Agenda

for the

Planning & Amenity Committee Meeting

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

on

Tuesday, 9 May, 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
   4.2 32-34 Graham Road, Highett Notice of Decision to Grant a Planning Permit Application No: 2015/561/1 Ward: Central ......... 15
   4.3 20-22 Worthing Road, HIGHETT Notice of Decision to Grant a Planning Permit Application No: 2016/681 Ward: Central ...... 65
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   4.5 360 Bluff Road, Sandringham Notice of Decision to Grant a Planning Permit Application No: 2016/459/1 Ward: Central ... 123
   4.6 38 Martin Street, Brighton Notice of Decision to Grant a Planning Permit Application No: 2016/467/1 Ward: Northern.......... 157
   4.7 46 Dendy Street, Brighton Secondary Consent - Approve Application No: 2015/278/1 Ward: Central ......................... 187

5. Confidential Business

Nil
Next Meetings 2017

Thursday 18 May 2017
Tuesday 13 June 2017
Thursday 22 June 2017
Thursday 6 July 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 19 April 2017.
4. Matters of Decision

4.1 6/427-455 HAMPTON STREET, HAMPTON
SECONDARY CONSENT - APPROVE
APPLICATION NO: 2011/359/1 WARD: CENTRAL

City Planning & Community Services - Statutory Planning
File No: PSF/15/8755 – Doc No: DOC/17/77437

1. Purpose and background
To report a secondary consent application to allow:
   • The ground floor to provide an office of 280 square metres (Office 05) and a shop of 220 square metres (Shop 06) in lieu of the two shops (Shop 05 which had a floor area of 410 square metres & Shop 06 which had a floor area of 100 square metres).
   • The proposed basement plan shows that a car parking space previously notated (and allocated to a) “shop”, is now notated “office”.
   • No external alterations to the building fabric are proposed.

on a lot with an area of 1,887 square metres (refer Attachment 1) at 6/427-455 Hampton Street, Hampton (refer Attachment 2).

Planning Permit 2011/359/1 was issued at the direction of the Victorian Civil and Administrative Tribunal (VCAT) on 27 July 2012. The permit allows the use and development of a mixed use (multi-dwellings and shops) five (5) storey building in a Business 1 zone; the use and development of a food and drink premises in a Residential 1 zone; the development of multi-dwellings in a Residential 1 zone; associated car parking dispensation; a variation of the loading bay requirements; and altered access to a road in a Road Zone Category 1.

<table>
<thead>
<tr>
<th>Applicant</th>
<th>SJB Planning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>2 February 2017</td>
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</tbody>
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2. Policy implications
There are no primary policy matters to consider as part of this application, which seeks to amend the endorsed plans pursuant to the secondary consent provisions afforded by Condition 2 of Planning Permit 2014/781/1.

3. Stakeholder Consultation
   Referrals
No internal or external referrals were required to be made.
   Public notification
Applications made in accordance with the secondary consent provisions are not subject to the notice requirements of Section 52 of the Planning and Environment Act 1987. Therefore, the amended plans have not been advertised.
4. **Recommendation**

That Council:

**Approve** amended plan in accordance with secondary consent provisions of **Planning Permit No. 2011/359/1** in respect of the land known and described as **6/427-455 Hampton Street, Hampton**, for the use and development of a mixed use (multi-dwellings and shops) five (5) storey building in a Business 1 zone; the use and development of a food and drink premises in a Residential 1 zone; the development of multi-dwellings in a Residential 1 zone; associated car parking dispensation; a variation of the loading bay requirements; and altered access to a road in a **Road Zone Category 1** in accordance with the endorsed plans and subject to the following table being inserted at the end of the permit:

<table>
<thead>
<tr>
<th>Date</th>
<th>Amendments</th>
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<tbody>
<tr>
<td>9 May 2017</td>
<td>Secondary Consent to Amend Plans:</td>
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<td></td>
<td>• Alterations to the ground floor layout plan to rearrange Shops 05 &amp; 06 into Office 05 &amp; Shop 06.</td>
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<td></td>
<td>• Alteration to the basement 1 layout plan to change the notation and allocation of one car park from “shop” to “office”.</td>
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5. **Council Policy**

There are not any primary relevant Council policy matters to consider as part of the request to consider amending plans pursuant to the secondary consent provisions afforded by the planning permission.

6. **Considerations**

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

The tests include the following:

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

The amendment does not result in a transformation of the proposal. The amendment would provide for an office in place of a shop and a subsequent alteration to the allocation of one car parking space. The scale of the overall building fabric and general mixed use nature of the development will not change.

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

The proposed amendments do not authorise something for which primary consent is required. The site is now zoned Commercial 1. Pursuant to Clause 34.01-1 of the Planning Scheme, an office is a Section 1 use for which a permit is not required. No further reduction in car parking is required as an office demands fewer parking spaces than a shop pursuant to clause 52.06.

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

The proposed amendment will continue to meet the purpose of the Commercial 1 Zone, amongst which is “to create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses”. An office has a slightly lesser requirement for car parking than a shop.
6.4 Is the proposed amendment contrary to a specific requirement or condition of the permit?

The proposed amendments to the endorsed plans will not contravene any specific requirement or condition of the permit.

Support Attachments
1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Currently Endorsed Ground Floor Layout Plan ↓
ATTACHMENT 3
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds

Legend

<table>
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<tr>
<th>Subject site</th>
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Figure 2 View towards the site from the east
Figure 3 View towards the site from the east
4.2  32-34 GRAHAM ROAD, HIGHTETT
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2015/561/1  WARD: CENTRAL

City Planning & Community Services - Statutory Planning
File No: PSF/15/8755 – Doc No: DOC/17/71210

1. Purpose and background

To report a planning permit application for the construction of a three-storey building containing 25 dwellings over a basement level (refer Attachment 1) on a lot with an area of 1,234 square metres in a Special Building Overlay at 32-34 Graham Road, Hightett (refer Attachment 2).

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<tr>
<th>Applicant</th>
<th>SJB Planning</th>
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<tbody>
<tr>
<td>Date application received</td>
<td>Amended plans: 29 November 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>28 January 2017</td>
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2. Policy implications

Planning permit requirements

Clause 32.08-4 (General Residential Zone 1) – Construction of two or more dwellings on a lot.

Clause 43.02-2 (Design and Development Overlay Schedule 5) – Construction of Buildings and Works.

Clause 44.05-1 (Special Building Overlay) – Construction of Buildings and Works.

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 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 will conclude on 16 January 2017 and a report considering submissions will be presented to Council early 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 within the SBO and will continue to remain within the SBO.

Better Apartments Design Standards (BADS)

The Better Apartments Design Standards (BADS) have now been introduced into Victorian Planning Schemes at Clause 58. The Design Standards do not apply as the building is less than five storeys.

3. Stakeholder Consultation

External referrals

The application was referred to the following authorities:
Referral Authority | Response
---|---
Melbourne Water | No objection, subject to conditions

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

| Internal Referral | Response |
---|---|
Arborist | No objection, subject to conditions |
Traffic | No objection, subject to conditions |
Drainage | No objection, subject to conditions |
Waste Management | No objection, subject to conditions |

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

- Proposed development is out-of-character with the area;
- Increased traffic and increased demand for on-street parking;
- Overlooking;
- Overshadowing;
- Loss of Property Value; and,
- Construction Management Issues.

Consultation meeting
A consultation meeting was held on 14 December 2015 in response to the initial application.

Discussions during that meeting have informed the amended design response that was submitted on 29 November 2016, but no objectors have withdrawn their objections. Six objections remain outstanding.

4. Recommendation
That Council:

Issues a Notice of Decision to Grant a Planning Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2015/561/1 for the land known and described as 32-34 Graham Road, Highett, for the construction of a three-storey building containing twenty-five dwellings over a basement level on a lot in a Special Building Overlay in accordance with the endorsed plans and subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans (Bruce Henderson Architects, Dwg no TP-201 to TP-607, Rev A) Council date stamped 29 November 2016 but modified to show:
a) The ground floor to the east of Dwelling G-03 setback a minimum of 2m from the eastern boundary in accordance with Standard B17 of Clause 55.

b) Windows into all habitable rooms in Dwelling G-03 in accordance with Standard B27 of Clause 55.

c) All upper level bathrooms, ensuites, toilets and study/nooks to have provisions for a skylight (or similar) where direct daylight access is not provided. This does not apply where rooftop plant equipment inhibits this ability.

d) The addition of acoustically-treated highlight windows to the eastern elevation of Dwelling G-04 to improve solar access.

e) The removal of the notation to the east of Dwellings 1-05 & 1-06 marked “pergola structure below” on the first floor plan and the removal of those items from the plans.

f) All accessways, car parking spaces and gradients designed in accordance with Clause 52.06 (car parking) of the Bayside Planning Scheme, or otherwise to the satisfaction of the Responsible Authority. Any departure from the prescriptive requirements must be accompanied by written justification from a suitably qualified traffic engineer.

g) Car stacker system (Klaus Multibase 2072-195) to be annotated on the plans, together with the following:
   i. Clear width platform of 2.6m;
   ii. Flat (0%) cross fall;
   iii. Minimum platform width of 2.4m;
   iv. Minimum vehicle clearance height of 1.8m for at least 25% of the parking supply.

h) Traffic intercom centrally-located within an island providing 300mm clearance on both sides of the island and a minimum driveway width of 2.7m.

i) A schedule of construction materials, external finishes and colours (incorporating for example paint samples), including for screens provided on the balconies and roof of the building.

j) Location of all plant and equipment, including hot water services and air conditioners etc. Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms. The plant screen on the roof shall be reduced so that it is no higher than 1200mm above roof level, unless a higher screen is required to screen a particular item of plant.

k) Water sensitive urban design measures in accordance with Condition 10 of this permit.

l) Landscaping plan in accordance with Condition 14 of this permit.

m) A Waste Management Plan in accordance with Condition 19 of this permit.

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. Prior to the commencement of construction or carrying out works pursuant to this permit, or any works associated with a sensitive use, or where no works are proposed, prior to the commencement of the permitted use, either:

   a) A Certificate of Environmental Audit for the land must be issued in accordance with Section 53Y of the Environment Protection Act 1970 and provided to the Responsible Authority; or,

   b) An Environmental Auditor appointed under Section 53S of the Environment Protection Act 1970 must make a Statement in accordance with Section 53Z of that Act that the environmental conditions of the land are suitable for the use and development that are the subject of this permit and that statement must be provided to the Responsible Authority.

Where a Statement of Environmental Audit is issued for the land, the buildings and works and the use(s) of the land that are the subject of this permit must comply with all directions and conditions contained within the Statement.

Where a Statement of Environmental Audit is issued for the land, prior to the commencement of the use, and prior to the issue of a Statement of Compliance under the Subdivision Act 1988, and prior to the issue of an Occupancy Permit under the Building Act 1993, a letter prepared by an Environmental Auditor appointed under Section 53S of the Environment Protection Act 1970 must be submitted to the Responsible Authority to verify that the directions and conditions contained within the Statement have been satisfied.

Where a Statement of Environmental Audit is issued for the land, and any condition of that Statement requires any maintenance or monitoring of an ongoing nature, the Owner(s) must enter into an Agreement with Council pursuant to Section 173 of the Planning and Environment Act 1987.

Where a Section 173 Agreement is required, the Agreement must be executed prior to the commencement of the permitted use, and prior to the certification of the plan of subdivision under the Subdivision Act 1988. All expenses involved in the drafting, negotiating, lodging, registering and execution of the Agreement, including those incurred by the Responsible Authority, must be met by the Owner(s).

4. Prior to any remediation works being undertaken in association with the Environmental Audit, a ‘remediation works’ plan must be submitted to and approved by the Responsible Authority. The plan must detail all excavation works as well as any proposed structures such as retaining walls required to facilitate the remediation works. Only those works detailed in the approved remediation works plan are permitted to be carried out prior to the issue of a Certificate or Statement of Environmental Audit.

5. The owner must ensure that no mud, dirt or dust is transferred from the site onto adjoining public roads to the satisfaction of the Responsible Authority. In the event that roads are affected, the owner must upon the direction of the Responsible Authority, take the necessary remedial action, to the satisfaction of the Responsible Authority.

6. 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.

7. 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.
8. 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.

9. Before occupation, screening of windows and/or balconies 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.

10. 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.

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

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

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

14. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be 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 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 any proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. The plan shall include provision of two trees capable of reaching 14m and two capable of reaching 8m at maturity at the front of the site and two trees capable of reaching 8m at maturity at the east of the site.
   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.
15. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

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

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

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

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

   a) Dimensions of storage waste areas.
   b) Storm water drains in storage areas should be fitted with a litter trap.
   c) The number and size of bins to be provided.
   d) Facilities for bin cleaning.
   e) Method of waste and recyclables collection.
   f) Types of waste for collection, including colour coding and labelling of bins.
   g) Hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines). Waste collection must not take place between 6am-10am and 3pm-7pm on weekdays.
   h) Method of hard waste collection.
   i) Method of presentation of bins for waste collection.
   j) Sufficient headroom within the basement to accommodate waste collection vehicles.
   k) Sufficient turning circles for the waste collection vehicles to enter and exit the site in a forward direction.
   l) Strategies for how the generation of waste and recyclables will be minimised.
   m) Compliance with relevant policy, legislation and guidelines.

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

20. 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.

21. Before the development commences, detailed construction plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plans must detail the reconstruction / realignment of the Highett Grove and Graham Road intersection to ensure safe access and egress can be achieved to the proposed development.

22. Each dwelling must be allocated at least one car parking space.

23. 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 Conditions**

24. Prior to the development plans being endorsed, a complete set of development plans must be submitted to Melbourne Water for review and approval, which comply with Melbourne Water’s requirements.

25. The finished floor levels of the ground floor of the building must be no lower than 32.86 metres to the Australian Height Datum.

26. The driveway ramp must incorporate a bund/apex with a peak height set no lower than 33.16 metres to the Australian Height Datum which is 300mm above the 1% ARI flood level of 32.86 metres to AHD.

27. The basement roof must be finished no higher than the existing natural surface levels within the area facing Graham Street.

28. With the exception of the driveway vehicle entrance and door, all openings to the basement (vents/doors/windows) must be set no lower than a height of 33.16 metres to the Australian Height Datum (300mm above the applicable 1% ARI flood level of 32.86 metres AHD) for the purpose of flood protection of the basement.

29. With the exception of the 33.16 metre to AHD high engineered concrete retaining wall to the courtyard areas of the ground floor of the building (fronting Graham Road) which accounts for freeboard, all openings to the ground floor of the building must be set no lower than a height of 33.16 metres to the Australian Height Datum (300mm above the applicable 1% ARI flood level of 32.86 metres AHD) for the purpose of flood protection.

