Agenda

for the

Planning & Amenity Committee Meeting

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

on

Tuesday, 14 March, 2017 at 7.00pm

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

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

Section 92 The Chair’s Duties and Discretions

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

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

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

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

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

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

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

Your cooperation is appreciated

Chairperson of Council
Planning & Amenity Committee Meeting

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

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

Membership of the Committee
All Councillors

Order of Business

1. Apologies

2. Declarations of Interest

3. Adoption and Confirmation of the minutes of previous meeting

4. Matters of Decision
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5. Confidential Business
   Nil
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Tuesday 9 May 2017
Tuesday 13 June 2017
Tuesday 18 July 2017
Tuesday 15 August 2017
Tuesday 12 September 2017
Tuesday 17 October 2017
Tuesday 14 November 2017
Monday 11 December 2017
1. Apologies

2. Declarations of Interest

3. Adoption and Confirmation of the minutes of previous meeting

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

4.1 **514-518 HAMPTON STREET, HAMPTON**

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

**APPLICATION NO: 2016/751/1 WARD: CENTRAL**

City Planning & Community Services -
File No: PSF/15/8755 – Doc No: DOC/17/29246

1. **Purpose and background**

To report a planning permit application for the construction of a four storey building plus basement in the Design and Development Overlay 12, comprising two food and drink commercial units at ground floor, 21 residential units on upper floors, a ground floor residential frontage greater than 2 metres in the Commercial 1 Zone, a car parking waiver, loading bay waiver and cycle parking waiver, on a lot with an area of 913 square metres (refer Attachment 1) at 514-518 Hampton Street, Hampton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>WP Developments Pty Ltd c- Bowden Planning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>28 December 2016 (amended)</td>
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<tr>
<td>Statutory days expired</td>
<td>11 March 2016</td>
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The proposed four storey building is considered acceptable, despite exceeding the preferred height by one storey because the proposal meets design standards ‘tests’ for the additional storey that are set out the Bayside Planning Scheme for Hampton. The preferred height for this location in Hampton is three storeys.

The relevant Planning Scheme Policy design outcome ‘tests’ state that the extra storey can be approved if the building is of high architectural standard of design, includes good environmental design, minimises overshadowing of adjoining streets, public spaces and residential properties as well as minimising (not removing) any impacts on the amenity of adjoining residential precincts and that a transition in scale to lower building forms. In officer’s view, this proposal adequately meets these stated Planning Scheme ‘tests’ and a four storey building can be supported by our policy.

The massing and detailed design of the proposed development will result in a good outcome for Hampton, subject to a number of minor condition changes as set out in this report to ensure that the existing and future residents of Hampton have a good standard of amenity. Conditions regarding amenity matter including hours of operations, an ongoing Site and Environment Management Plan, and conditions regarding car parking all work together to propose a building that will not have an adverse impact on residents and balance the existing and future built form aspirations for this Major Activity Centre.

The traffic and parking implications of the proposal can be appropriately mitigated and managed subject to conditions requiring an increase in commercial parking, restrictions on the number of patrons and the future use of the commercial spaces and ensuring that all new residents have the number of car parking spaces as required by the Bayside Planning Scheme car parking.

2. **Policy implications**

**Planning permit requirements**

Clause 34.01-1 (Commercial 1 Zone) – Residential frontage at ground floor level exceeding 2 metres.

Clause 34.01-4 (Commercial 1 Zone) – Buildings and works not otherwise exempt

Clause 43.02-2 (Design and Development Overlay Schedule 12) – Buildings and works...
not otherwise exempt

Clause 52.06-5 (Car Parking) – Reduction of the required number of car parking spaces.
Clause 52.07 (Loading and Unloading of Vehicles) – Waiver of loading bay.
Clause 52.34-3 (Bicycle facilities) – Reduction of the required bicycle parking facilities.

Planning Scheme Amendment C116 – Height Controls in Hampton

Planning Scheme Amendment C116 proposes to amend height controls in the Hampton Activity Centre. The Amendment has been ongoing since in 2012. Council has been seeking mandatory height controls to change the current ‘preferred’ height controls which allow developers to make applications for any building height in Hampton for some years.

C116, where it relates to the height controls in Hampton, was then placed on hold by Council as the project was changed to combine Amendment C116 with Amendment C130 (which implements the Hampton Willis Street Precinct Urban Design Framework) as well as awaiting the outcome of Amendments C113, C114 and C115 which also seek height control changes in Sandringham and Brighton.

At present, Council is seeking to work with the State Government on height controls across the Major Activity Centres in Bayside.

Other Planning Scheme Amendments

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

Planning Scheme Amendment C153 has been initiated by Council and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process will conclude on 16 January 2017 and a report considering submissions will be presented to Council early in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and Adopted. As such, there is no statutory weight which can be given to Amendment C153. It is noted that the subject site is not within the SBO area and is not proposed to be included in the SBO area.

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

3. Stakeholder Consultation

External referrals

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

Internal referrals

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

<table>
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<tr>
<th>Internal Referral</th>
<th>Response</th>
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<tr>
<td>Traffic</td>
<td>Request for a number of conditions of approval to address concerns.</td>
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</table>
### Urban Design

Further refinements recommended, including:
- Improving transition to lower scale development to east;
- More clearly signal dwelling entry on Littlewood Street
- Break up three storey sheer wall to North elevation.

### Open Space Arborist

No objection, subject to conditions.

### Drainage

No objection, subject to conditions.

### Waste Management

Objection, amendments required.

### Strategic Planning

Generally consistent with State and Local policy. Conditional changes requested in relation to transition to adjacent lower scale sites.

### Public notification

The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and 116 objections were received at the time of writing. The following concerns were raised:

- Height
- Transition to rear
- Overshadowing
- Loss of privacy
- Visual bulk
- Wind tunnel effect
- Waste management
- Loading
- Car parking
- Traffic generation and safety
- Noise
- Commercial trading hours
- Architectural design
- Neighbourhood character
- Overdevelopment
- Bicycle parking
- Lack of landscaping
- Corporations Act and Trade Practices Act breaches
- Construction impacts (traffic, noise, dust)
- Surrounding property values
- Cumulative impact of nearby proposals
- Transient future occupiers
• Quality of accommodation
• Sewer/stormwater infrastructure
• Community services (schools, doctors, dentists)
• Development on public footpath

Resident Meeting

The applicant declined the offer of attending a resident meeting. No meeting was held.

4. Recommendation

That Council:

Issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2016/751/1 for the land known and described as 514-518 Hampton Street, Hampton, for the construction of a four storey building plus basement in the Design and Development Overlay 12, comprising two food and drink commercial units at ground floor, 21 residential units on upper floors, a ground floor residential frontage greater than 2 metres in the Commercial 1 Zone, a car parking waiver, loading bay waiver and cycle parking waiver, in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the amended plans with date stamped 28 December 2016 but modified to show:
   a) The second and third floor level to be setback from the eastern boundary by 6.1 and 11.1 metres respectively.
   b) Three storey sheer wall to the Northern elevation to be further articulated with additional materials or patterning.
   c) The resident’s pedestrian entrance door to setback no greater than 1.5 metres from the property boundary. The pedestrian entrance to have 45 degree splays to 300mm either side of where the entrance meets the buildings frontage.
   d) The use of design elements or materials, or a combination of both to provide a greater sense of address, differentiation and identity to the resident's pedestrian entrance.
   e) All privacy screening to be a maximum of 25% transparent.
   f) Any consequential overlooking of neighbouring dwellings associated with the development changes conditioned above to be addressed via obscure and fixed glazing, sill heights to 1.7 metres above finished floor levels or privacy screening to 1.7 metres in height with a maximum transparency of 25% as appropriate.
   g) Master bedroom and ensuite of Unit 2.07 to be deleted.
   h) Northern elevation of Unit 2.06 and the balcony perimeter planter above associated with Unit 3.04 setback 2.17 metres from the northern site boundary.
   i) All site services to be located on plans, including air conditioning and hot water systems. Plant and equipment should be located sensitively in
relation to habitable room windows on the subject site and neighbouring properties.

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

k) A 2 x 2 metre splay of the ground floor level at the corner of Hampton Street and Littlewood Street.

l) All parking spaces at ground floor level to be allocated to the commercial units.

m) One additional bike parking space to be provided at basement level.

n) The gradient of the disabled parking space amended to comply with AS2890.6.

o) Provision of and details of a stop-go signalling system to control vehicles on the one lane basement ramp.

p) Updated swept path diagrams in accordance with Figure B2 of AS/NZS 2890.1:2004.

q) All elevations and roof plan to show all plant, equipment and services concealed within the design of the building. No plant, equipment, services or architectural features will be permitted above the roof level of the building/s without the written consent of the Responsible Authority, and no air conditioning units will be permitted to be visible from the street.

r) Any changes to comply with the Site and Environment Management Plan (SEMP) conditions of this permit; 

s) Any changes to comply with the Construction Management Plan in conditions of this permit; 

t) Any notations or changes to meet the Drainage conditions of this permit;

u) Full details and annotations on the floor plan to allow no more than 40 seats (including outside seating) associated with the 1 x commercial premises fronting Hampton Street.

v) Full details and annotations on the floor plans to allow no more than 22 seats (including outside seating) associated with the 1 x commercial premises fronting Littlewood Street.

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

All to the satisfaction of the Responsible Authority.

Ongoing conditions for the lifetime of the permit

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

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

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

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

6. 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.

7. The customer patronage shown on the endorsed plans, as associated with the car parking as shown on the endorsed plans, must not be exceeded at any time.

8. Unless otherwise agreed by the Responsible Authority, the uses within this development must only operate, including deliveries, loading and unloading, between the following hours;
   - Monday to Saturday 6:00am to 11.00pm.
   - Sundays and National Public Holidays 7.00am – 10.00pm.
   - Anzac Day 12:00pm - 10.30pm.

