Agenda

for the

Planning & Amenity Committee Meeting

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

on

Tuesday, 28 August, 2018 at 7:00pm

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

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

Section 92 The Chair's Duties and Discretions

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

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

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

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

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

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

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

Your cooperation is appreciated

Chairperson of Council
Planning & Amenity Committee Meeting

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

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

Membership of the Committee
All Councillors

Order of Business

1. Apologies

2. Declarations of Interest

3. Adoption and Confirmation of the minutes of previous meeting

4. Matters of Decision
   4.1 157 Church Street, Brighton Secondary Consent - Approve Application No: 2017/151 Ward: Northern............................. 5
   4.2 25J Bolton Street, Beaumaris Notice of Decision to Grant a Planning Permit Application No: 2018/128 Ward: Southern ....... 27
   4.3 22 Wells Road, Beaumaris Notice of Decision to Grant a Permit Application No: 2017/751/1 Ward: Southern ...................... 53
   4.4 15 Whyte Street, Brighton Notice of Decision to Grant a Planning Permit Application No: 2018/51/1 Ward: Central .................. 97
   4.5 VCAT Report - Decisions made in July 2018 ....................... 133

5. Confidential Business
   Nil

Next Meetings 2018

Tuesday 11 September 2018
Tuesday 16 October 2018
Tuesday 30 October 2018
Tuesday 13 November 2018
Monday 10 December 2018
Thursday 20 December 2018
1. Apologies

2. Declarations of Interest

3. Adoption and Confirmation of the minutes of previous meeting

   3.1 Confirmation of the Minutes of the Planning & Amenity Committee Meeting held on 14 August 2018.
4. Matters of Decision

4.1 157 CHURCH STREET, BRIGHTON SECONDARY CONSENT - APPROVE
APPLICATION NO: 2017/151  WARD: NORTHERN

City Planning & Community Services - Statutory Planning
File No: PSF/15/8755 – Doc No: DOC/18/191472

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Approve the secondary consent amended plans</th>
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</thead>
<tbody>
<tr>
<td>Street address</td>
<td>157 Church Street, Brighton</td>
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<tr>
<td>Application No.</td>
<td>2015/151</td>
</tr>
<tr>
<td>Applicant</td>
<td>Ratio</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
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<tr>
<td>Date application received</td>
<td>21 June 2018</td>
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<tr>
<td>Zoning</td>
<td>General Residential Zone (Schedule 2)</td>
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<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 11)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Application plans and documents TRIM Ref No</td>
<td>DOC/18/187600</td>
</tr>
</tbody>
</table>

Proposal

Planning Permit 2017/151 allows:

*Development of a three storey residential building consisting of 8 apartments, a front fence exceeding 1.5 metres in height and basement car park*

The application seeks approval to amend the endorsed plans pursuant to Condition 2 of Planning Permit 2017/151 on a lot with an area of 1,012 square metres. The development plans are provided at Attachment 1.

The proposed amendments include:

- Flipping of apartments on the ground and first floor so that two apartments now front Church Street on both floors. There is no change to the number of bedrooms;
- Reconfigured lobby layout at ground floor;
- Revision of window sizes / arrangement due to internal reconfiguration. All windows previously screened will continue to be screened;
- Reconfiguration of the lift core / stair and ground floor entrance;
- Increase in the ground floor setback to the rear from 4.5m to 4.6m
- Increase in height of lift overrun by 200mm. This will be located behind the plant screening structure;
- Increase in the setback of the rear portion of the building to the south-east boundary from 1.825m to 1.86m

An aerial image of the site is provided at Attachment 2.
History
Planning Permit 2017/151 was issued on 7 March 2018 under the direction of the Victorian Civil and Administrative Tribunal (VCAT).

Plans were endorsed by Council on 18 May 2018 and are provided at Attachment 3.

2. Planning controls
Planning Permit requirements
There are no primary permit triggers to consider as part of this application. The application seeks to amend the endorsed plans pursuant to the secondary consent provisions afforded by Condition 2 of Planning Permit 2017/151.

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

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

Public notification
Applications made in accordance with the secondary consent provisions are not subject to the notice requirements of Section 52 of the Planning and Environment Act 1987. Therefore, the amended plans have not been advertised.

4. Recommendation
That Council resolve to:

1. Approve the amended plans in accordance with secondary consent provisions of Planning Permit 2017/151.

2. Plans identified as TP00 E, TP01 F, TP02 E, TP03 E, TP04 E, TP05 E, TP06 E, TP07 E, TP08 E, TP09 E, and TP10 E prepared by artisan architects and dated March 2017 be endorsed.


5. Council Policy
There are no primary Council policy matters to consider as part of the request to amend plans pursuant to the secondary consent provisions.

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

The tests include the following:

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

The amendment does not result in a transformation of the proposal. The amendment would provide for minor alterations to the building, both internally and externally.

The scale of the overall building fabric will not change. The proposal does not alter the outcome related to site coverage, permeability, overlooking or overshadowing. From a neighbourhood character perspective, the proposal will still be an appropriate outcome.
The proposed changes are considered to be minor in nature and will have no impact to the amenity of adjoining properties and will not cause material detriment to any third parties. The proposed changes do not conflict with any permit conditions, objections raised in the application for which primary consent was granted for; and, does not result in a transformation of the proposal.

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

The primary consent was issued at the direction of VCAT for the construction of a three storey residential building consisting of 8 apartments, a front fence exceeding 1.5 metres in height and basement car park. The amendment sought under this application is considered to be consistent with the proposal and does not authorise something for which primary consent is required for under the Bayside Planning Scheme.

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

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

**Is the proposed amendment contrary to a specific requirement or condition of the permit?**

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

**Support Attachments**

1. Development Plans ↓
2. Site imagery ↓
3. Endorsed Plans ↓
Item 4.1 – Matters of Decision
Item 4.1 – Matters of Decision
ATTACHMENT 2
Site Surrounds and 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>
</tbody>
</table>

Item 4.1 – Matters of Decision
Item 4.1 – Matters of Decision
4.2 25J BOLTON STREET, BEAUMARIS
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2018/128  WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/196886

This matter has been reported to the Planning and Amenity Committee for a decision as a result of Councillor call-in.

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Fredman Malina Planning Pty Ltd</td>
</tr>
<tr>
<td>Title/Covenant/S173 Agreement</td>
<td>The site is subject to numerous restrictive covenants and agreements. They are:</td>
</tr>
<tr>
<td></td>
<td>- Covenant 0933150</td>
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<tr>
<td></td>
<td>- Covenant 1331949</td>
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<tr>
<td></td>
<td>- Section 173 Agreement AM666639D</td>
</tr>
<tr>
<td></td>
<td>- Section 173 Agreement AN936521R</td>
</tr>
<tr>
<td></td>
<td>The proposal does not contravene any of these covenants of S173 Agreements.</td>
</tr>
<tr>
<td>Date application received</td>
<td>14 March 2018</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>63 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Vegetation Protection Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Site area</td>
<td>491m²</td>
</tr>
<tr>
<td>Number of outstanding objections</td>
<td>1 (2 submissions from same address)</td>
</tr>
<tr>
<td>Is a Development Contribution Levy applicable?</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>$2,020 – drainage area 22</td>
</tr>
<tr>
<td>Is the site located within an area of cultural heritage sensitivity?</td>
<td>Yes. However, the proposal is not a high impact activity</td>
</tr>
</tbody>
</table>

Proposal
The application seeks construction of a double storey dwelling on a lot less than 500m². Key details of the proposal are as follows:

- Maximum building height of 7.37 metres
- Site coverage of 45.6%
- Car spaces provided by way of a double garage

The application plans are provided at Attachment 1.
An aerial image and photographs of the site and surrounds are provided at Attachment 2.

History

Planning permit 2014/516 was granted on the 17 March 2015 at the direction of the Victorian Civil and Administrative Tribunal (VCAT) for the subdivision of the former Beaumaris RSL site at 489 Balcombe Road into 20 lots, removal of vegetation, alteration of access to a Category 1 Road Zone and variation and removal of easements.

The permit was amended via Section 72 of the Planning and Environment Act 1987 on the 13 October 2015 for minor amendments to the conditions. The permit was amended again via Section 71 of the Planning and Environment Act 1987 on the 5 November 2015 to correct a minor clerical error in the original drafting of the conditions.

Individual titles for the 20 lots have been issued. A number of the conditions of the subdivision permit, the endorsed plans and a Section 173 agreement lodged on all titles across the site place restrictions on the development of each site. These are discussed later in the report.

Subdivision plans have been endorsed that direct a number of aspects of the development of individual sites, including the provision of building envelopes and maximum building heights.

A landscape concept plan has also been endorsed for the larger site. All landscape plans for individual lots must be consistent with the landscape concept plan.

The section 173 agreement on each title imparts obligations on the owner in relation to the building envelope, height of development and tree protection fencing, and requires landscape plans to be prepared for each site and arborist reports where trees are to be retained.

It is noted the original Section 173 agreement did not allow works outside of the building envelope. This prohibited all works that would normally be associated with a dwelling including site cuts, driveways and letterboxes from occurring outside the building envelope. It is acknowledged this was over and above the intent of the building envelopes as decided by the VCAT decision and an amended Section 173 agreement was re-drafted that reflects the intent of the VCAT decision and community expectations for the development of the site, while enabling landowners to reasonably develop each site. The amended section 173 was signed by all owners and Council and registered on all titles on the 21 June 2017 (Dealing No. AN936521R).

On 6 October 2017, the current landowner applied to Council to remove a Southern Mahogany tree along the north-eastern corner of 25J Bolton Street. Council’s Building Inspector had issued a notice relating to the bluestone retaining wall along the eastern aspect of the site. In this instance, the owner’s representatives indicated that the removal of the bluestone bricks would have compromised the vertical integrity of the Southern Mahogany tree. Council’s Building Inspector concurred. As such, the tree was permitted for removal owing to its perceived immediate risk to personal injury or damage to property.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of one dwelling on a lot

Planning Scheme Amendments

Planning scheme amendment VC148 was gazetted on 31 July 2018. This amendment introduces changes to the Victoria Planning Provisions (VPP) and all planning schemes
arising from the Victorian Government’s Smart Planning program. The program aims to simplify and modernise Victoria’s planning policy and rules to make planning more efficient, accessible and transparent. VC148 is not considered to have direct implications for this planning application.

3. Stakeholder consultation

External referrals

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

Internal referrals

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

Public notification

The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and one objection via two submissions were received.

The objection remains outstanding at the time of this report.

The following concerns were raised:

- Overlooking;
- Bluestone retaining wall and public safety;
- Visual bulk;
- Future residential noise; and
- Inaccurate plans.

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

Consultation meeting

The applicant declined a consultation meeting preferring to proceed directly to a Planning and Amenity Committee meeting.

4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2018/128 for the land known and described as 25J Bolton Street, Beaumaris, for the construction of a double storey dwelling on a lot less than 500sqm in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans prepared by Fredman Malina Architecture Pty Ltd referenced 2114 and dated 8 March 2018 but modified to show:

   a) The inclusion of a complementary natural material to the building’s façade, in particular along the southern and eastern interface.

   b) The garage door to be a minimum 5 metres wide.
c) The pedestrian door in the north-western corner of the garage to swing outwards.

d) Each elevation to be corrected noted by its orientation.

e) The garage door to be clad in natural materials.

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

g) Water Sensitive Urban Design measures in accordance with Condition 8 of this permit.

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

i) A Tree Impact Assessment report in accordance with Condition 13 of this permit.

j) A Tree Management Plan and Tree Protection Plan in accordance with Condition 14 of this permit.

k) The retention of the existing bluestone retaining wall along the Haydens Road frontage of the site. This bluestone wall may be reconstructed to accommodate any structural works in order to facilitate the construction of the new dwelling approved as part of this permit.

All to the satisfaction of the Responsible Authority

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

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

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

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

6. Before the occupation of the site commences, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard A15 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 concept plan drawn by Zenith Concepts, revision A, dated May 2018 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

   a) The addition of an additional small to medium indigenous canopy tree in accordance with the *Bayside Landscape Guidelines 2016* in the northern yard;

   b) Deletion of the ‘proposed pool by owner’ and associated fencing and decking;

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

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

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

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

   g) Details of surface finishes of pathways and driveways.

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. 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.

**Tree Management and Protection**
13. Prior to the endorsement of plans pursuant to Condition 1, a Tree Impact Assessment Report in accordance with Australian Standard Protection of Trees on Development Sites 4970 must be submitted to, and approved by, the Responsible Authority. The report must be specific to Tree 2 and include:

a) The report must identify impacts that may be detrimental to the tree.

b) The report must include design responses required to reduce any identified negative impact.

c) All plans must be modified to include any recommendations made in the report.

All plans associated with the development (including landscaping) must be modified to include any recommendations made in the Tree Impact Assessment Report.

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

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

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

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

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

15. 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.

16. 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.

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

**Drainage**

18. 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.

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

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

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

Permit Expiry

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

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

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

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

Permit Notes:

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

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

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

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

Bayside Planning Scheme

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy (Precinct H3)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 42.02 Vegetation Protection Overlay (Schedule 3)
6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct H3. The proposal is considered to demonstrate an acceptable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The subject site is located within the Beaumaris RSL subdivision site with 20 new residential lots in variation stages of development. As such, greater weight is given to the preferred future character statement for Precinct H3 in that there is no existing character on the site.

A landscape plan was submitted with the application documents. This included the retention of several large trees on the subject site and the planting of numerous indigenous canopy trees. A palette of shrubs, groundcovers and grasses has been included to complement the larger trees. An objection raised concerns about the deficiency of canopy trees along the eastern interface with Haydens Road. Officers do not agree that this is an appropriate location for large canopy trees, as evidenced by the removal of the Southern Mahogany in late 2017. That said, an additional small to medium canopy tree is considered to be able to be accommodated along the northern interface. Broadly, the landscape plan is considered reasonable contingent on an additional tree being demonstrated and 80% of the plantings being indigenous species.

The proposed dwelling will be built within the building parcel that was included as a part of the endorsed subdivision plans. As such, it is considered that the dwelling’s location will facilitate an appropriate level of visual separation. The double garage along the western interface is located slightly behind the primary ground floor façade. A condition of permit will require that the garage door is appropriately clad in natural materials to reflect the scruffy surrounds.

The dwelling is proposed to be clad primarily in rendered material with a tile roof. Officers consider that this has the potential to result in an unacceptable lack of articulation, particularly when viewed from the prominent T-intersection for Bolton Street and Haydens Road. The fenestration at the first floor level does not address this to an acceptable level. As such, a condition of permit is recommended for natural materials to be included along the dwelling’s façade, in particular along the southern and eastern aspect. The condition is written in a non-prescriptive manner, allowing the architectural ingenuity of the applicant to deliver an acceptable outcome.

