Late Agenda

for the

Planning & Amenity Committee Meeting

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

on

Thursday, 28 September, 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
Late Items

4. Matters of Decision

4.7 10 Beach Road, Hampton Support the Grant of a Planning Permit
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4. Matters of Decision

4.7 10 BEACH ROAD, HAMPTON
SUPPORT THE GRANT OF A PLANNING PERMIT
APPLICATION NO: 2016/274/1  WARD: CENTRAL

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/205902

1. Purpose and background

To report an in-principle agreement reached by all parties at a VCAT Compulsory Conference for the construction of two double storey dwellings with basement carpark and alterations to vehicle access to a Road Zone Category 1 (refer Attachment 1) on a lot with an area of 764 square metres at 10 Beach Road, Hampton (refer Attachment 2).

The application was refused under delegation on 17 May 2017 for the construction of two double storey dwellings with a roof area and basement car parking and alteration of the vehicle access to a Road Zone Category 1.

Council determined to refuse the proposal on the following grounds:

1. The proposal fails to respond to the objectives of Clause 22.06 (Neighbourhood Character Policy, Precinct E2) of the Bayside Planning Scheme, on the following grounds:
   a) The built form fails to maintain the spaciousness of the setbacks and rhythm of visual separation of buildings as there is a lack of opportunity to incorporate meaningful landscaping within the side setbacks.
   b) The built form fails to respect the dominant building scale and forms within the foreshore streetscape of Beach Road, and fails to recess upper storey elements from the front façade.
   c) The built form fails to reflect the lightness of the streetscape through the use of appropriate building materials and finishes, in particular due to the materials and colours of the proposed two storey wall separating the dwellings on the front elevation.

2. The proposal fails to comply with the Objectives and Standards of Clause 55 of the Bayside Planning Scheme, in particular:
   c) Standard B17 – Side and rear setbacks.
   d) Standard B20 – North facing windows.

3. The proposed development fails to ensure an appropriate level of internal amenity for future residents by way of the lack of acoustic measures to protect against the adjacent rail corridor.

4. The proposed development fails to result in a high quality urban design outcome.

The applicant lodged an appeal under Section 77 of the Planning and Environment Act 1987 with the Victorian Civil and Administrative Tribunal (VCAT) against Council’s decision to refuse to grant a planning permit.
At the VCAT Compulsory Conference held on 31 August 2017, attended by the permit applicant and Council Officers, an in-principle agreement was reached between all parties. It is noted that there was no objections received, therefore there were no third parties involved.

The outcome was to:

- Remove the upper floor deck;
- Provision of a 1 metre reduction to the overall height for the first 4 metres of the dwelling;
- Provision of dormer windows, mounted flush to the roof;
- Provision of a 1.8 metre landscape buffer to the rear (north-east);
- Provision of two medium sized trees reaching a minimum of 8 metres in height trees, located within the frontage of each dwelling;
- Provision of separation between the two dwellings located within the roof (attic) form;

The agreement was that a planning permit could be issued for the proposal subject to conditions. The plans tabled at the Compulsory VCAT Conference are provided at Attachment 1 and were used to assist with discussion at the conference and in forming the recommendation outlined in section 4 of this report. These plans have not been formally substituted.

If Council agrees to support the recommendation below then a planning permit will be issued by VCAT which contains, unchanged, all of the conditions contained in the recommendation of this report. It is imperative to note that the conditions tabled below cannot be varied or changed unless at the request of VCAT; any changes to these conditions will require Council to attend the one (1) day hearing date set for the 10th October 2017.

The original development plans refused by Council are included as Attachment 3.

Alternatively, should Council determine to not support the issue of the permit, then the application will proceed to a VCAT merits hearing on 10 October 2017 based on the original application plans.

2. Policy implications

Planning permit requirements

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

Clause 52.29 – Land adjacent to a Road Zone Category 1

3. Stakeholder Consultation

External referrals

The application was referred to the following authorities:

<table>
<thead>
<tr>
<th>Referral Authority</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>VicRoads</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>VicTrack</td>
<td>No objection, subject to conditions.</td>
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</table>
Internal referrals

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage Engineer</td>
<td>No objection.</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 no objections were received.

Consultation meeting

VCAT arranged and held a Compulsory Conference on 31 August 2017. The applicant, and Council representative were in attendance. The applicant tabled ‘without prejudice’ plans, and an in-principle agreement was reached by all parties in attendance.