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

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

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

Site and Environment Management and Construction Management Plans

12. Prior to the endorsement of plans to Condition 1 of this permit, a Site and Environmental Management Plan (SEMP) must be prepared by a suitably qualified person, to the satisfaction of, and submitted to and approved by, the Responsible Authority. The SEMP will remain in perpetuity for the life of the use and development hereby approved, and must be updated to reflect new non-residential uses on the commencement of any tenancy. The SEMP must include operational and site management details including but not limited to;

   a) The Waste and Recycling Management Plan, prepared by Strata Plan and dated 17 December 2016, to be updated to include the following;
      i. Clarification of the arrangement for private waste collection contractor’s vehicle to wait while bins are transported from the waste storage area;
      ii. All waste streams including garbage and recycling, hard/electronic/liquid/medical and home detox (paint and chemicals) are the responsibility of the private contractor and the body corporate. Council will not be offering these services; and
      iii. A litter trap meeting Australian Standards for the size of the bin room to be installed and cleaned on a regular basis by a contractor;

   b) The uses within the 2x commercial units;

   c) The details of operation and how the hours of operation will be managed by the owners/operators of the non-residential uses;
d) An ongoing traffic management plan for the site, including when or whether any access points would be required to be blocked, an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services, preferred routes for trucks delivering to the site, queuing/sequencing, excavation and swept-path diagrams, and details of how all relevant traffic and parking related permit conditions will be complied with for the life of the development;

e) Details of staff car parking management, staff bicycle parking, staff education regarding considerate commercial operations and any other relevant details relating to staff education and management; and

f) Details of how the commercial owners/occupiers will ensure that amenity of adjacent residences will be not be adversely affected by noise, smell, waste management, loading and unloading, pests and any other considerations.

13. Prior to the endorsement of plans to Condition 1 of this permit, a construction Management Plan (CMP) must be prepared by a suitably qualified person, to the satisfaction of, and submitted to and approved by, the Responsible Authority. The CMP must include operational and site management details including but not limited to;

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

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

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

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

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

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

g) Site security.

h) Public safety measures.

i) Construction times, noise and vibration controls.

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

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

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

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

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

p) Hoarding details, if any.

q) Details of crane activities, if any.

**Drainage**

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

15. Before the endorsement of plans at Condition 1 of this permit, detailed plans indicating, but not limited to, the method of storm-water discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council’s Infrastructure Assets Department.

16. The water sensitive urban design stormwater treatment system as detailed in the Sustainable Design Assessment report, prepared by Sustainably Design Consultants (Dated December 2016) must be retained and maintained at all times in accordance with the Urban Stormwater - Best Practice Environmental Management Guidelines, CSIRO 1999, to the satisfaction of the Responsible Authority.

**Permit Expiry**

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

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

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

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

**Permit Notes**

- Building and Asset Protection: This permit does not constitute any authority to carry out any building works, works to public property or occupy the building or part of the building unless all relevant building and asset protection permits are obtained. The applicant is to bear the cost to remove and reinstate any street furniture or infrastructure items to provide the required access to the proposed development.

- Street Tree payments: Before any Asset Protection Permit is issued by Council, the applicant will be required to pay $14,174.60 to Council for the removal of the western-most and eastern-most Manchurian Pear (Pyrus ussuriensis) street trees adjacent to the Littlewood Street frontage of the site and for any other street trees that may be proposed to be removed to facilitate the development. This amount has been determined in accordance with Council’s current policy for the removal of street trees and may be amended.

- Other permits: Other permits and approvals are likely to be required for this development. Please contact Council on 9599 4444 for more information.

5. **Council Policy**

**Council Plan 2013-2017**

Relevant strategies of the Council plan include:
• 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.

• 3.1.3 Advocating Council’s planning and urban design objectives.

Bayside Planning Scheme

• Clause 11 Settlement
• Clause 12 Environmental and Landscape Values
• Clause 15 Built Environment and Heritage
• Clause 16 Housing
• Clause 17 Economic Development
• Clause 21.02 Bayside Key Issues and Strategic Vision
• Clause 21.03 Settlement and Housing
• Clause 21.06 Built Environment and Heritage
• Clause 21.07 Economic Development
• Clause 21.09 Transport and Access
• Clause 21.11 Local Areas
• Clause 22.06 Neighbourhood Character Policy
• Clause 22.08 Water Sensitive Urban Design
• Clause 34.01 Commercial 1 Zone
• Clause 43.02 Design and Development Overlay (Schedule 12)
• Clause 52.06 Car Parking
• Clause 52.07 Loading and Unloading of Vehicles
• Clause 52.34 Bicycle Facilities
• Clause 65 Decision Guidelines

6. Considerations

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

6.1. Strategic Justification

The subject site fronts Hampton Street and Littlewood Street and is located within the Hampton Street Major Activity Centre. The preferred future role of the Hampton Street Major Activity Centre has been developed in the Hampton Structure Plan, the Bayside Housing Strategy 2014 and the Retail, Commercial and Employment Strategy 2016. Clause 21.11-4 and the Design and Development Overlay 12 implement the preferred future role of Hampton Street in the Bayside Planning Scheme.

Clause 21.11-4 provides a series of objectives and strategies that are relevant in the development of the Hampton Street Major Activity Centre. The subject site is located within the peripheral business and local shopping area precinct of the activity centre. The policy framework as it applies to the subject site seeks to encourage mixed use developments with shop, offices and non-residential uses on ground floor and residential development on upper levels, maintain the retail strip and street life on Hampton Street between Ratho Ave and Crisp Street, and improve vehicle and pedestrian circulation throughout the centre. The proposal is considered to generally accord with this policy.
direction.

The Hampton Street Centre Framework Plan, pursuant to Clause 21.11-4, provides locational references for the policy direction in the activity centre. The area of Hampton Street adjacent to the proposal is identified as an area for streetscape, open space and pedestrian improvement and the eastern boundary of the subject site is indicated as an area of transitional building heights. The transition of building heights relates to the interface between areas indicated for development and the adjacent residential land that is anticipated to see significantly less change.

It is noted the framework plan identifies a future priority pedestrian link between Littlewood Street and Hampton Primary School along the rear of the subject site. The Hampton Street Structure Plan identifies this area as a future laneway connection; however the use of this part of the site as a laneway has not been translated from the structure plan into the Bayside Planning Scheme. As such limited weight can be given to this annotation in the Framework Plan.

Planning amendment C116 seeks to amend the height controls in the Hampton Activity Centre, including amending the discretionary height controls to mandatory. The Amendment is not considered ‘seriously entertained’ and no weight can be given to its provisions. The proposal exceeds the preferred height limit of 11 metres and three storeys and as such does not accord with the amendment. Refer to the Urban Design section of the report for an assessment of the height and bulk of the proposed development.

Planning Scheme Amendment C150 seeks to implement the Retail, Commercial and Employment Strategy 2016 (RCE Strategy), which outlines the overall direction for Bayside’s commercial areas. Of relevance to this application are objectives that seek an increase to commercial floor space is provided in new development. The aim is to ensure that new residential development in Hampton Street does not outprice commercial floor space.

The amendment proposes to include the RCE Strategy as a reference document and ensure the activity centre hierarchy responds to each centres economic role and function. The amendment would reclassify Hampton Street as a Large Neighbourhood Activity Centre. The RCE strategy seeks to ensure that key centres are consolidated allowing Bayside’s activity centres to remain the primary source of retail activity in the municipality.

The RCE strategy outlines that the primary role for the Hampton Street activity centre is to service the residential population and contribute to the vitality and activation of the retail environment. Supporting residential intensification in the centre will achieve a greater level of street activation, pedestrian foot traffic and retail demand along the street in the longer term. The proposal is considered to be generally consistent with amendment C150 and the strategic direction of the RCE Strategy.

Given all of the above, the state and local policy context is considered to support higher density mixed use development on the site. This mandate for change is tempered by the proximity to land within the Neighbourhood Residential Zone where significantly less growth is envisaged. Transitions in scale from the development to areas of less change should be accommodated within the subject site. In considering scale in excess of the preferred maximum building height of three storeys these interfaces become particularly important in addition to a heightened emphasis on overall building performance and architectural quality. The bulk, massing and interfaces to residential zoned land is assessed further in the ‘Urban Design’ section of the report.

6.2. Land Use

The proposal comprises two ‘Food and Drink’ commercial units on the ground floor measuring 239m² and 141m² in floor space and 21 residential units on upper levels. Food and drink uses fall under the ‘retail premises’ umbrella definition in Clause 75 of
the Bayside Scheme. Retail premises, other than a shop, do not require a planning permit in the Commercial 1 Zone.

Residential accommodation where the ground floor frontage exceeds two metres in width in the Commercial 1 Zone requires a planning permit. A ground floor frontage of 2.6 metres in width for the proposed residential units is proposed to Littlewood Street. The residential entry would not be located on the site's primary frontage to Hampton Street and would be beyond the frontage of the commercial unit to Littlewood Street. The location and width of the residential frontage would not disrupt or undermine the active edge provided by the development to the corner of Hampton and Littlewood Streets. In this context the residential frontage at ground floor level is considered appropriate. It is noted the depth and layout of the residential opening and the safety implications are assessed under the Detailed Design section of the report.