Overall, with minor conditions added to the planning permit, officers considered that the development can result in an acceptable outcome in the context of the Beaumaris RSL subdivision. As such, officers indicate that the development is worthy of support.

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:

Neighbourhood character (Standard A1)
The neighbourhood character objective requires a design to respect the existing
neighbourhood character or contribute to a preferred neighbourhood character. As
discussed in section 6.1 of the report above, conditions of permit have been included to
allow the development to reflect the preferred character of this new subdivision.

Significant trees (Standard A8)

The retention of the three trees protected under the original subdivision permit is
addressed in section 6.3 of the report below. Conditions of permit have been imposed
to ensure their protection and long-term retention.

Side and rear setbacks (Standard A10)

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>East (side)</td>
<td>0-0.2m &amp; 2.13-2.23m</td>
<td>2.01m &amp; 2.91m</td>
<td>3.85m (max.)</td>
</tr>
<tr>
<td>West (side)</td>
<td>0-0.2m or 2m</td>
<td>0.2m &amp; 2m</td>
<td>2.9m (max.)</td>
</tr>
<tr>
<td>North (rear)</td>
<td>0-0.2m or 3m</td>
<td>4.01m</td>
<td>4.5m (max.)</td>
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</tbody>
</table>

The ground floor wall along the eastern interface requires a variation to the side setback
of 120mm-220mm. At the first floor level the eastern variation is approximately 240mm
when compared to the schedule 3 variations. All of the other side and rear setbacks are
compliant with the standard. The objective of the standard is to ensure the height and
setback of a building from a boundary respects the existing or preferred neighbourhood
character and limits the impact on the amenity of existing dwellings.

The variations are considered to come from the slope of the subject site, which drops
sharply from west→east. The variations are proposed along the non-sensitive street
facing aspects of the subject site. As such, these variations will not encroach on any
dwelling in such a way that adversely impacts on its residential amenity.

The minor variations will lead to a more prominent built form when viewed from the
Haydens Road public spaces. As such, permit conditions leading to a greater level of
articulation and natural finishes will better reflect the preferred future character for
Precinct H3. With the imposition of these conditions, officers indicate the dwelling can
achieve the side and rear setback objective.

Design Detail (Standard A19)

As discussed in the body of the report, conditions are permit are recommended to
tackle the visual prominence of the dwelling, in particular when viewed from Haydens
Road. The inclusion of a complementary level of natural finishes will result in a built form
that better reflects the well vegetated surroundings. Further, any additional canopy tree
will soften views to the new built form in time when viewed from the objector’s property
to the north. Subject to the conditions, officers indicate that the design detail objective
can be achieved.

6.3. Landscaping

The application does not propose to remove any trees protected by the Vegetation
Protection Overlay (VPO3) or the Local Law.

The objectives of the VPO3 are to retain the amenity, aesthetic character and habitat
value of native vegetation by preventing the loss of native (particularly indigenous)
vegetation and promoting the regeneration and replanting of indigenous species in the
Beaumaris and Black Rock area.
Several trees that were protected under the original subdivision permit (2014/516/4) are on the subject site. This includes a Southern Mahogany (Tree 2) in the south-western corner, a Silky Oak (Tree 3) and a Sugar Gum (Tree 4) in the south-eastern corner. These trees are required to be retained during and post-construction.

Tree 2 will experience a major incursion (20-30%) into the Tree Protection Zone (TPZ) from the driveway that is proposed to lead to the double garage. Tree 4 is located in proximity to the proposed dwelling but it is likely that the incursion into the TPZ will only be minor (<10%). Tree 3 is setback further from the dwelling and is less likely to experience adverse impacts from construction on the site.

The application was referred to Council’s Arborist who have stated that the retention of the trees is likely subject to further investigation from an Arborist. A condition of permit requiring a Tree Management Plan (TMP) and Tree Protection Plan (TPP) to be submitted to the satisfaction of Council prior to the endorsement of plans is considered reasonable. This would apply to all three trees on the subject site but also would extend to trees located on adjoining properties.

Tree 2 is considered by Council’s Arborist to have the most sensitivity during and post-construction. As such, an additional condition of permit requires that a Tree Impact Assessment report is undertaken to ensure that construction within the TPZ of this tree occurs in a manner that is sensitive to its long term health. While the remaining trees on the subject land will require sensitive construction techniques, this alone is not prohibitive of the development commencing in the view of Council’s Arborist.

Council’s Arborist has also viewed the proposed landscape plan and has required that the replacement planting be revised in accordance with the previous removal of the Southern Mahogany in the north-eastern corner of the site. This tree was permitted for removal in December 2017. Furthermore, the proposed pool in the north-eastern corner is built outside the building envelope and reduces the level of landscaping available along the northern interface. The pool is not shown on any other development plans. Conditions are included to rectify this inconsistency.

Owing to the subject site's location with the VPO3 area, officers have included additional conditions to the landscape plan requiring a minimum of 80% of the quantity and mix of species are indigenous to the Bayside region.

6.4. Car parking and traffic

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

The dwelling comprises four bedrooms and is afforded two car parking spaces in the form of a single carport and tandem outdoor parking.

Conditions of permit are included to ensure the garage complies with the design standards of Clause 52.06 including the width of the garage entrance, door movement, gradient of the driveway and other elements.

6.5. Cultural Heritage management plan

The site is located within an area of Cultural Heritage significance. That said, the activity of establishing one dwelling on a lot is not considered to be a high impact activity pursuant to the Aboriginal Heritage Regulations 2018. As such, no cultural heritage management plan is required to be prepared prior to a permit being granted.

6.6. Development contributions levy

The subject site is located within catchment area 22.

Based on the proposed application and the below recommendation, a payment of $2,020 is required. The payment of the development contributions is included as a condition of
permit.

**6.7. Objector issues not already addressed**

**Public Safety from Bluestone Retaining Wall**

Council’s Building Inspector has issued a Building Order in relation to the rectification of the structural elements of the bluestone retaining wall along the Haydens Road. The bluestone retaining wall is required to be retained as a part of the original Beaumaris subdivision permit (2014/516). As such, it is considered that the applicant will conduct the relevant works as required by the Building Order. A condition will be imposed on the planning permit to ensure the bluestone wall is retained and reconstructed accordingly to ensure the dwelling does not impact on the integrity of this retaining wall.

**Noise Impacts**

The proposed dwelling will have noise impacts consistent with those normal to a residential zone. Speech, laughter, music, etc. are noises associated with people living their lives and are considered part of life in an urban area. Future residents are considered no more or less likely to generate excessive noise than the occupiers of the surrounding dwellings and businesses.

**Privacy/Overlooking**

Ground floor secluded private open space and living rooms along the interface with 73 Haydens Road will be screened and protected by the existing boundary fence. Furthermore, northern-facing first floor windows along this interface are screened to a height that they are in accordance with the Overlooking Standard of Clause 54.

**Support Attachments**

1. Development Plans ↓
2. Site Surrounds and Imagery ↓
3. Neighbourhood Character Assessment ↓
4. Clause 54 Assessment ↓
Item 4.2 – Matters of Decision
ATTACHMENT 2
Site Surrounds and Imagery

Figure 1. Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
<tr>
<td>Objector</td>
</tr>
</tbody>
</table>
Figure 2. View toward 25J Bolton Street from across Haydens Road to the east

Figure 3. View toward 25J Bolton Street from the south – objector property visible
Figure 4. View north along Haydens Road footpath showing bluestone wall

Figure 5. Oblique view toward 25J Bolton Street from the south-west along the Bolton Street footpath
ATTACHMENT 3
Neighbourhood Character (Precinct H3) Assessment

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To strengthen the bushy garden character of the area through the planting of appropriate species. | - Retain large established trees and understorey, and provide for the planting of new indigenous trees wherever possible (locate footings outside root zone).<br>- Prepare a landscape plan to accompany all applications for new dwellings that utilizes appropriate native, preferably indigenous, vegetation.<br>- Minimise impervious surfaces particularly in front garden spaces to ensure space for plantings. | Lack of landscaping and substantial vegetation.  
Removal of large established trees.  
Planting of environmental weeds. | Responds  
A landscape plan has been submitted in support of the application. It is considered that the level of landscaping is a positive reflection on the preferred neighbourhood character. A condition of permit requires the level of indigenous species to achieve the 80% threshold required. |
| To maintain the rhythm of spacious visual separation between buildings and ensure adequate space is provided around buildings for the retention and planting of vegetation. | - Buildings should be sited to allow space for a garden, including trees and shrubs.  
- Buildings should be sited to create the appearance of space between buildings and accommodate vegetation. | Loss of front garden space. | Responds  
The dwelling is within the building parcel approved as a part of the subdivision permit (2014/5162) which allows for an appropriate spread of dwellings within the new residential subdivision site. |
| To minimise the loss of front garden spaces and the | - Locate garages and carports behind the line of the dwelling.  
- Car parking structures that | | Responds |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>dominance of car parking structures.</td>
<td>• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.</td>
<td>dominate the façade or view of the dwelling.</td>
<td>The proposed garage is recessed behind the primary façade. Although a double garage is proposed officers indicate that the 9 metre setback, less common within the Beaumaris RSL subdivision, will appropriately reduce the visual dominance of car parking facilities.</td>
</tr>
<tr>
<td>To minimise site disturbance and impact of the building on the landscape.</td>
<td>• Buildings should be designed to follow the contours of the site on sloping sites. • Minimise the use of retaining walls and battering of slopes. • Design new buildings and extensions so as not to exceed the predominant tree canopy height.</td>
<td>Major excavation works and site levelling. Buildings that protrude above the tree canopy height.</td>
<td>Responds While minor excavation is proposed on the site, it is considered necessary in order to allow this undulating land to be developed. The design of the dwelling reduces the need for an excessive level of retaining walls on and off-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. • Recess upper levels from the front façade.</td>
<td>Large, bulky buildings Poorly articulated front and side wall surfaces.</td>
<td>Responds The first floor is recessed behind the primary ground floor façade and the footprint of this upper floor is minor compared to the footprint of the ground floor. A condition of permit will require a greater level of integration of natural materials and improved articulation with regard to the property’s presentation to the prominent Haydons Road &amp; Bolton Street intersection.</td>
</tr>
<tr>
<td>To use building materials and finishes that complement the natural setting.</td>
<td>• Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick.</td>
<td>Period reproduction styles and detailing.</td>
<td>Responds A condition of permit will require a greater level of natural materials to be integrated within the external façade of the dwelling. This is particularly significant given the site’s prominent corner location.</td>
</tr>
<tr>
<td>To maintain the openness of the front garden to the street.</td>
<td>• Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High or solid front fences.</td>
<td>Responds No front fencing is proposed.</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>• Use vegetation as an alternative where possible.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## ATTACHMENT 4

### Clause 54 (ResCode) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A1 Neighbourhood Character</strong></td>
<td>Yes, with conditions included.</td>
<td>Refer Attachment 3 and section 6.1 of the report.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A2 Integration with Street</strong></td>
<td>Yes</td>
<td>The dwelling appropriately addresses the street and the entrance is clearly identifiable from the Bolton Street streetscape.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A3 Street Setback</strong></td>
<td>Yes</td>
<td><strong>Minimum:</strong> 6m</td>
</tr>
<tr>
<td>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> 9.02m</td>
</tr>
<tr>
<td><strong>Note:</strong> The street setback is set by the building parcel approved under the original subdivision permit (2014/515/2).</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A4 Building Height</strong></td>
<td>Yes</td>
<td><strong>Required:</strong> 8m</td>
</tr>
<tr>
<td>Building height respects the existing or preferred neighbourhood character.</td>
<td></td>
<td><strong>Proposed:</strong> 7.37m</td>
</tr>
<tr>
<td><strong>Note:</strong> The height limit is specified in sheet 3 of 7 of the previously endorsed plans for the original subdivision permit (2014/515/2).</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A5 Site Coverage</strong></td>
<td>Yes</td>
<td><strong>Maximum:</strong> 50%</td>
</tr>
<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> 45.6%</td>
</tr>
<tr>
<td><strong>A6 Permeability</strong></td>
<td>Yes</td>
<td><strong>Minimum:</strong> 20%</td>
</tr>
</tbody>
</table>
| Item | Description | Proposed
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>4.2</td>
<td>drainage system and facilitate on-site stormwater infiltration.</td>
<td>46.7%</td>
</tr>
</tbody>
</table>

### A7 Energy Efficiency
Achieve and protect energy efficient dwellings. Ensure the development’s orientation and layout reduce fossil fuel energy use and makes appropriate use of daylight and solar energy.

| Proposed | All habitable areas, including habitable rooms and secluded private open spaces would be appropriately located in relation to the orientation of the site. |

### A8 Significant Trees
Development respects the landscape character of the neighbourhood and retains significant trees on site.

| Yes, with conditions included. | All remaining trees protected by the original subdivision permit should be protected by the requirement for a Tree Impact Assessment, Tree Management Plan and Tree Protection Plan. These are required as a condition of permit. |

### A10 Side and Rear Setbacks
Ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

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

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

### A11 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 impact on the amenity of existing dwellings.

| Yes | Max. Height: 3.6m – proposed 3.29m |

| Average Height: 3.2m – proposed 2.89m | Max. Length: 14.59m – proposed 6.67m |

### A12 Daylight to existing windows
To allow adequate daylight into existing habitable room windows.

<p>| Yes | No existing windows on adjoining properties will be impacted. |</p>
<table>
<thead>
<tr>
<th>A13 North Facing Windows</th>
<th>Yes</th>
<th>No north facing windows on adjoining properties are affected.</th>
</tr>
</thead>
<tbody>
<tr>
<td>A14 Overshadowing Open Space</td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September.</td>
</tr>
<tr>
<td>A15 Overlooking</td>
<td>Yes</td>
<td>All of the windows at the first floor level with the potential for overlooking adjoining properties have been appropriately treated with either high sill heights or external screening.</td>
</tr>
<tr>
<td>A16 Daylight to New Windows</td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td>A17 Private Open Space</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall Proposed: greater than 100m² of SPOS has been provided</td>
</tr>
<tr>
<td>A18 Solar Access to Open Space</td>
<td>Yes</td>
<td>The SPOS is appropriately located to the north of the dwelling.</td>
</tr>
<tr>
<td>A19 Design Detail</td>
<td>Yes, subject to conditions.</td>
<td>Refer Attachment 3 and sections 6.1 &amp; 6.2 of the report.</td>
</tr>
<tr>
<td>A20 Front Fences</td>
<td>Yes</td>
<td>Required: 1.2m Proposed: No front fence proposed</td>
</tr>
</tbody>
</table>
4.3 22 WELLS ROAD, BEAUMARIS
NOTICE OF DECISION TO GRANT A PERMIT
APPLICATION NO: 2017/751/1 WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/191527

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Raw Architecture</td>
</tr>
<tr>
<td>Title/Covenant/S173 Agreement</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>05/12/2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>127 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Vegetation Protection Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Development Contribution Plan Overlay</td>
</tr>
<tr>
<td></td>
<td>(Schedule 1)</td>
</tr>
<tr>
<td></td>
<td>Design and Development Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Site area</td>
<td>718sqm</td>
</tr>
<tr>
<td>Number of outstanding objections</td>
<td>3</td>
</tr>
<tr>
<td>Is a Development Contribution Levy applicable?</td>
<td>Yes - $2,020</td>
</tr>
<tr>
<td>Is the site located within an area of cultural heritage sensitivity?</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Proposal

The application seeks Construction of two double-storey attached dwellings, a roof deck and a front fence exceeding 1.2 metres in height. Key details of the proposal are as follows:

- Number of dwellings: 2
- Building height in metres and storeys: 9.46 metres and 2 storeys with basement and roof deck
- Site coverage: 49.9%
- Permeability: 22.3%
- Total number car spaces are five, no reduction of parking sought.