30. With the exception of minimal landscaping, open style/timber paling fencing and minimal ramping required for the driveway, the setbacks shown between the building and the south-west property boundary (Graham Road), must remain unobstructed and set at natural surface levels, and are not be further reduced without further review and written consent of Melbourne Water, to ensure adequate open space for the passage of overland flood flow.

31. The entrance ramp and path must be constructed at existing natural surface levels to the distance of the minimum bund wall setback to not obstruct the overland flood flow.

32. The entrance ramp must be constructed with an unclosed foundation area to allow for flood flow.

33. Imported fill must be limited to the building envelope with the exception of achieving minimal ramping into the basement (apex), for the purpose of allowing the passage of overland flood flow.

34. Any proposed front or internal fencing along the west building setback to property boundary (Graham Road) must be open style (a type with 50% openings up to the applicable flood level), or alternatively a timber paling type, to allow for the passage of overland flood flow.

35. Prior to the issue of an Occupancy Permit and the completion of works, the owner of the Land must enter into an agreement pursuant to Section 173 of the Planning and Environment Act 1987 with the Responsible Authority and Melbourne Water Corporation. All costs associated with the setting up of the agreement must be borne by the permit holder. The agreement must be registered on the title of the
Land and must provide, to the satisfaction of the Responsible Authority and Melbourne Water, for:

a) Notify future owners and occupiers that the ground floor level of the building is protected from flooding from the Highett St Main Drain along the Graham Street boundary via a 33.16 metre to AHD high engineered concrete retaining wall; and that the lower ground floor and basement levels are set below the 1% AEP flood level;

b) Stipulate that the body corporate is responsible for the ongoing maintenance 33.16 metre to AHD high engineered concrete retaining wall for the life of the development;

c) Specify that the engineered concrete retaining wall must remain in place and be maintained at 33.16 metres high for flood protection purposes, for the life of the development.

36. The 33.16 metre to AHD high engineered concrete retaining wall to the courtyard areas of the ground floor of the building (fronting Graham Road) must be structurally integrated into the building, so that it may not be removed or altered, to ensure ongoing flood protection of the ground floor of the building.

37. Prior to the issue of an Occupancy Permit, a certified survey plan (as constructed), produced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels for the ground floor of the building, front entry to Highett Road, driveway apex peak height and the surface levels of the path and landscaping has been constructed in accordance with Melbourne Water's requirements.

38. No polluted and / or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or watercourses.

39. Prior to the commencement of works, a separate application direct to Melbourne Water must be made and accepted for any new or modified storm water connection to Melbourne Water's drains or watercourses.

Permit Notes

• Occupants and their visitors will not be eligible for Council parking permits.

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

• For a storm event with a 1% chance of occurrence in any one year, the applicable flood level for the property is 32.86 metres to Australian Height Datum (AHD).

• If further information is required in relation to Melbourne Water’s permit conditions shown above, please contact Melbourne Water on 9679 7517, quoting Melbourne Water’s reference 255466.

Notes about environmental audits

• A copy of the Certificate or Statement of Environmental Audit, including the complete Environmental Audit Report must be submitted to the Responsible Authority within 7 days of issue, in accordance with Section 53ZB of the Environment Protection Act 1970.

• Where a Statement of Environmental Audit is issued for the land a copy of that Statement must be provided to any person who proposes to become an occupier of the land, pursuant to Section 53ZE of the Environment Protection Act 1970.
• The land owner and all its successors in title or transferees must, upon release for private sale of any part of the land, include in the Vendor’s Statement pursuant to Section 32 of the Sale of Land Act 1962, a copy of the Certificate or Statement of Environmental Audit including a copy of any cover letter.

• Where a Statement of Environmental Audit issued for the land contains conditions that the Responsible Authority considers to be unreasonable in the circumstances, the Responsible Authority may seek cancellation or amendment of the planning permit in accordance with Section 87 of the Planning and Environment Act 1987.

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 13 Environmental Risks
• Clause 15 Built Environment and Heritage
• Clause 16 Housing
• Clause 18 Transport
• Clause 21.02 Bayside Key Issues and Strategic Vision
• Clause 21.03 Settlement and Housing
• Clause 21.04 Environmental and Landscape Values
• Clause 21.05 Environmental Risks
• Clause 21.06 Built Environment and Heritage
• Clause 21.07 Economic Development
• Clause 21.09 Transport and Access
• Clause 21.10 Infrastructure
• Clause 21.11 Local Areas
• Clause 22.06 Neighbourhood Character Policy G1
• Clause 22.08 Water Sensitive Urban Design
• Clause 32.08 General Residential Zone (Schedule 1)
• Clause 43.02 Design and Development Overlay (Schedule 5)
• Clause 44.05 Special Building Overlay
• Clause 45.03 Environmental Audit Overlay
• Clause 52.06 Car Parking
6. Considerations

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

6.1. Strategic Justification

Clause 21.11-6 of the Planning Scheme recognises that the precinct offers opportunities for more intensive forms of development and seeks:

To provide an opportunity for as many people as it is appropriate given the character of the area and the opportunities for change to live and work in Highett, with access to public transport and within walking and cycling distance of activity centres, and hence to provide a real transport option for people other than the private car.

Furthermore, it seeks to maximise development opportunities that exist on vacant and underutilised land with respect to the precinct’s urban quality and proximity to transport and activity centres. The development is located approximately 370m south of Highett Station and is located within the Design and Development Overlay (Schedule 5)(DDO5), with the designation that the site is a preferred medium density residential area.

The DDO has the following design objectives:

- To encourage apartment style residential redevelopment of up to three storeys in height on consolidated lots in residential areas close to the Highett Shopping Centre and Southland.
- To retain a front setback and adequate side and rear setbacks to provide space to enable landscaping sufficient to provide a garden setting for apartment complexes.
- To encourage car parking to be provided within buildings rather than at ground level, to maximise the opportunity to use ground level open space for landscaping, and communal and private open space.
- To retain the amenity of existing low density residential development by ensuring that adequate side and rear setbacks are provided to taller buildings to allow screen planting and a landscape setting, and to prevent unreasonably [sic.] overlooking, overshadowing and visual bulk.

Furthermore, the DDO states that a development on a lot greater than 1,000 square metres should not exceed nine metres in height or three storeys. This development exceeds nine metres, although this is partly due to the levels required to ensure that the development is not at undue risk from flooding.

Consequently, it is considered that a substantial apartment building is appropriate for the site provided that it respects the character of the area and the preferred character envisaged by the DDO. It is considered that the building does this, recognising that this section of Graham Road has been subject to significant redevelopment in recent times. See Section 6.3 and Attachment 3 for further information in regards to neighbourhood character.

6.2. 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 building’s basement is setback sufficiently from boundaries to provide for the
planting of substantial vegetation along the front of the site, and to allow for some screening vegetation along other boundaries. The building does not have any walls on boundaries thus maintaining the rhythm of visual separation between buildings. The articulated nature of the development provides an interesting façade to the street with a modulated form that breaks up the visual bulk of the building, with a range of building materials also providing visual relief. The development is expected to be a worthy addition to the Graham Road streetscape, and will open onto the streetscape given that a front fence is not proposed.

The site’s position on a corner and not insubstantial size, next door to an existing industrial building and a row of townhouses, makes it an ideal location to develop a building of greater scale than would be acceptable in many other site contexts.

6.3. Special Building Overlay

Melbourne Water has examined the proposal and finds it to be acceptable subject to a fairly extensive set of conditions, including designing a lip in the entrance to the basement to limit the possibility that the basement be flooded. The development has been designed to ensure that it maintains the free passage and temporary storage of floodwaters.

6.4. Environmental Audit Overlay

Environmental investigation works undertaken on behalf of the applicant revealed the presence of contaminants on the land that would likely require remediation prior to a sensitive use (i.e. residential) taking place on the site. Pursuant to the requirements of the Overlay, before a sensitive use commenced on site, either a certificate of environmental audit would have to be issued for the land in accordance with Part IXD of the Environment Protection Act 1970 or an environmental auditor appointed under that Act would have to make a statement confirming that the environmental conditions of the land were suitable for the proposed use. A condition to this effect has been included in the recommendation.

6.5. 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></th>
<th>Required Minimum Setback</th>
<th>Proposed Minimum Setback</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front street</td>
<td>6m</td>
<td>3.75m</td>
</tr>
<tr>
<td>Side street</td>
<td>3m</td>
<td>3m</td>
</tr>
</tbody>
</table>

The DDO states that development should provide a minimum street setback of 6m. The minimum in this situation is 3.75m, although it is noted that the development has a staggered frontage, resulting in the building encroaching into the front setback in six locations, while being recessed behind this line in seven locations. This results in the average setback being greater than 6m. It is considered that this is a better outcome than providing a flat front to the building at a 6m setback as such a design response would lack articulation and visual interest. Likewise, it would result in an awkward internal layout. The intent of the objective to provide a 6m setback is to provide adequate space for substantial landscaping. That objective has been achieved in this instance.

Further, it is noted that there are several instances in this area of staggered frontages where Graham Road runs on a NW-SE axis. In particular, the Dunkley Avenue community facility has a number of units with such staggered frontages. That development is generally of a lower-scale, although the absence of front fences in the proposed development should enable a greater degree of integration between the street and the development and provide additional room for landscaping.
Building Height (Standard B7)

<table>
<thead>
<tr>
<th>Preferred Maximum Height</th>
<th>Proposed Maximum Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>9m</td>
<td>9.01m (10.6m to top of plant screen)</td>
</tr>
</tbody>
</table>

The additional 1cm sought to the preferred maximum height is not considered to be an issue, particularly given that the majority of the building is less than 9m in height. The height of the plant screen, at 1700mm above roof level, is an issue. Given the lift overrun appears to extend approximately 1100mm above the roof, it is considered that the plant screen could be reduced to a height of 1200mm above roof level. This has been included as a condition in the recommendation.

Site Coverage (Standard B8)

<table>
<thead>
<tr>
<th>Maximum Site Coverage</th>
<th>Proposed Site Coverage</th>
</tr>
</thead>
<tbody>
<tr>
<td>50%</td>
<td>60%</td>
</tr>
</tbody>
</table>

The proposed site coverage is considered acceptable given that the DDO calls for medium density housing. The DDO states that the Standard in B8 may be exceeded. It is noted that the development still provides reasonable space for substantial landscaping to ensure that the garden setting of the neighbourhood is maintained. Much of the additional site coverage would be a result of the generally smaller front setback than would normally be provided.

Side and Rear Setbacks (Standard B17)

<table>
<thead>
<tr>
<th></th>
<th>First Floor / Ground Floor</th>
<th>Top Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>East (rear)</td>
<td>1.9m – 2.09m</td>
<td>1.35m (GF next to G-03)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2m – 2.4m – 3m</td>
</tr>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td></td>
<td>2.09m – 4.1m</td>
<td>2m – 4.05m</td>
</tr>
</tbody>
</table>

The DDO provides for alternate side and rear setbacks, where the ground floor is setback as per the requirement for the floor above it, in order to ensure that substantial landscaping can be provided to soften the development.

There does not appear to be any particular justification for the ground floor encroachment on the eastern elevation, which would constrict the space available for landscaping on an interface where some reasonably substantial vegetation is required. A condition has been included in the recommendation to provide a minimum 2m ground floor setback, as per the remainder of that part of the elevation.

The encroachments at the upper levels have the potential for greater impact on the existing residents to the east, although in this situation it is considered that they are appropriate for the following reasons:

- The top floor of the development is recessed from the eastern elevation.
- The western side of 1-5 Hightett Grove is primarily a driveway; there is some secluded private open space in the north-western corner of that land although the northern walls of the dwellings at 1-5 Hightett Grove is further north than most of the building on the subject land, which means that outlook from this area of private open space towards the west will generally not be greatly affected by the development.
- The dwellings on the western side of 1-5 Hightett Grove do not have any large west-facing windows providing a western outlook.
There is sufficient soil volume on the eastern elevation to provide some substantial vegetation to soften the visual impact of the development.

<table>
<thead>
<tr>
<th></th>
<th>First Floor / Ground Floor</th>
<th>Top floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>North (side)</strong></td>
<td>2.09m – 3.14m – 3.59m</td>
<td>3.09m – 3.59m</td>
</tr>
<tr>
<td><strong>Proposed</strong></td>
<td>3.5m – 3m – 4.1m</td>
<td>3m – 4.1m</td>
</tr>
</tbody>
</table>

The encroachments into the setbacks to the northern boundary are not considered to impact the amenity of residents in the area or the preferred neighbourhood character. The site to the north contains an industrial building and is not a sensitive interface. It is also noted that the site is higher than the subject site, so the height of the proposed development would be less apparent from that direction. There is sufficient room to provide vegetation along this particular boundary.

**Daylight to New Windows (Standard B27)**

Bedroom 2 of Dwelling G-03 has not been provided with a window. A window needs to be provided to that bedroom and a condition to this effect has been included in the recommendation. The kitchen of Dwelling 1-07 lacks access to natural light, although the room that it is a part of does have access to natural light. It is considered that this shortcoming is acceptable given that this is the only such instance of a habitable room having indirect access to natural light.

**Private Open Space (Standard B28)**

Dwellings G-04, G-05, G-06 & G-07 do not have the requisite amount of secluded private open space for ground floor apartments. These are, however, one bedroom apartments. Typically, The requirement for passive recreation space would be lesser for a one-bedroom apartment than for bigger apartments, and they would also have easy access to areas of communal open space on the ground floor.

**Solar Access to Open Space (Standard B29)**

Many of the balconies provided are on the south side of walls and would have limited solar access through sections of the day. These balconies do tend to have dual aspects though and would receive either morning or afternoon sun. Given the orientation of the site and development, this is considered to be an acceptable response.

**6.6. Car parking and traffic**

The application originally proposed to have the vehicular access to the basement located on Graham Road. This would have resulted in a blind turn out of the site, however, due to Graham Road bending to the right at the north of the site. There are double white lines on Graham Road on this particular section. Consequently, the vehicular access was re-located to Highett Grove. This is considered to allow for safer vehicular access into and out of the site. The Graham Road and Highett Grove intersection will require some alteration works and a condition has been included in the recommendation to provide for these alterations.

In terms of car parking, the development provides for car parking at the statutorily defined under Clause 52.06 of the Planning Scheme, including visitor car parking, and is considered acceptable.

**6.7. Street trees**

No street trees are proposed for removal. The removal of the existing crossover onto Graham Road and its reinstatement as nature strip may facilitate the planting of an additional street tree.
6.8. **Vegetation & Landscaping**

There is no substantial vegetation on-site. The basement footprint provides sufficient space to ensure that substantial vegetation is planted along the front elevation and also provides for room to put some not insubstantial vegetation along the eastern elevation to soften the impact of the development neighbouring residents. The recommendation includes a requirement for a landscaping plan to be submitted.

