially the case where a view is obtained across adjoining land and the views are not afforded any special consideration in a planning control. In this case the development is not considered to intrude unreasonably upon the skyline to reduce the amenity of neighbours through their outlook or access to daylight.

**Adequacy of existing infrastructure to accommodate proposed development**

A concern in a number of objections was the impact of development on infrastructure. The site owner will be required to address infrastructure servicing demands of the additional dwellings as stipulated by the various service agencies at the time of either subdivision or connection of the development including any service authority requirements to contribute to the cost of upgrading trunk infrastructure.

The application has been referred to Council’s Drainage Engineer who has required that specific drainage conditions be included on any planning permit that is issued.

**Hours of construction / Noise from construction**

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

Construction techniques and effects – noise, dust, stability of existing foundations and damage to nearby dwellings are not a consideration under the Planning & Environment
Act or Bayside Planning Scheme. A Construction Management Plan has been included as a condition of permit requiring the developer to undertake works in accordance with the relevant legislations.

Support Attachments
1. Development Plans
2. Site and Surrounds Imagery
3. Neighbourhood Character Assessment
4. Clause 55 (ResCode) Assessment
5. Tree Schedule
Item 4.5 – Matters of Decision
Item 4.5 – Matters of Decision
Item 4.5 – Matters of Decision
### Item 4.5 – Matters of Decision

#### Attachment 1

<table>
<thead>
<tr>
<th>Plan</th>
<th>Material</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advertised Plan</td>
<td>Unit 1 &amp; 2, Banyo Ave, Bayside</td>
<td>Ground floor</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Timber Cladding</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Exterior Water Proofing</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Colour: Black or Silver</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Colour: Dark Grey or Smaller</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Timber Cladding</td>
</tr>
</tbody>
</table>
Figure 1. Aerial Overview of subject site and objector map.

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th>⭐</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objectors</td>
<td>⬤</td>
</tr>
</tbody>
</table>
Figure 2: Looking south-west to the subject site with 5 Banksia Avenue to the right of the photograph.

Figure 3: View looking south-west to the subject site with 1 Banksia Avenue to the left of the photograph.
Figure 4: View looking south-west along the driveway to 2/3 Banksia Avenue.
Figure 5: View looking south along Banksia Avenue to Beach Road.

Figure 6: View looking north along Banksia Avenue towards Tramway Parade.
Figure 7: View from 1 Banksia Avenue into the subject site looking along the common boundary.
Figure 8: View from the first floor balcony of 1A Banksia Avenue.

Figure 9: View from the first floor balcony of 1B Banksia Avenue.
Figure 10: View looking south-east from 5 Banksia Avenue to the subject site.
Figure 11: Roots from vegetation along the common boundary with 2/5 Banksia Avenue. This vegetation is proposed to be removed with conditions of permit requiring suitable replacement replanting with non-invasive roots to protect drainage assets within the area.
**ATTACHMENT 3**  
**Neighbourhood Character Policy (Precinct H4)**

### Preferred Future Character

The single and double storey dwellings sit within the topography and informal landscaped surrounds, including remnant and indigenous coastal trees. The variety of dwelling styles reflect the coastal setting through their design, details and finishes. An informal feel to the streetscapes is achieved by spaces around buildings, the lack of or unobtrusive style of front fencing and informal street treatments. Along Beach Road, development responds to its highly visible location on the edge of the coast by providing visually interesting forms and facades. Informal street treatments remain in those streets with no kerbing and remnant street tree planting is retained. Coral and Point Avenues form an area of significant neighbourhood character.

### Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To enhance the bayside vegetation character of the area through the planting of indigenous coastal species. | • Prepare a landscape plan to accompany all applications for new dwellings that utilises indigenous coastal species.  
• Retain large, established trees and provide for the planting of new trees and shrubs wherever possible (locate footings outside root zone). | Lack of a landscape plan.  
Removal of large established trees.  
Use of exotic species and planting of environmental weeds | Responds  
A Landscaping Plan has been prepared along with an Arboricultural Report discussing the proposed vegetation removal and large canopy trees to be retained within the site. The proposed development, subject to conditions, is considered to maintain the current vegetated character of the area and once replacement planting has been established will enhance the character of the area.  
See Section 6.3 of the Report for further discussion. |
| To maintain the rhythm of spacious visual separation between buildings. | • Dwellings should be sited to create the appearance of space between buildings and to accommodate substantial vegetation. | | Responds  
The proposed streetscape to Banksia Avenue maintains the generous side setback to the north-western property boundary and a compliant 2 metre side setback to the north-eastern side boundary. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>To minimise the dominance of car parking structures and the loss of front garden space.</strong></td>
<td></td>
<td></td>
<td>These setbacks are typical of the streetscape, particularly the adjoining properties, and provides opportunities for landscaping to establish within the front setback and along the perimeter of the site. Other built form setbacks are discussed at Section 6.2 of this report.</td>
</tr>
<tr>
<td></td>
<td>• Locate garages and carports behind the line of the dwelling.</td>
<td>Car parking facilities that dominate the façade or view of the dwelling.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Minimise paving in front garden areas including driveways and crossovers.</td>
<td>Creation of new crossovers and driveways or wide crossovers.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.</td>
<td>Front setbacks dominated by impervious surfaces.</td>
<td></td>
</tr>
<tr>
<td><strong>To ensure that new buildings and extensions do not dominate the streetscape.</strong></td>
<td></td>
<td></td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The development retains the existing crossovers to the site and introduces a double width garage associated with Dwelling 1. This garage is setback behind the porch and somewhat obscured by the curved driveway to this dwelling. This arrangement facilitates the opportunity additional planting whilst allowing for the retention of the 20 metre high Red River Gum tree to the front setback. All other car parking accommodation is located to the rear of the site and not visible from the streetscape.</td>
</tr>
<tr>
<td><strong>To encourage innovative architecture that reflects the bayside setting.</strong></td>
<td></td>
<td></td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• New buildings should be individually designed to respond to the characteristics of the bay side location and the site.</td>
<td>Large, bulky buildings with poorly articulated</td>
<td>The proposed development adopts an architectural style that draws upon</td>
</tr>
</tbody>
</table>

