Planning & Amenity Committee Meeting Agenda

Agenda

for the

Planning & Amenity Committee Meeting

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

on

Tuesday, 28 November, 2017 at 7:00pm

Chairperson: Cr Rob Grinter

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

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

Section 92 The Chair's Duties and Discretions

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

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

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

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

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

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

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

Your cooperation is appreciated

Chairperson of Council
Planning & Amenity Committee Meeting

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

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

Membership of the Committee
All Councillors

Order of Business

1. Apologies
2. Declarations of Interest
3. Adoption and Confirmation of the minutes of previous meeting
4. Matters of Decision
   4.1 57 Lynch Crescent, Brighton Notice of Decision to Grant a Permit Application No: 2017/166 Ward: Central .................................... 5
   4.2 49 Fernhill Road, Sandringham Notice of Decision to Amend a Planning Permit Application No: 2013/442/2 Ward: Central ..... 43
   4.3 11 Reno Road, Sandringham, Support Planning Permit Application No: 2016/284/1 Ward: Southern ............................... 73
   4.4 111 Carpenter St, Brighton Support the Grant of a Planning Permit Application No. 2017/136 Ward: Northern....................... 115
   4.5 68 & 76 Union Street & 26 Milliara Grove, Brighton East Support the Grant of a Planning Permit Application No: 2017/144/1 WARD: Northern ................................................................. 159
   4.6 181 Balcombe Road, Beaumaris Notice of Decision to Grant a Planning Permit Application No: 2015/835/1 Ward: Southern 223
5. Confidential Business
   Nil

Next Meetings 2017

Monday 11 December 2017
Thursday 21 December 2017
1. Apologies

2. Declarations of Interest

3. Adoption and Confirmation of the minutes of previous meeting

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

4.1 57 LYNCH CRESCENT, BRIGHTON
NOTICE OF DECISION TO GRANT A PERMIT
APPLICATION NO: 2017/166  WARD: CENTRAL

City Planning & Community Services - Development Services
File No: PSF/17/3327 – Doc No: DOC/17/235594

1. Purpose and background
To report a planning permit application for the construction of two, double storey dwellings with basement parking and the erection of a front fence in excess of 1.2 metres in height on a lot with an area of 895 square metres (refer Attachment 1) at 57 Lynch Crescent, Brighton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Burmad Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>22 March 2017</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>9 August 2017</td>
</tr>
</tbody>
</table>

2. Policy implications
Planning permit requirements
- Clause 32.09-5 (Neighbourhood Residential Zone Schedule 3) – Construction of two or more dwellings on a lot and the construction of a front fence in excess of 1.2 metres in height.

Planning scheme amendments
On 17 August 2017, the Bayside Drainage Development Contributions Plan was approved. Standard permit conditions will be applied to new; multi-dwelling, commercial and non-residential development, requiring payment of a levy toward the cost of upgrading Bayside’s municipal drainage network.

Amendment VC110 was gazetted on the 27 March 2017. The amendment implemented the State Government’s response to the recommendations of the Managing Residential Development Advisory Committee by introducing a minimum garden area for lots 400sqm and above, amending the mandatory height controls and the deleting the minimum number of dwellings allowed per lot in the Neighbourhood Residential Zone.

Transitional provisions at clause 32.09-14 state that planning applications received prior to the introduction of VC110 are not required to meet the minimum garden area requirement, the maximum building height or the number of storey requirements.

As the application was received prior to the 27 March 2017, there is no requirement for the development to accord with the new controls introduced by the amendment.

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

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

<table>
<thead>
<tr>
<th>Arborist</th>
<th>No objection, subject to conditions.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Open Space Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>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. Two of those were made by owners of the same neighbouring residential property. The following concerns were raised:

- No standing restriction should be enforced during the construction period;
- Palm trees should not be removed as they form part of the neighbourhood character;
- Privacy of the occupants of 16 Exon Street would be impacted;
- Over-bearing effect on the outdoor entertaining area associated with 55 Lynch Crescent;
- Loss of natural light/solar gain during the coldest months of the year; and
- Potential noise from air conditioning equipment.

### Consultation meeting

A consultation meeting was held on 18 September 2017 attended by the permit applicant and the four objecting parties. As a result of this meeting no objections were withdrawn.

### 4. Recommendation

That Council:

Issues a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning Application 2017/166/1** the land known and described as **57 Lynch Crescent, Brighton**, for the construction of two dwellings on a lot and the construction of a front fence in excess of 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 submitted with the application date stamped 2 June 2017 but modified to show:
   a) Turntables with a diameter of 4.5 metres, including manufacturer’s specifications of the turntable.
   b) Each car space that abuts a wall shall be widened by 300mm to accord with AS2890.1.
   c) A driveway ramp, the first 5 metres of which measured from the top with a grade of 1 in 10 and minimum headroom of 2.2 metres to comply with AS2890.1 and/or grades and levels to the satisfaction of the Responsible Authority.
d) A longitudinal section of the ramp of the driveway that shows all grades, length of grades in accordance with AS2890.1.

e) Sight lines visibility from each side of the access such that no obstruction lies within it above 1 metre in height.

f) Existing “no stopping” parking sign to be relocated outside of the proposed crossing.

g) The existing vehicle crossing removed to the satisfaction of the Responsible Authority.

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

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

j) Water sensitive urban design measures in accordance with condition 8.

k) Floor plans with boundary fence annotated to the height as shown on elevation drawing nos. TP06 and TPO6.1.

l) Annotations for the aluminium vertical blades and horizontal louvres to be applied at the first floor level of the development that correspond with the legends shown on the elevation drawings.

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

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

7. Before occupation, the obscure screening of windows in accordance with the endorsed plans and designed to limit overlooking as required by Standard B22 shall be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

**Water Sensitive Urban Design**

8. 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.

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.

Traffic

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

Drainage

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

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

13. 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.

Landscaping

14. Before the development starts, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape plan drawn by Species Landscape Design, dated May 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must be modified to also include the following:

a) The extent of paving within the tree planting zone of the Southern Magnolias proposed within the rear setback of each dwelling significantly reduced generally in accordance Appendix 2 of Council’s Landscape Guidelines 2016.

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. There is to be no soil excavation with in the 2 metres of the Ulmus parvifolia street tree asset to be retained measured from the edge of the trunk.

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

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

Permit expiry

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

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

Permit notes

- 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.

- Before the vehicle crossing application will be approved, the applicant must pay $6,036.27 to the Responsible Authority for the removal and replacement of the existing street tree(s). This amount has been determined in accordance with Council’s current policy for the removal of street trees. This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by the Responsible Authority, must undertake the removal and replacement of the street tree. Any replacement planting will be at the discretion of the responsible authority.

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

- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.”
Council records indicate there is a 2.44m wide drainage and sewerage easement along the southern property boundary. There is no proposal to encroach into the easement with any buildings and structures of note. Proposals to build over the easement will require Build Over Easement Consent from the Responsible Authority.

The applicant is to bear the cost to reinstate/relocate the Council assets to provide the required access to the proposed development.

The central Ulmus parvifolia street tree asset can be removed under Clause 6.5 of the Street and Park Tree Management Policy (2016) to allow the development to proceed with the installation of the proposed vehicle crossing in the proposed location.

5. **Council Policy**

**Council Plan 2017-2021**

Relevant 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 12  Environmental and Landscape Values
- Clause 15  Built Environment and Heritage
- Clause 16  Housing
- Clause 21.02  Bayside Key Issues and Strategic Vision
- Clause 21.03  Settlement and Housing
- Clause 21.04  Environmental and Landscape Values
- Clause 21.06  Built Environment and Heritage
- Clause 21.10  Infrastructure
- Clause 22.06  Neighbourhood Character Policy (Precinct E1)
- Clause 22.08  Water Sensitive Urban Design
- Clause 32.09  Neighbourhood Residential Zone (Schedule 3)
- Clause 42.02  Vegetation Protection Overlay
- Clause 43.02  Design and Development Overlay (Schedule 3)
- Clause 45.06  Drainage Contributions Plan Overlay (Schedule 1)
- Clause 52.06  Car Parking
6. Considerations

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

6.1 Neighbourhood character

The site is located within Neighbourhood Character Precinct E1 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The proposed development incorporates appropriate boundary setbacks to reflect the pattern of built form in the area whilst allowing for adequate visual separation between dwellings. The area is characterised by a variety of built form, consisting of pre-WW2 dwellings and modern infill development. The juxtaposition of architectural styles is part of the established built form of this part of Lynch Crescent.

In this, the proposed dwellings with their contemporary design approach would be consistent with this established character. Their articulated facades, flat roof form, which is responsive to other examples within Lynch Crescent, setbacks and otherwise by their external finishes would be complementary to the existing and preferred character of the area.

The setbacks of each dwelling allow for landscaping throughout the development to enhance the landscaped character of the area, subject to conditions. Whilst fencing in excess of 1.2 metres in height is proposed along the roadside boundaries of the site, it would replace boundary fencing of a similar height. Furthermore, the visual impact of the proposed roadside boundary fencing would be minimised by soft landscaping in front of it.

In all these considerations the proposed dwellings and the works associated with them are respectful of both the prevailing and preferred neighbourhood character of the area.

6.2 Compliance with Clause 55 (ResCode)

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

Pursuant to Clause 55, a development must meet all of the objectives of this clause and should meet all of the standards of this clause.

Those non-compliant standards are discussed below, noting the corresponding objectives have been achieved.

Integration with the Street (Standard B5)

The Standard prescribes that high front fencing in front of dwellings be avoided. The front fence associated with the development would be 1.8 metres in height. Whilst it is desirable to have low boundary enclosures to allow visual permeability from the street, the front fence would replace an existing high fence. In this, the built form presentation to the street would be similar to the relationship the existing dwelling and its roadside boundary enclosure has with the street and is therefore acceptable.

Permeability (Standard B9)

Proposed permeability of the site is calculated as 17% which is not consistent with the minimum 20% permeability prescribed by the Standard. However, the variation being sought is justified as it is proposed that 2x 5000 litres rainwater tanks be installed on the site which would achieve a stormwater rating of 102% which is in excess of the required efficiency. This is corroborated by a recent storm report submitted with the application.
Side and Rear Setbacks (Standard B17)

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>East (side)</strong></td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td></td>
<td>2.12m – 2m – 3.2m (D1)</td>
<td>2.84m – 1.41m – 2.33m (D1)</td>
</tr>
<tr>
<td><strong>West (side)</strong></td>
<td>0m or 2m</td>
<td>2.82m – 1.46m – 2.29m (D2)</td>
</tr>
<tr>
<td><strong>South (rear)</strong></td>
<td>0m or 3m</td>
<td>15.48m (D1)</td>
</tr>
<tr>
<td></td>
<td>11.88m (D2)</td>
<td></td>
</tr>
</tbody>
</table>

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

The following variations are sought relative to Dwelling 1 of the development:
- 0.59m – 0.87m at parts of the east elevation at ground floor; and
- 3.11m – 0.25m – 1.88m along parts of the east elevation at first floor.

The following variations are sought relative to Dwelling 2 of the development:
- 0.54m at a part of the west elevation at ground floor; and
- 2.55m – 1.09m – 1.88m at parts of the west elevation at first floor.

The variations sought to the east elevation of Dwelling 1 and west elevation of Dwelling 2, whilst not complaint with Schedule 3 of the Neighbourhood Residential Zone variation to Standard B17 are responsive to the sloping nature of the site, sloping down on a southwest to northeast axis and retain a sufficient level of visual separation with the adjoining properties of 55 and 59 Lynch Crescent to the east and west respectively.

The greater of the incursions into the required side setback do not have a sensitive interface with those neighbouring properties and are sufficiently distant from the habitable room windows and areas of private open space associated with them so as not give rise to detrimental amenity impacts as result of overlooking or overshadowing.

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

Overlooking (Standard B22)

The ground floor plan submitted as part of the application indicates that both the east and west mutual boundaries of the subject site with 55 Lynch Crescent and 59 Lynch Crescent respectively, be enclosed by a combination of 1.8 metre high timber paling fencing and 2.2 to 1.8 metres high masonry fencing, from south to north.

The height of such fencing is correspondingly indicated on the west elevation (drawing no. TP6). At the height proposed, the mutual boundary fencing would be sufficient to prevent inter-visibility between the ground floor west elevation windows of Dwelling 2 and the neighbouring residential property of 59 Lynch Crescent to the west.

Indicated on the east elevation (drawing no. TP06.1) is the mutual boundary fencing with 55 Lynch Crescent. It is however indicated, at parts, to be at a height of some 1.95 – 2.56 metres and not 2.2 metres to 1.8 metres as shown on the ground floor plan. The
length of such fencing is commensurate with the extent of glazed openings and the entry
to Dwelling 1 of the development.

Provided the boundary enclosure is erected to the height as shown on the eastern
elevation, the glazed openings to be formed at ground floor in the east elevation of
Dwelling 1 would not allow for unreasonable overlooking of the neighbouring residential
property of 55 Lynch Crescent to the east. This matter could reasonably be controlled by
a condition of a permit and is included as part of the recommendation.

The ground floor windows on the north and south elevations of each dwelling would be
positioned and orientated such that they would face towards the front and rear gardens
of each dwelling respectively. In such circumstance, and otherwise by their distance from
neighbouring residential properties, they would not allow for unreasonable overlooking
of those neighbouring residential properties.

The first floor windows of the development would be positioned and orientated and would
otherwise be either screened to a height of 1.7 metres measured from finished floor level
or louvred to limit overlooking of the neighbouring residential properties of 55 Lynch
Crescent to the east and 59 Lynch Crescent to the West.

The first floor windows to be formed in the rear (south) elevation of each of the proposed
dwellings would be at their closest extent 12 metres and 14 metres respectively from the
mutual boundary with the neighbouring residential property of 16 Exon Street to the
southwest of the site. The windows are shown on the elevation drawings to be screened
by blinkers at their outer edges and by louvres to a height of 1.4 metres at their garden
interface. The blinker screening would sufficiently limit overlooking to the neighbouring
residential properties of 55 and 59 Lynch Crescent from oblique views from the windows.

The windows would be in excess of 9 metres from the mutual boundary with 16 Exon
Street to the southwest and in this, there is no material planning requirement to insist
that the windows be screened by louvres up to a height of 1.7 metres.

A drafting error has occurred in the denotation of the aluminium vertical blades to be
applied across a void and stairwell on the east elevation of Dwelling 1 and horizontal
louvres to be applied to the first floor bedroom 3 of that dwelling and the first floor retreat
of Dwelling 2. These errors can be corrected as a condition of a permit and are included
as part of the recommendation.

Storage (Standard B30)

In accordance with the Standard, 6 cubic metres of secure storage should be provided
to serve each dwelling. This has not been indicated on the application drawings. This
matter can reasonably be controlled by a condition of a permit and is included as part of
the recommendation.

Front Fences (Standard B32)

The proposed front fence at a maximum height of 1.8 metres is acceptable as it would
replace a front fence of a similar height. Furthermore it would be similar in height to other
high front fences that form part of the established streetscape character of this part of
Lynch Crescent. Landscaping is proposed at its interface with the street to minimise the
visual impact of it. In all of this, the proposed fence is considered appropriate.

Site Services (Standard B34)

Plans show mailboxes and bin storage as required by the Standard but fail to show space
for meters along with air conditioning plant and equipment, therefore it is reasonable that
a condition be imposed on a permit requiring these to be shown.
6.3 **Car parking and traffic**

Both dwellings are provided with two car parking spaces in accordance with Clause 52.06. Council’s Traffic Engineer has reviewed the application and raised no objection to this provision.

The Council's Traffic Engineer has however requested additional information to be included on the plans relating to the provision of a turntable, adequate sightlines, the proposed crossover and the basement ramp. These matters can reasonably be controlled by a condition of a permit and are included as part of the recommendation.

6.4 **Street tree removal**

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

6.5 **Vegetation & Landscaping**

A number of trees exist on the site which would be removed as a result of the proposed development. The Council’s Arborist raises no objection to their removal advising they have low amenity value and supports the proposed scheme of mitigation planting.

It is recommended however that an amended landscape plan be submitted to show a reduction in the extent of paving within the tree planting zone of each of the Magnolia grandiflora ‘Greenback’ to be planted within the rear setback of each dwelling. This matter can reasonably be controlled by a condition of a permit and is included as part of the recommendation.