6.9. **Objections received**

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

**Over-development of Highett Grove**

Highett Grove, and more generally Highett, has been subject to extensive re-development in recent times, resulting in an increase in the number of residents living there. This has been in many ways facilitated by Council’s strategic decisions. This site represents an ideal opportunity for residential development.

**Traffic Congestion**

Traffic congestion will increase slightly as a result of the development, as it would for any development of this size. The site, however, has been designated as a medium density residential development opportunity due to its proximity to Highett Station and the retail and community services available in the vicinity. Consequently, residents here would have a greater ability to use public transport for a proportion of their trips.

**Overshadowing**

The development will cast a shadow over a small area of the secluded private open space of the adjoining dwelling at 1/1-5 Highett Grove at 3pm on the Spring Equinox. Most of this space will not be overshadowed by the development, which complies with the relevant overshadowing criteria set down under Standard B21 of Clause 55.

**Overlooking**

There is the potential for overlooking from the balcony of Dwelling 2-04 into the secluded private open space at 1/1-5 Highett Grove. Consequently, screening to the balcony to 1700mm high above floor level has been proposed to achieve compliance with the relevant criteria set down under Standard B22 of Clause 55 to limit the potential for such overlooking.

**Loss of Property Values**

This is not a planning consideration.

**Construction Management Issues**

Concerns have been raised over the impact that may be had on the residents during construction. A condition has been included in the recommendation requiring the submission of a Construction Management Plan to deal with such matters, noting that the use of ghetto-blasters will be controlled.

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment Precinct G1 ↓
4. Clause 55 (ResCode) Assessment ↓
Item 4.2 – Matters of Decision
**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>Objection(s)</td>
</tr>
</tbody>
</table>

NB – Two objections were received from 7/1-5 Highett Grove.
Figure 2 View towards the site from the south

Figure 3 View towards the site from the southeast
Figure 4 View towards the site from the WNW

Figure 5 View along the northern boundary from the west
Figure 6 View along the eastern boundary from the south
ATTACHMENT 3
NEIGHBOURHOOD CHARACTER ASSESSMENT – 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  
There is sufficient space provided for substantial vegetation to ensure that the garden setting of the area is maintained and enhanced. |
| To maintain the rhythm of visual separation between buildings. | • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. |  | Responds  
The building is setback from side boundaries. |
| 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. | Responds  
The building is angled to the street, meaning that it is heavily-articulated and provides an interesting façade to the street.  
A suitable combination of materials, textures and colours is proposed. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td></td>
<td>High, solid front fencing.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>No fence is proposed for the front boundary, thus maintaining the openness of the streetscape.</td>
</tr>
</tbody>
</table>
**ATTACHMENT 4**
**CLAUSE 55 ASSESSMENT**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer Attachment 3.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support two dwellings.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>Yes</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: 6m</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or</td>
<td>Proposed: 3.75m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Status</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>--------</td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B8 Site Coverage</strong></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><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: Development that respects the landscape character of the neighbourhood. Development that maintains and enhances habitat for</td>
<td>Yes</td>
</tr>
</tbody>
</table>
plants and animals in locations of habitat importance.
The retention of mature vegetation on the site.

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

<table>
<thead>
<tr>
<th>B15 Parking Location</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Yes</strong></td>
<td><strong>Appropriate basement car parking is provided.</strong></td>
<td></td>
</tr>
<tr>
<td>Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B17 Side and Rear Setbacks</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>No</strong></td>
<td><strong>Refer report and table below. Areas of non-compliance are underlined.</strong></td>
<td></td>
</tr>
<tr>
<td>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>First Floor / Ground Floor</th>
<th>Top Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td>East (rear)</td>
<td>1.9m – 2.09m</td>
</tr>
<tr>
<td>North (side)</td>
<td>2.09m – 3.09m – 3.59m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B18 Walls on Boundaries</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td><strong>No walls on boundaries proposed.</strong></td>
<td></td>
</tr>
<tr>
<td>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the</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>4.2</td>
<td>B19 Daylight to Existing Windows</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Allow adequate daylight into existing habitable room windows.</td>
<td></td>
</tr>
<tr>
<td>4.2</td>
<td>B20 North Facing Windows</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td></td>
</tr>
<tr>
<td>4.2</td>
<td>B21 Overshadowing Open Space</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td></td>
</tr>
<tr>
<td>4.2</td>
<td>B22 Overlooking</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td></td>
</tr>
<tr>
<td>4.2</td>
<td>B23 Internal Views</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td></td>
</tr>
<tr>
<td>4.2</td>
<td>B24 Noise Impacts</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td></td>
</tr>
<tr>
<td>4.2</td>
<td>B25 Accessibility</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Consider people with limited mobility in the design of developments.</td>
<td></td>
</tr>
<tr>
<td>4.2</td>
<td>B26 Dwelling Entry</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Provide a sense of identity to each dwelling.</td>
<td></td>
</tr>
<tr>
<td>4.2</td>
<td>B27 Daylight to New Windows</td>
<td>No</td>
</tr>
</tbody>
</table>
### new habitable room windows.
- receive adequate natural light.
  - Addressed by condition.

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Reason</th>
</tr>
</thead>
</table>
| B28 Private Open Space | No | **Minimum at ground level:** 25m² secluded, 40m² overall  
  - **Proposed:** Four of the eight dwellings on the ground floor receive between 15.7m² and 16.6m² of SPOS  
  - **Minimum at upper levels:** 8m² balcony with minimum dimension of 1.6m  
  - **Proposed:** All upper level dwellings are provided with at least the minimum area |
| B29 Solar Access to Open Space | No | Many of the dwellings have their areas of SPOS located on the south side of walls. In many ways, this reflects the orientation of the site. These areas do have dual aspects, so that they will receive either morning or afternoon sun. |
| B30 Storage | Yes | Storage spaces of 6m³ in size are provided in the basement or on the ground floor. |
| B31 Design Detail | Yes | Refer Attachment 1. |
| B32 Front Fences | Yes | Front fencing is not proposed. |
| B33 Common Property | Yes | Common property is easily identifiable and should be capable of effective management through subdivision procedures. |
| B34 Site Services | Yes | Meters and service facilities have not been shown. Addressed by condition. |
4.3 20-22 WORTHING ROAD, HIGHETT
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/681  WARD: CENTRAL

1. Purpose and background
To report a planning permit application for the construction of ten new double-storey dwellings with associated basement car parking on a lot with an area of 1,265 square metres (refer Attachment 1) at 20-22 Worthing Road, Highett (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Tailor Projects Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>13 October 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>20 February 2017</td>
</tr>
</tbody>
</table>

2. Policy implications
Planning permit requirements
Clause 32.09-5 (General Residential Zone) – Construction of two or more 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 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 will conclude on 16 January 2017 and a report considering submissions will be presented to Council early 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 presently located within an SBO, nor is it proposed to be included within one.

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 engineer</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>Drainage engineer</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>Waste Management</td>
<td>No objection, subject to conditions</td>
</tr>
</tbody>
</table>

Public notification
The application was advertised pursuant to Section 52(1)(a) and (d) of the Planning and Environment Act 1987 and four (4) objections were received. The following concerns were raised:

- Car parking impacts and increased traffic congestion.
- Increased stormwater run-off down driveways.
- Precedence effect of multiple-townhouse development where none presently exists in the street.
- Inconsistency with neighbourhood character.
- Lack of open space and limited landscaping opportunities.

Consultation meeting
The applicant was offered a consultation meeting to meet with the objectors, but declined Council’s offer.

Four objections are outstanding.

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 2016/681/1 for the land known and described as 20 Worthing Road and 22 Worthing, for the construction of ten new double-storey dwellings with associated basement car parking 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 submitted plans date-stamped 1 July 2016, but modified to show:
   a) The flat roofs of Dwellings 1 and 6 replaced with pitched roofs with a pitch angle of 22.5 degrees, or otherwise to the satisfaction of the Responsible Authority.
   b) The finished floor levels for all dwellings to be nominated on floor plans and elevation drawings to AHD.
   c) The first-floor south-facing windows of Dwellings 1-5 to be screened in accordance with Standard B22 of the Bayside Planning Scheme.
   d) Notations added to the elevations drawings in respect of all windows to be treated with obscure glass.
e) The common pedestrian pathways to be treated with decorative paving or brick banding.

f) Skylights added to all upper-floor bathrooms currently with no direct daylight access. This does not apply where roof-top plant equipment inhibits this ability.

g) The ground-floor north-facing habitable room windows of dwellings 6-10 to be acoustically treated.

h) The ground-floor east-facing Bed 3 window of Dwelling 10, adjacent to the rear stairway, to be a highlight window and acoustically treated.

i) Provision of a pergola element above the two rear stairwells.

j) The delineation of all site services, including mailboxes, utility meters, clotheslines, air-conditioning units, stormwater detention tanks, bin and recycling enclosures, etc., for each dwelling, where not already shown.

k) A longitudinal section of each ramp showing all design levels, grades, length of grades and minimum 2.2m headroom.

l) The bin store design amended to include an area suitable for bin wash down within the development. If this is within the bin store, then the floor is to be graded to a waste outlet.

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

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

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

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

6. The 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.

7. 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.

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

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

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

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

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

13. Any waste outlet associated with the bin wash down area within the bin store is to have a floor graded to a waste outlet in accordance with the applicable Australian standards, and is to be cleaned on regular basis. The cleaning frequency shall be determined between the contractor and the Body Corporate.

14. 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

- Council records indicate that there is a 1.83m wide drainage and sewerage easement along the southern property boundary of 22 Worthing Road, Highett 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 Authority/Authorities.

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

- Kerbside garbage collection is not supported for this development. The Waste Management Plan prepared by LID Consulting, dated 21 November 2016, is the supported method of waste management for this proposed development.

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 9 Plan Melbourne
- Clause 11 Settlement
- 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. Strategic Justification

The proposal enjoys strong strategic support within the Planning Scheme, as discussed below:

The site is located within the General Residential Zone (GRZ 5 - Moderate Residential Growth Area: Highett Neighbourhood Activity Centre – Clause 32.08), within which medium-density housing development is encouraged, provided the design respects the neighbourhood character of the area. As discussed in Attachment 3 to this report, the proposal is considered to be consistent with the preferred neighbourhood character for Precinct G1, subject to minor design changes.

The subject site is also affected by a Design and Development Overlay (DDO 5 – Preferred Medium Density Residential Area (Highett) – Clause 43.02). Within this overlay, apartment-style residential development of up to three storeys in height on consolidated lots in areas close to the Highett shopping centre and Southland is encouraged. This proposal involves two lots, to be developed with dwellings of a height not exceeding two storeys. The proposal also provides for car parking within the building’s basement level, which maximises the opportunity for landscaping, and communal and private open space.

5.2. Neighbourhood character

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

In particular, it is considered that the proposed flat roofs of Dwellings 1 and 6, which are the dwellings fronting Worthing Road, should be replaced with pitched roofs, preferably with a regular pitch angle of 22.5 degrees, while the remaining eight dwellings to the rear could retain their flat-roof forms. This design approach was used in respect of the three-dwelling development at 25 Worthing Road, maintaining the uniform use of pitched roofs along both sides of Worthing Road. There is not a single flat-roofed dwelling on either side of Worthing Road, and a change to pitched roofs for the two front dwellings will ensure that the development is consistent with the preferred and existing character of the neighbourhood. The preferred character statement for Precinct G1 states that...
building should “include a pitched roof form to reflect the dominant forms in the area.”

Furthermore, the retention of suitable building setbacks from the road boundary and a sufficient level of landscaping within the subject site’s front setback will ensure that the desired garden setting is maintained.

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

An assessment against the requirements of Clause 55 is provided at Attachment 4. The proposed areas of non-compliance are discussed below:

**Private Open Space (Standard B28) – Clause 55.05-4**

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>Upper Floors</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>40m² of Private Open Space (POS), including 25m² of Secluded POS with min. dimension of 3m</td>
<td>Dwellings 2-4 are provided with 30.9m² of private open space, all of it meeting the definition of secluded POS.</td>
<td>8m² of Private Open Space with min dimension of 1.6m</td>
</tr>
</tbody>
</table>

It is considered, however, that the objective of the clause is met for the following reasons:

- The 30.9m² areas are all north-facing, so they will have excellent access to sunlight throughout the year.
- All have a highly useable shape and good dimensions, such that the entire area for each dwelling meets the definition of secluded private open space. Only 25m² of secluded private open space per dwelling needs to be provided, so Dwellings 2-4 will have an additional 5.9m².
- Dwelling 3 has only two bedrooms, so a lesser provision is justified for this dwelling.

5.4. **Car parking and traffic**

Each two bedroom dwelling is provided with one car spaces and each three bedroom dwelling is provided with two car spaces. The development is also provided with the required two visitor spaces. The proposal accords with Clause 52.06 of the Bayside Planning Scheme.

The application was assessed by Council’s traffic engineer, who stated no objection to the proposal, subject to minor changes being made to the basement design as shown on the submitted plans. The applicant submitted amended plans showing revised transitions at the bottom of the ramps, but the plans do not yet show the provision of 2.2m minimum headroom height on the ramps. This will be required as a condition of any permit issued.

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.

5.5. **Vegetation & Landscaping**

The application has been assessed by Council’s arborist. It is proposed to remove three trees (Trees #7, 8 and 9 on the applicant’s arboricultural report) to accommodate the development. Initially, the arborist considered that the removal of Tree #9, a mature Silky Oak (*Grevillea robusta*) was not consistent with the Neighbourhood Character Policy Guidelines for precinct G1, which states applications should avoid ‘the removal of large trees’. After further assessment, however, it was considered that the tree does not have a sufficiently high value to warrant the level of change to the proposal required to retain
the tree. Being located within the Highett Neighbourhood Activity Centre the site is ideally situated for medium-density residential development, and it is likely that the retention of the tree would require the removal of the two rearmost dwellings from the design, reducing the overall density significantly. This would be inconsistent with the primary planning considerations applicable to this site, which are the encouragement of development that respects the neighbourhood character of the area, and the encouragement of a diversity of housing types and housing growth, particularly in locations offering good access to services and transport.

It is also considered that the proposal will ensure that an adequate area to provide for reasonable landscaping will be retained. The planting of Water gum (*Tristaniopsis laurina*) trees, which are capable of reaching a mature height of up to 9m in these settings, is acceptable within the front setback, as this will ensure the trees will eventually be at least the same height as the proposed built form.

The trees to be removed from the front of the site (Trees #6 and #7) are a Flowering gum (*Corymbia Ficifolia*) and a Norfolk Island hibiscus (*Lagunaria Patersonia*), respectively. From an arboricultural perspective these trees are deemed to have moderate amenity values, and their removal is acceptable provided they are replaced with new canopy trees that have the capacity to achieve at least the same height as the proposed development (i.e., approximately 8m once pitched roofs are provided for the front dwellings). This will be imposed as a condition on any permit issued.

