Agenda

for the

Planning & Amenity Committee Meeting

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

on

Thursday, 6 July, 2017 at 7.00pm

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

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

Section 92 The Chair’s Duties and Discretions

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

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

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

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

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

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

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

Your cooperation is appreciated

Chairperson of Council
Planning & Amenity Committee Meeting

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

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

Membership of the Committee
All Councillors

Order of Business

1. Apologies

2. Declarations of Interest

3. Adoption and Confirmation of the minutes of previous meeting

4. Matters of Decision
   4.1 11 Nautilus Street, Beaumaris Notice of Decision to Grant a Planning Permit Application No: 2016/370/1 Ward: Southern.... 7
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   4.7 3 Primrose Crescent, Brighton East Notice of Decision to Grant a Planning Permit Application No: 2017/174/1 Ward: Northern. 187
   4.8 23-25 Crisp Street, Hampton Notice of Decision to Grant a Planning Permit Application No: 2016/497/1 Ward: Central ... 223
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5. Confidential Business
   Nil
Next Meetings 2017

Tuesday 18 July 2017
Thursday 3 August 2017
Tuesday 15 August 2017
Tuesday 12 September 2017
Thursday 28 September 2017
Tuesday 17 October 2017
Thursday 2 November 2017
Tuesday 14 November 2017
Thursday 30 November 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 22 June 2017.
4. **Matters of Decision**

4.1 **11 NAUTILUS STREET, BEAUMARIS**

**NOTICE OF DECISION TO GRANT A PLANNING PERMIT**

**APPLICATION NO: 2016/370/1 WARD: SOUTHERN**

City Planning & Community Services - Development Services

File No: PSF/15/8755 – Doc No: DOC/17/107283

1. **Purpose and background**

To report a planning permit application for the construction of two double storey dwellings and removal of native vegetation in the Vegetation Protection Overlay Schedule 3 on a lot with an area of 733.19 square metres (refer Attachment 1) at 11 Nautilus Street, Beaumaris (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Elevation 7 Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>27 June 2016 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>26 August 2016</td>
</tr>
</tbody>
</table>

2. **Policy implications**

**Planning permit requirements**

Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two dwellings on a lot.

Clause 42.02 - 2 (Vegetation Protection Overlay) – Removal of native vegetation native to Australia.

**Planning scheme amendments**

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

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 comments:

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>The proposed landscaping is acceptable, subject to conditions</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objections, subject to conditions</td>
</tr>
<tr>
<td>Drainage Engineer</td>
<td>No objections, subject to conditions</td>
</tr>
<tr>
<td>Street Trees Arborist</td>
<td>No objections, subject to conditions</td>
</tr>
</tbody>
</table>
Public notification

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

One objection was later formally withdrawn, another objection was informally withdrawn subject to conditions which have been included in the proposed permit conditions (i.e. whilst there are three formal objections, there are just two parties with outstanding concerns).

The objecting residents raised the following concerns:

- Amenity impact on neighbouring properties;
- Applicant should cover the cost for reconstructing boundary fence;
- Loss of neighbouring property value;
- Does not comply with neighbourhood character requirements;
- Inconsistent with the State Planning Policy Framework and Local Policy.

Consultation meeting

A consultation meeting was offered to the applicant and was declined. The applicant carried out their own private negotiations with the objectors, which resulted in agreements being reached with two objecting parties (i.e. there are two objecting parties that remain with outstanding concerns).

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2016/370/1 for the land known and described as 11 Nautilus Street, Beaumaris, for the construction of two double storey dwellings and the removal of native vegetation in the Vegetation Protection Overlay Schedule 3 in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans prepared by Elevation 7 Council date stamped 9 September 2016 submitted with the application but modified to show:

   a) Elevation plans amended to show screening of both first floor sitting areas and study, as shown on plans labelled “Objectors comments” dated 13 December 2016.

   b) Compliance with Standard B22 (Overlooking) with respect to the east facing ground floor windows of dwelling 2. This can occur through either window screening or fence extensions to the required height.

   c) The front setback of both dwellings to be increased to 9 metres, to meet the setback requirement of Standard B6. The redesign must occur to the satisfaction of the Responsible Authority, and any cantilevered elements at first floor should not project beyond 500mm and the garage must not project forward of the front most section of the dwelling (whether at ground or first floor). There are to be no reductions to any rear boundary setbacks.
d) Landscape Plan modified in accordance with Condition 8 of this permit.

e) A Tree Protection Report and a Tree Management Plan in accordance with
Condition 9 of this permit.

f) Water sensitive urban design measures (rain gardens and water tanks) in
accordance with Condition 14 of this permit.

h) An assessment to demonstrate the impact, if any, the proposed vehicle
crossings will have on Council assets. The plans must show all assets
surrounding the proposed crossover.

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

3. Prior to 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.

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 without the
written consent of the Responsible Authority.

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

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

8. Prior to the endorsement of plans pursuant to Condition 1, an amended
Landscape Plan to the satisfaction of the Responsible Authority must be
submitted to and be endorsed by the Responsible Authority. The plan must be
generally in accordance with the landscape concept plan drawn by Jack Merlo
Design and Landscape Architects on behalf of Elevation 7, reference TP01, dated
September 2016, and be drawn to scale with dimensions and three copies must
be provided. The plan must show:

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

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

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

9. Prior to the endorsement of plans pursuant to Condition 1, including any related
demolition or removal of vegetation, a Tree Management Plan (report) and Tree
Protection Plan (drawing), to the satisfaction of the Responsible Authority, must
be submitted to and be endorsed by the Responsible Authority. The Tree
Management Plan must be specific to the trees shown on the Tree Protection
Plan, in accordance with AS4970-2009, prepared by a suitably qualified arborist
and provide details of tree protection measures that will be utilised to ensure all
trees to be retained remain viable post-construction. Stages of development at
which inspections are required to ensure tree protection measures are adhered
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) In particular a demonstration that the Leptospernum laevigatum tree located at no. 9 Nautilus Street on the western boundary on the site will not be affected by the proposed development in accordance with Condition 1.

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

10. 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.

11. A tree protection fence is required for the protection of all street tree's canopy and root zone. Conditions for street tree protection fencing during development are as follows:

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

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

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

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

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

f) Prior to soil excavation for a Council-approved crossover within the TPZ, a trench must be excavated along the line of the crossover adjacent to the tree using root-sensitive, non-destructive techniques.

g) All roots that will be affected must be correctly pruned.

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

12. The location of the proposed vehicle crossing will not impact the tree’s health and stability; however, soil excavation must not occur within 3 metres from the edge of the Allocasuarina verticillata (Drooping She-oak) street tree asset’s stem at ground level.

13. 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.

14. 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.

15. 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.

16. Council records indicate that there is a 1.83m wide drainage and sewerage easement along the northern property boundary as indicated on the drawings provided. The plans indicate no proposals to encroach into the easement with any buildings or structures of note. Proposals to be built over the easement will require Build over Easement consent from the Responsible Authorities.

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

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

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

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

5. **Council Policy**

**Council Plan 2013-2017**

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
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 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.

Adequate space is provided around the proposed dwellings to introduce trees and vegetation. The separation to both dwellings are adequate to maintain a rhythm of spacious visual separation between buildings. Dwelling 1 has a 2 metre side setback from the western boundary, with a 7.5 metre front setback to accommodate vegetation. Dwelling 2 is setback at the front 9 metres with a 2 metre side setback from the eastern boundary for planting and vegetation. Although there is adequate space for planting to the front of each dwelling, the proposed replanting shown on the landscape plan is insufficient as the number of indigenous species and planting count is less than what can be provided and required. This will be addressed through condition.

The proposed location of the garage to dwelling 2 is acceptable. Although the Neighbourhood Character Policy requires garages to be located behind the line of the dwelling, the proposed garage at dwelling 2 is acceptable because the upper portion of the dwelling is projecting forward minimising dominance to the façade and appearing to be behind the building line. The garage to dwelling 1 is considered a poor design response as it is set forward reducing the front setback and having high parapet making it a prominent feature to the streetscape. A condition will be placed to the approval requiring a compliant front setback and a recessed garage to reduce visual bulk.

The dwellings are two-storey with a flat roof which reflects the existing character of the area. The incorporation of projecting portions on the upper levels from front façade with fenestration to dwelling 2 is satisfactory as it creates visual interest for the façade to the street. The use of a variety of materials, texture and finishes including timber and brick is considered acceptable design response to the surrounds.

There is no front fence proposed, which maintains the openness of the front garden to the street. The approach is considered acceptable as it is consistent with what currently exists in the neighbourhood.

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

An assessment against the requirements of Clause 55 is provided at Attachment 4. Those non-compliant standards are discussed below:
Street Setback (Standard B6)

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>9m</td>
<td><strong>Dwelling 1:</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>7.5m (Ground floor)</td>
<td>1.5m</td>
</tr>
<tr>
<td></td>
<td>8.6m (First floor)</td>
<td>0.4m</td>
</tr>
<tr>
<td></td>
<td><strong>Dwelling 2</strong></td>
<td>Nil</td>
</tr>
<tr>
<td></td>
<td>9.0m (Ground floor)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>8.2m (First floor)</td>
<td>0.8m</td>
</tr>
</tbody>
</table>

It is considered that the street setback to dwelling 1 should be increased to 9 metres at ground floor. It is acknowledged that the setback at no. 9 Nautilus Street is 7.5 metres, however this section of the adjacent dwelling is single storey and of a much lower scale than that proposed through this application. This increased setback will ensure that the proposed design is acceptable in respect of the preferred neighbourhood character and the predominant setback patterns along this streetscape.

Whilst some cantilevered element beyond this 9.0m at first floor would be acceptable to provide for visual interest to the front façade, this should be restricted to 500mm (i.e. a first floor front setback of 8.5m would be permissible). This will therefore require a minor modification to the first floor of dwelling 2.

These changes will be achieved through a condition of permit.

Overlooking (Standard B22)

The objective of Standard B22 seeks to limit views into existing secluded private open space and habitable room windows.

It is considered appropriate to apply the overlooking requirement in Clause 55 (Standard B22) to assess the potential overlooking impact to adjoining properties caused by the proposal.

The proposed windows of the sitting area on the west elevation at first floor level of dwelling 1 has not provided screening to limit overlooking into secluded private open space and the habitable room window at no.9 Nautilus Street. Similarly the proposed window to the sitting area at first floor east elevation to dwelling 2 will also overlook into the secluded private open space and habitable room window at no.13 Nautilus Street. The windows to the sitting area at first floor level to both dwellings on the north elevation are clear glazed. It is considered that there will be overlooking into the secluded private open space to no.16 Florida Avenue.

To avoid overlooking impacts from the above areas, either obscure glazing at 25 per cent transparency, fixed screening or the raising of sill height is required to comply with Standard B22. A condition of approval is recommended to address this issue.

A 1.6 metre high paling and lattice fence is proposed on the east boundary to dwelling 2. This would be inadequate to effectively limit overlooking into No.13 Nautilus Street due to the raised nature of the deck adjacent this boundary. Whilst the plans state that a trellis fence will exist above this fence line, its height is not stated and therefore a condition clarifying compliance with Standard B22 is required.

In summary, the following conditions would be placed on the permit to address overlooking issues:

- a) Screening of the first floor study and sitting room windows to both dwellings.
- b) Clarification of the eastern boundary fence height to show compliance with Standard B22.
6.3. **Car parking and traffic**

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

6.4. **Street tree removal**

No street trees are proposed for removal at the site.

The new crossover at dwelling 2 is acceptable and will not have a negative impact on the *Allocasuarina verticillata* (Drooping She-oak) street tree located on the west boundary of the nature strip. It is however important to ensure that soil excavation carried out during construction will not impact the health and stability of the tree. A condition requiring an offset of 3 metre from the edge of the tree will be applied.

6.5. **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>Trees 1, Nil</td>
<td>Trees 2,3,4,5,6, and 7, Nil</td>
<td>Nil</td>
</tr>
</tbody>
</table>

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

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

Council’s Arborist has viewed the application and the submitted arboriculture report and advises that the landscape plan sets out an insufficient level of vegetation to be planted on site. Importantly, the level of open space throughout the site is sufficient to provide for the required level (and species mix) of trees and plants and therefore the issues can be rectified through an amended landscape plan condition.

With regards to the arboriculture report submitted with the application, it failed to include one *Leptospermum laevigatum* located on the property to the west. For the tree at no.9 Nautilus to remain viable an assessment is to be submitted. A condition will be imposed on the approval to require this.

6.6. **Objections received**

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

**Boundary wall**

Under the provision of Standard B18 a new wall constructed on or within 200mm of a side boundary of a lot should not abut the boundary:

- For a length of more than the distance specified in a schedule to the zone; or
• If on distance is specified in a schedule to the zone, for a length of more than:
  ▪ 10 metres plus 25 per cent of the remaining length of the boundary of an adjoining lot.

The proposal shows to the rear east and west boundary of both dwellings a wall to be built on boundary. The overall length of wall to be built for both dwellings is 5.53 metres. The maximum length permitted is 8.88 metres. The proposed wall on boundary is considered acceptable as it complies with Standard B18.

**Glare created by windows causing light pollution**

The selected materials and external materials are not unusual and any glare or reflection off windows would not be uncommon or unreasonable in a residential setting such as this.

**Applicant to cover cost for reconstructing boundary fence**

The reconstruction of a boundary fence is a civil matter, Council is unable to involve itself in requesting the applicant to cover the cost for the reconstruction of the fence. This is not a material consideration and cannot form part of the assessment.

**Neighbouring property value**

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

**Over development of the site**

The proposal satisfies the substantive requirements of Clause 55 in respect to site coverage, setbacks, permeability, car parking, and open space provision and therefore the proposal is not considered to be an over development of the site. State Government Policy, as well as Council Policy supports higher densities in established areas such as this that are within proximity of services and transport.

**Inconsistent with neighbourhood character and incompatible with the low residential density**

Neighbourhood character has been assessed, the assessment has been covered in section 6.1 of the report and the application shows strong compliance (subject to conditions). There are numerous examples of large, double storey buildings within the immediate surrounds.

**Inconsistent with State Planning Policy Framework and Local Policy**

The application is considered consistent with objectives of relevant State and Local Policies.

### Support Attachments

1. Development Plans
2. Imagery and Surrounds
3. Neighbourhood Character Policy
4. Clause 55 (ResCode) Assessment
Figure 1: Aerial overview of the site and surrounds

Legend

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>★</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>*</td>
</tr>
<tr>
<td>Withdrawal(s)</td>
<td>▲</td>
</tr>
</tbody>
</table>

* One objector, the Beaumaris Conservation Society are located further afield beyond the map boundary
Figure 2 View towards the site from the south

Figure 3 View towards the site from the east at the boundary fence
Figure 4 View from the site towards the west showing properties at no. 9 Nautilus Street
ATTACHMENT 3
Neighbourhood Character Policy (Precinct H3)

Preferred Future Character

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.&lt;br&gt;Removal of large established trees.&lt;br&gt;Planting of environmental weeds</td>
<td>The existing site is not highly vegetated. The landscape plan proposal has enhanced the garden settings of the dwelling however, the plant species and count for indigenous species need to increase.</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>The proposal have maintained the rhythm of spacious visual separation through a 2m side setback from both boundaries (at street presentation) to allow space for trees and other planting.</td>
</tr>
<tr>
<td>To minimise the loss of front garden spaces and the</td>
<td>• Locate garages and carports behind the line of the dwelling.</td>
<td>Car parking structures that dominate the façade.</td>
<td>Garage to dwelling 1 is unreasonably dominant and will require change through condition.</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><strong>dominance of car parking structures.</strong></td>
<td>• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.</td>
<td>or view of the dwelling.</td>
<td></td>
</tr>
<tr>
<td><strong>To minimise site disturbance and impact of the building on the landscape.</strong></td>
<td>• Buildings should be designed to follow the contours of the site on sloping sites.</td>
<td>Major excavation works and site levelling. Buildings that protrude above the tree canopy height.</td>
<td>The proposal has been designed to minimise site disturbance by following the contours of the site slope in order not to have a negative impact of the building on the landscape.</td>
</tr>
<tr>
<td><strong>To ensure that new buildings provide an articulated and interesting façade to the street.</strong></td>
<td>• 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.</td>
<td>Large, bulky buildings Poorly articulated front and side wall surfaces.</td>
<td>The proposal has incorporated projecting elements which are considered adequate even though they are projecting beyond the front setback line. The use of fenestrations and a combination of materials, textures and colours has provided appropriate articulation creating an interesting facade to the street.</td>
</tr>
<tr>
<td><strong>To use building materials and finishes that complement the natural setting.</strong></td>
<td>• Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick.</td>
<td>Period reproduction styles and detailing.</td>
<td>A mixture of timber, finishes including render and glazing complements the natural setting in the area.</td>
</tr>
<tr>
<td><strong>To maintain the openness of the front garden to the street.</strong></td>
<td>• Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High or solid front fences.</td>
<td>A front fence has not been proposed. This has maintained the openness of the front gardens to the street.</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></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>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly identifiable from either the streetscape or the common pedestrian access.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>No</td>
<td>Minimum: 9m</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td></td>
<td>Dwelling 1:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>7.5m (Ground floor)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>8.6m (First floor)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Dwelling 2</td>
</tr>
<tr>
<td></td>
<td></td>
<td>9.0m (Ground floor)</td>
</tr>
<tr>
<td>B7 Building Height</td>
<td>Yes</td>
<td>Required: 8m</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>-----</td>
<td>--------------</td>
</tr>
<tr>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td></td>
<td>Proposed Dwelling 1: 6.2m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed Dwelling 2: 7.2m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B8 Site Coverage</th>
<th>Yes</th>
<th>Maximum: 50%</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>Proposed: 50%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B9 Permeability</th>
<th>Yes</th>
<th>Minimum: 20%</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>Proposed: 58%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B10 Energy Efficiency</th>
<th>Yes</th>
<th>All habitable areas, including habitable rooms and secluded private open space areas would be appropriately located to utilise the northern orientation of the site.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Achieve and protect energy efficient dwellings and residential buildings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>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>
<th></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>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B12 Safety</th>
<th>Yes</th>
<th>No safety issues are considered to be likely to arise.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Layout to provide safety and security for residents and property.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B13 Landscaping</th>
<th>Yes</th>
<th>The proposal does allow for the provision of meaningful landscaping opportunities across the site however, a greater provision of indigenous trees is required. Refer to report for further discussion.</th>
</tr>
</thead>
<tbody>
<tr>
<td>To provide appropriate landscaping. To encourage:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development that respects the landscape character of the neighbourhood.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development that maintains and enhances habitat for plants and animals in locations of habitat importance.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The retention of mature</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
vegetation on the site.

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

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Yes</strong></td>
<td><strong>Appropriate vehicular access is provided.</strong></td>
</tr>
<tr>
<td><strong>Maximum:</strong></td>
<td><strong>40% of street frontage</strong></td>
</tr>
<tr>
<td><strong>Proposed:</strong></td>
<td><strong>31% of street frontage</strong></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.

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

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

<p>| | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Dwelling 1 Ground Floor</strong></td>
<td><strong>First Floor</strong></td>
<td><strong>Dwelling 2 Ground Floor</strong></td>
<td><strong>First Floor</strong></td>
</tr>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td>East (side)</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2m</td>
<td>0m to living area, 2.01m</td>
<td>3.5m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>0m or 3m</td>
<td>6.28m</td>
<td>3.92m</td>
</tr>
</tbody>
</table>

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

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Yes</strong></td>
<td><strong>Maximum Height:</strong> 3.6m</td>
</tr>
<tr>
<td><strong>Dwelling 1 Proposed:</strong></td>
<td>3.6m</td>
</tr>
<tr>
<td><strong>Maximum Average Height:</strong></td>
<td>3.6m</td>
</tr>
<tr>
<td><strong>Dwelling 2 Proposed:</strong></td>
<td>3.6m</td>
</tr>
<tr>
<td><strong>Maximum Average Height:</strong></td>
<td>3.6m</td>
</tr>
<tr>
<td><strong>Maximum Length:</strong></td>
<td>8.88m</td>
</tr>
<tr>
<td><strong>Dwelling 1 Proposed:</strong></td>
<td>5.53m</td>
</tr>
<tr>
<td>Item</td>
<td>4.1 – Matters of Decision</td>
</tr>
<tr>
<td>------</td>
<td>--------------------------</td>
</tr>
</tbody>
</table>

**Dwelling 2 Proposed:** 5.53m

<table>
<thead>
<tr>
<th>B19 Daylight to Existing Windows</th>
<th>The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate daylight into existing habitable room windows.</td>
<td>Yes</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B20 North Facing Windows</th>
<th>No north facing windows on adjoining properties are affected.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td>Yes</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B21 Overshadowing Open Space</th>
<th>Shadow diagrams submitted with the application demonstrate that there is no overshadowing to adjoining properties. The abutting properties will receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Yes</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B22 Overlooking</th>
<th>Refer report Section 6.2.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>No</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B23 Internal Views</th>
<th>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>Yes</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B24 Noise Impacts</th>
<th>The development will not generate any noise above that typically expected from a residential building.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B25 Accessibility</th>
<th>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.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B26 Dwelling Entry</th>
<th>The entries to both dwellings are easily identifiable from the street.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide a sense of identity to each dwelling.</td>
<td>Yes</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B27 Daylight to New Windows</th>
<th>All habitable windows have direct access to daylight.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B28 Private Open Space</th>
<th>Minimum: 25m² secluded, 40m² overall</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide reasonable recreation and service needs of residents by adequate pos.</td>
<td>Yes</td>
</tr>
</tbody>
</table>

| Dwelling 1 Proposed: 59 m² secluded, 125 m² overall |
|---|---|

<p>| Dwelling 2 Proposed: 47 m² secluded, 117 m² overall |</p>
<table>
<thead>
<tr>
<th><strong>B29 Solar Access to Open Space</strong></th>
<th>Yes</th>
<th>Allow solar access into the secluded private open space of new dwellings/buildings. Appropriate solar access to the private open space areas is provided.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B30 Storage</strong></td>
<td>Yes</td>
<td>Provide adequate storage facilities for each dwelling.</td>
</tr>
<tr>
<td><strong>B31 Design Detail</strong></td>
<td>Yes</td>
<td>Refer Attachment 1.</td>
</tr>
</tbody>
</table>
| **B32 Front Fences**             | Yes | Required: 1.2m  
**Dwelling 1 Proposed:** 0m  
**Dwelling 2 Proposed:** 0m                                                                 |
| **B33 Common Property**          | N/A | Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas. |
| **B34 Site Services**            | Yes | Site services and facilities are proposed and are accessible, adequate and attractive.                                                |
1. **Purpose and Background**

To report a planning permit application for a liquor licence in association with a food and drink premises (refer Attachment 1) at 1/133 Thomas Street, Brighton East (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Mr A M Chapman</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>31 March 2-16 (Amended: 3 October 2016)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>10 December 2016</td>
</tr>
</tbody>
</table>

The application seeks permission to sell and consume liquor in association with the existing ground floor food and drink premises.

The proposed hours to sell and consume liquor are as follows:

- Monday – Saturday: 12:00pm – 10:30pm; and
- Sunday: 12:00pm – 9:30pm.

A maximum of 49 patrons are proposed to be on-site at any one time.

**Application history**

The “as of right” use of the premises for a food and drink premises does not have a control on the hours of operation and patron numbers.

The applicant has advised that the existing use - “Café Largo” - currently operates from the premises between the hours of:

- Monday – Saturday: 7:00am to 3.30pm; and
- Sunday: 8:00am – 3:30pm.

The licence is being sought to allow alcohol to be consumed when accompanied with food on the premises within the hours proposed above and which vary from those currently operated.

The application as originally submitted proposed the sale and consumption of liquor between the hours of:

- Monday – Saturday: 7:00am – 11:00pm
- Sunday: 10:00am – 10:00pm

However, following a consultation meeting with the objectors, the hours that liquor is proposed to be sold and consumed was reduced (see Section 3 below).

2. **Policy implications**

**Planning permit requirements**

Clause 52.27 (Licensed Premises) – Use land to sell or consume liquor.
Planning scheme amendments

Planning Scheme Amendment C126 proposes to implement the Bayside Small Activity Centres strategy by introducing height controls and design guidelines, and rezoning some commercial strips to encourage a greater range of local uses to meet the community needs. The amendment proposes to delete the Design and Development Overlay (Schedule 2) that applies to the site and add the Design and Development Overlay (Schedule 13).

The Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such times as they have progressed beyond Panel and Adopted. As such there is no statutory weight that that can be given to Amendment C126.

The proposal would however be consistent with Amendment C126.

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>Community Partnerships and Health Planning</td>
<td>No objection</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 six objections were received. The following concerns were raised:

- Parking, congestion and traffic safety issues
- Noise
- Rubbish and waste disposal
- No restroom as part of premises
- Limited public transport availability

Consultation meeting

A consultation meeting was held on 22 August 2016 which was attended by objectors and the applicant.

Subsequent to this meeting, the applicant lodged an amended application to reduce the hours to sell and consume liquor on the premises as described in Section 1 above.

No objections were withdrawn as a result of the amended application.

4. Recommendation

That Council:

Issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application No. 2016/270/1 for the land known and described as 1/133 Thomas Street, Brighton East, for a liquor licence for an existing food and drink premises in accordance with the endorsed plans and subject to the following conditions from the standard conditions:
1. The licensed area as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

2. The sale and consumption of liquor may only occur within the licenced area as shown on the endorsed plan.

3. The sale and consumption of liquor must remain ancillary to the principal use of the premises as a food and drink premises.