The application plans are provided at Attachment 1.
An aerial image and photographs of the site and surrounds are provided at Attachment 2.

History

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

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.09-6 (Neighbourhood Residential Zone) – Construction of two or more dwellings on a lot.
- Clause 32.09-6 (Neighbourhood Residential Zone) – Construction of a front fence of more than 1.2 metres in height.
- Clause 43.02 (Design and Development Overlay) – Construction of a roof deck.

Planning Scheme Amendments

Planning scheme amendment VC148 was gazetted on 31 July 2018. This amendment introduces changes to the Victoria Planning Provisions (VPP) and all planning schemes arising from the Victorian Government’s Smart Planning program. The program aims to simplify and modernise Victoria’s planning policy and rules to make planning more efficient, accessible and transparent. VC148 is not considered to have direct implications for this planning application.

3. Stakeholder consultation

External referrals

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

Internal referrals

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

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

Public notification

The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and 3 objections were received.

3 objections remain outstanding at the time of this report.

The following concerns were raised:

- Loss of vegetation;
- Neighbourhood character;
- Setbacks;
- Inaccuracies in plans.

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

Consultation meeting

Officers invited the applicant to attend a consultation meeting. The applicant declined the offer of a consultation meeting, requesting that the application be reported to Councillors at the Planning and Amenity Committee.
4. Recommendation

That Council resolve to:

Issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of Planning application 5/2017/751/1 for the land known and described as **22 Wells Road, Beaumaris**, for the **Construction of two double-storey attached dwellings, a roof deck and a front fence exceeding 1.2 metres in height** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans (advertised) prepared by Raw Architecture, reference as Sheets 04, 05, 06, 07, 08, 09, 10 & 11 dated 28 February 2018 and Landscape Plan prepared by Cycas Landscape Design Job No. 011805, dated February 2018 but modified to show:

   a) Provision of a 3 metre wide gap in built form between unit 1 and 2 at first floor.

   b) The front fence for dwelling 1 and 2 to have a maximum height of 1.5 metres and a minimum 25% transparency above 1.2 metres.

   c) The side boundary fencing for dwelling 1 along Bonanza Lane to have a maximum height of 1.8 metres.

   d) The rainwater tank for dwelling 2 to be located within the rear private open space.

   e) The crossover of unit 1 setback 2.4 metres from the street tree. The crossover is to have a width of 3.0 metres and incorporate a 1 metre wide splitter island with 24 Wells Road, or otherwise to the satisfaction to the Responsible Authority.

   f) Provision of pedestrian sightlines for each accessway in accordance with the provisions at Clause 52.06-9 of the Bayside Planning Scheme.

   g) The provision of a 1:10 gradient for the first 2m at the top of the basement ramp.

   h) Manufacturer specifications for the turntable within the basement.

   i) The four (4) car spaces within the basement to be line-marked and have minimum 5.4m x 2.4m dimensions with the turntable offset from the car spaces.

   j) Removal of indicative landscaping from development plans.

   k) 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.

   l) A schedule of construction materials, external finishes and colours (incorporating for example paint samples/colour swatches) to the satisfaction of the Responsible Authority.

   m) Water Sensitive Urban Design measures in accordance with Condition 8.
n) A Landscaping Plan in accordance with Condition 10.

o) A Tree Impact Assessment Report associated with the retention of the Coastal Tea Tree located within the front setback facing Wells Road in accordance with Conditions 13 - 16.

p) Street tree protection measures in accordance with Conditions 17 - 21.

q) Provision of the development contributions fee in accordance with Condition 22.

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 concept plan drawn by Cycas Landscape Design referenced as Job No. 011805 and dated February 2018 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) Development changes.

b) The retention of the Coastal Tea Tree (Tree 13) as shown in the arborist report prepared by McLeod Trees dated 9 February 2018.

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

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

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

f) Removal of hard surfacing within the front setback of Unit 1.

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

h) Details of surface finishes of pathways and driveways

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

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

**Tree Impact Assessment Report**

13. Prior to the endorsement of plans pursuant to Condition 1, including any related demolition or removal of vegetation, a Tree Impact Assessment Report relating to the existing Coastal Tea Tree located within the front setback facing Wells Road must be submitted to and be endorsed by the Responsible Authority.

14. The Tree Impact Assessment Report is required to ensure the tea tree within the front setback facing Wells Road remains viable post construction. The report must be in accordance with part 2.3.5 of Australian Standard Protection of Trees on Development Sites 4970 and will identify impacts that may be detrimental to the tree. The report will include design responses required to reduce any identified negative impact. The proposed development will be appropriately modified to include any recommendations made in the report to the satisfaction of the Responsible Authority.
15. All protection measures and/or development works identified in the report must be implemented and undertaken on the land in accordance with the Tree Assessment Impact Report to the satisfaction of the Responsible Authority.

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

**Street Tree Protection**

17. Before the development starts, tree protection fencing is to be established around the existing *Melaleuca linariifolia* (Paperbark) street tree asset marked for retention prior to demolition and maintained until all works on site are complete. The fencing is to be constructed and secured so its positioning cannot be modified by site workers. The fencing is to encompass the entire nature strip under the drip line of the tree. The Tree Protection Zone is to be established and maintained in accordance with AS 4970-2009. During construction of the crossover, tree protection fencing may be reduced to the edge of the Council approved crossover to facilitate the construction of the crossover.

18. Soil excavation must not occur within 2.4 metres from the edge of the *Melaleuca linariifolia* (Paperbark) street tree asset stem at ground level.

19. A tree protection fence is for the protection of a tree’s canopy and root zone. Conditions for street tree protection fencing during development are as follows:
   
a) Fencing is to be secured and maintained prior to demolition and until all site works are complete.

b) Fencing must be installed to comply with AS4970-2009, Protection of trees on development sites.

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

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

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

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

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

**Development Contribution**

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

Drainage

23. 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.

24. 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.

Permit Expiry

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

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

Permit Notes:

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

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

- The applicant must clearly identify what impact, if any, the proposed vehicle crossings will have on Council assets such as pits and trees, power poles etc. Such items must be accurately shown on the plan.

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

- Council records indicate that there is a sewer drain running parallel to the eastern property boundary. 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 “Works on Assets within the Road Reserve Policy 2018”

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

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

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

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

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 17 Economic Development
- Clause 18 Transport
- Clause 19 Infrastructure
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
- Clause 21.06 Built Environment and Heritage
- Clause 21.09 Transport and Access
- Clause 21.10 Infrastructure
- Clause 22.06 Neighbourhood Character Policy (Precinct H3)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct H3. Subject to condition, the proposal is considered to demonstrate an acceptable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The area is characterised by tree lined streetscapes and a variety of built form, consisting
of single and double storey original housing stock and contemporary double storey infill dwellings set behind front fencing that also varies in height, styles and materials. Front gardens are established with canopy tree planting and generally have a bushy coastal suburban feel.

The design response, whilst contemporary, generally responds appropriately to the prevailing scale and built form, evident within the varied streetscape character. Being situated on a corner allotment, the proposed development also incorporates appropriate boundary setbacks and makes good use of existing garages constructed to shared boundaries located at 24 Wells Road and 1 Bonanza Lane by siting Unit 1’s study and Unit 2’s garage walls to the north and east boundaries to minimise adverse visual bulk and overlooking amenity impacts.

The continuous building massing of at first floor facing Bonanza Lane is a concern and uncharacteristic of the area. Accordingly, it is recommended a 3 metre gap at first floor between dwellings be included as a condition of permit to ensure an appropriate level of visual permeability through the site, while also according with the neighbourhood character of the area. It is noted that the first floors of each dwelling are substantial and could be appropriately modified to achieve the gap between dwellings, without unreasonably compromising the amenity of the future occupants.

The extent of Unit 1’s basement envelope is modest and retains space for suitable future landscaping opportunities. In addition, conditions requiring the retention and protection of the existing Coastal Tea Tree within the Wells Road frontage will screen and soften the development when viewed from either streetscape.

The choice of natural external materials, including, timber battens and exposed aggregate in neutral colours will suitably respect and complement the coastal neighbourhood character.

Conditions of permit are recommended to lower the front fence heights to ensure an appropriate level of integration with the respective street frontages, while also ensuring an appropriate level of seclusion/privacy for future residents.

It is noted that one of the rainwater tanks for dwelling 2 is located within the front setback. This is considered to be a poor neighbourhood character outcome that compromises the public realm. Accordingly, a condition of permit is recommended to relocate the tank to the rear private open space.

Overall, the proposed development will make a positive contribution to the Wells Road and Bonanza Lane streetscapes and wider H3 neighbourhood character precinct.

6.2. Compliance with Clause 55 (ResCode)

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

Street setback (Standard B6)

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wells Road</td>
<td>9m</td>
<td>7.15m – 9.57m</td>
<td>1.85m – 1.1m</td>
</tr>
<tr>
<td>Bonanza Lane</td>
<td>3m</td>
<td>3m- 3.59m</td>
<td>None</td>
</tr>
</tbody>
</table>

The objective of the street setback is to ensure the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of a site.

A street setback from Wells Road Street of between 7.15 metres and 7.9 metres at ground floor level and 7.15 metres and 9.57 metres at first floor level is proposed, when a setback of 9 metres is required to achieve this standard.

A small store at ground floor level and the en-suite at first floor level encroach
approximately 1.85 metres into the prescribed setback. These elements are incorporated into the porch of Unit 1 and will be clad in vertical timber batons. This feature would provide some articulation to the front façade of the dwelling and the choice of natural materials is considered to ensure that the encroachment does not appear overly dominant when viewed from the surrounds.

At ground floor level, the living room will be setback approximately 7.9 metres from the front of the site. A variation of approximately 1.1 metres is sought. The preferred neighbourhood character is for large, established trees to be retained and for bushy gardens surrounding dwellings to dominate the streetscape.

A condition is recommended requiring Tree 13 to be retained. A tree impact assessment will be required to be provided and any recommendations for the built form to be reduced at ground and first floor level to accommodate this existing tree will be made.

The first floor wall of the master bedroom is setback approximately 9.57 metres in accordance with the standard. The balcony off the master bedroom encroaches into the prescribed setback but this will be glazed such that it would not appear as a dominant element.

The side elevation of Unit 1 is setback 2 metres from Bonanza Lane and the front elevation of Unit 2 is setback a minimum of 3 metres from Bonanza Lane in accordance with the standard.

The proposed variations are considered to be acceptable as they would not impact on the amenity of neighbours and, subject to condition would preserve the bushy garden character of the area.

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

<table>
<thead>
<tr>
<th></th>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (side)</td>
<td>0m or 2m</td>
<td>0m – 2.8m – 3m – 4.6m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 2m</td>
<td>2.1m – 2.5m – 3.5m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>0m or 3m</td>
<td>0m</td>
</tr>
</tbody>
</table>

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

Unit 2’s double garage is proposed to be constructed to the east boundary rather than be offset by 3m, thus failing Council’s varied rear setback requirement required by the schedule to the zone. This anomaly is considered acceptable, in this instance, given Unit 2’s garage makes good use of the site constraints by constructing the garage adjacent to an existing garage located at 1 Bonanza Lane.

The proposed 1.7m side setback to Unit 1’s stair and 3m side setback to Unit 2’s bath, living and first floor master bedroom which fail the varied standard by approx. 2m and 600mm, respectively are considered appropriate and will not pose any unreasonable amenity impact to the neighbour to the north for the following reasons:

- Unit 1’s stair is only approx. 2m wide, therefore its proximity to an existing non-sensitive garage and frontage of the existing dwelling at 24 Wells Road is considered minimal. In addition, the remaining northern wall, comprising an ensuite, walk in robe and sitting room, will be setback 3.37m. Therefore, any perceived visual bulk effect created by the approx. 6.5m wall height will be minor.
- Unit 2’s proposed 6.3m wall height and 3m setback will pose a minimal visual bulk impact, including no overshadowing due to the site’s orientation, to the north adjoining SPOS.

- It is noted that the north adjoining neighbour did not object to the proposed development.

The proposed side and rear setback encroachments are not expected to have an undue impact on the amenity of neighbours and would respect the existing and preferred neighbourhood character. The variations are supported.

Front Fences (Standard B32)

<table>
<thead>
<tr>
<th>Wells Road and Bonanza Lane</th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.2m</td>
<td>1.8m – 2m</td>
<td>600mm – 800mm</td>
<td></td>
</tr>
</tbody>
</table>

The objective of this standard is to encourage front fence design that respects the existing or preferred neighbourhood character.

As outlined above, conditions of permit are recommended to lower the front fences of each dwelling to 1.5 metres in height, with a minimum 25% transparency above 1.2 metres. This will ensure an appropriate level of integration with the respective frontages, while also affording seclusion/privacy for each dwelling.

6.3. Landscaping

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

The application was referred to Council’s Arborist who supports the removal of the majority of the existing vegetation on site. The application seeks to remove 18 trees of a variety of native, indigenous and exotic origins as follows:

<table>
<thead>
<tr>
<th>VPO3 protected trees</th>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed for removal</td>
<td>Proposed for retention</td>
<td>Proposed for removal</td>
</tr>
<tr>
<td>-</td>
<td>Tree 16</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Tree 1</td>
<td>-</td>
</tr>
</tbody>
</table>

Much of the native vegetation proposed to be removed is less than 2 metres in height or has a trunk diameter (DBH) of less than 0.5 metres, and therefore a permit is not required for its removal under Schedule 3 to the Vegetation Protection Overlay (VPO). A more detailed assessment of the proposed vegetation removal is included in Appendix 5.