6.6 **Objections received**

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

**No standing restriction should be enforced during the construction period**

The enforcement of parking regulations is not controlled through legislation other than planning legislation it is therefore a material consideration in the determination of a planning permit application.

**Palm trees should not be removed as they form part of the neighbourhood character**

Whilst it is regrettable that palm trees on the site be removed to facilitate the proposed development, the Council’s arborist considers them to have low amenity value and in this, do not make a positive contribution to the neighbourhood character of the area.

**Overbearing effect on an outdoor entertaining area associated with 55 Lynch Crescent**

The elements of built form of Dwelling 1 of the development would be recessed between 3.19 metres and 2.8 metres from the mutual boundary with 55 Lynch Crescent and thus a private outdoor entertaining area associated with that neighbouring residential property. Section A2 shown on drawing no. TP07 indicates that only a small part of the parapet of Dwelling 1 would encroach into the side setback Standard varied by Schedule 3 of the Neighbourhood Residential Zone. This minor encroachment is considered acceptable as the staggered setback of the ground floor and first floor of the dwelling would limit the overbearing effect of it on the private entertaining area and the neighbouring residential property of 55 Lynch Crescent overall.
Loss of light and solar gain to 55 Lynch Crescent during the coldest months of the year

The ground and first floor setbacks associated with each of the proposed dwellings will allow a sufficient light court to habitable room windows in the west elevation of 55 Lynch Crescent to the east and in the east elevation of 59 Lynch Crescent to the west, consistent with Standard B19 (Daylight to Existing Windows).

Shadow diagrams have been submitted in support of this application in accordance with Standard B21 (Overshadowing of Open Space) of the Bayside Planning Scheme. They demonstrate that secluded private open space associated with each of the neighbouring residential properties of 55 and 59 Lynch Crescent will receive at least five hours of sunlight between 9am and 3pm on 22 September.

Noise from air-conditioning units

Any noise associated with the operation of air-conditioning units is controllable under legislation other than planning legislation. Notwithstanding this, it is reasonable to impose a condition on a permit that any air-conditioning units or other plant and equipment associated with the development be located away from habitable room windows, to minimise the impact of their operation on the amenity of neighbouring residential properties.

Support Attachments

1. Development Plans ↓
2. Site & Surrounds Imagery ↓
3. Neighbourhood Character Precinct E1 ↓
4. Clause 55 Assessment ↓
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds.

Legend

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐️</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>⬤</td>
</tr>
</tbody>
</table>
Figure 2 Subject site from Lynch Crescent to the northeast.

Figure 3 Subject site from Lynch Crescent to the southeast.
Figure 4 Subject site and 55 Lynch Crescent from the southeast.

Figure 5 Subject site and 55 Lynch Crescent from the northeast.
Neighbourhood Character Precinct E1

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.</td>
<td>• Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in the design of new development. • Alterations and extensions should retain the front of these dwellings.</td>
<td>Demolition of dwellings that contribute to the valued character of the Precinct.</td>
<td>Responds</td>
</tr>
<tr>
<td>To provide space for front gardens.</td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td>Loss of front garden space.</td>
<td>Responds</td>
</tr>
<tr>
<td>To maintain the rhythm of spacious visual separation between buildings.</td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>Responds</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>To minimise the loss of front garden spaces and the dominance of car parking structures.</td>
<td>- Locate garages and carports behind the line of the dwelling.</td>
<td>Car parking structures that dominate the façade or view of the dwelling.</td>
<td>Car parking is provided at basement level with access to it via a shared access driveway. Landscaping would minimise the visual dominance of hard landscaping on the site and this the driveway access.</td>
</tr>
<tr>
<td></td>
<td>- Minimise paving in front garden areas including driveways and crossovers.</td>
<td>Front setbacks dominated by impervious surfaces.</td>
<td>Adam Waddingham, Planning Officer. Replaces front setbacks with landscaping.</td>
</tr>
<tr>
<td>To ensure new development respects the dominant building form and scale of buildings in the Precinct.</td>
<td>- Recess second storey elements from the front façade.</td>
<td>Reproduction of historic building styles.</td>
<td>Bruce Micklewright, Planning Officer. Recessed second floor elements provide visual interest and articulation to development.</td>
</tr>
<tr>
<td></td>
<td>- Articulate front facades, and provide roofs with eaves.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To respect the identified heritage qualities of adjoining buildings.</td>
<td>- Where adjoining an identified heritage building, respect the height, building forms, siting and materials, of the heritage building/s in the new building design.</td>
<td>Buildings that dominate heritage buildings by height, siting or massing. Period reproduction detailing.</td>
<td>Peter Zuccoli, Planning Officer. Buildings that dominate heritage buildings respect the height and siting.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>No heritage buildings or places are adjacent to the site.</td>
</tr>
<tr>
<td>To encourage building facades to add visual interest to the streetscape.</td>
<td>- Use a mix of materials, colours and finishes in building facades, drawn from the palette commonly found in the area.</td>
<td>Excessive use of render or one material on external wall surfaces.</td>
<td>Alex Newald, Planning Officer. The façade is finished in a mix of materials that complement the existing palette of external finishes of other dwellings in the area.</td>
</tr>
</tbody>
</table>
## ATTACHMENT 4
### RESCODE CLAUSE 55 ASSESSMENT

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer Attachment 2.</td>
</tr>
<tr>
<td>Design respects existing 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 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></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>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>No</td>
<td>The entrance to each dwelling would be located to the side of each dwelling. However, access to those entrances would be prompted by the pedestrian accesses to be formed in the roadside fence of each dwelling. Furthermore the entrance would be punctuated by a pergola to the side of each dwelling.</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: 8.2</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>Dwelling 1 Proposed ground floor: 10m Proposed first floor: 9.5m Dwelling 2 Proposed ground floor: 9.9m</td>
</tr>
</tbody>
</table>

---

Item 4.1 – Matters of Decision

Page 37 of 251
<table>
<thead>
<tr>
<th>Item</th>
<th>Proposed first floor: 8.2m</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B7 Building Height</strong>&lt;br&gt;Building height should respect the existing or preferred neighbourhood character</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B8 Site Coverage</strong>&lt;br&gt;Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site</td>
<td>Yes</td>
</tr>
</tbody>
</table>
| **B9 Permeability**<br>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. | No | **Minimum**: 20%<br>**Proposed**: 17%<br>5000 litre water rainwater tanks are proposed in the basement to offset the variation sought. A storm report submitted in support of the application concludes that this development would achieve a stormwater rating of 102%.

**B10 Energy Efficiency**<br>Achieve and protect energy efficient dwellings and residential buildings.<br>Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy. | Yes | The proposal provides appropriate solar access to the building. |
<p>| <strong>B11 Open Space</strong>&lt;br&gt;Integrate layout of development with any public and communal open space provided in or adjacent to the development. | N/A | N/A |
| <strong>B12 Safety</strong>&lt;br&gt;Layout to provide safety and security for residents and property. | Yes | No safety issues are considered to likely arise. |
| <strong>B13 Landscaping</strong>&lt;br&gt;To provide appropriate landscaping. To encourage:&lt;br&gt;Development that respects the landscape character of the neighbourhood.&lt;br&gt;Development that maintains and enhances habitat for plants and animals in locations of habitat importance.&lt;br&gt;The retention of mature... | Yes | Refer report. |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Required</th>
<th>Proposed</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
</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. | Yes | Appropriate vehicular access is provided.  
**Maximum:** 33% of street frontage  
**Proposed:** 18.03% |
| **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 | Proposed car parking for each dwelling is appropriately located and in this instance, takes the form of basement parking private to each dwelling.  
Direct lift and stairway access is afforded to each floor of the dwellings.  
The basement would be well ventilated.  
1.8m metres high fencing would limit oblique views of car parking from neighbouring residential dwellings. |
| **B17 Side and Rear Setbacks** | Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings. | No | Refer report and table below. Areas of non-compliance are underlined. |

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td><strong>East (side)</strong></td>
<td>2.12m – 2m – 2m – 2m – 3.2m (D1)</td>
</tr>
<tr>
<td><strong>West (side)</strong></td>
<td>0m or 2m</td>
</tr>
<tr>
<td><strong>South (rear)</strong></td>
<td>0m or 3m</td>
</tr>
</tbody>
</table>

**B18 Walls on Boundaries**  
Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings. | Yes | **Maximum Height:** 3.6m  
**Proposed:** 2.78m (D1) 2.4m (D2)  
**Maximum Average Height:** 3.2m  
**Proposed:** 2.59m (D1) 2.33m (D2)  
**East boundary**  
**Maximum Length:** 20.65m (D1)  
**Proposed:** 14.1m (D1)  
**West boundary**  
**Maximum Length:** 20.75m (D2) |
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Reasoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>B19 Daylight to Existing Windows</td>
<td>Allow adequate daylight into existing habitable room windows.</td>
<td>Yes</td>
<td>The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained.</td>
</tr>
<tr>
<td>B20 North Facing Windows</td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td>Yes</td>
<td>No north facing windows on adjoining properties are affected.</td>
</tr>
<tr>
<td>B21 Overshadowing Open Space</td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September.</td>
</tr>
<tr>
<td>B22 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>No</td>
<td>Refer report. Where required to comply, all first floor windows are screened or have a sill height of 1.7m above finished floor level to comply with the standard. With regards overlooking from ground floor this is addressed via conditions.</td>
</tr>
<tr>
<td>B23 Internal Views</td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>Yes</td>
<td>At ground floor a 2.5 metre high fence is proposed to be erected between the secluded private openspace associated with each dwelling to prevent internal overlooking. Glazed openings to be formed at first floor have been positioned and orientated and are otherwise designed to limit overlooking.</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 building incidental to an existing 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>Entries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling.</td>
<td>Yes</td>
<td>The roadside boundary fence would be punctuated by pedestrian access gates leading to footpaths that would address the entry to each dwelling. The pedestrian accesses are legible from the street.</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</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: Dwelling 1 – 83m²  
Dwelling 2 – 69.5m² |
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>B30 Storage</td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td>No</td>
<td>Can be controlled by a condition of a permit. Refer report.</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer Attachment 1.</td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td>No</td>
<td>Required: 1.2m  Proposed: 1.8m  Refer report.</td>
</tr>
<tr>
<td>B33 Common Property</td>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td>Yes</td>
<td>The only common property to manage and maintain is the shared access driveway. It is not anticipated that this cannot be appropriately managed.</td>
</tr>
<tr>
<td>B34 Site Services</td>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td>Yes</td>
<td>There is sufficient space within each dwelling and their associated private open space to provide the required services and facilities. This matter can be controlled by a condition.</td>
</tr>
</tbody>
</table>
### 1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Amend a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>SJB Planning Pty Ltd</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>25 July 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>123 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Heritage Overlay (Schedule 487)</td>
</tr>
<tr>
<td></td>
<td>Development Contribution Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>4</td>
</tr>
</tbody>
</table>

**Proposal**

The application seeks an amendment to an existing planning permit for demolition, alterations and additions to a dwelling in a Heritage Overlay on a lot with an area of 1,198.7 square metres. Key details of the amendment are as follows:

- Installation of a sundeck over the roof of the existing dwelling
- Increase in the maximum height of the extension from 7.65 metres to 7.99 metres
- Construction of a 2 metre high timber front fence
- Alterations to ground and first floor layouts (including a reduction in the footprint of the extension)
- Expansion of the basement car parking area
- Changes to external finishes and materials

The application plans are provided at Attachment 1.

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

**History**

Planning permit application 2013/442/1 was lodged on 23 August 2013 for demolition, alterations and additions to a dwelling in a Heritage Overlay. This application received 4 objections and was refused at the Planning & Amenity Committee meeting held on 9 September 2014.

The application was then subject to an appeal to VCAT against Council’s refusal to grant a permit. On 8 May 2015, VCAT set aside the responsible authority’s refusal and granted planning permit 2013/442/1.

Endorsed plans were issued on 31 January 2017 in association with the VCAT issued
permit. On 22 May 2017, an extension of time was issued by the planning department to allow works to commence by 8 May 2019 and to be completed by 8 May 2021.

This is the first amendment for the existing planning permit pursuant to Section 72 of the Planning and Environment Act 1987.

2. Planning controls
Planning Permit requirements
A planning permit is required pursuant to:
- Clause 43.01-1 (Heritage Overlay) – Demolish or remove a building & construct a building or construct or carry out works, including a fence.

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>Heritage Advisor</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

Public notification
The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and four objections were received. The following concerns were raised:
- Installation of a sun deck is inappropriate;
- Tree removal;
- Visual bulk impacts on heritage dwelling;
- Privacy/overshadowing;
- Additional noise.

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

Consultation meeting
A consultation meeting was held on 18 October 2017 attended by the permit applicant, the landowners and 3 objectors. As a result of this meeting no objections were withdrawn and one objector re-stated their concerns.

4. Recommendation
That Council resolve to:

Issue a Notice of Decision to Amend a Planning Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2013/442/2 for the land known and described as 49 Fernhill Road SANDRINGHAM for the Demolition, alterations and additions to a dwelling in a Heritage Overlay in accordance with the endorsed plans and subject to the following conditions from the
standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans dated 19 July 2017 but modified to show:
   (a) The basement ramp widened to a minimum of 3 metres.
   (b) The location and extent of all roof-top services on a roof plan with details of the screening materials/finishes so as to minimise visibility from the street to the satisfaction of the Responsible Authority.
   (c) A schedule of construction materials, external finishes and colours (incorporating paint samples) to the satisfaction of the Responsible Authority must be submitted to and approved by the responsible authority. When approved, the schedule will be endorsed and will then form part of the permit.
   (d) Deletion of the sundeck.
   (e) The front fence reduced in height to 1.85 metres.
   (f) Deletion of the raised garden bed adjacent the study and music room. This area is to be set aside for ground level landscaping.
   (g) Deletion of all rooftop services.

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

3. All pipes with the exception of down pipes, fixtures, fittings and vents servicing the dwelling must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

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

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

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

5. Council Policy
   Council Plan 2017-2021
   Relevant 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:
• Ensure new development responds to preferred neighbourhood character in activity centres.

Bayside Planning Scheme
• Clause 11 Settlement
• Clause 15 Built Environment and Heritage
• Clause 16 Housing
• Clause 21.02 Bayside Key Issues and Strategic Vision
• Clause 21.03 Settlement and Housing
• Clause 21.06 Built Environment and Heritage
• Clause 22.05 Heritage Policy
• Clause 22.06 Neighbourhood Character Policy (Precinct XX)
• Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
• Clause 43.01 Heritage Overlay (Schedule 487)
• Clause 43.02 Design and Development Overlay (Schedule 3)
• Clause 45.06 Development Contribution Plan Overlay (Schedule 1)
• Clause 65 Decision Guidelines

6. Considerations

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

6.1. Heritage Policy and Statement of Significance

The application requires planning permission pursuant to the Heritage Overlay. As the previous planning permit was issued, the only grounds for assessment are the amendments to the endorsed plans. The amendments are outlined in Section 1 of this report and are shown in Attachment 1.

The provisions of the Heritage Overlay are housed in Clause 43.01 of the Bayside Planning Scheme. The purpose of the Heritage Overlay includes implementing local planning polices and ensuring that development does not adversely affect the significance of the heritage place. As discussed, permission is required to construct a building or construct or carry out works. The decision guidelines of the Heritage Overlay include State and Local planning policy, the significance of the heritage place and whether the proposal – including the location, bulk, form and appearance – will adversely affect the significance of the place and any applicable conservation policy.

HO487 affects the whole of the site and specifically mentions the name of the house
None of the additional controls mentioned in the Heritage Overlay table (such as tree controls, external paint controls or internal alteration controls) are applicable in this case. The relevant statement of significance for the dwelling indicates that is an individually significant building of aesthetic significance. The house is considered an unusual example of a transitional Victorian/Edwardian villa with distinctive decorative details. Considered particularly significant are the coved roughcast rendered eaves, decorative timber verandah and gabled entrance porch. The significant decorative details are found across the primary front façade of the building. As described above, a decision guideline of the Heritage Overlay is ensure development will not adversely affect this significance.

State planning policy most relevant to this application is Clause 15.03-1 Heritage Conservation. The objective of this policy is to ensure the conservation of places of heritage significance. Derived from this, Local Heritage Policy is Clause 22.05 of the Bayside Planning Scheme. The policy basis is to guide decision on development of all places affected by heritage controls. Relevant local objectives of this policy include the retention and conservation of all significant and contributory heritage places, to ensure that the form and appearance of additions is complementary of the cultural features of Bayside’s heritage places and to promote design excellence which clearly and positively supports the ongoing significance of heritage places.