6.3. Urban Design

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

To conserve and enhance the valued urban character of the centre, a range of design requirements, including building setbacks and heights, are outlined in the DDO12. The provisions of the DDO12 are generally discretionary to allow for flexible design responses; however the controls should only be varied where a development provides an exemplary response to the site and surrounds. The Victorian Civil and Administrative Tribunal (VCAT) in GVE Hampton Pty Ltd v Bayside CC [2014] VCAT 908 commented:

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

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

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

Building Height

DDO12 provides a ranges of building heights in metres and storeys specified for the built form precinct identified in the Hampton Activity Centre. The building height controls are expressed as preferred and maximum building heights. Development must not exceed the maximum heights and should not exceed the preferred building height. The subject site is located within Built Form Precinct C which has a preferred building height as outlined in the table below; however no maximum height is specified.
The proposal overall is considered to represent a well resolved and high standard of architectural design. The shadow diagrams submitted in support of the application demonstrate the additional storey proposed contributes negligible additional overshadowing to the proposal between 9am and 3pm on the 22nd September. The overshadowing standard in ResCode is considered appropriate to refer to in this instance.

No adjacent properties are identified in the Bayside Scheme as possessing heritage characteristics warranting specific heritage protection. The development as proposed would have significant amenity impacts to existing dwellings to the east and north. The amenity impacts are discussed in the Massing and Transition section of this report; however subject to increased setbacks, the additional height of the proposal is not considered to have an unreasonable amenity impact on neighbouring occupiers.

The proposal is considered to achieve a robust three storey street wall form which will have a strong profile above the prevailing parapet datum of adjoining built form. The proposal would be read from the street as a three storey base with a recessed additional upper floor. Given the sites dimension and corner site position, the proposed additional storey above the preferred building height is considered appropriate in marking the street corner and creating a legible built form. Council's Urban Design advice received on the proposal supports this position. The transition in height and building form between the subject site and the residential land to the east is discussed in the Massing section of the report.

Massing and Transition in Built Form

Pursuant to the design requirements of the DDO12, the ground, first and second storeys of a development should be built up to the property boundaries where a site fronts a street. The third storey of the front boundary and any street boundary adjacent to a Residential Zone should be setback 5 metres from the storeys below. The table below outlines the setback provisions in the DDO12 against the proposed setbacks.

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<thead>
<tr>
<th>Minimum</th>
<th>Proposed</th>
<th>Variation</th>
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<tbody>
<tr>
<td>Hampton Street</td>
<td>5 metres</td>
<td>3.167 metres</td>
</tr>
<tr>
<td>Littlewood Street</td>
<td>5 metres</td>
<td>3 metres</td>
</tr>
</tbody>
</table>

As discussed above, the proposal represents a high standard of architectural design and does not adjoin any properties with heritage characteristics identified in the Bayside Scheme. In addition, the shadow diagrams submitted in support of the proposal demonstrate the third floor level contributes only a small amount of additional overshadowing to the street and neighbouring properties between 9am and 3pm on the 22nd September. The setback of the third floor level from the Littlewood Street frontage is considered to have only a limited impact on the transition in scale from the development to the two storey properties to the east. However, the three storey street wall to the Littlewood Street frontage that extends to within 4.773 metres of the eastern property boundary does not provide a suitable transition in scale to the lower density neighbouring properties.

While the proposal represents an alternative design response that achieves some of the outcomes required to vary the design requirements of DDO12, the proposed three storey street wall to within less than 5 metres of the eastern boundary does not provide a suitable transition in scale to the two storey properties to the east.
Pursuant to DDO12, development on land in a Commercial Zone adjacent to a Residential Zone should also be designed to achieve a transition in height and built form to the lower level of development envisaged in the Residential Zone. The Hampton Street Major Activity Centre Built Form Precinct Map in the DDO12 and the Hampton Street Centre Framework Plan (Clause 21.11-4) both identify the eastern boundary of the subject site as requiring a transition to the property to the rear. Further reinforcing the importance of this transition in building height and mass is the properties to the rear are outside of the Hampton Street Major Activity Centre boundaries and located in the Neighbourhood Residential Zone. The Neighbourhood Residential Zone envisages the least amount of change in the suite of residential zones used across the Bayside Municipality.

Where commercial zoned sites in the DDO12 abut a property located in a Residential Zone the minimum setbacks outlined in the table below should be achieved. In the context of the subject site these setbacks relate to the eastern boundary. The purpose of the controls in the DDO12 are to ensure a transition in height and built form is achieved between development in a commercial zone and adjacent residential zones.

<table>
<thead>
<tr>
<th></th>
<th>Minimum</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground floor</td>
<td>3 metres</td>
<td>0 metres</td>
<td>3 metres</td>
</tr>
<tr>
<td>First floor</td>
<td>5 metres</td>
<td>2.173 metres</td>
<td>2.827 metres</td>
</tr>
<tr>
<td>Second floor</td>
<td>10 metres</td>
<td>4.773 metres</td>
<td>5.227 metres</td>
</tr>
<tr>
<td>Third floor</td>
<td>15 metres</td>
<td>8.964 metres</td>
<td>6.036 metres</td>
</tr>
</tbody>
</table>

The dwelling directly to the rear of the proposal, No.1/1 Littlewood Street, is separated from the subject site by a 3.9 metre wide driveway servicing No.2/1 Littlewood Street. From Littlewood Street the driveway appears as a laneway to the rear of the sites fronting Hampton Street. The habitable room windows at No.1/1 Littlewood Street are setback 5.6 metres from the subject site. The driveway does provide a separation between the development site and the residential properties to the rear.

While a level of transition in the height and built form of the proposed development is required to the lower intensity residential zoned land to the rear, the site circumstances create a less sensitive interface than would generally be expected between an activity centre and the surrounding residential land that is envisaged for little change. It is noted that while the Neighbourhood Residential Zone does enable up to two dwellings on a lot subject to a number of performance standards, No.1/1 and 2/1 Littlewood Street have recently been developed and are not anticipated to change in the near future.

Given the site specific circumstances, it is considered reasonable to apply the setback standards from the boundary of No.1/1 Littlewood Street in assessing the transition of bulk and mass between the development site and the properties to the rear. This position is consistent with Council’s Urban Design advice received on the application. As such the ground and first floor height and setback from the residential properties to the rear are considered appropriate. However, the height, setback and design of the second and third storeys as proposed do not provide a suitable transition from the development residential properties to the rear which are half the height, of a much lesser scale and not envisaged to change. The difference in scale as proposed between the subject site and the two storey dwellings to the rear would present as an abrupt and incongruous addition to the streetscape and is at odds with the strategic direction of the Hampton Street Major Activity Centre contained in Clause 21.11-4 and DDO12.
Taking the approach to the setbacks discussed above, a more appropriate transition in setbacks would be for the second and third floors to be setback 6.1 and 11.1 metres respectively from the rear boundary. In addition, an increased setback of the master bedroom and ensuite of Unit 2.05 from the Littlewood Street elevation and the render parapet and concrete planter above these two rooms would ensure the three storey street wall visually appears to step down to two storeys towards the eastern boundary. These development changes would ensure a sensitive transition is achieved from the three storey street wall and fourth recessive storey to the two storey detached residential properties to the rear. This approach is consistent with Council’s Urban Design advice received on the application.

While the timber framed outriggers employed between the first floor balconies and the second storey would encroach within the setbacks, given their scale and lightweight appearance of the timber, they would not add significant bulk or undermine the transition in scale to the neighbouring properties. Madagascar Jasmine (*Stephanotis floribunda*) is proposed to climb the timber outriggers. The outriggers and Jasmine climber would have limited impact on the light available to neighbouring properties and would add visual interest to this area of the development.

Conditions of approval are recommended to reflect the increased setbacks of the second and third storeys as discussed above, Subject to these conditions, the proposed development is considered to achieve an appropriate and sensitive transition in scale from the development site to the neighbouring two storey detached dwellings to the east.

**Detailed Design**

Subject to the conditions of approval recommended in regards to the interface to the eastern portion of the subject site, the proposal would present a fine grained, human scale to both Hampton and Littlewood Streets. The frontage to Hampton Street and Littlewood Street, and the eastern elevation are considered to be well-articulated with the use of a number of materials and projections/recesses creating strong horizontal and vertical forms and a good level of visual interest.

The northern elevation consists of a three storey sheer wall constructed in mainly off-form concrete. The limited visual interest would exacerbate the massing impacts of this elevation. The sheer wall adjacent to the pedestrian entrance to No.520 Hampton Street would be clearly visible from the street and is a particular concern. A condition of approval is recommended to break up the sheer walls of this elevation with a combination of materials and patterning.

The proposal would provide an active street frontage to Hampton Street that would continue into Littlewood Street to half the depth of the site. An awning would also be provided to the weather protection area along Hampton Street identified in the Hampton Street Major Activity Centre Map in the DDO12. The awning would also continue around into Littlewood Street. The location of the vehicle access to the property towards the rear of the site ensures the active frontage and pedestrian entry can be appropriately located towards the Hampton Street frontage which is designated in the Hampton Street Centre Framework Plan as an streetscape and pedestrian improvement area.

Pursuant to the design requirements of the DDO12, roof decks and balconies should be set back at least 2 metres from the wall of the storey below which faces the front or the rear of the site, or a minimum of 5 metres from any residential property boundary. In the context of a corner property in an activity centre with a policy directive for a three storey street wall, the locations of the proposed balconies enable this street wall to be achieved while ensuring an appropriate level of internal amenity to the proposed residential units.

The residential entry would be located beyond the frontage of the commercial unit to Littlewood Street. While the location of the pedestrian entrance is appropriate, the depth of the recess to the door and the relative narrow width of the entrance is considered to represent a safety issue. A condition of approval is recommended to set the entrance...
door to within 1.5 metres of the buildings frontage and to add 45 degree splays to 300mm either side of the entrance.

The design of the development would create an entrance to the Littlewood Street commercial unit that has a greater sense of address than the adjacent residential entrance. A condition of approval is recommended to provide a greater sense of address, differentiation and identity to the residential entrance through the use of design elements or materials, or a combination of both.

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

Pursuant to Clause 34.01-8, the responsible authority must consider, as appropriate, the objections, standards and decision guidelines of Clause 55. An assessment of the application against the provisions of Clause 55 is contained in Attachment 3. Development standards including height and setbacks are provided in the Design and Development Overlay 12. A number of ResCode standards, including site coverage and walls on boundaries are not considered relevant to the activity centre location of the subject site.