Item 4.5 – Matters of Decision
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To use lighter looking building materials and finishes that complement the bayside setting.</td>
<td>• Incorporate building elements and details that contribute to a lightness of structure including balconies, verandahs, glazing and light transparent balustrading.</td>
<td>front and side wall surfaces. Heavy design detailing (eg. Masonry columns and piers). Highly reflective materials or glazing.</td>
<td>elements found elsewhere along the streetscape including that at 5 Banksia Avenue, adjacent to the subject site. It is acknowledged that the proposal introduces some heavier design details which are contrary to the lightness advocated by this policy. The palette of construction colours, materials and finishes are required to be altered as a condition of permit to provide a better fit within the streetscape.</td>
</tr>
<tr>
<td>To maintain the openness of the streetscape and views to coastal garden settings.</td>
<td>• Use a mix of contemporary and traditional coastal materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick.</td>
<td>Period reproduction styles and detailing.</td>
<td>Responds As noted above a condition of permit has been included to require a lighter mixproposed materials and finishes.</td>
</tr>
</tbody>
</table>
| To create a visually interesting and attractive built form interface with the foreshore reserve, on properties fronting Beach Road and visible from the reserve. | • Where the properties front to both Beach Road and another street, ensure the dwellings present visually interesting elevations on all faces visible from the public domain.  
• Use landscaping materials and coastal plants within the front setback that contribute to the coastal character and amenity of the street.  
• Provide articulated roof forms to create an interesting skyline when viewed from the beach.  
• Provide low or open style front fencing along Beach Road frontages. | Flat, poorly articulated roof forms and facades visible from the public domain. High, solid front fencing on Beach Road. | The property does not present to Beach Road and is not visible from the reserve. |
### ATTACHMENT 4
ResCode (Clause 55) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer to Attachment 3.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support the development.</td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support the development.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td>Yes</td>
<td>It is noted that some neighbouring properties have experienced flooding and it is apparent that infrastructure on site will be required to be upgraded to facilitate the proposed development. This has been included as a condition of permit.</td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td>Yes</td>
<td>It is noted that some neighbouring properties have experienced flooding and it is apparent that infrastructure on site will be required to be upgraded to facilitate the proposed development. This has been included as a condition of permit.</td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Integrate the layout of development with the street</td>
<td>Yes</td>
<td>The development will integrate appropriately with the streetscape with the proposed development utilising both existing crossovers. One dwelling will present to Banksia Avenue with remaining three dwellings orientated to the driveway. Refer to Attachment 3 and 6.1 of the report for further discussion.</td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td>Yes</td>
<td>Requirement: 7.13 metres Proposed: 12.79 metres to 16.6 metres</td>
</tr>
</tbody>
</table>
| **B7 Building Height** | Yes | **Maximum:** 9 metres  
**Proposed:** 7.96 metres |
<table>
<thead>
<tr>
<th></th>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>Building height should respect the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The floor to floor/ceiling heights are less than 3.5 metres and do not trigger a permit pursuant to Clause 4.02 (Design and Development Overlay, Schedule 1).</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| **B8 Site Coverage** | Yes | **Maximum:** 50%  
**Proposed:** 40.6% |
<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| **B9 Permeability** | Yes | **Minimum:** >20%  
**Proposed:** 30.5% |
<table>
<thead>
<tr>
<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| **B10 Energy Efficiency** | Yes | The site is orientated to Banksia Avenue, north of the subject site. Given the orientation of the site it inherently difficult for all dwellings to have a northern aspect and reasonably achieve all other ResCode requirements. 
The areas of secluded private open space proposed are sited to make appropriate use of solar energy and whilst not ideal, are considered appropriate and do not result in unreasonable solar access. Solar access to these areas will be comparable with that experienced by other denser developments within the area such as the dwellings at 1 Banksia Avenue. 
The proposed development has been sited and designed to ensure that energy efficiency of existing dwellings on adjoining lots are not unreasonably overshadowed. |
|------------------------|-----|---------------------|
| Achieve and protect energy efficient dwellings and residential buildings. 
Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy. |

<table>
<thead>
<tr>
<th><strong>B11 Open Space</strong></th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B12 Safety</strong></th>
<th>Yes</th>
<th>The pedestrian and vehicular entry points are clearly recognisable. The orientation of Dwelling 1 allows for passive surveillance of the street.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Layout to provide safety and security for residents and property.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B13 Landscaping</strong></th>
<th>Yes, subject to conditions</th>
<th>Refer Section 6.3 of the report for further discussion.</th>
</tr>
</thead>
</table>
| To provide appropriate landscaping. 
To encourage: |
| Development that respects the landscape character of the neighbourhood. |
- Development that maintains and enhances habitat for plants and animals in locations of habitat importance.
- The retention of mature vegetation on the site.

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

| Yes | The proposal seeks to utilise the existing two cross-overs on site. Council’s Traffic Engineer has not raised any concerns in respect of the proposed access arrangements. Refer to Section 6.4 of the report for further discussion. |

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

| Yes | On site car parking is provided in the form of a double garage for each dwelling. The proposed parking location is secure and convenient for future residents. Standard traffic conditions are included as permit conditions. Refer to Section 6.5 of the report for further discussion. |