State and Local Planning policy is particularly conservative with regard to the preservation of places of local cultural significance. Veronique, at 49 Fernhill Road SANDRINGHAM, has been designated as such. This application to amend a planning permit is specifically for alterations and additions to the existing dwelling – elements of demolition were considered by VCAT at the original hearing P1626/2014.

As such, the primary clause for the assessment of this amendment is Clause 22.05-3.5. This is the relevant policy for additions and alterations to heritage buildings. Specific to this application, the policy seeks to conceal alterations and additions to significant buildings from adjoining streets or, where concealing is impossible, ensure that additions have a low visual impact. Further, additions should be complementary and not overwhelm significant buildings nor should they alter the character of their immediate environs.

The matter was referred to Council’s Heritage Advisor who provided detailed comment on the amendments. The Advisor was supportive of several aspects of the proposal and not supportive of others. Detailed assessment and discussion of each change is included in Section 6.2 of the report below.

### 6.2. Assessment of the proposed amendments

#### Roof deck

The application proposes a 20 square metre roof deck in a valley of the roofline of the existing dwelling behind the front façade. The applicant has proposed 1.7 metre high screens around the street-facing parts of the roof deck. The deck is sought to be setback 17 metres from the front boundary and 5.5 metres behind the primary façade of Veronique. It would be accessed from the first floor extension through an outdoor walkway.

The applicant has provided a cross-section demonstrating that the proposed screens would project marginally above the roofline, but does not indicate how other items might be seen.

Council’s Heritage Advisor has objected to this element of the proposal in that the proposed screens (and any items on the deck) are not consistent with the character of the heritage place, nor are they common for other heritage properties within the municipality. A number of objections support this view.

Given that a roof deck is an area designated as private open space, Officers believe a
condition limiting visible items on the roof deck is not able to sufficiently protect of the significance of the heritage place. It is the Officer's view that the installation of a roof deck would detract from the significance of the heritage place and would also introduce unnecessary bulk, form and appearance. As such, a condition of permit is recommended for its deletion.

Increase in height & decreases in footprint

The dwelling is proposed to increase in height to a maximum of from 7.65 metres to 7.9 metres (an increase in approximately 250 millimetres). The increase in building height has primarily come from an increase in ceiling height at the ground and first floor levels.

When viewed from the streetscape, the height of the extension is proposed to present at 6.99 metres, a 260 millimetre increase over the approved 6.73 metres. The increase in height is coupled with a reduction in the footprint at both the ground and first floors.

The applicant insists that this will result, overall, in a ‘low visual impact’ in the context of the heritage place.

The proposed increase in height was not supported by Council’s Heritage Advisor, who raised concerns with regard to oblique views from the Fernhill Road streetscape.

Officers consider that the amendment will not adversely affect the significance of the heritage place to a greater degree than the endorsed plans. The applicant has provided a plan illustrating that views to the extension including the increase in height will be interrupted by the roof line of the dwelling’s façade. Using a 10 degree viewing angle, there is evidence showing that the extension will not be visible.

Further, the proposed inset of the ground and first floors will decrease the visual prominence of oblique views to the rear addition. Most importantly, views to the front façade of the dwelling – and the significant details of the heritage place – will not be adversely impacted by the amendments. As such, this element of the amendment is recommended for support.

New front fence

The application seeks a new timber fence clad with white battens and to extend to a height of 2 metres above natural ground level. The existing fence on the property is visually impermeable 1.85 metre high timber that interrupts views to the façade of the dwelling. It is not considered a significant element of the dwelling. Council’s Heritage Advisor objects to the replacement fence in that a 2 metre high fence would obstruct views to Veronique to a greater degree than the existing front fence and generally does not respond to local heritage policy.

Bayside heritage policy seeks to encourage fences that are sympathetic to the significance of the place, do not obscure views to the façade and be constructed of materials consistent with the architectural period of the place. Broadly, policy insists that front fences should not exceed 1.2 metres in height. As shown in the images in Attachment 2, fences at both 47 and 51-53 Fernhill Road are high and visually impermeable, interrupting oblique views to the façade of Veronique. The existing 1.85 metre high fence reflects the nature of other properties along Fernhill Road. Thus, a condition of permit is recommended for the maximum height of the replacement to not exceed the height of the existing fence at 1.85 metres. This will not adversely impact on the significance of the dwelling while allowing an element of privacy for the owners.

Other ancillary issues

Council’s Heritage Advisor has raised an objection to the proposed raised landscaping beds along the study and music room of the existing dwelling. As local heritage policy considers landscape elements as a part of the heritage place, it is imperative that landscaping complements the built form and the significance of the dwelling. Given that this garden bed would be potentially visible from the Fernhill Road streetscape and do
not reflect a style of landscaping of the era of *Veronique*, it is recommended a condition to replace the raised beds with ground level landscaping.

A number of material changes to the external additions are proposed by the applicant. These changes are supported as the lightweight design, coupled with the inset of the extension, will result in less obtrusive built form.

The rooftop services area has been well-reduced in overall footprint in association with this application to amend the planning permit. This would extend the maximum height of the proposal an addition 1 metre and potentially present a bulky extension above the roofline of the rear. The applicant has accepted a condition requiring the rooftop servicing area be removed from the plans.

6.3. **Objector issues not already addressed**

**Tree removal**

No trees are sought to be removed as a part of this application. Furthermore, 49 Fernhill Road SANDRINGHAM is not subject to Tree Controls under the Heritage Overlay Schedule 487. Therefore, no further commentary on this grounds for objection is considered relevant.

**Overlooking/Overshadowing**

The standards and objectives of ResCode do not apply to a planning permit application that is solely triggered under the Heritage Overlay. Furthermore, any variations to these standards will be addressed through a Report & Consent process for regulations 418 & 419.

**Additional noise**

The proposed dwelling amendments are unlikely to produce levels of noise in excess of what would be expected by the use of land in accordance with a dwelling. Additionally, Bayside’s Local Laws and the EPA’s State Environment Protection Policy No. N-2 control levels of noise coming from properties and will continue to take effect.

**Support Attachments**

1. Proposed Amended Plans ↓
2. Site Surrounds and Imagery ↓
3. Previously Endorsed Plans ↓
Item 4.2 – Matters of Decision
Figure 1. Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
<tr>
<td>Objector</td>
</tr>
</tbody>
</table>
Figure 2. View to 49 Fernhill Road looking northeast from the streetscape

Figure 3. View to 49 Fernhill Road looking towards the façade from the nature strip
Figure 4. Oblique view to 49 Fernhill Road interrupted by outbuilding at 47 Fernhill
MATERIALS & FINISHES SCHEDULE

PLANNING APPLICATION
49 PERNHILL ROAD, SANDRINGHAM

1. COLORBOND ROOF DECK (flat roof)
   Woodland Grey

2. EXISTING SLATE ROOFING
   Slate Grey

3. SELECTED COLORBOND
   ANGLED ROOFING
   Shale Grey

4. TIMBER WEATHERBOARDS
   white paint finish

5. COLOURED RENDER OVER MASONRY
   Irving

6. PAINTED TRIM
   Black Pitch

7. EXISTING WINDOWS (UNCHANGED)
   Off white

8. PROPOSED WINDOWS
   Black Powdercoated Aluminium

9. GARAGE DOOR
   Colorbond Surfismi
4.3 11 RENO ROAD, SANDRINGHAM,
SUPPORT PLANNING PERMIT APPLICATION NO: 2016/284/1
WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/232479

1. Purpose and background
To report a planning permit application for the construction of two double storey dwellings on a lot with an area of 788 square metres (refer Attachment 1) at 11 Reno Road, Sandringham (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Urbis Pty Ltd act on behalf of AGPM Enterprise Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>13 April 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>Amended plans formally amended on 23 October 2017.</td>
</tr>
</tbody>
</table>

On 13 July 2017 the planning permit applicant lodged an application to the Victorian Civil and Administrative Tribunal (VCAT) under Section 79 of the Planning and Environment Act 1987 for Failure to Grant a Permit.

On 20 July 2017, Council officers advised the planning permit applicant that the proposed development would not be supported due to arboriculture concerns (in respect of impacts on vegetation adjoining the property), facade treatments and roof articulation.

The plans at Attachment 1 supersede previously advertised plans. These plans have been formally substituted in accordance with VCAT’s Practice Note (PNPE9 (Amendments of Plans and Applications) and include the following key changes:

- The building has been redesigned to reduce site coverage, increase side setbacks, inclusion of a pitched roof form and increased opportunity for landscaping; and
- The extent of built form has been setback to protect the Tree Protection Zone of the large eucalyptus tree located within the property at No.9 Reno Road.

These plans form the basis of Council’s decision.

Should the Planning and Amenity Committee support recommendation detailed in this report then Council will advise VCAT of its position. A VCAT hearing is set down for 12 December 2017.

2. Policy implications
Planning permit requirements

Clause 32.09-6 (Neighbourhood Residential Zone) – Construction of two dwellings on a lot.
3. Stakeholder Consultation

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

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

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

Public notification
The application was advertised pursuant to Section 52(1)(a) and (d) of the Planning and Environment Act 1987 and 3 objections were received. The following concerns were raised:

- Development does not respond to existing and preferred neighbourhood character;
- Overdevelopment;
- Impact adjoining vegetation;
- Walls on the boundary;
- Side and rear setbacks;
- Site coverage; and
- Roof profile.

Consultation meeting
A consultation meeting was held on 19 August 2016 attended by the permit applicant, one objector, and the architect. As a result of this meeting no objections were withdrawn. At the consultation meeting it was generally agreed to respond to the above concerns and amended plans were due to be circulated by the permit applicant, these were not received by Council. The changes agreed to have generally been incorporated into the amended plans included at Attachment 1.

The amended plans formally substituted by the VCAT process have been circulated to all parties to the appeal. The objecting parties continue to rely upon their original and amended Statement of Grounds.
4. Recommendation

That Council:

Determines to **Support** the application under the provisions of the Bayside Planning Scheme in respect of the land known and described as **11 Reno Road, Sandringham**, for the **construction of two dwellings on a lot** in accordance with the endorsed plans and subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the amended VCAT plans dated 23 October 2017 but modified to show:
   a) The impact, if any the proposed vehicle crossing will have Council assets such as pits and trees, power poles etc. Such items must be accurately shown on the plan.
   b) An amended Landscape Plan in accordance with Condition 8 of this permit.
   c) A Tree Protection and Management Plan in accordance with Condition 11 of this permit.
   d) Any changes to the development required to facilitate the recommendation of the Tree Protection and Management Plan outlined at Condition 11 of this permit.
   e) Drainage Contributions Levy Charge in accordance with Condition 18 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 buildings without the written consent of the Responsible Authority.

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

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

7. Before occupation, screening of windows 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.

8. 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 Memla Landscape Concept Plan LC01; 20 October 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) Details of construction methods and Tree Management measures approved pursuant to the requirements of Condition 11 of this permit.

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

c) Details of surface finishes of pathways and driveways

9. 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.

10. 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.

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

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.

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

12. 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.
13. 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.

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

15. 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.

16. 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.

17. 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.

18. 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.

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

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

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

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

Permit notes

- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council's supervision for which 24 hours notice is required.
- 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.
- Before development commences the applicant must pay $1,924.76 to the Responsible Authority for the removal and replacement of the existing street tree (closest to the western boundary). This amount has been determined in accordance with Council’s current policy for the removal of street tree. This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by the Responsible Authority, must undertake the removal and replacement of the street tree. Any replacement planting will be at the discretion of the responsible Authority.

5. **Council Policy**

   **Council Plan 2017-2021**

   Relevant strategies of the Council Plan include:

   - Where neighbourhood character, streetscapes and heritage are 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
In considering this application, regard has been given to the State and Local Planning Policy Frameworks, the provisions of the Bayside Planning Scheme, objections received and the individual merits of the application.

6.1. **Neighbourhood character**

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

The proposal is considered to achieve a sense of visual separation and will maintain the street rhythm along Reno Road. The proposed landscaping is considered acceptable subject to conditions to ensure the retention of significant vegetation at 9 Reno Road. The amended Landscape Plan includes the provision of five native canopy trees on site, three in the front setback and two in the rear setbacks. This response ensures the proposal respects and enhances the landscape character of the neighbourhood.

The built form presents a range of materials and projecting/ recessed elements that reduces any perception of visual bulk and also provides visual interest in the street scene. The proposal features flat roofs and sits comfortably adjacent to single and double storey dwellings. The design is considered to be well resolved and would maintain the openness of the streetscape.

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

An assessment against the requirements of Clause 55 is provided at Attachment 5. The proposed development is fully compliant with all the Standards and therefore no discussion regarding the Standards is discussed.

6.3. **Car parking and traffic**

Each dwelling is provided with two car spaces in accordance with Clause 52.06. Council's Traffic Engineer has reviewed the application and raised no objection subject to standard conditions. All recommendations are included as conditions of approval.

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

6.4. Street tree removal

There are two *Tristaniopsis laurina* (Kanooka) street tree assets fronting the property. The western tree is proposed for removal to make way for the proposed crossover at 0.9 metres from the western boundary. The eastern tree is proposed for retention. Council’s Street Tree Arborist supports the removal of the western street tree and notes that provided a minimum 2 metre setback is provided from the crossover for Dwelling 2 the eastern street tree can be retained. The amended plans demonstrate this design response.

Planning permit notes have been included to requiring a monetary payment pursuant to Council’s *Street and Park Tree Management Policy* (2012).

6.5. Vegetation & Landscaping

Subject site

The subject site has only one tree which can be viewed from the street, an over mature *Cryptomeria japonica var elegans* (Japanese Red Cedar), this tree is in decline with significant die-back in the canopy. The remaining trees on the subject site are predominantly small with and provide a low level of amenity. These trees include a *Ficus carica* (Common Fig), *Paraserianthes lophantha* (Cape Leeuwin Wattle) and a group of *Acacia implexa* (Lightwood).

Removal of these trees is supported.

Vegetation on adjoining properties

The neighbouring property, 9 Reno Road has a mature *Eucalyptus viminalis* (Manna Gum) in the rear yard approximately 4 metres from the shared boundary fence with the subject site. This tree is identified as Tree E09 on the Memla Landscape Concept Plan LC01; 20 October 2017) and the McLeod Trees; Arboricultural Assessment and Tree Preservation Strategy; 13 May 2016). This tree was added to the Bayside Significant Tree Register on 15 August 2017, heightening the importance of the tree protection measures for this tree. This tree has a Tree Protection Zone (TPZ) of 15 metres in radius from the base of the tree. Previously the applicant submitted an Arboricultural report including recommendations as to how the tree could be retained. Contrary to the recommendations in the Arborist Report, the development plans did not detail these recommendations and significantly the swimming pool for Dwelling 1, the rear half of Dwelling 1 and a portion of Dwelling 2 all remained inside the TPZ of this tree.

Subsequent to this the amended plans included at Attachment 1 now delete these swimming pools to both properties, increase the setbacks of the built form the tree and reduce the extent of decking within the TPZ of the tree. Council’s Arborist notes these changes respond to previous concerns and now allows for the successful retention of this tree. A Roots Investigations Report at Attachment 6 confirms the appropriateness of the proposed design response. Notwithstanding this a revised Tree Management and Protection Plan is requested to specifically detail construction methods within the TPZ.

There are another two trees located at 9 Reno Road that are likely to be impacted by the development, a *Syzygium smithii* (Lilly Pilly - Tree E05 in the Arborist’s Report) and a *Bursaria spinosa* (Sweet Bursaria - Tree 6 in the Arborist’s Report). Both of these trees have a greater than 10% encroachment into their TPZ by the proposed development and as such the Tree Protection and Management Plan must also
demonstrate how these trees are to be protected. Again, the recommendations of the Roots Investigations Report at Attachment 6 confirms the appropriateness of the proposed design response.

The neighbouring property to the east, 13 Reno Road has a maturing *Eucalyptus caesia* ‘Silver Princess’ (Silver princess Gum) and a row of shrubs adjacent to the shared boundary fence with the subject site in the south/west corner of the property. These trees/shrubs are potentially impacted by the driveway to Dwelling 2. There is also a row of semi-mature *Pyrus calleryana* (Callery Pear) at the rear of number 13 which are potentially impacted upon by the eastern wall of Dwelling 2. Again, Council’s Arborist notes that these trees will not be impacted by the development subject to approved construction methodologies.