4. The service of alcohol may only occur in conjunction with a meal.

5. The sale of liquor may only occur on the inside of premises between the following hours:
   • Monday – Saturday: 12:00pm – 10:30pm
   • Sunday: 12:00pm – 9:30pm

The sale of liquor may only occur in the external dining area of the premises between the following hours:
   • Monday – Saturday: 12:00pm – 9:30pm
   • Sunday: 12:00pm – 8:30pm

6. A maximum of 49 patrons are permitted on-site at any one time.

7. Before the use starts, a Noise and Amenity Plan must be submitted to and approved by the Responsible Authority and contain the following information:
   a) The identification of all noise sources associated with the licensed premises (including, but not limited to, music noise, external areas allocated for smokers, queuing lines, entries and exits to the premises and courtyards).
   b) Hours of operation for all parts of the premises.
   c) Details of the provision of music including the frequency and hours of entertainment provided by live bands and DJs.
   d) The identification of noise sensitive areas including residential uses and accommodation in close proximity to the licensed premises.
   e) Measures to be undertaken to address all noise sources identified, including on and off-site noise attenuation measures.
   f) Details of staffing arrangements including numbers and working hours of all security staff.
   g) Standard procedures to be undertaken by staff in the event of a complaint by a member of the public, the Victoria Police, an Authorised Officer of the Responsible Authority or an officer of the liquor licensing authority.
   h) Location of lighting within the boundaries of the site, security lighting outside the licensed premises and any overspill of lighting.
   i) Details of waste management including storage and hours of collection for general rubbish and bottles, and delivery times associated with the licensed premises.
   j) Details of any measures to work with neighbours or other residents in the immediate area to address complaints and general operational issues.
   k) Any other measures to be undertaken to ensure minimal impacts from the licensed premises.
   l) Location and operation of air-conditioning, exhaust fan systems and security alarms.
The approved Noise and Amenity Action Plan will form part of the permit and the use must operate in accordance with it to the satisfaction of the Responsible Authority.

8. This permit will expire if one of the following circumstances applies:
   a) The premises is not licenced under the Liquor Control Reform Act 1998 within two (2) years of the date of this permit.
   b) The use is not started within two years of the date of this permit.
   c) The use is discontinued for a period of two years or more.

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

5. **Council Policy**

   **Council Plan 2013-2017**

   Relevant strategies of the Council plan include:

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

   **Bayside Planning Scheme**

   - Clause 11 Settlement
   - Clause 17 Economic Development
   - Clause 21.02 Bayside Key Issues and Strategic Vision
   - Clause 21.07 Economic Development
   - Clause 21.11 Local Areas
   - Clause 34.01 Commercial 1 Zone
   - Clause 52.27 Licenced Premises
   - Clause 65 Decision Guidelines

6. **Considerations**

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

6.1 **Liquor Licence**

   The applicant seeks a planning permit for the sale and consumption of liquor in association with the food and drink premises during the following hours:

   - Monday – Saturday: 12:00pm – 10:30pm
   - Sunday: 12:00pm – 9:30pm
Pursuant to Clause 52.27 (licenced premises) a planning permit is required to use land to sell or consume liquor if a license is required under the *Liquor Control Reform Act 1998* and a different license or category of license is required from that which is in force.

Clause 52.27 sets out the following Decision Guidelines to consider when determining appropriateness of an application:

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

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

As defined by Clause 21.11 – Local Areas, the subject site is located within Brighton East Neighbourhood Activity Centre. The liquor license will strengthen the provision of services offered to local residents in a convenient location to residential and commercial areas.

The sale and consumption of liquor in association with an established food and drink premises does not conflict with State and Local Planning Policy Frameworks and is considered to be appropriate.

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

Evidence from Bayside’s Alcohol Harm and Minimisation Policy June 2013 suggests that with regard to venues and location, licenced premises which have few chairs, shelves or other furniture for the use of patrons results in patrons being forced to stand (vertical drinking) and this may foster more excessive drinking and encourage more extreme behaviours.

The food and drink premises that are the subject of this application has seating both internal and external for patrons. In this and owing to the principal function of the premises as an eatery, it is considered that there be less likelihood of “vertical drinking” which would foster excessive drinking and encourage more extreme behaviours.

The Council’s Co-ordinator for Community Partnerships and Health Planning also advises there is no evidence to suggest that the sale of liquor on site will result in an increased harm due to alcohol consumption.

In order to minimise the likelihood of “vertical drinking” and the consequential effects on the amenity of the surrounding area, it is recommended that the selling and consumption of liquor may only occur in conjunction with a meal.

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

The applicant is seeking a liquor licence for operation between the following hours:

- Monday – Saturday: 12:00pm – 10:30pm
- Sunday: 12:00pm – 9:30pm

The hours sought for operation have been reduced from those proposed originally sought through this application.

These hours fall within the Victorian Commission for Gambling and Liquor Regulation's (VCGLR) and *Liquor Control Reform Act 1998*. 
It is considered that the proposed trading hours for the sale and consumption of liquor on the premises will not create undue detriment to the amenity of surrounding land users and is not associated with increased alcohol related harm.

In order to ensure that there is no impact on the amenity of the surrounding area as a result of the consumption of alcohol in the external seating area of the premises, it is recommended that the hours for the sale and consumption of liquor on the footpath be reduced. It is recommended these hours be included as a condition on the planning permit.

It is noted that the hours to sell and consume liquor are greater than the current operating hours of the food and drink premises (as identified above, the ‘as of right’ use of the land as a food and drink premises does not have a planning control relating to operating hours), therefore it is recommended that a condition of permit be included to ensure that the sale and consumption of liquor must remain ancillary to the principal use of the premises as a café. This will ensure that the use of the premises as a café with a liquor licence does not evolve.

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

It is considered an existing café which can currently operate with a maximum of 49 patrons will not adversely impact the amenity of the surrounding area as the serving of alcohol will be with a meal only.

Furthermore, a noise and amenity condition has been recommended to protect the amenity of the surrounding area.

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

Pursuant to Bayside Council’s Alcohol Harm Minimisation Policy June 2013, locations at risk of harm associated with cumulative impact have been identified as three or more licensed premises (including the proposed premises) within a radius of 100 metres of the proposed land; or 15 or more licenced premises (including the proposed premises) within a radius of 500 metres from the subject land.

The Council’s Co-ordinator for Community Partnerships and Health Planning advises that there are an estimated 2 liquor licences within 100 meters of the proposed venue. This is well within the threshold and not likely to cause increased alcohol related harms.

They further advise there is no evidence to suggest the introduction of a Restaurant and Café licence to the area will result in an increased risk of harm due to alcohol consumption. Noting that this recommendation is based on the trading hours, outlet density and outlet type.

7. **Objections Received**

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

**No restroom**

Whether the licenced premises has a restroom is not a material consideration in the determination of an application for a planning permit. The provision of this is controllable under legislation other than planning legislation.

Notwithstanding this, whilst the café does not have dedicated restroom facilities within it, a restroom is accessible via a communal area.
Limited public transport & parking, congestion and traffic safety issues

The consideration of a liquor licence is limited to those matters discussed above. It cannot retrospectively consider the impacts of the existing use of the premises as a café on neighbouring land uses.

Notwithstanding this, it is not considered that the sale or consumption of liquor on the premises would give rise to any greater impact on existing parking provision, raise significant traffic safety or congestion issues over and above the existing operational use of the premises.

Noise, rubbish and waste disposal

A condition on the permit has been recommended to require that the applicant provide a noise and amenity plan to ensure minimal impacts to neighbouring land uses as a result of the proposed use. Such a control would also identify measures for waste management.

Support Attachments

1. Site & Surrounds Imagery ↓
2. Liquor Licence Area/ Red Line Plan ↓
3. Planning Permit ↓
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds.
N.B. No address provided by one objector

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

Figure 3 View towards the site from the southeast
PLANNING PERMIT
2004/261/1

Address Of The Land: No. 133 Thomas Street BRIGHTON EAST

The Permit Allows: Alterations and additions to food and drink premises and dwelling and the construction of two (2) additional dwellings with car parking in a Design and Development Overlay 2 in accordance with the endorsed plans and subject to the following conditions. In accordance with the endorsed plans and subject to the following conditions.

The Following Conditions Apply to this Permit

1. Before the use and developments starts, three (3) copies of the revised plans drawn to scale and dimensioned, must be submitted to and approved by the responsible authority. When approved the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the endorsed plans dated 18 February 2005, but modified to show:
   a. Revisions to the plans to remove the notation ‘shop’ and replace it with ‘food and drink premises; in accordance with the drawing numbers TP1-1 Revision A3, dated September 2012.
   b. Alterations to the proposal as indicated in the revised plans dated 19 August 2004.
   c. Documentation of materials, finishes, textures, fixing detail of windows and doors and colours of the entire building (which is partially incorporated in the documentation supplied to VCAT in review hearing P2598/2004 dated January 2005). This includes paint/render finishes and colours of the northern and southern walls of the building.
   d. Nomination of heights and finished floor levels to AHD.
   e. All plant and equipment (including air conditioning units, heating units, hotwater systems, etc) which are proposed to be located externally shall be identified on the plans and located to the satisfaction of the Responsible Authority.
   f. The car spaces designated to each use with provision for one (1) fully accessible car space for the existing shop and one (1) fully accessible car space for each of the proposed apartments.
   g. The location of mailboxes and intercommunication systems at the front of the building.
   h. Designated bin enclosures and storage areas for the apartments and the shop on the ground level.

Date issued: 18 February 2005
Planning and Environment Regulations 2005 Form 4

Signature for the Responsible Authority

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

WHAT HAS BEEN DECIDED?

* The responsible Authority has issued a permit.

WHEN DOES A PERMIT BEGIN?

A permit operates:
* from the date specified in the permit, or
* if no date is specified, from:
  a) the date of the decision of the Victorian Civil and Administrative Appeals Tribunal, if the permit was issued at the direction of the Tribunal, or
  b) the date on which it was issued, in any other case.

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if:
   * the development or any stage of it does not start within the time specified in the permit, or
   * the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act 1988 and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision, or
   * the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 8 years of the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.

2. A permit for the use of land expires if:
   * the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit, or
   * the use is discontinued for a period of two years.

3. A permit for the development and use of land expires if:
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   * the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit, or
   * the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development, or,
   * the use is discontinued for a period of two years.

4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987, or to any combination of use, development or any of those circumstances requires the certification of a plan under the Subdivision Act 1988, unless the permit contains a different provision:
   * the use or development of any stage is to be taken to have started when the plan is certified;
   * and
   * the permit expires if the plan is not certified within two years of the issue of the permit.

5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT APPEALS?

* The person who applied for the permit may appeal against any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Appeals Tribunal where, in which case no right of appeal exists.
* An appeal must be lodged within 60 days after the permit was issued, unless a Notice of Decision to grant a permit has been issued previously, in which case the appeal must be lodged within 60 days after the giving of that notice.
* An appeal is lodged with the Victorian Civil and Administrative Appeals Tribunal.
* An appeal must be made on a Notice of Appeal form which can be obtained from the Victorian Civil and Administrative Appeals Tribunal, and be accompanied by the prescribed fee.
* An appeal must state the grounds upon which it is based.
* An appeal must also be served on the Responsible Authority.
* Details about appeals and the fees payable can be obtained from the Victorian Civil and Administrative Appeals Tribunal.
i. The provision of six (6) cubic metres of externally accessible storage space to each residential tenancy.

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

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

4 The alterations of soil levels involving an increased or decreased level at the boundaries must be retained by the provision of an adequate retaining wall, constructed of brick or masonry or other suitable alternative approved by the Responsible Authority, to buttress the soil against the possibility of shift. The construction of this retaining wall shall be the sole responsibility of the owner/developer.

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

6 Before the use and/or development starts, a site layout plan drawn to scale and dimensioned must be approved by a Building Practitioner registered under the Building Act 1993 and submitted to the Responsible Authority to show a drainage scheme providing for the collection of storm water within the site and for the conveying of the storm water to Council’s nominated point of discharge to the satisfaction of the Responsible Authority.

7 All service pipes, fixtures and fittings must be concealed on exposed elevations to the satisfaction of the Responsible Authority.

8 All brickwork on or facing the boundaries of the site must be raked and cleaned or rendered to the satisfaction of the Responsible Authority.

Date issued: 18 February 2005
Planning and Environment Regulations 2005 Form 4

Signature for the Responsible Authority

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IMPORTANT INFORMATION ABOUT THIS NOTICE

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   - the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.

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

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- The person who applied for the permit may appeal against any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Appeals Tribunal where, in which case no right of appeal exists.
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- Details about appeals and the fees payable can be obtained from the Victorian Civil and Administrative Appeals Tribunal.
Before any construction or demolition works commence on the site, to the extent that the site perimeter is unfenced and/or is not fenced to the satisfaction of the Responsible Authority, a secure fence is to be erected around the perimeter of the site to prevent access to the site from unauthorised persons. This fence is to be maintained for the duration of the construction and demolition, be a minimum height of 1.8 metres or such alternative height as is approved by the Responsible Authority and to be constructed and sited to the satisfaction of the Responsible Authority. The gate or opening to the fence must be securely locked at all times when work has ceased on the site.

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

All plant and equipment (including air conditioning units, heating units, hot water systems, etc) which is/are proposed to be located externally shall be identified on plans and located to the satisfaction of the Responsible Authority. Such plant and equipment shall be located away from the bedrooms on dwellings in the nearby residential zone and shall not be located on top of the building unless otherwise approved by the responsible authority.

Before the occupation building areas set aside for parked vehicles and associated access ramps as shown on the endorsed plans must be:
(a) constructed to the satisfaction of the Responsible Authority;
(b) properly formed to such levels that they can be used in accordance with the plans;
(c) access is from an all-weather sealcoat to the satisfaction of the Responsible Authority;
(d) drained, maintained and not used for any other purpose to the satisfaction of the Responsible Authority;
(e) in accordance with the relevant Australian Standard for car parking facilities.
Parking areas and access lanes must be kept available for these purposes at all times.

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

Prior to the issuing of a building permit for the development hereby permitted, a report must be submitted to the satisfaction of the Responsible Authority. This report must certify that the proposed development has been designed to achieve a four star energy rating, using the Sustainable Energy Authority of Victoria 'FirstRate' system or equivalent.
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PLANNING PERMIT
2004/261/1

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

15 The Legal Point of Discharge for this development is to be the grated pit installed within the sealed laneway at the rear of the property. The pipe leading from this pit should be checked for operation before connection. The Developer should be satisfied that levels permit the adoption of the above discharge point.

16 The Mechanised Car Lift Well agricultural and seepage drainage must be pumped to the nearest Council Drain Pit and not be discharged to the kerb and channel.

17 Plans for the construction of the drainage must be to the satisfaction of the Responsible Authority prior to the commencement of the development.

18 Any paved courtyards/paths must be graded/drained to prevent stormwater discharge into properties.

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

- The development and use is/are not started within two (2) years of the date of this permit.
- The development is not completed within two (2) years of the date of the commencement of the works.

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

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Date issued: 18 February 2005

Planning and Environment Regulations 2005 Form 4

Signature for the Responsible Authority

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
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- Details about appeals and the fees payable can be obtained from the Victorian Civil and Administrative Appeals Tribunal.
## Permit Notes

<table>
<thead>
<tr>
<th>Date</th>
<th>Brief description of amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>14 April 2009</td>
<td>Extension of time granted to allow development to be completed by April 2010.</td>
</tr>
<tr>
<td>12 June 2009</td>
<td>Permit Amended under Section 71 of the Planning and Environment Act 1987 to:</td>
</tr>
<tr>
<td></td>
<td>• Correct administrative error to Planning Permit preamble to reflect the VCAT Order.</td>
</tr>
<tr>
<td>19 July 2010</td>
<td>Extension of time granted to allow development to be completed by April 2012.</td>
</tr>
<tr>
<td>2 March 2012</td>
<td>Extension of time granted to allow the development to be completed by 1 March 2013.</td>
</tr>
<tr>
<td>19 November 2012</td>
<td>Directed by the Victorian Civil Administrative Tribunal Order dated 15 November 2012;</td>
</tr>
<tr>
<td></td>
<td>• Alterations to the permit preamble to state:</td>
</tr>
<tr>
<td></td>
<td>Alterations and additions to food and drink premises and dwelling and the construction of two (2) additional dwellings with car parking in a Design and Development Overlay 2 in accordance with the endorsed plans and subject to the following conditions.</td>
</tr>
<tr>
<td></td>
<td>• Conditions in the permit amended as follows</td>
</tr>
<tr>
<td></td>
<td>&gt; Condition 1 is amended to read:</td>
</tr>
<tr>
<td></td>
<td>Before the use and developments starts, three (3) copies of the revised plans drawn to scale and dimensioned, must be submitted to and approved by the responsible authority. When approved the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the endorsed plans dated 18 February 2005, but modified to show:</td>
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<td>(a) Revisions to the plans to remove the notation ‘shop’ and replace it with ‘food and drink premises; in accordance with the drawing numbers TP1-1 Revision A3, dated September 2012.</td>
</tr>
<tr>
<td>19 March 2013</td>
<td>Extension of time granted to allow development to be completed by 3 March 2014.</td>
</tr>
</tbody>
</table>
IMPORTANT INFORMATION ABOUT THIS NOTICE

WHAT HAS BEEN DECIDED?

- The responsible Authority has issued a permit.

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A permit operates:
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  Administrative Appeals Tribunal.
PLANNING PERMIT
2004/261/1

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

16 August 2013

Amendment to the endorsed plans under Secondary Consent:
- Deletion of glass bricks in the southern wall on the boundary to be replaced with rendered masonry matching the remaining wall.

THIS PERMIT SUPERSEDES ALL OTHER PERMITS ISSUED.

Date Issued: 18 February 2005
Planning and Environment Regulations 2008 Form 4

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
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   - the development or any stage of it does not start within the time specified in the permit, or
   - the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act 1988 and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision, or
   - the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.

2. A permit for the use of land expires if:
   - the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit, or
   - the use is discontinued for a period of two years.

3. A permit for the development and use of land expires if:
   - the development or any stage of it does not start within the time specified in the permit, or
   - the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit, or
   - the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development, or
   - the use is discontinued for a period of two years.

4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987, or to any combination of use, development or any of those circumstances requires the certification of a plan under the Subdivision Act 1988, unless the permit contains a different provision:
   - the use or development of any stage is to be taken to have started when the plan is certified; and
   - the permit expires if the plan is not certified within two years of the issue of the permit.

5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT APPEALS?

- The person who applied for the permit may appeal against any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Appeals Tribunal where, in which case no right of appeal exists.
- An appeal must be lodged within 60 days after the permit was issued, unless a Notice of Decision to grant a permit has been issued previously, in which case the appeal must be lodged within 60 days after the giving of that notice.
- An appeal is lodged with the Victorian Civil and Administrative Appeals Tribunal.
- An appeal must be made on a Notice of Appeal form which can be obtained from the Victorian Civil and Administrative Appeals Tribunal, and be accompanied by the prescribed fee.
- An appeal must state the grounds upon which it is based.
- Details about appeals and the fees payable can be obtained from the Victorian Civil and Administrative Appeals Tribunal.
4.3 8 DANSON STREET, HIGHTET
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/608/1 WARD: CENTRAL

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/109973

1. Purpose and background
To report a planning permit application for the construction of two dwellings on a lot with an area of 652 square metres (refer Attachment 1) at 8 Danson Street, Hightet (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Hellier McFarland Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>16 September 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>12 March 2017</td>
</tr>
</tbody>
</table>

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

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

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

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 such this application is not affected by VC110.

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

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

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

Public notification

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

- Neighbourhood character
- Overdevelopment of the site
- Built form and visual bulk
- Overlooking
- Dominance of garages
- Additional accessway and driveway
- Traffic congestion and parking
- Safety
- Tree removal
- Reduced front setback
- Plan accuracy

Consultation meeting

The applicant declined a consultation meeting.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2016/608/1 for the land known and described as 8 Danson Street, Hightett, for the construction of two dwellings on a lot in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the amended plans Council date stamped 20 December 2016 but modified to show:
   a) The first floor street setbacks of dwelling 1 and dwelling 2 increased to 9.0 and 8.5 metres respectively and absorbed within the building footprint.
   b) Further articulation to both dwelling elevations through the implementation of an additional 2 materials including timber cladding.
c) A schedule of construction materials, external finishes and colours in muted tones.

d) The garage openings of dwelling 1 and 2 to be a minimum 3.0 and 4.8m respectively.

e) The existing crossover to be replaced with a new 3m wide crossover. The crossover is to be offset 1m from the northern property boundary and include a 1m wide separator.

f) The accessway associated with dwelling 2 to be a minimum of 3m wide and offset 1.2m from the southern property boundary.

g) Provision of pedestrian sight lines in accordance with Clause 52.06-8 of the Bayside Planning Scheme.

h) Deletion of all boundary fence notations from development plans.

i) All indicative landscaping to be removed from the ground and first floor plan.

j) An amended Landscape Plan in accordance with Condition 9 of this permit.

k) A Tree Management Plan (report) and Tree Protection Plan (drawing) in accordance with Condition 10 of this permit.

l) 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:

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

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

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

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

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 (except down 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. Location of all plant and equipment, including hot water services and air conditioners etc. to be located away from habitable room windows of dwellings and the adjoining properties habitable room windows.

8. Before the occupation of the development starts, new or altered vehicle crossing(s) servicing the development must be constructed to the satisfaction of the Responsible Authority.

9. Before the development starts, an amended Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plans must be drawn to scale with dimensions and must be generally in accordance with the Landscape Plans by Zenith Concepts Council date stamped 20 December 2016 but modified to show:
   a) The correct address notated.
   b) One canopy tree capable of reaching 8m height and 4m spread at maturity in the front set back of dwelling two and one canopy tree capable of reaching 8m height and 4m spread at maturity in the front set back of dwelling two.
   c) The retention of the Jacaranda (Jacaranda mimosifolia).
   d) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   e) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
   f) Landscaping and/or planting within all areas open areas of the site not covered by buildings or hard surfaces.
   g) Details of surface finishes of pathways and driveways.
   h) The location of the water sensitive urban design stormwater treatment measures.

10. Before the development starts, including any related demolition or removal of vegetation, a Tree Management Plan (report) and Tree Protection Plan (drawing), must be submitted to and be endorsed by the Responsible Authority.
    The Tree Management Plan must be specific to the trees shown on the Tree Protection Plan, in accordance with AS4970-2009, prepared by a suitably qualified arborist and provide details of tree protection measures that will be utilised to ensure all trees to be retained remain viable post-construction. Stages of development at which inspections are required to ensure tree protection measures are adhered to must be specified.
    The Tree Protection Plan must be in accordance with AS4970-2009, be drawn to scale and provide details of:
       a) The Tree Protection Zone and Structural Root Zone for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site.
       b) The location of tree protection measures to be utilised.

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.
11. 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.

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.

14. Before the development starts tree protection fencing is to be established around the street tree Eucalyptus scoparia (Wallangarra White Gum) marked for retention prior to demolition and maintained until all works on site are complete. Conditions for street tree protection fencing during development are as follows:
   a) Fencing must be secured prior to demolition and maintained until all site works are complete.
   b) Fencing must be installed to comply with AS 4970–2009, Protection of trees on development sites.
   c) Fencing should encompass the Tree Protection Zone (TPZ) for all street trees adjacent to the development.
   d) Fencing must be constructed and secured so its positioning cannot be modified by site workers.
   e) If applicable, prior to construction of the Council-approved crossover, TPZ fencing may be reduced to the edge of the new crossover to facilitate works.
   f) Soil excavation must not occur within 2.7m from the edge of the Eucalyptus scoparia (Wallangarra White Gum) street tree asset’s stem at ground level.
   g) Prior to soil excavation for a Council-approved crossover within the TPZ, a trench must be excavated along the line of the crossover adjacent to the tree using root-sensitive, non-destructive techniques.
   h) All roots that will be affected must be correctly pruned.
   i) Any installation of services and drainage within the TPZ must be undertaken using root-sensitive, non-destructive techniques.

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, 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.

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

Permit Expiry

18. 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

- The Telstra Pit to be converted to a trafficable pit. Approval from Telstra is required.
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council's supervision for which 24 hours notice is required.
- The applicant is to bear the cost to reinstate/relocate the Council assets to provide the required access to the proposed development.
- Council records indicate that there is no easement within the property.
- This permit does not constitute any authority to carry out any buildings works or occupy the building or part of the building unless all relevant building permits are obtained.
- Prior to commencement of any building works, an Asset Protection Application must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.

5. Council Policy

Council Plan 2013-2017

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 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 22.06 Neighbourhood Character Policy, G1
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines
6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct G1 and the proposal is considered to demonstrate a moderate level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 2.

Whilst the siting of the proposal allows for meaningful landscaping opportunities, additional planting will be conditioned to increase the development’s contribution to the landscaped character of the precinct, provide visual relief of the development to the public realm and further integrate the development into the site.

The development will have a strong visual presence in the streetscape due to the slope of the site and the symmetrical design response. To reduce visual bulk impacts and to provide visual interest, a condition of permit will require a material and colour schedule to be submitted with an additional two materials to be utilised across all elevations. The conditions will also assist in the development reading as one dwelling.

Conditions to require increased first floor street setbacks (discussed at section 6.2 below) also assists in alleviating the bulk and mass of the proposal upon the streetscape.

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

<table>
<thead>
<tr>
<th>Street Setback (B6)</th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground floor</td>
<td>9m</td>
<td>7.7m</td>
<td>1.3m</td>
</tr>
<tr>
<td>First floor</td>
<td>9m</td>
<td>8.2m</td>
<td>800mm</td>
</tr>
</tbody>
</table>

As detailed in the table above, the proposed 7.7m – 8.2m setback does not comply with the front setback requirement of 9m.

Although a variation to the street setback is not a desirable outcome, it is noted that the prevailing development pattern of the streetscape is of reduced setbacks. In addition, suitable areas for landscaping is set-aside within the front setback to ensure a reasonable level of post-construction landscaping.

Notwithstanding this, the combination of the siting of the garages (set forward of the dwelling entrances), transition in ground and first floor setbacks and then the rise of the site from front-to-back will create unreasonable visual bulk impacts upon the streetscape.

Therefore, to ensure that the setback provides an appropriate streetscape outcome and transition to adjoining dwellings, a condition of permit will require the first floor street setbacks of each dwelling to be increased to 8.5m and 9m. These changes will reduce the massing of the development and ensure that the first floor presents as a recessive element.