Council’s Arborist has commented that Tree No. 13, a Coastal Tea Tree within the front setback of the site should be retained. This is a mature, indigenous species with a good health and structure and a high amenity value. The life expectancy of this tree is more than 20 years and therefore it also has a high retention value.
The preferred neighbourhood character for the precinct (H3) is for large, established trees to be retained and for bushy gardens surrounding dwellings to dominate the streetscape. The Coastal Tree located in the front setback contributes to the bushy garden character of the streetscape and screens the view of the built form within the site from the surrounds. Subject to condition, it is recommended that Tree No. 13 is to be retained on site. An impact assessment report will be required to ensure the Coastal Tea Tree (Tree 13) remains viable post construction. A recommended condition of the permit requires an impact assessment report to be provided to include any design responses required to reduce negative impacts on this tree and the proposal will be required to be modified in accordance with any recommendations made in the report.

The submitted landscape plan will also be required to be amended to incorporate the retention of the existing Coastal Tea Tree within the front setback of Unit 1. As the site is located within the VPO, the revised landscape plan must also include a minimum of 80% indigenous vegetation including appropriate replacement canopy trees, shrubs, plants, grasses and ground covers, in accordance with the Bayside Landscape Guidelines (2016). It is recommended that a revised landscape plan is required by condition.

6.4. Street trees
Council’s Street Tree Arborist advises that the proposal will not pose any detriment to the existing Melaleuca linariifolia (Paperbark) street tree asset fronting Wells Road provided the southern edge of the crossover to Unit 1’s basement is setback a minimum of 2.4m from the trunk. Conditions are recommended requiring the relocation of Unit 1’s crossover towards the northern boundary, to be off-set 2.4 metres from the stem of the street tree and requiring protection of the street tree during demolition and construction.

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

Unit 1 comprises four bedrooms and is afforded three car parking spaces in the form of a basement car parking. Dwelling 2 comprises four bedrooms and has a double garage. The proposed on site car parking meets the requirements of Clause 52.06-5.

The application was referred to Council’s Traffic Engineer who expressed no concern with the development subject to the inclusion of permit conditions. These recommendations are included as conditions of the permit with modifications to the location of Unit 1’s crossover to provide an appropriate clearance to the street tree. It is considered that the proposed development will not unreasonably impact on the car parking network in the street.

6.6. Cultural Heritage management plan
The site is located within an area of cultural heritage sensitivity, therefore an assessment as to whether the proposal is considered a high impact activity has been undertaken. Based on the Aboriginal heritage planning tool questionnaire, a cultural heritage management is not required.

6.7. Development contributions levy
The subject site is located within catchment area 29.

Based on the proposed application and the below recommendation, a payment of $2,020 is required. The payment of the development contributions is included as a condition of permit.

6.8. Objector issues not already addressed
Inaccuracies in plans
Concerns have been raised in relation to the location of the eastern boundary fence and the proposed garage wall on the boundary of Unit 2. This is outside of the scope of the Planning and Environment Act 1987 or the Bayside Planning Scheme and is covered by the Fences Act.

Support Attachments

1. Development Plans ↓
2. Site and Surrounds ↓
3. Neighbourhood Character Assessment ↓
4. Clause 55 Assessment ↓
5. VPO Assessment ↓
Item 4.3 – Matters of Decision
Attachment 2

Figure 1 Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐</td>
</tr>
<tr>
<td>Objectors</td>
<td>⬤</td>
</tr>
</tbody>
</table>

Note: 2 further objections were received from 100 Pellatt Street, Beaumaris, outside of the map area and from the Beaumaris Conservation Society.
Figure 2 View towards the site from the west

Figure 3 View towards the site from the southwest
Figure 4 View towards the site from the east

Figure 5 View towards the site and neighbouring property to the east
attachment 3

Neighbourhood Character Precinct H3

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To strengthen the bushy garden character of the area through the planting of appropriate species. | • Retain large established trees and understorey, and provide for the planting of new indigenous trees wherever possible (locate footings outside root zone).  
• Prepare a landscape plan to accompany all applications for new dwellings that utilises appropriate native, preferably indigenous, vegetation.  
• Minimise impervious surfaces particularly in front garden spaces to ensure space for plantings. | Lack of landscaping and substantial vegetation.  
Removal of large established trees.  
Planting of environmental weeds. | Responds  
Council's arborist supports the proposed removal of all on-site vegetation except the removal of the existing native Coastal Tea Tree located within the front setback which is shown to be removed on the submitted concept landscape plan prepared by Cycas Landscape Design dated Feb 2018. The retention of the Coastal Tea Tree is supported and can be controlled via appropriate conditions of permit. |
| To maintain the rhythm of spacious visual separation between buildings and ensure adequate space is provided around buildings for the retention and planting of vegetation. | • Buildings should be sited to allow space for a garden, including trees and shrubs.  
• Buildings should be sited to create the appearance of space between buildings and accommodate vegetation. | Loss of front garden space. | Responds  
The proposed ground and first floor setbacks facing Wells Road and Bonanza Lane are generously spacious to support appropriate landscaping, including canopy tree planting and will not be adversely restricted by Unit 1’s basement envelope. |
| To minimise the loss of front garden spaces and the dominance of car parking structures. | • Locate garages and carparks behind the line of the dwelling.  
• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade or the Car parking structures that dominate the façade or view of the dwelling. | | Responds  
Unit 1’s proposed basement and integrated double garage associated with Unit 2 have been carefully designed to eliminate any unreasonable dominant impact garaging facilities will have on other streetscape. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>front setback area is retained as predominantly garden space.</td>
<td></td>
<td>Major excavation works and site levelling. Buildings that protrude above the tree canopy height.</td>
<td>Responds: The building envelopes are modest in their proposed scale and building massing and allow appropriate space for the retention of the native Coastal Tea Tree within the front setback facing Walls Road and future landscaping opportunities.</td>
</tr>
</tbody>
</table>
| To minimise site disturbance and impact of the building on the landscape. | - Buildings should be designed to follow the contours of the site on sloping sites.  
  - Minimise the use of retaining walls and battering of slopes.  
  - Design new buildings and extensions so as not to exceed the predominant tree canopy height. | Large, bulky buildings  
Poorly articulated front and side wall surfaces. | Responds: The units will be separated at ground floor and incorporate a various mix of natural external materials and finishes in neutral tones to reflect and compliment the prevailing and preferred streetscape character. Whilst the first floor envelopes have been designed to be smaller than Unit 1 & 2’s ground floor footprints, the physical separation at ground floor level should extend to the first floor as well to provide appropriate visual space between the dwellings and reduce their continuous building mass to Bonanza Lane. A condition will require the reduction to the overall size of Unit 1’s first floor envelope. Rearrangement of Unit 1’s first floor layout can mitigate the potential loss of the bath and eastern-most bedroom. |
<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 front garden to the street.</td>
<td>• Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High or solid front fences.</td>
<td>preferred neighbourhood character.</td>
</tr>
<tr>
<td></td>
<td>• Use vegetation as an alternative where possible.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Responds
Front fence heights, styles and materials within Wells Road and Bonanza Lane are varied. Therefore, it is considered that the proposed up to 2m solid render with semi-transparent infill sections front fence facing Wells Road and Bonanza Lane will complement the streetscape character.
### ResCode Clause 55 (Two or More Dwellings on a Lot and Residential Buildings)

<table>
<thead>
<tr>
<th>Application type</th>
<th>Applicable clauses</th>
</tr>
</thead>
<tbody>
<tr>
<td>To construct or extend a dwelling (other than a dwelling in or forming part of an apartment development); or To construct or extend a residential building.</td>
<td>All of Clause 55 except Clause 55.07-1 to 55.07-15 (inclusive).</td>
</tr>
</tbody>
</table>

### Clause 55.02 Neighbourhood Character and Infrastructure

<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. | Complies | Refer to Attachment 2. |
| **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. | Complies | The subject site is appropriately located with regard to services and facilities to support the construction multiple dwellings on a lot of this size. |
| **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. | Complies | The proposal will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development. Council's drainage engineers have reviewed the application and raise no |
<table>
<thead>
<tr>
<th>Item 4.3 – Matters of Decision</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>B5 Integration with the Street</td>
<td>Complies</td>
</tr>
<tr>
<td>Integrate the layout of development with the street</td>
<td>The development will integrate appropriately with the street. Unit 1 faces towards Wells Road and Unit 2 faces towards Bonanza Lane. Pedestrian and Vehicular entries are clearly identifiable from the surrounds. See Neighbourhood Character at Attachment 2 for further discussion.</td>
</tr>
</tbody>
</table>

### CLAUSE 55.03 SITE LAYOUT AND BUILDING MASSING

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>B6 Street Setback</td>
<td>No</td>
<td>Requirement: Corner site. Wells Road: 9m. Bonanza Lane: 3m. Proposed: Wells Road: 7.15m – 7.9m at ground floor level and 7.15m – 9.57m at first floor level. Bonanza Lane: 3m – 3.59m at ground and first floor level</td>
</tr>
<tr>
<td>B7 Building Height</td>
<td>Complies</td>
<td>Maximum: 10m. A building may exceed the maximum building height (9m) by up to 1 metre if the slope of the natural ground level, measured at any cross section of the site of the building wider than 8 metres is greater than 2.5 degrees. Design and Development Overlay, Schedule 1 also identifies a height of 2 storeys excluding an attic and basement. Proposed: 9.46 metres (2 storeys + basement and roof deck) It is noted that the basement at no point rises more than 1 metres above natural ground level and the roof deck complies with the requirements of the Design and Development Overlay. As such, the proposal complies with this Standard</td>
</tr>
<tr>
<td>Item 4.3 – Matters of Decision</td>
<td>and the Design and Development Overlay, Schedule 1.</td>
<td></td>
</tr>
<tr>
<td>-----------------------------</td>
<td>--------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td><strong>B8 Site Coverage</strong></td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Maximum: 50% Proposed: 49.9%</td>
<td></td>
</tr>
<tr>
<td><strong>B9 Permeability</strong></td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Minimum: &gt;20% Proposed: 22.3%</td>
<td></td>
</tr>
<tr>
<td><strong>B10 Energy Efficiency</strong></td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>All habitable areas, including habitable rooms and secluded private open space areas have been located to maximise solar access and no habitable rooms rely on secondary light sources.</td>
<td></td>
</tr>
<tr>
<td><strong>B11 Open Space</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>There is no communal open space in or adjacent to the development.</td>
<td></td>
</tr>
<tr>
<td><strong>B12 Safety</strong></td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td>Layout to provide safety and security for residents and property.</td>
<td>The pedestrian entry points to the dwellings are clearly recognisable while upper levels allow for the passive surveillance of the street.</td>
<td></td>
</tr>
<tr>
<td><strong>B13 Landscaping</strong></td>
<td>Complies</td>
<td></td>
</tr>
</tbody>
</table>
| To provide appropriate landscaping. To encourage:  
  - Development that respects the landscape character of the neighbourhood.  
  - Development that maintains and enhances habitat for plants and animals in locations of habitat importance.  
  - The retention of mature vegetation on the site. | The siting of the development creates sufficient opportunities for meaningful landscaping, subject to conditions.  
  A condition of permit will require an amended landscape plan to be submitted to the satisfaction of the Responsible Authority showing the retention of the existing Coastal Tea Tree within the front setback.  
  Refer to Attachment 2 and the report for further discussion. |
| **B14 Access**             | Complies                                         |
| Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character. | Appropriate access off Wells Road to basement parking for Unit 1 and access off Bonanza Lane to a double garage for Unit 2 have been provided. Standard traffic conditions are included as permit conditions.  
  See the traffic section of the report for further discussion. |
### B15 Parking Location
Provide resident and visitor vehicles with convenient parking.
Avoid parking and traffic difficulties in the development and the neighbourhood.
Protect residents from vehicular noise within developments.

| Complies | On site car parking is provided in the form of a basement carpark for Unit 1 and a double garage for Unit 2. Standard traffic conditions are included as permit conditions. Refer to the traffic section of the report for further discussion. |

### CLAUSE 55.04 AMENITY IMPACTS

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>B17 Side and Rear Setbacks</td>
<td>No</td>
<td>Areas of non-compliance are underlined. Refer to the report for further discussion.</td>
</tr>
</tbody>
</table>

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

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

| Complies | Maximum Height: 3.6m Proposed: North- 3.82m East- 3.39m Maximum Average Height: 3.2m Proposed: North- 3.2m East- 3.2m Maximum Length: North- 18.9m East- 11.25m Proposed: North- 11.4m East- 7.4m |

---

**Item 4.3 – Matters of Decision**
### B19 Daylight to Existing Windows
Allow adequate daylight into existing habitable room windows.

**Complies**

The development has been sufficiently setback from all habitable room windows to abutting properties at 1 Bonanza Lane, 20 Wells Road and 24 Wells Road.

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

**N/A**

There are no north facing windows within 3m of the shared boundary.

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

**Complies**

Additional overshadowing will occur over Bonanza Lane to the south and the non-sensitive garage and driveway areas at No. 1 Bonanza Lane to the west which do not result in any amenity impacts.

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

**Complies**

All habitable room windows have been screened to a minimum height 1.7 metres above finished floor level or have been sited appropriately in accordance with this 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.

**Complies**

All habitable room windows have been screened to a minimum height 1.7 metres above finished floor level or have been sited appropriately in accordance with this Standard. At ground floor level internal fencing limits views between adjoining areas of secluded private open space within the development.

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

**Complies**

It is anticipated that the level of noise which will be emitted from the dwellings will not exceed levels otherwise expected from residential uses.