### 5.6. Objections received

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

**Increased stormwater run-off down driveways**

A concern in a number of objections was the impact of the dwellings on infrastructure, particularly drainage infrastructure. The owner will be required to address infrastructure servicing demands as required by the relevant service authorities towards the upgrade of existing infrastructure.

**Precedence effect of multiple-townhouse development where none presently exists in the street**

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

---

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment Precinct G1 ↓
4. Clause 55 (ResCode) Assessment ↓
DESIGN STATEMENT

The proposed development at 19-23 Worthing Road, Hightett is located west of the Frankston train line and to the north proximity to apartment, townhouse and lifestyle facilities. It comprises the redevelopment of existing residential sites in a General Residential Zone 3 along with a Design Development Overlay Schedule 3. The sites are accessed by Worthing Road to the north, single storey dwellings to the north and south, and intersecting with the private open space to the single storey dwellings.

The site is located from the highest commercial zone, being the highest train station, and the city's primary school within walking distance. The proposed future residents with a diverse range of public facilities, including schools, libraries, parks and retail amenities. Neighbouring properties consist of a mix of single storey and multi-unit residential development. The design seeks to complement and reinforce private open spaces to the north, east and south which have been carefully considered and addressed in the design response.

The proposal takes into account all of the site constraints, optimising environmental and tactfully eliminating overlooking. The layout has been articulated and coalesced to respect the sensitive interface with the neighbouring properties.

All dwellings have been oriented to accept the desired North aspect for both living and outdoor spaces, with additional desired aspect to the bedrooms where possible. The layout provides vehicle access and accessibility to all units, with a mix of three and four bedroom dwellings and two car spaces for three bedrooms. The proposal offers housing diversity with a combination of living configurations.

Dwellings vary are generally one-storey, which receive substantial landscaping. A visitor car space has been provided in each building in a convenient and visible location.

First floor living and outdoor private balconies have been designed to maximise screening, which further improves the amenity of each dwelling and comfort for future residents, as well as promoting passive surveillance and sense of community within the development.

Internal amenity provided to the apartment residents has been designed to allow a sense of generosity to the principal spaces, with good cross ventilation, good solar access, landscaping and ample storage.

The buildings benefit from a refined and low profile comprising of diverse linear cladding and white smooth face renders, which contribute to the individuality of the building. The careful use of materiality serves to unite the building, as well as break it down further into a number of articulate components which then subtly join each other, this along with thoughtfully detailed landscaping provides an inclusive and positive contribution to the area.
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>

NB: Fourth objector located beyond map parameters to south-east, at 222/286 Hightt Road.
Figure 2. View towards the subject site from the south-west.
Figure 3. Front-on view towards the subject site (22 Worthing Road) from the west.
Figure 4. View towards the subject site (20 Worthing Road) from the west.
ATTACHMENT 3
Neighbourhood Character Assessment
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>
<tbody>
<tr>
<td>To maintain and enhance the garden settings of the dwellings.</td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation.</td>
<td>Lack of landscaping and substantial vegetation. Removal of large trees. Planting of environmental weeds.</td>
<td>Responds, subject to conditions. In its submitted form the proposal is marginally deficient in respect of its landscape plan. The proposed planting of Kanooka (<em>tristaniopsis laurina</em>) in the front setback is not considered satisfactory, as these trees are too small to replace the amenity currently provided by the existing trees on the site. The applicant will be required to increase the soil volume free of built form in the front setback and plant two large canopy trees, with the capacity to reach 12m in height and 8m in spread at maturity.</td>
</tr>
<tr>
<td></td>
<td>• Retain large, established trees and provide for the planting of new trees wherever possible.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To maintain the rhythm of visual separation between buildings.</td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>Responds. The proposed rear setback is sufficient to maintain the rhythm of visual separation distance between buildings. The two blocks of dwellings have are set back more than 3m from the rear boundary, and in the this respect the proposal will be consistent with development on neighbouring sites and within the surrounding area.</td>
</tr>
<tr>
<td>To ensure that new buildings provide</td>
<td>• Incorporate design elements into the front façade design</td>
<td>Large, bulky buildings with</td>
<td>Responds</td>
</tr>
</tbody>
</table>

Item 4.3 – Matters of Decision
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| an articulated and interesting façade to the street. | 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. | poorly articulated front and side wall surfaces. | The proposal provides a highly articulated and interesting façade. The front dwellings (Units 1 and 6) have overhanging elements, bold contrasting window reveals and open pergolas. |
| To maintain the openness of the streetscape.     | High, solid front fencing.                                                        |                                | Responds                                                                                                       |
|                                                 |                                                                                  |                                | The application proposes a 1.8m high solid fence, but this fence will be visually ‘softened’ by a 1m wide raised planting strip and, due to the design’s central walkway dividing the two housing modules, will not occupy an excessive length of the property boundary. |
### 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, subject to condition(s)</td>
<td>Refer detailed discussion in Attachment 3.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is located within the Highett Neighbourhood Activity Centre, so is appropriately located with regard to services and facilities to support ten dwellings.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>Yes</td>
<td>The proposal provides for six three-bedroom dwellings and four two-bedroom dwellings.</td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>Given the limitations of the site, particularly its relatively narrow road frontage relative to its overall area, the development appropriately addresses the street. With ten dwellings proposed and a road frontage of 32.41m, it is only practical for two of the dwellings to address the street. Other entries are clearly identifiable from the common pedestrian access.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td><strong>Minimum</strong>: 6m</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><strong>Proposed</strong>: 6m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Note: This is compliant with the applicable DDO5 provision.</td>
</tr>
<tr>
<td>Item</td>
<td>Question</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>Yes</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>Yes</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, subject to condition</td>
</tr>
</tbody>
</table>
Bayside City Council
Planning & Amenity Committee Meeting - 9 May 2017
Attachment 4

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

| Yes | Appropriate vehicular access is provided.  
**Maximum:** 33% of street frontage  
**Proposed:** 22% of street frontage |

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

| Yes | The proposed car parking spaces are appropriately located in the basement level. Access to the dwellings is provided via stairways at the eastern and western ends of the basement. |

**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.

| Yes | Refer table below. |

<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>North (side)</td>
<td>0m or 2.1m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 1.83m</td>
</tr>
<tr>
<td>East (rear)</td>
<td>1.92m</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.

| Yes | No boundary walls are proposed. |

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

| Yes | The proposal is sufficiently set back 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 | The proposal complies in respect of the three north-facing habitable room windows at 18 Worthing Road to the south. Setbacks from these windows are a minimum of 2.4m. |

**B21 Overshadowing Open Space**
Ensure buildings do not

<p>| Yes | Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>4.3 – Matters of Decision</th>
<th>9 May 2017</th>
<th>Attachment 4</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Bayside City Council</strong></td>
<td><strong>Planning &amp; Amenity Committee Meeting</strong></td>
<td><strong>-</strong></td>
<td><strong>9 May 2017</strong></td>
</tr>
<tr>
<td><strong>Item</strong></td>
<td><strong>4.3 – Matters of Decision</strong></td>
<td><strong>Page 95 of 223</strong></td>
<td><strong>Attachment 4</strong></td>
</tr>
<tr>
<td>significantly overshadow existing secluded private open space.</td>
<td>least five hours of sunlight between 9am and 3pm on 22 December.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B22 Overlooking</strong></td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>Yes</td>
<td>All habitable-room upper-storey windows are shown to be treated with highlight windows or obscured glass, and upper-storey balconies will be screened to a height of 1.7m above finished floor level, so as to comply with the standard.</td>
</tr>
<tr>
<td><strong>B23 Internal Views</strong></td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>Yes</td>
<td>Overlooking between the north-facing balconies of Units 6-10 and the first-floor south-facing bedrooms of Units 1-5 will be ensured by the use of fixed obscure glazing to the bedroom windows.</td>
</tr>
<tr>
<td><strong>B24 Noise Impacts</strong></td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
</tr>
<tr>
<td><strong>B25 Accessibility</strong></td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
<td>The dwelling entries and ground-floor bedrooms and bathrooms of Units 6-10 are accessible to people with limited mobility, assisted by the ramped pedestrian access from Worthing Road.</td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong></td>
<td>Provide a sense of identity to each dwelling.</td>
<td>Yes</td>
<td>Each dwelling is provided with its own easily identifiable entry and porch. First-floor overhangs will assist with providing protection from the elements.</td>
</tr>
<tr>
<td><strong>B27 Daylight to New Windows</strong></td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td><strong>B28 Private Open Space</strong></td>
<td>Provide reasonable recreation and service needs of residents by adequate pos.</td>
<td>No</td>
<td><strong>Minimum</strong>: 25m² secluded, 40m² overall, or 8m² balconies with a minimum dimension of 1.6m. <strong>Proposed:</strong> Unit 1 - 48m² (36m² secluded) Unit 2 = 30.9m² (30.9m² secluded) Unit 3 = 30.9m² (30.9m² secluded) Unit 4 = 30.9m² (30.9m² secluded) Unit 5 = 58m² (45m² secluded) Unit 6 = 10.6m² balcony with a minimum dimension of 1.83m Unit 7 = 10.6m² balcony with a minimum dimension of 1.83m Unit 8 = 10.6m² balcony with a minimum dimension of 1.83m Unit 9 = 10.6m² balcony with a minimum dimension</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
<td>Notes</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
<td>-------</td>
</tr>
<tr>
<td><strong>B29 Solar Access to Open Space</strong></td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided. All areas of secluded private open space face north, and the limited application of screening to the first-floor balconies of Units 6-10 will ensure they receive excellent solar access.</td>
</tr>
<tr>
<td><strong>B30 Storage</strong></td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td>Yes, subject to condition</td>
<td>Over-bonnet 6m³ storage areas will be provided for each unit within the basement.</td>
</tr>
<tr>
<td><strong>B31 Design Detail</strong></td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer discussion in Attachment 3.</td>
</tr>
<tr>
<td><strong>B32 Front Fences</strong></td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Required: 2m Proposed: 1.8m</td>
</tr>
<tr>
<td><strong>B33 Common Property</strong></td>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td>N/A</td>
<td>The basement and communal pedestrian accessway will be practical, easily maintained and attractive.</td>
</tr>
<tr>
<td><strong>B34 Site Services</strong></td>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td>Yes</td>
<td>The submitted plans do not comprehensively show the location of site services. The applicant will need to submit amended plans indicating where all site services will be located.</td>
</tr>
</tbody>
</table>
4.4 9 BURT CRESCENT, HAMPTON EAST
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/375/1 WARD: CENTRAL

City Planning & Community Services - Statutory Planning
File No: PSF/15/8755 – Doc No: DOC/17/65606

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 607 square metres (refer Attachment 1) at 9 Burt Crescent, Hampton East (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Skll Design Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>16 May 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>19 November 2016</td>
</tr>
</tbody>
</table>

2. Policy implications

Planning permit requirements

Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two or more 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 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 a report considering submissions will be presented to Council early 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 presently located within an SBO, nor is it proposed to be included within one.

3. Stakeholder Consultation

External referrals

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

The application was referred to the following authorities:

Internal referrals

The application was referred to the following Council departments for comment:
Item 4.4 – Matters of Decision

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

- Excessive building bulk / physical dominance
- Insufficient rear setback
- Inadequate landscaping to rear boundary
- Shadowing
- Inconsistency with neighbourhood character
- Inconsistency in plans

Consultation meeting

The applicant was offered a consult meeting, but declined.

The applicant has, however, stated that informal discussions have been held with the objectors in an attempt to resolve the objectors’ concerns. As a result, one objection was formally withdrawn. Therefore, two objections remain outstanding.

4. Recommendation

That Council:

Issue a Notice of Decision to Grant a Planning Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2016/375/1 for the land known and described as 9 Burt Crescent, Hampton East, for the construction of two double-storey dwellings 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 The Silver Arc Pty Ltd, Job No. 721, dated 21 October 2016, but modified as follows:

   a) The rear setback of the building increased as follows:
      i. Dwelling 1: Ground floor by an additional 500mm
         First floor by an additional 750mm
      ii. Dwelling 2: Ground floor by an additional 500mm
         First floor by an additional 750mm

   b) The delineation of a 6m³ storage area for Unit 2, and utility meters and air-conditioning units for both dwellings.
c) The *Eucalypt* and *Acer* species deleted from the landscape plan and the landscape plan amended to include at least one tree capable of reaching a minimum mature height of 14 m with a width of 6 m within the front setback.

d) The landscape plans amended to provide at least one tree within the rear setback of each dwelling, and at least 1m from the easement adjacent to the rear boundary, capable of reaching a mature height of 14m at maturity.

e) All pedestrian doors from the Unit 2 garage opening outward from the garage.

f) A schedule of construction materials, external finishes and colours (incorporating, for example, paint samples) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the schedule will be endorsed and will then form part of the permit.

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

7. Before the development starts, a schedule of construction materials, external finishes and colours (incorporating for example paint samples) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the schedule will be endorsed and will then form part of the permit.

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

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

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

11. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
12. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

13. A tree protection fence is for the protection of a tree’s canopy and root zone of the Callistemon viminalis (Weeping Bottlebrush) street tree within the adjacent nature strip. Conditions for street tree protection fencing during development are as follows:

- Fencing is to be secured and maintained prior to demolition and until all site works are complete.
- Fencing must be installed to comply with AS 4970–2009, Protection of trees on development sites.
- Fencing should encompass the Tree Protection Zone (TPZ) for all street trees adjacent to the development.
- Fencing is to be constructed and secured so its positioning cannot be modified by site workers.
- 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.

14. Prior to soil excavation for a Council-approved crossover within the Tree Protection Zone (TPZ) of the street tree, 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.

15. Any installation of services and drainage within the street tree’s TPZ must be undertaken using root-sensitive, non-destructive techniques.

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

18. 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.
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 not considered to demonstrate a satisfactory level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 2. The proposal can, however, be made satisfactory through the imposition of appropriate conditions.

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:

Site Coverage (Standard B8)

<table>
<thead>
<tr>
<th>Maximum</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>50%</td>
<td>51.7%</td>
</tr>
</tbody>
</table>

The proposal involves site coverage of 51.7%. Given that the proposal in its submitted form is considered to be inconsistent with the preferred neighbourhood character for Precinct G1, in that it will not maintain the rhythm of visual separation between buildings or the garden setting, an increased rear setback is recommended.

The dwelling on the adjoining site to the rear (10 O’Connor Crescent) is set back approximately 9.5m from the common boundary, while the dwelling on the neighbouring site to the north (11 Burt Crescent) has a rear setback in excess of 20m. Other rear setbacks include 17m (7 Burt Crescent, adjoining to the south) and 8.5m (10 O’Connor Crescent). To ensure the development provides for a rear setback that is respectful of the neighbourhood character, it is considered that the setbacks of the proposed new dwellings should be increased by 500mm at the ground floors (to 5.2m) and by 750mm at the upper floors (to 5.45m).
Increased setbacks at both ground and first floor for both dwellings will reduce the site coverage to approximately 50%, while also providing a more appropriate neighbourhood character response.