Landscaping (Standard B13)

In addition to the comments in the Neighbourhood Character Assessment at Section 5.1 pertaining to landscaping, the proposed landscaping is not considered appropriate. A further discussion is outlined in Section 5.5 of the report.
### 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>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (side)</td>
<td>0m or 2m</td>
<td>0m – 2.1m</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 2m</td>
<td>3.1m</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>East (rear)</td>
<td>0m or 3m</td>
<td>4m</td>
</tr>
</tbody>
</table>

As a result of the slope of the land, the required setbacks fluctuate between 2.7m and 3.3m along the length of the elevation. Table two above demonstrates that the proposal seeks to vary the first floor side setback to the northern elevation of dwelling one. Bedroom 3 of dwelling 1 is setback 2.8m from the northern boundary, with the standard requiring a 2.9m setback. Bedroom 2 and the leisure room of dwelling 1 is setback 3.1 metres from the northern boundary, with the standard requiring a 3.3 metres. The variations of 100mm to 200mm will not be perceivable to the adjoining lot that contains a carport and accessway immediately adjacent to the elevation. It is considered that the variation will not generate any additional offsite amenity impacts and is an acceptable design response to the slope of the site. The proposal is considered to achieve the objectives of the standard and the variation can be supported.
Design Detail (B31)

In addition to the comments in the Neighboured Character Assessment at Section 6.1, the extent of materials to provide an articulated and interesting façade to the street are insufficient.

To alleviate visual bulk impact, provide a higher level of visual interest and soften the symmetrical design response that could exacerbate the massing and reduced front setback, a condition of permit will require an additional two materials in muted tones and the inclusion of timber cladding to increase articulation to all facades.

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 minor conditions which are included as part of the recommended permit conditions.

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

6.4. Street tree removal

Council’s Street Tree Arborist has advised that a mature *Eucalyptus scoparia* (Wallangarra White Gum) street tree asset fronts the property.

Identified as tree 1 in the Arboricultural Assessment report by Tree-Mendous Consulting Pty Ltd, dated 15 July 2016, Council’s Open Space arborist advises that the location of the proposed vehicle crossings will not impact the trees’ health or stability provided that soil excavation does not occur within 2.7 metres from the edge of the street tree assets’ stems at ground level.

A condition of approval is recommended to reflect Council’s Open Space Arborist’s advice to ensure the health and stability of the tree during all site works and soil excavation.

6.5. Vegetation & Landscaping

The submitted Landscape Plan by Zenith Concepts December 2016 and Arboricultural Assessment Report by Tree-mendous Consulting Pty Ltd, 15 July 2016 show the removal of all trees from the site.

Council’s Arborist has reviewed the plans and undertaken a site inspection. An additional four trees located in the rear of the site were not surveyed or reflected on the submitted Landscape plan or Arboricultural Assessment Report.

The four trees are an Acer negundo (Box Elder), Betula pendula (Silver Birch), Fortunella japonica (Kumquat) and Acer palmatum (Japanese Maple). The small trees are considered to have a low amenity value and their removal is acceptable if replaced with suitable new canopy tree planting and landscaping.

The table below identifies the surveyed trees including those trees protected by the Local Law and those which are not protected by any statutory mechanism.

<table>
<thead>
<tr>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Proposed for</strong></td>
<td><strong>Proposed for</strong></td>
</tr>
<tr>
<td>removal</td>
<td>retention</td>
</tr>
<tr>
<td></td>
<td>retention</td>
</tr>
<tr>
<td>Tree 4, 5</td>
<td>n/a</td>
</tr>
</tbody>
</table>

The submitted Arboricultural Impact Assessment identifies tree 4, a *Liquidambar* (Liquidambar styraciflua) as of moderate amenity value and low retention value. Council’s Arborist supports the removal due to the poor structure and decay present.
Tree 5 has been identified as a *Jacaranda* (Jacaranda mimosifolia). The submitted Arboricultural Impact Assessment identifies the tree as demonstrating a moderate amenity and retention value however, despite being located to the rear corner of the site, the tree is proposed for removal.

Council’s Arborist has advised that the tree has a good structure and fair condition of health and is recommended for retention. The tree provides a high level of amenity to the streetscape and adjoining properties and its retention is preferred to its removal and replacement planting.

To retain tree #5 the proposed storage shed to dwelling one must be relocated outside the structural root zone (SRZ) and a tree management and protection plan must implemented. A condition is proposed on the permit to facilitate its retention.

An amended landscape plan is required which includes the replacement of the proposed canopy trees in the front setback of each new dwelling, which has the capacity to reach a mature height of 8m and spread of 4m at maturity. A condition to this effect will be placed on permit in addition to a permit condition requiring the correct street address to be noted on the landscape plan.

### 6.6. Objections received

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

**Plan accuracy**

Sufficient details were provided to enable a complete assessment of the application.

### Support Attachments

1. Development Plans ❯
2. Site Surrounds and Imagery ❯
3. Neighbourhood Character Assessment (Precent G1) ❯
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 View towards the site from the west

Figure 3 View towards the site from the southwest
ATTACHMENT 3
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>
</table>
| To maintain and enhance the garden settings of the dwellings. | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation.  
• Retain large, established trees and provide for the planting of new trees wherever possible.  
• Buildings should be sited to allow space for the planting of trees and shrubs. | Lack of landscaping and substantial vegetation.  
Removal of large trees.  
Planting of environmental weeds. | Does not respond  
The development proposes the removal of all vegetation across the site.  
Sufficient space around the dwellings for a meaningful level of landscaping is provided, however, the extent of landscaping to all open areas could be increased.  
The proposed removal of the jacaranda located to the rear is not supported. The tree provides a high level of amenity to the streetscape and adjoining properties. The retention of the tree is preferred to its removal and replacement planting.  
An amended landscape plan will be conditioned. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To maintain the 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>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The proposal is considered to achieve the objectives of maintaining a level of visual separation in the streetscape. The siting of the proposed dwellings and the ground floor setbacks provide sufficient space for planting across the site.</td>
</tr>
</tbody>
</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. | Does not respond                                      |
|                                                                           |                                                                                  |                                                                     | The proposed pitched roof is respectful of the existing and preferred future character of the precinct.  
The dwellings presents a symmetrical façade to the streetscape. Whilst a number of materials are indicated on the elevations, the facades are restricted to two buildings materials and do not go far enough to alleviate off site visual bulk impacts.  
A condition of permit will require an additional two materials including timber cladding in muted tones to increase articulation to all facades. |
| To maintain the openness of the streetscape.                              |                                                                                  | High, solid front fencing.                                          | N/A                                           |
|                                                                           |                                                                                  |                                                                     | No front fence is proposed.                   |
## ATTACHMENT 4
### ResCode (Clause 55) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Requirement and Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>No</td>
<td>Refer to Attachment 3.</td>
</tr>
<tr>
<td>Design respects existing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>contributes to a preferred</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development responds to</td>
<td></td>
<td></td>
</tr>
<tr>
<td>features of the site and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The construction of a medium density dual lot development is supported by</td>
</tr>
<tr>
<td>Residential development is</td>
<td></td>
<td>relevant policies for this site.</td>
</tr>
<tr>
<td>consistent with housing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>policies in the SPPF, LPPF</td>
<td></td>
<td></td>
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<tr>
<td>including the MSS and local</td>
<td></td>
<td></td>
</tr>
<tr>
<td>planning policies.</td>
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<td></td>
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<tr>
<td>Support medium densities</td>
<td></td>
<td></td>
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<tr>
<td>in areas to take advantage</td>
<td></td>
<td></td>
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<tr>
<td>of public transport and</td>
<td></td>
<td></td>
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<tr>
<td>community infrastructure and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling</td>
<td></td>
<td></td>
</tr>
<tr>
<td>sizes and types in</td>
<td></td>
<td></td>
</tr>
<tr>
<td>developments of ten or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Provides appropriate utility</td>
<td></td>
<td></td>
</tr>
<tr>
<td>services and infrastructure</td>
<td></td>
<td></td>
</tr>
<tr>
<td>without overloading the</td>
<td></td>
<td></td>
</tr>
<tr>
<td>capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>**B5 Integration with the</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Street**</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Integrate the layout of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>No</td>
<td>Required: 9.0m</td>
</tr>
<tr>
<td>The setbacks of buildings from</td>
<td></td>
<td>Proposed: 7.7m</td>
</tr>
<tr>
<td>a street respect the existing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>or preferred neighbourhood</td>
<td></td>
<td></td>
</tr>
<tr>
<td>character and make efficient</td>
<td></td>
<td></td>
</tr>
<tr>
<td>use of the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Yes</td>
<td>Maximum: 8m</td>
</tr>
<tr>
<td>Building height should</td>
<td></td>
<td>Proposed: 7.9m</td>
</tr>
<tr>
<td>respect the existing or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>preferred neighbourhood</td>
<td></td>
<td></td>
</tr>
<tr>
<td>character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B8 Site Coverage</strong></td>
<td>Yes</td>
<td>Maximum: 50%</td>
</tr>
<tr>
<td>Site coverage should respect</td>
<td></td>
<td>Proposed: 49.7%</td>
</tr>
<tr>
<td>the existing or preferred</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Feature</td>
<td>Characteristic</td>
</tr>
<tr>
<td>------</td>
<td>---------</td>
<td>----------------</td>
</tr>
<tr>
<td><strong>B9 Permeability</strong></td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B10 Energy Efficiency</strong></td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B11 Open Space</strong></td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>B12 Safety</strong></td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B13 Landscaping</strong></td>
<td>To provide appropriate landscaping. To encourage:</td>
<td>No</td>
</tr>
</tbody>
</table>
| - Development that respects the landscape character of the neighbourhood.  
- Development that maintains and enhances habitat for plants and animals in locations of habitat importance.  
- The retention of mature vegetation on the site. | |
| **B14 Access** | Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character. | Yes | Maximum: 40% of street frontage  Proposed: 36%  Appropriate vehicular access is provided. | |
| **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 provision of one single width tandem garage and a one double garage is provided. The proposed parking locations are secure and convenient for future residents and visitors. | |
### 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.

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

No
Refer to table below and report. Non-compliances are underlined below.

### 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: 3.5m
Maximum Average Height: 3.2m
Proposed: 3.17m
Maximum Length: 17.4m
Proposed: 7m

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

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

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

Yes
No north facing habitable room windows of the existing dwelling on the abutting lot are located within 3 metres the southern boundary.

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

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

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

Yes
The development demonstrates compliance with the standard.

### B23 Internal Views
Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.

Yes
At ground level, internal 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%.

### B24 Noise Impacts
Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.

Yes
The level of noise associated with the two dwellings is not anticipated to exceed that expected of a residential use.
| **B25 Accessibility** | Yes | Both dwelling entries are accessible for people with limited mobility and could be retrofitted in the future. Both dwellings have a ground floor bedroom. |
| **B26 Dwelling Entry** | Yes | The entries to both dwellings are easily identifiable from the street. |
| **B27 Daylight to New Windows** | Yes | All habitable windows have direct access to daylight. |
| **B28 Private Open Space** | Yes | Minimum: 25m² secluded, 40m² overall  
- **Dwelling one**: 74m² secluded, 137m² overall  
- **Dwelling two**: 118m² secluded, 190m² overall |
| **B29 Solar Access to Open Space** | Yes | Appropriate solar access to the secluded private open space areas to both dwellings are provided. |
| **B30 Storage** | Yes | 6m² of storage is provided to each dwelling. |
| **B31 Design Detail** | No | Refer to Attachment 3. |
| **B32 Front Fences** | N/A | No front fence is proposed. |
| **B33 Common Property** | N/A |  |
| **B34 Site Services** | Yes | Plans show clotheslines, mailboxes and storage areas as required. Space for meters has been provided alongside the entries of each dwelling. |
4.4 8-10 STATION WALK, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2015/780/1 WARD: CENTRAL

1. Purpose and background
To report a planning permit application for the use and development of the site for a two
storey, mixed use building plus attic and a subsequent reduction in the associated car
parking requirements (refer Attachment 1) at 8-10 Station Walk, Brighton (refer
Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Bild Architecture</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>1 February 2017</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>2 April 2017</td>
</tr>
</tbody>
</table>

2. Policy implications

Planning permit requirements
Clause 34.01-1 (Commercial 1 Zone) – use of the land for accommodation
Clause 34.01-4 (Commercial 1 Zone) – buildings and works
Clause 43.02 (Design and Development Overlay, Schedule 1) – buildings and works
Clause 52.06-3 (Car parking) – reduction in car parking

Planning scheme amendments
Planning Scheme Amendment C126 proposes to modify the planning controls for
Bayside’s 33 small activity centres. In relation to the South Road and Esplanade Avenue
centre, the following changes are proposed:

- Rezone 1A Esplanade Avenue from the Commercial 1 Zone to a Neighbourhood
  residential Zone (a zoning error)
- Apply a new Design and Development Overlay Schedule 17 to the centre (which
  includes specific building design controls).

The public exhibition process concluded on 24 April 2017, following which, a report
considering submissions was presented to Council. Council resolved to undertake a
further review of the Small Activity Centres Strategy 2012 and Amendment C126, with a
report to be presented to Council on the outcome of the review in September 2017. Case
law confirms that proposed amendments to planning schemes are not considered to be
’seriously entertained’ and applied in the assessment of permit applications until such
time as they have progressed beyond a Panel and adopted. As such, there is limited
statutory weight which can be given to Amendment C126.

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

External referrals

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

VicTrack was notified of the application under Section 52(1)(d) of the Planning and Environment Act 1987 and raised no objection.

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>Strategic Planning</td>
<td>No objection.</td>
</tr>
<tr>
<td>Drainage Engineer</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>Concerned at reduction of parking.</td>
</tr>
</tbody>
</table>

Public notification

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

- Non-compliance with the requirements of DDO1
- Bulk and mass
- Parking and traffic issues

Consultation meeting

The applicant declined a consultation meeting.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2015/780/1 for the land known and described as 8-10 Station Walk, Brighton, for the use and development of the site for a two storey, mixed use building plus attic and a subsequent reduction in the associated car parking requirements in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the use and development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans prepared by Bild Architecture marked revision D but modified to show:
   a) Each dwelling and the commercial tenancy to have minimum provisions of 1 bicycle parking space on-site.
   b) The upper level bathrooms of each dwelling to include provision of a skylight (or similar external light access).
   c) Screening of the southern wall of the western facing balcony of Dwelling to a height of 1.7 metres above finished floor level.
d) Location of all plant and equipment, including hot water services and air conditioners etc. Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms.

e) Water sensitive urban design measures in accordance with Condition 7 of this permit.

f) An Acoustic Report in accordance with Condition 10 of this permit.

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. The one single car space to be a shared car space between all three tenants.

4. Before the development starts, a Car Park Management Plan (CPMP) prepared by a suitably qualified traffic engineer must be submitted to and be endorsed by the Responsible Authority. The CPMP must detail how the one on-site car space will be shared between each of the three tenancies of the proposed development (two dwellings and a commercial tenancy).

The CPMP must detail resolutions and alternatives (such as public transport) when there are booking conflicts for the car space and alternative car park arrangements.

The CPMP is to be the ongoing responsibility responsibly of the owner’s corporation.

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

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

7. 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.

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

9. 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.

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

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

12. Prior to the endorsement of plans pursuant to Condition 1, an Acoustic Report prepared by a suitably qualified acoustic engineer must be submitted to and be endorsed by the Responsible Authority. The report must prescribe the form of acoustic treatment to:
   a) Protect dwelling occupants (including future residents within the building) with a direct interface to commercial tenancies above, next to or below from associated commercial noise sources, including, but not limited to, the proposed commercial use, loading docks (including reversing beepers) and all plant and equipment to be installed or constructed.
   b) Protect all dwelling occupants from external noise sources with specific regard to Brighton Beach railway system and off-site commercial areas to achieve an internal noise level of 50dBA Lmax in bedrooms and 60dBA Lmax in living rooms and to achieve internal structure-borne vibration induced noise levels not exceeding 40dBA in bedrooms and 50dBA in living rooms.

13. The recommendations contained in the approved Acoustic Reports pursuant to condition 12 of this permit must be implemented and completed and where they are recommendations of an ongoing nature, must be implemented and maintained to the satisfaction of the Responsible Authority.

14. 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.

15. Stormwater discharge must be retained for the portion above the discharge calculated using a Coefficient of Runoff of 0.35. The development is to have a Stormwater Detention System installed, the design capacity to be to the satisfaction of the Responsible Authority.

16. 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.

17. All on-site stormwater is to be collected from the hard surface areas and must not be allowed to flow uncontrolled onto adjoining properties. The on-site drainage system must prevent discharge from each driveway onto the footpath. Such a system may include either:
   a) A trench grate (150mm minimum internal width) located within the property and/or
   b) Shaping the driveway so that water is collected in a grated pit on the property and/or
   c) Another Council approved equivalent.
18. Before the commencement of works, a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit and shall thereafter be complied with. The CMP must specify and deal with, but not be limited to the following as applicable:

   a) A detailed schedule of works including a full project timing.
   b) A traffic management plan for the site, including when or whether any access points would be required to be blocked, an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services, preferred routes for trucks delivering to the site, queuing/sequencing, excavation and swept-path diagrams.
   c) The location for the parking of all construction vehicles and construction worker vehicles during construction.
   d) Delivery of materials including times for loading/unloading, unloading points, expected frequency and details of where materials will be stored and how concrete pours would be managed.
   e) Proposed traffic management signage indicating any inconvenience generated by construction.
   f) Fully detailed plan indicating where construction hoardings would be located.
   g) A waste management plan including the containment of waste on site: disposal of waste, stormwater treatment and on-site facilities for vehicle washing.
   h) Containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build-up of matter outside the site.
   i) Site security.
   j) Public safety measures.
   k) Construction times, noise and vibration controls.
   l) Restoration of any Council assets removed and/or damaged during construction.
   m) Protection works necessary to road and other infrastructure (limited to an area reasonable proximate to the site).
   n) Remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site).
   o) An emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experience.
   q) All contractors associated with the construction of the development must be made aware of the requirements of the Construction Management Plan.
   r) Details of crane activities, if any.

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

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

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

Permit Notes
- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.
- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.

5. Council Policy

Council Plan 2013-2017
Relevant strategies of the Council plan include:
- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.
- 3.1.3 Advocating Council’s planning and urban design objectives.

Bayside Planning Scheme
- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 17 Economic Development
- Clause 18 Transport
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.07 Economic Development
- Clause 21.09 Transport and Access
- Clause 22.08 Water Sensitive Urban Design
- Clause 34.01 Commercial 1 Zone
- Clause 43.02 Design and Development Overlay (Schedule 1)
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

6. Considerations
In considering this application, regard has been given to the State and Local Planning Policy Frameworks, the provisions of the Bayside Planning Scheme, objections received and the individual merits of the application.
6.1 Commercial 1 Zone

Use
A planning permit is required for the use of the land for accommodation as the residential frontage at ground floor exceeds two metres. The proposed accommodation aspect of the development will provide for two x two bedroom dwellings. Individual entrances to each dwelling are provided to both the front and rear of the site.

The use of the land for accommodation will not unreasonably impact the purpose of the Commercial 1 Zone, with the proposal still incorporating adequate area for commercial usage at ground floor fronting Station Walk.

Buildings and works
The subject site is currently vacant.

The proposed development comprises of a two storey building, plus an attic space wholly incorporated within the roof structure. The building will have a maximum height of 9.0 metres.

The proposed development integrates well with the pedestrian pathway (Station Walk) through an active ground floor frontage which is nominated as a ‘food and beverage tenancy’. The building is to be constructed in line with the existing building to the south and is an appropriate built form response in relation to the streetscape.

The storage of waste and recycling for each tenancy/use is to be contained wholly within the building envelope and will therefore have no visibility from the public realm.

The applicant proposes permeable paving across the property frontage and upper level balconies which encroach onto common property land. These aspects of the works are considered appropriate and enhance the public realm and internal amenity of the future occupants. The applicant has advised that the owner’s corporation have been aware of these works.

6.2 Design and Development Overlay (Schedule 1)

The two storey scale of the building is considered appropriate and commensurate with the form and scale of area, in particular when noting the built form of surrounding properties.

The proposed attic complies with the requirements of Schedule 1 to the Design and Development Overlay as the attic is:

- Incorporated into the roof pitch;
- Is not enclosed by vertical walls; and
- Includes windows that do not contribute to the scale/mass of the building.

Having regard to the above, it is considered that the proposal satisfies the design objectives of the Design and Development Overlay and will not unreasonably impact upon the foreshore environment.

A condition of permit is recommended to include provisions of a skylight to the upper level bathrooms of each dwelling to improve daylight access.
6.3 Car parking and traffic

The application has a car parking requirement of five car spaces under clause 52.06 of the Bayside Planning Scheme (car parking).

<table>
<thead>
<tr>
<th>Use</th>
<th>Parking requirement under Clause 52.06</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>2 spaces (2 x 2 bedroom dwellings)</td>
<td>1</td>
</tr>
<tr>
<td>Shop</td>
<td>3 spaces (4 spaces per 100m², floor area = 89m²)</td>
<td>0</td>
</tr>
<tr>
<td>REDUCTION</td>
<td></td>
<td>4</td>
</tr>
</tbody>
</table>

The application proposes one on-site car space, which is to be accessed via Esplanade Avenue to the east and proposed to be allocated to one of the dwellings. Therefore, a reduction of four car spaces is sought as part of this application.

The application was referred to Council’s Traffic Engineering Department who objected to the car parking reduction on the basis that the surrounding parking network is unable to support additional cars that would be associated with the development. This was based on the assumption that the residential component will involve car ownership at some point.

However, it is considered that a reduction in the car parking requirements is considered appropriate in this instance having regard to:

- Proximity to Brighton Beach Railway Station (opposite the site – approximately 10 metres away);
- Proximity to bus routes (three bus-routes run along South Road with the bus stops less than 100 metres from the subject site);
- Proximity to amenities (bicycle parking, schools, commercial shops and public open space, including the shared coastal path);
- Proximity to public car parks;
- Modest intensity of the proposed development; and
- Overall size of the site.

Notwithstanding this, it is not considered that the sole allocation of the car space to one dwelling is appropriate nor is it considered to be an efficient use of the land having regard to its constraints.

Therefore, to ensure that the reduction in the car parking requirements will not have an unreasonable impact upon the amenity of the area – a shared car space program is recommended to be managed through a Car Park Management Plan.

The Car Park Management Plan would enable access to the car space by any of the three users, with the management of this car space to be the ongoing responsibility of the owner’s corporation.

The purpose of the car park management plan is to maximise the shared use of the car space, without unreasonably impacting upon the occupants of each of the three tenancies. The management plan will also be used as a tool to promote sustainable transport initiatives (such as public transport, active transport or a car sharing scheme).

In addition, to help offset the car parking requirements it is recommended that each use/tenancy (both dwellings and the commercial component) have provisions for at least one bicycle parking space on-site.
6.4 Objections received

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

Height, visual bulk and overdevelopment of site

The height, and visual bulk of the proposal are considered compatible with built form outcomes on surrounding sites. In regards to the development being an overdevelopment of the site, the 100% site coverage and attached built form is part of the existing character of the commercial strip that the site is within. As such it is considered acceptable within a commercial zone.

Loss of view lines

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.

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.

Support Attachments

1. Development Plans ↓
2. Site imagery and surrounds ↓
The withdrawn objection was from 5 Railway Walk South, Hampton, which is approximately 1.3km to the north of the subject site.
View towards the site from the southwest

View towards the site from the southeast
4.5 17 JACKSON STREET, HIGHTETT
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/297/1  WARD: CENTRAL

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/104589

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 587.45 square metres (refer Attachment 1) at 17 Jackson Road, Highton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Ratcliffe Building Group Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>20 January 2017 (Amended plans)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>14 April 2017</td>
</tr>
</tbody>
</table>

2. Policy implications
Planning permit requirements
Clause 32.08-6 (General Residential Zone Schedule 1) – A permit is required for the construction of two dwellings on a lot.

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

Planning Scheme Amendment C153 proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process concluded on 16 January 2017 and Council has requested the Minister for Planning to appoint an independent Planning Panel to consider submissions received. A Panel hearing is expected to occur later in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and adopted. As such, there is no statutory weight which can be given to Amendment C153. The site is not located within a Special Building Overlay and the proposed amendment does not seek to alter this.

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>Traffic Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

### Public notification

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

- Non-compliance with Clause 55 requirements;
- Non-compliance with Design and Development Overlay Schedule 2 and General Residential Zone Schedule 1;
- Neighbourhood character;
- Boundary to boundary development fails to maintain the streetscape rhythm;
- Incorrect shadow diagrams;
- Loss of on street parking as a result of the additional crossover; and
- The dwellings fail to meet subdivision requirements.

### Consultation meeting

A consultation meeting was held on 4 August 2016 attended by the permit applicant and two objectors. As a result of this meeting no objections were withdrawn.

Amended plans were submitted to Council to show the garage to Dwelling 1 omitted in exchange for a carport, and the carport to Dwelling 2 omitted in exchange for a garage and the overall height of the garage façade reduced from 3.6m to 3.21m and the height of the carport façade reduced from 3.6m to 3.31m.

The amended plans were subsequently re-advertised. No further objections were received. Two objections remain.

### 4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2015/297/1 for the land known and described as 17 Jackson Road, Highett, for the construction of two dwellings on a lot in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans, prepared by Creative Living Innovations and Council date stamped 12 October 2016 and the proposed Landscape Plan prepared by Dare Designs and Council date stamped 5 April 2017, but modified to show:
Item 4.5 – Matters of Decision

a) Screening of the ground floor east facing windows of Dwelling 1 in accordance with the requirements of Standard B22.

b) The provision of a 1.8 metre high dividing fence within the rear setback in accordance with the requirements of Standard B23.

c) Dwelling 2 to have a minimum 3 metre wide door opening.

d) The gradient of both driveways must not exceed 1 in 16.

e) Both driveways to have a minimum width of 3 metres and to be suitably paved.

f) The existing crossover to the east to be replaced with a new crossover with roll over kerbs on either side in accordance with Council’s Vehicle Crossing policy.

g) The driveway to Dwelling 2 where it intersects with the footpath to be 3 metres wide with a minimum 800mm offset from the western property boundary.

h) A 3 metre wide new crossover is to be reconstructed with an 800mm offset from the western property boundary.

i) Adequate sightlines to be demonstrated on the plans in accordance with the Design standards for car parking pursuant to Clause 52.06-8 of the Bayside Planning Scheme.