### CLAUSE 55.05 ON-SITE AMENITY AND FACILITIES

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>
| **B25 Accessibility**
Consider people with limited mobility in the design of developments. | **Complies** | Entries are accessible for people with limited mobility, no lift has been provided from Unit 1's basement to the upper floors, however, this is considered to be reasonable, given that the dwelling is only two storeys. A master bedroom will be located at ground floor for Unit 2. There is also scope to further modify/retrofit the development in the future to accommodate people with limited mobility, if required. |
<table>
<thead>
<tr>
<th>Item</th>
<th>Title and Objective</th>
<th>Complies</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>B26</td>
<td>Dwelling Entry</td>
<td>Complies</td>
<td>Provide a sense of identity to each dwelling/residential building.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Unit 1 fronts Wells Road and includes a clearly identifiable entry with dedicated pedestrian pathway. Unit 2 fronts Bonanza Lane and also includes a clearly identifiable entry with pedestrian pathway. Porches at each unit provide shelter, a sense of personal address and a transitional space around the building entries.</td>
</tr>
<tr>
<td>B27</td>
<td>Daylight to New Windows</td>
<td>Complies</td>
<td>Allow adequate daylight into new habitable room windows.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>All habitable windows will open out onto a space clear to the sky.</td>
</tr>
<tr>
<td>B28</td>
<td>Private Open Space</td>
<td>Complies</td>
<td>Provide reasonable recreation and service needs of residents by adequate private open space.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Minimum: 25m² secluded, 40m² overall with a minimum dimension of 3 m; A balcony of 8m² with a minimum width of 1.6m.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Proposed: Unit 1 total POS: 223m² &amp; SPOS 151m² Unit 2 total POS: 54m² &amp; SPOS 54m² Further, it is noted that Clause 32.09-4 of the Bayside Planning Scheme requires a minimum gardens area at ground floor level of 35% of the site area. This equates to 253m². A total of 284m² has been provided, equating to 38.3% garden area.</td>
</tr>
<tr>
<td>B29</td>
<td>Solar Access to Open Space</td>
<td>Complies</td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Units 1 and 2 will have access to north facing secluded private open space.</td>
</tr>
<tr>
<td>B30</td>
<td>Storage</td>
<td>Complies</td>
<td>Provide adequate storage facilities for each dwelling.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Storage spaces are available in the basement of Unit 1 and in the garage of Unit 2 whilst maintaining minimum 5.5m x 6m internal garage dimensions. These areas are conveniently accessible and comprise at least 6 square metres.</td>
</tr>
</tbody>
</table>

**CLAUSE 55.06 DESIGN DETAIL**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>B31 Design Detail</td>
<td>Complies</td>
<td>Refer to Section 6.2 of the report for further discussion.</td>
</tr>
<tr>
<td>Item 4.3 – Matters of Decision</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-----------------------------</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| **B32 Front Fences** | No | Required: 1.2m  
Proposed: up to 2m along Wells Road and Bonanza Lane.  
Refer to Attachment 2 and the report for further discussion. |
|----------------------|----|----------------|
| **B33 Common Property** | N/A | No common property is proposed.  
Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained.  
Avoid future management difficulties in common ownership areas. |
| **B34 Site Services** | Complies | All appropriate site services can be easily catered for on-site. Mails boxes are shown to adjoin the pedestrian entries with waste provision being provided within the basement level at Unit 1 and to the rear of the garage at Unit 2. A condition is recommended requiring the location of solar hot water systems and air conditioning units to be located away from adjoining habitable room windows.  
Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.  
Avoid future management difficulties in common ownership areas. |
**Decision Guidelines of the Vegetation Protection Overlay (Schedule 3)**

<table>
<thead>
<tr>
<th>Decision Guideline</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>The impact the vegetation removal would have on the character of the area.</td>
<td>The removal of the native Coastal Tea Tree located within the front setback facing Wells Road would reduce the amenity of the area. Therefore, it should be retained. All other existing on-site vegetation can be removed.</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the presence of indigenous species in the locality.</td>
<td>The removal of existing on-site vegetation would have no foreseeable impact on the locality.</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the appearance of development.</td>
<td>The retention of the existing Coastal Tea Tree within the front setback would assist in screening Unit 1 from this frontage, whilst future landscaping, including canopy tree planting would also soften the developments appearance when viewed from either Wells Road and/or Bonanza Lane.</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the habitat quality of any remaining vegetation and the fragmentation of wildlife corridors.</td>
<td>The removal of existing on-site vegetation may impact/reduce the habitat in the upper canopy on the northern side of the site, however future landscape plantings can assist to mitigate this loss.</td>
</tr>
<tr>
<td>Any proposal to regenerate or plant indigenous vegetation on the site.</td>
<td>The submitted concept landscape plan prepared by Cycas Landscape Design dated Feb 2018 incorporates future landscaping around the development. The landscape plan can be amended to include indigenous vegetation.</td>
</tr>
</tbody>
</table>

**Tree profile**

<table>
<thead>
<tr>
<th>Tree No.</th>
<th>Botanical Name:</th>
<th>Common Name:</th>
<th>Height / Canopy:</th>
<th>Trunk Circ.@1m:</th>
<th>Location 1</th>
<th>Location 2</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><em>Leptospermum leavigatum</em></td>
<td>Coastal tea tree</td>
<td>6m x 5M</td>
<td>285cm</td>
<td>S6</td>
<td>W1</td>
</tr>
</tbody>
</table>

**Origin:** Indigenous  Victorian  Australian  Exotic

**Age:** Young  Semi-mature  Mature  Over-mature
<table>
<thead>
<tr>
<th>Health:</th>
<th>Good</th>
<th>Fair</th>
<th>Poor</th>
<th>Dead</th>
</tr>
</thead>
<tbody>
<tr>
<td>Structure:</td>
<td>Good</td>
<td>Fair</td>
<td>Poor</td>
<td>Hazardous</td>
</tr>
<tr>
<td>Amenity Value:</td>
<td>High</td>
<td>Moderate</td>
<td>Low</td>
<td>None</td>
</tr>
<tr>
<td>Life Expectancy:</td>
<td>20 years +</td>
<td>10-19 years</td>
<td>4-9 years</td>
<td>0 - 3 years</td>
</tr>
<tr>
<td>Retention Value:</td>
<td>High</td>
<td>Medium</td>
<td>Low</td>
<td>None</td>
</tr>
<tr>
<td>Habitat value:</td>
<td>High</td>
<td>Moderate</td>
<td>Low</td>
<td></td>
</tr>
</tbody>
</table>

Definitions

The retention value of a tree considers the tree as a whole including its health, structure, amenity value and life expectancy. The criteria for high, medium and low retention value trees are:

(H) High

The tree is generally in good health and structure, provides high levels of amenity and is likely to do so for more than 20 years. The tree may have historic or cultural significance.

(M) Medium

The tree is generally in fair to good health and structure, provides moderate levels of amenity and is likely to do so for up to 20 years.

(L) Low

The tree is generally in fair health and structure, provides low levels of amenity and may do so for up to 10 years. The tree may be juvenile or otherwise small and easily replaced by advanced plantings or plantings that will provide similar amenity value in a reasonable timeframe.
4.4 15 WHYTE STREET, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2018/51/1  WARD: CENTRAL

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/163517

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>J&amp;J Property Group Pty. Ltd.</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>13 February 2018</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>128 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Site Area</td>
<td>450m2</td>
</tr>
<tr>
<td>Number of objections</td>
<td>4</td>
</tr>
<tr>
<td>Is a Development Contribution Levy Applicable</td>
<td>No</td>
</tr>
<tr>
<td>Is the site located within an area of cultural heritage sensitivity?</td>
<td>Yes. However, the proposal is not a high impact activity</td>
</tr>
</tbody>
</table>

Proposal

The application seeks approval for the construction of one dwelling on a lot less than 500 square metres and a front fence exceeding 1.2 metres in height on a lot with an area of 447 square metres.

Key details of the proposal are as follows:

- 1 double storey flat roof dwelling,
- Maximum overall building height 6.9m,
- Basement car parking including 2 car spaces,
- 2 metre – 2.3 metre high rendered front fence,
- Aluminium cladding, render finishes in muted tones,
- Garden area 44%,
- Site coverage 45%, and
- Permeability 32%.

The application plans are provided at Attachment 1.
An aerial image and photographs of the site and surrounds are provided at Attachment 2.
History
There is no planning permit history relevant to this application.

2. Planning controls
   Planning Permit requirements
   A planning permit is required pursuant to:
   - Clause 32.09-5 (Neighbourhood Residential Zone) - Construction and extension of one dwelling on a lot less than 500 square metres and a front fence exceeding a height of 1.2 metres.

Planning Scheme Amendments
There are no Planning Scheme Amendments relevant to this application.

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

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Open Space 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 four objections were received. The following concerns were raised:
- Overlooking;
- Overshadowing;
- Impacts to adjoining trees;
- Location of pool equipment and noise;
- Incorrect ResCode envelopes;
- Title boundaries and inconsistencies;
- Omission of details on plan including proposed boundary fencing;
- Impact of construction;
- Dilapidation report request.

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

Consultation meeting
The applicant declined a consultation meeting, advising that previous attempts to liaise / negotiate with objections had been unsuccessful.

4. Recommendation
That Council resolve to:

Issue a Notice of Decision to Grant a Planning Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2018/51/1 for the land known and described as 15 Whyte Street, Brighton, for the construction of one dwelling on a lot less than 500 square metres and a front fence exceeding 1.2 metres in height in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans prepared by Papapetrou Rice Architects project no. 21703, dated September 2017 but modified to show:
   a) The southern wall on boundary reduced to a maximum average height of 3.2 metres to accord with Standard A11 of Clause 54.04-2 - Walls on boundaries objective of the Bayside Planning Scheme.
   b) Location of all plant and equipment, including pool equipment, 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.
   c) The front fence height to be reduced to a maximum of 1.5 metres and modified to an open style fencing to the satisfaction of the Responsible Authority.
   d) Details of the total length of front fence to be provided and plotted on the elevations and material a material and colour schedule provided.
   e) The location of the accessway and crossover to be plotted.
   f) A Landscaping Plan in accordance with Condition 9 of this permit.

   All to the satisfaction of the Responsible Authority.

2. Concurrent with the submission of plans for endorsement pursuant to Condition 1, a certificate of title no more than 1 week old must be submitted to the Responsible Authority. If any modifications have been made to the title as a result of any adverse possession claims, the boundaries and development must be amended to reflect the actual certificate of title.

3. 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.

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 A15 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
8. The water sensitive urban design stormwater treatment system as shown on the endorsed plans must be retained and maintained at all times in accordance with the Urban Stormwater - Best Practice Environmental Management Guidelines, CSIRO 1999, to the satisfaction of the Responsible Authority.

Landscaping

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

   a) The location of the three replacement canopy tree plantings in accordance with the approved local laws permit 2017/248/1, 2017/248/2 and 2017/248/3.
   
   b) Details of all surface finishes of pathways and driveways

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

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

Tree Management and Protection Plan

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

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

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

   a) The Tree Protection Zone and Structural Root Zone for the tree located in the rear of the lot adjacent to the western title boundary as identified by the advertised landscape concept plan drawn by Zenith Concepts, dated December 2017

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

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

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

15. Soil excavation must not occur within 3 metres from the edge of the *Callistemon salignus* (Willow Bottlebrush) street tree asset’s stem at ground level.

16. A tree protection fence is for the protection of a tree’s canopy and root zone. Conditions for street tree protection fencing during development are as follows:
   a) Fencing is to be secured and maintained prior to demolition and until all site works are complete.
   b) Fencing must be installed to comply with AS4970-2009, Protection of trees on development sites.
   c) Fencing should encompass the Tree Protection Zone (TPZ) for all street trees adjacent to the development.
   d) Fencing is to be constructed and secured so its positioning cannot be modified by site workers.
   e) If applicable, prior to construction of the Council approved crossover, TPZ fencing may be reduced to the edge of the new crossover to facilitate works.

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

Permit Expiry

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

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

Permit Notes:

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council’s supervision for which 24 hours’ notice is required.
- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a ‘Road Opening Permit’ must be obtained to facilitate such work.
- A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.

5. Council Policy

   Council Plan 2017-2021

   Relevant objectives of the Council plan include:
Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.

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

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 13 Environmental Risks and Amenity
- 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 (Precinct E1)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 45.06 Development Contributions Overlay (Schedule 1)
- Clause 54 One dwelling on a lot
- Clause 65 Decision Guidelines

**6. Considerations**

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

**6.1. Neighbourhood character**

The site is located within Neighbourhood Character Precinct E1. 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.

Whyte Street contains few uniforming features. Characterised by varied building typologies of contemporary single and double storey dwellings with large building footprints, extensive paving in the front setback, dominant garages and minimal side and front setbacks set behind varied high fencing treatments that conceal the lower forms of vegetation.

The proposal will provide greater built form and visual separation to the sites title boundaries than what currently exists on site, allowing sufficient space to provide meaningful planting to soften the bulk of the development and minimise off site visual impacts.

The contemporary design response, scale and building massing is appropriate in the
varied residential streetscape and wider neighbourhood precinct. Highly articulated in contrasting muted tones and fine design elements, cumulating in a structure that will sit comfortably on the site and visually retreat into its immediate surrounds.

6.2. Compliance with Clause 54 (ResCode)

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

Street setback (Standard A3)

<table>
<thead>
<tr>
<th>Whyte Street</th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground floor</td>
<td>5.9m</td>
<td>5.1m (shroud) - 5.9m</td>
<td>800mm (shroud)</td>
</tr>
<tr>
<td>First floor</td>
<td>5.9m</td>
<td>5.2m (shroud) - 5.7m</td>
<td>700mm (shroud) 200mm (wall)</td>
</tr>
</tbody>
</table>

The objective of the street setback is to ensure the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of a site.

A street setback from Whyte Street of 5.1 metres (ground floor) is proposed, when a setback of 5.9 metres is required to achieve compliance with the numerical the standard.

The 800 millimetre variation at ground floor is attributed to the design feature of the projecting window shroud that encroaches into the setback at both levels. The setback to the primary wall of the dwelling in fact complies with the numerical standard.

The 700 millimetre variation at first floor is also attributed to the projecting window shroud. The setback to the primary wall of the first floor is 5.7m when a setback of 5.9m is required, resulting in a 200mm variation.

Whilst the window shrouds are not an allowable encroachment* into the standard, the visual impact of the variation will not be discernible from the streetscape. In fact, the projecting elements of the window shroud are confined to sections around the front windows and will assist in articulating and providing visual interest to the façade.

To condition removal of these shrouds would spoil the architectural integrity of the primary façade and is not supported, nor is requesting the dwelling to be set further back.

On balance, it is considered that the reduced setbacks are insignificant, respects the existing or preferred neighbourhood character and makes efficient use of a site and is worthy of support.

Side and rear setbacks (Standard A10)

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

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

At ground floor, a 120 millimetre variation is sought to the southern elevation. This area of non-compliance is a wall nib that is approximately 100 millimetres in width. Due to the existing fencing and proposed vegetation on site, this variation will not be perceivable by adjoining neighbours or impact upon the streetscape due to its location to the rear of the
site and is supported.  
Due to a slight slope of the site, the minimum required first floor setbacks to the dwelling across the southern elevation varies from 3.6 metres to 4 metres. A setback of 3.7 metres is proposed.

The variations across this elevating are greatest towards the front of the subject site. Importantly, the setback to bed 2 that is closest to the most sensitive interface of the secluded private open space of the adjoining dwelling to the southern title boundary, complies with the standard providing a setback of 3.7 meters.