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

6.4. **Street trees**

The proposal does not involve the removal of any street trees. Council’s open space arborist has, however, recommended that conditions be imposed requiring that in constructing the proposed new vehicle crossing, soil excavation must not occur within 2.0m of the edge of the *Callistemon viminalis* (Weeping Bottlebrush) street tree, measured from the stem at ground level. Appropriate tree protection fencing will need to be erected and maintained until all site works are completed.

6.5. **Vegetation & Landscaping**

Council’s arborist has assessed the proposal and has stated that there is no vegetation on the site that provides levels of amenity to the immediate area that warrants their retention.

The arborist also assessed the submitted landscape plan and considers that the proposed rear setback should be increased to provide sufficient room to establish appropriate vegetation that will add to the character of the area. The trees should be planted at least 1m outside of the 1.8m wide easement and built form should be at least 4m from the planting sites.

The elevations shown on Sheet 05-07 show excavations at the boundary. Although these changes to levels could have an impact on the small trees on the property to the north and the larger tree to the west, the arborist states that the impacts are likely to be low.

The planting of *Quercus robur* ‘Fatigata’ is considered a good choice as it obtains some height without dominating a small yard.

The other nominated trees are considered too small, and the arborist states that one or two of the *Eucalypt* or *Acer* (Maple) trees could be deleted so that at least one tree capable of reaching a minimum mature height of 14m and a width of 6m could be planted in the front setback. This, with other proposed plantings, will provide good levels of amenity once established.

The proposal is supported provided the proposed changes to the landscape design are incorporated.

6.6. **Objections received**

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

**Building bulk / physical dominance**

In its present form, it is considered that the proposed development would be excessively bulky, particularly when viewed in the context of the existing pattern of development on the abutting sites and within the immediate area, where more substantial rear setbacks
are the norm. Under this proposal, two-storey development would extend to within 4.7m of the rear boundary, therefore it is considered that increased setbacks at both ground and first floor for both dwellings – to 5.2m at the ground levels and 5.45m at the upper levels - will reduce the bulk to an appropriate level.

It is noted that these recommended conditions all reduce the site coverage and also improve post-construction landscaping opportunities.

**Insufficient rear setback**

Refer discussion above of ‘building bulk / physical dominance’.

**Inadequate landscaping to rear boundary**

Council’s arborist has stated that a greater area should be provided at the rear of the site for the planting of substantial trees. An increase in the rear setback as recommended above would be sufficient to allow the planting within the rear private open space of each dwelling of one tree capable of reaching a mature height of 10m and a spread of 6m at maturity.

**Shadowing**

The shadow diagrams submitted with the application demonstrate that the proposal will comply with the required standard. Notwithstanding this, the degree of compliance will improve as a result of the recommended conditions to increase the ground and first floor rear setbacks as recommended above.

**Inconsistency with neighbourhood character**

It is considered that changes should be made to the proposed landscaping plan and to the bulk of the building in order to ensure the development is consistent with the existing and preferred neighbourhood character.

**Inconsistency of submitted plans**

One objector claimed there was some inconsistency between plans submitted with the application. Insufficient detail was provided to verify the claim, and it is not obvious from a reading of the plans that any inconsistency is evident that would prevent a correct and proper assessment of the proposal.

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Policy (Precinct G1) ↓
4. Clause 55 Assessment (ResCode) ↓
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>
<tr>
<td>Withdrawn</td>
<td>▲</td>
</tr>
</tbody>
</table>
Figure 2. View towards the site from the north end of the road frontage
Figure 3. View towards the site from the south end of the road frontage
Neighbourhood Character Precinct G1

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To maintain and enhance the garden settings of the dwellings.</td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation. • 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.</td>
<td>Lack of landscaping and substantial vegetation. Removal of large trees. Planting of environmental weeds.</td>
<td>Responds, subject to conditions</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>In its submitted form the proposal does not provide for a sufficiently deep rear setback to ensure that substantial trees can be planted at the rear of the site, particularly in light of the 1.8m wide easement adjacent to the rear boundary. Therefore, an increased rear setback will be required as a condition of permit, and it is considered that a minimum of 6m should be provided.</td>
</tr>
<tr>
<td>To maintain the rhythm of visual separation between buildings.</td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>Responds, subject to condition</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The proposed 4.7m rear setback is not sufficient to maintain the rhythm of visual separation distance between buildings. Given the pattern and scale of existing development on the neighbouring sites and within the local area, it is considered that the proposed development would requires increased setbacks at both ground and first floors. This would also allow substantial vegetation to be established at the rear of the site, which the submitted proposal fails to do.</td>
</tr>
<tr>
<td>To ensure that new buildings provide an articulated and interesting façade to the street.</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</td>
<td>Large, bulky buildings with poorly articulated</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The proposal provides a satisfactorily articulated and interesting façade. The dwellings have pitched...</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></td>
<td>of materials, textures or colours or other elements providing appropriate articulation.</td>
<td>front and side wall surfaces.</td>
<td>roofs and recessed upper storeys.</td>
</tr>
<tr>
<td></td>
<td>- Use pitched roof forms with eaves.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td>High, solid front fencing.</td>
<td>Responds</td>
<td>No front fencing is proposed.</td>
</tr>
</tbody>
</table>
## ResCode Clause 55 (Two or More Dwellings on a Lot and Residential Buildings)

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</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, subject to condition(s) | Refer detail discussion in Attachment 3. |
| **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 either the streetscape or the common pedestrian access. |
| **B6 Street Setback**  
The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site. | Yes | Minimum: 9m  
Proposed: 9m |
| **B7 Building Height**  
Building height should respect the existing or preferred neighbourhood character | Yes | Required: 8m  
Proposed: 6.7m |
<p>| <strong>B8 Site Coverage</strong> | No | Maximum: 50% |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Target</th>
<th>Decision</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><strong>Proposed:</strong> 51.72% Addressed by condition.</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>
<td><strong>Minimum:</strong> 20% <strong>Proposed:</strong> 39.6%</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>
<td>The proposal provides for appropriate solar access to the dwellings.</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>
<td></td>
</tr>
<tr>
<td><strong>B12 Safety</strong></td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Yes</td>
<td>No safety issues are considered to be likely to arise.</td>
</tr>
<tr>
<td><strong>B13 Landscaping</strong></td>
<td>To provide appropriate landscaping. To encourage: Development that respects the landscape character of the neighbourhood. Development that maintains and enhances habitat for plants and animals in locations of habitat importance. The retention of mature vegetation on the site.</td>
<td>Yes, subject to condition</td>
<td>Refer detailed discussion in report.</td>
</tr>
<tr>
<td><strong>B14 Access</strong></td>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td>Yes</td>
<td><strong>Appropriate vehicular access is provided.</strong> <strong>Maximum:</strong> 40% of street frontage <strong>Proposed:</strong> 35.7% of street frontage</td>
</tr>
<tr>
<td><strong>B15 Parking Location</strong></td>
<td>Provide resident and visitor</td>
<td>Yes</td>
<td>The proposed car parking areas are appropriately located.</td>
</tr>
</tbody>
</table>
vehicles with convenient parking. 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 impact on existing dwellings.

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

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

Yes

| Maximum Height: 3.6m |
| Proposed: 3.2m |
| Maximum Average Height: 3.2m |
| Proposed: 3.2m |
| Maximum Length: 16.98m |
| Proposed: 12m |

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

Yes

The proposal is well set back 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 windows on adjoining properties are affected.

**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%/40m² 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

All habitable-room upper-storey windows are shown to be treated with obscured glass so as to comply with the standard.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Acceptance</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>B23 Internal Views</td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>Yes</td>
<td>At ground level, fencing to a height of 1.8m will prevent internal overlooking, whilst windows at first floor are shown to be treated with obscured glass to comply with the standard.</td>
</tr>
<tr>
<td>B24 Noise Impacts</td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
<td>Entries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future, if required.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling.</td>
<td>Yes</td>
<td>The entries to both dwellings are easily identifiable from the street.</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>Provide reasonable recreation and service needs of residents by adequate pos.</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall Proposed: Unit 1 = 124m² (57m² secluded) Unit 2 = 125m² (52m² secluded)</td>
</tr>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>B30 Storage</td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td>Yes, subject to condition</td>
<td>A storage shed of 6m² is shown adjacent to the garage of Unit 1, but none is shown for Unit 2. The applicant will need to submit amended plans indicating where the storage area will be provided.</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer Attachment 3.</td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Required: 1.2m Proposed: None proposed</td>
</tr>
<tr>
<td>B33 Common Property</td>
<td></td>
<td>N/A</td>
<td></td>
</tr>
<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>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B34 Site Services</strong>&lt;br&gt;Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td>Yes</td>
<td>The submitted plans show clotheslines and mailboxes, as required. The applicant will need to submit amended plans indicating where the storage area for Unit 2, and utility meters and air-conditioning units for both dwellings are to be provided.</td>
<td></td>
</tr>
</tbody>
</table>
4.5  360 BLUFF ROAD, SANDRINGHAM
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/459/1 WARD: CENTRAL

1. Purpose and background

1. To report a planning permit application for the construction of two dwellings, a front fence exceeding 1.2 metres in height and alter access to a Road Zone, Category 1 in a Special Building Overlay, on a lot with an area of 751 square metres (refer Attachment 1) at 360 Bluff Road, Sandringham (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Pink Architecture</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>13 July 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>2 December 2016</td>
</tr>
</tbody>
</table>

2. Policy implications

Planning permit requirements

Clause 32.09-5 (Neighbourhood Residential Zone) - Construction of two or more dwellings on a lot and a front fence exceeding 1.2 metres.

Clause 52.29 (Land adjacent to a Road Zone, Category 1, or a Public Acquisition overlay for a Category 1 Road) - Create or alter access to a Road Zone, Category 1

Clause 44.05 (Special Building Overlay) - Construct a building or to construct or carry out works including a fence.

Planning scheme amendments

2. 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.

3. Planning Scheme Amendment C153 has been initiated by Council and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process will conclude on 16 January 2017 and a report considering submissions will be presented to Council early 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. Amendment C153 proposes to modify the overlay, but will still be applicable to the site. As is the case now, a planning permit will be required to construct or carry out works that are located within the area covered by the SBO.

3. Stakeholder Consultation

External referrals

The application was referred to the following authorities:
Referral Authority | Response
--- | ---
VicRoads | No objection, subject to conditions.
Melbourne Water | No objection, subject to conditions.

Internal referrals

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

| Internal Referral | Response |
--- | ---
Traffic Engineer | No objection, subject to conditions.
Drainage Engineer | No objection, subject to conditions.
Street Tree Arborist | No objection, subject to conditions.
Arborist | No objection, subject to conditions.
Street Addressing | Western dwelling – Dwelling 1 – 2A Moira Avenue, Highton
Eastern dwelling – Dwelling 2 – 2B Moira Avenue, Highton

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:

- Traffic congestion and parking
- Tree removal
- Incorrect notice dates
- Removal of street trees
- Development inconsistent with neighbourhood character
- Safety
- Overdevelopment in street
- Garbage removal
- Historical significance of Moira Avenue

Consultation meeting

A consultation meeting was held on 7 December 2016 and attended by the permit applicant. No objectors attended and no objections have been withdrawn.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2016/459/1 for the land known and described as 360 Bluff Road, Sandringham, for the construction of two dwellings, a front fence exceeding 1.2 metres in height and alter access to a Road Zone, Category 1 in a Special Building Overlay in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible
Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the amended plans date stamped 15 September 2016 but modified to show:

a) The existing ‘No Stopping’ sign to the northern boundary to be relocated and offset 1.5m from the eastern edge of the new crossover to Dwelling 2.

b) An amended Landscape Plan in accordance with Condition 8 of this permit.

c) A Tree Management Plan (report) and Tree Protection Plan (drawing) for the Kurrajong (Brachychiton populneus) in accordance with Condition 9 of this permit.

d) Indicative landscaping to be removed from all development plans.

All to the satisfaction of the Responsible Authority.

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

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

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

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

8. 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 plan must be generally in accordance with the landscape plan drawn by John Patrick, reference TPO1, dated July 2016 showing details of the water sensitive urban design stormwater treatment measures as identified in the STORM assessment dated stamped 26 August 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 planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.

c) The number of canopy trees reduced to provide sufficient soil volume

d) The retention of Tree 5 - Kurrajong (Brachychiton populneus).

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

f) Details of surface finishes of pathways and driveways.

9. Before the development starts, including any related demolition or removal of vegetation, a Tree Management Plan (report) and Tree Protection Plan (drawing), for the Kurrajong (Brachychiton populneus), 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 tree 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.

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

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

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

14. Before the development starts tree protection fencing is to be established around the street trees 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 is to be secured and maintained prior to demolition and until all site works are complete.

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

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

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

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

f) Soil excavation must not occur within 3.0m from the edge of either of the street tree assets’ stems 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 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. Council records indicate that there is a 1.83m wide drainage and sewerage easement along the eastern 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 Authority/Authorities.

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

Melbourne Water Conditions

19. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water’s drains or waterways.

20. The dwellings must be constructed with finished floor levels set no lower than 29.16 metres to Australian Height Datum.

21. The garages must be constructed with finished surface levels set no lower than 29.01 metres to Australian Height Datum.

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

23. Imported fill must be kept to a minimum on the property and must only be used for the sub floor areas of the dwellings, garages and driveway ramps.

24. Any new fencing must be of a minimum of 50% open to allow for the passage of overland flows.

25. Any new decking must have unenclosed foundations to allow for the passage of overland flows.

VicRoads Conditions

26. The redundant vehicle crossing to Bluff Road must be removed and the area reinstated to the satisfaction of and at no cost to the Roads Corporation prior to the occupation of the buildings or works hereby approved.

27. The proposed development requires reinstatement of the disused crossover to kerb and channel. Separate approval under the Road Management Act for this activity may be required from VicRoads (the Roads Corporation). Please contact VicRoads prior to commencing any works.
Permit Expiry

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

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

Permit Notes

- The applicant is to bear the cost to reinstate/relocate the Council assets to provide the required access to the proposed development.
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council’s supervision for which 24 hours notice is required.
- This permit does not constitute any authority to carry out any 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.
- The applicable flood level for the property is 28.86 metres to Australian Height Datum.
- Preliminary land and flood level information available at Melbourne Water indicates that the property is subject to flooding from the Banks Avenue Main Drain. For a storm event with a 1% chance of occurrence in any one year, the flood level for the property is 28.86 metres to Australian Height Datum.
- Freeboard is the difference between the floor level of a building and the 100-year flood level. Freeboard requirements are designed to ensure that valuable buildings, their contents and the people in them are safely above the 100-year flood level.
- If further information is required in relation to Melbourne Water’s permit conditions shown above, please contact Melbourne Water on 9679 7517, quoting Melbourne Water’s reference 273533.