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

k) A Landscaping Plan in accordance with Condition 11 of this permit.

l) A Tree Impact Assessment Report in accordance with condition 12 of this permit.

m) A Tree Management and Protection Plan in accordance with Condition 15 of this permit.

n) Any consequential changes to the plans to comply with any conditions of this permit which must result in no increase in the built form envelope.

All to the satisfaction of the Responsible Authority.

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

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

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

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

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

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

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

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

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

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

Landscaping

11. Prior to the endorsement of plans pursuant to Condition 1, a detailed Landscape Plan generally in accordance with the landscape plan submitted with the application prepared by Richard J Dare dated 30 September 2016 must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must be modified to show:
   a) 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.
   f) The planting of two trees capable of reaching 12 metres in height and 6 metres wide at maturity.
   g) The planting of two trees capable of reaching 8 metres in height and 4 metres wide at maturity.
12. Prior to the endorsement of plans pursuant to Condition 1, including any related
demolition or removal of vegetation, a Tree Impact Assessment Report in
accordance with Part 2.3.5 of Australian Standard Protection of Trees on
Development Sites 4970 must be submitted to, and approved by, the Responsible
Authority. The report should:
   a) Identify the impacts that may be detrimental to the tree/s.
   b) Design responses required to reduce any identified negative impacts.
   c) The proposal should be modified to include any recommendations made in
the report.

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

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

   The Tree Protection Plan must be in accordance with AS4970-2009, be drawn to
scale and provide details of:
   a) The Tree Protection Zone and Structural Root Zone for all trees to be retained
on the site and for all trees on neighbouring properties where any part of the
Tree Protection Zone falls within the subject site.
   b) The location of tree protection measures to be utilised and instruction on how
to deploy them.
   c) When the protection measures are to be deployed.
   d) When the protection measures can be modified.
   e) The process that will be followed if any damage occurs to a tree.
   f) The process that will be followed if construction works require alteration to
protection measures outlined in the report.
   g) Stages of development at which inspections will occur.

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 to 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. Soil excavation must not occur within 2 metres from the edge of the *Fraxinus
Excelsior Aurea* (Golden Ash) street tree asset’s stem at ground level.
19. A tree protection fence is for the protection of a tree’s canopy and root zone. Conditions for street tree protection fencing during development are as follows:
   a) Fencing is to be secured and maintained prior to demolition and until all site works are complete.
   b) Fencing must be installed to comply with AS4970-2009, Protection of trees on development sites.
   c) Fencing should encompass the Tree Protection Zone (TPZ) for all street trees adjacent to the development.
   d) Fencing is to be constructed and secured so its positioning cannot be modified by site workers.
   e) If applicable, prior to construction of the Council approved crossover, TPZ fencing may be reduced to the edge of the new crossover to facilitate works.

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

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

Drainage

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

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

24. Council records indicate that there is a 1.83m wide drainage and sewerage easement along the northern property boundary as indicated on the drawings provided. The plans indicate that a shed shall be constructed over the easement. Any proposal to encroach into the easement will require Build Over Easement consent from the Responsible Authority/Authorities.

Permit Expiry

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

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

Permit Notes

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a 'Road Opening Permit' must be obtained to facilitate such work.
• A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.

5. **Council Policy**

**Council Plan 2013-2017**

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.08 Open Space
- Clause 21.10 Infrastructure
- Clause 21.11-6 Local Areas (Highett)
- Clause 22.06 Neighbourhood Character Policy (Precinct G1)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.08 General Residential Zone (Schedule 1)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

6. **Considerations**

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

6.1. **Neighbourhood character**

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

The proposed development includes the construction of two, double storey side by side dwellings. Each dwelling has been designed to incorporate a variety of materials and finishes to ensure each dwelling presents as its own entity while enhancing the visual interest of the dwellings in the street.
The spacing of the development allows for suitable planting, subject to conditions, to soften the overall built form and to ensure the development works to respond to the existing and preferred landscape character of the precinct.

While boundary to boundary construction is generally discouraged, the use of an open sided carport to Dwelling 1 in lieu of a garage enhances views to and from the site and creates a sense of openness to the street, consistent with the objectives of the G1 Precinct Guidelines.

Council has received concerns that the proposed dwellings fail to complement the character of the streetscape and the boundary to boundary development fails to maintain the streetscape rhythm. However as noted above, the proposed design response through the use of varied materials and finishes, the extent of articulation and the provision of a carport will work to ensure the dwellings complement rather than overwhelm the streetscape context.

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

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

**Standard B22 (Overlooking)**

All first floor windows are screened in accordance with the requirements of Standard B22 by way of either a highlight window 1.7m above the finished floor level or a window incorporating obscure glass to a height of 1.7m above the finished floor level.

The ground floor windows have not been screened in accordance with this requirement and the existing conditions demonstrate eastern and western boundary fencing to a height of 1.65m which does not meet the exemption requirements of the standard.

The ground floor western interface abuts a carport and garage along the common boundary and it is considered this will comfortably obscure any overlooking from the ground floor windows.

However the ground floor eastern windows will have a direct interface to the private open space of 19 Jackson Street and it is recommended that these windows are designed in accordance with the requirements of Standard B22 to avoid unreasonable overlooking opportunities. A permit condition is included to this effect.

**Standard B23 (Internal Views)**

The plans fail to demonstrate limited overlooking opportunities within the proposed development. A condition of permit will ensure adequate internal fencing between the two dwellings in accordance with the requirements of Standard B23.

6.3. **Car parking and traffic**

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

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

The application proposes the construction of a new 3m wide crossover within the western corner of the site and the retention of the existing crossover in the south eastern corner.
The application was referred to Council’s Traffic Engineer who expressed no concern with the development subject to the inclusion of permit conditions relating to vehicle access, driveway gradients, sightlines and internal parking dimensions. These are included as conditions of the permit.

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

6.4. **Vegetation & Landscaping**

From an arboriculture perspective, Council’s Arborist has reviewed the application, visited the site and has raised no substantial concern with the proposed development, subject to conditions.

The applicant has submitted a proposed landscape plan which has not been supported by Council’s Arborist. It has been advised that the proposed landscape plan is not sympathetic to the neighbourhood character guidelines particularly as there are no trees proposed to be planted that could be considered substantial. A condition of permit is included to ensure a revised landscape plan is submitted to Council’s satisfaction.

Concern has been raised in regards to the proposed driveway to Dwelling 1, as it is closer to the fence than the current driveway and covers an existing garden bed. Council’s Arborist has advised that that there could be a significant impact on the root system of the neighbour’s tree to the east. As such, a tree impact assessment report has been included as a condition to review the potential impacts of the development on this proposed tree. In addition, a tree management plan is also included as a condition of permit.

Concerns have been raised that the proposed landscaping is consistent with the existing and preferred character of the area. However it is considered that the proposed spacing and built form design creates reasonable landscaping opportunities, subject to conditions, to ensure generous replanting can be provided particularly within the front and rear setback of each dwelling.

6.5. **Objections received**

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

**Non-compliance with Clause 55 requirements**

The proposal is consistent with the provisions of Clause 55 with the exception of Standards B22 and B23. Compliance with these standards are included as a condition of permit.

**Non-compliance with Design and Development Overlay Schedule 2 and General Residential Zone Schedule 1**

The provisions of the Design and Development Overlay Schedule 2 are no applicable as the proposed building height does not exceed 9 metres. The proposal is consistent with the objective and requirements of the General Residential Zone Schedule 1.

**Loss of on street parking as a result of the additional crossover**

The proposed development will not unreasonably impact or compromise the existing road network or on street parking of the area.
The dwellings fail to meet subdivision requirements

There are no minimum subdivision requirements within the Bayside Planning Scheme. The lots will be afforded separate street frontages without the need for common property.

Support Attachments
1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment ↓
4. Clause 55 Assessment ↓
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th>🎃</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objector(s)</td>
<td>🔴</td>
</tr>
</tbody>
</table>
Figure 2. View of the subject site and 15 Jackson Street (shown left)

Figure 3. View of the subject 14 Jackson Street directly south of the subject site.
Figure 4. View of the 18A and 18B Jackson Street to the south east of the subject site.

Figure 5. View of 20 Jackson Street to the south east of the subject site.
ATTACHMENT 3
Neighbourhood Character Policy (Precinct G1)

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain and enhance the garden settings of the dwellings. | - Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation.  
- Retain large, established trees and provide for the planting of new trees wherever possible.  
- Buildings should be sited to allow space for the planting of trees and shrubs. | Lack of landscaping and substantial vegetation.  
Removal of large trees.  
Planting of environmental weeds. | Responds  
A landscape plan has been submitted which incorporates reasonable planting within the front and rear setbacks along with the side boundaries consistent with this objective. Additional planting consistent with Council’s landscape guidelines has been included as a condition of permit. |

| To maintain the rhythm of visual separation between buildings. | - Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | |
|--------------------------|-----------------------------|-----------------------------|-----------------------------|---|
| Responds | The application proposes the construction of a garage along the western boundary associated with Dwelling 2 and an open sided carport along the eastern boundary associated with Dwelling 1. The provision of a carport in lieu of a garage for Dwelling 1 as previously proposed, promotes the appearance of space between dwellings.  
Moreover, the provision of additional landscaping particularly along the side boundaries will work to enhance built form spacing within the street. |
<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.                                                                                                                               | Respond  
The dwellings incorporate a visually interesting façade along with appropriate window fenestration in accordance with this objective. The recessed floor level of each dwelling works to alleviate built form and create an interesting, articulated façade. A condition of permit requires the provision of a materials and finishes schedule ensuring there is a variety of materials proposed. |
| To maintain the openness of the streetscape.                             |                                                                                                                                                                                                                   | High, solid front fencing.                                                                                                                                                                              | Responds  
A 1.2m high solid brick, rendered front fence with metal slats infill is proposed, consistent with this objective.                                                                                     |
## BAYSIDE PLANNING SCHEME – CLAUSE 55

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>
| **B1 Neighbourhood Character**  
Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.  
Development responds to features of the site and surrounding area. | Yes | Refer report. |
| **B2 Residential Policy**  
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. | Yes | The subject site is appropriately located with regard to services and facilities to support two dwellings. |
| **B3 Dwelling Diversity**  
Encourages a range of dwelling sizes and types in developments of ten or more dwellings. | N/A | |
| **B4 Infrastructure**  
Provides appropriate utility services and infrastructure without overloading the capacity. | Yes | Any upgrades required will be the responsibility of the developer. |
| **B5 Integration with the Street**  
Integrate the layout of development with the street. | Yes | The dwellings appropriately address the street and entries are clearly identifiable from the streetscape. |
<table>
<thead>
<tr>
<th>Item</th>
<th>Requirement</th>
<th>Meeting</th>
</tr>
</thead>
</table>
| **B6 Street Setback** | Yes | Dwelling 1: 7.5m (required 5.9m)  
Dwelling 2: 8.0m (required 8.0m) |
| **B7 Building Height** | Yes | Required: 9 metres  
Proposed: 7.41 metres |
| **B8 Site Coverage** | Yes | Required: 50%  
Proposed: 50% |
| **B9 Permeability** | Yes | Minimum: 20%  
Proposed: 41.4% |
| **B10 Energy Efficiency** | Yes | The proposal provides appropriate solar access to the dwellings. |
| **B11 Open Space** | N/A | |
| **B12 Safety** | Yes | The proposal provides clear legibility and access to the dwellings from the street. |
| **B13 Landscaping** | Yes | Refer report.  
This will be secured via a condition. |
Development that maintains and enhances habitat for plants and animals in locations of habitat importance.
The retention of mature vegetation on the site.

<table>
<thead>
<tr>
<th>B14 Access</th>
<th>Yes</th>
<th>Refer report. Appropriate vehicular access is provided subject to conditions.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B15 Parking Location</th>
<th>Yes</th>
<th>Refer report. Council’s Traffic Engineer has raised no substantial concerns in regards to the proposed parking conditions of the site subject to conditions.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B17 Side and Rear Setbacks</th>
<th>Yes</th>
<th>Refer to the table below. Non-compliance areas are underlined.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<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</strong> (side)</td>
<td>0m or 2m</td>
</tr>
<tr>
<td><strong>west</strong> (side)</td>
<td>0m or 2m</td>
</tr>
<tr>
<td><strong>North</strong> (rear)</td>
<td>3m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B18 Walls on Boundaries</th>
<th>Yes</th>
<th>The garage for Dwelling 2 and the carport for Dwelling 1 will be constructed along the eastern and western boundaries respectively for a length of 6.45m (Dwelling 2) and 6.33m (Dwelling 1). Each wall comfortably complies with the requirement of the standard. The garage will have a height of 3.2m and the carport will have a height of 3.19m in accordance</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></td>
</tr>
<tr>
<td>Item 4.5 – Matters of Decision</td>
<td>Page 140 of 335</td>
<td></td>
</tr>
<tr>
<td>-------------------------------</td>
<td>-----------------</td>
<td></td>
</tr>
<tr>
<td><strong>B19 Daylight to Existing Windows</strong>&lt;br&gt;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><strong>B20 North Facing Windows</strong>&lt;br&gt;Allow adequate solar access to existing north-facing habitable room windows.</td>
<td>N/A</td>
<td>There are no existing north facing habitable room windows within 3 metres of the boundary of an adjoining lot.</td>
</tr>
<tr>
<td><strong>B21 Overshadowing Open Space</strong>&lt;br&gt;Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September.</td>
</tr>
<tr>
<td><strong>B22 Overlooking</strong>&lt;br&gt;Limit views into existing secluded private open space and habitable room windows.</td>
<td>No</td>
<td>Refer Report. All first floor windows are screened in accordance with the requirements of Standard B22 by way of either a highlight window 1.7m above the finished floor level or a window incorporating obscure glass to a height of 1.7m above the finished floor level. The ground floor windows have not been screened in accordance with this requirement and the existing conditions demonstrate eastern and western boundary fencing to a height of 1.65m which does not meet the exemption requirements. The ground floor western interface abuts a carport and garage along the common boundary and it is considered this will comfortably obscure any overlooking from the ground floor windows. However the ground floor eastern windows will have a direct interface to the private open space of 19 Jackson Street and it is considered that these windows are designed in accordance with the requirements of Standard B22. A condition is included to this effect.</td>
</tr>
<tr>
<td><strong>B23 Internal Views</strong>&lt;br&gt;Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>No</td>
<td>A condition of permit will ensure adequate internal fencing between the two dwellings in accordance with the requirements of Standard B23.</td>
</tr>
<tr>
<td><strong>B24 Noise Impacts</strong>&lt;br&gt;Protect residents from external noise and contain noise</td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
</tr>
<tr>
<td>Item 4.5 – Matters of Decision</td>
<td>Page 141 of 335</td>
<td></td>
</tr>
<tr>
<td>--------------------------------</td>
<td>-----------------</td>
<td></td>
</tr>
<tr>
<td>sources in developments that may affect existing dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B25 Accessibility</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<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 also includes lifts for both dwellings and could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provide a sense of identity to each dwelling.</td>
<td>Yes</td>
<td>The entries to both dwellings are easily identifiable from the street.</td>
</tr>
<tr>
<td><strong>B27 Daylight to New Windows</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td><strong>B28 Private Open Space</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| Provide reasonable recreation and service needs of residents by adequate pos. | Yes | Minimum: 25m² secluded, 40m² overall
Proposed:
Dwelling 1: 105m² private open space (including 71.8m² of SPOS)
Dwelling 2: 102.8m² private open space (including 66.7m² SPOS) |
<p>| <strong>B29 Solar Access to Open Space</strong> |
| Allow solar access into the secluded private open space of new dwellings/buildings. | Yes | Appropriate solar access to the private open space areas is provided. |
| <strong>B30 Storage</strong> |
| Provide adequate storage facilities for each dwelling. | Yes | External storage is provided in the rear setback of each dwelling in accordance with this requirement. |
| <strong>B31 Design Detail</strong> |
| Encourage design detail that respects the existing or preferred neighbourhood character. | Yes | Refer Attachment 1. |
| <strong>B32 Front Fences</strong> |
| Encourage front fence design that respects the existing or preferred neighbourhood character. | Yes | A new 1.2m high brick fence with tubular infill is proposed. |
| <strong>B33 Common Property</strong> |
| Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in | N/A | |</p>
<table>
<thead>
<tr>
<th>common ownership areas.</th>
<th>B34 Site Services</th>
<th>Yes</th>
<th>Plans show mailboxes, and bin storage.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
4.6 1 WAVE STREET, HAMPTON

NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/673/1 WARD: CENTRAL

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/115553

1. Purpose and background

To report a planning permit application for the construction of a three storey building containing five dwellings with basement parking and a front fence exceeding a height of 1.5 metres on a lot with an area of 715.49 square metres (refer Attachment 1) at 1 Wave Street, Hampton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Acorn Planning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>27 October 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>5 January 2017</td>
</tr>
</tbody>
</table>

2. Policy implications

Planning permit requirements

Clause 32.08-4 (General Residential Zone - Schedule 2) – Construction of two or more dwellings on a lot and construction of a front fence exceeding a height of 1.5 metres.

Clause 43.02-2 (Design and Development Overlay Schedule 12) – Construct a building and carry out works exceeding a height of 10 metres.

Planning scheme amendments

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

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

Planning Scheme Amendment C153 proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process concluded on 16 January 2017 and Council has requested the Minister for Planning to appoint an independent Planning Panel to consider submissions received. A Panel hearing is expected to occur later in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be 'seriously entertained' and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and adopted. As such, there is no statutory weight which can be given to Amendment C153. It should be noted that the subject site is located within the proposed additions to the SBO area.

Amendment VC136 was incorporated into the Bayside Planning Scheme on 13 April 2017 and introduced state wide planning requirements for apartment developments. The Amendment changed the Victorian Planning Provisions (VPP) and all planning schemes in Victoria by:
• Inserting a new Particular Provision at Clause 58 (Apartment developments) to introduce new requirements for apartment developments of five or more storeys (excluding a basement) in a residential zone and all apartment developments in other zones.

• Amending Clause 55 (Two or more dwellings on a lot and residential buildings) to include new requirements for apartment developments.

• Deleting Clause 52.35 (Urban context report and design response for residential development of five or more storeys). The content of Clause of 52.35 is translated into Clause 58.01.

• Amending clauses 32.04 (Mixed Use Zone), 32.05 (Township Zone), 32.07 (Residential Growth Zone) and 32.08 (General Residential Zone) to:
  - Require an application for an apartment development of five or more storeys (excluding a basement) to meet the requirements of Clause 58.
  - Update the decision guidelines to require the responsible authority to consider the objectives, standards and decision guidelines of Clause 58 before deciding on an application for an apartment development of five or more storeys (excluding a basement).
  - Specify application requirements for an apartment development in the Residential Growth Zone and the General Residential Zone.
  - Include transitional provisions for applications lodged before the approval date of this Amendment.

• Amending Clause 32.09 (Neighbourhood Residential Zone) to include transitional provisions for applications lodged before the approval date of this Amendment.

• Amending Clauses 34.01 (Commercial 1 Zone), 37.01 (Special Use Zone), 37.02 (Comprehensive Development Zone), 37.04 (Capital City Zone), 37.05 (Docklands Zone), 37.06 (Priority Development Zone) and 37.08 (Activity Centre Zone) to:
  - Require an application for an apartment development to meet the requirements of Clause 58.
  - Update the decision guidelines to require the responsible authority to consider the objectives, standards and decision guidelines of Clause 58 before deciding on an application for an apartment development.
  - Specify application requirements for an apartment development.
  - Include transitional provisions for applications lodged before the approval date of this Amendment.

• Amending Clause 43.05 (Neighbourhood Character Overlay) to prevent Standards B35 to B49 (inclusive) of Clause 55 from being modified in a schedule to the overlay.

• Amending Clause 72 (General Terms) to introduce a definition for the term ‘Apartment’.

This application was lodged prior to the approval date of Amendment VC136 and therefore benefits from the transitional provisions. The new provisions do not apply to this proposal.

3. Stakeholder Consultation

External referrals

There were no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme.
Internal referrals
The 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>Concerns regarding proposed landscaping and impact on landscaping on adjoining properties.</td>
</tr>
<tr>
<td>Open Space Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

Public notification
The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and six objections were received. The following concerns were raised:
- Location of the basement entry on Wave Street;
- The plans provided do not show a view of the proposed development in Wave Street;
- Overlooking;
- Height;
- Greater pressure on existing infrastructure;
- Uncertainty on proposed boundary fencing;
- No community consultation regarding the proposed development;
- Loss of community amenity and neighbourhood character;
- Waste management;
- Increased car parking congestion and traffic safety;
- Insufficient landscaping detail and loss of mature landscaping;
- Construction impacts; and
- Noise disturbance.

Consultation meeting
A consultation meeting was held on 15 May 2017 attended by the permit applicant and five objectors (an additional objection was received by Council following this meeting). As a result of this meeting no objections were withdrawn.

The applicant emailed Council’s Planning Officer on 19 May 2017 in response to some requests made by the objectors. The applicant is agreeable to some of these changes, largely in regards to the retention of the existing garage walls on the south and west boundary, replacement of the existing boundary fence in consultation with neighbours and with regards to further discussions on the existing sewer connection during construction to 50 Willis Street.

These considerations fall outside of planning considerations and an agreement in regards to these issues will need to be facilitated outside of the planning permit process.
4. **Recommendation**

That Council:

Issues a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning Application 2016/673/1** for the land known and described as **1 Wave Street, Hampton**, for the **construction of a three storey building containing five dwellings with basement parking and a front fence exceeding a height of 1.5 metres** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans, prepared by Tim Spicer Architect and Council date stamped 28 October 2016, but modified to show:

   a) The proposed storage facilities to meet the minimum requirements of Standard B30.

   b) Adequate sightlines to be demonstrated on the plans in accordance with the Design standards for car parking pursuant to Clause 52.06-8 of the Bayside Planning Scheme.

   c) A Car Parking Management Plan to be provided to show (but not limited to) the proposed allocation of car parking to individual tenancies, details of any car parking signage including allocation of the visitor space, line making of the parking spaces, and the visitor space to be signed and/or line marked as ‘visitors only’. The plans must reflect this information.

   d) A minimum 2.5m x 2.5m concreted corner splay is required to be provided at the north east corner of the property. The splay is to be infilled with concrete to match the existing footpath.

   e) All columns within the basement to be setback 250mm from the aisle in accordance with AS2890.1.

   f) The proposed basement ramp to show the relevant AHD levels at each grade changing point.

   g) The existing crossover on Willis Street to be removed and replaced with kerb and channel and reinstatement of the nature strip.

   h) The existing/proposed crossover on Wave Street to be a minimum of 3.3m wide with a 1m offset from the southern property boundary.

   i) Water sensitive urban design measures in accordance with Condition 6 of this permit.

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

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

   l) Any consequential changes to the plans to comply with any conditions of this permit which must result in no increase in the built form and envelope. All to the satisfaction of the Responsible Authority.

2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.

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

5. 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.

**Water Sensitive Urban Design**

6. 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.

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

**Landscaping**

9. Prior to the endorsement of plans pursuant to Condition 1, a detailed Landscape Plan generally in accordance with the advertised Landscape Plan prepared by John Patrick Council date stamped 28 October 2016 must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must be modified to show:

   a) 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.

f) The proposed four canopy trees replaced with native canopy trees capable of reaching a height of 10 metres at maturity, selected from Council’s Landscape Guidelines, Table 5.

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

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

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

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

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

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

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

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

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

15. A tree protection fence is required to protect the tree’s canopy and root zone of all street trees fronting this property. Conditions for street tree fencing during development are as follows:

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

b) Fencing must be installed to comply with AS 4870-2009, Protection of Trees on Development Sites.

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

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

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

**Drainage**

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 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.

18. Any subsurface water captured on the site must be treated in accordance with Council's Policy for "Discharge of pumped Subterranean Water Associated with Basement or Below Ground Structures". Any seepage/agricultural drainage water must be filtered to rain water clarity and must be pumped to the nearest Council Drain/Pit and not be discharged to the kerb and channel unless directed otherwise.

19. The driveway / parking areas / paved courtyards / paths and 'pervious' pavements must be graded / drained to prevent stormwater discharge onto the front footpath and into adjacent properties.

**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**

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

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

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

**Council Plan 2013-2017**

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 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 21.08  Open Space
- Clause 21.09  Transport and Access
- Clause 21.10  Infrastructure
- Clause 21.11-4  Local Areas (Hampton Street)
- Clause 22.06  Neighbourhood Character Policy
- Clause 22.08  Water Sensitive Urban Design
- Clause 32.08  General Residential Zone (Schedule 2)
- Clause 43.02  Design and Development Overlay (Schedule 12)
- Clause 52.06  Car Parking
- Clause 55  Two or more dwellings on a lot
- Clause 65  Decision Guidelines

6. **Considerations**

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

6.1. **Strategic justification**

The site is located on the corner of Wave Street and Willis Street, Hampton, which is located within the boundaries of the Hampton Street Major Activity Centre. The preferred future role of the Hampton Street Major Activity Centre has been developed in the Hampton Structure Plan, the Bayside Housing Strategy 2014 and the Retail, Commercial and Employment Strategy 2016. Clause 21.11-4 (Local Areas) and the Design and Development Overlay Schedule 12 implement the preferred future role of the Hampton Street Centre in the Bayside Planning Scheme.
Clause 21.11-4 includes a variety of objectives and strategies that are relevant in the development of the Hampton Street Major Activity Centre. Broadly, the policy seeks to provide for increased housing densities and diversity of housing types within the centre and to direct larger developments to larger sites within or immediately adjoining the business precincts. The site is included within the residential precinct of the Centre however is located within close proximity to the variety of existing services and facilities along the Hampton Street commercial spine. The proposal is consistent with the policy direction of Clause 21.11-4.