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

| No | Refer to Section 6.3 of the report for further discussion. |

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>North-West (side)</td>
<td>0, 2m</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>South-East (side)</td>
<td>0, 2m</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>South-West (rear)</td>
<td>0, 3m</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
</tr>
<tr>
<td>--------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>B18</td>
<td>Walls on Boundaries&lt;br&gt;Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</td>
</tr>
<tr>
<td>B19</td>
<td>Daylight to Existing Windows&lt;br&gt;Allow adequate daylight into existing habitable room windows.</td>
</tr>
<tr>
<td>B20</td>
<td>North Facing Windows&lt;br&gt;Allow adequate solar access to existing north-facing habitable room windows.</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>B21</td>
<td>Overshadowing Open Space&lt;br&gt;Ensure buildings do not significantly overshadow existing secluded private open space.</td>
</tr>
<tr>
<td></td>
<td>The Standard notes that where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September. If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.</td>
</tr>
<tr>
<td>B22</td>
<td>Overlooking&lt;br&gt;Limit views into existing secluded private open space and habitable room windows.</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
</tr>
<tr>
<td>B23 Internal Views</td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
</tr>
<tr>
<td>B24 Noise Impacts</td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Consider people with limited mobility in the design of developments.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling/residential building.</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Allow adequate daylight into new habitable room windows.</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>Provide reasonable recreation and service needs of residents by adequate private open space.</td>
</tr>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
</tr>
<tr>
<td>B30 Storage</td>
<td>Provide adequate storage facilities for each dwelling.</td>
</tr>
<tr>
<td><strong>B31 Design Detail</strong></td>
<td>Yes</td>
</tr>
<tr>
<td>----------------------</td>
<td>-----</td>
</tr>
<tr>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B32 Front Fences</strong></th>
<th>Yes</th>
<th>No front fence is proposed.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B33 Common Property</strong></th>
<th>Yes</th>
<th>All communal areas will be easily maintained and identifiable.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B34 Site Services</strong></th>
<th>Yes</th>
<th>All appropriate site services have been catered for, and any future infrastructure upgrades will be required as a condition of permit.</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>
<tr>
<td>Tree No.</td>
<td>Species</td>
<td>Origin</td>
</tr>
<tr>
<td>---------</td>
<td>----------------------------------------------</td>
<td>--------</td>
</tr>
<tr>
<td>1</td>
<td>Callistemon ‘Kings Park Special’ (Bottlebrush cultivar)</td>
<td>A</td>
</tr>
<tr>
<td>2</td>
<td>Melaleuca quinquenervia (Bread-leaved Paperbark)</td>
<td>A</td>
</tr>
<tr>
<td>3</td>
<td>Eucalyptus melliodora (Yellow Box)</td>
<td>I</td>
</tr>
<tr>
<td>4</td>
<td>Eucalyptus scoparia (Wallangarra White Gum)</td>
<td>A</td>
</tr>
<tr>
<td>5</td>
<td>Eucalyptus cladocephalos (Sugar Gum)</td>
<td>E</td>
</tr>
<tr>
<td>6</td>
<td>Jacaranda microphylla (Jacaranda)</td>
<td>E</td>
</tr>
<tr>
<td>8</td>
<td>Eucalyptus gunniflora (River Red Gum)</td>
<td>I</td>
</tr>
<tr>
<td>9</td>
<td>No tree</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Pittosporum undatum (Sweet Pittosporum)</td>
<td>VW</td>
</tr>
<tr>
<td>12</td>
<td>Persius americana (Avocado)</td>
<td>E</td>
</tr>
<tr>
<td>13</td>
<td>Liguistrum vulgare (Common Privet)</td>
<td>EW</td>
</tr>
<tr>
<td>14</td>
<td>Agonis flexuosa (Willow Myrtle)</td>
<td>A</td>
</tr>
<tr>
<td>15</td>
<td>Callistemon salignus (Willow Bottlebrush)</td>
<td>A</td>
</tr>
<tr>
<td>16</td>
<td>Brachychiton acerifolius (Illawarra Flame Tree)</td>
<td>A</td>
</tr>
<tr>
<td>17</td>
<td>Pittosporum crassifolium (Karo)</td>
<td>E</td>
</tr>
<tr>
<td>Tree No.</td>
<td>Species</td>
<td>Origin</td>
</tr>
<tr>
<td>---------</td>
<td>---------</td>
<td>--------</td>
</tr>
<tr>
<td>18</td>
<td>Corymbia citriodora (Lemon-scented Gum)</td>
<td>A 110 approx</td>
</tr>
<tr>
<td>19</td>
<td>Crataegus phaenopyrum (Washington Thorn)</td>
<td>E 20,19</td>
</tr>
<tr>
<td>20</td>
<td>Acer negundo (Box Elder)</td>
<td>E 20</td>
</tr>
<tr>
<td>21</td>
<td>Camellia japonica cultivar (Camellia)</td>
<td>E 18</td>
</tr>
<tr>
<td>22</td>
<td>Camellia japonica cultivar (Camellia)</td>
<td>E 14,13, 11</td>
</tr>
<tr>
<td>23</td>
<td>Acer negundo (Box Elder)</td>
<td>E 45</td>
</tr>
<tr>
<td>25</td>
<td>Ligustrum vulgare (Common Privet)</td>
<td>EW 16,10</td>
</tr>
<tr>
<td>26</td>
<td>Camellia japonica cultivar (Camellia)</td>
<td>E 19,7,6</td>
</tr>
<tr>
<td>27</td>
<td>Camellia japonica cultivar (Camellia)</td>
<td>E 19,9,8</td>
</tr>
<tr>
<td>28</td>
<td>Pittosporum undulatum (Sweet Pittosporum)</td>
<td>VW 22</td>
</tr>
<tr>
<td>29</td>
<td>Ligustrum lucidum (Tree Privet)</td>
<td>EW 13,12, 10</td>
</tr>
<tr>
<td>30</td>
<td>Michelia figo (Port Wine Magnolia)</td>
<td>E 8,7</td>
</tr>
<tr>
<td>31</td>
<td>Maho species/cultivar (Crapeapple)</td>
<td>E 26,20</td>
</tr>
<tr>
<td>32</td>
<td>Pittosporum undulatum (Sweet Pittosporum)</td>
<td>VW 7,5</td>
</tr>
<tr>
<td>33</td>
<td>Cupressus sempervirens 'Swanes Golden' (Golden Pencil Pine)</td>
<td>E 13</td>
</tr>
<tr>
<td>34</td>
<td>Corymbia ficifolia (Red-flowering Gum)</td>
<td>A 14,14, 13,13</td>
</tr>
<tr>
<td>35</td>
<td>Catalpa bignonioides (Indian Bean Tree)</td>
<td>E 38,35</td>
</tr>
<tr>
<td>Tree No.</td>
<td>Species</td>
<td>Origin</td>
</tr>
<tr>
<td>----------</td>
<td>---------</td>
<td>--------</td>
</tr>
<tr>
<td>36</td>
<td>Pittosporum undulatum (Sweet Pittosporum)</td>
<td>VW</td>
</tr>
<tr>
<td>37</td>
<td>Ficus benjamina (Weeping Fig)</td>
<td>A</td>
</tr>
<tr>
<td>38</td>
<td>Acer negundo (Box Elder)</td>
<td>E</td>
</tr>
<tr>
<td>39</td>
<td>Acer negundo (Box Elder)</td>
<td>E</td>
</tr>
<tr>
<td>40,41</td>
<td>Pittosporum undulatum (Sweet Pittosporum) (x2)</td>
<td>VW</td>
</tr>
<tr>
<td>42</td>
<td>Magnolia grandiflora (Ball Bay)</td>
<td>E</td>
</tr>
<tr>
<td>43</td>
<td>Dead tree</td>
<td>V/A/E</td>
</tr>
<tr>
<td>44</td>
<td>Ficus rubiginosa (Port Jackson Fig)</td>
<td>A</td>
</tr>
<tr>
<td>45</td>
<td>Brachychiton discolor (Lacebark)</td>
<td>A</td>
</tr>
<tr>
<td>46</td>
<td>Syzygium paniculatum (Brush Cherry)</td>
<td>A</td>
</tr>
<tr>
<td>47</td>
<td>Pittosporum undulatum (Sweet Pittosporum)</td>
<td>VW</td>
</tr>
<tr>
<td>48</td>
<td>Waterhousea floribunda (Weeping Lilly Pilly)</td>
<td>A</td>
</tr>
</tbody>
</table>
Explanations
In order to understand the column headings of the table of data, I have provided the following explanations:

Tree Origin Categories
Each tree has been classified as to whether it is indigenous (I), native to Victoria (V), native to Australia (A), exotic (E) or an environmental weed (W).

An indigenous species (I) is one that is known to grow naturally in the local area, even if the individual tree has been planted and is from a seed source or provenance foreign to the area.

A species classified V is one which has a part or all, even if very small, of its natural range within Victoria, although it may occur outside the state as well. It does not however occur naturally in the local area.

A species classified A is native elsewhere in Australia than Victoria. It does not occur naturally in the local area.

A species classified E has its natural range occurring outside Australia.

A species classified W is a seriously invasive environmental weed.

DBH Diameter of trunk over bark at breast height. In a number of cases where the tree has forked into multiple trunks below breast height (1.3-1.5m) the diameter is measured below the fork and an estimate is made for the single trunk equivalent at breast height, or else figures for each of the individual stems can be given.

HxS This is the estimated height (H) of the tree and its average crown spread (S).

Condition This descriptor can be encapsulated by three terms, namely Health (H), Structure (S) and Form (F).

Health is largely governed by the ease in which the metabolic functions are occurring throughout the tree. Symptoms of health include the amount, distribution, density, size and colour of the foliage.

Structure refers to the structural stability of the tree and its branches. A well structured tree is not likely to shed branches or stems, or snap in the trunk or blow over, whereas a poorly structured tree is more likely to.

Form basically refers to the symmetry of the tree. A tree with a straight trunk and symmetrical crown and evenly distributed branches is referred to as having good form, whilst a lopsided leaning tree may have fair – poor form.

SULE Safe useful life expectancy in years. Taken in the context that the area is to be developed for residential use, and that sensible distances are maintained between the buildings and the trees, this is the estimate of time that the tree will continue to provide useful amenity without imposing an onerous financial burden in order to maintain relative safety, and avoid excessive nuisance.
Worthiness of Retention (WOR) The following criteria used for formulating a tree's worth for retention are based on the assumption that there is going to be a more intense development of the site than what currently exists, hence the ratings are somewhat relative to one another. The worthiness of retention of a tree is based on a number of factors. These factors are:
1. structure, health, form and safe useful life expectancy,
2. size, prominence in the landscape,
3. whether indigenous to the site,
4. species rarity,
5. importance for habitat of native wildlife

Any tree with a WOR rating of 3 or less should be seriously considered for removal before development begins because it is dead, nearly dead or dangerous, a weed or just of very little significance and readily replaceable with new plantings.

Trees rated 4-6 can be retained if desired, but their SULEs may be somewhat limited or simply do not rate highly in the above criteria. Most of these trees may respond to treatments such as formative pruning, removal of dead wood, weight reduction pruning, alleviation of soil compaction etc. The life expectancies may in fact be quite long, but they do not have high worth for retention if retained as isolated specimens because of factors such as relatively poor structure, some stress, inadequate trunk thickness and taper relative to height, poor form etc. Trees rated 7 or higher are well worthy of retention (the higher the ranking the more so), primarily because of their good health, structure, form, significance and SULE, although they still may need substantial works done on them as already detailed, if they are to be retained. Often these are large trees which have grown more in isolation.