The area of non-compliance is confined to the master bed. This is located opposite the carport/garage and driveway associated with the adjoining dwelling to which no habitable rooms are located. Accordingly, this minor variation will not generate any offsite or third party impacts and is acceptable.

A setback of 3.8 metres to the first floors northern elevation is required where 3.7 metres is proposed. Resultantly, a 100 millimetre variation is sought to this elevation.

To the northern title boundary however, there is sufficient space for planting within the subject site that will soften any perceived visual bulk impacts.

Notwithstanding the above, the proposals areas of non-compliance are inconsequential.

It is unlikely that the upper levels will cause any unreasonable amenity impacts to any adjoining dwellings by way of height, wall mass or visual bulk.

**Wall on boundaries (Standard A11)**

A new 9.2 metre wide wall is proposed to be constructed along the side southern title boundary and opposite an existing garage/carport. The length of the wall complies with the standard.

The proposed wall height does not exceed the maximum allowable height of 3.6 metres at any point, however it averages a maximum height of 3.3 metres, exceeding the standard by 100 millimetres.

The standard requires that the height of any new wall constructed on a side boundary should not exceed an average of 3.2 metres.

This boundary wall will be visible from the secluded private open space of the adjoining dwelling. As such this variation is not supported.

A condition of permit will require the maximum average height of this wall on boundary to not exceed 3.2 metres.

**Fences (Standard A20)**

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Whyte Street</td>
<td>1.2m</td>
<td>2m – 2.3m</td>
<td>800mm – 1.1m</td>
</tr>
</tbody>
</table>

A 2 metre – 2.3 metre high front fence is proposed. The fence extends for 14.4 metres of the front title boundary, however it is noted that south of the proposed gate, no fence details had been provided, nor the height of the adjacent ramp that would continue to enclose the front title boundary.

Towards the northern corner of the subject site the 2 metre fence is proposed to be constructed in render. No colours have been specified.

The fence increases to 2.3 metres in height where horizontal steel infills spaced at 125 millimetre in a black powder coat finish are proposed to the automatic gates.

As varied by the NRZ3, a front fence to a maximum of 1.2 metres in height is preferred. The objective of this standard is to encourage front fence design that respects the existing or preferred neighbourhood character.
Whilst the existing streetscape does demonstrate front fences with varied heights and styles, the height and style of the proposed front fence will ameliorate any contribution that the proposed landscaping will make to the streetscape.

Bereft of any site constraints such as been located along an arterial road, that would warrant screening for noise or site irregularities that would necessitate the location of secluded private open space to the front setback and subsequent screening, the variation sought of 800 millimetres to 1.1 metres is not an acceptable outcome.

The height and solid style of the fencing does not allow oblique views to the development and proposed landscaping and does not provide a sufficient transition to the adjoining dwellings.

A condition of permit will require that the fence be reduced to a maximum height of 1.5 metres and the design modified to an open style fencing to allow oblique views through the site.

### 6.3. Landscaping

The application has shown three trees on the landscaping plan for removal. The three trees are identified as native West Australian Willow Myrtles (*Agonis flexuosa)*.

The three trees have permits issued for their removal pursuant to Council’s Local Law No.2 on 07/02/2018 and 12/06/2018.

There is no other vegetation on site that would trigger a Local Laws permit.

One tree, located in the rear of the immediately adjoining dwelling to the western title boundary, has its Tree Protection Zone (TPZ) extending into the subject site. As such consideration must be given to the impact of the development upon these trees.

Council’s Arborist has advised that a Tree Protection Plan and Tree Management Plan will be required to be submitted to ensure that this tree remains viable both during and post construction. A condition to this effect is included in the recommendation.

In addition to the above assessment, Council’s Arborist has reviewed the submitted landscape plan and advised that it is required to be amended.

A condition requiring an amended landscape plan to be submitted, demonstrating the location of the three replacement canopy tree plantings in accordance with the previously approved local laws permit 2017/248/1, 2017/248/2 and 2017/248/3 is recommend to be placed on permit.

One canopy tree is proposed to be planted in the front setback. Council’s Arborist has raised no concerns to the planting of a Crepe Myrtle that is expected to reach a mature height of 8m or greater.

Accordingly, once endorsed the landscape plan will therefore include the planting of 4 canopy trees in the front and rear setbacks.

### 6.4. Street tree(s)

A Council street tree asset is located within the nature strip and is proposed for retention.

Council’s Street Tree Arborist has advised that a 2 metre setback from the vehicle crossing to facilitate the retention of the *Callistemon salignus* (Willow Bottlebrush) street tree has been shown, however, the location of the vehicle crossing has not been shown.

The location of the vehicular crossing is to remain unchanged and if repositioning is required, it may only be moved further away from the street tree.

The street tree will require protection during the development. A condition to this effect has been included.

### 6.5. Objector issues not already addressed
Location of pool equipment and noise

The construction of a swimming pool that forms part of this application, does not require a planning permit. Noise associated with the use and maintenance of a swimming pool is considered normal and reasonable in an urban setting.

However, the location of pool equipment has not been shown on the ground floor plan, which will be conditioned as part of this permit.

Incorrect ResCode envelopes

Sufficient information was provided for Council to precisely assess the application against all the relevant standards including Standard A10 - Side and rear setbacks.

Title boundaries inconsistencies

The Title Re-Establishments survey lodged with the application demonstrates a discrepancy with the position of the existing boundary fencing and legal boundary as registered on title.

This is a common occurrence and does not preclude the application from been assessed against the current legal title boundaries.

These civil disputes cannot be resolved by any application as assessed by the Planning and Environment Act 1987, nor is the power vested in Council to resolve these issues.

Should the boundary of the subject lot change at any time, an amended planning permit would be required.

Adverse possession claim

There is no impediment to Council in determining the permit application on its Merits in light of any current adverse possession claim. As it stands, Council must assess the application on the current legal ownership and boundaries of the land.

In this instance the applicant has proceeded with the application with the understanding of any risks associated with the any change to legal ownership of the application land that may arise.

Any successful claim by another person over part of the subject site and subsequent title boundary changes must be reflected on all of the development plans. Any amendments to title boundaries will require subsequent modifications to any approved planning permits and endorsed development plans to reflect the modified legal boundaries.

A condition of permit will require that concurrent with the endorsement of plans a title no more than 1 week old be submitted to verify the land the subject of the title.

Omission of details on plan including proposed boundary fencing

Notwithstanding any drafting errors, there is sufficient information to enable an assessment of the application.

Consideration cannot be given to the details of boundary fencing as it is a civil matter that is administered under the Fences Amendment Act 2014.

Impact of construction

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

Some noise and other off site impacts are inevitable when any construction occurs. The developer will be required to meet relevant Local Laws and EPA regulations regarding construction practices to ensure these impacts are mitigated.

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

Dilapidation report request

Dilapidation reports (or condition reports) survey the condition of a property at a given point in time. It records any existing damage, and the state of any particular aspects of the property that are likely to be affected by any application including construction work, excavation or demolition.

It is usually required as part of Building Permit process and protection works notices.

The provision of this report is not a relevant consideration of the Planning Permit Process or the Planning and Environment Act 1987.

Support Attachments

1. Development Plans ↩
2. Sites and Surrounds ↩
3. Neighbourhood Character Assessment (Precinct E1) ↩
4. ResCode (Clause 54) Assessment ↩
ATTACHMENT 2
SITE AND SURroundS IMAGERY

Figure 1 Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
<tr>
<td>Objector(s)</td>
</tr>
</tbody>
</table>
Figure 2 View towards the sites frontage from the east.

Figure 3 View towards the sites frontage from the east showing the adjoining neighbour north of the site at nr. 17.
Figure 4 View towards the sites frontage from the east showing the adjoining neighbour south of the site at nr. 13.

Figure 5 Panoramic view towards the sites frontage.
ATTACHMENT 3

Neighbourhood Character Policy (Precinct E1)

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</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 the design of new development.  
• Alterations and extensions should retain the front of these dwellings. | Demolition of dwellings that contribute to the valued character of the Precinct. | Complies  
The existing dwelling to be demolished is not considered to make a valuable contribution to existing character of the Precinct. The proposed dwelling is considered an acceptable design outcome in the context of the existing streetscape character. |
| To maintain and enhance the garden settings of the dwellings. | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs.  
• Retain large trees and provide for additional trees wherever possible. | Lack of landscaping and substantial vegetation  
Removal of large trees. | Complies  
A landscaping plan has been provided which demonstrates adequate opportunity for planting within the front setback and rear SPOS area. Subject to an amended landscaping plan, the proposal will assist in maintaining the garden setting of the streetscape. |
<p>| To provide space for front gardens. | • Buildings should be sited to allow space for the planting of trees and shrubs. | Loss of front garden space. | Complies |</p>
<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 spacious visual separation between buildings.</td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>The extent of front garden setting will be significantly improved upon what currently exists on site by way of extensive planting and the removal of large swathes of paving. Utilising the existing crossovers, the response will significantly improve the front garden setting of the subject site.</td>
</tr>
</tbody>
</table>
| To minimise the loss of front garden spaces and the dominance of car parking structures. | • Locate garages and carports behind the line of the dwelling.  
• Minimise paving in front garden areas including driveways and crossovers. | Car parking structures that dominate the façade or view of the dwelling.  
Front setbacks dominated by impervious surfaces. | Compiles  
The streetscape is characterised by large building footprints. Despite the varied building typologies of single and double storey dwellings with minimal side and front setbacks, the private domain is well treed and contributes to a vegetated character of the streetscape that softens the built form of the built environment.  
The proposed dwelling will provide greater separation between the side and rear boundaries than what currently exists on site with sufficient space for meaningful planting surrounding the development provided. |

The application proposes basement car parking.  
The response will significantly contribute to the preferred future character by minimising the dominance of the car parking structures, which is an existing feature found extensively on Whyte Street.
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To ensure new development respects the dominant building form and scale of buildings in the Precinct. | • Recess second storey elements from the front façade.  
• Articulate front facades, and provide roots with eaves. | Reproduction of historic building styles.                                                                 | Complies |
|                                                                           |                                                                                  | The proposed double storey flat roof dwelling responds to the emerging character of the streetscape that currently include numerous examples of contemporary architecture interspersed between historic building styles.  
Although the first floor is recessed, the cantilevered element is a common solution that is acceptable in this context to soften the visual bulk of the ground floor.  
The cantilevered element provides a visual break and reduces perceived mass impacts to the streetscape and adjoining properties.  
The provision of a roof with eaves as a design response sought in this precinct would disrupt the architectural integrity of the dwelling and is not supported.  
On balance, the application has provided a design response that meets the objective of ensuring that the proposal respects the dominant building form and scale of buildings in the Precinct, in another method. | |
| 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 buildings in the new building design. | Buildings that dominate heritage buildings by height, siting or massing.  
Period reproduction detailing. | Complies  
The only adjoining heritage affected dwelling is located to the rear, at number 14 Lynch Street (HO531) which is not directly abutting the subject site. It is not considered to have any implications for the proposed dwelling. |
| To encourage building facades to add visual interest to the streetscape.   | • Use a mix of materials, colours and finishes in building facades, drawn from the palette commonly found in the area. | Excessive use of render or one. | Complies  
The use of aluminium cladding and rendered finish in muted tones is |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>material on external wall surfaces.</td>
<td>interspersed with swaths of glazing to provide visual interest whilst complementing the existing dwellings within the streetscape.</td>
</tr>
</tbody>
</table>
## ATTACHMENT 4
ResCode (Clause 54) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Compiles with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer report.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A2 Integration with Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly identifiable from either the streetscape.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A3 Street Setback</strong></td>
<td>No</td>
<td>Minimum: 5.9m</td>
</tr>
<tr>
<td>Setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td></td>
<td>Proposed: GF: 5.1m (wall nib/shroud) - 5.9m FF: 5.2m (wall nib/shroud) - 5.7m</td>
</tr>
<tr>
<td><strong>A4 Building Height</strong></td>
<td>Yes</td>
<td>Required: 9m</td>
</tr>
<tr>
<td>Building height respects the existing or preferred neighbourhood character.</td>
<td></td>
<td>Proposed: 6.9m</td>
</tr>
<tr>
<td><strong>A5 Site Coverage</strong></td>
<td>Yes</td>
<td>Maximum: 50%</td>
</tr>
<tr>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td></td>
<td>Proposed: 45%</td>
</tr>
<tr>
<td><strong>A6 Permeability</strong></td>
<td>Yes</td>
<td>Minimum: 20%</td>
</tr>
<tr>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td></td>
<td>Proposed: 32%</td>
</tr>
<tr>
<td><strong>A7 Energy Efficiency</strong></td>
<td>Yes</td>
<td>The proposal provides appropriate solar access to the dwelling, including northern oriented living and private open space areas.</td>
</tr>
<tr>
<td>Achieve and protect energy efficient dwellings. Ensure the development’s orientation and layout reduce fossil fuel energy use and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Ground Floor</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>--------------</td>
</tr>
<tr>
<td><strong>A8 Significant Trees</strong></td>
<td>Development respects the landscape character of the neighbourhood and retains significant trees on site.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>A10 Side and Rear Setbacks</strong></td>
<td>Ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.</td>
<td>No</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>Proposed</th>
<th>First Floor</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>North (side)</td>
<td>0m or 2m</td>
<td>2.2m - 2.3m</td>
<td>3.8m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 2m</td>
<td>0m, 1.8m</td>
<td>3.6m, 4m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>0m or 3m</td>
<td>5.2m</td>
<td>4.7m</td>
</tr>
</tbody>
</table>

| **A11 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 impact on the amenity of existing dwellings. | No | Maximum Height: 3.6m  
Proposed: 3.5m  
Maximum Average Height: 3.2m  
Proposed: 3.3m  
Maximum Length: 14.4m  
Proposed: 9.2m |
| **A12 Daylight to existing windows** | To 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.  
It is noted that the adjoining dwelling to the southern elevation (nr. 13 contains no windows to its northern elevation) |
<p>| <strong>A13 North Facing Windows</strong> | Allow adequate solar access to existing north-facing habitable room windows. | N/A | There are no north facing windows within three metres of the subject site. |
| <strong>A14 Overshadowing Open Space</strong> | Ensure buildings do not unreasonably 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. |
| <strong>A15 Overlooking</strong> | | Yes | All habitable room windows have been suitably treated to comply with the standard. |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A16 Daylight to New Windows</strong></td>
<td>Allows 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>A17 Private Open Space</strong></td>
<td>Provide adequate private open space for the recreation and service needs of residents.</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall Proposed: 84 m² secluded</td>
</tr>
<tr>
<td><strong>A18 Solar Access to Open Space</strong></td>
<td>Allow solar access into secluded private open space of a new dwelling.</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td><strong>A19 Design Detail</strong></td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer Attachment 2.</td>
</tr>
<tr>
<td><strong>A20 Front Fences</strong></td>
<td>Encourage front fence design that respects the exiting or preferred neighbourhood character.</td>
<td>No</td>
<td>Required: 1.2m Proposed: 2m – 2.3m</td>
</tr>
</tbody>
</table>
4.5 VCAT REPORT - DECISIONS MADE IN JULY 2018

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/179547

1. Executive summary

To inform Council of Victorian Civil and Administrative Tribunal (VCAT) determinations received the previous month and to show the progress of VCAT outcomes for the financial year.