6.5. **Amenity**

As the subject site is located on a corner, the primary amenity related consequences of the proposal are to the adjacent properties to the north and east. The shadow diagrams submitted in support of the application demonstrate that the secluded private open space areas of neighbouring properties will receive sufficient solar access in accordance with the Standard. In particular, the rear SPOS for No.1/1 Littlewood Street would not be overshadowed by the proposal between 9am and 3pm on the spring equinox.

The adjacent properties to the east are two storey detached dwellings. As discussed in the Bulk and Massing section of the report, the development as proposed would have an unreasonable visual bulk and amenity impact on No.1/1 Littlewood Street. The conditions of approval recommended in relation to the increased setbacks of second and third floor levels would ensure no unreasonable visual bulk impacts on this neighbouring property.

The proposal includes a series of three storey sheer walls to the north elevation. A number of dwellings No.520 Hampton Street have south facing habitable windows setback 2.266 metres from the proposal site and south facing outdoor open space. Given these windows are south facing, the dwellings would receive limited daylight penetration. It is noted a number of objections have been received from these properties in relation to the loss of light and visual bulk impacts on these windows.

Given Clause 34.01-8 states the responsible authority may consider the provisions of Clause 55, as appropriate, it is considered reasonable to use the daylight to existing windows control (Standard B19) as a basis for assessing the proposals impact on the south facing habitable windows at No.520 Hampton Street. This must also be considered in the context of the activity centre location of the development.

The master bedroom and ensuite of Units 1.08 and 2.07 would form one of the sheer walls directly adjacent habitable room windows and private open space at first and second floor levels of No.520 Hampton Street. From the neighbouring first floor habitable windows and private open space the development would appear as a two storey sheer wall to 7.2 metres in height. The proposal would not comply with the Daylight to Existing Windows control (Standard B19) and would have a significant detrimental impact in terms of visual bulk and loss of natural light available to these windows and open space. A condition of approval is recommended to delete the master bedroom and ensuite of Unit 2.07 to alleviate the amenity impact on the adjacent residential units to the north.

The northern elevation of Units 1.07 and 2.06 form another sheer wall directly adjacent to habitable room windows and private open space at first and second floor levels at No.520 Hampton Street. It is noted the development plans do not identify these first floor windows. At first floor level of No.520 Hampton Street this sheer wall would present as
approximately 7.5 metres in height and be setback only 2.266 metres from the neighbouring property. This aspect of the proposal would have a significant visual bulk and loss of daylight impact on these neighbouring dwellings. A condition of approval is recommended to setback the bedroom and kitchen/living room of Unit 2.06 and the balcony and perimeter planter above this associated with Unit 3.04 from the northern boundary by 2.17 metres to sufficiently alleviate the amenity impact on the adjacent residential units at No.520 Hampton Street. It is noted this would result the loss of the only window to this bedroom. A condition of approval is also recommended to ensure any additional window inserted as a consequential change to this increased setback and the balcony at third floor level is appropriately obscured or screened.

**Overlooking**

It is considered appropriate to use the overlooking control in Clause 55 (Standard B22) as the basis of assessing the potential overlooking impacts of the proposal. The north facing windows and balconies at first and second storey would avoid overlooking impacts with a combination of screens to 1.7 metres in height and sill heights to 1.7 metres above finished floor level. It is noted the screens are annotated as being a minimum of 25% transparent. It is assumed the intention is for the screens to be a maximum of 25% transparent to accord with the ResCode overlooking standards. A condition of approval is recommended to address this.

The north facing windows and balcony associated with Unit 3.04 are partially screened to 1.7 metres above finished floor level. Given the development changes proposed as conditions of approval in relation to the additional setback of Unit 2.06 and the balcony/planter of Unit 3.04, a condition of approval is recommended to ensure no overlooking occurs to occupiers to No.520 Hampton Street as a result of these changes.

Privacy screens are proposed to the eastern facing balconies at first and second floor levels. No privacy screening is proposed to the eastern edge of the balconies at third floor level associated with Units 3.03 and 3.04; however these balconies are in excess of 9 metres from the private open space or habitable windows of No.1/1 Littlewood Street. The planters to the perimeter of the third floor balcony would preclude overlooking down into balconies on the first and second levels of the development.

### 6.6. Internal Amenity

The layout and design of the proposed units would ensure a generally good quality of accommodation for all future residents. All habitable rooms would have direct access to natural light and ventilation. Internal overlooking between the proposed units is addressed with a combination of screening to 1.7 metres in height and raised sill levels to 1.7 metres above finished floor level. The majority of units proposed would have dual aspect and all would be provided with private outdoor open space in the form of balconies.

As outlined in Attachment 3, with the exception of Units 1.02 and 2.02, all units would comply with the private open space control in ResCode (Standard B28). Units 1.02 and 2.02 would fall marginally short of the 8m² of secluded private open space (SPOS) with a minimum dimension of 1.6 metres; however as the units are only two bedrooms and have direct access to the SPOS from the living rooms, both units are considered to achieve adequate open space for the reasonable needs of future occupiers.

### 6.7. Car parking and traffic

Pursuant to Clause 52.06-5, four car parking spaces are required per 100m² of net floor area for food and drink premises, including cafes. The proposal would provide five car parking spaces dedicated to the commercial units plus an additional disabled parking space. Clause 52.06-5 specifies that when the calculating a car parking requirement, the number of spaces should be rounded down to the nearest whole number. Given the two commercial units on the ground floor would measure 239m² and 141m² in floor space, a reduction of eight parking spaces is proposed.
Pursuant to Clause 52.06-5, one car parking space is required for each one-two bedroom unit and two spaces for each three or more bedroom unit. In addition, 1 visitor parking space is required for every five residential units. Given 1 x one bed, 17 x two bed and 3 x three bed units are proposed, 24 parking spaces for residents and 4 spaces for visitors are required. The basement would provide 24 parking spaces for residents and three parking spaces would be provided at ground level for visitors. As such a reduction of one visitor parking space is proposed.

There is an obvious tension between the policy direction for growth in the Hampton Street Major Activity Centre and the requirement for parking that equally applies to apartments located in activity centres with excellent access to shops, services and public transport, and detached single dwellings with limited access to shops or public transport.

Council’s Traffic Engineers have reviewed the application and raise a number of concerns including the reduction in parking for the two commercial units and the conflict with locating the visitor parking adjacent to the commercial parking. Council’s Traffic Engineers have recommended the three visitor parks at ground floor level be reallocated to the commercial units and all parking related to the residential units be located in the basement. A condition of approval is recommended to reflect this. A number of development changes are recommended as conditions of approval that would reduce the overall level of residential floor space and may reduce the number of bedrooms and overall number of units. Given the resulting reduction in car parking requirement, visitor parking spaces for the remaining residential units may be located in the basement.

Council’s Traffic Engineers still hold reservations regarding the parking waiver particularly in relation to the potential parking demand generation in the evening when parking demand on residential streets is generally greatest. Subject to the condition of approval discussed above, there would continue to be a short fall of 5 parking spaces in relation to the two commercial units.

The applicant has confirmed the two commercial units are intended to be used as cafes. Cafes are generally not considered magnet uses and the patronage anticipated for the two units would be primarily those who work in the activity centre or live locally. Given the nature of the use, patron numbers are anticipated to spike around lunch times when there would be a high turnover of customers. Given the limited number of parking spaces dedicated to the commercial units, Council’s Traffic Engineers have requested the number of seats be limited to 62 in total to limit the number of customers staying long term. This approach is considered reasonable and a condition of approval is recommended to restrict the seating numbers of 40 and 22 for the commercial unit fronting Hampton Street and the unit fronting Littlewood Street respectively.

Council’s Traffic Engineers have advised that parking demand in the area is most acute in the evenings with residents returning home from work. The patronage of cafes generally occurs during the working day; however as ‘food and drink’ uses are a section one activity in the Commercial 1 Zone, no permit would be required to later convert the commercial units into either restaurants or taverns. Both uses are associated with a larger traffic demand in the evening. Council’s Traffic Engineers have requested the commercial units be restricted from becoming restaurants or taverns without Council’s prior approval. A condition of approval is recommended to reflect this request.

The overall approach taken to the application recognises the activity centre location and policy direction for mixed use development, while balancing this against the reasonable amenity expectations of residents. Council’s Traffic Engineers have also requested a number of minor matters be resolved via conditions of approval. Conditions of approval are recommended to address all matters raised.

6.8. Loading

No loading bay is proposed on site. Pursuant to Clause 52.07, the loading bay requirements may be waived if either the land area is insufficient or adequate provision...
is made for loading and unloading vehicles to the satisfaction of the responsible authority. Council’s Traffic Engineers advise a loading bay is located on Hampton Street outside No.520 Hampton Street. Given the activity centre location, size of the commercial units and the close proximity to the existing loading zone on Hampton Street, the on-site loading bay waiver is considered appropriate.

6.9. Waste management

A Waste and Recycling Management Plan prepared by Strata Plan (Dated 17 December 2016) has been submitted in support of the application. Council’s Waste Management Specialist has reviewed the application and requested a number of changes to the waste management plan submitted in support of the application. A condition of approval is recommended to reflect these requests. Council’s Traffic Engineers have reviewed the application and object to discrepancies between the plans, waste management plan and traffic report. A condition of approval is recommended resolve this.

6.10. Street tree removal

There are three Pyrus ussuriensis (Manchurian Pear) street tree assets adjacent to along the property’s southern boundary along Littlewood Street. Council’s Open Space Arborist has reviewed the application, visited the site and advises the construction of the basement along the property boundary will have minimal impact on the street trees provided there is no excavation within 2.2m of the edge of the base of these trees. However, the relocation of the vehicle crossing will have a severe impact on the eastern most street tree and the construction of the awning adjacent to the western most tree will have a significant impact on the canopy structure of the tree.