Subject to conditions, it is considered that the proposed development successfully allows for the retention of significant vegetation on adjoining properties and ensures that that existing neighbourhood character is not only maintained but further enhanced through the proposed vegetation on the subject site.

6.6. **Objections received**

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

**Overdevelopment**

Overdevelopment is a commonly used expression to dismiss development proposals which seek to remove existing buildings and to introduce new built forms into particular neighbourhoods. An assessment against State and Local Planning Policies and the provisions of Clause 55 included in this report demonstrates that this proposal is not an overdevelopment despite being more intensive than what existed before.

**Support Attachments**

1. Amended Development and Landscape Plans ⇩
2. Site and Surrounds Imagery ⇩
3. Statement of Changes ⇩
4. Neighbourhood Character Assessment (Precinct G1) ⇩
5. Clause 55 Assessment ⇩
6. Root Exploration Report ⇩
Item 4.3 – Matters of Decision
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1. Aerial Overview of subject site and objector map.

<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: 11 Reno Road, Sandringham.

Figure 3: 9 Reno Road, Sandringham
Figure 4: The Manna Gum at 9 Reno Road, Sandringham which is listed on the Bayside Significant Tree Register.
Figure 5: 13 Reno Road, Sandringham
Figure 6: View looking east along Reno Road, Sandringham.

Figure 7: View looking west along Reno Road, Sandringham.
VCAT APPLICATION FOR REVIEW NO. P1372/2017
11 RENO ROAD, SANDRINGHAM

STATEMENT OF CHANGES OCTOBER 2017

Summary of Key changes
The key changes are as follows:

- The building has been redesigned to respond to the NRZ3 and Clause 22.06 – Neighbourhood Character Policy, including a reduction in site coverage, increase in side setbacks, the inclusion of a pitched roof form and increased opportunity for landscaping.
- The extent of built form has been setback to protect the Tree Protection Zone of the large eucalyptus tree located within the property at No.9 Reno Road.
- A landscape architect has been engaged and a landscape plan prepared.

There have been no changes to the permit triggers of the original proposal.

Plan changes

TP 1 of 7 – Neighbourhood and Site Description plan
- Contour lines removed

TP 2 of 7 – Design Response Plan
- Updated to reflect the new built form layout

TP 3 of 7 – Site Development Plan – Ground Floor
- The building envelope amended so that development meets the site coverage requirement of NRZ3 (48.5%)
- Other site area statistics updated to reflect new building envelope; total built area (385.02 sqm), site permeability (41.3%).
- Total garden area shown on plan (39%).
- Updated to show sight splay on each side of both driveways.
- Deletion of swimming pool from both properties.
- Deletion of study from Dwelling 1.
- Relocation of stairwell in both dwellings.
- Updated to show reconfiguration of the kitchen layout of Dwelling 2.
- Updated to show hallway and kitchen width dimensions.
- Reduction in the extent of decking to the rear of Dwelling 1
- Updated to show location of water tank for Dwelling.
• Relocation of water tank of Dwelling 2.
• Relocation of washing line of each property.
• Updated to show meals and kitchen wall of Dwelling 2 setback from eastern boundary.
• Amended minimum boundary setbacks:
  Dwelling 1:
  Rear: 6.062 metres (was 5.022 metres)
  Dwelling 2:
  East: 2.0 metres (was 2.1 metres and built to boundary)
• Updated to show an overall increase in landscaping to reflect reduction in building envelope, reduction in decking and removal of pools.

TP 4 of 7 – Site Development Plan – First Floor
• Updated to reflect the new built form layout at Ground Level below.
• Relocation of Bedroom 4, ensuite and walk-in-robe to the front of each dwelling.
• Updated to show additional storage in Bedroom 4 of each dwelling.
• Relocation of the Study/Living area to the rear of each dwelling.
• Relocation of stairwell in both dwellings.
• Deletion of the void to entry below at the front of each dwelling.
• Updated to show notation of screening treatments to all relevant windows and the balcony of each dwelling.
• Updated to show hallway width dimensions.
• Updated to show front setbacks to the balcony of each dwelling.
• Amended boundary setbacks:
  Dwelling 1:
  East (from front of site): 4.41 metres (was 4.36), 3.63 metres (was 3.95), 4.5 metres (was 3.63 metres).
  Dwelling 2:
  West (from front of site): 4.41 metres (was 4.36), 3.64 metres (was 3.63), 4.5 metres (was 3.63 metres).

TP 5 of 7 – Elevations
• Elevations updated to reflect the amended built form layout and setbacks.
• Elevations updated to reflect new pitched roof form.
• Western and eastern elevations updated to reflect the reduction in the extent of the separation wall at the upper level.

TP 6 of 7 – Existing and Proposed Streetscape
- Proposed streetscape elevation updated to reflect the amended built form layout and setbacks.
- Proposed streetscape elevation updated to reflect the amended roof form of each dwelling.
- TP 07 – Proposed Roof Plan (new plan)
- New roof plan provided.

TP 7 of 7 – Shadow Diagrams – 22nd September
- Shadow diagrams updated to reflect the new building envelope and form.
ATTACHMENT 4
Neighbourhood Character Policy (Precinct G1)

Preferred Future Character

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To maintain and enhance the garden settings of the dwellings.</td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation.</td>
<td>Lack of landscaping and substantial vegetation. Removal of large trees. Planting of environmental weeds.</td>
<td>The built form has been sited to provide a front setbacks which can accommodate substantial vegetation. Further to this, the 2 metres side setback from the western boundary allows for smaller landscaping along the side boundary which ensure the well vegetated character of the area is retain. As per Section 6.5 of the report, the building has been designed to allow for the retention of vegetation on adjoining properties. This requirement is reinforced through the inclusion of permit conditions.</td>
</tr>
<tr>
<td></td>
<td>• Retain large, established trees and provide for the planting of new trees wherever possible.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To maintain the rhythm of visual separation between buildings.</td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>The proposal incorporates sufficient setbacks from adjoining properties and articulation to the built form to maintain visual separation with adjoining dwellings. The garage associated with Dwelling 2 is constructed to the eastern boundary but the planting of canopy trees within the front.</td>
</tr>
</tbody>
</table>

Item 4.3 – Matters of Decision
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To ensure that new buildings provide an articulated and interesting façade to the street. | • Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.  
• Use pitched roof forms with eaves.                                                                 | Large, bulky buildings with poorly articulated front and side wall surfaces.                                                                 | The development proposes a contemporary design response which features a variety of modern materials and finishes. The proposed outcome offers an articulated and visually appealing, design response for street.  
The amended plans now include a pitched roof form which complements the Reno Road roofscape whilst the cantilevering first floor balconies provide depth to the front façade and allows sufficient space for the establishment of canopy trees within the front setback. |
| To maintain the openness of the streetscape.                              |                                                                                                                                                    | High, solid front fencing.                                                                     | There is no fencing proposed for this development.                                                             |
### ATTACHMENT 5
#### ResCode (Clause 55) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>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 4.</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 the construction of two dwellings on a lot of this size.</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 a Condition has been included in response to Clause 45.06 which requires a drainage contribution for additional dwellings on a lot.</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 development will integrate appropriately with the street. The proposed building has a 9m front setback to Reno Road at ground floor level with a 1m cantilevering balcony with the first floor wall setback approximately 10 from the site frontage. A compliant 2m side setback to the western boundary with the first floor level recessed from both the front, sides and</td>
</tr>
</tbody>
</table>
rear setbacks reduce the dominance of the upper level in context with the neighbouring single and double storey dwellings. The building orientates to the south and presents to Reno Road and has been appropriately articulated with a clean and modern architectural style which is sympathetic to the streetscape in which it presents to. The introduction of a pitched roof form results in a well composed design and incorporates clearly identifiable entries.

See Neighbourhood Character assessment for further discussion.

<table>
<thead>
<tr>
<th>Item</th>
<th>Requirement: 9m</th>
<th>Proposed:</th>
</tr>
</thead>
<tbody>
<tr>
<td>B6 Street Setback</td>
<td>Yes</td>
<td>9m at ground floor 10.1m and 10.28m to Dwelling 1 and 2 respectively</td>
</tr>
<tr>
<td>B7 Building Height</td>
<td>Yes</td>
<td>Maximum: 9 metres (2 storeys) Proposed: 7.4 metres (2 storeys)</td>
</tr>
<tr>
<td>B8 Site Coverage</td>
<td>Yes</td>
<td>Maximum: 50% Proposed: 48.5%</td>
</tr>
<tr>
<td>B9 Permeability</td>
<td>Yes</td>
<td>Minimum: &gt;20% Proposed: 41.3%</td>
</tr>
<tr>
<td>B10 Energy Efficiency</td>
<td>Yes</td>
<td>All habitable areas, including habitable rooms and secluded private open space areas have been located to maximise solar access and no habitable rooms rely on secondary light sources.</td>
</tr>
<tr>
<td>B11 Open Space</td>
<td>N/A</td>
<td>There is no communal open space in or adjacent to the development.</td>
</tr>
</tbody>
</table>
provided in or adjacent to the development.

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

Yes
The pedestrian entry points are clearly recognisable while upper levels allow for the passive surveillance of the street.

**B13 Landscaping**
To provide appropriate landscaping.
To encourage:
- Development that respects the landscape character of the neighbourhood.
- Development that maintains and enhances habitat for plants and animals in locations of habitat importance.
- The retention of mature vegetation on the site.

Yes
The siting of the development creates sufficient opportunities for meaningful landscaping. The amended landscape plans provide for five native canopy trees on the site comprising, two Coastal Banksia trees within the front setback capable of reaching a mature height of 10 metres and two White Salle trees in the rear setbacks capable of reaching a mature height of 20 metres. One additional Brittle Gum tree is proposed within the front and side setback of Dwelling 1. This smaller native trees is capable of reaching a mature height of 7 metres.

See Section 6.5 of the report for further discussion.

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

Yes
An appropriate access off Reno Road has been provided. Standard traffic conditions are included as permit conditions.

Council's Traffic Engineer has not raised any concerns regarding the proposed access arrangements.

**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 two double garages. Standard traffic conditions are included as permit conditions.

Council's Traffic Engineer has not raised any concerns regarding the proposed access arrangements.

**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.

Yes
Refer to the below tables.

<table>
<thead>
<tr>
<th></th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Ground floor</td>
</tr>
<tr>
<td></td>
<td>Requirement</td>
</tr>
<tr>
<td>East</td>
<td>0, 2m</td>
</tr>
<tr>
<td>(side)</td>
<td></td>
</tr>
</tbody>
</table>
All proposed side and rear setbacks are compliant to all levels. No variations are sought. It is noted Tree Protection Measures may result in some side and rear setbacks to Dwelling 1 increasing.

<table>
<thead>
<tr>
<th>B18 Walls on Boundaries</th>
<th>Yes</th>
<th>Maximum length of wall: 15.5m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</td>
<td></td>
<td>Proposed length of wall: 6m adjacent to a carport.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Maximum wall height: 3.6m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed wall height: 3.2m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Maximum average wall height: 3.2m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed average wall height: 3.2m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B19 Daylight to Existing Windows</th>
<th>Yes</th>
<th>The development has been sufficiently setback from all habitable room windows to abutting properties at 9 and 13 Reno Road and dwellings fronting park road.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate daylight into existing habitable room windows.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B20 North Facing Windows</th>
<th>N/A</th>
<th>Due to the site orientation there are no north facing windows within 3m of any shared site boundary.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

B21 Overshadowing Open Space

Ensure buildings do not significantly overshadow existing secluded private open space.

Yes

Additional overshadowing will occur to areas of secluded private open space associated with 9 and 13 Reno Road in the morning and afternoon respectively. Due to the orientation of the site no other properties will be affected by overshadowing resulting from the proposed development.

At 9am the area of secluded private open space along the common boundary will be subject to overshadowing.

By 3pm additional overshadowing will occur over the abutting carport and an areas of secluded private open space.

The extent of additional overshadowing will continues to provide for a minimum of 40m² of secluded private open space to both of these properties for a minimum of five hours in accordance with this standard.
<p>| B22 Overlooking | Yes | All habitable room windows have been screened to a minimum height 1.7 metres above finished floor level accordance with this Standard. The ground floor fencing with adjoining properties is of an appropriate height to limit overlooking in accordance with the requirements of this Standard. |
| B23 Internal Views | Yes | All windows have been screened to a minimum height of 1.7 metres to limit intermittent views. It is further noted that wings walls at first floor front and rear elevations also ensure the requirement of this Standard are achieved. |
| B24 Noise Impacts | Yes | It is anticipated that the level of noise which will be emitted from the dwellings will not exceed levels otherwise expected from residential uses. |
| B25 Accessibility | Yes | Entries are accessible for people with limited mobility. The development could be further retrofitted to accommodate people with limited mobility in the future if required. |
| B26 Dwelling Entry | Yes | The development fronts Reno Road includes a clearly identifiable entries to each dwelling with dedicated pedestrian pathway. The proposed design provided a suitable transition from public to private space and the cantilevering balconies provide for weather protection. |
| B27 Daylight to New Windows | Yes | All habitable windows will open out onto a space clear to the sky or a covered external space which itself is open to the sky. |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Minimum</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B28 Private Open Space</strong></td>
<td>Provide reasonable recreation and service needs of residents by adequate private open space.</td>
<td>Yes</td>
<td>25m² secluded, 40m² overall with a minimum dimension of 3 m; <strong>Proposed:</strong> Dwelling 1 is provided with a total of 81.2 square metres of secluded private open space and an additional 32 square metres of private open space in the front setback. Dwelling 2 is provided with a total of 70.8 square metres of secluded private open space and 43 square metres of private open space in the front setback. It is noted Clause 32.09-4 of the Bayside Planning Scheme requires a minimum garden area at ground level of 35% of the site area. This equates to 275.8 square metres. A total of 313.13 square metres is provided. This equates to 39.7% and therefore exceeds the minimum garden area size.</td>
</tr>
<tr>
<td><strong>B29 Solar Access to Open Space</strong></td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Yes</td>
<td>As the areas of secluded private open space are north facing, appropriate solar access is provided.</td>
</tr>
<tr>
<td><strong>B30 Storage</strong></td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td>Yes</td>
<td>Designated storage areas are provided within the externally for Dwelling 1 and internal to the garage of Dwelling 2 and has a minimum area of 6 cubic metres.</td>
</tr>
<tr>
<td><strong>B31 Design Detail</strong></td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer to Section 6.2 of the report for further discussion.</td>
</tr>
<tr>
<td><strong>B32 Front Fences</strong></td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td>N/A</td>
<td>N front fence is proposed which complements views to the well landscaped front garden.</td>
</tr>
<tr>
<td><strong>B33 Common Property</strong></td>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td>N/A</td>
<td>No areas of common property are proposed.</td>
</tr>
</tbody>
</table>
### B34 Site Services

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.

| Yes | All appropriate site services can be easily catered for on-site. Mails boxes are shown to adjoin the pedestrian entry access, air condition units are sensitively located to minimise disturbances to adjoining properties. |
12th July 2016

Crowhurst Building Design
Att: Mr. Dale Crowhurst

Dear Dale

Re: 11 Reno Road, Sandringham

As requested, following recommendations in regard to my previous arborist report dated 13th May 2016, I have today undertaken investigations as to the root system development from a number of trees within the adjoining property to the west. This was undertaken with a view to determine the effect the proposed redevelopment of the site will have on the long term tenure of the trees in light of encroachment of the calculated Tree Protection Zones of the same.

My investigations are based on perusal of the following documents which relate to proposed redevelopment of the site:

- Arborist Report (McLeod Trees) - Dated 13th May 2016
- Proposed Site Plan (Crowhurst Building Design)

The trees located within the adjoining property to the west are considered significant and warrant retention, most importantly the mature Eucalyptus viminalis - Manna Gum located within the rear yard. As such this investigation and report aims to determine the potential for long term retention of the trees in light of the proposed development.