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 21.06 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 44.05 Special Building Overlay
• Clause 52.06 Car Parking
• Clause 52.29 Land adjacent to a Road Zone, Category 1, or a Public Acquisition overlay for a Category 1 Road
• 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 2.

It is considered that the siting of the proposal allows for meaningful landscaping opportunities that will assist in maintaining and enhancing the garden settings of Moira Avenue. The provision of canopy trees and unfenced open garden space to Bluff Road will assist in greening the precinct and further allow the development to further blend into the streetscape.

The proposal is considered to achieve a high level of visual separation between buildings in the streetscape and between the proposed dwellings. Ample opportunities for landscaping will assist in integrating the development in the streetscape and provide visual relief to the public realm. The proposal’s low scale design will further assist in blending the dwellings into the streetscape.

A wide range of materials and the built form provides a high articulated façade to both streetscapes. Although the precincts design response seeks a pitched roof, flat roof forms are evident in Moira Avenue and Bluff Road and reflects the preferred future character that is different from that applying to the remainder of the precinct that the subject site is located in.

The proposal’s design response is considered to be of a high standard that is site responsive and respectful to the existing neighbourhood character.

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.

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>3m</td>
<td>3.5m – 5.4m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 2m</td>
<td>2m</td>
</tr>
<tr>
<td>East (rear)</td>
<td>0m or 3m</td>
<td>4.5m</td>
</tr>
</tbody>
</table>

The proposal seeks to vary the first floor rear eastern setback to dwelling two. A setback of 4.9m is required. The proposed setback varies from 4.0m to 4.5m. The objective of the standard is to ensure that the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.

Located adjacent to the eastern boundary in which an accessway associated with a two unit development is sited, it is considered that reduced setback will have a negligible impact upon the amenity of existing and future residents.

On balance, when coupled with the proposals design response, the proposed variations sought of 400mm to 900mm are unlikely to generate offsite amenity impacts. Furthermore, the variation will have minimal visual bulk impacts as the first floor is well articulated and provides a larger setback to the ground floor eastern elevation. The proposal is considered to achieve the objectives of the standard and the variation can be supported.

Front Fences B32

<table>
<thead>
<tr>
<th></th>
<th>Maximum front fence height</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bluff Road</td>
<td>2m</td>
<td>2m</td>
<td>n/a</td>
</tr>
<tr>
<td>Moira Avenue</td>
<td>1.2m</td>
<td>1.2m – 2m</td>
<td>800mm</td>
</tr>
</tbody>
</table>

The 2.0m front fence proposed to Bluff Road extends to Moira Avenue for a length of 9.8m, exceeding the 1.2 metre maximum allowable height for ‘other’ streets as varied by the Neighbourhood Residential Zone, Schedule 3. It is considered that the variation in height to dwelling one can be supported due to the subject sites corner location in a Major Road Zone, Category 1 and will provide the future residents with a higher level of privacy to their secluded private open space.

Proposed as a rendered pier fence with steel blade infill design with a minimum of 50% openings, the open design of the proposed fencing will allow oblique views to the vegetated gardens as proposed, and will be complementary to the design of the proposed development and streetscape character. The variation can be supported.

6.3. Car parking and traffic

Each dwelling is provided with two car spaces in accordance with Clause 52.06. Councils 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 Celtis australis (European Nettle Tree) and a Celtis occidentalis (American Hackberry) street tree asset is located on the northern boundary of the property.

Identified as tree 1 and 2 in the Arboricultural Impact Assessment report by McLeod Trees, dated 11 April 2016, the 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 3.0 metres from the edge of either 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 John Patrick, Landscape Plan for Town Planning, dated July 2016 shows the removal of all trees from the site. The table below identifies those trees protected by the Local Law and those which are not protected by any statutory mechanism.

<table>
<thead>
<tr>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed removal for retention</td>
<td>Proposed removal for retention</td>
</tr>
<tr>
<td>Tree 4, 7, 8, 9, 10, 11, 13</td>
<td>Tree 3, 5, 6, 12, 14</td>
</tr>
</tbody>
</table>

The submitted Arboricultural Impact Assessment report by McLeod Trees, Arboricultural Assessment and Tree Preservation Strategy, dated 11 April 2016 identifies tree 10 and tree 11, both Flowering Red Gums (*Corymbia ficifolia*) as worthy of retention. In their referral response, Council’s Arborist advised that tree 11 has a high amenity value, cannot be easily replaced and has a useful life expectancy of greater than 20 years.

Local law permit application 2016/71 (31/3/2016) previously refused the removal of this tree. Council’s Arborist has advised that the removal of tree 10 was supported to facilitate the retention of tree 11, however, the applicants Arboricultural report misrepresented and significantly underestimated the tree protection zones (TPZs) and structural root zones (SRZs) of tree 11. Further investigations determined that tree 11 will not remain viable under the proposal despite efforts to redesign the dwelling or removal of tree 10 to facilitate its retention.

Tree 5 - Kurrajong (*Brachychiton populneus*) has been determined by Councils to have a moderate amenity value. In good condition and with a good structure, this early-mature tree which is below the size to be protected by the local law will grow to be a high amenity value tree within the next 10 to 15 years. It is considered that retention of tree 5 is preferential to removal and replacement planting due to its prominent position in the Bluff Road setback and good condition of health. A condition can be placed on permit to facilitate its retention.

Councils Arborist does not object to the removal of the remaining trees and advised that the proposal will be supported on receipt of an amended Landscape Plan. While the landscape plan includes a large number of proposed canopy tree plantings, sufficient soil volume and above ground space is not provided for these trees to attain their potential mature dimensions. A permit condition is included requesting an amended landscaping plan.

Council’s Arborist concluded that vegetation located adjacent to the shared boundary fences with the subject site will not be adversely impacted by the proposal.
6.6. **Objections received**

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

**Incorrect notice dates**

The two notices on site were incorrectly dated. The clerical error was amended within 48 hours of notice and Council subsequently determined that notice was correctly advertised pursuant to Sections 52(1)(a) and (d) of the *Planning and Environment Act 1987* after the error was rectified.

**Historical significance of Moira Avenue**

The subject site is not located in a heritage overlay.

---

**Support Attachments**

1. Development Plans ↓
2. Site surrounds and imagery ↓
3. Neighbourhood Character Assessment (Precent G1) ↓
4. Clause 55 (ResCode) Assessment ↓
Item 4.5 – Matters of Decision
Figure 1 Aerial overview of the site and surrounds

Legend

<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 west (Bluff Road)

Figure 3 View towards the site from the northwest (corner Bluff Road and Moira Avenue)
Figure 4 View towards the site from the north (Moira Avenue)
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>
<th>Responds</th>
</tr>
</thead>
<tbody>
<tr>
<td>To maintain and enhance the garden settings of the dwellings.</td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation.</td>
<td>Lack of landscaping and substantial vegetation.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Retain large, established trees and provide for the planting of new trees wherever possible.</td>
<td>Removal of large trees.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td>Planting of environmental weeds.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Responds

Whilst the proposal requires the removal of all vegetation across the site, the proposed development allows for sufficient space for the planting of substantial trees and vegetation. An amended landscape plan will be conditioned requiring the number of proposed canopy trees to be reduced to allow for sufficient soil volumes and space above ground for the health and vitality of the proposed vegetation and to avoid future arboriculture conflicts across the site.

The proposal provides sufficient space around the dwellings for a meaningful level of landscaping.
<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><strong>Responds</strong>&lt;br&gt;The proposal is considered to comfortably achieve the objectives of maintaining a high level of visual separation in the streetscape. The siting of the proposed dwellings and the ground floor setbacks provide substantial space for planting across the site. The layout of the proposed dwellings first floor also contribute to the sense of visual separation by providing oblique views through the site.</td>
</tr>
<tr>
<td>To ensure that new buildings provide an articulated and interesting façade to the street.</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.&lt;br&gt;• Use pitched roof forms with eaves.</td>
<td>Large, bulky buildings with poorly articulated front and side wall surfaces.</td>
<td><strong>Responds</strong>&lt;br&gt;The proposal provides a low scale design response with a strong horizontal form that will assist in the development blending into the streetscape. The projecting eaves, cantilevered design, various materials, textures, colours and proposed fenestration will create visual interest and provide a highly articulated design response in the streetscape. Whilst the proposal does not provide a pitched roof form, the design response is considered to be well resolved and of a high standard that is site responsive on a prominent corner block.</td>
</tr>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td></td>
<td>High, solid front fencing.</td>
<td><strong>Responds</strong>&lt;br&gt;The proposal includes a 2.0 metre high front fence to Bluff Road. The fence continues along Moira Avenue for 9.8m to enclose the private open space to dwelling one. Dwelling two provides for a 1.2m high</td>
</tr>
</tbody>
</table>
### Objectives | Design Responses | Avoid | Planning Officer Assessment
--- | --- | --- | ---
|  |  |  | front fence to Moira Avenue. The rendered pier fence with steel blade infill design with a minimum of 50% openings would assist in maintaining the openness of the streetscape. |
**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>Yes</td>
<td>Refer to Attachment 3.</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><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The construction of a medium density dual lot development is supported by relevant policies for this site.</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>Support medium densities in areas to</td>
<td></td>
<td></td>
</tr>
<tr>
<td>take advantage of public transport</td>
<td></td>
<td></td>
</tr>
<tr>
<td>and 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 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><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</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><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>Both dwelling entries would be visible from the street and the dwellings are designed to appropriately address 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><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>Required: 9.0m</td>
</tr>
<tr>
<td>The setbacks of buildings from a street</td>
<td></td>
<td>Proposed: 9.0m – 9.5m</td>
</tr>
<tr>
<td>respect the existing or preferred</td>
<td></td>
<td></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><strong>B7 Building Height</strong></td>
<td>Yes</td>
<td>Maximum: 8m</td>
</tr>
<tr>
<td>Building height should respect the</td>
<td></td>
<td>Proposed: 7.19m</td>
</tr>
<tr>
<td>existing or 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 the</td>
<td></td>
<td>Proposed: 48%</td>
</tr>
<tr>
<td>existing or preferred neighbourhood</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item 4.5 – Matters of Decision</td>
<td>Page 153 of 223</td>
<td></td>
</tr>
<tr>
<td>----------------------------------</td>
<td>-----------------</td>
<td></td>
</tr>
<tr>
<td>character and respond to the features of the site.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| **B9 Permeability** | Yes | **Minimum:** 20%  
**Proposed:** 39% |
| Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. | |
| **B10 Energy Efficiency** | Yes | All habitable areas, including habitable rooms and secluded private open space areas would be appropriately located in relation to the orientation of the site. |
| Achieve and protect energy efficient dwellings and residential buildings.  
Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy. | |
| **B11 Open Space** | N/A | |
| Integrate layout of development with any public and communal open space provided in or adjacent to the development. | |
| **B12 Safety** | Yes | Both dwelling entrances are clearly visible from the street whilst first floor habitable windows provide for the passive surveillance of the street. |
| Layout to provide safety and security for residents and property. | |
| **B13 Landscaping** | Yes | Conditions of approval recommended to require further canopy planting in the front and rear setbacks. Refer to report. |
| To provide appropriate landscaping.  
To encourage:  
- Development that respects the landscape character of the neighbourhood.  
- Development that maintains and enhances habitat for plants and animals in locations of habitat importance.  
- The retention of mature vegetation on the site. | |
| **B14 Access** | Yes | **Maximum:** 33% of street frontage  
**Proposed:** 17% |
| Ensure the safe, manageable and convenient vehicle access to and from the development.  
Ensure the number and design of vehicle crossovers respects neighbourhood character. | |
| **B15 Parking Location** | Yes | The provision of two single width tandem garages are provided for each dwelling. The proposed parking locations are secure and convenient for future residents and visitors. |
| 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.

**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></th>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Ground floor</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>North (side)</td>
<td>3.0m</td>
<td>3.5m – 5.4m</td>
<td>3.0m</td>
<td>3.0m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 2m</td>
<td>2m</td>
<td>3.9m</td>
<td>4.0m</td>
</tr>
<tr>
<td>East (rear)</td>
<td>0m or 3m</td>
<td>4.5m</td>
<td>4.9m</td>
<td>4.0m – 4.5</td>
</tr>
<tr>
<td><strong>First Floor</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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.

N/A

**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%.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B24 Noise Impacts</strong></td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B25 Accessibility</strong></td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong></td>
<td>Provide a sense of identity to each dwelling/residential building.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B27 Daylight to New Windows</strong></td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B28 Private Open Space</strong></td>
<td>Provide reasonable recreation and service needs of residents by adequate private open space.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B29 Solar Access to Open Space</strong></td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B30 Storage</strong></td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B31 Design Detail</strong></td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B32 Front Fences</strong></td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td>No</td>
</tr>
<tr>
<td><strong>B33 Common Property</strong></td>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained.&lt;br&gt;Avoid future management difficulties in common ownership areas.</td>
<td>N/A</td>
</tr>
<tr>
<td>B34 Site Services</td>
<td></td>
<td>Plans show clotheslines, mailboxes and storage areas as required. Space for meters has been provided alongside the entries of each dwelling.</td>
</tr>
<tr>
<td>---------------------------------------</td>
<td>---</td>
<td>----------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
4.6 38 MARTIN STREET, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/467/1 WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/75968

1. Purpose and background

To report a planning permit application for the construction of alterations and additions to the existing dwelling and construction of a double storey dwelling at the rear of the existing dwelling on a lot with an area of 920 square metres (refer Attachment 1) at 38 Martin Street, Brighton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Kav Architects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>7 July 2016</td>
</tr>
<tr>
<td>Statutory days expire</td>
<td>25 June 2017 (Amended)</td>
</tr>
</tbody>
</table>

2. Policy implications

Planning permit requirements
Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two or more 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 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 will conclude on 16 January 2017 and a report considering submissions will be presented to Council early 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 presently located within an SBO, nor is it proposed to be included within one.