Council’s Open Space Arborist advises the eastern most and western most trees can be approved for removal under Clause 6.5 of the Street and Park Tree Management Policy (2016), subject to the applicant paying the reasonable cost of removing and replacing the trees, and the amenity value of the trees determined in accordance with Council’s current policy for the removal of street trees. Conditions of approval are recommended to reflect the above.

6.11. Vegetation & Landscaping

The subject site is an operational retail nursery and no vegetation is permanent. The proposed 99% site coverage provides limited scope for landscaping across the site. The level of site coverage is appropriate given the activity centre location. The proposal includes planters at ground, first and third storeys. Dwarf Bower Wattle (Acacia cognate) are proposed for the planters with Madagascar Jasmine (Stephanotis floribunda) proposed to climb the timber outriggers between the first and second floor balconies on the eastern boundary. Five small shrubs have been planted at No. 2/1 Littlewood Street adjacent to eastern boundary of site. Council’s Arborist has reviewed the application and advises the development is not anticipated to jeopardise their continued longevity.

6.12. Objections received

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

Wind tunnel effect

No evidence has been submitted in relation to the potential for a wind tunnel effect to be created. Given the scale of the proposal at four storeys, any impact on local wind conditions would be minor.

Commercial trading hours

A condition of approval is recommended to ensure the hours of the commercial units are reasonable for the activity centre location.

Corporations Act and Trade Practices Act breaches
The objector does not elaborate on why the applicant may have breached these Acts in making the application; however these matters are not material to the assessment of the proposal.

Construction impacts (traffic, noise, dust)

A condition of approval is recommended to require a construction management plan is prepared and submitted to Council prior to the endorsement of plans. While some noise and other off site impacts are inevitable when any construction occurs, all development is required to meet relevant Local Law and EPA regulations regarding construction practices to ensure these impacts are mitigated.

Surrounding property values

The impact on surrounding property values is not a material planning consideration and will not form part of this assessment.

Cumulative impact of nearby proposals

A number of objections have been received in regards to the cumulative impact of the proposal and the proposal at No.427-461 Hampton Street and 82 Holyrood Street. It is noted the application for 427-461 Hampton Street and 82 Holyrood Street is currently before VCAT and has not been granted a planning permit.

Transient future occupiers

The demographic of potential future residents of the proposed residential units is not a material consideration in the assessment of the application.

Sewer/stormwater infrastructure

Council’s Drainage Engineers have reviewed the application and have not advised of any specific limitation or deficiency of the surrounding infrastructure network.

Development on public footpath

The proposed development, aside from the projecting awnings over the Hampton Street and Littlewood Street footpaths, would be entirely contained within the boundaries of the site. The Hampton Street Centre Framework Plan identifies that development fronting Hampton Street should provide pedestrian weather protection and the development accords with this appropriately.

Reasoned justification for the approval of the development

Having regard to all of the 116 objections and the comments set out above, the proposed four storey building is considered acceptable, despite exceeding the preferred height by one storey because the proposal meets design standards ‘tests’ for the additional storey that are set out the Bayside Planning Scheme for Hampton. The preferred height for this location in Hampton is three storeys.

The relevant Planning Scheme Policy design outcome ‘tests’ state that the extra storey can be approved if the building is of high architectural standard of design, includes good environmental design, minimises overshadowing of adjoining streets, public spaces and residential properties as well as minimising (not removing) any impacts on the amenity of adjoining residential precincts and that a transition in scale to lower building forms. In officer’s view, this proposal adequately meets these stated Planning Scheme ‘tests’ and a four storey building can be supported by our policy.

The massing and detailed design of the proposed development will result in a good outcome for Hampton, subject to a number of minor condition changes as set out in this report to ensure that the existing and future residents of Hampton have a good standard of amenity. Conditions regarding amenity matters including hours of operations, an ongoing Site and Environment Management Plan (SEMP), and conditions regarding car parking all work together to propose a building that will not have an adverse impact on
residents and balance the existing and future built form aspirations for this Major Activity Centre.

The traffic and parking implications of the proposal can be appropriately mitigated and managed subject to conditions requiring an increase in commercial parking, restrictions on the number of patrons and the future use of the commercial spaces and ensuring that all new residents have the number of car parking spaces as required by the Bayside Planning Scheme car parking.

Support Attachments
1. Development Plans ↓
2. Site surrounds and imagery ↓
3. Clause 55 (ResCode) Assessment ↓
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
</tr>
</thead>
<tbody>
<tr>
<td>✪</td>
</tr>
</tbody>
</table>
Figure 2 View from Hampton Street towards the site from the North-west

Figure 3 View from Hampton Street and Littlewood Street intersection towards the site
Figure 4 View from Littlewood Street towards No.1/1 Littlewood Street (foreground) and No.2/1 Littlewood Street

Figure 5 View from Littlewood Street to rear of subject site and Southern elevation of No.520 Hampton Street
Figure 6 View from Hampton Street to interface between proposal site and No.520 Hampton Street

Figure 7 View from Hampton Street to interface of proposal site with No.520 Hampton Street
Figure 8 View from proposal site to southern elevation of No.520 Hampton Street
### ATTACHMENT 3
**ResCode (Clause 55) Assessment**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Requirement and Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer to Attachment 3.</td>
</tr>
<tr>
<td>Design respects existing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>contributes to a preferred</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development responds to features</td>
<td></td>
<td></td>
</tr>
<tr>
<td>of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>Refer to ‘Strategic Justification’ section of the report for an assessment of the proposal</td>
</tr>
<tr>
<td>Residential development is</td>
<td></td>
<td>against the relevant policy context.</td>
</tr>
<tr>
<td>consistent with housing policies</td>
<td></td>
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<tr>
<td>in the SPPF, LPPF including the MSS</td>
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<td></td>
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<tr>
<td>and local planning policies.</td>
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<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>Yes</td>
<td>The proposal comprises 1 x one bed, 17 x two bed and 3 x three bed units. The units also</td>
</tr>
<tr>
<td>Encourages a range of dwelling</td>
<td></td>
<td>provide a range of sizes and layouts including two bed units ranging from 68-84m² and</td>
</tr>
<tr>
<td>sizes and types in developments</td>
<td></td>
<td>three bed units ranging from 95-123m²</td>
</tr>
<tr>
<td>of ten or more dwellings.</td>
<td></td>
<td></td>
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<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>The proposal will make use of existing infrastructure servicing the site. The developer</td>
</tr>
<tr>
<td>Provides appropriate utility</td>
<td></td>
<td>will be responsible for upgrading this infrastructure if necessary to accommodate the</td>
</tr>
<tr>
<td>services and infrastructure</td>
<td></td>
<td>development. Council’s drainage engineers have reviewed the application and raise no</td>
</tr>
<tr>
<td>without overloading the capacity.</td>
<td></td>
<td>issues with infrastructure capacity in the area.</td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The development is considered to integrate well with the street. The two commercial units</td>
</tr>
<tr>
<td>Integrate the layout of</td>
<td></td>
<td>provide an active frontage to the entire Hampton Street frontage and in excess of 25</td>
</tr>
<tr>
<td>development with the street</td>
<td></td>
<td>metres of the Littlewood Street frontage. The vehicle access to Littlewood Street has</td>
</tr>
<tr>
<td></td>
<td></td>
<td>been minimised and the residential units are orientated out over Hampton and Littlewood</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Street.</td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Not considered</td>
<td>Refer to ‘Urban Design’ section of the report for an assessment of the bulk and mass</td>
</tr>
<tr>
<td>The setbacks of buildings from a</td>
<td>relevant</td>
<td>against the height and setback controls applied in the Design and Development Overlay 12</td>
</tr>
<tr>
<td>street respect the existing or</td>
<td></td>
<td></td>
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<tr>
<td>preferred neighbourhood character</td>
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<td>and make efficient use of the</td>
<td></td>
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<tr>
<td>site.</td>
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<tr>
<td><strong>B7 Building Height</strong></td>
<td>No</td>
<td>Preferred: 11 metres/three storeys</td>
</tr>
<tr>
<td>Building height should respect</td>
<td></td>
<td>Proposed: 14.159 metres/ four storeys</td>
</tr>
<tr>
<td>the existing or preferred</td>
<td></td>
<td>Refer to report.</td>
</tr>
<tr>
<td>neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>------</td>
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</tr>
<tr>
<td>B8 Site Coverage</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Not considered relevant</td>
</tr>
<tr>
<td>B9 Permeability</td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Not considered relevant</td>
</tr>
<tr>
<td>B10 Energy Efficiency</td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>Yes</td>
</tr>
<tr>
<td>B11 Open Space</td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>N/A</td>
</tr>
<tr>
<td>B12 Safety</td>
<td>Layout to provide safety and security for residents and property.</td>
<td>No</td>
</tr>
<tr>
<td>B13 Landscaping</td>
<td>To provide appropriate landscaping. To encourage: - Development that respects the landscape character of the neighbourhood. - Development that maintains and enhances habitat for plants and animals in locations of habitat importance. - The retention of mature vegetation on the site.</td>
<td>Yes</td>
</tr>
<tr>
<td>B14 Access</td>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td>Yes</td>
</tr>
<tr>
<td>B15 Parking Location</td>
<td>Provide resident and visitor vehicles with convenient parking.</td>
<td>Yes</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
</tr>
<tr>
<td><strong>Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B17 Side and Rear Setbacks</strong></td>
<td>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</td>
<td>No</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. | No | Only the maximum height and average height on the eastern boundary considered relevant.  
**Maximum height:** 3.6 metres  
**Proposed:** 3.5 metres  
**Average height:** 3.2 metres  
**Proposed:** 3.4 metres  
Refer to report. |
| **B19 Daylight to Existing Windows** | Allow adequate daylight into existing habitable room windows. | No | Refer to Amenity section of the report. Addressed via condition. |
| **B20 North Facing Windows** | Allow adequate solar access to existing north-facing habitable room windows. | Yes | No windows surrounding the site are applicable to the standard. |
| **B21 Overshadowing Open Space** | Ensure buildings do not significantly overshadow existing secluded private open space. | Yes | Shadow diagram submitted with the application demonstrate that the secluded private open space areas of neighbouring properties will receive sufficient solar access in accordance with the Standard. In particular, the rear SPOS for No.1/1 Littlewood Street would not be overshadowed by the proposal. |
| **B22 Overlooking** | Limit views into existing secluded private open space and habitable room windows. | No | Refer to Amenity section of the report. Addressed via condition. |
| **B23 Internal Views** | Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development. | Yes | Refer to Internal Amenity section of the report. |
| **B24 Noise Impacts** | Protect residents from external noise and contain noise sources in developments that may affect existing dwellings. | Yes | The site is located within a commercial zone and an activity centre. The level of noise associated with the development is not anticipated to exceed that expected of a mixed use development in an activity centre. |
**B25 Accessibility**  
Consider people with limited mobility in the design of developments.  
Yes  
The communal pedestrian entrance to the dwellings is accessible for people with limited mobility and all upper floor units are provided with level access via lifts.