The trees in question include the following specimens, the full details of which are outlined in my original arborist report for the site:

- Tree 5 – Lilly Pilly
- Tree 6 – Hop Bush
- Tree 7 – Lightwood
- Tree 8 – Hop Bush
- Tree 9 – Manna Gum
- Tree 10 – Lightwood
- Tree 11 – Hop Bush

The trees have potential to be impacted to varying degrees, however in accordance with the Australian Standard, where encroachment of the TPZ of greater than 10% is proposed, further investigation must be made to determine the effect any encroachment will have on the trees. As such, root exploration has been undertaken in an attempt to fully determine the extent of root development extending within the subject site, and which may be affected by the proposed development.
The proposed plans call for minor encroachment of the calculated TPZ of Trees 5 and 6 for excavation required for the building to be sited at a distance of 2000mm from the western boundary. The area between the building and the boundary will be dedicated to landscaping, consisting mainly of soft form (garden bed or lawn), with some paving to be installed within the TPZ of Tree 6.

Such landscaping should not be considered to pose a threat to tree health or structural integrity, provided all works are undertaken at or above existing grade level, with no significant excavation below natural ground level.

In regard to Tree 9, the building itself is to be located at a distance of 3000mm from the boundary, equating to an encroachment of the TPZ by 13.3% (Refer Diagram 2). There is a proposal for excavation for the installation of a swimming pool to be installed along the western boundary, within close proximity to the Structural Root Zone (SRZ) and requiring an encroachment of the TPZ by 17.4% (Refer Diagram 1).

Diagram 1. Shows the extent of total TPZ encroachment inclusive of swimming pool area (17.4%).

Diagram 2. Shows the extent of total TPZ encroachment exclusive of swimming pool area (13.3%).
By default, due to the size of the TPZ of Tree 9 and the location of Trees 7, 8, 10 and 11, the TPZ of these remaining 4 smaller trees will be incorporated within the TPZ of Tree 9 and as such, afforded any necessary protection as part of the protection of the more significant tree (Tree 9). As such, no further comment will be made in regard to these individual specimens.

As per the Australian Standard, where encroachment of the TPZ is to be considered, further investigation of the underground root zone development, so as to determine the exact presence, size and location of any roots which may be affected by the proposed development, has been undertaken, the results of which form topic of this report.

The Australian Standard has potential for the TPZ to be encroached upon, dependent upon the findings of exploratory root excavation, which determines the exact extent and location of any root activity from the subject tree.

The exploratory excavation was undertaken on 12th July 2016, using a combination of air knife, hydro and vacuum technology so as to ensure minimal disruption and no damage to any roots which are located in the area.

This technique uses high-pressure air and/or high pressure water to disturb the soil profile which is then vacuumed up into a truck mounted holding tank. This technique removes the soil and leaves an undamaged, skeletonised root system which can be fully examined by the arborist. In this instance, due to the vacancy of the site, and to allow for potential inspection by the neighbour and council arborist, the excavation site has been left exposed and not backfilled to date.

This exploratory excavation was undertaken with a view to determine the exact location, size and development of any root activity in the area emanating from the subject trees where they encroach within the proposed excavation works for the new dwelling and potential swimming pool (refer to site plan Diagram 3).
As a result, three separate excavation trenches were undertaken, the exact locations of which are shown in the site plan (Refer Diagram 3). All excavations were undertaken to a minimum depth of 900mm, whereby any roots within the area were exposed and measurements taken accordingly.

Site A was located along the western boundary at an average distance of 150mm from the fence and extended along the line of the proposed swimming pool, commencing at a distance of 7.0m from the north boundary and extending for a length of 10.0m to 17.0m from the north boundary (refer to site plan). A number of roots were discovered, as outlined in Table A. Whilst numerous small roots were discovered, data was only collected for those considered significant (greater than 40mm diameter).

Site B was located at a distance of 1800mm from the western boundary, within the TPZ of Tree 6 and commenced at a distance of 21.5m from the northern boundary and extended for a length of 3.0m, to 24.5m from the northern boundary (refer to site plan). No roots were discovered in this area and it can be expected that the tree will not be affected by excavation works required for the proposed building to be constructed.

Site C was located at a distance of 1800mm from the western boundary, within the TPZ of Tree 5 and commenced at a distance of 27.0m from the northern boundary and extended for a length of 3.5m, to 30.5m from the northern boundary (refer to site plan). A number of minor roots were discovered, as outlined in Table B. The results of the root exploration have determined that a number of minor roots have been found which will require pruning for the development to proceed, the pruning of which will not affect the trees health and/or structural integrity.

Diagram 3. Shows location of 3 exploration sites relative to tree location and proposed building works.
RESULTS
Detailed results, measurements and data as determined from the root exploration in reference to all the major roots discovered, along with location and depth details are outlined in the following tables.

<table>
<thead>
<tr>
<th>Root ID. No.</th>
<th>Distance from north boundary (m)</th>
<th>Depth to top of root from existing ground level (mm)</th>
<th>Diameter of root (mm)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A1</td>
<td>7.85</td>
<td>250</td>
<td>140</td>
</tr>
<tr>
<td>A2</td>
<td>8.4</td>
<td>270</td>
<td>50</td>
</tr>
<tr>
<td>A3</td>
<td>8.5</td>
<td>280</td>
<td>50</td>
</tr>
<tr>
<td>A4</td>
<td>8.9</td>
<td>260</td>
<td>50</td>
</tr>
<tr>
<td>A5</td>
<td>9.0</td>
<td>300</td>
<td>90</td>
</tr>
<tr>
<td>A6</td>
<td>9.15</td>
<td>270</td>
<td>70</td>
</tr>
<tr>
<td>A7</td>
<td>9.1</td>
<td>330</td>
<td>60</td>
</tr>
<tr>
<td>A8</td>
<td>9.8</td>
<td>280</td>
<td>80</td>
</tr>
<tr>
<td>A9</td>
<td>9.9</td>
<td>280</td>
<td>50</td>
</tr>
<tr>
<td>A10</td>
<td>13.8</td>
<td>120</td>
<td>40</td>
</tr>
<tr>
<td>A11</td>
<td>15.25</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td>A12</td>
<td>16.0</td>
<td>120</td>
<td>50</td>
</tr>
<tr>
<td>A13</td>
<td>16.6</td>
<td>50</td>
<td>50</td>
</tr>
</tbody>
</table>

Table A. Details of roots found during exploratory excavation of Trench A.

<table>
<thead>
<tr>
<th>Root ID. No.</th>
<th>Distance from north boundary (m)</th>
<th>Depth to top of root from existing ground level (mm)</th>
<th>Diameter of root (mm)</th>
</tr>
</thead>
<tbody>
<tr>
<td>B1</td>
<td>28.0</td>
<td>200</td>
<td>80</td>
</tr>
<tr>
<td>B2</td>
<td>28.4</td>
<td>240</td>
<td>40</td>
</tr>
<tr>
<td>B3</td>
<td>29.4</td>
<td>190</td>
<td>40</td>
</tr>
</tbody>
</table>

Table B. Details of roots found during exploratory excavation of Trench C.

RECOMMENDATIONS
Whilst the number of significant roots (those greater than 80mm) is low, it must be considered that the combined total root mass (including a further 10 roots of between 40 and 80mm) provides significant structural support and nutrient uptake for the tree, as such it is considered unviabile for these roots to be pruned at this location.

The significant nature and the need for protection of these roots will make excavation for the installation and the construction of the pool in this area unviabile and as such, cannot be supported.

In regard to excavation for the construction of the dwelling, at a distance of 3.0m from the western boundary, within the calculated TPZ, it can be expected that due to the calculated taper ratio of the roots discovered, such roots will quickly taper as they extend in length away from the tree, to such a point that at a further distance of 3.0m from the current excavation site, the majority of these roots will be considered insignificant by way of size so as to allow for pruning at this location without adverse effect on tree health and/or structural integrity.

The pruning of these roots, at a distance of 3.0m from the western boundary, should be undertaken by a qualified arborist using correct techniques, and the remaining area of the TPZ within the subject site should consist of soft form landscaping with no excavation below natural ground level.

In regard to the roots associated with Tree 5, these roots exposed are considered insignificant by way of size or total volume mass, as such the pruning and removal of these roots to allow for excavation works associated with the proposed building at a distance of 2.0m from the western boundary is considered feasible, without causing any negative effect on the health and/or structural integrity of the tree.
It is my professional arboricultural opinion, that following the above investigations, development works as proposed for the actual building construction within the subject site should not be hindered by the location of the trees within the adjoining neighbouring property, as evidence would suggest that none of the trees will be damaged or affected by the proposed designs.

Importantly however is the need for relocation or omission of the swimming pool in the proposed location. The installation of the same is likely to have a detrimental effect on the health and structural integrity of the significant tree and I cannot support such works from an arboricultural perspective. Furthermore, one would question the suitability of a swimming pool to be located within such proximity to the large tree, due to the amount of falling leaf litter and associated debris as well as the significant blockage of natural sunlight penetration to the area.

Furthermore, the construction and installation of the decking area within the private open space located at the rear, north west corner of the property has further potential to impact the tree by conflict with roots which may be in the area. Such conflict must be avoided during excavation for the decking footings by the use of non-destructive digging techniques, using hydro or air technology, so as to avoid root damage. The location of the footing holes should be flexible if it is determined that a particular hole will conflict with the location of any roots.

It can be expected that this tree (Tree 9) will remain in situ for many years into the future, and the construction of the dwelling should consider the long term effects of building within such close proximity to a large and significant tree located on the western side of the dwelling.

Reduced sunlight availability and ongoing maintenance issues by way of cleaning, and clearing of falling debris will form part of living in such an environment. Whilst some of these issues can be somewhat reduced by pruning of the upper canopy extending over the subject site, any such pruning must only be undertaken in accordance with Australian Standards and will not totally eradicate these issues from occurring. The potential to attempt to enforce removal of the tree based on nuisance factor following completion of the development will not be accepted or approved by Council.

It is recommended that as a minimum, prior to construction, pruning works should include the removal of the lower lateral limb extending over the subject site, as well as reduction pruning and canopy thinning of the remainder of the upper canopy where it extends over the subject site. At the same time, the tree would benefit from a complete sanitization of the canopy and minor pruning works, however such additional works would be at the expense and approval of the tree owner.

All pruning must only be undertaken by a minimum Level 3 qualified arborist, using techniques to meet those of the Australian Standard for Amenity Tree Pruning (AS 4973-2007).

It is recommended that once approval has been provided by Bayside Council in regard to the proposed development, the necessary roots should be pruned by the project arborist as required prior to commencement of the construction works and associated site excavation.

Furthermore, strict adherence to the protection of the trees and remainder of the calculated Tree Protection Zones should be adhered to throughout the development process.

Upon Town Planning approval of the development, a Tree Management Plan should be developed and implemented which will provide details and techniques which must be adhered to in order for the tree to be protected throughout the development.

Should you wish to discuss these findings, please feel free to contact me via email at jack@mcleodtrees.com.au, or by phone on 0411 131 412.

Yours Sincerely

Jack Sinclair
Dip App Sci (Hort/Arb)
Adv Cert (Hort)

McLeod Trees
4.4 111 CARPENTER ST, BRIGHTON
SUPPORT THE GRANT OF A PLANNING PERMIT
APPLICATION NO. 2017/136 WARD: NORTHERN

City Planning & Community Services - Statutory Planning
File No: PSF/15/8755 – Doc No: DOC/17/233713

1. Purpose and background

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.

The application is for the development of a three-storey residential building with basement car parking and a front fence with a height exceeding 1.5 metres on a site subject to a Design and Development Overlay (Schedule 10) and a Special Building Overlay (refer Attachment 1) on a lot of approximately 870 square metres at 111 Carpenter Street, Brighton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Danny Hahesy, Mecone Town Planning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>14 March 2017</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>6 July 2017</td>
</tr>
</tbody>
</table>

2. Policy Implications

Planning permit requirements

- Clause 32.08-4 - General Residential Zone, Schedule 2 (GRZ2) - Construction and extension of two or more dwellings on a lot.
- Clause 43.02-2 - Design and Development Overlay, Schedule 10 (DDO10) – Construct a building or construct and carry out works.
- Clause 44.05-1 – Special Building Overlay (SBO) - Construct a building or construct and carry out works.

Planning Scheme Amendment

There are no planning scheme amendments relevant to this proposal.

3. Stakeholder Consultation

External referrals

The application was referred to the following authorities:

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

Internal referrals

The application was referred to the following Council departments for comment

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drainage engineer</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>Traffic engineer</td>
<td>Requires conditions to be included.</td>
</tr>
<tr>
<td>Waste management</td>
<td>No objection, subject to conditions</td>
</tr>
</tbody>
</table>
Public notification

The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and eight (8) objections were received. The following concerns were raised:

- Overdevelopment
- Car parking impacts and increased traffic congestion.
- Visual bulk / height / physical dominance
- Noise generation
- Loss of views
- Excessive overshadowing
- Potential inability of car stackers to accommodate large cars
- Loss of property values
- Inconsistency with neighbourhood character
- Lack of consultation
- Loss of privacy
- Undermining of neighbouring dwellings’ foundations
- Lack of open space and limited landscaping opportunities
- Increased stormwater run-off

Consultation meeting

A consultation meeting was held on 24 July 2017 attended by the permit applicant and four (4) objectors. As a result of this meeting no objections were withdrawn.

4. Recommendation

That Council:

Determines to Support the application under the provisions of the Bayside Planning Scheme in respect of the land known and described as 111 Carpenter Street, Brighton, for the development of a three-storey residential building with basement car parking and a front fence with a height exceeding 1.5 metres on a site subject to a Design and DevelopmentOverlay (Schedule 10) and a Special Building Overlay 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 advertised plans but modified to show:

   a) Full compliance with Standard B17 at all levels of the development.
   b) The provision of external security lighting within the site.
   c) Additional articulation to be provided along the southern elevation at first floor level. This must include indenting the elevation to break up the solid monotonous appearance.
   d) Details of the pedestrian sight triangle on the northern side of the
accessway.

e) Swept path diagrams involving car stackers to show the specific car stackers model (including the useable platform widths, lips of car stackers and columns) to demonstrate satisfactory access, with any consequential changes to be made to the satisfaction of the Responsible Authority.

f) Provision of a mirror at the bottom of the ramp to improve sightlines between vehicles exiting the visitor spaces and vehicles on the ramp.

g) Allocation of the parking spaces to each dwelling.

h) Ground and floor levels to be shown in Australian Height Datum.

i) Provision of ground clearance and height clearance diagrams to ensure that waste vehicles can access the basement levels satisfactorily.

j) 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.

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

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

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

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

6. Before 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.

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

8. Before the development starts, 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 John Patrick Landscape Architects Pty Ltd,
dated 11 April 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) 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.

9. 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.

10. 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.

11. Before the development starts, a Tree Impact Assessment Report on the Chinese Elm in the rear garden of 109B Carpenter Street, to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority. The report should be in accordance with part 2.3.5 of the Australian Standard Protection of Trees on Development Sites 4970 and should identify impacts that may be detrimental to the tree and include any design responses required to reduce any identified negative impact.

12. 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.

13. 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.

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

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

18. 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.

19. 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.

**Melbourne Water Conditions**

20. Finished floor levels of the building must be constructed no lower than 11.50 metres to Australian Height Datum (AHD).

21. The basement car park entry / exit must incorporate a flood proof apex and associated bunding constructed no lower than 11.50 metres to AHD.

22. A minimum one metre setback measured from the northern boundary and maintained at natural surface levels is required for the conveyance of overland flow.

23. The services are must be relocated outside the one metre northern setback.

24. Any fencing within the northern setback must be open style (50%) of construction to allow for the conveyance of overland flow.

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

26. The front fence must be open style (50%) construction to allow for the
conveyance of overland flow.

27. Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water’s requirements.

28. Prior to the endorsement of plans, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water’s conditions. Plans must be submitted with ground and floor levels to Australian Height Datum (AHD).

**End of Melbourne Water Conditions**

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

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

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

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

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

**Permit Notes**

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

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

- 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.

- The applicant is to bear the cost to reinstate/relocate the Council assets to provide the required access to the proposed development.

**5. Council Policy**

Council Plan 2017-2021

Relevant strategies of the Council plan include:

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

- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.10 Infrastructure
- Clause 21.11 Local Areas
- Clause 22.06 Neighbourhood Character Policy (Precinct B2)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.08 General Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 10)
- Clause 44.05 Special Building Overlay
- Clause 45.06 Drainage Contributions Plan Overlay
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

6. Considerations

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

6.1. Neighbourhood character

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

The development allows for good landscaping in the form of tree planting in the front and side setbacks and will maintain visual separation within the rhythm of the streetscape. Basement parking addresses the issue of the visibility of parking in front setbacks. A varied palette of materials is employed together with good articulation such that the building is considered appropriate for the area.