4. Recommendation

That Council:

Determines to Support the application under the provisions of the Bayside Planning Scheme in respect of Planning Application 5/2016/274/1 in respect of the land known and described as 10 Beach Road, Hampton, for the construction of two double storey dwellings with basement carpark and alterations to vehicle access to a Road Zone Category 1 in accordance with the endorsed plans and subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans prepared by BBP Architects dated 23 August 2017 but modified to show:

   a) Provision of one singular centrally located crossover at the street frontage (Beach Road);

   b) Provision of a 1.8 metre landscape buffer located along the rear (north-east) of the dwellings;

   c) 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.

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

   e) Water Sensitive Urban Design measures in accordance with Condition 8 of this permit;

   f) Sectional drawings (north-east – south-west);

   g) Attic must contain dormer windows, mounted flush to the roof, recessed or of minimal dimensions;

   h) Reduction to the height of the attic element by 1 metre for the first 4 metres to reduce the scale and mass of the building form to the satisfaction of the Responsible Authority;
All to the satisfaction of the Responsible Authority.

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

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

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

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

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

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

Water Sensitive Urban Design

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

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

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

Landscaping

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape plan drawn by Wallbrink Landscape Architecture, reference Drawing No. 1891 TP1, dated 7 December 2016 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with
AS4970-2009.

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

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

d) Details of surface finishes of pathways and driveways;

e) Provision of a two medium (one within the frontage of each dwelling) trees reaching a minimum size of 8 metres located within the frontage of the development;

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.

Drainage

13. 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.

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

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

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

Permit Expiry

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

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

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

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

**Council Plan 2017-2021**

Relevant strategies of the Council plan include:

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

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 9  Plan Melbourne
- Clause 11  Settlement
- Clause 15  Built Environment and Heritage
- Clause 16  Housing
- Clause 21.02  Bayside Key Issues and Strategic Vision
- Clause 21.03  Settlement and Housing
- Clause 21.04  Environmental and Landscape Values
- Clause 21.06  Built Environment and Heritage
- Clause 22.06  Neighbourhood Character Policy E2
- Clause 22.08  Water Sensitive Urban Design
- Clause 32.09  Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02  Design and Development Overlay (Schedule 1)
- Clause 45.06  Development Contributions Plan Overlay (Schedule 1)
- Clause 52.06  Car Parking
- Clause 52.29  Land adjacent to a Road Zone Category 1
- 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. **Amended Plans Assessment**

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

In principle, the proposed reduction in height and provision of separation at the roof form is considered to reduce the overall visual bulk and scale of the development. The proposed separation at roof form provides visual individuality of the dwellings.

The amended proposal retains the low rise foreshore streetscape of Beach Road by respecting the scale of the predominately two storey built form. The amended plans comply with the Neighbourhood Character Policy, Precinct E2 for the following reasons:

- The proposed amendment reduces the overall height located along street frontage, thus reducing and dominance with the public realm;
- The removal of the upper storey deck reduces any potential overlooking;
- The recession of the attic provides visual relief at street frontage;
- The bulk, location and appearance of the amended development is considered to be in keeping with the character and appearance of adjacent buildings and is considered to enhance the streetscape;
- The proposed use of a mixture of building materials provides a level of articulation and breaks up the perceived bulk from all abutting allotments;
- The amended setbacks are considered reduce the built form whilst also providing articulation, improved internal amenity and a reduction in the overall built form;

The proposed changes to the development would result in less visual bulk and would achieve a high standard of urban design. The changes not only reduce the overall height, number but as mentioned above, manage to achieve a high level of compliance with the design objectives of the Neighbourhood Character Policy, Precinct E2.

Ground for Refusal 2

The purposed amended development now is considered to comply with all the objectives and standards of Clause 55 of the Bayside Planning Scheme. The proposed changes provide high compliance with Standard B1 - Neighbourhood Character (refer to section 6.1, above). The amended plans consists of two trees reaching a minimum height of 8 metres at street frontage in order to maintain the vegetated streetscape of Beach Road. The proposed amendment complies with all the requirements of Standard B17 – Side and rear setbacks and Standard B20 – North facing windows.

It is noted that the revised plans alter the proposed layout and the above grounds for refusal are now not applicable.

Ground for Refusal 3

The revised plans provide a landscape buffer along the rear boundary to protect against the adjacent rail corridor.

Ground for Refusal 4

The amended development is considered to provide high quality urban design.

Support Attachments

1. Amended Development Plans
2. Site and Surrounds Imagery
3. Refused Development Plans
Figure 1 Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
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<tr>
<td>Subject site</td>
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Figure 2 View of the site from the west