All councils are required to report to the Local Government Performance Reporting Framework (LGPRF) each year on the timeliness (SP1), service standard (SP2), cost per application (SP3) and decision quality of Statutory Planning (SP4).

The LGPRF measure SP4 used by the State Government to assess the quality of Council's decision making is the number of decisions made by Council that were not overturned or 'set aside' by VCAT on appeal by either the applicant or objectors.

Council has a target for 2018/19 that 55% of all Planning & Amenity Committee and Delegated Officer decisions should not be set aside by VCAT. This is comparable with other inner urban Council's in Melbourne such as Port Phillip and Stonnington.

The LGPRF measure does not include applications to amend VCAT issued permits (Section 87A applications), consent orders or appeals which are withdrawn by the applicant or objector prior to a hearing.

For the 2018/19 financial year, Council has received 16 decisions, of which 10 have been settled by consent orders. The total number of LGPRF measured decisions for the year to date is therefore 6. This table below reflects the new 2018/19 LGPRF reporting requirements for Council.

<table>
<thead>
<tr>
<th>Time period</th>
<th>Decisions where the Council Delegate or Committees decision has been overturned or ‘Set Aside’</th>
<th>Decisions where the Council Delegate or Committees decision has been agreed with, either having been entirely ‘Affirmed’ or the conditions of the permit ‘varied’</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 2018</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>August 2018</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>September 2018</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>TOTAL DECISIONS</td>
<td>3</td>
<td>3</td>
</tr>
</tbody>
</table>

LGPRF Result 50% 50%

Attachment 1 included provides a summary of each case identifying the key issues for Council policy and strategy.

The decisions reported in the attached July 2018 VCAT Report were determined by the current Councillor group.

2. Recommendation
- That the report on the VCAT decisions on the planning applications handed down during July 2018 be received and noted.

Support Attachments

1. VCTA determined appeals - July 2018
VCAT Determined Appeals from 1/07/2018 to 31/07/2018

Subject land 9 Halifax ST, BRIGHTON
Application no. 2016.478.1
VCAT reference no. P2230/2017
Applicant Pro Estate Holdings Pty Ltd
Respondents A&R Loschiavo, T Burke, L&K Berg, & Others

VCAT Member Bill Sibonis
Date of hearing 22/02/2018
Date of order 6/07/2018
Proposal Construction of a three storey building (containing 21 apartments) with basement
car park, front fence exceeding a height of 1.5 metres in a Design and
Development Overlay (Schedule 11) and Special Building Overlay

Officer recommendation/ Support
Delegate determination
Council determination Not support
Appeal type Failure to Grant a Permit
Plans substituted No (prior to hearing)

VCAT determination No Permit to Issue
LGPRF outcome AFFIRMED

Comments:
The Tribunal affirmed Council’s decision not to Support the Application and in an Order dated 6 July 2018 refused to
grant the Applicant a planning permit. The Tribunal recognised that no party during the four (4) day hearing submitted
that the review site was not suitable to be redeveloped with a greater number of dwellings than currently existed. The
Tribunal held that the ambit of the dispute was not concerned with the principle of achieving increased density on this
site but rather the manner in which it was to be achieved. The Tribunal in accepting that the subject site is located
within a Major Activity Centre which is the preferred location for higher density development commented that
although the DDO-11 applying to the subject site allowed for a three storey development, the Overlay also required a
transitional building height to be achieved as well.

Member Sibonis held that consideration must be given to the particular design and the extent to which the proposed
development would contribute to the preferred neighbourhood character and its particular context. The Tribunal was
asked to consider the implications for the development because the site was at the interface with NRZ3 land to the
south and west. The Tribunal was not persuaded that the
development represented an acceptable built form response when assessed against all the relevant policies and
provisions in the Bayside Planning Scheme.

Member Sibonis stated that “having regard to the design response, including the massing of the building, the palette
of materials and finishes, and the extent of meaningful landscaping which can be incorporated along the southern
side of the building, I am not satisfied that the outcome is acceptable. The building is a large form, with the
somewhat ‘bulky’ presentation accented by the sheer three-storey walls, and the minimal articulation and
modulation of the wall planes. It has a dominating ‘box-like’ appearance which will stand in quite marked contrast to
the conventional residential forms of the neighbouring dwellings to the south.” (paragraph 49)
In the Tribunal's opinion because the subject site is at the interface with NRZ3 land a recessive third level should be provided. It accepted in principle that a contemporary form of development incorporating rectilinear forms and modern materials could be accommodated on the site but recommended the inclusion of more traditional materials and colours to address the streetscape character of Halifax Street in order to integrate the development with its context.
Subject land 23 Holmwood AVE, BRIGHTON
Application no. 2017.566.1
VCAT reference no. P245/2018
Applicant Daryl & Sharon Herbert
Referral Authority
Respondents Christopher Andrew Hansen, Jamie Odell
VCAT Member E A Bensz
Date of hearing 22/05/2018
Date of order 4/07/2018
Proposal The construction of a double storey dwelling and a front fence exceeding 1.2 metres in height on a lot less than 500m2 in a Neighbourhood Residential Zone Schedule 3, Design and development overlay schedule 3 and development Contributions Overlay Schedule 3
Officer recommendation/ Refusal
Delegate determination
Council determination Not applicable
Appeal type Refusal to Grant a Permit
Plans substituted No
(prior to hearing)
VCAT determination Permit to Issue
LGPRF outcome N/A

Comments:

The subject site is zoned Neighbourhood Residential Zone 3, and is also covered by the Design and Development Overlay 3 and the Development Contributions Plan Overlay.

The proposed development comprised a double storey dwelling and front fence in excess of 1200mm.

Council planning officers refused the application under delegation on 23 January 2018 on grounds relating to neighbourhood character and non-compliance with various ResCode standards.

The compulsory conference held on 22 May 2018, the applicant lodged amended plans in an attempt to appease the concerns of all parties. All parties ultimately agreed to the amended design, and this design, along with the proposed permit conditions was ratified at the Planning and Amenity committee meeting of 26 June 2018.

A Planning Permit was issued in accordance with the signed Consent Order.
Subject land  
77 South RD, BRIGHTON

Application no.  
2017.442.1

VCAT reference no.  
P100/2018

Applicant  
LRC Real Estate P/L

Referral Authority  
Vic Roads - Metropolitan South East Region

Respondents  
Michael and Natasha Cooney, Ian and Gail McKay

VCAT Member  
Michelle Blackburn

Date of hearing  
13/06/2018

Date of order  
18/07/2018

Proposal  
Construction of five dwellings over basement car park; reduction of car parking requirements; and construction of a front fence in excess of 2 metres

Officer recommendation/Delegate determination  
Refusal

Council determination  
Not applicable

Appeal type  
Refusal to Grant a Permit

Plans substituted (prior to hearing)  
Yes

VCAT determination  
Permit to Issue

LGPRF outcome  
SET ASIDE

Comments:
The application was refused based on the neighbourhood character reasons. The applicant appealed the decision to VCAT under the major case list. The matter did not settle in the Compulsory Conference and went to the hearing on 13 June and 13 July 2018. The Tribunal set Council’s decision aside to issue a planning permit. A very brief oral decision was provided at the conclusion of the hearing. The reason is neighbourhood character.

There is no detailed written decision was provided by the Tribunal.
Subject land: 11/427 - 455 Hampton ST, HAMPTON
Application no.: 2013.500.1
VCAT reference no.: P492/2018
Applicant: See Pickle Pty Ltd
Referral Authority: Hampton Beach Pty Ltd
Respondents: 

VCAT Member: S.R. Cimino
Date of hearing: 18/06/2018
Date of order: 18/07/2018
Proposal: Buildings and works for the construction of a five-storey building containing shops and dwellings in the Commercial 1 Zone and Design and Development Overlay Schedule 12; Reduction in the required car parking rates; and Creation and alteration of access onto a Road Zone, Category 1

Officer recommendation/ Delegate determination: Refusal
Council determination: Not applicable
Appeal type: Amend a Permit
Plans substituted (prior to hearing): No

VCAT determination: Permit to Issue
LGPRF outcome: N/A

Comments:
This appeal was subject to a S87A Appeal to VCAT. The S87A mechanism allows for amendments to permits that were issued at the direction of VCAT to be lodged directly with VCAT, thereby effectively bypassing the Planning Office.

The permit originally authorised 41 dwellings within a four storey building, with an at grade basement and three commercial tenancies.

The S87A appeal sought to reduce the number of dwellings from 41 to 28, introduce a basement car park and reduce the commercial tenancies down to two. The amendments were predominately internal reconfigurations and had limited external amenity impacts.

Subsequently, only one statement of grounds was received (adjoining property to the north, 42-455 Hampton Street & 82 Holyrood Street, Hampton). At the compulsory conference, conditions were implemented to further reduce the amenity impacts on adjoining properties. This included the relocation of air conditioning units to the basement, increased side boundary setbacks and improved vehicle access and manoeuvrability.

Accordingly, all parties agreed to a consent order and a planning permit was issued.
Subject land: 1A Centre RD, BRIGHTON
Application no.: 2017.686.1
VCAT reference no.: P545/2018
Applicant: Little Projects P/L
Referral Authority Respondents: VicRoads; B Huntley; J Grace & Others
VCAT Member: S.R. Cimino
Date of hearing: 20/06/2018
Date of order: 4/07/2018
Proposal: Construction of two, two storey buildings comprising a total of 14 dwellings above a basement level and alteration of access to a Road in a Road Zone, Category 1

Officer recommendation/ Delegate determination: Support
Council determination: Refusal
Appeal type: Failure to Grant a Permit
Plans substituted (prior to hearing): No
VCAT determination: Permit to Issue
LGPRF outcome: N/A

Comments:

At the Planning and Amenity Committee meeting on 13 March 2018, Council determined to defer the application on the following basis:

- That this item be deferred for further consideration following VicRoads assessment if access from Centre Road is appropriate for the development, noting the accessway is to be located approximately 30 metres from the Hampton Street intersection.

The matter was re-reported to the Planning and Amenity Committee on 15 May 2018, whereby Council determined to ‘not support’ the grant of a planning. The grounds of not support are included at Attachment 1. Key details of the proposal were as follows:

- 14 dwellings
- Building height of 7.1 metres (two storeys above basement level)
- Site coverage 50%
- Permeability 22%
- Vehicle access via Hampton Street
- Basement car parking with 28 resident car spaces (reduction of two residential visitor car spaces sought).

VCAT

In the intervening period between the deferral of the application by Council’s Planning and Amenity Committee on 13 March 2018 and the determination of the application on 15 May 2018, an Application for Review against Council’s failure to grant a permit was lodged with VCAT pursuant to Section 79 of the Planning and Environment Act 1987. If Council had determined the application at the Planning and Amenity Committee on 13 to grant a permit would have been avoided.
In accordance with an appeal lodged with VCAT pursuant to Section 79 of the Planning and Environment Act 1987, Council is liable for costs for the application fees made by the applicant in the proceeding. The application was heard at a Compulsory Conference (mediation) on 20 June 2018. Three objectors and VicRoads are parties to the appeal.

At the Compulsory Conference, the permit applicant agreed to:
- **Include the provision of two residential visitor car spaces (therefore, comply with the car parking requirements outlined at Clause 52.06 of the Bayside Planning Scheme**
- **Provision of an intercom system for residential visitors to access the car park**
- **Increased setbacks to Hampton Street**
- **Provision of increase post-construction landscaping**

Furthermore, the Applicant for Review did not contest any of the conditions that formed part of the planning officer recommendation that was reported to the Planning and Amenity Committee on 13 March and 15 May 2018.

The consent position reached at the Compulsory Conference was ratified by the Planning and Amenity Committee on 26 June 2018.
### 4.5 – Matters of Decision

**Subject land**
- **Application no.**
  - 2016.598.1
- **VCAT reference no.**
  - P2846/2017
- **Applicant**
  - Melanie Ellis
- **Referral Authority**
  - Alexander Giles
- **VCAT Member**
  - Michael Nelthorpe
- **Date of hearing**
  - 21/06/2018
- **Date of order**
  - 24/07/2018
- **Proposal**
  - Construction of a double storey dwelling on a lot less than 500 square metres and the associated removal of native vegetation in a Vegetation Protection Overlay

**Officer recommendation/ Delegate determination**
- Notice of decision

**Council determination**
- Notice of decision

**Appeal type**
- Conditions

**Plans substituted (prior to hearing)**
- No

**VCAT determination**
- Permit to issue

**LGPRF outcome**
- AFFIRMED

**Comments:**

Application for the construction of a double storey dwelling on a lot less than 500sqm and associated native vegetation removal was received by Council on 14 September 2016.

A Notice of Decision to Grant a Planning Permit was issued on 13 November 2017, following a Planning and Amenity Committee Meeting on 2 November 2017.

The applicant appealed the following conditions at the tribunal:
- **Condition 1a)** – The ground floor setback to the eastern boundary to comply with Standard A10 of the Bayside Planning Scheme, and,
- **Condition 1b)** – Deletion of the first floor ensuite to Bedroom 1. The first floor ensuite can be relocated to the walk in robe if preferred, and a robe can be located to the western side of Bedroom 1, provided it has a minimum setback of 1.8m and maintains recession behind the front façade of the bedroom (like the current ensuite).

Ultimately Condition 1a was requiring an additional 200mm setback from the eastern boundary and condition 1b was requiring a 1.8m setback at the first floor instead of a first floor wall on the boundary.

VCAT resolved to remove Condition 1a) from the Planning Permit as it was felt a 200mm additional setback would be inconsequential, however and VCAT ordered Condition 1b) be retained as a double storey wall on a boundary is not consistent with the current or preferred neighbourhood character of the area.
Subject land 11 Stonehaven CRES, HAMPTON EAST
Application no. 2016.711.1
VCAT reference no. P114/2018
Applicant Shangri La Construction
Referral Authority N/A
Respondents Elipi Antzouletos, Sean Geoghegan, Kaye Geoghegan, Carolyn Jones

VCAT Member Megan Carew
Date of hearing 21/06/2018
Date of order 24/07/2018
Proposal Construction of three dwellings on a lot

Officer recommendation/ Delegate determination Refusal
Council determination Not applicable
Appeal type Refusal to Grant a Permit
Plans substituted Yes
(prior to hearing)

VCAT determination Permit to issue
LGPRF outcome SET ASIDE

Comments:

An application for review in accordance with Section 77 of the Planning and Environment Act 1987 was lodged in response to Council’s refusal to grant a planning permit on grounds relating to Garden Area, Neighbourhood Character, ResCode and Car parking.