6.2. Compliance with Clause 55 (ResCode)

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

Front Setbacks (Standard B6)

The front setback required for the proposed development is 7.2 metres, this being the average of the setbacks of the front walls of the existing buildings on the abutting
allotments. The proposed ground floor setback is 5 metres, which is less than that required. However, the setbacks for the development along this section of Carpenter Street are not consistent, and in one instance, have a zero allotment setback (105 Carpenter Street), with this property is built right to the street front.

In addition, the neighbouring property at 113 Carpenter Street has a first floor balcony that projects forward of the ground floor. The first floor setback of this property is 5m. There are solid blade walls incorporated into the design of the neighbouring balcony and first floor, which emphasises the built form and lends the appearance of the building being closer to the street.

The train corridor runs adjacent to the south of Carpenter Street, which further diminishes the setback character within the area.

The variation in front setbacks and the presence of the railway line on the opposite side of the road result in an area where there is no typical uniformity. As such it is considered that varying the required front setback in this instance will not have a detrimental impact on the character of the area.

In addition to this, suitable areas for landscaping and articulation are proposed within the front setback, thereby mitigating any bulk and mass impacts of the proposal.

### Side and Rear Setbacks (Standard B17)

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (side)</td>
<td>1.0m</td>
<td>1m - 3m</td>
</tr>
<tr>
<td>South (side)</td>
<td>1.0m</td>
<td>1.6m – 3.0m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>1.0m</td>
<td>4.125m (min)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Second Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
</tr>
<tr>
<td>North (side)</td>
<td>3.89m</td>
</tr>
<tr>
<td>South (side)</td>
<td>3.89m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>3.09m to balcony</td>
</tr>
<tr>
<td></td>
<td>6.09m to rear wall</td>
</tr>
</tbody>
</table>

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

At first floor level on both side boundaries, there is an element of non-compliance with the required setbacks. This relates to the framing element around the balconies on the first floor level. This is the only area of non-compliance with the standard and the applicant has indicated that they would accept a condition requiring full compliance. A condition is therefore included in the recommendation requiring compliance with standard B17.
Front fencing (Standard B32)
A 1.8m front fence is proposed, which provides screening to the secluded private open space of ground floor apartment G01. The fence design is semi-open and is incorporated within the landscaping proposed within the front setback of the development. There is a variety of front fencing along this section of Carpenter Street, with the majority of the fencing being approximately 1.8 metres high and either solid or semi-transparent. The proposed fencing for this development is therefore considered to be in keeping with the character of the area.

6.3. Car parking and traffic
Each dwelling is provided with one car space in accordance with Clause 52.06. In addition, three of the apartment will each have an additional parking space. Sufficient visitor parking is provided in line with the requirements of Clause 52.06. Council's Traffic Engineer has reviewed the application and raised no objection to the parking provision subject to minor conditions. All recommendations are included as conditions of approval.

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

6.4. Vegetation & Landscaping
Council’s Arborist has raised no objection to the submitted landscaping plan for the proposed development. The proposed removal of the Melaleuca tree at the front of the property is also not opposed, as its retention is not called for in the Bayside Neighbourhood Character Policy.

In terms of the impact on neighbouring trees, there is an existing Chinese Elm in the rear garden of 109B Carpenter Street. The proposed development shows a level of encroachment into the Tree Protection Zone of this tree. Council’s Arborist is of the opinion that the proposal will not have an adverse impact on this tree, however has requested that a condition be included in the recommendation requiring the submission of a Tree Impact Assessment Report.

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

Overdevelopment
The height and scale of the development at three storeys are appropriate, given the focus for intensive development for the site in an activity centre and within the General Residential Zone. The preceding report demonstrates that the design considers and responds to the features of the site context and is an appropriate design solution for the site.

Furthermore, State and Local Planning Policy envisage an increase in housing density in well serviced areas such as this. The increase in population and density at this site is considered an appropriate response to the underutilised state of the site and the proximity of the site to public transport, shops and other services. While any increase in population density will likely increase the level of activity around the site and area, it is not envisioned that such an increase would be detrimental or substantially more intensive than what is currently experienced.

The Victorian State Government has provided a clear policy imperative of urban consolidation which is heavily dependent on medium density housing development. Density of the development is determined from a quantitative assessment of a development’s compliance with a series of criteria set out in the Bayside Planning Scheme. This includes an assessment of the design's ability to provide for the amenity of future residents, protect the amenity of existing residents and respond to the attributes
and constraints of the site. The number of dwellings and associated pedestrian and vehicle movements account for the site’s accessibility and location.

State Government policy is to encourage higher density housing in well located activity centres with access to public transport, recreation, education and other convenience services. This site fulfils the locality requirements.

Overdevelopment is a commonly used expression to dismiss development proposals which seek to remove existing buildings and to introduce significant new built form into particular neighbourhoods. An assessment against State and local planning policies and the provisions of Clause 55 can often demonstrate that a proposal is not an overdevelopment despite being more intensive than what existed before.

The design responds to the opportunities and constraints of the site and its context. It is unrealistic for objectors to expect that the site, being within an activity centre, will not go through redevelopment.

**Visual bulk / height / physical dominance**

The building’s bulk is tempered through the provision of the second floor within the pitched roofspace. Visual interest is provided through articulation of the building, further complemented by a varied choice of external materials. The maximum height of the building relates solely to the ridgeline of the roof, with three storeys being considered appropriate in this location. Whilst the building is undoubtedly one of the larger ones in the street, the zoning of the subject site allow for up to three storey and 11 metres, which is the ridge height of the proposed building. The design response is considered suitable in the streetscape where there is an eclectic mixture of single and double storey built form.

**Noise generation**

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.

**Loss of views**

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.

Whilst it is recognised that views may form part of residential amenity, the Tribunal has consistently held that there is no legal entitlement to a view.

**Excessive overshadowing**

The submitted shadow diagrams comply with the requirements of Clause 55. At least 40m² with a minimum dimension of 3m of the secluded private open space located on adjacent land will receive a minimum of five hours of sunlight between 9am and 3pm on 22 September. The expected shadowing is within the requirement of Clause 55 of the Bayside Planning Scheme.

**Potential inability of car stackers to accommodate large cars**

Car stackers are a recognised form of car parking used to meet car parking requirements and have been approved on numerous occasions by Council and the Victorian Civil Administrative Tribunal (VCAT). Details have been provided showing that two different types of car stackers will be provided, with one type capable of accommodating larger cars/SUVs.
Loss of 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 & Environment Act 1987, or the Bayside Planning Scheme.

Lack of consultation
Council is satisfied that anyone interested and affected by the application has been provided with the opportunity to inspect the application and make a submission.
Council instigated a 14 day public notification process, which concluded on 9 June 2017. Under the Act, Council was required to accept any comments and objections until the date of its decision. As this application is now to be determined by the Planning and Amenity Committee at the meeting of 28 November 2017, it is considered that residents and other interested parties have been provided with sufficient time to consider the proposal and provide comment.

Undermining of neighbouring dwellings’ foundations
Construction techniques and effects, including noise, dust, stability of existing foundations and damage to nearby dwellings are not a consideration under the Planning & Environment Act 1987 or the Bayside Planning Scheme.

Increased stormwater run-off
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.
As discussed in this report, the current proposal has adequately responded to the constraints of the site imposed by its susceptibility to flooding. Melbourne Water have not objected to the application and conditions of any permit that may issue can ensure that all of Melbourne Water’s and Council’s drainage requirements are met including requirement for finished floor levels to be 300mm above the flood level.

Support Attachments
1. Development Plans
2. Site and Surrounds Imagery
3. Neighbourhood Character Assessment
4. Clause 55 Assessment
Item 4.4 – Matters of Decision
Item 4.4 – Matters of Decision
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1: Aerial overview of the site and surrounds

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th>⭐</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objectors</td>
<td>⬤</td>
</tr>
</tbody>
</table>
Figure 2. Front-on view of the site from the opposite side of Carpenter Street.
Figure 3. View of the site from the southern end of the road frontage. Dwelling at right of picture is 113 Carpenter Street.
Figure 4: View of the site from the southern end of the road frontage. Leftmost dwelling is 109B Carpenter Street.
Figure 5: Laneway to the rear of 111 Carpenter Street.
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>
<tbody>
<tr>
<td>To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.</td>
<td>• Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development. • Alterations and extensions should retain the front of these dwellings.</td>
<td>Demolition of dwellings that contribute to the valued character of the Precinct.</td>
<td>Responds</td>
</tr>
<tr>
<td>To maintain and enhance the garden settings of the dwellings.</td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs.</td>
<td>Lack of landscaping and substantial vegetation.</td>
<td>Responds</td>
</tr>
<tr>
<td>To maintain the rhythm of spacious visual separation between buildings and provide space for front gardens.</td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs. • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td>Loss of front garden space.</td>
<td>Responds</td>
</tr>
<tr>
<td>To minimise the loss of front garden space and the dominance of car parking facilities.</td>
<td>• Locate garages and carports behind the line of the dwelling. • Provide only one vehicular crossover per typical site frontage. • Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback</td>
<td>Car parking facilities that dominate the façade or view of the dwelling.</td>
<td>Responds</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| To ensure new development respects the dominant buildings forms and scale of buildings in the Precinct, through the use of innovative architectural responses. | - Articulate the form of buildings and elevations, particularly front facades.  
- Recess upper storey elements from the front façade.                      | Large buildings with poorly articulated facades.                          | Responds subject to conditions  
The proposed development comprises of a three storey building, with the second floor incorporated into the roof design. The front façade is well articulated and employs a varied palette of materials. Conditions are included in the recommendation requiring increased articulation along the side elevations at the upper levels. |
| 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  
This section of Carpenter Street (between William and Durrant Streets) is covered by a heritage overlay. This relates to street tree planting on the nature strip adjacent to the railway line. The proposed development is on the other side of Carpenter Street and will not impact on these street trees. |
| To use a variety of building materials and finishes that provide visual interest in the streetscape. | - Incorporate a variety of building materials such as brick, render, timber and non-masonry into the building design.  
- Use simple building details.                                              | Exclusive use of one material on external wall facades.                 | Responds  
A variety of materials are utilised in the development, including stone and concrete cladding, timber battens and zinc roofing. |
| To improve the visual connection between the dwellings and the streetscape and encourage views to front gardens. | - Provide open style front fences, other than along heavily trafficked roads.  
- Front fence style should be appropriate to the building era.               | High, solid fences                                                      | Responds  
Front fencing is proposed to a height of 1.8 metres. This will be a mixture of open and solid fencing, in keeping with the varied fencing along this section of Carpenter Street. |
## 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>Complies, subject to condition(s)</td>
<td>Refer detailed discussion elsewhere in report, and 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>Complies</td>
<td>The subject site is appropriately located with regard to the services and facilities required to support ten apartments.</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>Complies</td>
<td>10 x 2 bed apartments with differing layouts and sizes are proposed.</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>Complies</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>Complies</td>
<td>Both pedestrian and vehicular access from the street is clear.</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>Variation required.</td>
<td>Refer to discussion in report.</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>Complies</td>
<td>The maximum height allowed under zone and overlay is 11m. Proposed development is 11m above flood level.</td>
</tr>
</tbody>
</table>
Building height should respect the existing or preferred neighbourhood character.

<table>
<thead>
<tr>
<th>B8 Site Coverage</th>
<th>Complies</th>
<th>Maximum: 60% Proposed: 59.94%</th>
</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>

<table>
<thead>
<tr>
<th>B9 Permeability</th>
<th>Complies</th>
<th>Maximum: 20% Proposed: 25.06%</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>

<table>
<thead>
<tr>
<th>B10 Energy Efficiency</th>
<th>Complies</th>
<th>The proposal provides for adequate solar access to the dwellings.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B11 Open Space</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>B12 Safety</th>
<th>Complies, subject to condition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Layout to provide safety and security for residents and property. Conditions are included in the recommendation to require the provision of internal lighting within the development.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B13 Landscaping</th>
<th>Complies</th>
<th>Refer to discussion in report.</th>
</tr>
</thead>
<tbody>
<tr>
<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></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B14 Access</th>
<th>Complies</th>
<th>Appropriate vehicular access is provided. Maximum: 40% of street frontage Proposed: 24% of street frontage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**B15 Parking Location**

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

| Complies | Refer to discussion in report. |

**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.

| Variation required | Refer to discussion in report. |

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (side)</td>
<td>1.0m</td>
</tr>
<tr>
<td>South (side)</td>
<td>1.0m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>1.0m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Second Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
</tr>
<tr>
<td>North (side)</td>
</tr>
<tr>
<td>South (side)</td>
</tr>
<tr>
<td>West (rear)</td>
</tr>
</tbody>
</table>

**B18 Walls on Boundaries**

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

| Yes | No walls on boundaries are proposed. |

**B19 Daylight to Existing Windows**

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

<p>| Complies | The proposal is set back from property boundaries sufficiently to ensure daylight to existing windows is maintained. |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>B20 North Facing Windows</td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td>All north facing windows are more than 3m away</td>
</tr>
<tr>
<td>B21 Overshadowing Open Space</td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>The submitted shadow diagrams show that the development will not result in an unacceptable loss of sunlight or daylight to the private open space of existing dwellings.</td>
</tr>
<tr>
<td>B22 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>At first and second floor level, 1.7m high timber screening has been provided.</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>1.7m high privacy screening has been provided to windows and balconies on the upper floors to prevent overlooking within the development. At ground floor level, 1.8m high fencing is provided between the private open areas.</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>The proposed residential development has been designed to mitigate any potential unreasonable noise impacts.</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>All ground floor apartments will be accessible for people with limited mobility.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling.</td>
<td>The proposal is for an apartment building with a clear pedestrian entry from the street. Lifts and stairwells will provide access to the upper floors and each apartment will have a clear entry.</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>All windows will have face an outdoor space with a minimum of 1 metre clearance to the sky.</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>Provide reasonable recreation and service needs of residents by adequate pos.</td>
<td>All ground floor apartments will have POS in excess of 40 square metres, with a minimum dimension above 3 metres and direct access from the living room. The apartments on the first and second floors will have balconies in excess of 8 square metres, with a width greater than 1.6 metres and access from the living areas.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Compliance Status</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Complies</td>
</tr>
<tr>
<td>B30 Storage</td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td>Complies</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Complies</td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td>Variation required.</td>
</tr>
<tr>
<td>B33 Common Property</td>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td>Complies</td>
</tr>
<tr>
<td>B34 Site Services</td>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td>Complies</td>
</tr>
</tbody>
</table>
4.5 68 & 76 UNION STREET & 26 MILLIARA GROVE, BRIGHTON EAST
SUPPORT THE GRANT OF A PLANNING PERMIT
APPLICATION NO: 2017/144/1 WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/248747

1. Purpose and background

To report an in-principle agreement reached by all parties subsequent to a VCAT Compulsory Conference for the development of the land for an aged care facility, advertising signage, and associated works (refer Attachment 1) at 68 & 76 Union Street and 26 Milliara Grove, Brighton East.

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Residential Processing Services Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>30 May 2017</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>4 August 2017</td>
</tr>
</tbody>
</table>

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 within the prescribed time.

At the VCAT Compulsory Conference held on 23 October 2017, attended by the permit applicant, Council Officers and 8 objector parties, an in-principle agreement was not reached between all parties.

At the Planning and Amenity Committee Meeting held on 2 November 2017, Council considered an application for the development of the land for an aged care facility, advertising signage, and associated works. Council determined to support the application, subject to conditions. The original development plans supported by Council are included as Attachment 2, while the conditions of approval are included at attachment 3.

Further to subsequent negotiations with the applicant, Council Officers and all objector parties to the appeal, an in-principle agreement was reached. Amended plans were circulated on 14 November 2017.