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>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 five objections were received. The following concerns were raised:

- Overdevelopment/site coverage
- Privacy/overlooking
- Visual bulk
- Inappropriate external colour palette
- Lack of permeable surfaces
- Front fencing too high
- Neighbourhood character
- Insufficient visitor parking
- Siting of garage

Consultation meeting

A consultation meeting was held on 24 April 2017 attended by the permit applicant and three objectors. As a result of this meeting the applicant lodged an amended application to remove the subdivision component of the application. No objections have been withdrawn.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2016/467 for the land known and described as 38 Martin Street, Brighton, for the construction alterations and additions to the existing dwelling and construction of a double storey dwelling at the rear 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 KAV ArchitectsTP06-TP08 Revision B dated 20.08.2016 and the Landscape Plan, but modified as follows:

   a) The proposed crossover to service dwelling 1 setback a minimum of 2.5 metres from the trunk of the existing street tree on Martin Street.

   b) The existing vegetation across the Drake Street frontage nominated on the plans as ‘to be retained’.

   c) The front fence for dwelling 2 reduced to 1.5 metres in height.

   d) The front pergola feature associated with the pedestrian pathway/entrance for dwelling 2 setback 1.5 metres from Drake Street.

   e) The rear pergola associated with dwelling 2 setback 1.0 metre from the western property boundary.
f) The kitchen area and store room associated with dwelling 2 setback 2.5 metres from the southern boundary. Six cubic metres of storage space must be provided in alternate location.

g) The first floor southern elevation of dwelling 2 to include a variety of materials and finishes.

h) Deletion of boundary fence and trellis notations from the development plans.

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

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

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

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

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

7. Before the development starts, a schedule of construction materials, external finishes and colours (incorporating for example paint samples) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the schedule will be endorsed and will then form part of the permit.

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

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

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

11. A tree protection fence is required for the protection of a tree’s canopy and root zone of the Platanus orientalis (Oriental Plane). Conditions for street tree protection fencing during development are as follows:

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

- Fencing must be installed to comply with AS 4970–2009, Protection of trees on development sites.
• Fencing should encompass the Tree Protection Zone (TPZ) for all street trees adjacent to the development.

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

• 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.

12. 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.

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

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

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

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, 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. 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 9 Plan Melbourne
   • Clause 11 Settlement
   • 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. Neighbourhood character
The site is located within Neighbourhood Character Precinct C1. The proposal is broadly considered to respond to the existing neighbourhood character. However, a number of conditions have been recommended to ensure its compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The proposed dwelling is detached from the existing dwelling therefore allowing for adequate visual separation between the two dwellings. The dwellings are separated 2-3 metres at ground floor and to 4-5 metres at first floor.

No large trees are proposed to be removed as part of this application. A landscape plan has been prepared which details post-construction landscaping.

The proposed dwelling incorporates articulation and modulation across the streetscape elevation. Notwithstanding this, a condition of permit is recommended to increase the setback of the pergola element from the Drake Street boundary (associated with the proposed dwelling) to maintain a sense of openness within the frontage.

The application retains the existing garage off Drake Street to service the proposed dwelling, while a new accessway is proposed from Martin Street to service the existing dwelling. The new crossover to service existing dwelling leads to recessed gate, open car spaces and permeable paving. This is considered an acceptable outcome which ensures that the car parking facilities are not a dominant feature and promotes post-construction landscaping opportunities.

The application proposes the retention of the existing 1.8 metre high timber fence across both Martin Street and Drake Street to service the existing dwelling. A new 1.8 metre high timber picket fence is proposed for the new dwelling. A condition of permit is recommended to ensure that the height of the proposed fence is reduced to 1.5 metres to mitigate bulk/mass concerns across the Drake Street frontage.

6.2. Compliance with Clause 55 (ResCode)
An assessment against the requirements of Clause 55 is provided at Attachment 4. Those non-compliant standards are discussed below:

Side and rear setbacks
At ground floor, the area of non-compliance pertains only to the kitchen area, while at first floor it pertains to the entire elevation (two bedrooms and stairwell).

It is considered that some variation to the setback requirements can be considered. This notion is supported by the existing garage structure and outbuildings being sited adjacent the southern boundary, the high quality design of the proposed development and the articulation between ground and first floors provide transition between floors and minimising visual bulk to the south.

It is recommended though that the southern boundary setback of the kitchen and store room be increased to 2.5 metres, while at first floor a variation to the finishes and materials is recommended. These conditions will further mitigate bulk/mass impacts of the proposal on adjoining properties and maintain an open space character, while also ensuring an acceptable level of amenity for the future occupants.

### Front fence

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.2 metres</td>
<td>1.8 metres</td>
</tr>
</tbody>
</table>

The existing 1.8 metre high fencing along Martin Street and Drake Street (associated with the existing dwelling) is proposed to be retained as part of this application, while a 1.8 metre high front fence is proposed along Drake Street in association with the proposed dwelling.

A condition of permit is recommended to ensure that the height of the proposed fence is reduced to 1.5 metres to mitigate bulk/mass concerns across the Drake Street frontage and provide greater compatibility with the neighbourhood character.

### 6.3. Car parking and traffic

Each dwelling is provided with two car spaces in accordance with Clause 52.06. It is noted that no undercover car spaces are proposed for the existing dwelling (two open car spaces in a side-by-side arrangement is sought). This is considered an appropriate outcome to ensure an acceptable level of amenity for future occupants, while also maintaining an open landscape character. Further, it is noted that large areas are set-aside for car parking facilities existing for other dwellings along Martin Street. The proposed car parking arrangements are not too dissimilar to that found in the neighbourhood.

### 6.4. Street tree removal

The proposal does not involve the removal of any street trees. Council's open space arborist has stated that conditions should be imposed requiring that in constructing the proposed new vehicle crossing, soil excavation must not occur within 2.5 metres of the edge of the Platanus orientalis (Oriental Plane) street tree, measured from the stem at ground level. Appropriate tree protection fencing will need to be erected and maintained until all site works are completed.

### 6.5. Vegetation & Landscaping

The application proposes the retention of existing vegetation across the subject site, while a Landscape Plan has been prepared to illustrate post-construction landscaping.
A mature tree located at an adjoining property to the south-west (11 Merton Avenue) is sufficiently setback from the subject site and area of proposed works (in excess of 6.0 metres) to ensure that its health will not be unreasonably compromised as part of this application.

6.6. **Objections received**

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

**Overdevelopment/site coverage and Lack of permeable surfaces**

The proposal satisfies the substantive requirements of Clause 55 in respect to site coverage (41%), permeability (43%), 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 that respect Neighbourhood Character and do not unreasonable impact on adjoining properties. The proposal is considered to achieve this.

**Privacy/overlooking**

Windows and/or balconies within 9m of existing adjacent habitable room windows and secluded private open space areas are screened in accordance with the requirements of Clause 55.04-6 of the Bayside Planning Scheme.

**Visual bulk**

Conditions of permit have been recommended to reduce the visual bulk impacts associated with the proposed dwelling when viewed from the adjoining property to the south and the Drake Street frontage. The conditions include increased setbacks to the Drake Street and to the adjoining property to the south (at ground and first floor), while also lowering the height of the front fence.

**Inappropriate external colour palette**

The application proposes a predominately light grey render finish for the proposed dwelling, while areas of timber cladding and metal pickets are interspersed within the design palette. This is considered an appropriate outcome that responds to the character of the area and mitigates any visual bulk concerns.

**Support Attachments**

1. Development Plans ↓
2. Site and surrounds imagery ↓
3. Neighbourhood Character Assessment Precinct C1 ↓
4. Clause 55 (ResCode) Assessment ↓
38 MARTIN STREET
BRIGHTON VICTORIA 3186

DRAWING LIST

TP01 COVER PAGE
TP02 NEIGHBOURHOOD DESCRIPTION & EXISTING STREETSCAPES
TP03 DESIGN RESPONSE, SUBDIVISION PLANS & PROPOSED STREETSCAPES
TP04 EXISTING FLOOR PLAN & DEMOLITION PLAN
TP05 PROPOSED FLOOR PLANS
TP06 PROPOSED ELEVATIONS - SHEET 1
TP07 PROPOSED ELEVATIONS & SECTIONS - SHEET 2
TP08 SHADOW DIAGRAMS - EXISTING
TP09 SHADOW DIAGRAMS - PROPOSED
TP10 LANDSCAPE PLAN

Advertised Plan

#P# 24 AUG 2015

Planning Department

Item 4.6 – Matters of Decision
Figure 1 Aerial overview of the site and surrounds

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

NB – One objection provided a PO Box in Sandringham in lieu of a street address.
Figure 2 View towards the site from the north

Figure 3 View towards the site from the northeast
Figure 4 View towards the site from the southeast
Neighbourhood Character Precinct C1

Preferred Future Character Statement

The mix of dwelling styles, including a substantial presence of pre WW2 dwellings, sit within spacious gardens and do not dominate or overwhelm the streetscape. Garden plantings, and well-articulated façades and roof forms, assist in minimising the dominance of buildings from within the street space, as well as providing visual interest. Front setbacks allow planting of substantial trees and shrubs and side setbacks on both sides maintain a sense of spaciousness in the area. Trees are a mixture of exotic and natives, with an increasing frequency of traditional coastal and indigenous species, strengthening the visual connection of the area with the coast. Open style front fences retain an ability to view buildings from the street. 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. | Demolition of dwellings that contribute to the valued character of the Precinct. | Responds  
The existing dwelling is proposed to be retained as part of this application. |
| To maintain and enhance the spacious garden settings of the dwellings.     | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. | Lack of landscaping and substantial vegetation. | Responds  
The application plans detail the retention of existing vegetation on the site, while a landscape plan has been prepared which details post-construction landscaping. |
| To enhance the bayside vegetation character of the area.                  | • Retain large trees and established native and traditional coastal vegetation and provide for the planting of new indigenous coastal trees where possible. | Removal of large native and coastal trees.  
Planting of environmental weeds. | Responds  
No large trees are proposed to be removed as part of this application. A landscape plan has been prepared which details post-construction landscaping. |
| To retain the sense of spaciousness in the area and provide adequate space for front gardens. | • Buildings should be sited to allow space for the planting of trees and shrubs.  
• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | | Responds  
The proposed dwelling is detached from the existing dwelling therefore allowing for adequate visual separation between the two dwellings. The dwellings are separated 2-3 |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| **To minimise the dominance of car parking facilities, driveways and crossovers.** | • Locate garages and car ports at or behind the line of the dwelling.  
• Minimise hard paving in front yards.  
• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space. | Car parking facilities that dominate the facade or view of the dwelling.  
Loss of front garden space. | **Responds**  
The application retains the existing garage off Drake Street to service the proposed dwelling, while a new accessway is proposed from Martin Street to service the existing dwelling.  
The new crossover to service existing dwelling leads to recessed gate, open car spaces and permeable paving. This is considered an acceptable outcome which ensures that the car parking facilities are not a dominant feature and promotes post-construction landscaping opportunities. |
| **To ensure that new buildings and extensions do not dominate the streetscape.** | • Recess upper level elements from the front façade. | High pitched roof forms with dormer windows. | **Responds, subject to conditions**  
The proposed dwelling incorporates articulation and modulation across the streetscape elevation.  
Notwithstanding this, a condition of permit is recommended to increase the setback of the pergola element from the Drake Street boundary (associated with the proposed dwelling) to maintain a sense of openness within the frontage. |
| **To respect the identified heritage qualities of adjoining buildings.** | • Where adjoining an identified heritage building, respect the height, building forms, siting and materials, of the heritage building/s in the new building design. | Buildings that dominate heritage buildings by height, siting or massing. | **N/A**  
The subject site does not adjoin any heritage buildings. |
| **To encourage the use of a variety of building materials, finishes and design detail that complement the coastal setting.** | • Use a mix of materials including timber or other non-masonry wall materials in building design.  
• Use simple building details and articulate roof forms. | Large, poorly articulated external wall surfaces of one material only.  
Heavy materials and design detailing (eg. large masonry columns and piers). | **Responds**  
The proposed dwelling utilises a combination of both render and timber cladding to appropriately mitigate visual bulk and mass. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage the openness of the streetscape.</td>
<td>• Provide open style fencing, other than along heavily trafficked roads.</td>
<td></td>
<td>Responds, subject to conditions.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>High, solid front fencing.</td>
<td>The application proposes the retention of the existing 1.8 metre high timber fence across both Martin Street and Drake Street to service the existing dwelling.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>A new 1.8 metre high timber picket fence is proposed for the new dwelling. A condition of permit is recommended to ensure that the height of the proposed fence is reduced to 1.5 metres to mitigate bulk/mass concerns across the Drake Street frontage.</td>
</tr>
</tbody>
</table>

| To create a visually interesting and attractive built form interface with the foreshore reserve, on properties fronting the reserve and visible from the reserve. | • Articulate the form of buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies, verandahs, non-reflective glazing and light-transparent balustrading. | | Buildings that have no relationship to the foreshore setting. |
| | • Use a mix of contemporary and traditional coastal materials, textures and finishes, including render, timber, non-masonry sheeting, glazing, stone and brick. | | Poorly articulated roof and building forms. |
| | • Provide a fence or landscaping treatment to delineate the property boundary fronting the foreshore reserve. | | Highly reflective materials or glazing. |
| | • Provide articulated roof forms to create an interesting skyline when viewed from the beach. | | Blank walls facing the foreshore. |
| | | | Lack of distinction between public and private spaces along the foreshore. |
| | | | N/A |
## ATTACHMENT 4
### CLAUSE 55 ASSESSMENT

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer Attachment 3.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support two dwellings.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
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</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>
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<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address each street frontage with the each entry clearly identifiable.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>Required/Proposed: Existing 9.3 metre street setback to Martin Street (north) associated with dwelling 1 is proposed to be retained.</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or</td>
<td></td>
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<tr>
<td>Item</td>
<td>Required/Proposed</td>
<td>Notes</td>
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<tr>
<td>preferred neighbourhood character and make efficient use of the site.</td>
<td><strong>Required/Proposed</strong>: Existing siting of the garage on the Drake Street boundary (east) associated with the proposed dwelling is proposed to be retained.</td>
<td></td>
</tr>
</tbody>
</table>
| **B7 Building Height**<br>Building height should respect the existing or preferred neighbourhood character | Yes | **Required**: 9 metres (two storey limit)  
**Proposed**: 7.9 metres  
Meets two-storey limit. |
| **B8 Site Coverage**<br>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. | Yes | **Maximum**: 50%  
**Proposed**: 41% |
| **B9 Permeability**<br>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. | Yes | **Minimum**: 20%  
**Proposed**: 43% |
| **B10 Energy Efficiency**<br>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy. | Yes | The proposal provides appropriate solar access to the dwellings. |
| **B11 Open Space**<br>Integrate layout of development with any public and communal open space provided in or adjacent to the development. | N/A | |
| **B12 Safety**<br>Layout to provide safety and security for residents and property. | Yes | No safety issues are considered to be likely to arise. |
| **B13 Landscaping**<br>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. | Yes | Adequate space is provided for landscaping. |
of habitat importance.  
The retention of mature vegetation on the site.

<table>
<thead>
<tr>
<th>B14 Access</th>
<th></th>
<th>B15 Parking Location</th>
<th></th>
<th>B17 Side and Rear Setbacks</th>
<th></th>
<th>B18 Walls on Boundaries</th>
<th></th>
</tr>
</thead>
<tbody>
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<td><strong>Yes</strong></td>
<td></td>
<td><strong>Yes</strong></td>
<td></td>
<td><strong>No</strong></td>
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<td><strong>Yes</strong></td>
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<tr>
<td><strong>Appendix</strong></td>
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</tr>
</tbody>
</table>

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.