Mediation at the Tribunals Compulsory Conference held on 4 May 2018 did not result in an outcome favourable to any parties.

Plans were formally amended and circulated to all parties prior to the hearing on 21 June 2018. Council concluded that the proposed changes did not adequately respond to Council’s Grounds for Refusal and objections raised by the parties to the appeal.

Notably, the Tribunal found that the subject sites proximity to the Hampton Activity Centre has resulted in significant change to the subject sites immediate surrounds despite the ‘minimal residential growth’ objective of the Neighbourhood Residential Zone- Schedule 3 (NRZ3).

The tribunal found that the only unifying elements in the immediate surrounds are the one and two storey scale, the large front setbacks and garden settings whilst also identifying that there was no consistent backyard character within this area.

Unsurprisingly, the Tribunal concluded that the proposal satisfactorily addressed the sites neighbourhood character assisted by the single crossover, absence of boundary to boundary construction and consistent front setback that provides landscaping opportunities to successfully integrate the development in the streetscape.

The Tribunal directed that a permit is granted and directed to be issued.
Subject land: 135A Martin ST, BRIGHTON
Application no.: 2017.586.1
VCAT reference no.: P557/2018
Applicant: Bigadd Concepts P/L

Referral Authority
Respondents

VCAT Member: Cindy Wilson
Date of hearing: 26/06/2018
Date of order: 24/07/2018
Proposal: Use and development of land for dwellings, construction of a four storey mixed use building plus basement parking, demolition and construction in a Heritage Overlay and reduction of car parking

Officer recommendation/
Delegate determination: Refusal
Council determination: Refusal
Appeal type: Refusal to Grant a Permit
Plans substituted
(prior to hearing): Yes

VCAT determination: Permit to Issue
LGPRF outcome: N/A

Comments:
The subject site is zoned Commercial 1, and is also covered by the Heritage Overlay and Schedule 3 to the Design and Development Overlay.

The proposed development comprised a mixed use four storey building, works under the heritage overlay and a reduction in car parking. The application was refused by the Planning and Amenity Committee on 27 February 2018.

The compulsory conference held on 26 June 2018, the applicant lodged amended plans in an attempt to appease the concerns of all parties. All parties ultimately agreed to the amended design, and this design, along with the proposed permit conditions was ratified at the Planning and Amenity committee meeting of 17 July 2018.

A Planning Permit was issued in accordance with the signed Consent Order.
Subject land: 8 Merton AVE, BRIGHTON
Application no.: 2017.180.1
VCAT reference no.: P223/2018
Applicant: Peter Viant
Referral Authority: N/A
Respondents: Locus Design Group
VCAT Member: M Baird
Date of hearing: 3/07/2018
Date of order: 3/07/2018
Proposal: Construction of two new dwellings

Officer recommendation/ Delegate determination: Notice of decision
Council determination: Not applicable
Appeal type: Notice of Decision to Grant a Permit
Plans substituted (prior to hearing): No

VCAT determination: Varied Permit to issue
LGPRF outcome: N/A

Comments:
Application for the construction of two new dwellings was received by Council on 26 April 2017.
A Notice of Decision to Grant a Planning Permit was issued on 17 January 2018.
One of the objectors to this application appealed Council’s Notice of Decision. Ultimately, the permit applicant and objector were able to reach an agreement and a consent order was drafted without the need for a tribunal hearing.
<table>
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<th><strong>Subject land</strong></th>
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<td><strong>Application no.</strong></td>
<td>2017.525.1</td>
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<tr>
<td><strong>VCAT reference no.</strong></td>
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<tr>
<td><strong>Applicant</strong></td>
<td>A Stobart</td>
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<tr>
<td><strong>Referral Authority</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Respondents</strong></td>
<td>Ratio Consultants Pty Ltd</td>
</tr>
<tr>
<td><strong>VCAT Member</strong></td>
<td>Frank Dawson</td>
</tr>
<tr>
<td><strong>Date of hearing</strong></td>
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<td><strong>Date of order</strong></td>
<td>4/07/2018</td>
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<tr>
<td><strong>Proposal</strong></td>
<td>Construction of a three storey apartment building (8 dwellings) with basement parking and a front fence in excess of 1.5m in height</td>
</tr>
<tr>
<td><strong>Officer recommendation/ Delegate determination</strong></td>
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<td><strong>Appeal type</strong></td>
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<tr>
<td><strong>Plans substituted (prior to hearing)</strong></td>
<td>No</td>
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<tr>
<td><strong>VCAT determination</strong></td>
<td>Varied Permit to Issue</td>
</tr>
<tr>
<td><strong>LGPRF outcome</strong></td>
<td>N/A</td>
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**Comments:**

The subject site is located within the General Residential Zone (Schedule 2), the Design and Development Overlay (Schedule 11) and the Development Contributions Overlay (Schedule 1).

A Notice of Decision to Grant a Planning Permit for the construction of a three storey apartment building (nine (9) units) with basement parking and a front fence in excess of 1.5m in height was issued by Council. An Application for Review was lodged to the Victorian Civil and Administrative Tribunal (VCAT) under Section 82 of the Planning and Environment Act 1987 (objector appeal).

Following discussions between the parties agreement was reached in relation to changes to the inclusion of two additional conditions relating to setbacks on the south-eastern boundary of the development.

A consent order was therefore signed by all three parties and submitted to the Tribunal, who directed that the decision of the responsible authority be varied and a permit be granted.

The Hearing was vacated.
Subject land  | 9 Hall ST, BRIGHTON  
Application no.  | 2017.571.1  
VCAT reference no.  | P297/2018  
Applicant  | Alex Bragilevsky  
Referral Authority  |  
Respondents  | Ms C Ramognino, Mr R Green and Mrs J Green  
VCAT Member  | S. R. Cimino  
Date of hearing  | 5/07/2018  
Date of order  | 9/07/2018  
Proposal  | Construction of two dwellings on a lot in the Neighbourhood Residential Zone â€“ Schedule 3, and a front fence exceeding a height of 1.2 metres in the Neighbourhood Residential Zone â€“ Schedule 3  
Officer recommendation/ Delegate determination  | Refusal  
Council determination  | Not applicable  
Appeal type  | Refusal to Grant a Permit  
Plans substituted (prior to hearing)  | Yes  
VCAT determination  | Permit to Issue  
LGPRF outcome  | N/A  

Comments:

The subject site is located within the Neighbourhood Residential Zone (Schedule 3), the Design and Development Overlay (Schedule 3) and the Development Contributions Overlay (Schedule 1).

A Notice of refusal to Grant a Planning Permit for the construction of two double storey dwellings was issued by Council. An Application for Review was lodged to the Victorian Civil and Administrative Tribunal (VCAT) under Section 77 of the Planning and Environment Act 1987.

At the Compulsory Conference held on 5 July 2018, the Applicant formally substituted plans to the Tribunal. All parties reached agreement at the Compulsory Conference based on the amended plans.

The Tribunal directed that the decision of the responsible authority be set aside and a permit be granted.

The Hearing was vacated.
**Subject land**  
2 Hamilton ST, BRIGHTON

**Application no.**  
2016.231.3

**VCAT reference no.**  
P770/2018

**Applicant**  
Fineline Building & Design

**Referral Authority**

**Respondents**

**VCAT Member**  
Bill Sibonis

**Date of hearing**  
10/07/2018

**Date of order**  
10/07/2018

**Proposal**  
Alterations and additions to an existing dwelling on a lot less than 500sqm and in a Heritage Overlay

| Officer recommendation/ Delegate determination | Refusal |
| Council determination | Not applicable |
| Appeal type | Refusal Amended Permit |
| Plans substituted (prior to hearing) | No |
| **VCAT determination** | Permit to Issue |
| **LGPRF outcome** | N/A |

**Comments:**

An Application for Review was lodged by the applicant pursuant to Section 77 of the Planning and Environment Act 1987 in response to Council’s Refusal to Grant an Amended Permit.

The applicant proposed a Section 72 amendment to the existing permit to allow an increase to the length and height of the southern boundary wall, installation of two first floor windows and an increase to the overall building height.

Following further discussions with the Planning Department, a consent order was signed which included additional permit conditions relating to a reduction in the overall building height, overlooking compliance and deletion of the void/stairs to the south of Bedroom 2.

Accordingly, the Tribunal in its Order dated 10 July 2018 determined to set aside the decision of the Responsible Authority and direct an amended permit to issue, pursuant to the conditions of the consent order.
<table>
<thead>
<tr>
<th>Subject land</th>
<th>260 South RD, BRIGHTON EAST</th>
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<tbody>
<tr>
<td>Application no.</td>
<td>2016.570.1</td>
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<tr>
<td>VCAT reference no.</td>
<td>P132/2018</td>
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<tr>
<td>Applicant</td>
<td>MB &amp; F L Thomlinson</td>
</tr>
<tr>
<td>Referral Authority</td>
<td>VicRoads - Metropolitan South East Region</td>
</tr>
<tr>
<td>Respondents</td>
<td></td>
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</tbody>
</table>

| VCAT Member          | J A Bennett                 |
| Date of hearing      | 19/07/2018                  |
| Date of order        | 19/07/2018                  |
| Proposal             | Construction of two double storey dwellings on a lot and alteration to access to a road in a Road Zone, Category 1 |

| Officer recommendation/Deallocate determination | Refusal |
| Council determination                          | Not applicable |
| Appeal type                                     | Refusal to Grant a Permit |
| Plans substituted (prior to hearing)           | No |
| VCAT determination                             | Permit to Issue |
| LGPRF outcome                                  | N/A |

**Comments:**

The land is located within Neighbourhood Residential Zone (Schedule 3), Design and Development Overlay (Schedule 3) and is Land Adjacent to a Road Zone, Category 1.

A Notice of refusal to Grant a Planning Permit was issued by Council for the construction of two double storey dwellings on a lot and alteration to a road in a Road Zone Category 1. An Application for Review was lodged to the Victorian Civil and Administrative Tribunal (VCAT) under Section 77 of the Planning and Environment Act 1987.

Following discussions between the parties agreement was reached in relation to changes that allowed cars to enter and exit the site in a forward direction to a Road Zone Category 1.

A consent order was therefore signed by all three parties and submitted to the Tribunal, who directed that the decision of the responsible authority be varied and a permit be granted.

The Hearing was vacated.
Subject land  
284 Balcombe RD, BEAUMARIS

Application no.  
2017.110.1

VCAT reference no.  
P683/2018

Applicant  
E Lawry & D Serroni

Referral Authority

Respondents

VCAT Member  
Michael Nelthorpe

Date of hearing  
23/07/2018

Date of order  
23/07/2018

Proposal  
Construction of two dwellings on a lot and alteration of access to a Road in a Road Zone Category 1

Officer recommendation/Delegate determination  
Refusal

Council determination  
Not applicable

Appeal type  
Refusal to Grant a Permit

Plans substituted (prior to hearing)  
No

VCAT determination  
Permit to Issue

LGPRF outcome  
N/A

Comments:

The planning application sought the construction of two double storey attached dwellings in a side-by-side configuration.

The application went through public notice and zero objections were received.

Council determined to refuse the application due to the poor streetscape response by way of excessive paving within the front setback, lack of landscaping opportunities and visual dominance of garages.

The permit applicant lodged a review with VCAT and provided amended plans which sought a reduction in the level of paving within the front setback, improved post-construction landscaping opportunities and the conversion of a double car garage to a carport.

On balance, it was determined that the amended plans adequately responded to Council’s refusal and a consent order was reached between the permit applicant and Council without the need for the matter to proceed to a hearing.
Subject land: 84 Haydens RD, BEUAMARIS
Application no.: 2018.127.1
VCAT reference no.: P940/2018
Applicant: Sandra Micheal
Referral Authority: N/A
Respondents: N/A

VCAT Member: E A Bensz
Date of hearing: 25/07/2018
Date of order: 25/07/2018
Proposal: Removal of one native tree in a vegetation protection overlay

| Officer recommendation/ Delegate determination | Refusal |
| Council determination | Not applicable |
| Appeal type | Refusal to Grant a Permit |
| Plans substituted (prior to hearing) | No |
| VCAT determination | No Permit to Issue |
| LGPRF outcome | AFFIRMED |

Comments:
The applicant applied on 13 March 2018 for the removal of a native tree in a vegetation protection overlay schedule 3. The application was refused on 28 March 2018 under delegation on two grounds. The applicant applied to VCAT for review of Council’s refusal pursuant to Section 77 of the Planning and Environment Act 1987.

The matter was considered at a short case hearing on 25 July 2018. The tribunal subsequently affirmed Council’s refusal of the application owing to a lack of Arboricultural justification for the tree’s removal. Furthermore, it was found that this large Southern Mahogany tree afforded significant amenity to the surrounding neighbourhood.

The Tribunal directed that no permit is granted.
Subject land: 1/854 Nepean HWY, HAMPTON EAST

Application no.: 2017.386.1
VCAT reference no.: P177/2018
Applicant: Joe Lazar
Referral Authority: VicRoads
Respondents: N/A

VCAT Member: Christina Fong
Date of hearing: 27/07/2018
Date of order: 30/07/2018
Proposal: Installation of an internally illuminated major promotional sign

Officer recommendation/Delegate determination: Refusal
Council determination: Not applicable
Appeal type: Refusal to Grant a Permit
Plans substituted (prior to hearing): No

VCAT determination: Permit to issue
LGPRF outcome: SET ASIDE

Comments:

The subject site is zoned Commercial 1.

The application sought to replace an existing floodlit Major Promotional Sign, with an electronic Major Promotional Sign.

Council planning officers refused the application under delegation on 28 December 2018, on grounds relating to light pollution, road safety and general highway amenity. VicRoads also objected to the application.

The applicant lodged an appeal against Council’s refusal and this matter was heard on 27 July 2018.

In their Order dated 30 July 2018, VCAT decided to set aside Council’s decision and a Planning Permit was granted. Throughout the hearing VicRoads decided to consent to the application, and VCAT formed the view that the remaining grounds (light pollution and general highway amenity) were not of such significance as to warrant refusal.

A Planning Permit was therefore issued subject to conditions.
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.

Mick Cummins

Chief Executive Officer