Planning Scheme Amendment C150 seeks to implement the Retail, Commercial and Employment Strategy 2016 (RCE Strategy), which seeks to guide the future commercial growth of Bayside’s employment areas. The amendment proposes to include the RCE Strategy as a reference document and to ensure the activity centre hierarchy responds to each centres economic role and function. The amendment would reclassify Hampton Street as a large Neighbourhood Activity Centre. Broadly, the RCE Strategy seeks to encourage residential development within residential precincts. The proposal is consistent with the strategic direction of the RCE Strategy.

The provision of a three storey development comprising five dwellings is considered a suitable design response for the site and the strategic context of the precinct.

6.2. Design and Development Overlay Schedule 12

The site is covered by the Design and Development Overlay Schedule 12 (DDO12) which implements the Hampton Street Centre Final Structure Plan 2006 in the Bayside Planning Scheme. Of relevance is the objective of the DDO12 which seeks to develop the centre in a way that conserves and enhances its valued urban character and heritage places.

The three storey maximum height requirement, combined with the objectives of the DDO12 and the site’s location within the Hampton Street Major Activity Centre recognise the opportunity for increased building heights within an area which offers appropriate community services, facilities and public transport.

Building Height

The site is located within Precinct E of the Hampton Street Major Activity Centre Built Form Precincts, which specifies a maximum height of 11 metres (3 storeys) or 12 metres where the slope of the natural ground level at any cross section of the site of the building wider than 8 metres is 2.5 degrees or more. The site has a slope greater than 2.5 degrees and therefore the maximum allowable height is 12 metres.

The development proposes a maximum height of 9.65 metres (three storeys) which falls well within the maximum allowable height of 12 metres.

Building Setbacks

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

At second floor level, the proposed 2.8 metre setback fails to comply with the 4 metre setback requirement of the DDO12. A variation is supported as the relevant Design Objectives and Built Form Precinct Provisions are achieved. The proposal presents a suitable design response which offers a reasonable level of articulation and visual interest to the street through the provision of projecting and recessed design elements. The extent of fenestration featured throughout the facade works to alleviate visual bulk to the street and will ensure that the development adopts an appropriate design response for the site and broader precinct.
6.3. Neighbourhood character

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

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

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

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

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

While low, permeable front fencing is the preferred character, the use of a solid, high front fence with sections of permeability is consistent with the existing conditions of the site which contains a 1.9 metre high front fence. The fence design is consistent with the character of fencing within the immediate area while providing privacy to the ground floor open space areas.

Concerns have been raised in relation to the dominance and height of the proposed form. However the scale, siting and boundary spacing is responsive to the preferred built form character objective of the DDO12 and the design response is a suitable outcome for the existing and preferred character of the area. Importantly, the development is well articulated and offers a contemporary form responsive to the emerging character of medium density development featured within the area.
6.4. **Compliance with Clause 55 (ResCode)**

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

**Standard B6 (Street setback)**

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>8.7 metres (Wave Street)</td>
<td>7.6 metres (ground floor)</td>
</tr>
<tr>
<td></td>
<td>6.6 metres (first floor)</td>
</tr>
</tbody>
</table>

The proposed ground floor wall is setback from Wave Street 7.6 metres which fails to meet the minimum front setback requirement of 8.7 metres. The first floor level cantilevers beyond the ground floor wall and includes a front setback of 6.6 metres.

In considering a variation to the numerical setback requirement, Clause 55.03-1 seeks to ensure that the setbacks of buildings from a street respect the existing or preferred character and make efficient use of the site.

An assessment of front setbacks of properties in the immediate context indicates that there is a varied pattern of built form spacing and front setbacks particularly along the western side of Wave Street. In addition, the existing dwelling incorporates a front setback of 7.65 metres and the adjoining property is setback 8.7 metres.

The proposed development utilises the ground floor setback of the existing dwelling which is considered an acceptable outcome. While the first floor cantilevers beyond the front setback of the ground floor eastern wall, the proposed setbacks are considered acceptable. The development offers a reasonable level of articulation through varied upper level setbacks and the use of glazing and lighter building materials. These design elements will work to ensure that the development will sit comfortably within its context and will complement the existing character of the area while responding to the emerging trend of medium density development in the precinct.

Moreover, it is considered that the proposal makes efficient use of the site and is therefore consistent with Clause 55.03-1 of the Bayside Planning Scheme.

**Standard B30 (Storage)**

The proposed basement includes the provision of storage for each dwelling however these storage areas have not been dimensioned. The standard requires the provision of at least 6 cubic metres. A condition of permit will require the application to meet the minimum storage requirements.

**Standard B32 (Front fences)**

A proposed 1.8 metre high front fence is proposed which exceeds the maximum allowable height of 1.5 metres by 300mm. This is a reduction in height and will replace the existing 1.98 metre high solid brick fence.

The proposed height and design is consistent with the character of front fencing within the area. In addition, the provision of timber infill throughout the fence will provide some transparency and will work to improve the streetscape interaction of the development.

The proposal meets the objective of Clause 55.06-2 which encourages a front fence design that respects the existing or preferred neighbourhood character.

6.5. **Car parking and traffic**

The proposal incorporates five, three bedroom apartments.

Pursuant to the car parking provisions of Clause 52.06-5, the proposal generates a demand of 10 car parking spaces, plus one visitor parking space.
The application proposes 10 car parking spaces plus one visitor space at basement level, and therefore complies with this requirement.

Vehicle access is located via a proposed 3.3 metre wide crossover within the south eastern corner of the site. The location of the crossover and vehicle access is consistent with the current conditions of the site, ensuring that the character of vehicle access within the street remains largely unchanged. Concerns were raised in regards to the location of the crossover along Wave Street. It was requested that vehicle entry is relocated to Willis Street as Wave Street is a smaller and quieter street. However the proposed vehicle access is generally consistent with the existing conditions and it is considered that in light of the number of apartments proposed, the development will not cause unreasonable vehicle congestion to this area of Wave Street.

The provision of basement parking is an acceptable outcome for the site. This design response will avoid the dominance of parking within the front setback, and allows the built form to integrate appropriately within the existing streetscape context. Council's Traffic Engineer has requested clarification regarding how visitors will access the off street car parking facilities.

Conditions have been requested by Council's Traffic Engineer in relation to vehicle access, ramp grades, signage, sightlines, and line marking of spaces. A car parking management plan outlining compliance with these requirements has been requested. These requirements are included as a condition of permit.

Council has received objections to the proposed application of which raise concerns in relation to an increase in car parking congestion, loss of on-street parking and traffic safety. The proposed number of parking spaces meets the statutory car parking requirement under Clause 52.06 and there is no loss of on-street car parking. Given the relocation of one existing vehicle crossing, the car space will now be available on Willis Street in lieu of Wave Street. In addition, no concerns regarding traffic disturbance and traffic safety were raised by Council's Traffic Engineers. In order to ensure the immediate neighbours are not unreasonably impacted during the construction of the application, a construction management plan is included as a condition of permit. A waste management plan is also included as a condition of permit.

### 6.6. Vegetation & Landscaping

The application proposes the removal of 4 trees from the site, including 2 native trees, and 1 exotic palm. Council’s Arborist has confirmed that none of the trees, or the palm, are protected by the Local Law. In addition, the site is not covered by a Vegetation Protection Overlay.

Council’s Arborist in their referral response has raised concerns with regards to the extent of planting demonstrated in the proposed landscape plan, the removal of the *Eucalyptus spathulata*, Swamp Mallet (Tree 2) located within the north eastern corner of the site and the potential construction impacts on the *Pittosporum undulatum*, Sweet Pittosporum (Tree 5) located on the adjoining western property.

The proposed Arboricultural Report prepared by John Patrick submitted with the application assesses Tree 2 as being in fair health and having a low amenity value. However Council’s Arborist has assessed this tree as providing a high level of amenity and being in good health. Moreover, Council’s Arborist has confirmed that the proposed development will have a significant impact on the health of Tree 5 as the development will require at least 20% of the tree’s canopy to be removed. Subsequently, Council’s Arborist has requested a revised Arboricultural Impact Assessment in accordance with AS4970, showing that the tree will remain viable post construction and a revised design response in order to retain Tree 2.
Upon further review however the proposed design response will require a substantial modification in order to implement these requirements. The proposed arboricultural report identifies these trees as providing a low amenity value to the area and a low life expectancy and importantly, are not protected by the Local Law. Subject to conditions requiring additional landscaping, and a tree management plan, the proposal is supported.

Concerns regarding the loss of mature landscaping have been raised, along with the provision of insufficient landscaping. A condition of permit will address these concerns and requirements.

### 6.7. Objections received

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

The plans provided do not show a view of the proposed development in Wave Street

The information provided was sufficient to enable a detailed assessment of the application.

**Uncertainty on proposed boundary fencing**

Boundary fencing is controlled under the *Fences Act 1968* which Council does not administer. The applicant however has sought to address this concern.

**No community consultation regarding the proposed development**

Community consultation prior to the lodgement of the application is not a requirement of the *Planning and Environment Act 1987*. Public notification of the application and a subsequent consultation meeting was carried out as part of the planning permit process in accordance with the *Planning and Environment Act 1987*.

### Support Attachments

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment ↓
4. Clause 55 Assessment ↓
Item 4.6 – Matters of Decision
Item 4.6 – Matters of Decision
Advertised Plan
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1. Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
<tr>
<td>Objector(s)</td>
</tr>
</tbody>
</table>
Figure 2. The subject site viewed from the corner of Wave Street and Willis Street, Hampton

Figure 3. View of 3 Wave Street, Hampton adjoining the site to the south.
Figure 4. View of south western side of Wave Street, Hampton.

Figure 5. View of 4 Wave Street to the south east of the subject site.
Figure 6. View of 14 Wave Street, to the south east of the site.

Figure 7. View of 43 Willis Street, to the north west of the subject site.
ATTACHMENT 3
Neighbourhood Character Policy (Precinct F1)

Preferred Future Character

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
  • Alterations and extensions should retain the front of these dwellings and be appropriate to the building era. | Demolition of dwellings that contribute to the valued character of the Precinct.                                  | N/A. Demolition of the existing dwelling does not require planning approval.                                    |
| To maintain and enhance the garden settings of the dwellings, and enhance the bayside vegetation character. | • Retain established trees and vegetation.  
  • Replace any trees removed with species that will grow to a similar height.  
  • Encourage replanting of indigenous sandbelt vegetation.  
  • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs, and indigenous coastal vegetation. | Lack of landscaping and substantial vegetation.  
Removal of trees.  
Planting of environmental weeds. | A landscape plan has been provided and a condition of permit will require additional canopy planting throughout the site. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To ensure the building setbacks reflect the existing spacious visual separation of buildings and contribute to the informality of the dwelling setting. | • Buildings should be sited to allow space for the planting of trees and shrubs.  
  • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | Loss of front garden space.               | The development incorporates appropriate boundary spacing which responds to the character of existing built form within the area while also addressing the emerging trend of medium density built form evident within the immediate. |
| 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. | A 3.65m crossover is proposed within the south eastern corner, consistent with the vehicle access of the existing site. Vehicle accommodation is in the form of a proposed basement, ensuring that the streetscape interaction and activation of the building façade is enhanced. |
<p>| To ensure that new buildings and extensions do not dominate the streetscape. | • Recess second storey elements from the front façade.                          | High pitched or mansard roof forms with dormer windows. | The building incorporates appropriate articulation and recessed elements to ensure the 3 storey scale does not dominate the streetscape or adjoining properties. |
| To respect the identified heritage qualities of adjoining buildings.       | • Where adjoining an identified heritage building, respect the height, building forms, siting and materials, in the new building design. | Large bulky buildings with flat, poorly articulated front wall surfaces. | The proposal incorporates a contemporary form with muted and natural finishes. Each floor incorporates reasonable spacing and articulation to minimum the presentation of the building form to the adjoining properties. |
| To reflect the lightness of the streetscape created through the use of a mix of materials. | • Incorporate a variety of timber or other non-masonry wall materials where possible. | Heavy materials and design detailing (eg. Large | The contemporary built form incorporates a mixture of natural materials and finishes, including grey masonry walls, timber screening, white |</p>
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>appropriate building materials and finishes.</td>
<td></td>
<td>masonry columns and piers)</td>
<td>powder coated louvre screens, black aluminium double glazed windows. These materials and finishes, combined with large windows and glazing, will ensure the development will sit comfortably within its context whilst creating a contemporary form to the emerging trend of modern development in the area.</td>
</tr>
<tr>
<td>To maintain the openness of the streetscape and views to the dwellings.</td>
<td>• Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High, solid front fencing.</td>
<td>Streetscape interaction is enhanced through the provision of an open style front fence incorporating a height of 1.8 metres and a timber and masonry design.</td>
</tr>
<tr>
<td></td>
<td>• Front fence style should be appropriate to the building era.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To create a visually interesting and attractive built form interface with</td>
<td>• Articulate the form buildings and elements, particularly front facades, and</td>
<td>Buildings that have no relationship to the foreshore</td>
<td>N/A.</td>
</tr>
<tr>
<td>the foreshore reserve.</td>
<td>include elements that lighten the building form such as balconies, verandahs,</td>
<td>setting.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>non-reflective glazing and light-transparent balustrading.</td>
<td>Poorly articulated roof and building forms.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Use a mix of contemporary and traditional coastal materials, textures and</td>
<td>Highly reflective materials or glazing.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>finishes, including render, timber, non-masonry sheeting, glazing, stone and</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>brick.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Provide articulated roof forms to create an interesting skyline when viewed</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>from the beach.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## ATTACHMENT 4
### BAYSIDE PLANNING SCHEME – CLAUSE 55

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer report.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The construction of a three storey building comprising five dwellings is supported by relevant policies for this site.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>The dwellings will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly identifiable from the streetscape. Vehicle entry is via Wave Street and pedestrian access to each apartment are identifiable from Willis Street.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### B6 Street Setback
The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.

<table>
<thead>
<tr>
<th>Item</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>Refer report</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Required: 8.7m</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Proposed: 7.6m (ground floor), 6.6m (first floor)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The ground floor northern wall is setback 3 metres from Willis Street and complies with the minimum setback from a side street of 3 metres.</td>
<td></td>
</tr>
</tbody>
</table>

### B7 Building Height
Building height should respect the existing or preferred neighbourhood character.

<table>
<thead>
<tr>
<th>Item</th>
<th>Maximum allowed</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Maximum allowed: 12m</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Proposed: 9.65m</td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Maximum allowed</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Maximum allowed: 60%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Proposed: 52.34%</td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Minimum</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Minimum: 20%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Proposed: 24%</td>
<td></td>
</tr>
</tbody>
</table>

### B10 Energy Efficiency
Achieve and protect energy efficient dwellings and residential buildings.

<table>
<thead>
<tr>
<th>Item</th>
<th>The proposal provides appropriate solar access to the dwellings.</th>
</tr>
</thead>
</table>

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

<table>
<thead>
<tr>
<th>Item</th>
<th>N/A</th>
</tr>
</thead>
</table>

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

<table>
<thead>
<tr>
<th>Item</th>
<th>The proposal provides clear legibility and access to the dwellings from the Willis Street. The proposal allows for stairs and a lift to each apartment.</th>
</tr>
</thead>
</table>

### B13 Landscaping
To provide appropriate landscaping. To encourage: Development that respects the landscape character of the neighbourhood.

<table>
<thead>
<tr>
<th>Item</th>
<th>Refer report.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>The proposed landscape plan has failed to demonstrate the planting of canopy trees and suitable landscaping to satisfy Council’s neighbourhood guidelines. A condition of permit requires an amended landscape plan and tree management plan and report.</td>
</tr>
</tbody>
</table>

---

**Item 4.6 – Matters of Decision**
Development that maintains and enhances habitat for plants and animals in locations of habitat importance.
The retention of mature vegetation on the site.

<table>
<thead>
<tr>
<th>Item</th>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B14 Access</strong></td>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td>Yes</td>
<td>Refer report. Appropriate vehicular access is provided subject to conditions.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Item</th>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B15 Parking Location</strong></td>
<td>Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.</td>
<td>Yes</td>
<td>Refer report. On site car parking is provided with a basement level which will be accessed via a new crossover along Wave Street. The proposed parking location is secure and convenient for future residents. Council’s Traffic Engineer has raised no substantial concerns in regards to the proposed parking conditions of the site subject to conditions. Standard traffic conditions are included as permit conditions.</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Item</th>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B17 Side and Rear Setbacks</strong></td>
<td>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.</td>
<td>Yes</td>
<td>Refer to the table below.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>First Floor</th>
<th>Second Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
<td>Requirement</td>
</tr>
<tr>
<td>West (side)</td>
<td>1m</td>
<td>3m-3.12m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>1m</td>
<td>3.69m-3.87</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Item</th>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B18 Walls on Boundaries</strong></td>
<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>N/A</td>
<td>There is no boundary construction proposed.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Item</th>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B19 Daylight to Existing Windows</strong></td>
<td></td>
<td>Yes</td>
<td>The proposal is well setback from property boundaries to ensure daylight to existing windows</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item 4.6 – Matters of Decision</td>
<td>Attach 4</td>
<td></td>
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<tr>
<td>-------------------------------</td>
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<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td><strong>Allow adequate daylight into existing habitable room windows.</strong></td>
<td>is maintained and comfortably complies with the setback requirements of the standard.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B20 North Facing Windows</strong></td>
<td>N/A</td>
<td>There are no existing north facing habitable room windows within 3 metres of the boundary of an adjoining lot. The existing north facing windows to 3 Wave Street are setback a minimum 3.42m from the common boundary.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B21 Overshadowing Open Space</strong></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>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B22 Overlooking</strong></td>
<td>Yes</td>
<td>All habitable room windows with views towards the secluded private open space and habitable room windows of adjoining properties have been designed to incorporate appropriate screening measures.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B23 Internal Views</strong></td>
<td>Yes</td>
<td>All habitable room windows have been screened and sited appropriately in accordance with this Standard.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B24 Noise Impacts</strong></td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B25 Accessibility</strong></td>
<td>Yes</td>
<td>Entries are accessible for people with limited mobility. A lift is provided for access to the upper level dwellings. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong></td>
<td>Yes</td>
<td>The entries to both dwellings are easily identifiable from the street.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B27 Daylight to New Windows</strong></td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B28 Private Open Space</strong></td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall Proposed: Apartment 1: 96.32m² (ground floor)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------------------------</td>
<td>-----</td>
<td>---------------------------------------------------------------------</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B30 Storage</th>
<th>No</th>
<th>External storage is provided in the basement to each apartment to meet the requirements of his standard. The dimensions have not been included on the plans and a condition of permit will ensure the minimum 6 cubic metres have been achieved.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide adequate storage facilities for each dwelling.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B31 Design Detail</th>
<th>Yes</th>
<th>Refer Attachment 1.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>B33 Common Property</th>
<th>Yes</th>
<th>Common property is easily identifiable and is limited to the basement and pedestrian access to the apartments.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B34 Site Services</th>
<th>Yes</th>
<th>Plans show storage and bin storage areas.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
4.7 3 PRIMROSE CRESCENT, BRIGHTON EAST
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/174/1  WARD: NORTHERN
City Planning & Community Services - Statutory Planning
File No: PSF/15/8755 – Doc No: DOC/17/101670

1. Purpose and background
To report a planning permit application for the construction of a double storey dwelling to the rear of the existing dwelling on a lot with an area of 591.8 square metres (refer Attachment 1) at 3 Primrose Crescent, Brighton East (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Ecostruct Design Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>24 March 2017</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>26 May 2017</td>
</tr>
</tbody>
</table>

VCAT History
Council on 14 April 2015 considered a similar application and decided to issue a Notice of Decision to Grant a Planning Permit. The application was appealed to VCAT by the adjoining neighbour. VCAT decided to refuse the application commenting that the following matters have not been satisfactorily addressed:

- The proposed second dwelling relies on extending to both the north and south side boundaries which would be contrary to clear policy directives and the variations to Standard B17 to provide generous setbacks at ground and first floor.
- Site coverage is considerably in excess of 50 percent which the schedule to zone requires.
- The proposal comprises very prominent, visible and somewhat aggressive built form to the property at 5 Primrose Crescent, Brighton East.
- The proposed second dwelling is not well designed which has been squeezed into a confined space, rather than having been integrated into the site in a way that is responsive to its context. It results in overdevelopment, as the totality is excessive, characterised with poor secluded open space, limited opportunities for landscaping, tight vehicle access and few opportunities for landscaping.

The proposal presented in this new application has gone some way to address these matters as will be detailed in the report to follow.

2. Policy implications

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

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

Plan Planning Scheme Amendment C153 proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process concluded on 16 January
2017 and Council has requested the Minister for Planning to appoint an independent Planning Panel to consider submissions received. A Panel hearing is expected to occur later in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and adopted. As such, there is no statutory weight which can be given to Amendment C153. The subject site is not affected by the overlay and there are no proposed changes pursuant to Amendment C153.

3. **Stakeholder Consultation**

   **External referrals**

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

   **Internal referrals**

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

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

   - The proposed development failed to adequately address the VCAT decision *Spirdonoff v Bayside CC [2015] VCAT 1728*;
   - Streetscape impact on Locke Street;
   - Visual bulk;
   - Insufficient side setbacks;
   - Parking congestion and traffic safety issues on Locke Street; and
   - Noise impacts from the proposed air conditioning equipment.

   **Consultation meeting**

   A consultation meeting was scheduled on 24 May 2016, however neither the applicant nor objectors attended.

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 2017/174/1 for the land known and described as **3 Primrose Crescent, Brighton East**, for the construction of **two dwellings on a lot** (a double storey dwelling to the rear of the existing dwelling) 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 plans dated 24 March 2017 prepared by Ecostruct Design Pty Ltd but modified to show:

a) South side setback to be increased from 1.2m to 2m;

b) Removal of the carport located over the easement and replaced with an open car space in accordance with Clause 52.06 of the Bayside Planning Scheme.

c) Natural ground level, finished floor level and boundaries fencing height in relation to Australia Height Datum (AHD) to be shown on the elevation plans to meet the Standard of B22 of the Bayside Planning Scheme;

d) Boundary fences including internal fencing details;

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

f) Water sensitive urban design measures in accordance with Condition 6 of this permit.

g) A Landscaping Plan in accordance with Condition 6 of this permit.

h) A Tree Management Plan (report) and Tree Protection Plan (drawing) in accordance with Condition 8 of this permit.

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

All to the satisfaction of the Responsible Authority.

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

3. Before the occupation of the new dwelling to the rear commences or by such later date as is approved in writing by the responsible authority, all buildings and works and the conditions of this permit must be carried out and completed to the satisfaction of the Responsible Authority.

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

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

6. 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.

7. Prior to the endorsement of plans pursuant to Condition 1, a Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Landscape Plan will be endorsed and will then form part of the permit. The plan should include the following:

   a) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   b) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
   c) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   d) Details of surface finishes of pathways and driveways.
   e) A substantial planted screen along the common northern property boundary with No. 5 Primrose Crescent.
   f) One tree, capable of reaching 10m in height and 6m in width to be planted in the front yard of the existing dwelling.
   g) One tree, capable of reaching 6m in height and 4m in width to be planted in the rear yard of the existing dwelling.
   h) The provision of a 2 metre landscape buffer along the southern boundary between the car space and the south boundary of the site.

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

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

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

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

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

The development plan must be amended in accordance with the Tree Protection Plan and Tree Management Plan to the satisfaction of the Responsible Authority.

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

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. Tree Protection Fencing is to be established around the street tree and the Lilly Pilly on the neighbouring property at 1 Primrose Crescent prior to demolition and maintained until all works on the site are complete, to the satisfaction of the Responsible Authority.

   a) The fencing is to be constructed and secured so its positioning cannot be modified by site workers.
   b) The fencing is to encompass the entire dripline of the trees.
   c) Any excavation works are to maintain a minimum 1.6 metre setback to the tree.

12. Tree Protection Zones (TPZ) are to be established and maintained in accordance with Australian Standards 4970 Protection of Trees on Development Sites, to the satisfaction of the Responsible Authority.

   a) During construction of the crossover in Locke Street, tree protection fencing for the street tree may be reduced to the edge of the Council approved crossover to facilitate the construction of the crossover.
   b) Root pruning within the Tree Protection Zones (TPZ).
   c) Prior to soil excavation for the new crossover, a trench along the line of the proposed crossover must be dug by hand.
   d) Excavation for the footings along the western side of the new dwelling within the Tree Protection Zone for the Lilly Pilly should be dug by hand or other non-destructive method (e.g. compressed air).
   e) A suitably qualified Arborist is to be available onsite for advice and to inspect all works. Roots with a diameter of 30mm or less can be cut cleanly with secateurs, while larger roots will treated to the satisfaction of the Arborist. These works should be documented and photographed.
   f) All affected roots must be correctly pruned according to AS 4373-2007 and to the satisfaction of the Responsible Authority.

13. Prior to commencement of works, civil engineering design drawings are required to be submitted to Council showing the following:

   a) An extension of the footpath around the Locke Street court bowl;
   b) Relocation of the existing side entry pit for the new crossover; and
   c) A vehicle crossing in accordance with relevant Council standards.

14. Before the occupation of the development, the area set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:

   a) Constructed
   b) Properly formed to such levels that they can be used in accordance with the dwelling
   c) Surfaced with an all-weather-seal coat
   d) Drained

All to the satisfaction of the Responsible Authority.
15. Car spaces and driveways must be kept available for these purposes at all times.

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

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

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

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

20. 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.

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

Permit Notes:
- Council records indicate that there is no easement within the property.
- 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.
- Building approval must be obtained prior to the commencement of the above approved works.

4. Council Policy

Council Plan 2013-2017

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme
- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 14 Natural Resource Environment
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
5. 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.

5.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct D1 and the proposal is considered to demonstrate an acceptable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

Dwelling 2 is proposed to be sited to the rear of the property fronting Locke Street with pedestrian access and vehicle access off Locke Street. The dwelling will have limited visibility from Primrose Crescent and instead will provide a frontage to Locke Street. The property will have a 4.46 metre wide frontage to Locke Street, however the entrance to the proposed dwelling 2 is located where it will be highly visible to visitors and the occupants, ensuring a safe environment is created.