**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.

**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>Ground Floor</th>
<th>First floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>South (rear)</td>
<td>3.0 metres</td>
</tr>
<tr>
<td>West (side)</td>
<td>2.0 metres</td>
</tr>
</tbody>
</table>

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

**Yes**

**Southern boundary**

**Maximum length and height**: 12.5 and 3.2 metres

**Proposed length and height**: 11.6 and 2.8 metres

**Western boundary**

**Maximum length and height**: 18.9 and 3.2 metres

**Proposed length and height**: 8.5 and 3.2 metres
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>B19 Daylight to Existing Windows</td>
<td>Allow adequate daylight into existing habitable room windows.</td>
<td>Yes</td>
<td>The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained.</td>
</tr>
<tr>
<td>B20 North Facing Windows</td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td>Yes</td>
<td>No north facing windows on adjoining properties are affected.</td>
</tr>
<tr>
<td>B21 Overshadowing Open Space</td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September.</td>
</tr>
<tr>
<td>B22 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>Yes</td>
<td>The application proposes highlight windows to the first floor of the proposed dwelling to ensure that no overlooking of adjoining properties occurs.</td>
</tr>
<tr>
<td>B23 Internal Views</td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>Yes</td>
<td>No internal overlooking between dwellings will occur.</td>
</tr>
<tr>
<td>B24 Noise Impacts</td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
<td>Entries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling.</td>
<td>Yes</td>
<td>The building entry is easily identifiable.</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>All habitable room windows are provided with appropriate daylight access.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
<td>Notes</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
<td>-------</td>
</tr>
</tbody>
</table>
| B28 Private Open Space | Provide reasonable recreation and service needs of residents by adequate pos. | Yes | Minimum at ground level: 25m² secluded, 40m² overall  
Proposed: Both dwellings are provided with private open space provisions that exceed the minimum requirements. |
| B29 Solar Access to Open Space | Allow solar access into the secluded private open space of new dwellings/buildings. | Yes | Both dwellings are afforded adequate solar access to the secluded private open space areas. |
| B30 Storage | Provide adequate storage facilities for each dwelling. | Yes | Storage spaces of 6m³ in size are provided in the basement or on the ground floor. |
| B31 Design Detail | Encourage design detail that respects the existing or preferred neighbourhood character. | Yes | Refer Attachment 1. |
| B32 Front Fences | Encourage front fence design that respects the existing or preferred neighbourhood character. | No | Required: 1.2 metres  
Proposed: 1.8 metres  
The existing 1.8 metre high fencing to Martin Street and Drake Street (associated with the existing dwelling) is proposed to be retained as part of this application. A 1.8 metre high front fence associated with dwelling 2 is proposed along Drake Street.  
A condition of permit is recommended to reduce the height of the front fence associated with the proposed dwelling to 1.5 metres. |
| B33 Common Property | Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas. | Yes | |
| B34 Site Services | Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. | Yes | Adequate site services are proposed as part of this application. |
1. **Purpose and background**

   This proposal is to report a secondary consent application to allow:
   - Changes to the internal layout of the building on all floors;
   - Change of materials to external deck areas;
   - Changes bathroom windows on playroom 3 to reflect internal changes;
   - Updated landscaping plan.

   on a lot with an area of 1,846 square metres (refer Attachment 1) at 46 Dendy Street, Brighton (refer Attachment 2).

   Planning permit 2015/278/1 was issued at the direction of the Victorian Civil and Administrative Tribunal (VCAT) on 26 July 2016. The permit allows the use and development of the land for a child care centre in a building over 8 metres in height in the Neighbourhood Residential Zone 3 (NRZ3) and Design and Development Overlay 3.

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Brighton Early Education Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>13 February 2017</td>
</tr>
</tbody>
</table>

2. **Policy implications**

   There are no primary policy matters to consider as part of this application which seeks to amend the endorsed plans pursuant to the secondary consent provisions afforded by Condition 2 of Planning Permit 2015/278/1.

3. **Stakeholder Consultation**

   **Referrals**

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

   **Public notification**

   Applications made in accordance with the provisions of Secondary Consent are not subject to the notice requirements of Sections 52(1)(a), (b) and (d) of the Planning and Environment Act 1987. Therefore these changes to the plans cannot be advertised.

4. **Recommendation**

   That Council:

   **Approve** the Amended Plans in accordance with the Secondary Consent provisions of Planning Permit No: 2015/0278/1 issued for the use and develop the land for a child care centre in a building over 8 metres in height in the Neighbourhood Residential Zone 3 (NRZ3) and Design and Development Overlay 3 and the following table be added at the end of the permit:

<table>
<thead>
<tr>
<th>Date</th>
<th>Amendments</th>
</tr>
</thead>
<tbody>
<tr>
<td>9 May 2017</td>
<td>Secondary Consent Amended Plans:</td>
</tr>
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</table>
Basement
- Walls to each end of the stacker pit have been stepped in to suit the car stacker size.
- Bin store room has increased in size and the Archive Room has been decreased to suit.
- Three additional support columns provided. Aisle width of 6400mm is maintained.
- Archive Room - extent of room changed slightly.

Ground Floor
- Addition of steps and platform to Kids Kitchen Bench in Foyer.
- All external deck areas have been changed to pavers in lieu of timber decking boards.
- Lift void has changed in shape.
- Cot Rooms have been added to Playrooms 1, 2 and 3.
- Staff Room has reduced in size to accommodate the addition of one of the Cot Rooms.
- Minor increase in the size of the airlock, and resulting minor changes to internal walls.
- Dry Store has increased in size.
- Bathroom to Playroom 3 reduced to accommodate additional bench cupboard to Playroom 3. No change to overall room size.
- Shared Bathrooms to Playroom 4 and 5 increased to accommodate additional nappy change.
- There is a corresponding decrease in the size of Store Room to Playroom 4 and 5 to maintain room size.
- Shared Bathrooms to Playroom 6 and 7 increased to accommodate additional nappy change.
- There is a corresponding decrease in the size of Store Room to Playroom 6 and 7 to maintain room size.
- The staff outdoor area has changed in shape and size.

First Floor
- Lift void has changed in shape.
- Ambulant WC has been deleted.
- DDA WC has moved.
- Staff Planning has increased in size.

North and East Elevations
- Windows to Bathroom (Playroom 3) updated to reflect changes to internal layout.

Landscape Plan
5. Council Policy

There are not any primary relevant Council policy matters to consider as part of the request to consider amending plans pursuant to the secondary consent provisions afforded by the planning permission.

6. Considerations

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

The tests include the following:

6.1 The proposed amendment does not result in a transformation of the proposal.

The proposed amendments relate mainly to changes to the internal layout of the development. The only external change is to the decking areas which will comprise of pavers rather than the timber decking previously approved. The proposed changes are considered to be minor in nature and will have limited impact to the amenity of adjoining properties and will not cause material detriment to any third parties. The proposed changes do not conflict with any permit conditions, objections raised in the application for which primary consent was granted for and do not result in a transformation of the proposal. The changes comply with the relevant Planning Scheme policies including Neighbourhood Character, pertain appropriate areas of landscaping and do not increase site coverage.

6.2 The proposed amendment does not authorise something for which primary consent is required under the planning scheme.

The primary consent was issued at the direction of VCAT for the use and development of land for a child care centre in a building over 8 metres in height. The amendments sought under this application are consistent with the proposal and do not authorise something for which primary consent is required under the Planning Scheme.

6.3 The proposed amendment is of no consequence having regard to the purpose of a planning control under which the permit was granted.

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

6.4 The proposed amendment is not contrary to a specific requirement (or condition of the permit) as distinct from an authorisation within the permit, which itself cannot be altered by consent.

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

Support Attachments
1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Planning Permit 2015/278/1 ↓
4. Endorsed Plans to Planning Permit 2015/278/1 ↓
ATTACHMENT 2
Site and Surrounds Imagery

Aerial image of site

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
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**PLANNING PERMIT**
5/2015/278/1

**Address Of The Land:** No. 46 Dendy Street BRIGHTON

**Use and develop the land for a child care centre in a building over 8 metres in height in the Neighbourhood Residential Zone 3 (NRZ3) and Design and Development Overlay 3 (DDO3) in accordance with the endorsed plans and subject to the following conditions.**

**The Following Conditions Apply To This Permit:**

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

   (a) **The seat and decking between the 1.2m high wall and the street frontage removed and replaced with landscaping. The landscape plan is to be updated accordingly;**

   (b) **The stonewall located on the western side of the property to be altered in material type so as to have a minimum transparency of 75% for at least 3.9m from the western boundary;**

   (c) **The specifications of the proposed car stacker system including demonstrating that a minimum 25% can accommodate a vehicle clearance height of at least 1.8m;**

   (d) **The stacker units are to be lengthened by reducing the setback of the southern wall of the basement from the southern boundary by approximately 200mm;**

   (e) **The visibility splays shown on the ground floor plan to be annotated in accordance with Design Standard 1 of Clause 52.06-8;**

   (f) **All externally located plant and equipment (including air conditioning units, heating units, hot water systems, exhaust fans etc.) and**

   (g) **A roof plan.**

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

3. **Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works and the conditions of this permit relating to development 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.**

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**Date issued:** 26 July 2016

**Signature for the Responsible Authority**

*Arthur Vetelatis*

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**Planning and Environment Regulations 2005 Form 4**

*Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.*
PLANNING PERMIT
5/2015/278/1

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

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

6 No more than 171 children and 35 staff may be present on the premises at any one time.

7 The use may operate only between the hours of 7.00 am to 6.30 pm Monday to Friday.

8 The amenity of the area must not be detrimentally affected by the use or development, by 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; or
   (e) by any other circumstances.

9 Before the development starts, a Noise Management Plan, based on the Acoustic Control report (Reference DL1435-2, Date 24 May 2016, Issue A), 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. All activities forming part of the use must comply with the endorsed plan.

10 All operations of the site (internally and externally) must comply with SEPPN-1 and/or SEPPN-2 policies. Upon reasonable cause, the Responsible Authority may direct the owner and/or occupier, at the sole cost of the owner and/or occupier, to undertake and submit a report to Council demonstrating compliance in relation to the N-1 and/or N-2 policies.

11 Before the development starts, a Landscape Plan (generally in accordance with the Landscape Plan prepared by John Patrick Pty Ltd, Job No 16-431 Dwg L-VCAT01, dated May 2016) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided.

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

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.

Date issued: 26 July 2016

Signature for the Responsible Authority

Arthur Vassallo

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 the permit is the current permit and can be acted upon.
PLANNING PERMIT
5/2015/278/1

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

14 Before the development starts, including demolition or removal of vegetation, a Tree Protection Plan prepared by a suitably qualified and experienced Arborist in accordance with AS4970-2009 Protection of Trees on Development Sites must be submitted to and be endorsed by the Responsible Authority in relation to the Liquidambar styraciflua (Tree 3) proposed for retention. The recommendations of the endorsed Tree Protection Plan must be followed throughout the course of the development, including landscaping phases of the works.

The Tree Protection Plan must specify a project Arborist(s) who are responsible for ensuring the recommendations of the Tree Protection Plan are followed throughout all phases of the works. Names, contact details, qualifications and experience of the project Arborist(s) must be provided.

15 If required by the Tree Protection Plan, Tree Protection Fencing is to be established around the street tree prior to construction and maintained in accordance with the Tree Protection Plan.

16 Before the occupation of the development starts, the area(s) set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
   (a) Constructed;
   (b) Properly formed to such levels that they can be used in accordance with the plans;
   (c) Surfaced with an all-weather-seal coat;
   (d) Drained;
   (e) Line marked to indicate each car space and all access lanes; and
   (f) Clearly marked to show the direction of traffic along access lanes and driveways;

   to the satisfaction of the Responsible Authority.

   Car spaces, access lanes and driveways must be kept available for the use permitted at all times.

17 The vehicular crossing(s) must be constructed or reconstructed to the satisfaction of the Responsible Authority.

18 Before the development starts, a Signage and Line Marking Plan to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. The Signage and Line Marking Plan must include, but is not limited to, details of:
   (a) All car spaces and access lanes line marked;
   (b) Individual car spaces marked as either staff car spaces, disabled space or visitor car spaces; and
   (c) A parking direction sign not exceeding 0.3 square metres located near the ramp to the basement advising visitors that parking is located within the basement.

Date issued: 26 July 2016

Arthur Vetalis
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.
Prior to the commencement of any works, a Construction Management Plan must be submitted to and approved by the Responsible Authority. The Construction Management Plan must address, but is not limited to:

(a) Hours of construction, control of noise and airborne matter, deliveries, vehicle access, worker car parking, damage to public assets, and contact numbers for complaints;

(b) All traffic management plans for the site demolition, excavation, deliveries and other construction related activities that will affect vehicle and pedestrian traffic;

(c) The location of all areas on-site and/or off-site to be used for construction staff parking;

(d) A parking management plan for all associated construction vehicles;

(e) All site sheds, portable toilet, storage and materials, etc. must be confined to the site;

(f) The covering and maintenance of all roads/storage areas/external stockpiles/or vacant areas to avoid dust nuisance to any residential and commercial premises;

(g) A truck wheel-wash system so vehicles leaving the site do not deposit mud or other materials on roadways;

(h) No water containing oil, foam, grease, scum or litter will be discharged to the stormwater drainage system from the site;

(i) All stored wastes are kept in designated areas or covered containers that prevent escape into the stormwater system;

(j) The amount of mud, dirt, sand, soil, clay or stones deposited by vehicles on the abutting roads is minimised when vehicles are leaving the site; and

(k) No mud, dirt, sand, soil, clay or stones are washed into, or are allowed to enter the stormwater drainage system.

All works must accord with the approved Construction Management Plan to the satisfaction of the Responsible Authority.

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

Before the development begins, three sets of detailed plans indicating the drainage system and the method of stormwater discharge to the nominated Legal Point of Discharge (and Stormwater Detention Systems where applicable) must be lodged with Council's Engineering Services department for approval.

The driveway/parking areas/paved courtyards/paths and 'permeable' pavements must be graded / drained to prevent stormwater discharge onto the front footpath and into adjacent properties.
23 This permit will expire if one of the following circumstances applies:
   (a) The development is not started within two years of the date of this permit;
   (b) The development is not completed within four years of the date of this permit;
   (c) The use of the land is not started within four years of the date of this permit.

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

Date issued: 26 July 2016

Signature for the Responsible Authority

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

PLANNING PERMIT

Sections 63 and 86

IMPORTANT INFORMATION ABOUT THIS PERMIT

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

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

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

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

[Signature]

Adrian Robb

Chief Executive Officer