The amended plans make the following changes:

**Overlooking**
- Privacy screens increased to 1.7m height along the south west corner;
- Addition of planter bed to the club lounge terrace (north-east boundary);
- All required first and second floor windows and terraces provided with 1.7m (increased from 1.5m) high privacy screens;
- Provision of a planter box (south) at 1st floor terrace;
- Terrace reduction to west façade;
- Terrace reduction and deletion to east façade;
- Window deleted from west wall at south western corner (bedroom);

**Side and rear setbacks**
- Increased setbacks to west, south and east facades in order to comply with Standard B17 (Side and rear setbacks);
- Terrace reductions to west, south and east facades (balustrade pulled back away from building edge);
- Reduced overall building footprint;

**Design detail**
- Gas meter enclosure moved 2.0m from west boundary;
- Perimeter fence style noted;
- Stair 01 relocated away from north eastern boundary;
- Substation screen fencing added;
- Upper level premium single room type added;

**Landscaping:**
- Updated proposed trees to north and west boundary of 2/8 Granter St as agreed with neighbour;
- Updated proposed trees to east of pool at 66 Union St as agreed with neighbour
- Updated landscape including retaining wall changes to west and south;
- Updated landscape including retaining wall changes to west and south for neighbours tree protection;

All of the above listed changes are discussed in further detail in section 6.1 of this report.

The agreement was that a planning permit could be issued for the proposal subject to conditions. The plans circulated on 14 November 2017 are provided at Attachment 1 and were used to assist with negotiations in forming the recommendation outlined in section 4 of this report. These plans have not been formally substituted.

If Council agrees to support the amended recommendation below, then a planning permit will be issued by VCAT and the hearing vacated.

Alternatively, should Council determine to not support the amended plans, then the application will proceed to a VCAT hearing listed on 11 December 2017 for 3 days, based on the original application plans.

2. **Policy implications**

   **Planning permit requirements**

   Clause 32.09 (Neighbourhood Residential Zone – Schedule 3) – Construction of a residential building.

   Clause 52.05-9 – (Advertising signs) High amenity areas (Category 3)

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 original 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>Requests an updated arborist report to include a Tree Management Plan and Tree Protection Plan.</td>
</tr>
<tr>
<td>Waste Coordinator</td>
<td>No objection.</td>
</tr>
<tr>
<td>-------------------</td>
<td>--------------</td>
</tr>
<tr>
<td>Drainage Engineer</td>
<td>No objection.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objection, subject to clarification.</td>
</tr>
</tbody>
</table>

Public notification

The original application was advertised pursuant to Sections 52(1) (a) and (d) of the Planning and Environment Act 1987 and eight (8) objections were received. The following concerns were raised:

- Proximity to neighbouring properties/boundaries;
- Height and bulk of proposed building;
- Overlooking – insufficient screening provided;
- Overshadowing;
- Impact on Berkeley Grove Heritage Precinct (HO650);
- Loss of trees;
- Lack of engineering report in relation to basement parking;
- Location of gas meter; and,
- Impacts of construction on neighbouring property – clarification required.

Consultation meeting

No consultation meeting was held as the applicant lodged an appeal under Section 79 of the Planning and Environment Act 1987 for failure to grant a planning permit within the prescribed time.

A Compulsory Conference was held by VCAT on 23 October 2017. As mentioned previously in this report, parties did not agree on an outcome. However, following subsequent negotiations with the applicant, Council Officers and 8 objector parties to the appeal, an in-principle agreement was reached.

4. Recommendation

That Council:

Determines to Support the agreement reached by all parties in respect of Planning Application 2017/144/1 for the land known and described as 68 & 76 Union Street and 26 Milliara Grove, Brighton East, for the development of the land for an aged care facility, advertising signage, and associated works in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans prepared by Smith + Tracey dated 13 November 2017, Revision A and entitled ‘VCAT Issue’ but modified to show:

   a) Details of the ramp to the basement parking, including headroom, grade, provision of convex mirror.
   b) Details of the headroom under the porte cochere.
   c) Swept path diagrams for a 7.2m CPAV ambulance.
Item 4.5 – Matters of Decision

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

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

Water Sensitive Urban Design

7. 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.

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.

Traffic/Drainage

9. 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 include:

   a) An updated parking survey to include land to the east of the site closer to Hawthorn Road.
b) The location of all areas on-and/or off-site to be used for staff and patron parking.

c) Specification of staff numbers adequate to enable efficient operation of car parking areas both on- and off-site.

d) The number and location of all on- and off-site security staff.

e) The means by which the direction of traffic and pedestrian flows to and from car parking areas will be controlled both on- and off-site.

f) Measures to preclude staff parking in designated patron car parking areas.

g) Servicing of the drainage and maintenance of car parking areas.

10. The loading and unloading of vehicles and the delivery of goods to and from the premises must at all times be conducted entirely within the site and in a manner that limits interference with other vehicular traffic to the satisfaction of the Responsible Authority.

Landscaping

11. Before the development starts, 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 Memla, reference LC1 Revision C, dated 9 November 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 and vegetation to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.

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

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

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

e) Details of surface finishes of pathways and driveways

12. 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.

13. 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.

Acoustic Report

14. Before development commences, excluding demolition, an acoustic report prepared by a suitably qualified acoustic consultant must be submitted to and be to the satisfaction of the Responsible Authority, which demonstrates that any noise associated with the gas meter complies with the State Environment Protection Policy, Control of Noise from Commerce, Industry and Trade No N-1 (SEPP N1) with respect to its residential interface and in the event that it does not comply, identify any acoustic attenuation measures required for the gas meter to ensure that it complies.
Tree Management Plan

15. Before the development starts, 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.

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

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

Waste Management Plan

18. Waste management measures for the site must be in accordance with the advertised Waste Management Plan prepared by One Mile Grid dated 22 March 2017.

Construction Management Plan

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

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

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

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

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

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

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

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

i) Site security.

j) Public safety measures.

k) Construction times, noise and vibration controls.

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

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

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

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


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

r) Details of crane activities, if any.

**Drainage Levy**

20. Prior to endorsement of the plan/s 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.

**Lighting**

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

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

23. All signs must be located wholly within the boundaries of the land.

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

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

Staff and employee use restriction

26. Staff and employees are not permitted to use the northeast or northwest terraces on the second floor for personal use, including staff breaks.

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.

5. Council Policy

Council Plan 2017-2021

Relevant strategic objectives of the Council plan include:

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

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

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

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 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 22.06 Neighbourhood Character Policy (Precinct D1)
• Clause 22.07 Discretionary Uses in Residential Areas
• Clause 22.08 Water Sensitive Urban Design
• Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
• Clause 43.02 Design and Development Overlay (Schedule 3)
• Clause 45.06 Drainage Contributions Plan Overlay
• Clause 52.05 Advertising Signs
• Clause 52.06 Car Parking
• Clause 55 Two or More Dwellings on a Lot and Residential Buildings
• Clause 65 Decision Guidelines

6. Considerations

This assessment is based on the in-principle agreement reached between all parties following the VCAT Compulsory Conference held on 23 October 2017. In light of the without prejudice plans circulated by the applicant, combined with a variety of additional modifications reflected in the recommendation of this report, an in-principle agreement on the development has been achieved which introduces a number of changes. The acceptability of the without prejudice plans are discussed below.

6.1. Amended Plans assessment

Standard B22 - Overlooking

All areas of non-compliance with Standard B22 – Overlooking have been addressed via the erection of 1.7m screens to all first and second floor windows, provision of planter boxes, removal of windows; and reductions and removal of terraces along the western and eastern façades.

Furthermore, the conditions contained within the Council’s position provided at the Committee Meeting held on 2 November 2017 contained the following condition:

a) Compliance with Standard B22 (Overlooking) of the Bayside Planning Scheme along the eastern, southern and western boundaries.

This condition has been removed from the in-principle agreement as the development complies with the requirements of Standard B22 (Overlooking).

All terrace areas and windows are now considered sufficiently screened to prevent overlooking to the abutting allotments and to protect the privacy needs of future residents.

Standard B17 - Side and Rear Setbacks

The amended plans now demonstrate full compliance with Standard B17 (Side and Rear Setbacks). The proposed setbacks are as follows:

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>East (side)</td>
<td>0-0.2m or 2.0m</td>
<td>3.643m (min)</td>
</tr>
</tbody>
</table>
The proposed increased setbacks further the developments compliance with Clause 55 on the Bayside Planning Scheme as the proposed building is considered to comply with the requirements of Standard B17 – Side and rear setbacks. The increased setbacks along the eastern, western and southern boundaries further reduce the developments visual bulk along all boundaries whilst also reducing site coverage.

Furthermore, the conditions contained within the Notice of Decision (had an appeal not been lodged) provided at the Committee Meeting held on 2 November 2017 contained the following condition:

b) Compliance with Standard B17 (Side and Rear Setbacks) of the Bayside Planning Scheme along the eastern and southern boundaries.

This conditions has been removed as the development complies with the requirements of B17 (Side and rear setbacks).

It is noted that the bulk, location and appearance of the amended development is considered to be in keeping with the character and appearance of adjacent buildings and is considered to enhance the streetscape. The amended setbacks are considered to reduce the built form whilst also providing articulation, improved internal amenity and a reduction in the overall built form.

The proposed changes to the development result in less visual bulk and achieves a high standard of urban design. The changes reduce the overall built form, whilst also achieving a high level of compliance with all of the objectives of Clause 55.

**Design Detail and landscaping**

Issues were raised by the objectors in relation to the screening of the gas meter, perimeter fencing and the screening of the substation.

These matters have been addressed by providing detail in relation to the fencing material that will be utilised along all boundaries including the screening of the substation and the enclosure of the gas meter.

Furthermore, the conditions contained within the Notice of Decision (had an appeal not
been lodged) provided at the Committee Meeting held on 2 November 2017 contained the following condition:

d) Provision of sufficient landscape buffer along the south-western corner between the abutting allotments boundary fence and the proposed gas meter to the satisfaction of the responsible authority.

This condition has been removed as Council is satisfied that a sufficient landscape buffer has been provided.

An amended landscaping plans has been provided that sufficiently address Councils concerns in relation to landscaping opportunities and tree protection measures for trees located on the abutting allotments (west).

6.2. Conclusion

As described above, the changes to the plans are significant, and sufficiently address all objector concerns and Council’s previous requirements to comply with overlooking, design detail and side and rear setbacks. In addition to responding to the objectors, there are significant improvements over and above these grounds that substantially reduce the impact this proposal will have on neighbouring amenity. These include (but are not limited to) the increase setbacks along all sensitive residential interfaces to the east south and west and the provision of privacy screens and removal of terraces along the east south and west elevations.

The design, form, layout, proportion and scale of the proposed buildings is considered to be compatible with the style, form, proportion, and scale of the neighbouring properties.

The overall development is considered to show a high level of compliance with the Bayside Planning Scheme. Furthermore, all objectors have signed off on the application.

Support Attachments

1. Without prejudice plans
2. Original decision plans
3. Original decision (position of support)
Item 4.5 – Matters of Decision
Item 4.5 – Matters of Decision
Moved Cr Grinter  Seconded Cr Martin

That the Deputy Mayor Cr Long be nominated as Acting Chairman for the consideration of item 4.4.

As there were no further nominations the Governance Manager declared Cr Long elected as Acting Chairman for the consideration if item 4.4,

That the Deputy Mayor took the Chair for the consideration of this item.

It is recorded that the Mayor was absent from the meeting for the consideration of this item.

1 4.4 68 & 76 UNION STREET & 26 MILLIARA GROVE, BRIGHTON EAST NOTICE OF DECISION TO GRANT A PLANNING PERMIT APPLICATION NO: 2017/144/1  WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/215209

It is recorded that Mr Miroslaw Dymitry, Miss Natalie Calia, Mr Paul Hunt and Mr Nick Chapman spoke for three minutes each on this item. It is recorded that Mr Peter Murray was not present in the Chambers.

Moved: Cr Heffernan  Seconded: Cr Grinter

That Council having complied with Sections 52, 58, 60, 61 and 62 of the Planning and Environment Act 1987, advises VCAT, the applicant and objectors that, had an appeal not been lodged, it would have issued a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect to Planning Application 2017/144/1 for the land known and described as at 68 & 76 Union Street and 26 Milliara Grove, Brighton East for the development of the land for an aged care facility, advertising signage, and associated works in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

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

   a) Compliance with Standard B17 (Side and Rear Setbacks) of the Bayside Planning Scheme along the eastern and southern boundaries.

   b) Compliance with Standard B22 (Overlooking) of the Bayside Planning Scheme along the eastern, southern and western boundaries.

   c) Provision of the western elevation to show the full extent of the elevation including the rear projection to Milliara Grove.

   d) Provision of sufficient landscape buffer along the south-western corner between the abutting allotments boundary fence and the proposed gas meter to the satisfaction of the responsible authority.
e) Details of the ramp to the basement parking, including headroom, grade, provision of convex mirror.

f) Details of the headroom clearance under the porte cochere.

g) Swept path diagrams for a 7.2m CPAV ambulance.

h) Water sensitive urban design measures in accordance with condition 8.

i) Landscaping plan in accordance with condition 12.

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

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

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

7. Before occupation, screening of windows 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**

8. 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.
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.

Traffic/Drainage

10. 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 include:
   a) An updated parking survey to include land to the east of the site closer to Hawthorn Road.
   b) The location of all areas on-and/or off-site to be used for staff and patron parking.
   c) Specification of staff numbers adequate to enable efficient operation of car parking areas both on- and off-site.
   d) The number and location of all on- and off-site security staff.
   e) The means by which the direction of traffic and pedestrian flows to and from car parking areas will be controlled both on- and off-site.
   f) Measures to preclude staff parking in designated patron car parking areas.
   i) Servicing of the drainage and maintenance of car parking areas.

11. The loading and unloading of vehicles and the delivery of goods to and from the premises must at all times be conducted entirely within the site and in a manner that limits interference with other vehicular traffic to the satisfaction of the Responsible Authority.

Landscaping

12. Before the development starts, 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 Memla, reference LC1, dated 9 February 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 and vegetation to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.
   b) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
   d) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   e) Details of surface finishes of pathways and driveways
13. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

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

15. Before the development starts, 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.

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

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

18. Waste management measures for the site must be in accordance with the advertised Waste Management Plan prepared by One Mile Grid dated 22 March 2017.
19. 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.
20. Prior to endorsement of the plan/s 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.

Noise

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

Signage

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

23. All signs must be located wholly within the boundaries of the land.

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

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

Signage Expiry

26. This permit expires 15 years from the date of issue.

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.

CARRIED

It is recorded that the Mayor Cr del Porto was absent from the meeting for the consideration of the above item and was no present in the Chamber whilst the vote was taken in this matter.

Moved Cr Grinter Seconded Cr Castelli
That the Mayor take the Chair. For the remainder of the meeting.

CARRIED
4.6 181 BALCOMBE ROAD, BEAUMARIS
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2015/835/1 WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/249794

1. Purpose and background
To report a planning permit application for the construction of two double storey dwellings (above basement level) and removal of vegetation within a Vegetation Protection Overlay (Schedule 3) and alteration of access to a road in a Road Zone, Category 1 (refer Attachment 1) at 181 Balcombe Road, Beaumaris (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Michael Angus Architecture</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>17 December 2015</td>
</tr>
<tr>
<td>Statutory days expire</td>
<td>17 January 2018 (Application amended 16 November 2017)</td>
</tr>
</tbody>
</table>

2. Policy implications
Planning permit requirements
- Clause 32.09-6 (Neighbourhood Residential Zone) – construction of two or more dwellings on a lot.
- Clause 42.02 (Vegetation Protection Overlay) – removal of native vegetation
- Clause 52.29 (Land adjacent to a Road Zone) – alteration of access to a road in a Road Zone, Category 1

Planning scheme amendments
There are no planning scheme amendments relevant to the proposal.

3. Stakeholder Consultation
External referrals
The application was referred to the following authorities:

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

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

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

Public notification
The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and two objections were received. The following concerns were raised:
• Daylight access to existing windows
• Site coverage
• Inadequate setbacks
• Vehicle and pedestrian safety
• Size of basement
• Walls on boundaries
• Length of time to construct (loss of amenity)
• Overdevelopment

**Consultation meeting**

A consultation meeting was held on 31 May 2017 attended by the permit applicant and one objector. No objections were withdrawn following this meeting.