In regard to the built form, two storey dwellings are evident in this neighbourhood. They are predominantly modest in size. Normally they are clad in render or weatherboard. However, looking more broadly there are various examples of dominant two storey forms which have a high site coverage. It should also be noted that there is significant built form in the immediate vicinity in the form of outbuildings, bungalows and sheds.

Accordingly, a balance needs to be struck between a dominant form and excessive site coverage. The proposal has been amended to remove dwelling 2 away from both side boundaries and increase the upper level setbacks. The purpose of which is to provide greater landscape opportunities and to reduce the amenity impacts on the adjoining properties. Notably, the overall size of the dwelling has reduced to present a more modest two storey dwelling consistent with the neighbourhood.

In regard to landscaping, there is similar opportunities to provide landscaping to the current site layout. Existing on the site is a large outbuilding occupying a similar footprint. The proposal allows for the planting of at least one canopy tree in the rear yard to introduce a canopy tree to the neighbourhood. A condition is included in the recommendation to this effect. Further, the areas around the proposal dwelling will also provide opportunity for landscape screening to reduce the impact on adjoining properties and properly ‘green’ the site.

The dwelling will be visible to the Locke Street frontage, however its amended design outcome will ensure that it does not dominate the street frontage and instead respects the built form character of the neighbourhood. Conditions are included in the
recommendation which delete the carport and replace it with an open car space to further minimise the impact of the dwelling on the streetscape and easement.

It is proposed to construct the new dwelling in face brick at ground level, part weathered timber lining walls and part render at upper floors, aluminium framed windows and doors and a low pitched corrugated iron roof. The combination of these building materials and the two storey form will ensure the proposal blends sensitively with the existing built form in the neighbourhood.

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

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

**Site Coverage (Standard B6)**

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>50%</td>
<td>56.2%</td>
</tr>
</tbody>
</table>

The proposed site coverage is 56.2% which does not comply with Standard B6, which is 50%. The current site coverage is 51.9%. The previous application presented to VCAT proposed a site coverage of 58%.

The previous VCAT decision stated in paragraph 28:

“Secondly, the site coverage is considerably in excess of the 50 percent that the schedule to zone requires. I give considerable weight to the varied standard because it forms part of the primary planning control, being the zone and is not expressed only as a policy that has lesser weight or where greater discretion can be applied.”

On review of the application, the proposed site coverage is still considered excessive and does not provide opportunity for landscaping. As noted earlier, the carport should be removed to improve opportunities for landscaping and better integrate the proposal to Locke Street. The deletion of the carport will reduce the site coverage to approximately 51.4%. The proposed 1.4% variation is considered marginal, which ensures opportunities for landscaping and in broader terms, will respect the existing neighbourhood character and is an acceptable outcome. It is also noted that it is less than the site coverage of the existing buildings on the site.

**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>2m</td>
<td>1.2m</td>
</tr>
<tr>
<td>South (side)</td>
<td>2m</td>
<td>1.2m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>3m</td>
<td>4.0m</td>
</tr>
</tbody>
</table>

The proposed ground floor southern wall of the living room does not comply with the required 2 metre setback. A 1.2 metre setback essentially becomes a walkway and a condition has been included in the recommendation to increase this setback to 2 metres. This will allow for the planting of landscaping and the retention of the neighbours’ tree at 1 Primrose Crescent. With this change, the loss in floor space can be accommodated by allowing the living room to move 800mm further north. This change will not increase any detriment to the neighbour at 5 Primrose Crescent as it exceeds the required setback.
The proposed north wall of the laundry has a setback of 1.2 metres from 5 Primrose Crescent which is considered to be an appropriate outcome because the encroachment is opposite a large bungalow, the wall length and height are limited to ensure no impacts on any windows in the adjoining bungalow and there is no overshadowing impacts.

At first floor, the proposed south elevation of the bedroom 1 and bedroom 2 do not comply with the required 3.14 metre side setback. The proposed 2.5 metre side setback encroaches into the side setback by 640mm. The variation is considered acceptable because it is not opposite any habitable room windows and the south elevation is well articulated with face brickwork and roof elements at the ground floor.

**Overlooking (Standard B22)**

Boundary fence height is not shown on the submitted plans. A condition will be imposed on the permit to ensure that a visual barrier at least 1.8 metres high and the floor level of the habitable room, balcony, terrace, deck or patio is less than 0.8 metres above ground level at the boundary must be provided.

The proposed first floor includes appropriate screening to all upper level windows compliant with Standard B22.

**Internal views (Standard B23)**

At ground level, fencing to a height of more than 1.8m will prevent internal overlooking. A condition will be imposed on the permit to ensure the fencing details is provided.

**Site Services (Standard B34)**

Site services including mailbox, clothes line, air-conditioning units, water tanks and the like are not shown on the plans. A condition is included in the recommendation to require that these services are shown to minimise impacts on adjoining properties.

### 5.3. Car parking and traffic

A minimum of one car parking space is required to be provided for the proposed new two bedroom dwelling, in accordance with the requirements of Clause 52.06 (Car parking) of the Planning Scheme. The proposal provides the required car parking provision for both dwellings.

Council’s Traffic Engineers raised concern with the need to extend the footpath around the end of court bowl and relocate the existing side entry pit that is currently located within the new driveway area. A condition is included in the recommendation that civil engineering drawings may be provided for these works prior to commencement of any works on the site.

Council has received objections to the proposed application of which raise concerns in relation to an increase in car parking congestion and traffic impact. The proposed number of parking spaces meet the statutory car parking requirement under Clause 52.06. In addition, no concerns regarding traffic disturbance and traffic safety were raised by Council’s Traffic Engineers.

### 5.4. Street tree

It is noted the existing street tree at Locke Street is to be retained. The condition as recommended by the Street Tree Arborist will be imposed as permit condition to ensure no soil excavation within the SRZ (structural root zone) which is 2.6m of the Acmena smithii (lilly pilly) street tree measured from the edge of the trunk.
5.5. **Vegetation & Landscaping**

The proposal has been referred to Council’s Arborist who has notes that the two trees along the southern common property with 1 Primrose Crescent are unlikely to be impacted by the proposed development given the proposed setback. A condition will be imposed on the permit that a qualified arborist report is provided to ensure protection of the trees during construction.

The applicant did not include a Landscape Plan with the application. As noted earlier in the report, there is opportunities on the site and around the proposed dwelling to provide landscaping that will complement and contribute to the landscape character of the neighbourhood. Council’s Arborist has recommended the submission of a landscape plan. The landscape plan must include the provision of canopy tree planting. A condition has been included in the recommendation to this effect.

5.6. **Objections received**

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

**Noise impacts from the proposed air conditioning equipment**

There is not expected to be any sources of noise that will result in anything louder than what is typically expected of a residential development of this scale. A condition has been included in the recommendation requiring the location of mechanical plant be shown and located away from the habitable room windows of adjoining properties.

**Support Attachments**

1. Development Plans
2. Site and Surrounds Imagery
3. Neighbourhood Character Assessment
4. Clause 55 Assessment
3 PRIMROSE CRES. BRIGHTON EAST

- TP - 01 COVER PAGE
- TP - 02 SITE AREA ANALYSIS
- TP - 03 SITE PLAN GROUND FLOOR
- TP - 04 SITE PLAN FIRST FLOOR / DESIGN RESPONSE
- TP - 05 ELEVATIONS
- TP - 06 SHADOW DIAGRAM - 9AM
- TP - 07 SHADOW DIAGRAM - 3PM
- TP - 08 CHECK SURVEY
- TP - 09 SHADOW DIAGRAM (PREVIOUS PLAN OVERLAID ON PROPOSED)
- TP - 10 SITE PLAN GROUND FLOOR (PREVIOUS PLAN OVERLAID OVER PROPOSED)
- TP - 11 SITE PLAN FIRST FLOOR / DESIGN RESPONSE
- TP - 12 WATER SENSITIVE URBAN DESIGN
- TP - 13 SHADOW DIAGRAM - 10AM
- TP - 14 SHADOW DIAGRAM - 2PM
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

Legend

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

Item 4.7 – Matters of Decision
Figure 2 View towards the site from Primrose Crescent from south
Figure 3 View towards the site from Primrose Crescent from north
Figure 4 View from Locke Street towards subject site
Neighbourhood Character Precinct D1

Preferred Future Character Statement

The dwellings sit within established gardens that contain substantial vegetation including trees. The area retains some dwellings from the Inter war era, along with new complementary development. The spaciousness of the area is maintained by setting buildings back from both side boundaries and keeping front fences low and appropriate to the era of the dwelling. The strong horizontality of the existing dwellings is respected by recessing upper levels of new dwellings, incorporating low pitched roof forms and articulating the front facades.

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 shrubs. • Retain existing large trees wherever possible. • Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td>Lack of landscaping and substantial vegetation Loss of front garden space.</td>
<td>Responds  Comments  The proposal general respond to this design response after imposing the conditions. Sufficient landscaping can be planted on site.</td>
</tr>
<tr>
<td>To maintain a 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  Comments  The proposal general respond to this design response. The appearance of space between buildings are achieved by imposing the side setback requirements.</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. • Minimise paving in front garden areas including driveways and crossovers.</td>
<td>Car parking structures that dominate the façade or view of the dwelling. Front setbacks dominated by impervious surfaces.</td>
<td>Responds  Comments  No front garden at Primrose Crescent will be reduced by this proposal.</td>
</tr>
<tr>
<td>To ensure that buildings respect the low scale, horizontal forms of the area.</td>
<td>• Recess two storey elements from the front façade.</td>
<td></td>
<td>Responds  Comments</td>
</tr>
</tbody>
</table>

Item 4.7 – Matters of Decision
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To ensure that new dwellings present an interesting façade to the streetscape.</td>
<td>• Incorporate low pitched roof forms with eaves.</td>
<td></td>
<td>The proposal is hardly to be visible from the Primrose Crescent. Pitched roof forms with eaves have been incorporated into the design.</td>
</tr>
</tbody>
</table>
| | | | **Responds**
| | | **Comments**
| | | The proposal has adopted a different materials and articulated wall surfaces to ensure the visual interest of any walls. |
| To respect the identified heritage qualities of adjoining buildings. | • 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. | Large, bulky buildings with poorly articulated front and side wall surfaces. | **Responds**
| | | **Comments**
| | | No heritage overlay applies to the subject site or adjoining properties. |
| To reflect the building materials in locations where there is particular consistency. | • Where consistent brick colours are used in the streetscape, use similar toning in the colours of new buildings. • Use simple building details without replication of older styles. | Brightly coloured external building materials in areas of consistent brick materials. | **Responds**
| | | **Comments**
| | | The proposed material and colours are generally compatible with the existing neighbourhood character and it will be further assessed when the materials and colour schedule is provided. |
| To maintain the openness of the streetscape. | • Front fence style should be open and appropriate to the building era. | High front fencing. | **Responds**
| | | **Comments**
| | | No front fence is proposed. |
### Attachment 3

**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. 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 one additional dwelling.</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>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly identifiable from either the Primrose Crescent or the Locke Street streetscape.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>N/a</td>
<td>The existing dwelling fronting the Primrose Crescent is retained.</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>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
</tr>
<tr>
<td>B7 Building Height</td>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td>Yes</td>
</tr>
<tr>
<td>B8 Site Coverage</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>No</td>
</tr>
<tr>
<td>B9 Permeability</td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
</tr>
<tr>
<td>B10 Energy Efficiency</td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>Yes</td>
</tr>
<tr>
<td>B11 Open Space</td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>N/A</td>
</tr>
<tr>
<td>B12 Safety</td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Yes</td>
</tr>
<tr>
<td>B13 Landscaping</td>
<td>To provide appropriate landscaping. To encourage: Development that respects the landscape character of the neighbourhood. Development that maintains and enhances habitat for plants and animals in locations of habitat importance. The retention of mature vegetation on the site.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
### B14 Access
Ensure the safe, manageable and convenient vehicle access to and from the development.
Ensure the number and design of vehicle crossovers respects neighbourhood character.

<table>
<thead>
<tr>
<th></th>
<th>N/a</th>
<th>The proposed crossover will off Locke Street which is the rear street.</th>
</tr>
</thead>
</table>

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

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

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

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

<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>2m</td>
<td>1.2m</td>
</tr>
<tr>
<td>South (side)</td>
<td>2m</td>
<td>1.2m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>3m</td>
<td>4.003m</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th></th>
<th>N/a</th>
<th>No proposed wall on boundaries.</th>
</tr>
</thead>
</table>

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

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No existing window will be compromised by the proposal.</th>
</tr>
</thead>
</table>

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

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No north facing windows on adjoining properties are affected.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
</tr>
<tr>
<td>B21</td>
<td>Overshadowing Open Space</td>
<td>Yes</td>
</tr>
<tr>
<td>B22</td>
<td>Overlooking</td>
<td>No</td>
</tr>
<tr>
<td>B23</td>
<td>Internal Views</td>
<td>No</td>
</tr>
<tr>
<td>B24</td>
<td>Noise Impacts</td>
<td>Yes</td>
</tr>
<tr>
<td>B25</td>
<td>Accessibility</td>
<td>Yes</td>
</tr>
<tr>
<td>B26</td>
<td>Dwelling Entry</td>
<td>Yes</td>
</tr>
<tr>
<td>B27</td>
<td>Daylight to New Windows</td>
<td>Yes</td>
</tr>
<tr>
<td>B28</td>
<td>Private Open Space</td>
<td>Yes</td>
</tr>
<tr>
<td>B29</td>
<td>Solar Access to Open Space</td>
<td>Yes</td>
</tr>
</tbody>
</table>
### B30 Storage
Provide adequate storage facilities for each dwelling.

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>B30 Storage</td>
<td>Yes</td>
<td>A storage shed of 6m³ in size is provided in the rear open space of each dwelling.</td>
</tr>
</tbody>
</table>

### B31 Design Detail
Encourage design detail that respects the existing or preferred neighbourhood character.

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>B31 Design Detail</td>
<td>Yes</td>
<td>Refer Attachment 2.</td>
</tr>
</tbody>
</table>

### B32 Front Fences
Encourage front fence design that respects the existing or preferred neighbourhood character.

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Details</th>
</tr>
</thead>
</table>
| B32 Front Fences | N/A | Required: 1.2m  
Proposed: n/a |

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>B33 Common Property</td>
<td>N/A</td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>B34 Site Services</td>
<td>No</td>
<td>Site services will be conditioned as part of the permit.</td>
</tr>
</tbody>
</table>
1. Purpose and background

To report a planning permit application for the construction of a three storey building, comprising 17 apartments, and a front fence greater than 1.5 metres in height across two lots with a combined area of 1,133 square metres in the Design and Development Overlay 12 (refer Attachment 1) at 23 – 25 Crisp Street, Hampton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Archer Developments Pty Ltd c- Urbis Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>16 November 2016 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>6 February 2017</td>
</tr>
</tbody>
</table>

2. Policy implications

Planning permit requirements

Clause 32.08-6 (General Residential Zone) – Construction of two or more dwellings on a lot.

Clause 32.08-6 (General Residential Zone) – Construction of a front fence within 3 metres of a street exceeding 1.5 meters in height.

Clause 43.02-2 (Design and Development Overlay Schedule 12) – Construct a building or construct or carry out works not otherwise exempt.

Planning scheme amendments

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

Planning Scheme Amendment C153 proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process concluded on 16 January 2017 and Council has requested the Minister for Planning to appoint an independent Planning Panel to consider submissions received. A Panel hearing is expected to occur later in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be 'seriously entertained' and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and adopted. As such, there is no statutory weight which can be given to Amendment C153. It is noted that the subject site is not within the SBO area and is not proposed to be included in the SBO area.

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

External referrals

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

Internal referrals

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

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

Public notification

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

- Overlooking;
- Visual bulk;
- Noise (air con, exhaust fans);
- Street, side and rear setbacks;
- Removal of trees;
- Landscaping;
- Equitable development;
- Infrastructure;
- Traffic;
- Parking (& car stackers);
- Construction impacts;
- Overdevelopment;
- Neighbourhood character;
- Better Apartment Design Standards;
- Quality of accommodation/ apartment quality;
- ResCode standard non-compliance; and
- Demographics of future residents.

Consultation

A drop-in consultation session was held on 15 March 2016 attended by the permit applicant and objectors. As a result of this meeting no objections were withdrawn. The applicant has since suggested a number of conditions in response to concerns raised by objectors.
4. Recommendation

That Council:

Issues a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning Application 2016/497/1** for the land known and described as **23-25 Crisp Street, Hampton**, for the **construction of a three storey building, comprising 17 apartments, and a front fence greater than 1.5 metres in height** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. **Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority.** When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the amended plans (Drawing No. TP-100 to TP-104, TP400 to TP402 all dated October 2016 and LA01 to LA04 dated 4/11/2016) but modified to show:
   a) Compliance with Standard B17 in relation to the eastern boundary of No.18 Deakin Street North.
   b) Details of acoustic screening surrounding the designated plant and exhaust riser area located at roof level.
   c) The redundant crossover to be removed and the kerb and channel and nature strip reinstated;
   d) Sightlines for where the basement ramp meets the crossover in accordance with AS2890.1;
   e) A Landscape Plan in accordance with Condition 9 of this permit; and
   f) A Tree Management Plan in accordance with Condition 12 of this permit.

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

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

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

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

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

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 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.**

8. **The water sensitive urban design stormwater treatment system as detailed in the Sustainable Design Assessment report, prepared by Energy Water Environment**
(Dated 2/11/2016) 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 and tree protection**

9. Prior to the endorsement of plans pursuant to Condition 1 of this permit, 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 (Drawing No.LA-01 to LA-04, dated 4/11/2016) and be drawn to scale with dimensions and three copies must be provided. The plan must show:

   a) Two indigenous coastal canopy trees capable of reaching a height and spread of 10 and 6 at maturity located in the front setback of the development.
   
   b) Native Rosemary (*Westringia Fruticosa*) adjacent to the subject sites boundary with No.18 Deakin Street and No.2/27 Crisp Street to be replaced with evergreen screening vegetation to the satisfaction of the Responsible Authority.

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

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

12. Prior to the endorsement of plans pursuant to Condition 1 of this permit, 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 T3, T4, T15 (identified in the Arboricultural Assessment and Tree Preservation Strategy prepared by McLeod Trees dated 23/9/2016) remain viable post-construction. Stages of development at which inspections are required to ensure tree protection measures are adhered to must be specified.

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

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

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

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

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

**Construction Management Plan**

15. Before the development starts, a construction Management Plan (CMP) must be
prepared by a suitably qualified person, to the satisfaction of, and submitted to and approved by, the Responsible Authority. The CMP must include operational and site management details including but not limited to:

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

b) 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.

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

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

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

f) 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.

g) Site security.

h) Public safety measures.

i) Construction times, noise and vibration controls.

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

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

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

m) 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.


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

p) Hoarding details, if any.

q) Details of crane activities, if any.

**Drainage**

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

17. Before the development starts, 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. The proposed diversion of the existing 225mm diameter Council drainage pipe running through 25 Crisp Street is to be constructed in accordance with Bayside
City Council standard drawings and specifications. The proposal will require consent from the Responsible Authority. The proposal will also require a new 2m easement to be implemented along with the proposed stormwater pipelines.

**Permit Expiry**

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

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

**Permit Notes**

- This permit does not constitute any authority to carry out any building works, works to public property or occupy the building or part of the building unless all relevant building and asset protection permits are obtained. The applicant is to bear the cost to remove and reinstate any street furniture or infrastructure items to provide the required access to the proposed development.
- Before any Asset Protection Permit is issued by Council, the applicant must pay $7,311.93 to the Responsible Authority for the removal and replacement of the Eucalyptus cinerea street tree. This amount has been determined in accordance with Council’s current policy for the removal of street trees. This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by the Responsible Authority, must undertake the removal and replacement of the street tree. Any replacement planting will be at the discretion of the Responsible Authority.
- 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 that there is a council storm-water drain running through 25 Crisp Street. Council consider these assets to be protected by an implied easement. The plans indicate no proposals to encroach into the implied easement with any buildings or structures of note. Proposals to be built over the easement will require Build Over Easement consent from the Responsible Authority/Authorities.

5. **Council Policy**

**Council Plan 2013-2017**

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
6. Considerations

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

6.1. Strategic justification

The site fronts Crisp Street and is located within the Hampton Street Major Activity Centre. The preferred future role of the Hampton Street Major Activity Centre has been developed in the Hampton Structure Plan, the Bayside Housing Strategy 2012 and the Retail, Commercial and Employment Strategy 2016. Clause 21.11-4 and the Design and Development Overlay 12 implements the preferred future role of Hampton Street in the Bayside Planning Scheme.

Clause 21.11-4 provides a series of objectives and strategies that are relevant in the development of the Hampton Street Major Activity Centre. The site is located within the residential precinct of the activity centre. The policy framework as it applies to the site seeks to provide for increased housing densities and diversity of housing types within the centre, directing larger developments to larger sites nearby business precincts, and provide adequate off-street parking for all dwellings. The strategic direction that focuses development in Hampton Major Activity Centre seeks to take advantage of the excellent public transport and range of services provided in Hampton. The proposal is considered to generally accord with this policy direction.

Planning Scheme Amendment C150 seeks to implement the Retail, Commercial and Employment Strategy 2016 (RCE Strategy), which outlines the overall direction for Bayside’s commercial areas. The amendment proposes to include the RCE Strategy as a reference document and ensure the activity centre hierarchy responds to each centres economic role and function. The amendment would reclassify Hampton Street as a Large Neighbourhood Activity Centre. Of relevance to this application are objectives that broadly seek to encourage residential development in the residential precincts. The proposal is considered to be generally consistent with amendment C150 and the strategic direction of the RCE Strategy.

Given all of the above, the state and local policy context is considered to support an increased density of residential development on the site. The bulk, massing and interfaces to residential zoned land is assessed in the ‘DDO12’ section of the report.
6.2. **Design and Development Overlay (DDO12)**

The Design and Development Overlay 12 (DDO12) implements the Hampton Street Centre Final Structure Plan 2006 in the Bayside Planning Scheme. The site’s location within the Major Activity Centre and the objectives of the DDO12 clearly anticipate a departure from the existing 1-2 storey scale of the precinct and the introduction of more intense development in the order of three storey residential development.

To conserve and enhance the valued urban character of the centre, a range of design requirements, including building setbacks and heights, are outlined in the DDO12. The provisions of the DDO12 are generally discretionary to allow for flexible design responses; however the controls should only be varied where a development provides an exemplary response to the site and surrounds. It is noted the height control in this precinct is mandatory and no permit may be granted that exceeds the height control. The Victorian Civil and Administrative Tribunal (VCAT) in GVE Hampton Pty Ltd v Bayside CC [2014] VCAT 908 commented:

“DDO12 expressly allows variations to the requirements of the schedule, including preferred building height. However, an application to vary the requirements must, amongst other things, include an assessment of how any variation ‘assists in achieving the design objectives and built form outcomes to be achieved for the proposal’ as specified in the schedule. An application must also demonstrate that the proposal will achieve six listed outcomes, ‘as appropriate’ and ‘identify (where relevant) whether the site has any particular characteristics or features that warrant the variation and an alternative design response.”

Variations to the discretionary requirements of the DDO12 must demonstrate that the proposal will achieve the following outcomes (as appropriate):

- A high standard of architectural design;
- Innovative environmental design;
- Minimal overshadowing of adjoining streets, public spaces and residential properties;
- Minimal impact on the amenity of adjoining residential precincts;
- Respect for places subject to the Heritage Overlay;
- Transition in scale to lower building forms.

**Building Height**

<table>
<thead>
<tr>
<th>Maximum building height</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>11 metres/ three storeys</td>
<td>9.69 metres/ three storeys</td>
</tr>
</tbody>
</table>

DDO12 provides a range of building heights in metres and storeys specified for the built form precinct identified in the Hampton Activity Centre. The building height controls are expressed as preferred and maximum building heights. Development must not exceed the maximum heights and should not exceed the preferred building height. The site is located within Built Form Precinct E which has a maximum building height of 11 metres and three storeys where the site does not feature a significant slope. The proposal comfortably complies with this mandatory height control at 9.69 metres and three storeys.

**Building Setbacks**

Pursuant to the design requirements of the DDO12, the proposal should be setback in accordance with the relevant standards of Clause 55, except that the second floor should be setback a minimum of 4 metres behind the front wall of the floor immediately below, unless the second floor is an attic. In addition, design responses including recessed
upper most levels and attic style development are encouraged.

**Street Setback (Standard B6)**

The proposal varies the street setback standard in Clause 55 (ResCode) of the Bayside Planning Scheme as outlined in the table below. Applications may vary the standards of Clause 55 but must achieve the objectives of all standards. The objective of the standard is to ensure the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.

<table>
<thead>
<tr>
<th>Required street setback</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>7.366m</td>
<td>4.145m</td>
<td>3.221m</td>
</tr>
</tbody>
</table>

The required street setback is calculated as the average of the setback for No.21 and No.1/27 Crisp Street (5.146 metres and 9.586 metres respectively). There are a range of street setbacks evident in the vicinity. It is noted the existing site features a detached garage built on the front boundary and a detached carport setback 800mm from the front boundary.

The proposal would be setback from both side boundaries and would step back away from the street at ground and first floor adjacent to the side boundaries. This provides for a graduated transition to the street setbacks of the two adjacent properties. The proposal would be further separated from the dwelling at No.1/27 by the existing driveway at the property which further obscures the change in setback as viewed from the street. The proposal presents an articulated frontage to the street with a number of recessed and projecting elements. In this context the proposed street setback is considered to sit comfortably in the street scene.

**Upper Level Setbacks**

The proposal varies the upper level setback specified in the design requirements of DDO12 as outlined in the table below. This is a discretionary requirement.