Tree Protection Zone (TPZ) According to the Australian Standard AS 4970-2009 ‘Protection of Trees on Building Sites’, the TPZ is the principal means of protecting trees on development sites. It is a combination of the root area and crown area requiring protection. It is an area isolated from construction disturbance, so that the tree remains viable. The radius of the TPZ is calculated by multiplying the DBH by 12. The radius is measured from the centre of the stem at ground level. An area of 10% of the TPZ is deemed acceptable to violate if 10% of the area of the TPZ is made up in other directions. Thus if encroachment is from one side only, encroachment to as close as approximately 8 times the DBH (2/3 the listed TPZ radius) is permissible according to the Standard.

The TPZs as calculated according to the AS 4970-2009 should only be construed as a rough guide. They are only used in this statement because various local authorities now demand it in their assessments of development applications. Many factors such as the type of encroachment on the TPZ, species tolerance, age, presence of spiral grain, soil type, soil depth, tree lean, the existence of usable structures or root directional impediments, level of wind exposure, irrigation and ongoing tree care and maintenance are each highly influential on the size and success of the TPZ estimation, therefore the figures derived from the Standard and provided in this report must be treated as rough guides only.

Structural Root Zone (SRZ) According to the Australian Standard AS 4970-2009, the structural root zone is the area of the root plate required for a tree’s stability. In order to calculate the indicative radius of such a zone from the trunk centre, according to the Aust Std., one uses the following formula: SRZ radius = (D x 50)^{1.42} x 0.64, where D is the trunk diameter in metres taken from just above the root buttress. The minimum indicative SRZ radius is 1.5m for any tree, irrespective of how small. A graph is provided in the Aust Std., with a curve depicted relating the SRZ to trunk diameter. Unfortunately, the calculated figures do not match those derived from the graph. The Aust Std. does not mention from where this formula is taken although acknowledges the publication ‘Matteck, C. & Breloer, H. (1994) The Body Language of Trees: HMSO Publications’ in the preface and bibliography. The figures derived from the graph for the indicative SRZs are far greater than those implied from the curve of 95% fit for the results from studies of upturned root plates of windblown and witches over German trees (see Matteck, C. & Breloer, H. (1994). Furthermore the figures derived from the graph for the indicative SRZs are far greater than what one calculates them to be, using the formula provided by the Standard i.e. (D x 50)^{1.42} x 0.64. The calculated figures according to the Aust Std. are considerably greater for small and large trunks than those of Matteck & Breloer.
In reality, the radii calculated whether by graph or using the formula are much larger than necessary, except in cases such as where the soils are very shallow or where the structural root development is unidirectional or highly asymmetric for some reason, and the excavation is to be within the zone of the roots. The structural stability generally depends far more on what proportion of the circumference of the tree is to be excavated than the actual distance of excavation from a tree, and this is often not taken into account quite when using the SRZ.

Tree Origin Categories
Each tree has been classified as to whether it is indigenous (I), native to Victoria (V), native to Australia (A), exotic (E) or an environmental weed (W).

An indigenous species (I) is one that is known to grow naturally in the local area, even if the individual tree has been planted and is from a seed source or provenance foreign to the area.

A species classified V is one which has a part or all, even if very small, of its natural range within Victoria, although it may occur outside the state as well. It does not however occur naturally in the local area.

A species classified A is native elsewhere in Australia than Victoria. It does not occur naturally in the local area.

A species classified E has its natural range occurring outside Australia.

A species classified W is a seriously invasive environmental weed.
1. Application details

To report a planning permit application which is the subject of an appeal to the Victorian Civil and Administrative Tribunal (VCAT) pursuant to Section 79 (failure to determine) of the Planning and Environment Act 1987.

An in-principle agreement was reached by all parties subsequent to a VCAT Compulsory Conference held on the 20th March 2018 for the construction of a three-storey building over basement containing four dwellings and the construction of a front fence in excess of 1.5m at 1 & 2/16 St. Andrews Street, Brighton.

It is noted that this matter was listed, and heard at the previous Planning and Amenity Committee Meeting held on 13th March 2018, and was deferred until such time that the compulsory conference was held and the applicant had finalised their plans. This has now occurred.

The revised plans are generally in accordance with those tabled at the previous Planning and Amenity Committee Meeting on 13 March 2017 (on which no decision was made), though the number of dwellings has decreased from five to four, with subsequent internal changes and relatively minor modifications to the siting of built form.

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Support the Grant of a Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Black Street 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>10 July 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>168 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone (Schedule 2)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 11)</td>
</tr>
<tr>
<td></td>
<td>Development Contribution Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>7</td>
</tr>
</tbody>
</table>

Proposal

The amended plans tabled at VCAT Compulsory Conference seeks for the development of a three storey residential building consisting of four apartments, a front fence exceeding 1.5 metres in height, basement car park on a lot with an area of 917.18 square metres. Key details of the proposal are as follows:

- 4 x three bedroom apartments;
- Building Height – 10.9 metres,
- Site coverage - 59%,
- Permeability - 22%,
- Garden area – 35%,
- Basement car parking – 4 spaces allocated to APT-G01 and two spaces are allocated evenly to other dwellings,
- Provision of 5 bicycle spaces, and
- Located with the Church Street Major Activity Centre.

The application plans are provided at Attachment 1.

3D perspective drawings are provided at Attachment 5.

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

History

An appeal to the VCAT pursuant to Section 79 (failure to determine) of the Planning and Environment Act 1987 was lodged on 6 December 2017. A Compulsory Conference was held on 20 March 2018, attended by the permit applicant, an objector who joined as a party to the appeal and Council Planning Officer. An in principle agreement was reached between all parties in attendance.

The agreement (Attachment 6) was that a planning permit could be issued for the proposal subject to the conditions and plans that are stated and discussed in this report. The plans tabled at the Compulsory VCAT Conference are provided at Attachment 1 and were used as a basis for discussion at the conference. These are the plans that this report and recommendation are based.

The revised plans are generally in accordance with those tabled at the previous Planning and Amenity Committee Meeting on 13 March 2017 (on which no decision was made), though the number of dwellings has decreased from five to four, with subsequent internal changes and relatively minor modifications to the siting of built form.

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

Alternatively, should Council determine to not support the issue of a permit, then the application will proceed to a two day VCAT merits hearing set for 2 and 3 May 2018.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.08-6 - General Residential Zone, Schedule 2 (GRZ2) - Construction of two or more dwellings on a lot;
- Clause 32.08-6 - General Residential Zone, Schedule 2 (GRZ2) - Construction of a front fence within 3 metres of a street exceeding a height of 1.5 metres; and,
- Clause 43.02-2 - Design and Development Overlay, Schedule 11 (DDO11) – Construct a building or construct and carry out works exceeding a height of 9 metres.
- Clause 52.06 – Car parking – Reduction of one visitor car space.