**B26 Dwelling Entry**  
Provide a sense of identity to each dwelling/residential building.  
No  
Refer to discussion in the ‘Urban Design’ section of the report. Addressed via condition.

**B27 Daylight to New Windows**  
Allow adequate daylight into new habitable room windows.  
Yes  
All habitable windows will open out onto a space clear to the sky.

**B28 Private Open Space**  
Provide reasonable recreation and service needs of residents by adequate private open space.  
No  
For units at first floor and above 8m² balcony with minimum dimension of 1.6 metres or a 10m² roof deck with minimum dimension of 2 metres is required. Refer to the table below and Internal Amenity section of report.

<table>
<thead>
<tr>
<th>Unit</th>
<th>Total Private Open Space</th>
<th>POS with minimum dimension</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit 1.01</td>
<td>28m² balcony</td>
<td>13.6m²</td>
</tr>
<tr>
<td>Unit 1.02</td>
<td>12m² balcony</td>
<td><strong>7.75m²</strong></td>
</tr>
<tr>
<td>Unit 1.03</td>
<td>13m² balcony</td>
<td>8m²</td>
</tr>
<tr>
<td>Unit 1.04</td>
<td>13m² balcony</td>
<td>8m²</td>
</tr>
<tr>
<td>Unit 1.05</td>
<td>16m² balcony</td>
<td>11.8m²</td>
</tr>
<tr>
<td>Unit 1.06</td>
<td>16m² balcony</td>
<td>16m²</td>
</tr>
<tr>
<td>Unit 1.07</td>
<td>16m² balcony</td>
<td>16m²</td>
</tr>
<tr>
<td>Unit 1.08</td>
<td>16m² balcony</td>
<td>16m²</td>
</tr>
<tr>
<td>Unit 1.09</td>
<td>16m² balcony</td>
<td>8.9m²</td>
</tr>
<tr>
<td>Unit 2.01</td>
<td>28m² balcony</td>
<td>14m²</td>
</tr>
<tr>
<td>Unit 2.02</td>
<td>12m² balcony</td>
<td><strong>7.75m²</strong></td>
</tr>
<tr>
<td>Unit 2.03</td>
<td>13m² balcony</td>
<td>8m²</td>
</tr>
<tr>
<td>Unit 2.04</td>
<td>13m² balcony</td>
<td>8m²</td>
</tr>
<tr>
<td>Unit 2.05</td>
<td>29m² balcony</td>
<td>29m²</td>
</tr>
<tr>
<td>Unit 2.06</td>
<td>23m² balcony</td>
<td>23m²</td>
</tr>
<tr>
<td>Unit 2.07</td>
<td>8m² balcony</td>
<td>8m²</td>
</tr>
<tr>
<td>Unit 2.08</td>
<td>16m² balcony</td>
<td>8m²</td>
</tr>
<tr>
<td>Unit 3.01</td>
<td>60m² balcony</td>
<td>38.8m²</td>
</tr>
<tr>
<td>Unit 3.02</td>
<td>16m² balcony</td>
<td>12m²</td>
</tr>
<tr>
<td>Unit 3.03</td>
<td>47m² balcony</td>
<td>43m²</td>
</tr>
<tr>
<td>Unit 3.04</td>
<td>60m² balcony</td>
<td>46m²</td>
</tr>
</tbody>
</table>

**B29 Solar Access to Open Space**  
Allow solar access into the secluded private open space of new dwellings/buildings.  
Yes  
Given the orientation of the site, appropriate solar access to the private open space areas is provided.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Justification</th>
</tr>
</thead>
<tbody>
<tr>
<td>B30 Storage</td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td>Yes</td>
<td>Designated storage areas are provided at ground and basement level.</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer to Attachment 3.</td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td>Not considered relevant</td>
<td></td>
</tr>
<tr>
<td>B33 Common Property</td>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td>Yes</td>
<td>Communal and private areas are clearly delineated. Common property is functional and capable of efficient management.</td>
</tr>
<tr>
<td>B34 Site Services</td>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. Avoid future management difficulties in common ownership areas.</td>
<td>No</td>
<td>No detail of plant or air conditioning systems are provided on plans. It is anticipated there will be sufficient space in the basement for services; however a condition of approval is recommended to address this. Services and gas metres appropriately located in an accessible position adjacent to the resident’s pedestrian entry.</td>
</tr>
</tbody>
</table>
4.2 2A DENDY STREET, BRIGHTON  
SUPPORT THE GRANT OF A PLANNING PERMIT  
APPLICATION NO: 2016/605/1 WARD: CENTRAL

City Planning & Community Services -  
File No: PSF/15/8755 – Doc No: DOC/17/14775

1. Purpose and background

To report a planning permit application for the construction of a double storey building with two storey basement comprising four dwellings and a roof deck in the Design and Development Overlay 1 and a front fence exceeding 1.2 metres in height across three lots with an area of 1117 square metres (refer Application 1) at 2A Dendy Street, Brighton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Mr Baker, Planning and Property Partners Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>10 October 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>20 January 2017</td>
</tr>
</tbody>
</table>

2. Policy implications

Planning permit requirements

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

Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of a front fence exceeding 1.2 metres in height.

Clause 43.02-2 (Design and Development Overlay Schedule 1) – Construct a building.

Planning scheme amendments

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

Planning Scheme Amendment C153 has been initiated by Council and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process will conclude on 16 January 2017 and a report considering submissions will be presented to Council early in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and Adopted. As such, there is no statutory weight which can be given to Amendment C153. It is noted that the subject site is not within the SBO area and is not proposed to be included in the SBO area.

3. Stakeholder Consultation

External referrals

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

Internal referrals

The application was referred to the following Council departments for comment:
<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Waste Management</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Open Space Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

Public notification

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

- Variation of setbacks;
- Heritage value of existing building;
- Overdevelopment;
- Overlooking;
- Poor architectural response;
- Visual bulk;
- Does not comply with the Bayside Neighbourhood Urban Charter review; and
- Does not comply with the Better Apartment Design Standards.

Consultation meeting

Council offered the applicant the opportunity to facilitate a consultation meeting; however the applicant advised they would respond in writing. At the time of writing the report no response has been received from the applicant.

4. Recommendation

That Council:

Advises all parties of a decision to **Support the Grant of a Planning Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning Application 2016/605/1** for the land known and described as **2A Dendy Street, Brighton**, for the **construction of a double storey dwelling with two storey basement comprising four dwellings and a roof deck in the Design and Development Overlay 1 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 amended plans with date stamped 14 November 2016 but modified to show:
   a) The parapet from the floor level of the roof decks and above to be set in 2 metres from the first floor elevations directly below on all sides.
   b) Parapet around the roof decks to be raised to 1.7 metres above the floor levels of the roof decks or planters to be utilised to ensure no direct line of sight is provided from the roof decks to neighbouring windows within 9
metres as measured from 1.7 metres above the floor level of the roof decks.

c) First floor western elevation of dwelling four to be setback 215mm from the western elevation of dwelling two below.

d) Boundary fencing to the eastern and western property boundaries to a minimum of 1.8 metres in height.

e) Screening to 1.7 metres in height to the rear first floor balcony of dwelling four within 9 metres of 8/108 Esplanade.

f) North facing window serving the study of dwelling four to have a sill height of 1.7 metres above finished floor level.

g) Basement ramp to show relevant AHD levels at each grade point.

h) Adequate sight lines must be provided where the driveway intersects with the footpath in accordance with AS2890.1. Accordingly, all structures including foliage and fences within these sightlines to be a maximum height of 1 metre.

i) Existing western crossover to be removed.

j) The impact, if any, the proposed vehicle crossing will have on Council assets such as pits and trees. Such items must be accurately shown on the plans.

k) The omission of the Bay Laurel (Laurus nobilis) for one canopy tree capable of reaching 12 metres in height and 8 metres in spread at maturity to be centrally located in the front setback of the site.

l) The extent of paving in the front open space of dwelling one reduced by 50% and the remaining paving to be permeable to water.

m) A Waste Management Plan in accordance with Condition 13 from this permit.

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

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

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

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

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

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

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

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

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

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

12. Before the development starts tree protection fencing is to be established around the Fraxinus angustifolia subsp. angustifolia (Desert Ash) street tree prior to demolition and maintained until all works on site are complete. The fencing is to be constructed and secured so its positioning cannot be modified by site workers. The fencing is to encompass the entire naturestrip under the drip line of the tree. The Tree Protection Zone is to be established and maintained in accordance with AS 4970-2009. During construction of the crossover, tree protection fencing may be reduced to the edge of the Council approved crossover to facilitate the construction of the crossover. Soil excavation must not occur within 3 metres of the Fraxinus angustifolia subsp. angustifolia (Desert Ash) street tree’s stems at ground level.