<table>
<thead>
<tr>
<th>Required upper level setback</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>4m</td>
<td>3.06m and 3.21m</td>
<td>0.94m and 0.79m</td>
</tr>
</tbody>
</table>

The second floor level of the proposal would be setback 3.06 and 3.21 metres from the first floor level below. The second floor level would also be set in from the first floor level from both sides. The proposed second floor level would feature a flat roof behind a small parapet and would be clad in grey metal standing seam cladding. This would contrast with the more robust light grey concrete render and brick of the lower levels. In this context the proposal is considered to appropriately respond to the objective of a recessed upper level as viewed from the street.

In addition, the proposal is considered to represent a well resolved design and shadow diagrams submitted in support of the application demonstrate the proposal would cause minimal overshadowing of the street and neighbouring properties. The variation of the second floor street setback would not impact on the amenity of neighbouring properties and the proposal would not impact on any surrounding heritage overlays. As such the proposal is considered to meet the test to vary the discretionary upper level setback requirement in the DDO12.

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

The application proposes to vary the side setbacks in Clause 55 (ResCode) of the Bayside Planning Scheme as outlined the table below. Applications may vary the standards of Clause 55 but must achieve the objectives of all standards. The proposed variations are bold and underlined. The purpose of the standard 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.
The balustrade above Unit 1.01 would vary the setback standard by 235mm in relation to the western boundary adjacent to No.21 Crisp Street. This element of the proposal is adjacent to the single storey garage built to the boundary at No.21 Crisp Street. The habitable room windows at the property do not directly face this element of the proposal and the secluded private open space at the neighbouring property is not oriented towards

<table>
<thead>
<tr>
<th>Location</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>East (side)</td>
<td>Unit G.05 to G.07</td>
<td>0m or 1m</td>
</tr>
<tr>
<td>West (side)</td>
<td>Unit G.01 to G.05</td>
<td>0m or 1m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>Unit G.04</td>
<td>0m or 1m</td>
</tr>
<tr>
<td></td>
<td>Unit G.05</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Location</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>East (side)</td>
<td>Unit 1.05 to 1.07</td>
<td>1.678m – 1.741m</td>
</tr>
<tr>
<td>West (side)</td>
<td>Unit 1.01 (&amp; balustrade above)</td>
<td>2.45m</td>
</tr>
<tr>
<td></td>
<td>Unit 1.02</td>
<td>1.81m</td>
</tr>
<tr>
<td></td>
<td>Unit 1.03</td>
<td>1.84m</td>
</tr>
<tr>
<td></td>
<td>Unit 1.04</td>
<td>2.39m</td>
</tr>
<tr>
<td></td>
<td>Unit 1.05 (&amp; balustrade above)</td>
<td>2.31m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>Unit 1.04 (&amp; balustrade above)</td>
<td>2.19m – 2.29m</td>
</tr>
<tr>
<td></td>
<td>Unit 1.05</td>
<td>1.72m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Location</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>East (side)</td>
<td>Unit 2.01 &amp; 2.03</td>
<td>4.25m – 4.46m (north to south)</td>
</tr>
<tr>
<td></td>
<td>Unit 2.03 dining room</td>
<td>4.29m</td>
</tr>
<tr>
<td></td>
<td>Unit 2.01 &amp; 2.03 balustrade</td>
<td>2.05m – 2.26m (north to south)</td>
</tr>
<tr>
<td>West (side)</td>
<td>Unit 2.01 &amp; 2.02 (Bed 1 &amp; 2)</td>
<td>4.54m – 4.77m (north to south)</td>
</tr>
<tr>
<td></td>
<td>Unit 2.02 (Bed 3 + Living/Dining)</td>
<td>4.92m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>Unit 2.03</td>
<td>4.51m</td>
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<tr>
<td></td>
<td>Unit 2.02 living/dining</td>
<td>4.514m</td>
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<td></td>
<td>Unit 2.03 rear balustrade</td>
<td>2.19m</td>
</tr>
<tr>
<td></td>
<td>Unit 2.03 bedroom 1</td>
<td>4.514m</td>
</tr>
</tbody>
</table>
the proposed variation. The proposed variation is considered minor in the context of the overall contribution of the development to the streetscape and would not undermine the neighbourhood character of the area.

The balustrade above Unit 1.05 would vary the side setback standard by 350mm in relation to the western boundary adjacent to No.18 Deakin Street North. Unit 2.03 would vary the side setback standard by 355mm in relation to the western boundary adjacent to No.18 Deakin Street North. Due to the shape of the subject site, No.18 Deakin Street North would share two boundaries with the development. The development would wrap around the secluded private open space to the south and east of this neighbouring property.

Unit 2.03 would extend adjacent to the eastern boundary of No.18 Deakin Street North for approximately 5 metres, while the balustrade at this level would extend adjacent to the boundary of this property for 10 metres. The overshadowing diagrams submitted in support of the application demonstrate that overshadowing in relation to this neighbouring property would remain within acceptable perimeters. As the private open space of No.18 Deakin Street North and the open space shares two boundaries with the development, the height and proximity of the proposal particularly in relation to the eastern boundary of this neighbouring property is considered to have an unreasonable visual bulk impact on this neighbouring property. A condition of approval is recommended to require the proposal to comply with the setback controls in relation to the eastern boundary of this neighbouring property.

Units 2.01 and 2.03 would vary the side setback standard by between 245mm to 440mm in relation to the eastern boundary adjacent to No.1/27 and 2/27 Crisp Street. The subject site shares the eastern boundary with No.1/27 and 2/27 Crisp Street, both single storey detached dwellings. The subject site would be adjacent to a driveway located on this neighbouring property for the majority of its length. Neither dwellings on this neighbouring property have habitable room windows that face the development. Both dwellings have areas of secluded private open space that are sufficiently setback from the proposal to avoid any unreasonable visual bulk impacts. The shadow diagrams submitted in support of the application demonstrate the overshadowing of this private open space remains within acceptable perimeters. The extent of the variation along the eastern boundary at second floor level as visible from the street would not significantly impact on the neighbourhood character of the area. Given the above and subject to the recommended conditions of approval, the proposal is considered to achieve the objective of this standard.

In conclusion, the proposal would comply with the maximum height limit specified by the DDO12; however it would vary the upper level setback discretionary requirement. The proposal is considered to achieve the test for varying this standard. The proposal would also vary the Clause 55 street setback standard and would vary some of the Clause 55 side setback standards. Subject to a condition of approval in relation to the setbacks from No.18 Deakin Street North, the proposal is considered to achieve the objective of both of these standards.

6.3. Neighbourhood character

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

- The neighbourhood character precinct includes a large area with sub-precincts that are both within and outside the major activity centre.
- Clause 22.06 encourages development to respond to the prevailing neighbourhood character, but that is not the intent of other parts of the scheme that apply to land within the major activity centre.

- Clause 22.06 is a local policy. It is not a mandatory or prescriptive control. With respect to the exercise of discretion, the policy itself acknowledges that it is relevant to take into account “the extent to which the characteristics of the built and natural environment in the immediate vicinity may determine a preferred future character that is different from that applying to the remainder of the precinct in which the site is located.”

In addition there has been more recent VCAT commentary in relation to state wide changes to the purpose of the General Residential Zone under State Amendment VC110, which deleted the word “moderate” in relation to housing growth and removed the reference to “implementing neighbourhood character policy and adopted neighbourhood character guidelines”. In particular, Bside six Pty Ltd v Bayside Cc [2017] VCAT 625 considered the amendment has weakened the relevance of the preferred neighbourhood character precinct guidelines in Clause 22.06 in relation to a site within the General Residential Zone 2 and the DDO8 (Sandringham Major Activity Centre).

The site is located within Neighbourhood Character Precinct F1 and the proposal is considered to demonstrate a reasonable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 2. Given the location within the Hampton Street Major Activity Centre and DDO12, and the proposals general level of compliance with the strategic direction of these provisions, it is considered appropriate to apply the discretion envisaged by Clause 22.06-3 in this instance. As such only limited weight should be given to the proposals departure from the preferred future character of precinct F1.

6.4. 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:

Street setback (Standard B6)
Refer to the discussion in the DDO12 section of this report.

Side and rear setbacks (Standard B17)
Refer to the discussion in the DDO12 section of this report.

Overlooking (Standard B22)

All ground and first floor windows and balconies are appropriately treated in accordance with the standard where they are within 9 metres of habitable room windows or secluded private open space of neighbouring properties. The side and rear boundaries feature paling fencing to a minimum of 1.8 metres in height and first floor windows and balconies are screened or have sill heights at 1.7 metres above finished floor level.

The second floor windows and balconies within 9 metres of neighbouring secluded private open space or habitable room windows are treated with either screening or planters to the perimeter of balconies. The screening is proposed to 1.7 metres in height and would prohibit horizontal or downward views. The planters are 1.1 metres in height above the finished floor level and are 1 metre in depth. It is noted a number of objectors have raised concerns with the use of planters to screen overlooking of their rear private open space. The planters comply with Standard B22 as they prohibit views from 1.7 metres above finished floor level downwards to ground level within 9 metres measured on a horizontal angle. Council does not have the discretion to apply screening measures over and above the ResCode standard. The proposal is considered to comply with the B22 overlooking objective and standard.
Private open space (Standard B28)

<table>
<thead>
<tr>
<th>Unit</th>
<th>Total Private Open Space Provided</th>
<th>POS with minimum dimension of 3 metres</th>
<th>Proposed variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit G.02</td>
<td>23m² courtyard</td>
<td>14.7m²</td>
<td>10.3m²</td>
</tr>
<tr>
<td>Unit G.03</td>
<td>30m² courtyard</td>
<td>14.7m²</td>
<td>10.3m²</td>
</tr>
<tr>
<td>Unit G.06</td>
<td>31m² courtyard</td>
<td>0m²</td>
<td>25m²</td>
</tr>
<tr>
<td>Unit 1.01</td>
<td>14m² balcony</td>
<td>6.4m²</td>
<td>1.6m²</td>
</tr>
</tbody>
</table>

Four of the 17 proposed units would vary the private open space control. It is noted the remaining 13 units would all achieve the standard with a number of the upper floor units significantly exceeding the minimum. The objective of the standard is to provide adequate private open space for the reasonable recreation and services needs of residents.

While Units G.01, G.02 and G.06 do propose to vary the private open space (POS) standard, it is acknowledged this is because the POS provided has a minimum dimension of 2.4, 2.45 and 2.9 metres respectively in lieu of the 3 metre standard. It is acknowledged all three units are two bedroom, which would generally be expected to have a lesser requirement for POS than a larger unit suitable for families. The POS is accessed directly from the living spaces of the units and is considered to be a usable space capable of meeting the reasonable recreation and service needs of future residents.

Unit 1.01 would vary the POS standard by 1.6m². The POS is accessed directly from the living space of the unit and provides a good aspect to the south and west. Again it is acknowledged the unit is two bedroom which would generally be expected to have a lesser requirement for POS than a larger unit suitable for families. Given the minor nature of the non-compliance and as the POS provides a reasonable level of amenity for the unit, the variation is considered to meet the recreation and service needs of future residents. The proposal is considered to achieve the objective of the standard.

Front fences (Standard B32)

<table>
<thead>
<tr>
<th>Maximum</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.5 metres</td>
<td>1.8 metres</td>
</tr>
</tbody>
</table>

A timber paling fence with concrete rendered piers is proposed to a height of 1.8 metres to the sites frontage. The objective of the standard is to encourage front fence design that respects the existing or preferred neighbourhood character.

The immediate surrounds of the proposal site features a range of front fence styles and heights. This is typified by the low brick wall to the frontage of No.1/27 Crisp Street that provides an openness to the streetscape and the 1.8 metre close boarded fence at No.21 Crisp Street that precludes any visual connection between the front garden and the street. In this context the proposed front fence is considered to respond to the existing character of the area balanced against the reasonable expectation of privacy for the private open space of future residents. The proposal is considered to achieve the objective of this standard.

6.5. Car parking and traffic

Pursuant to Clause 52.06-5, one car parking space is required for each one-two bedroom unit and two spaces for each three or more bedroom unit. In addition, 1 visitor parking space is required for every five residential units.
The proposal comprises 12 x two bedroom units and 5 x three bedroom units and provides 22 residents’ car parks and 3 visitor spaces which achieves compliance with Clause 52.06-5. While 16 of the car spaces are provided via car stackers, this is an accepted method of parking provision across Victoria. It is noted the visitor parking is not provided via car stackers.

Council’s Traffic Engineer has reviewed the application and has requested a number of minor matters be resolved via conditions of approval. Conditions of approval are recommended. A Transport Impact Assessment prepared by GTA Consultants (dated 25/10/2016) has been submitted in support of the application; however the assessment is brief and does not reference the specific context of the site. Despite the brevity of the report, it is considered that the level of increased traffic generated by the proposed development will not adversely impact the local road network and Council’s Traffic Engineer has raised no objection in this regard.

6.6. Street tree removal

A *Eucalyptus cinerea* (Silver Dollar Gum) is located in the nature strip fronting No.25 Crisp Street. Council’s Open Space Arborist has reviewed the application and advises a 2.7 metre setback of the proposed crossover would be required from the street trees stem at ground level to ensure the continued health and longevity of the asset. The tree’s shape and structure are a result of continual pruning to maintain clearance for the overhead powerlines. Council’s Open Space Arborist has advised the tree is suitable for removal subject to a road opening permit and has indicated a cost the applicant would be required to cover for the trees removal and replacement. This figure is included as a permit note in the recommendation.

6.7. Vegetation & Landscaping

The application proposes to remove all existing vegetation across the site. A landscape plan has been submitted in support of the application that proposes planting across ground, first and second floor level, including canopy trees. The basement level has been setback from all boundaries which ensures sufficient soil volume is maintained to accommodate a meaningful level of planting across the site.

The application proposes to remove 2 x James Stirling Pittosporum (*Pittosporum tenuifolium*), 1 x Queens Palm (*Syagrus romanzoffiana*), 1 x Crepe Myrtle (*Lagerstroemia indica*), 1 x Japanese Maple (*Acer palmatum*), 1 x Cape Wattle (*Paraserianthes lopanthera*), 1 x Holly (*Llex comuta*), 1 x Liquidamber (*Liquidamber styraciflua*), 1 x Norfolk Island Hibiscus (*Lagunaria patersonia*), 1 x Cotoneaster (*Cotoneaster frigidus*), and an Elm (*Ulmus sp.*).

Council’s Arborist has reviewed the application and advises that with the exception of the Liquidamber, the above trees have only moderate retention values and their removal is acceptable subject to suitable replacement canopy tree planting. The Liquidamber at the rear of No.25 Crisp Street is visible from the street and Council’s Arborist advises the tree is in good health. The trees retention would accord with the design responses of the Neighbourhood Character Precinct F1. As discussed in section 6.3 of this report, the recent State Government initiated amendments to the purpose of the General Residential Zone has reduced the weight afforded to neighbourhood character. In addition, the site is located within the residential precinct of Hampton Street Major Activity Centre. As discussed in section 6.1 of this report, the strategic direction of this area seeks increased housing density and diversity. In this context, the removal of the Liquidamber is considered appropriate subject to suitable indigenous coastal canopy planting. The retention of this tree would require a re-design of the development and would likely delete three dwellings.

A landscape plan has been submitted in support of the application that details planting across the site including canopy trees, shrubs and ground cover. Council’s Arborist has reviewed the proposal and requests the addition of two indigenous coastal canopy trees.
in the front setback of the development with the capacity to reach 10 x 6 metres in height and spread at maturity. This would be consistent with the design responses of the neighbourhood character precinct F1. There is sufficient soil volume at the front of the site to accommodate these canopy trees. A condition of approval is recommended to reflect the above.

A number of planters are proposed on the apartment balconies. Details of in-ground irrigation for the planters has been submitted in support of the application. A condition of approval is recommended to ensure the continued maintenance of these planters to the satisfaction of the Responsible Authority.

A number of objectors raised concerns with the extent of screening vegetation proposed around the development, particularly at the rear of the site. These concerns were again raised at the drop in consultation session held on the 15 March. The applicant has suggested increasing the extent of screening planting in response to the objectors concerns. A condition of approval is recommended for the Native Rosemary (*Westringia Fruticosa*) adjacent to the sites boundary with No.18 Deakin Street and No.2/27 Crisp Street to be replaced with screening evergreen vegetation to the satisfaction of the Responsible Authority.

An Arborist report has been submitted in support of the application; however Council’s Arborist has advised it only provides generic advice that does not adequately address the specific impacts associated with the proposal, in particular the excavation of the basement. A condition of approval is recommended to require an updated Arborist report that specifically addresses the management and protection of all trees to be retained.

It is noted the Arborist report submitted in support of the application incorrectly identifies T15 in the rear garden of No.18 Deakin Street North. This is a duplicate of T15 which is identified in the rear garden of No.20 Deakin Street North. Officers have inspected the rear garden of No.18 Deakin Street North and can confirm that while there are some small shrubs and trees at the rear of the property, the row of *Olea europaea* (Olive) referred to as T15 in the arborist report is not located on this property.

6.8. **Objections received**

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

**Noise**

The development plans indicate an area on the roof adjacent to the lift core for the plant equipment and basement exhaust for the site. The applicant has suggested a condition requiring the installation of acoustic screening surrounding the plant area located on the roof in response to concerns raised by objectors. A condition of approval is recommended to reflect this.

**Equitable development**

Concerns have been raised in regards to the equitable development of surrounding properties. It is acknowledged the site is located within the Hampton Street Major Activity Centre and the redevelopment of any surrounding sites to the order of the development proposed could occur. The proposal is not considered to jeopardise the orderly planning or future development of any surrounding properties.

**Construction impacts**

Objectors have raised a number of concerns relating to the construction period of the development including traffic impacts. A condition of approval is recommended to require a construction management plan prior to the endorsement of plans. It is noted the development would be required to comply with all relevant work safe guidelines and Australian Standards.
Better Apartment Design Standards/ Quality of accommodation

The Better Apartment Design Standards only apply to development in the General Residential Zone where the development reaches five storeys or above. Given only three storeys is proposed the provisions of Clause 55 (ResCode) apply. Officers have undertaken a cursory examination of the proposal against the Better Apartment Design Standards and consider the proposal generally accords with the high level direction of the standards and would provide an acceptable standard of internal amenity for future residents.

Demographics of future residents

An objection has been received on the basis of the future demographics of those that may occupy the development in the future. This is not a planning consideration and will not form part of the assessment of the application.

Support Attachments

1. Development Plans ↓
2. Site Surrounds and Imagery ↓
3. Neighbourhood Character (Precinct F1) Assessment ↓
4. Clause 55 (ResCode) Assessment ↓
Item 4.8 – Matters of Decision
Item 4.8 – Matters of Decision
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>🌟</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>🍊</td>
</tr>
</tbody>
</table>
Figure 2 View of frontage of existing dwelling at No.23 Crisp Street

Figure 3 View of frontage of existing dwelling at No.25 Crisp Street
Figure 4 View of interface between site and No.21 Crisp Street from street

Figure 5 View of interface between site and No.27 Crisp Street from street
Figure 6 View of completed development at No.33 Crisp Street
**ATTACHMENT 3**

**Neighbourhood Character Policy (Precinct F1)**

**Preferred Future Character**

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

**Precinct Guidelines**

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
• Alterations and extensions should retain the front of these dwellings and be appropriate to the building era. | Demolition of dwellings that contribute to the valued character of the Precinct. | Responds  
Both existing villas are detached, single storey clad in weatherboard and feature front gables with rough rendered detailing. Neither property is identified in the Bayside Planning Scheme as featuring particular heritage or neighbourhood character features that warrant protection with an overlay. Both dwellings could be removed without triggering the need for planning permission.  
In this context, the removal of the existing dwellings is considered acceptable subject to a suitably designed and detailed replacement building. |
<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, and enhance the bayside vegetation character.</td>
<td>• Retain established trees and vegetation. &lt;br&gt;• Replace any trees removed with species that will grow to a similar height. &lt;br&gt;• Encourage replanting of indigenous sandbelt vegetation. &lt;br&gt;• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs, and indigenous coastal vegetation.</td>
<td>Lack of landscaping and substantial vegetation. &lt;br&gt;Removal of trees. &lt;br&gt;Planting of environmental weeds.</td>
<td>The proposal would remove all existing vegetation on site. A landscape plan has been prepared in support of the application. This is further discussed in the vegetation and landscape section of the report.</td>
</tr>
<tr>
<td>To ensure the building setbacks reflect the existing spacious visual separation of buildings and contribute to the informality of the dwelling setting.</td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs. &lt;br&gt;• 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>The proposal exceeds the side and rear setback standards at ground floor level; however the basement would limit the soil volume capable of accommodating canopy tree planting. This is further discussed in the vegetation and landscaping section of the report. The mass and siting of the proposal is discussed in the urban design section of the report.</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. &lt;br&gt;• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.</td>
<td>Car parking structures that dominate the façade or view of the dwelling.</td>
<td>The development would provide car parking in the basement with a single entrance from Crisp Street. The parking entrance is set well back from the front façade and would not dominate the appearance of the development from Crisp Street. It is noted there are no particular site constraints that preclude at grade methods of car parking; however with the level of development directed for the subject site in the Design and Development Overlay 12,</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 ensure that new buildings and extensions do not dominate the streetscape.</td>
<td>• Recess second storey elements from the front façade.</td>
<td>High pitched or mansard roof forms with dormer windows.</td>
<td>The second floor level would be setback 3 metres from the front façade of the first floor. The second floor level would utilise a flat roof behind a low parapet and would be clad in dark metal in contrast to the render and brick lower levels.</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, in the new building design.</td>
<td>Large bulky buildings with flat, poorly articulated front wall surfaces.</td>
<td>No immediately adjoining properties have been identified in the Bayside Planning Scheme as featuring heritage characteristics that warrant specific heritage protection via a heritage overlay.</td>
</tr>
<tr>
<td>To reflect the lightness of the streetscape created through the use of a mix of appropriate building materials and finishes.</td>
<td>• Incorporate a variety of timber or other non-masonry wall materials where possible.</td>
<td>Heavy materials and design detailing (eg. Large masonry columns and piers).</td>
<td>The proposal incorporates a range of materials including mid-grey concrete render, light grey brickwork, timber and dark grey metal cladding. While the proposal cannot be described as reflecting the lightness of the streetscape, the variety of materials and finishes in combination with the level of articulation and planting at ground, first and second floor levels would ensure the proposal contributes a good level of visual interest to the street scene.</td>
</tr>
<tr>
<td>To maintain the openness of the streetscape and views to the dwellings.</td>
<td>• Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High, solid front fencing</td>
<td>The proposal would replace the existing fencing with vertical evenly spaced timber posts with concrete piers to 1.8 metres in height. While this would not preclude all views to the front garden space of the development, it could not be said to improve the existing openness of the street scene.</td>
</tr>
<tr>
<td></td>
<td>• Front fence style should be appropriate to the building era.</td>
<td></td>
<td></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>streetscape. Given the proposal would remove the existing garage and carport that block views to the dwellings, the proposal on balance is considered to maintain the existing level of openness to the street of the site.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## ATTACHMENT 3
### ResCode (Clause 55) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Requirement and Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer to report.</td>
</tr>
<tr>
<td>Design respects existing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character or contributes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>to a preferred neighbourhood</td>
<td></td>
<td></td>
</tr>
<tr>
<td>character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development responds to features of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>Refer to ‘Strategic Justification’ section of the report for an assessment of the proposal against the relevant policy context.</td>
</tr>
<tr>
<td>Residential development is consistent</td>
<td></td>
<td></td>
</tr>
<tr>
<td>with housing policies in the SPPF,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>LPPF including the MSS and local</td>
<td></td>
<td></td>
</tr>
<tr>
<td>planning policies.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>Yes</td>
<td>The proposal comprises 12 x two bed and 5 x three bed units. Seven of these units provide all facilities at ground floor level in accordance with the standard. The units also provide a range of sizes and layouts including two bed units ranging from 65-89m² and three bed units ranging from 109-136m²</td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>and types in developments of ten or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></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.</td>
</tr>
<tr>
<td>Provides appropriate utility services</td>
<td></td>
<td></td>
</tr>
<tr>
<td>and infrastructure without overloading</td>
<td></td>
<td></td>
</tr>
<tr>
<td>the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The development is considered to integrate well with the street. The communal pedestrian entrance to the development would be oriented in the centre of the frontage in clear view of the street. In addition the living spaces and balconies of a number of units is orientated toward the street.</td>
</tr>
<tr>
<td>Integrate the layout of development</td>
<td></td>
<td></td>
</tr>
<tr>
<td>with the street</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>No</td>
<td>Required: 7.366m</td>
</tr>
<tr>
<td>The setbacks of buildings from a</td>
<td></td>
<td>Proposed: 4.145m</td>
</tr>
<tr>
<td>street respect the existing or preferred</td>
<td></td>
<td>Refer to report</td>
</tr>
<tr>
<td>neighbourhood character and make</td>
<td></td>
<td></td>
</tr>
<tr>
<td>efficient use of the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Yes</td>
<td>Maximum: 11 metres/three storeys</td>
</tr>
<tr>
<td>Building height should respect the</td>
<td></td>
<td>Proposed: 9.69 metres/ three storeys</td>
</tr>
<tr>
<td>existing or preferred neighbourhood</td>
<td></td>
<td></td>
</tr>
<tr>
<td>character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| B8 Site Coverage | Yes | **Maximum:** 60%  
**Proposed:** 58% |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></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>

| B9 Permeability | Yes | **Minimum:** 20%  
**Proposed:** 26.5% |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B10 Energy Efficiency</th>
<th>Yes</th>
<th>All habitable rooms would be appropriately designed and provided with direct access to natural light and air. 11 of the 17 units are afforded two aspects. All balconies would be appropriately located when the orientation of the site is considered.</th>
</tr>
</thead>
</table>
| Achieve and protect energy efficient dwellings and residential buildings.  
Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy. |

<table>
<thead>
<tr>
<th>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>Yes</th>
<th>The communal dwelling entry is readily visible from the street and upper level private open space and living areas would provide passive surveillance of the street.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Layout to provide safety and security for residents and property.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B13 Landscaping</th>
<th>Yes</th>
<th>The proposal accommodates landscaping opportunities at ground floor level around the site and planters to a number of balconies on the first and second storeys. Refer to report.</th>
</tr>
</thead>
</table>
| To provide appropriate landscaping.  
To encourage:  
- Development that respects the landscape character of the neighbourhood.  
- Development that maintains and enhances habitat for plants and animals in locations of habitat importance.  
- The retention of mature vegetation on the site. |

| B14 Access | Yes | **Maximum:** 33% of street frontage  
**Proposed:** 15.2% |
|------------|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ensure the safe, manageable and convenient vehicle access to and from the development.  
Ensure the number and design of vehicle crossovers respects neighbourhood character. |

<table>
<thead>
<tr>
<th>B15 Parking Location</th>
<th>Yes</th>
<th>Refer to the ‘Parking and traffic’ section of the report for an assessment of the proposed parking provision.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide resident and visitor vehicles with convenient parking.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.