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 the retention of Tree 7.</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>Raised concerns, which can be dealt with by conditions of permit.</td>
</tr>
<tr>
<td>Waste Management</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Heritage (external independent heritage advisor)</td>
<td>No objection.</td>
</tr>
</tbody>
</table>

**Public notification**

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

- Neighbourhood character;
- Tree removal;
- Noise including acoustic impacts by virtue of the basement ramp location and ground level windows;
- Overlooking;
- Excessive building bulk/mass and poor transition to 6 Black Street;
- Inadequate landscaping;
- Insufficient setback to Black Street;
- Inadequate respect for abutting heritage place;
- Parking / Traffic; and
- Inadequate notice for demolition

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

**Consultation meeting**

A consultation meeting was held on 22 November 2017 attended by the permit applicant and 5 objectors. As a result of this meeting no objections were withdrawn.
4. **Recommendation**

That Council resolve to:

Issue a Support the Grant of a Permit under the provisions of the Bayside Planning Scheme in respect of **Planning application 2017/259** for the land known and described as 1 & 2/16 St Andrews Street, Brighton, for the **development of the land for the construction of a three-storey building over basement containing four dwellings and the construction of a front fence in excess of 1.5m** 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 and advertised) prepared by Wolveridge Architects Project Name Black Street Residences 16 St Andres Street Brighton 3166, date 13 March 2018 and revision number L but modified to show:

   a) The whole building (including the basement and associated ramp) moved towards north west (towards St Andrews Street) by 500mm.

   b) The east wall (with no window openings) of bedroom 2 in Unit G02 set back 1.5m from the south east boundary. This setback to be nominated as garden area.

   c) The north wall of bedroom 2 in Unit G02 increased by 1m to the north.

   d) South east boundary wall to be amended in accordance with the amended without prejudice plan attached. This wall to be notated as rendered to Dark Grey or similar.

   e) The setback to the south east wall of Bedroom 3 of Unit PH-201 from the south east boundary increased to 6.895m (along it’s entirely).

   f) The ensuite 3 in Unit PH-201 deleted.

   g) The south east setback of master bedroom in Unit PH-201 increased to 9.5m.

   h) The reduction in the width of the second floor pergola along the St Andrews Street and Black Street to no greater than 1m extending out of the façade of the building. The height to be reduced to be no more than 3m above the finished floor level.

   i) Walls on boundaries to be reduced to comply with Standard B18 of the Bayside Planning Scheme.

   j) Screening details to be provided to all habitable room windows in accordance with Standard B22 of the Bayside Planning Scheme.

   k) Internal fencing details to be provided in accordance with Standard B23 of the Bayside Planning Scheme.

   l) A B85 turning template to be provided for the proposed car parking spaces in accordance with Clause 52.06 of the Bayside Planning Scheme.

   m) Grades, length of grades, levels of headroom of a minimum of 2.2m to be provided on the longitudinal ramp design in accordance with Clause 52.06 of the Bayside Planning Scheme.
n) Reduce/relocate the existing crossover to 3.6m to match the new ramp width and reinstate the replaced crossover to nature strip at developer’s cost.

o) Adequate sight lines must be provided where the ramp intersects with the front footpath in accordance with Clause 52.06 of the Bayside Planning Scheme.

p) 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.

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

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

s) Tree Management and Protection Plan in accordance with Condition 13 and Condition 17.

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.

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

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

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

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

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

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

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 drawn by Erkersley Garden Architecture, Drawing No. STA-0517-01-00, dated 10 July 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

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

   b) 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) Evergreen screen planting in the south east setback alongside 6 Black Street planted at a height no less than 2m.

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

   f) Details of surface finishes of pathways and driveways.

   g) Removal of Tree 7 and replaced by a suitable species.

   h) Appropriately sized canopy trees in accordance with Bayside Landscape Guidelines for selection and soil volume requirements.

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.

Tree Management and Protection Plan

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

- The Tree Management Plan (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.

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

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

16. 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.

17. Prior to the development commencement or any removal of vegetation, a Tree Impact Assessment Report is required to be submitted to Council. The report will be in accordance with part 2.3.5 of Australian Standard Protection of Trees on Development Sites 4970 and will identify impacts that may be detrimental to the Tree #2 and Tree #6. The report will include design responses required to reduce any identified negative impact. The proposal will be modified to include any recommendations made in the report.

Street tree protection

18. Soil excavation must not occur within 3.5 metres from the edge of the Eucalyptus sideroxylon (Tree 1) and Eucalyptus leucoxylon (Tree 2) street tree asset’s stem at ground level along the naturestrip.
19. 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.

20. Prior to soil excavation for a Council approved crossover within the TPZ, a trench must be excavated along the line of the crossover adjacent to the tree using root sensitive non-destructive techniques. All roots that will be affected by must correctly pruned.

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

**Drainage**

22. 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.

23. 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.

**Waste Management Plan**

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

25. 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, queueing/sequencing, excavation and swept-path diagrams.

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

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

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

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

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

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

i) Site security.

j) Public safety measures.

k) Construction times, noise and vibration controls.

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

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

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


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

r) Details of crane activities, if any.

Development Contributions

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

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

Permit Expiry

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.

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

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

**Council Plan 2017-2021**

Relevant objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 9  Plan Melbourne
- Clause 11  Settlement
- Clause 15  Built Environment and Heritage
- Clause 16  Housing
- Clause 21.02  Bayside Key Issues and Strategic Vision
- Clause 21.03  Settlement and Housing
- Clause 21.06  Built Environment and Heritage
- Clause 21.10  Infrastructure
- Clause 21.11  Local Areas (Church Street Brighton)
- Clause 22.06  Neighbourhood Character Policy (Precinct B2)
- Clause 22.08  Water Sensitive Urban Design
- Clause 32.08  General Residential Zone (Schedule 2)
- Clause 43.02  Design and Development Overlay (Schedule 11)
- Clause 45.06  Development Contributions Plan Overlay (Schedule 1)
- Clause 52.06  Car Parking
- Clause 55  Two or more dwellings on a lot
- Clause 65  Decision Guidelines

6.  **Considerations**

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

6.1.  **Strategic Justification**

The Planning Policy Framework supports the intensification of development in and around public transport nodes and in activity centres. The local areas policy contains a subsection relating specifically to the Church Street Major Activity Centre (Clause 21.11-3) that seeks to encourage residential development close to shops and services to provide a transition from the business precinct to low scale residential areas. Furthermore Clause 21.11 encourages redevelopment of larger sites and grade level car parks for residential with basement car parking and encourages the provision of
adequate off-street parking for all new dwellings.

Additionally, the policy in Clause 21.11 seeks to provide an opportunity for as many people as is appropriate given the character of the area and the opportunities for change to live and work in Brighton, with access to public transport and within walking and cycling distance of activity centres, and hence to provide a real transport option for people other than the private car.

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

6.2. Design and Development Overlay Schedule 11 (DDO11)

The design objectives of this schedule are as follows:

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

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

Precinct E has the following build form provisions:

**Table to built form precinct provisions**

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

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

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

- The proposed development consists of a maximum height of 10.9 metres (above NGL) / three storeys development. There are no portions that exceed the 10.9 metres;
- The bulk, location and appearance of the development is considered to be in keeping with the emerging character and appearance of adjacent buildings located within close proximity and is considered to enhance the streetscape;
• The proposed development does not overshadow any public space nor any adjoining streets to an unsatisfactory level;

• The proposed use of a mixture of building materials provides a level of articulation and breaks up the perceived bulk from all abutting allotments;

• The subject is located within walking distance to Middle Brighton Station which encourages the use public transport and furthers The Church Street Centre Framework Plan;

• The proposed development will contribute to creating a vibrant residential activity centre;

• The proposed development is considered to be consistent with the Church Street Centre Framework Plan;

• The site abuts a heritage dwelling (6 Black Street), however the design, form, layout, proportion and scale of the proposed building is considered to be compatible with the style, form, proportion, and scale of the neighbouring properties. The setbacks between the two sites (1.5 metres at the ground floor, 5.31 metres at first floor and 6.895 metres at the second floor) allows for sufficient separation whilst the design response does not seek to replicate nor mimic heritage buildings found in the immediate and wider area;

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

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

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

The proposed development does not meet the above requirement as the proposed as the setbacks from second floor to first floor is 2.265 metres fronting St Andrews Street and 3.09 metres fronting Black Street. Being a corner site, the proposal has to address the character of both streets appropriately.