**4. Recommendation**

That Council:

Issues a Notice of Decision to Grant a Planning Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2016/336 for the land known and described as 181 Balcombe Road BEAUMARIS, for the construction of two double storey dwellings (above basement level), removal of vegetation within a Vegetation Protection Overlay (Schedule 3) and alteration of access to a road in a Road Zone, Category 1 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 decision plans, prepared by Michael Angus Architecture and Council date stamped 8 April 2016, but modified to show:

   a) The crossover setback 1.0 metres from the eastern boundary with a width of 3.0 metres, or otherwise to the satisfaction of the Responsible Authority.

   b) Any gate, intercom or similar device to control vehicular access to the site must be located a minimum of 6.0 metres from the property boundary (condition required by VicRoads).

   c) The accessway and ramp grades designed in accordance with Clause 52.06 (car parking) of the Bayside Planning Scheme.

   d) Provision of swept path analysis (B85 percentile vehicle) detailing movements in and out of dwelling 1’s easternmost car space for a three point manoeuvre. Any consequential changes to the basement layout and envelope to ensure this movement can be undertaken are to the satisfaction of the Responsible Authority.

   e) Provision of pedestrian sight triangles measuring 1.0 metre along the property frontage by 1.5 metres adjacent the eastern side of the accessway and 2.0 metres by 2.5 metres adjacent the western side of the accessway. No objects (including fencing) greater than 750 millimetres in height is to be located in these areas.
f) Bedroom 4 and the associated ensuite/WIR of each dwelling setback 1.0 metre from their respective side boundaries.

g) The living/dining rooms of each dwelling setback 1.0 metre from their respective side boundaries.

h) The paving of each dwelling setback a minimum 2.0 metres from the rear boundary and 1.5 metres from their respective side boundary within the rear setback. This area is to be set aside for landscaping purposes.

i) The pavers within the front and rear setbacks to be permeable.

j) Deletion of indicative landscaping from the development plans.

k) Deletion of boundary fence notations.

l) Provision of a drainage contribution levy in accordance with Condition 17.

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 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.

4. 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.

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

6. All pipes (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.

7. Before the occupation of the development starts, new or altered vehicle crossings servicing the development must be constructed to the satisfaction of the Responsible Authority.

**Water Sensitive Urban Design**

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

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

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

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

These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice 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. Before the development starts, a revised landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale, dimensioned and show:

   a) A survey, including, botanical names of all the proposed tree removals.
   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 plan. Plantings must be 80% indigenous by species type and count.
   d) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   e) Details of surface finishes of pathways and driveways.
   f) A canopy tree must be planting in the front setback of each dwelling, no closer than three metres from the façade. The canopy tree must be of a species which is indigenous to Bayside and has the capacity to reach a height of 10 metres and a spread of 6 metres at maturity. The applicant must demonstrate that sufficient soil volume and above ground space is provided to accommodate the canopy tree planting.

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

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

13. Soil excavation must not occur within 2 metres from the edge of the *Trisniopsis laurina* street tree asset’s stem at ground level.

14. 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.
Drainage

15. 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.

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

Development Contributions

17. 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.

VicRoads conditions

18. Pedestrian sight triangles at the vehicular crossover / basement access point must be provided in accordance with Clause 52.06-8 of the Bayside Planning Scheme to the satisfaction of the Responsible Authority.

19. The crossover, including kerb and channel, and driveway are to be constructed to the satisfaction of the Responsible Authority and at no cost to the Roads Corporation prior to the occupation of the works hereby approved.

20. Vehicles must always move in a forward direction when entering or leaving the site to the satisfaction of the Responsible Authority.

21. Vehicles must be able to fully enter the site without obstruction. Any gate, intercom or similar device to control vehicular access to the site must be located a minimum of 6.0 metres from the property boundary, to the satisfaction of the Responsible Authority.

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.

- A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.
- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.

5. Council Policy

Relevant objectives of the Council plan include:

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

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

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

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
- Clause 21.05 Environmental Risks
- Clause 22.06 Neighbourhood Character Policy
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 42.02 Vegetation Protection Overlay (Schedule 3)
- Clause 52.06 Car Parking
- Clause 52.29 Land adjacent to a Road Zone
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct H3.

The proposal is generally considered to demonstrate a high level of compliance with the future character statement.

The application is proposed to be built boundary to boundary, despite only being 12.8
It is considered that the boundary to boundary aspect of the proposal is inappropriate to its context and fails to ensure an acceptable level of visual separation through the site. Visual permeability through a site is a strong characteristic along this section of Balcombe Road and is supported by Council Policy.

Therefore, it is recommended that no walls be sited on the boundary of the site. As such, the walls of bedroom 4 (and their associated ensuite/WIR) and the rearing living/dining rooms are recommended to be setback a minimum 1.0 metre from their respective side boundaries.

The 1.0 metre setback is consistent with the reduced side boundary setbacks that are prevalent within the area.

Further, it is considered that bedroom 4 (and associated ensuite/WIR) and the living/dining room of each dwelling are of sufficient size/area to be able to accommodate this change, without unreasonably compromising the functionality/amenity of the dwelling.

A boundary to boundary development is located on the opposite side of Balcombe Road (272 Balcombe Road), however it is noted that this site has a larger width (approximately 15.24 metres) and has a significantly denser built form environment/context (noting the built form influence of the adjoining commercial area and prevalent of multi-dwelling development).

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

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

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

Areas of non-compliance are underlined.

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
<td><strong>Required</strong></td>
</tr>
<tr>
<td><strong>East (side)</strong></td>
<td>0m or 2m</td>
<td>0m or 2m</td>
</tr>
<tr>
<td><strong>West (side)</strong></td>
<td>0m or 2m</td>
<td>0m or 2m</td>
</tr>
<tr>
<td><strong>South (rear)</strong></td>
<td>0m or 3m</td>
<td>4.8m</td>
</tr>
</tbody>
</table>

Areas of non-compliance are at first floor across the east and west elevation. The areas of non-compliance range from 200-800mm for dwelling 1 and 100-700mm for dwelling 2.

In this instance, the non-compliances are considered acceptable, having regard to:

- Reduced side boundary setbacks in the area;
- Narrow width of the subject site (12.8 metres);
- Interface within non-sensitive areas (where the variations are greatest);
- Articulated elevations (by way of built form and finishes); &
- Conditions of permit recommended above to the ground floor walls on boundaries (thereby creating greater visual relief for adjoining properties).

**Daylight access to existing windows (Standard B19)**
The standard requires a setback of 1.0 metre clear to the sky for any existing habitable room window on adjoining properties.

The adjoining property to the east at 179 Balcombe Road and to the west at 181 Balcombe Road have two windows each that fail to achieve the requirements of the Standard as a result of the proposal. This is considered to be a poor outcome which unnecessarily compromises the amenity of the adjoining properties and is indicative a non-site responsive design element.

As such, it is recommended that the walls on boundaries associated with the ensuite and bedroom four of both dwellings be setback a minimum 1.0 metre from their respective side boundaries.

This condition will also improve the visual permeability across the site when viewed from the streetscape as discussed in the neighbourhood character considerations above.

6.3. **Car parking and traffic**

Each dwelling has provisions for two car spaces in accordance with Clause 52.06 (car parking) of the Bayside Planning Scheme.

Car parking for each dwelling is provided within a basement level and a shared accessway. Conditions of permit have been recommended to ensure that vehicles can safely egress to and from the site.

6.4. **Vegetation & Landscaping**

<table>
<thead>
<tr>
<th>VPO3 protected trees</th>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed for removal</td>
<td>Proposed for retention</td>
<td>Proposed for removal</td>
</tr>
<tr>
<td>Proposed for removal</td>
<td>Proposed for retention</td>
<td>Proposed for retention</td>
</tr>
<tr>
<td>1 &amp; 2</td>
<td>n/a</td>
<td>3-8</td>
</tr>
<tr>
<td></td>
<td>n/a</td>
<td>n/a</td>
</tr>
</tbody>
</table>

There are two trees on the site which meet the criterion for protection under the VPO. These trees are identified as:

- #1 – Sweet Pittosporum (located within the front setback); fair health, fair structure and moderate level of amenity.
- #2 – Lilly Pilly (located adjacent the rear property boundary); good health, poor structure and low level of amenity.

Council’s Arborist has considered the removal of the two native trees as being acceptable, subject to indigenous replacement plantings post construction.

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.

The extent of paving has also been recommended to be reduced (and with what pavers remained to be permeable) to improve post-construction landscaping opportunities.

The existing street tree will be able to be retained as part of this application.
6.5. **Objections received**

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

**Overdevelopment**

The proposal satisfies (subject to conditions) 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.

**Length of time to construct (loss of amenity)**

*The Planning and Environment Act 1987* spells out the length of time allowed to commence construction (two years from the date of permit) and a further two years to complete the development. The loss of amenity that may occur to adjoining properties would be managed by the Environmental Protection Authority.

**Support Attachments**

1. Advertised Plans ↓
2. Site Surrounds and Imagery ↓
3. Neighbourhood Character H3 ↓
4. Clause 55 ↓
Item 4.6 – Matters of Decision
Figure 1. Aerial overview of the site and surrounds

Legend

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐</td>
</tr>
<tr>
<td>Objector</td>
<td>🅱️</td>
</tr>
</tbody>
</table>

NB: The objection from 31 Charman Road, Beaumaris does not fit within the image. This property is located to the south-east of the subject site.
Figure 2. View to 181 Balcombe Road from the streetscape
Neighbourhood Character Precinct H3
Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To strengthen the bushy garden character of the area through the planting of appropriate species.</td>
<td>• Retain large established trees and understorey, and provide for the planting of new indigenous trees wherever possible (locate footings outside root zone).&lt;br&gt;• Prepare a landscape plan to accompany all applications for new dwellings that utilises appropriate native, preferably indigenous, vegetation.  &lt;br&gt;• Minimise impervious surfaces particularly in front garden spaces to ensure space for plantings.</td>
<td>Lack of landscaping and substantial vegetation. Removal of large established trees. Planting of environmental weeds</td>
<td>Responds&lt;br&gt;The application involves the removal of two native trees, however this has been supported by Council's Arborist. A post-construction landscape plan is recommended as a condition of permit.</td>
</tr>
<tr>
<td>To maintain the rhythm of spacious visual separation between buildings and ensure adequate space is provided around buildings for the retention and planting of vegetation.</td>
<td>• Buildings should be sited to allow space for a garden, including trees and shrubs.  &lt;br&gt;• Buildings should be sited to create the appearance of space between buildings and accommodate vegetation.</td>
<td>Loss of front garden space.</td>
<td>Responds, subject to conditions&lt;br&gt;Suitable areas for landscaping within the front setback are proposed. However, the proposal is built boundary to boundary within view of the streetscape. This is considered a poor outcome which is uncharacteristic of the area. It is also noted that boundary to boundary construction fails to ensure adequate daylight access to existing habitable room windows. This is recommended to be rectified as a condition of permit.</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| To minimise the loss of front garden spaces and the dominance of car parking structures. | • Locate garages and carports behind the line of the dwelling.  
• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space. | Car parking structures that dominate the façade or view of the dwelling. | Responds  
The application proposes one vehicle crossover to service both dwellings.  
Car parking is provided within a basement, therefore ensuring an open landscaped front setback and greater habitable spaces at ground floor to integrate with the street. |
| To minimise site disturbance and impact of the building on the landscape.  | • Buildings should be designed to follow the contours of the site on sloping sites.  
• Minimise the use of retaining walls and battering of slopes.  
• Design new buildings and extensions so as not to exceed the predominant tree canopy height. | Major excavation works and site levelling.  
Buildings that protrude above the tree canopy height. | Responds  
The building will have limited impact on the existing landscape and will suitably fit within the streetscape. |
| To ensure that new buildings provide an articulated and interesting façade to the street. | • Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.  
• Recess upper levels from the front façade. | Large, bulky buildings  
Poorly articulated front and side wall surfaces. | Responds  
The application provides for an articulated façade through a variation in construction materials and built form. |
| To use building materials and finishes that complement the natural setting. | • Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick. | Period reproduction styles and detailing. | Responds  
The application uses a variety of materials and finishes, such as brickwork and timber to complement the natural setting. |
| To maintain the openness of the front garden to the street. | • Provide open style front fences, other than along heavily trafficked roads.  
• Use vegetation as an alternative where possible. | High or solid front fences. | Responds  
The application proposes a permeable front fence, thereby maintain views of the front setback. |
## 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 2.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>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></td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.</td>
<td></td>
<td>The subject site is appropriately located with regard to services and facilities to support two dwellings.</td>
</tr>
<tr>
<td>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></td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td>Any upgrades required will be the responsibility of the developer.</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></td>
<td>The dwellings appropriately address the street and entries are clearly identifiable from the streetscape.</td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>Minimum: 9 metres</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>Proposed: 9 metres</td>
</tr>
<tr>
<td>Item</td>
<td>B7 Building Height</td>
<td>B8 Site Coverage</td>
</tr>
<tr>
<td>------</td>
<td>--------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td></td>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
</tr>
<tr>
<td></td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td><strong>Required:</strong> 8 metres</td>
<td><strong>Maximum:</strong> 50%</td>
</tr>
<tr>
<td></td>
<td><strong>Proposed:</strong> 7.7 metres</td>
<td><strong>Proposed:</strong> 50%</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.

Yes  
Appropriate vehicular access is provided.  
**Maximum:** 40% of street frontage  
**Proposed:** 28% of street frontage

---

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

Yes  
The proposed car parking areas are appropriately located.

---

**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.

No  
Refer report and table below. Areas of non-compliance are underlined.

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m or 2m</td>
<td>0m or 2m</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2m</td>
<td>0m or 2m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>0m or 3m</td>
<td>4.8m</td>
</tr>
</tbody>
</table>

---

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

Yes  
**Maximum Height:** 3.6m  
**Proposed:** 3.0-3.1m  
**Maximum Average Height:** 3.2m  
**Proposed:** 3.0m  
**Maximum Length:** 20m  
**Proposed:** 14-19m

---

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

No  
The application fails to ensure a 1.0 metre dimension clear to the sky for adjoining habitable room windows.  
This is recommended to be rectified as a condition of permit.

---

**B20 North Facing Windows**
Allow adequate solar access to existing north-facing

Yes  
No north facing windows on adjoining properties are affected.
<table>
<thead>
<tr>
<th>Item</th>
<th>Category</th>
<th>Decision</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>B21</td>
<td>Overshadowing Open Space</td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 December.</td>
</tr>
<tr>
<td>B22</td>
<td>Overlooking</td>
<td>Yes</td>
<td>The application has been appropriately sited and designed to avoid any unreasonable overlooking of adjoining properties. Side boundary windows are either designed with obscure glazing or high sill windows, while the rear boundary setback is significant enough to not warrant any treatment (this is based on setback, sill of the window and the sight line afforded from the first floor rear windows).</td>
</tr>
<tr>
<td>B23</td>
<td>Internal Views</td>
<td>Yes</td>
<td>At ground level, fencing to a height of 1.8m will prevent internal overlooking, whilst windows at first floor have been adequately located and designed to limit internal overlooking to less than 50%.</td>
</tr>
<tr>
<td>B24</td>
<td>Noise Impacts</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</td>
<td>Accessibility</td>
<td>Yes</td>
<td>Entries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td>B26</td>
<td>Dwelling Entry</td>
<td>Yes</td>
<td>The entries to both dwellings are easily identifiable from the street.</td>
</tr>
<tr>
<td>B27</td>
<td>Daylight to New Windows</td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td>B28</td>
<td>Private Open Space</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall Proposed: 31m² secluded, 91m² overall</td>
</tr>
<tr>
<td>Item</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td></td>
</tr>
<tr>
<td><strong>B29 Solar Access to Open Space</strong></td>
<td>Yes</td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Appropriate solar access to the private open space areas is provided.</td>
<td></td>
</tr>
<tr>
<td><strong>B30 Storage</strong></td>
<td>Yes</td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>A storage space is located within the basement for each dwelling.</td>
<td></td>
</tr>
<tr>
<td><strong>B31 Design Detail</strong></td>
<td>Yes</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Refer Attachment 1.</td>
<td></td>
</tr>
<tr>
<td><strong>B32 Front Fences</strong></td>
<td>Yes</td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Required: 2.0m</td>
<td>Proposed: 1.5m steel picket fence</td>
<td></td>
</tr>
<tr>
<td><strong>B33 Common Property</strong></td>
<td>Yes</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>
</tr>
<tr>
<td></td>
<td></td>
<td>The dwellings share a common accessway and basement level. The common property areas are considered appropriate.</td>
<td></td>
</tr>
<tr>
<td><strong>B34 Site Services</strong></td>
<td>Yes</td>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Plans show clotheslines, mailboxes and storage areas as required. Space for meters has been provided alongside the entries of each dwelling.</td>
<td></td>
</tr>
</tbody>
</table>
5. Confidential Business

Nil

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

Adrian Robb
Chief Executive Officer