**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.

<table>
<thead>
<tr>
<th>Location</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>East (side)</td>
<td>Unit G.05 to G.07</td>
<td>0m or 1m</td>
</tr>
<tr>
<td>West (side)</td>
<td>Unit G.01 to G.05</td>
<td>0m or 1m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>Unit G.04</td>
<td>0m or 1m</td>
</tr>
<tr>
<td></td>
<td>Unit G.05</td>
<td>0m or 1m</td>
</tr>
</tbody>
</table>

**First floor**

<table>
<thead>
<tr>
<th>Location</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>East (side)</td>
<td>Unit 1.05 to 1.07</td>
<td>1.678m – 1.741m</td>
</tr>
<tr>
<td>West (side)</td>
<td>Unit 1.01 (&amp; balustrade above)</td>
<td>2.45m</td>
</tr>
<tr>
<td></td>
<td>Unit 1.02</td>
<td>1.81m</td>
</tr>
<tr>
<td></td>
<td>Unit 1.03</td>
<td>1.84m</td>
</tr>
<tr>
<td></td>
<td>Unit 1.04</td>
<td>2.39m</td>
</tr>
<tr>
<td></td>
<td>Unit 1.05 (&amp; balustrade above)</td>
<td>2.31m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>Unit 1.04 (&amp; balustrade above)</td>
<td>2.19m – 2.29m</td>
</tr>
<tr>
<td></td>
<td>Unit 1.05</td>
<td>1.72m</td>
</tr>
</tbody>
</table>

**Second Floor**

<table>
<thead>
<tr>
<th>Location</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>East (side)</td>
<td>Unit 2.01 &amp; 2.03</td>
<td>4.25m – 4.46m (north to south)</td>
</tr>
<tr>
<td></td>
<td>Unit 2.03 dining room</td>
<td>4.29m</td>
</tr>
<tr>
<td></td>
<td>Unit 2.01 &amp; 2.03 balustrade</td>
<td>2.05m – 2.26m (north to south)</td>
</tr>
<tr>
<td>West (side)</td>
<td>Unit 2.01</td>
<td>4.54m – 4.77m</td>
</tr>
<tr>
<td></td>
<td>Unit 2.02 (Bed 1 &amp; 2)</td>
<td>4.92m</td>
</tr>
<tr>
<td></td>
<td>Unit 2.03</td>
<td>4.51m</td>
</tr>
<tr>
<td>North</td>
<td>Unit 2.02 living/ dining</td>
<td>4.26m – 4.514m</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Action</td>
</tr>
<tr>
<td>--------------</td>
<td>------------------------------------------------------------------------------</td>
<td>------------</td>
</tr>
<tr>
<td>B18 Walls on Boundaries</td>
<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>N/A</td>
</tr>
<tr>
<td>B19 Daylight to Existing Windows</td>
<td>Allow adequate daylight into existing habitable room windows.</td>
<td>Yes</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>
</tr>
<tr>
<td>B21 Overshadowing Open Space</td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Yes</td>
</tr>
<tr>
<td>B22 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>Yes</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>
</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>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling/residential building.</td>
<td>Yes</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
### B28 Private Open Space

Provide reasonable recreation and service needs of residents by adequate private open space.

<table>
<thead>
<tr>
<th>Unit</th>
<th>Total Private Open Space</th>
<th>POS with minimum dimension</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit G.01</td>
<td>75m² courtyard</td>
<td>55m²</td>
</tr>
<tr>
<td>Unit G.02</td>
<td>23m² courtyard</td>
<td>14.7m²</td>
</tr>
<tr>
<td>Unit G.03</td>
<td>30m² courtyard</td>
<td>14.7m²</td>
</tr>
<tr>
<td>Unit G.04</td>
<td>64m² courtyard</td>
<td>41.6m²</td>
</tr>
<tr>
<td>Unit G.05</td>
<td>106m² courtyard</td>
<td>46.7m²</td>
</tr>
<tr>
<td>Unit G.06</td>
<td>31m² courtyard</td>
<td>0m²</td>
</tr>
<tr>
<td>Unit G.07</td>
<td>45m² courtyard</td>
<td>25m²</td>
</tr>
<tr>
<td>Unit 1.01</td>
<td>14m² balcony</td>
<td>6.4m²</td>
</tr>
<tr>
<td>Unit 1.02</td>
<td>8m² balcony</td>
<td>8m²</td>
</tr>
<tr>
<td>Unit 1.03</td>
<td>9m² balcony</td>
<td>9m²</td>
</tr>
<tr>
<td>Unit 1.04</td>
<td>11m² balcony</td>
<td>11m²</td>
</tr>
<tr>
<td>Unit 1.05</td>
<td>13m² balcony</td>
<td>9m²</td>
</tr>
<tr>
<td>Unit 1.06</td>
<td>10m² balcony</td>
<td>10m²</td>
</tr>
<tr>
<td>Unit 1.07</td>
<td>17m² balcony</td>
<td>11.3m²</td>
</tr>
<tr>
<td>Unit 2.01</td>
<td>88m² balcony</td>
<td>25m²</td>
</tr>
<tr>
<td>Unit 2.02</td>
<td>44m² balcony</td>
<td>11.3m²</td>
</tr>
<tr>
<td>Unit 2.03</td>
<td>92m² balcony</td>
<td>33.9m²</td>
</tr>
</tbody>
</table>

**B29 Solar Access to Open Space**

Allow solar access into the secluded private open space of new dwellings/buildings.

- **Yes**
  - Given the orientation of the site, appropriate solar access to the private open space areas is provided. It is noted the POS associated with Units G.01, G1.07, 1.01, 1.07 and 2.01 are partially south facing; however the POS of these units all have a partial east or west aspect.

**B30 Storage**

Provide adequate storage facilities for each dwelling.

- **Yes**
  - Designated storage areas are provided at basement level.

**B31 Design Detail**

Encourage design detail that respects the existing or preferred neighbourhood character.

- **Yes**
  - Refer to Attachment 3.

**B32 Front Fences**

Encourage front fence design that respects the existing or preferred neighbourhood character.

- **No**
  - **Maximum**: 1.5 metres
  - **Proposed**: 1.8 metres
  - Refer to report.
<table>
<thead>
<tr>
<th><strong>B33 Common Property</strong></th>
<th>Yes</th>
<th>Communal and private areas are clearly delineated. Common property is functional and capable of efficient management.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B34 Site Services</strong></th>
<th>Yes</th>
<th>An area for the plant equipment and basement exhaust is proposed on the roof of the development. Refer to report.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
1. **Purpose and background**

To report an in-principle agreement reached by all parties at a VCAT Compulsory Conference for the construction of a five storey building comprising 28 dwellings, removal of an easement and reduction in the visitor car parking requirement on a lot with an area of 744 square metres (refer Attachment 1) at 11A Keiller Street, Hampton East (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Golden Prosperity Developments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>9 May 2016</td>
</tr>
</tbody>
</table>

Council determined to refuse an application for the construction of a six storey building comprising 33 dwellings on a lot, removal of an easement and reduction (to zero) of the visitor car parking requirement under delegation on the 24 November 2016.

The applicant has lodged an appeal under Section 77 of the *Planning and Environment Act 1987* with the Victorian Civil and Administrative Tribunal (VCAT) against Council’s decision to refuse to grant a planning permit.

At the VCAT Compulsory Conference held on 14 June 2017, attended by the permit applicant, Council Officers and the three objector parties to the appeal, an in-principle agreement was reached between all parties. The outcome was to:

- Delete the sixth storey (reduce development to five storeys);
- Reduce the number of dwellings from 33 to 28;
- Provide an oversupply of resident car parking, and reduce the shortfall of visitor car parking to three spaces;
- Increase the built form setbacks to the eastern boundary;
- Amend the basement layout and entrance ramp, and the addition of sightlines and signalling system to basement;
- Provide increased screening to the eastern facing balconies;
- Restrict air conditioning units on the eastern facing balconies;
- Restrict basement venting adjacent to the eastern boundary;
- Provide a deep soil planting area in the open space to the rear of the site;
- Amend the landscape plan and provide a landscape management plan detailing the planting and maintenance of the green wall and planters; and
- Amend the waste management plan.

A set of without prejudice amended plans were tabled at the VCAT Compulsory Conference by the applicant and are appended as Attachment 1 to this report. These without prejudice plans form part of the in-principle agreement in addition to the conditions noted in the recommendation. These plans have not been formally substituted with VCAT. The original development plans refused by Council are included as Attachment 3.
If Council agrees to support the recommendation below then a planning permit will be issued by VCAT which contains, unchanged, all of the conditions in the recommendation section of this report. Condition 1 also refers directly to the without prejudice plans tabled at the VCAT Compulsory Conference.

Alternatively, should Council determine to not support the issue of an amended permit, then the application will proceed to a VCAT merits hearing based on the original application plans. It is noted the applicant has indicated they may amend the plans prior to the hearing.

2. Policy implications

Planning permit requirements

Clause 32.07-4 (Residential Growth Zone) - Construction of two or more dwellings on a lot

Clause 43.02-2 (Design and Development Overlay Schedule 2) - Construct a building or carry out works not otherwise exempt.

Clause 52.02 (Easements, restrictions and reserves) - Permit required before proceeding under Section 23 of the Subdivision Act 1988 to remove an easement

Clause 52.06-3 (Car parking) - Permit required to reduce the number of car parking spaces required under Clause 52.06-5

Planning scheme amendments

Planning Scheme Amendment C151 proposes to implement the Hampton East (Moorabbin) Structure Plan, adopted by Council at its 23 February 2016 Ordinary Meeting. Amendment C151 underwent public exhibition in July / August 2016. In February 2017 Council resolved to request the Minister for Planning to appoint a Planning Panel to consider submissions received for the amendment. An independent Panel appointed by the Minister for Planning heard the submissions on the amendment in May 2017 and a Panel Report is expected by the end of June. Case law confirms that proposed amendments to planning schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and adopted by Council. Refer to section 6.2 of this report for an assessment of the in-principle agreement against the provisions of the amendment.

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

Planning Scheme Amendment C153 has been initiated by Council and Melbourne Water and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay (LSIO) from the Bayside Planning Scheme. The public exhibition process concluded on 16 January 2017 and a report considering submissions was presented to Council in April 2017. A planning panel is yet to be appointed to consider the amendment. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and adopted. As such, there is no statutory weight which can be given to Amendment C153. The SBO does not currently apply to the site and the proposed amendment would not include the site within the SBO.
3. **Stakeholder Consultation**

**External referrals**

The original 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. Condition requested.</td>
</tr>
</tbody>
</table>

It is noted the applicant provided the written consent of South East Water to the removal of the easement.

**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>Traffic Engineering</td>
<td>Objection to basement ramp and basement parking layout. Addressed via the without prejudice amended plans and conditions.</td>
</tr>
<tr>
<td>Drainage</td>
<td>Object to removal of easement.</td>
</tr>
<tr>
<td>Waste management</td>
<td>Changes to waste management plan sought. Addressed via condition.</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 11 objections were received. The following concerns were raised:

- Height of the building;
- Traffic/ parking congestion and traffic safety issues;
- Overshadowing neighbouring properties;
- Overlooking SPOS and windows of neighbouring properties;
- Increased noise;
- Demographic of future residents (undesirable residents or social housing);
- Proposed small apartments increase transient residents in area and impact safety and sense of community;
- Oversupply of apartments in area;
- Neighbourhood character;
- No transition between proposal and less intensive housing on neighbouring sites, contrary to DDO2;
- Breaches each and every building requirement;
- Request to change street address of development from 11A Keiller Street;
- Site too small to support proposal;
- Impact on neighbouring property values; and
- Proposal contrary to Hampton East Structure Plan.
The appellant notified all objectors of the appeal and statements of grounds were received by four objectors. Only three of the objectors indicated they wished to become parties to the proceedings.

VCAT arranged and held a Compulsory Conference on 14 June 2017. The applicant, Council representative and the three objecting parties to the VCAT proceedings were in attendance. The applicant tabled ‘Without Prejudice’ plans, and an in-principle agreement was reached by all parties in attendance.

4. **Recommendation**

That Council:

Determine to support the agreement reached by all parties at the VCAT Compulsory Conference in respect of **Planning Application 2016/354/1** for the land known and described as **11A Keiller Street, Hampton East**, for the **construction of a five storey building comprising 28 dwellings, removal of an easement and reduction in visitor car parking requirement on a lot** 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 by DKO Architecture, drawing No.TP202 – TP208 and TP301 – TP308 (all dated 2/6/2017), but modified to show:
   a) Sixth storey deleted.
   b) Basement ramp width extended to 3.6 metres in accordance with AS2890.1.
   c) Details of a signaling system for the basement vehicle ramp.
   d) Adequate sight lines must be provided where the basement ramp intersects with the footpath in accordance with Clause 52.06-9 of the Bayside Planning Scheme.
   e) A landscape plan in accordance with condition 10 of this permit.
   f) A landscape management plan in accordance with condition 11 of this permit.
   g) An updated Waste management plan in accordance with condition 14 of this permit.
   h) All east facing balconies/terrace at levels 1-4 inclusive to have 1.7m high louvre screening.

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

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

4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority. No air conditioning units are permitted on balconies/terrace facing the 15 Keiller Street property to the east.

5. All pipes, fixtures, fittings and vents, excluding down pipes servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority. No venting of the basement carpark.
is permitted on or near the eastern property boundary.

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

7. The 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 occupation of the development starts, the areas 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.

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

10. Prior to the endorsement of plans pursuant to condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must show:

   a) Three canopy trees in the rear open space area capable of reaching a height of 6 metres at maturity.

   b) A planting schedule for the proposed planters and green wall, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.

11. Prior to the endorsement of plans pursuant to condition 1, a landscape management plan to the satisfaction of the Responsible Authority must be submitted to and endorsed by the Responsible Authority. The management plan must detail:

   a) Appropriate maintenance and irrigation systems, including water volumes to be supplied, for the planters and green wall shown in the landscape plan.

   If the green wall fails, details of an alternative treatment in terms of species, maintenance and/or irrigation must be submitted to, and approved by, the Responsible Authority.

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.

14. Prior to the endorsement of plans pursuant to condition 1, the Waste Management Plan, prepared by One Mill Grid and dated 4 May 2016, to be updated to specify the size and type of waste collection vehicle.

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

16. 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.

17. 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.

Melbourne Water

18. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water’s drains of waterways.

Permit notes

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- The applicant is to bear the cost to remove and reinstate any street furniture or infrastructure items to provide the required access to the proposed development.
- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.

5. Council Policy

Council Plan 2013-2017

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 17 Economic Development
- Clause 18 Transport
- Clause 19 Infrastructure
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.09 Transport and Access
- Clause 21.10 Infrastructure
• Clause 22.06 Neighbourhood Character Policy G1
• Clause 22.08 Water Sensitive Urban Design
• Clause 32.07 Residential Growth Zone (Schedule 1)
• Clause 43.02 Design and Development Overlay (Schedule 2)
• Clause 52.02 Easements, Restrictions and Reserves
• Clause 52.06 Car Parking
• Clause 52.35 Urban Context Report and Design Response for Residential Development of Five or More Storeys
• Clause 65 Decision Guidelines

6. Considerations

The site is located within the Hampton East (Moorabbin) Structure Plan area which is currently the subject of a Planning Scheme Amendment (C151). Council considered the original application (2016/354/1) and determined to refuse to grant a permit on the 24 November 2016. When Council determined the application, the C151 amendment had been publically exhibited.

In the intervening time since the original determination the Planning Scheme Amendment has progressed. Council resolved in February 2017 to request the Minister for Planning to appoint a Planning Panel to consider submissions received for the amendment. An independent Panel appointed by the Minister for Planning heard the submissions to the amendment in May 2017 and a Panel Report is expected by the end of June. In this context, the planning amendment process has progressed since the determination of the application was made.

There is a conflict between the existing and emerging policy for the Hampton East area. Given the extensive level of structure planning that has recently occurred in Hampton East, the support for the development of the activity centre at the State Planning Policy level and high level Local Planning Policy, and as the Planning Panel Report is expected in the very near future, it is considered that giving the emerging policy more weight is an appropriate and pragmatic approach. The in-principle agreement reached at compulsory conference reflects this approach. It is noted the Panel Report is anticipated to be released prior to the VCAT merits hearing scheduled for 24 July 2017.

6.1. Existing policy

The site is located within the Residential Growth Zone which seeks to provide housing at increased densities in buildings up to and including four storeys. The zone also seeks to encourage housing diversity in locations offering good access to services and public transport, and to encourage a scale of development that provides a transition between areas of more intensive use and development and other residential areas.

The Design and Development Overlay applicable to the land seeks to preserve the existing character and amenity of the area as low rise (up to two storeys) with a strong garden character. It also seeks to maintain the prevailing streetscape rhythm, building scale and height of neighbourhoods with buildings set within vegetated surrounds. The in-principle agreement reached at VCAT Compulsory Conference is considered to be beyond the scale of development envisaged by the Residential Growth Zone and Design and Development Overlay 2.
6.2. Emerging policy

Plan Melbourne 2017-2050, consistent with previous metropolitan strategies identifies Hampton East (Moorabbin) as an area to support increased housing supply. The Bayside Housing Strategy 2012 identified the Hampton East (Moorabbin) Activity Centre as being one of the main long-term focus areas for medium and higher density residential development within Bayside. The Hampton East Activity Centre benefits from its strategic location close to the Moorabbin Railway Station and buses as well as a range of shops, services and facilities. Due to its strategic location, the Bayside Housing Strategy identified the need to develop a structure plan for the Hampton East Activity Centre in order to provide guidance on how the area should grow and develop over the next 20 to 30 years.

The Hampton East (Moorabin) Structure Plan has been developed and adopted to ensure the future growth and development of the Hampton East activity centre is appropriately managed. Whilst the Hampton East Activity Centre is a stand-alone centre, it also forms part of the broader Moorabbin Activity Centre which comprises areas of land within Glen Eira City Council, Kingston City Council and Bayside City Council. Kingston has implemented an Activity Centre Zone Schedule 3 (ACZ3) over the Moorabbin Activity Centre, whilst Glen Eira are yet to undertake the Structure Planning process and do not currently have any specific built form controls that affect this area.

Planning Scheme Amendment C151 proposes to implement the Hampton East (Moorabin) Structure Plan into the Bayside Planning Scheme via an Activity Centre Zone and a schedule to the zone (ACZ1). The amendment seeks to guide the development of the Hampton East area with the introduction of six precincts with varying objectives, controls and decision guidelines.

The subject site is located in Precinct 3 of the Hampton East activity centre, which is proposed to be a ‘mixed use core’ area. The relevant objectives to the subject site include providing high quality consolidated apartments and mixed use development, providing integrated basement car parking and encouraging site consolidation to achieve the maximum heights for the precinct.

The objectives for site consolidation are translated into Amendment C151 with the provision of a discretionary building height of six storeys (20 metres) where a lot size of 1500sqm can be achieved. For land that has an area of less than 1500sqm, the nominated preferred height is four storeys (14 metres). The minimum lot size and maximum building height are discretionary requirements. The subject site has an area of approximately 745sqm.

Council’s submission to the Planning Panel Hearing C151 explained that the purpose of the lot consolidation objective is to facilitate best practice urban design principles that leads to high quality development outcomes. The preferred 1500sqm lot size seeks to achieve a 20 metre lot frontage. Whilst not seeking to duplicate the Better Apartment Design Standards included in Clause 58 of the Bayside Planning Scheme, the lot consolidation objective seeks to ensure the best setting is provided to facilitate the application of the standards.

The site is a corner lot with a frontage of 32 metres to Katoomba Street and 12 metres to Keiller Street. As such the site already significantly exceeds the lot frontage sought by the lot consolidation objective. In addition, the site shares a boundary to the north with the car park of the Bayside City Council Support and Information Service (BAYSIS). Therefore the site has three non-sensitive interfaces. The only sensitive interface for the site is the eastern boundary shared with No.15 Keiller Street. In this context, the in-principle agreement to delete the sixth storey from the development is seen as a good outcome that both recognises the site specific nature of the site whilst not undermining the lot consolidation objective of the mixed use core precinct.
The in-principle agreement includes a number of development changes that significantly improve the interface with and potential amenity impact on No.15 Keiller Street. Aside from the deletion of the sixth storey, the interface with No.15 Keiller Street has been improved with increased setbacks from this boundary, increased screening to the eastern facing balconies, restrictions on the location of air conditioning units and basement venting in the vicinity of this boundary, the provision of a deep soil planting area adjacent to this boundary with canopy tree planting and a green wall to the external face of the stair core that faces this boundary. It is noted two of the parties to the agreement reached are located at No.15 and 15A Keiller Street, which are the properties most impacted by the proposal.

Another precinct decision guideline for the mixed use core is for development to consider equitable development principles and avoid compromising the potential development of adjoining land. The in-principle agreement achieves a setback and level of screening to the eastern boundary that ensures the potential future re-development of this site is not compromised.

An objective for the wider structure plan area is to maintain a pedestrian scale at street level by using a podium and tower form style of development. This is translated by the C151 Amendment into the controls for the mixed use core precinct with a three storey (11 metre) street wall with storeys above this to be setback 5 metres from the lower levels with street frontages. This is a discretionary requirement. The in-principle agreement would achieve the three storey street wall with the fourth and fifth storeys set behind this.

The in-principle agreement achieves a setback of the fourth and fifth storeys of three metres from the building and five metres from the street to the Keiller Street frontage and three metres from the building and 4 metres from the Katoomba Street frontage. This is an increase of a one metre setback of the upper levels from the street wall to the Katoomba Street frontage from the refused proposal. While the in-principle agreement would not accord exactly with the discretionary setback requirements, the development is considered to accord with the objective of a strong three storey street wall podium with the upper levels setback behind.

The mixed use core precinct also seeks integrated basement car parking, which the development would achieve with a single entrance to the basement car park to Katoomba Street.

6.3. Car parking and traffic

The original application provided 38 car parking spaces at basement level, which met the requirement for resident parking at Clause 52.06 (1 car space for each 1 and 2-bedroom dwelling and 2 car spaces for each 3 or more-bedroom dwelling). In relation to visitor car parking, Clause 52.06 requires 1 car space to be provided for every 5 dwellings. No visitor car spaces were originally proposed and therefore a waiver of 6 car spaces was sought. This shortfall in visitor parking formed one of the grounds for refusal.

The in-principle agreement reached at the compulsory conference reduced the number of dwellings to 28 (10 x one bed, 16 x two bed and 2 x three bed) with a car parking requirement of 30 residents parks and five visitor parks. The agreement reached was to provide 34 residents parks and two visitor parks. This is an oversupply of resident’s parks of four and a reduction of visitor parks by three. The resident’s parks are provided via stacker and as such to provide the five visitor parks, which should be at grade, the basement would have a shortfall of one resident car park. Given the oversupply of resident parking and the excellent access to public transport in the vicinity of the site, this is considered to be an acceptable outcome.

A number of changes to the configuration of the basement and entry ramp, and the addition of a signalling system for the entrance are included within the in-principle agreement reached at the VCAT Compulsory Conference.
6.4. Vegetation & Landscaping

The original application included a single canopy tree in the rear open space of the site and a number of small planters at the ground floor frontage of the site. The lack of planting incorporated into the development formed a ground for refusal of the original application.

The in-principle agreement provides a deep soil area along the eastern boundary of the property with canopy tree planting. The agreement also included a green wall affixed to the eastern elevation, details of the planting of the green wall and planters and a Landscape Maintenance Plan. The Landscape Maintenance Plan requires details of the maintenance an irrigation scheme of the planters and green wall, and also requires alternative species, maintenance and irrigation of the green wall in the event it fails in the future. It is noted the proposed location of the basement entry ramp would enable the retention of all three street trees fronting the site.

Given the location of the site in the mixed use core of the Activity Centre Zone Schedule 1 as proposed in Amendment C151, this level of planting across the site is considered to be appropriate and importantly the condition regarding the planters and green wall enable Council to ensure this level of planting is maintained in perpetuity.

Support Attachments

1. Without prejudice development plans
2. Site surrounds and imagery
3. Original development plans
Attachment 1
Item 4.9 – Matters of Decision
### Item 4.9 – Matters of Decision

#### Attachment 1

**Plan View of Development**

<table>
<thead>
<tr>
<th>Level</th>
<th>Residential</th>
<th>Commercial</th>
<th>Total SA</th>
<th>Gross</th>
<th>Core Core</th>
<th>Ground Floor</th>
<th>Basement</th>
<th>Total Site Area</th>
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*Not including in GFA*
Figure 1 Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
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<tbody>
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<td>Subject site</td>
<td>⭐</td>
</tr>
<tr>
<td>Objectors to the original application who did not become parties to the VCAT appeal</td>
<td>⬤</td>
</tr>
<tr>
<td>Parties to VCAT appeal</td>
<td>▲</td>
</tr>
</tbody>
</table>
Figure 2 View of frontage of existing dwelling to Keiller Street

Figure 3 View of frontage of existing dwelling to Katoomba Street
Figure 4 View of interface between site and No.15 Keiller Street

Figure 5 View of interface between site and No.12 Katoomba Street
Figure 6 View of interface between site and No.15 Keiller Street as seen from car park of No.12 Katoomba Street
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