St Andrew Street Frontage

A variation to this requirement is considered to be appropriate. Although it does not strictly comply with numerically requirement, the built form at this street presentation is very narrow (just 7m for that area that encroaches) and hence would not be a dominant features when viewed from this streetscape. The second floor would also generally align with the second floors of the adjacent two developments, at No.10 and 14 and hence from a streetscape character perspective there are no issues.

Black Street Frontage

The proposed second floor setback 3.08m behind the front wall of the first and therefore a variation of 0.92m is sought.

At the compulsory conference, Council advised that some further modifications would be required to achieve a better fit along Black Street for the second floor (i.e. make it less prominent). The following changes were agreed to:

- The ensuite 3 in Unit PH-201 deleted.
- The setback to the south east wall of Bedroom 3 of Unit PH-201 from the south east boundary increased to 6.895m (along it’s entirely).
- The south east setback of master bedroom in Unit PH-201 increased to 9.5m.
- Reduction of the pergola element at second floor (reduce length and lower height).
Whilst there would still be a variation to this standard, the changes achieved through negotiations will ensure that the streetscape character of Black Street is adequately protected through reductions in the bulk in scale of the second floor, particularly as it reaches the more sensitive interfaces to the southeast.

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

6.3. Neighbourhood character

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

The development incorporates appropriate boundary setbacks to reflect the built form pattern of the area while promoting adequate visual separation between the adjoining dwellings. It is noted that the character of St Andrews Street consists of various built form elements, therefore the proposed contemporary design will not seem at odds with the immediate area. Furthermore, the southern side of St Andrews Street contains examples of three storey development at 10 and 14 St Andrews Street.

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

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

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

The proposed pergola along the St Andrews Street frontage and Black Street frontage adds unnecessary visual bulk to the streetscape. It was agreed that this be reduced at the compulsory conference.

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

6.4. Compliance with Clause 55 (ResCode)

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

Walls on boundaries (Standard B18)

The proposed walls on boundaries exceed the required average height of 3.2m and it faces to a number of habitable room windows and private open space at 14 St Andrews Street. Compliance with this standard is included as a recommended condition.

Overlooking (Standard B22)

The proposal includes a number of windows serving habitable rooms that are within 9 metres of the secluded private open space (SPOS) and habitable room windows of the
The development is designed to incorporate external screening however some of them missed details to comply with the standard. It will be conditioned in the permit to ensure all the habitable room windows comply with the Standard B22. The ground floor boundary fence details is also required to address the overlooking issue.

Internal Views (Standard B23)

Windows and balconies are designed to prevent overlooking into secluded private open space and habitable room windows of dwellings within the development by using screening and other measures to comply with the requirements of B23. Internal fencing details at the ground floor are required to be included.

Front Fences (Standard B32)

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>St Andrews Street</td>
<td>1.5m</td>
<td>1.8m</td>
<td>500 mm</td>
</tr>
</tbody>
</table>

A number of different type of front fences of 1.8 metres in height is proposed to the front boundary of the site on St Andrews Street. Pursuant to Standard B32 a front fence to a maximum of 1.5 metres in height is preferred. The objective of this standard is to encourage front fence design that respects the existing or preferred neighbourhood character.

While it is acknowledged that the fence exceeds the 1.5m requirement, the variety design treatment of the proposed fence ensure it will not appear visually dominant while also responding to the typical fence heights in the immediate area.

The 1.8m front fence is considered to be in keeping with the existing fence heights found throughout St Andrews Street.

6.5. Landscaping

The application plans show the removal of 10 trees from the site including 2 native trees. The table below identifies those trees protected by the Local Law and those which are not protected by any statutory mechanism. Native trees are marked with a ‘*’.

<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>
</tr>
<tr>
<td>Tree 4, 5, 7, and 12, N/A</td>
<td>Tree 8, 9, 10*, 11, 13, and 15, 16, 17*, 18, 19 and 20.</td>
</tr>
</tbody>
</table>

Council’s Arborist in their referral response advised that:

- Support for proposed tree removal based on health and structure, excluding Tree #7 that they sought retention of.

Whilst the retention of Tree 7 would be positive (English Oak), the applicant tabled an updated assessment of this tree at the compulsory conference, that deemed the tree suitable for removal based on a number of factors, including:

- Poor health due to the constant possum predation that has occurred through the canopy over a number of years.

- Poor structure given the uneven, and leaning branching distribution of the canopy.

- Unbalanced and asymmetrical canopy form.
- Low landscape contribution in terms of shading or screening within the site and to the public realm.
- Less than 5 years useful life expectancy.

The Vision under Clause 21.11-3 Church Street, Brighton states: “The surrounding residential precinct will retain its spacious and leafy character and new housing will integrate with the existing streetscape and provide additional opportunities for people to live near the centre.” The policy calls for a balanced decision to maintain the existing streetscape as well as promoting for higher density development.

The application is proposed to retain one of the suitable canopy tree (Tree #6) within the front yard to maintain the existing streetscape character which is an appropriate response to the policy. It is further noted the existing St Andrews streetscape is not heavily characterised by canopy trees within the front yard.

All things considered, the removal of tree N0.7 is supported, subject to the planting of a new tree in a similar location (indigenous) that over time, will reach a similar height of that tree being removed (amongst other trees and shrubs that were always proposed through the submitted landscape plan).

6.6. **Street tree(s)**

Tree No. 2 and 3 are located within the nature strip and is proposed for retention. Council’s Street Tree Arborist advised that the proposed ‘1.8m solid/slatted fence’ within the TPZ of Tree 2 does not provide details for excavation for foundations, therefore a tree impact assessment, tree management plan and a tree protection plan are required to ensure the trees viability both during and post construction.

A further note from the arborist that the Tree 2 does not meet criteria for removal.

6.7. **Car parking and traffic**

Pursuant to the car parking requirements at Clause 52.06, a dwelling requires car parking to be provided at a rate of 1 car space per one or two bedroom dwellings and 2 car spaces per three or more bedroom dwellings.

The development proposes the following:

<table>
<thead>
<tr>
<th>Use</th>
<th>Size</th>
<th>Planning Scheme Parking Rate</th>
<th>Car Parking Requirement</th>
<th>Car Parking Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling (resident)</td>
<td>4 x 3</td>
<td>2 spaces to each 3 bedroom dwelling</td>
<td>8 spaces</td>
<td>10 spaces</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
<td>8 SPACES</td>
<td>10 SPACES</td>
</tr>
</tbody>
</table>

Council’s Traffic Engineer expressed no other concerns with the development subject to the inclusion of permit conditions relating to vehicle access, driveway gradients, sightlines, turning assessment and internal parking dimensions. These are included as recommended conditions.

Concerns have been raised by residents in relation to increased car parking congestion however it is considered that the proposed development will not unreasonably impact on the car parking network in the street. In addition, car parking congestion was not raised as a concern by Council’s Traffic Engineer.