13. Prior to the endorsement of plans pursuant to condition 1, Section 1.4 of the Waste Management Plan, prepared by Leigh Design Pty Ltd and dated 2016, to be updated to include the following text:

   a) Hard waste and bundled branch collections arranged through Council must comply with Council service requirements and will be arranged by individual property occupants/owners. Hard waste items can be taken to Bayside’s Waste Transfer and Recycling Centre at 144 Talinga Road, Cheltenham. Fees and charges may apply.

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

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

16. 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.

• The applicant is to bear the cost to remove and reinstate any street furniture or infrastructure items to provide the required access to the proposed development.

• Council records indicate that there is no easement within the property.

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

5. **Council Policy**

Council Plan 2013-2017

Relevant strategies of the Council plan include:

- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.

- 3.1.3 Advocating Council’s planning and urban design objectives.

Bayside Planning Scheme

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy
- 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 C1 and the proposal is considered to demonstrate a high level of compliance with the preferred future character.
statement and precinct guidelines as contained in Attachment 3.

In particular, the existing building is not considered to make a significant contribution to the character of the precinct which would warrant its retention. As such, the removal of the existing building is considered acceptable subject to a suitably designed and detailed replacement. Provided the hard paving in the front garden is reduced, sufficient space is considered to be retained around the dwellings to achieve a meaningful level of vegetation and planting. The first floor front elevation would not be recessed back from the ground floor; however the design would incorporate a front balcony, a large amount of glazing and an angled verandah above that would assist in reducing the mass of the first floor and ensure it does not present as dominant in the streetscape.

While the proposal would not encourage the openess of the streetscape, given the proliferation of high, solid front fencing at this end of Dendy Street, the proposal is considered to respond to the existing neighbourhood character. The front elevation is considered to be well articulated with a balcony, glazing and the angled overhang below the front parapet. The proposal would employ a variety of materials including light brick, white render, light tiles, metal screens and dark metal cladding.

6.2. Design and Development Overlay 1

The subject site is located within the Design and Development Overlay 1 (DDO1) and the proposal does not fall within any of the permit exemptions in the overlay. Pursuant to DDO1, buildings and works must be constructed in accordance with the following permit requirements:

- Building height must not exceed 2 storeys (excluding an attic or basement).
- A roof deck must:
  - Be designed and constructed of materials that integrate with the architectural style and form of the building.
  - Be set back at least 2 metres from the roof edge immediately below on all sides to minimise the visual impact on the street, coastal environs and adjoining properties.
  - Be designed to limit views into secluded private open space and habitable room windows of adjacent dwellings.
  - Not include any structures or elements that exceed a height of 1.7 metres, apart from an access structure.
  - Be accessed by a structure that is designed and located to have minimal impact on the street and adjoining properties, does not enclose any useable floor space and does not exceed 2.4 metres in height (measured from floor level at the point of access onto the roof deck).

The floor space of the roof decks would be setback two metres from the lower level elevations; however the planters and parapets surrounding the roof decks would extend out in line with the lower level elevations. The purpose of the two metre setback requirement in the DDO1 is to minimise the visual impact on the street, coastal environs and adjoining properties. As such the intention of the setback is clearly for all aspects of the roof deck that may have a visual impact as viewed from the surrounds of a site to be setback two metres. A condition of approval is recommended for the parapet surrounding the roof deck to be setback a minimum of two metres from the first floor elevations below.

Section A and B submitted with the application demonstrate that the parapet to 1.2 metres around the roof decks would ensure no overlooking of neighbouring windows within 9 metres would occur. Subject to the condition of approval requiring a two metre setback of the parapet around the roof decks, a further condition of approval is recommended to ensure no overlooking impacts are created as a result on this
development change. It is noted the roof terrace at No.4 Dendy Street is in excess of 11 metres from the roof deck associated with dwelling one and would not be subject to unreasonable overlooking from the proposal.

The roof decks would be accessed by a structure housing lifts and access stairs that would extend to 2.4 metres above the floor level of the roof deck. The access structures do not enclose any usable floor space and have been located and designed to minimise impacts on the street and surrounding properties. The proposal includes pergolas extending from the access structure. Given the open nature of a pergola it cannot be said to enclose usable floor space. The sitting and design of the pergolas would ensure they minimise any impacts on the street and surrounding properties.

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

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

**Street Setback (Standard B6)**

<table>
<thead>
<tr>
<th></th>
<th>Required (Minimum)</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dendy Street</td>
<td>5.97m</td>
<td>5.5m</td>
<td>0.47m</td>
</tr>
</tbody>
</table>

A street setback of 5.5 metres is proposed, which requires a variation of 0.47 metres. 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.

No.2 and 4 Dendy Street are setback from the street 5.97 and 5.5 metres respectively. The substantial setbacks from the side boundaries at the frontage of the development would also soften the transition in street setbacks between the two neighbouring properties. In this context the proposal is considered to provide a graduated setback between the two neighbouring properties.

It is noted the planter to the first floor balcony of dwelling three would overhang the front elevation out to an additional 0.9 metres in the north-west corner of the proposed building at its furthest point. The angular design of the planter reduces its visual presence in the context of how the setback of the building is read from the street. Furthermore, the first floor planter would not prejudice planting in the front garden and would add soft landscaping to the buildings frontage.

Given all of the above, the proposal is considered to sit comfortably in the existing streetscape and would make efficient use of the site. The proposed variation to the street setback is considered to meet the objection of the standard.

**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>East (side)</td>
<td>0m or 2m</td>
<td>Dwelling 1 – 5.2m</td>
</tr>
<tr>
<td></td>
<td>3.89m</td>
<td>Dwelling 2 – 2m</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2m</td>
<td>Dwelling 1 – 4m</td>
</tr>
<tr>
<td></td>
<td>3.89m</td>
<td>Dwelling 2 – 2m</td>
</tr>
</tbody>
</table>
The development proposes to vary a number of side and rear setbacks at first floor and above. 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 development as proposed is not considered to respect the existing or preferred neighbourhood character of the area and would not result in unreasonable amenity impacts on neighbouring properties.

As discussed under the Design and Development Overlay 1 section of the report, to meet the permit requirements of the overlay a condition of approval is recommended for the parapet at roof deck level to be set in two metres from the elevations of the first floor below. This condition would also ensure the proposal complies with the setbacks requirements of Standard B17 from the eastern boundary at all floors.

Notwithstanding the condition of approval relating to the roof deck parapet, the proposal would continue to vary the setback standards in relation to the western elevation at first floor level. A variation of 0.8 and 2.08 metres in relation to dwelling three and four respectively would remain. Given the existing two storey dwelling on site is setback only 1.6 metres from this side boundary, these proposed variations are considered to respect existing neighbourhood character. While the setback of dwelling three from the western boundary represents an increase over the current dwelling on site and may improve the light and outlook afforded to the adjacent windows at No.2 Dendy Street, the proposal extends further rearward than the existing dwelling and would be adjacent to a number of east facing windows at No.2 Dendy Street that previously did not face any built form. The amenity impact of the setback of dwelling four in relation to the adjacent windows at No.2 Dendy Street is discussed below in the Daylight to Existing Windows Standard section of the report and a condition of approval is recommended in response.

Despite the condition of approval recommended regarding the rear setback of the roof deck parapet, the proposal would vary the setback standard at first floor level by 190mm and at roof deck level by 380mm. The property to the rear of the subject site, No.108 Esplanade, presents single storey garages and a driveway directly to the rear of the proposed building. Given 8/108 Esplanade is set away from and is not oriented towards the proposal, the variations to the rear setback are not considered to result in unreasonable visual bulk impacts to this property. Units 1, 2, 3 and 4/108 Esplanade are oriented towards the subject site; however given the setback in excess of 18 metres from the proposed rear setback variations, the proposal is not considered to present unreasonable visual bulk impacts to these properties.

Given all of the above, subject to conditions of approval the proposal is considered to
achieve the objective of respecting the existing and preferred neighbourhood character of the precinct and would limit amenity impacts on neighbouring properties.

**Daylight to Existing Windows (Standard B19)**

The western elevation of dwelling two and four would be setback from the ground floor habitable windows at No.2 Dendy Street by 3.16 metres which does not achieve the daylight to existing windows standard. The objective of the standard is to allow adequate daylight into existing habitable room windows.

The variation to this standard as proposed would unreasonably impact on the available daylight to the existing habitable windows at No.2 Dendy Street adjacent to dwellings two and four. These windows currently receive relatively uninterrupted levels of daylight as the existing dwelling on No.2A Dendy Street does not extend to be adjacent to these windows.

Subject to the conditions of approval discussed above which would setback the roof deck parapet and reduce the sheer wall height of the western elevation of dwellings two and four, a setback of 3.375 metres would be required to achieve Standard B19. Given the uninterrupted existing level of daylight afforded to the adjacent windows at No.2 Dendy Street, any variation to this standard in relation to these windows is considered to impede adequate levels of daylight, contrary to the objective of this control. Although the standard relates to the setback of the entire wall, it is the setback of the first floor which would have the greatest impact on the adjacent neighbouring windows. As such a condition of approval is recommended for an additional setback of 215mm of the western elevation of dwelling four. Subject to this condition, the proposal is considered to achieve the objective of ensuring adequate daylight is received by all neighbouring windows serving habitable rooms.