6.8. **Objector issues not already addressed**

**Inadequate notice for demolition**

The site is not covered by an overlay which triggers planning permit for demolition, therefore Council’s planning department has no control over the timing of development.
Support Attachments

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment ↓
4. Clause 55 Assessment ↓
5. 3D Perspective Drawing ↓
6. VCAT Conplusory Conference agreement ↓
Item 4.6 – Matters of Decision
Figure 1 Aerial overview of the site and surrounds, two objections were received from properties located outside of this map.

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

Other objectors are not listed

Ask Planning Services Pty Ltd PO Box 505 Port Melbourne

O’Neill Consulting PO Box 2195 Hawthorn
Figure 2 View towards the site from the north

Figure 3 View towards the site from the Black Street
Figure 3 View towards the site from the north to Black Street.
Attachment 2

Neighbourhood Character Precinct B2

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning 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 subject site is not covered by heritage overlay. Noted the building has been demolished. |
| To maintain and enhance the garden settings of the dwellings.             | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. | Lack of landscaping and substantial vegetation.                  | Responds  
There is sufficient space to provide substantial trees to maintain and enhance the garden settings of the dwellings. |
| To 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  
There is sufficient area for the provision of landscaping to occur within the front setback of the proposed development. |
| To minimise the loss of front garden space and the dominance of car parking facilities. | • Locate garages and carports behind the line of the dwelling.  
• Provide only one vehicular crossover per typical site frontage.  
• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space. | Car parking facilities that dominate the façade or view of the dwelling. | Responds  
Basement parking is proposed with a single vehicular access. |
| To ensure new development respects the                                    | • Articulate the form of buildings and elevations, particularly front facades. | Large buildings with poorly                                     | Responds  
St Andrews Street contains various forms of development |
**Objectives** | **Design Responses** | **Avoid** | **Planning Officer Assessment**
--- | --- | --- | ---
Dominant buildings forms and scale of buildings in the Precinct, through the use of innovative architectural responses. | • Recess upper storey elements from the front façade. | Articulated facades. | Including contemporary design. The proposed development will enhance the existing and emerging character of the area by utilising similar forms of materials; finishes; and, landscaping. The dwellings feature articulated forms and second storey elements will be recessed from the side walls and surfaces. The recessed upper storey elements from the front façade response to the neighbourhood character of the Black Street. It is considered that due to the architectural design found throughout St Andrews street, the proposed development is considered to be appropriate as it meets the existing and emerging neighbourhood character of the street.

To respect the identified heritage qualities of adjoining buildings. | • Where adjoining an identified heritage building, respect the height, building forms, siting and materials of the heritage building/s, in the new building design. | Buildings that dominate heritage buildings by height, siting or massing. Imitation or reproduction of historic building styles and detailing. | Responds
An independent heritage consultant has been engaged by Council to provide comments in relation to the potential heritage impacts of the proposed development on the abutting significant heritage property, known as 6 Black Street. In general, the heritage advisor believes that the proposed building will sit forward of the house at 6 Black Street, it has generous setbacks from the common side boundary for most of its length, which will provide appropriate visual separate. While some oblique views of the house looking from the corner of St Andrews Street may be affected, the heritage advisor noted that views in this direction are already limited by the double garage built hard form to the boundary at the rear of the existing house at 16 St Andrews Street.

To use a variety of building materials and finishes that | • Incorporate a variety of building materials such as brick, render, | Exclusive use of one material | Responds
The proposal utilises a variety of materials, including render
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>provide visual interest in the streetscape.</td>
<td>timber and non-masonry into the building design.</td>
<td>on external wall facades.</td>
<td>and timber cladding. The palette of colours is considered appropriate and assists in reducing visual bulk.</td>
</tr>
<tr>
<td></td>
<td>• Use simple building details.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To improve the visual connection between the dwellings and the streetscape and encourage views to front gardens.</td>
<td>• Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High, solid fences</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Front fence style should be appropriate to the building era.</td>
<td></td>
<td>The front fencing would be of a height up to 1.8 metres with different designs. It is considered the fence does not present as a dominant feature as it is in keeping with the surrounding area.</td>
</tr>
</tbody>
</table>
### ResCode Clause 55 (Two or More Dwellings on a Lot and Residential Buildings)

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer report.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to the services and facilities required to support the proposed residential development.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/a</td>
<td>The proposed development is less than 10 dwellings.</td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The dwellings are appropriately address the street and entries are clearly identifiable from either the streetscape or the common pedestrian access.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>Minimum: 5.8m Proposed: 5.8m</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Yes</td>
<td>Required: 11m Proposed: 10.9m</td>
</tr>
<tr>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| B8 Site Coverage | Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. | Yes | **Maximum:** 60%  
**Proposed:** 59% |
|------------------|-----------------------------------------------------------------------------------------------------------------|-----|------------------|
| B9 Permeability  | Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. | Yes | **Minimum:** 20%  
**Proposed:** 22%  
Refer to report for justification. |
| B10 Energy Efficiency | Achieve and protect energy efficient dwellings and residential buildings.  
Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy. | Yes | The proposal provides for adequate solar access to the building, with living areas and private space located to achieve maximum energy efficiency. |
| B11 Open Space | Integrate layout of development with any public and communal open space provided in or adjacent to the development. | N/A | N/A  
There is no communal open spaces provided as part of the development. |
| B12 Safety | Layout to provide safety and security for residents and property. | Yes | No safety issues are considered to be likely to arise. |
| B13 Landscaping | To provide appropriate landscaping. To encourage:  
Development that respects the landscape character of the neighbourhood.  
Development that maintains and enhances habitat for plants and animals in locations of habitat importance.  
The retention of mature vegetation on the site. | Yes | Refer report. |
| B14 Access | Ensure the safe, manageable and convenient vehicle access to and from the development.  
Ensure the number and design of vehicle crossovers respects neighbourhood character. | Yes | Appropriate vehicular access is provided; the proposed development utilises the existing crossover located off Black Street. |
| B15 Parking Location | | Yes | Refer report. |
Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>The proposed development is considered to be highly compliant with Standard B17.</th>
</tr>
</thead>
</table>

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

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Ground Floor</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>South-west (side)</strong></td>
<td>0m or 1m</td>
<td>0m – 2.39m</td>
<td>2.19m</td>
<td>2.39m</td>
</tr>
<tr>
<td><strong>North-east (rear)</strong></td>
<td>0m or 1m</td>
<td>0m – 4.8m</td>
<td>2.39m</td>
<td>4.841m</td>
</tr>
<tr>
<td><strong>First Floor</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>South-west (side)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>North-east (rear)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Second floor</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>South-west (side)</strong></td>
<td>5.93m</td>
<td>6.12m</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>North-east (rear)</strong></td>
<td>5.39m</td>
<td>6.3m</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th></th>
<th>No</th>
<th>Refer Report</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum Height</strong></td>
<td>3.6m</td>
<td></td>
</tr>
<tr>
<td><strong>Proposed</strong></td>
<td>3.588m</td>
<td>3.597m</td>
</tr>
<tr>
<td><strong>Maximum Average Height</strong></td>
<td>3.2m</td>
<td></td>
</tr>
<tr>
<td><strong>Maximum Length</strong></td>
<td>18.16m</td>
<td></td>
</tr>
<tr>
<td><strong>Proposed</strong></td>
<td>18m</td>
<td></td>
</tr>
</tbody>
</table>

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

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

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

<p>|                                | N/A     | Given the site orientation, the windows on the north-eastern façade of 14 St Andrews do not have an axis perpendicular to its surface oriented north 20 degrees west to north 30 degrees east, therefore the standard does not apply. |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>B21 Overshadowing Open Space</td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Yes</td>
<td>The submitted Shadow Diagrams indicate that there will be some shade to the secluded private open space of 14 St Andrews Street but will experience a similar level of overshadowing to what is experienced and these SPOS areas will still have an acceptable level of amenity.</td>
</tr>
<tr>
<td>B22 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>No</td>
<td>Refer Report</td>
</tr>
<tr>
<td>B23 Internal Views</td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>No</td>
<td>Refer Report</td>
</tr>
<tr>
<td>B24 Noise Impacts</td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
<td>The development has been designed to accommodate people with limited mobility.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling.</td>
<td>Yes</td>
<td>The building has been designed with a sense of address to the street and allowing for shelter and a transitional space around the entry.</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>All habitable room windows have direct access to daylight.</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>Provide reasonable recreation and service needs of residents by adequate pos.</td>
<td>Yes</td>
<td>All dwellings provide sufficient private open space for future residents.</td>
</tr>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Yes</td>
<td>Where practicable, private open space for each bedroom is located on the northern elevation (or east or west).</td>
</tr>
<tr>
<td>B30 Storage</td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td>Yes</td>
<td>A storage area of $6m^3$ in size is provided within the proposed basement.</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Encourage design detail that</td>
<td>Yes</td>
<td>Refer discussion in Attachment 3.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
<td>Reason</td>
</tr>
<tr>
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<tr>
<td>4.6</td>
<td>B32 Front Fences</td>
<td>No</td>
<td>Refer to report.</td>
</tr>
<tr>
<td></td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.6</td>
<td>B33 Common Property</td>
<td>Yes</td>
<td>Complies, all common areas including pathways and basement car parking are easily delineated. These areas can be managed by an Owners Corporation.</td>
</tr>
<tr>
<td></td>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.6</td>
<td>B34 Site Services</td>
<td>Yes</td>
<td>There is adequate space in and around the development for required services and facilities.</td>
</tr>
<tr>
<td></td>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ADR method</td>
<td>Owners Corp.</td>
<td>Planning &amp; Env.</td>
<td>Planning &amp; Environ...</td>
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<td>--------------------------------</td>
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<tr>
<td>Half day Mediation</td>
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<tr>
<td>Full day Mediation</td>
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<tr>
<td>Compulsory Conference</td>
<td></td>
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<tr>
<td>Telephone Mention</td>
<td></td>
<td></td>
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<tr>
<td>Administrative Mention</td>
<td></td>
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<tr>
<td>FTMH</td>
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</tbody>
</table>

**ADR REPORT**

Black St. Pty Ltd v Bayside C/C:

**Attendence & Or Representation**

If further space required, please:
- attach extra sheet, OR where applicable see appearance sheet

(Other details: Daytime Contact number is required if the cooling off period applies)

**NAME(S)**

Paul Connor
Vaughan Connors

**PHONE NO**

R E M A N D E D

**NAME(S)**

Mark Stendel

**PHONE NO**

Contact Name: Bayside City Council

**Other Party(ies) eg. Responsible Authority**

Ziqi Xi

**Actual Duration of Scheduled ADR**

<table>
<thead>
<tr>
<th>Duration</th>
<th>1 to 2 hours</th>
<th>2 to 3 hours</th>
<th>3 to 4 hours</th>
<th>More than 6 hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Duration</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**ADR Outcome**

☐ The mediation/compulsory conference was not held. Why? ...

☐ The matter was settled and final orders to be made. P.T.O. to outline final orders

☐ The matter was not settled (please ensure appropriate listing direction is selected below)

☐ The mediation/compulsory conf. was adjourned (please confirm required adjournment below)

**Listing Directions**

- Hearing date of [date] 20/10/18 for [days is confirmed]; or
- Please refer to directions hearing asap / after [date] / / ; or
- List for a telephone / administrative mention (please circle) on / / ; or
- List for a further mediation on / / for [1%] day [Full day]
- List for a further compulsory conference on / / ; or
- Other (specify below)

**Admin - Please date & initial once completed**

- Hearing Tab
  - Duration updated
  - New Listing Entered
- Orders Tab
  - Outcome Updated
- Event Tab
  - Updated

**Notices Sent**

Adm. Notice 29 March 2018

[Additional notes on administrative aspects]

Follow-up request for this response. The tribunal will direct issues at a point or specific time.
Consent Orders / Record of Settlement *(if required/appropriate)*

Where the matter settles, please confirm or amend the standard Consent Orders below, or indicate any specific orders / Record of Settlement* in the box provided:

*[Note: Confidential Terms of Settlement are NOT to be kept on file]*

☐ The proceeding is struck out [with a right to apply for reinstatement] *delete if not required

☐ The application is withdrawn.

☐ No order as to costs.

☐ Other (specify below)

☐ See attached sheet(s)

*The parties adopt the revised plans dated 13/03/18 Keel *

The parties agree to enter into an agreement under the consent order that the consent order is hereby varied as follows:

1. The plans and elevations to be provided to the Building Surveyor for the purposes of consent.

2. The area marked “T” in the plan shall be increased to 9.5m.

3. The area marked “N” in the plan shall be decreased to 9 m.

4. The area marked “S” in the plan shall be decreased to 9 m.

5. The area marked “W” in the plan shall be decreased to 9 m.

6. The area marked “E” in the plan shall be decreased to 9 m.

7. The area marked “NE” in the plan shall be decreased to 9 m.

8. The area marked “NW” in the plan shall be decreased to 9 m.

9. The area marked “SE” in the plan shall be decreased to 9 m.

10. The area marked “SW” in the plan shall be decreased to 9 m.

11. The area marked “Quadrant” in the plan shall be decreased to 9 m.

12. The area marked “Rectangle” in the plan shall be decreased to 9 m.

13. The area marked “Triangle” in the plan shall be decreased to 9 m.

14. The area marked “Circle” in the plan shall be decreased to 9 m.

15. The area marked “Ellipse” in the plan shall be decreased to 9 m.

16. The area marked “Hexagon” in the plan shall be decreased to 9 m.

17. The area marked “Octagon” in the plan shall be decreased to 9 m.

18. The area marked “Star” in the plan shall be decreased to 9 m.

19. The area marked “Cylinder” in the plan shall be decreased to 9 m.

20. The area marked “Cone” in the plan shall be decreased to 9 m.

21. The area marked “Pyramid” in the plan shall be decreased to 9 m.

22. The area marked “Sphere” in the plan shall be decreased to 9 m.

23. The area marked “Toroid” in the plan shall be decreased to 9 m.

24. The area marked “Torus” in the plan shall be decreased to 9 m.

25. The area marked “Bulg” in the plan shall be decreased to 9 m.

26. The area marked “Oval” in the plan shall be decreased to 9 m.

27. The area marked “Parabola” in the plan shall be decreased to 9 m.

28. The area marked “Hyperbola” in the plan shall be decreased to 9 m.

29. The area marked “Elliptic” in the plan shall be decreased to 9 m.

30. The area marked “Circular” in the plan shall be decreased to 9 m.

☐ Unrepresented parties "ADR Agreement: Cooling off Period" handed and explained to all parties present; OR

☐ Cooling off Period - Not Applicable

Mediator/Member        E.J. Bennett        Signed

Attendance at Mediation / Compulsory Conference *(if appropriate)*

<table>
<thead>
<tr>
<th>Name</th>
<th>Signature</th>
<th>Role</th>
</tr>
</thead>
<tbody>
<tr>
<td>Z102</td>
<td></td>
<td>Town Planner</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Bayside</td>
</tr>
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<td>Camber DC</td>
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</tbody>
</table>

Item 4.6 – Matters of Decision
5. **Confidential Business**

Nil

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

Adrian Robb

Chief Executive Officer