**Overshadowing Open Space (Standard B21)**

The shadow diagrams submitted with the application demonstrate that 75% of the private open space of No.2 Dendy Street currently receives less than five hours of sunlight between 9am and 3pm on 22 September. The proposal contributes a small amount of additional overshadowing towards the rear of the neighbouring property at 10am on the equinox and as such does not technically comply with this standard. The objective of this control is to ensure buildings do not significantly overshadow existing secluded private open space.

Given the minor amount of additional overshadowing and as the proposal would increase the direct sunlight to another area of private open space at No.2 Dendy Street, the proposal is considered to achieve the objective of this standard.

**Overlooking (Standard B22)**

The first floor side facing windows serving dwellings three and four are proposed to all have sill heights of 1.8 metres above finished floor level. This exceeds the requirements of the overlooking standard. The existing timber palings boundary fencing is 1.9 metres and 2.2 metres in height on the eastern and western boundaries respectively. The proposed site plan does not clarify if this boundary fencing will remain. To accord with the overlooking standard a condition of approval is recommended for boundary fencing to a minimum of 1.8 metres in height to be retained or reinstated.

The first floor balcony to dwelling four is located 4.7 metres from the rear property boundary with No.108 Esplanade. The first floor balcony would be within 9 metres of the front garden area, front door and first floor window of 8/108 Esplanade. To comply with the standard a condition of approval is recommended to construct screening to 1.7 metres in height to the eastern portion of the balcony within 9 metres of the dwelling to the rear.

The potential for overlooking from the roof decks is discussed under the Design and Development Overlay 1 section above.
Internal Views (Standard B23)
The first floor north facing window serving the study of dwelling four appears to have a sill height of 1.8 metres above finished floor level which would ensure no overlooking of the adjacent ground floor private open space would occur; however this has not been annotated on the plans. A condition of approval is recommended to clarify the sill height of this window.

The first floor balcony to dwelling three would not be screened from overlooking the private open space of dwelling one below. Given this balcony faces Dendy Street, any screening would disrupt passive surveillance opportunities of the street. The high front boundary wall precludes passive surveillance and a visual connection with the street at ground floor level and as such screening to the balcony of dwelling three is not desirable. It is noted the second area of private open space afforded to dwelling one would not be overlooked. In this context the lack of screening to the balcony of dwelling three is considered appropriate.

No screening is proposed to the first floor balcony of dwelling four; however the balcony overlooks less than half of the private open space of dwelling two and as such meets the internal overlooking standard. Given all the above, subject to the condition clarifying the sill height of the window serving the study of dwelling four, the proposal is considered to achieve the objective of this standard.

Front Fence (Standard B32)
A brickwork front fence is proposed to between 1.8 and 2.1 metres in height. Pursuant to this standard a front fence to 1.2 metres is required. The objective of this standard is to encourage front fence design that respects the existing or preferred neighbourhood character.

Dendy Street is a Category 2 Road Zone and experiences a reasonable level of traffic. There are a number of examples of high and solid front fencing in the immediate vicinity, including at the adjacent No.4 Dendy Street. In this context the proposed boundary wall is considered to respond to the existing character of the area.

6.4. Car parking and traffic
Each dwelling is provided with two car spaces in accordance with Clause 52.06. Council’s Traffic Engineer has reviewed the application and raised no objection subject to minor conditions, including clarification of the basement ramp gradient levels, removal of the redundant crossover and sightlines to the remaining crossing in accordance with the Australian Standard. All recommendations are included as conditions of approval.

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

6.5. Street tree removal
Council’s Open Space Arborist has reviewed the application and advises there is a Fraxinus angustifolia subsp. angustifolia (Desert Ash) street tree fronting the property. The Open Space Arborist advises the location of the proposed vehicle crossing will not impact the tree’s health and stability; however, soil excavation must not occur within 3.0 from the edge of the street trees stem at ground level. A condition of approval is recommended to reflect this advice.

6.6. Vegetation & Landscaping
From an arboricultural perspective Council’s Arborist has reviewed the application and visited the site, and advises that the following on site trees would require removal:

- Pittosporum eugenioides
- Camellia sinensis
- Nerium oleander
- Cupressus sempervirens
- Syagrus romanzoffiana

Council’s Arborist has advised that all trees on site are in fair to good health and structure; however they provide limited amenity value due to their small size. Removal of all trees on the development site is acceptable, subject to suitable new plantings.

Council’s Arborist has requested amendments to the proposed landscape plan, including the omission of the Bay Laurel (*Laurus nobilis*) for one canopy tree capable of reaching 12 metres in height and 8 metres in spread at maturity to be centrally located in the front setback of the site. To provide sufficient soil volume to ensure the successful establishment and longevity of this canopy tree, Council’s Arborist has requested the extent of paving in the front open space of dwelling one be reduced by 50% and the remaining paving to be permeable to water. Conditions of approval are recommended for all of the above. Council’s Arborist has advised there are no trees on neighbouring properties with tree protection zones that extend into the subject property.

6.7. Waste Management

A waste management plan, prepared by Leigh Design Pty Ltd, was submitted in support of the application. A bin store is proposed at basement level with the capacity for four 80 litre rubbish bins and four 240 litre recycling bins. Council’s Waste Management Specialist had reviewed the application and has requested minor changes to the waste management plan regarding hard waste and bundled branch collections. A condition of approval is recommended that reflects this recommendation.

6.8. Objections received

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

Heritage Value of Existing Building

An objector has raised concerns with the heritage value of the existing building and has requested a referral be sought from Heritage Victoria. The property is not identified in the Bayside Planning Scheme as being of sufficient merit to warrant protection with a heritage overlay and the property is not listed in the Heritage Victoria Register. As such there is no requirement under Clause 66 of the Bayside Scheme or the Heritage Act 1995 to refer the application to Heritage Victoria.

Bayside Neighbourhood Urban Charter Review

Officers assume the objector is referring to the Neighbourhood Character review undertaken and incorporated into the Bayside Planning Scheme through amendment C80. The amendment was incorporated into the scheme in April 2012. The assessment of the proposal against the preferred future neighbourhood character can be found in Attachment 3 and section 6.1 of this report.

Better Apartment Design Standards

The subject site is located within the Neighbourhood Residential Zone and the development proposed is limited to two storeys. As such the provisions of Clause 55 (ResCode) of the Bayside Planning Scheme are relevant in this assessment of the proposal and the Better Apartment Design Standards do not apply. It is further noted the Better Apartment Design Standards come into effect on the 1<sup>st</sup> of March 2017 and the transitional provisions state they do not apply to any application lodged prior to their introduction.
Support Attachments

1. Development Plans ↓
2. Site Surrounds and Imagery ↓
3. Neighbourhood Character Assessment Precinct C1 ↓
4. Clause 55 (ResCode) Assessment ↓
Item 4.2 – Matters of Decision
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
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<tbody>
<tr>
<td>Subject site</td>
</tr>
<tr>
<td>Objector(s)</td>
</tr>
</tbody>
</table>
Figure 2 View from Dendy Street towards the subject site looking south

Figure 3 View from Dendy Street towards the site interface with No.2 Dendy Street
Figure 4 View from Dendy Street towards No.2 and 2B Dendy Street

Figure 5 View from Dendy Street towards No.4 Dendy Street
Figure 6 View from Dendy Street of No.4, 4A and 6 Dendy Street
ATTACHMENT 3
Neighbourhood Character Policy (Precinct C1)

Preferred Future Character

The mix of dwelling styles, including a substantial presence of pre WW2 dwellings, sit within spacious gardens and do not dominate or overwhelm the streetscape. Garden plantings, and well-articulated façades and roof forms, assist in minimising the dominance of buildings from within the street space, as well as providing visual interest. Front setbacks allow planting of substantial trees and shrubs and side setbacks on both sides maintain a sense of spaciousness in the area. Trees are a mixture of exotic and natives, with an increasing frequency of traditional coastal and indigenous species, strengthening the visual connection of the area with the coast. Open style front fences retain an ability to view buildings from the street. Buildings fronting the foreshore reflect their setting and provide a visually attractive built form interface with the reserve.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
• Alterations and extensions should retain the front of these dwellings. | Demolition of dwellings that contribute to the valued character of the Precinct. | Responds  
The existing two storey building features a double storey bay with simple front gable, white render and tiles with contrasting ridge capping. An unusual front extension and replacement windows detract from its appearance. The existing building is not considered to make a significant contribution to the character of the precinct that warrants its retention. As such, the removal of the existing building is considered acceptable subject to a suitably designed and detailed replacement. |
| To maintain and enhance the spacious                                       | • Prepare a landscape plan to accompany all applications for new                   | Lack of landscaping and substantial vegetation.                                       | Responds                    |

Item 4.2 – Matters of Decision
<table>
<thead>
<tr>
<th>Objectives</th>
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<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>garden settings of the dwellings.</td>
<td>dwellings that includes substantial trees and shrubs.</td>
<td></td>
<td>A landscape plan has been submitted in support of the proposal. Council’s Arborist has reviewed the plan and requested more suitable canopy planting and the hard landscaping in the front setback to be reduced to accommodate additional planting. Provided the hard landscaping in the front garden is reduced, sufficient space is considered to be retained around the dwellings to achieve a meaningful level of vegetation and planting. A more suitable species for the canopy tree planting and a reduction in hard landscaping in the front setback is recommended as a condition of approval.</td>
</tr>
</tbody>
</table>

To enhance the bayside vegetation character of the area.

- Retain large trees and established native and traditional coastal vegetation and provide for the planting of new indigenous coastal trees where possible
- | Removal of large native and coastal trees. | Planting of environmental weeds. | Responds Council’s Arborist has advised the existing vegetation on site provides limited amenity value and as such its removal is acceptable subject to suitable replacement planting. No significant native trees existing on site. |

To retain the sense of spaciousness in the area and provide adequate space for front gardens.

- Buildings should be sited to allow space for the planting of trees and shrubs.
- Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.
- | | | Responds The proposal would retain sufficient space around the building to accommodate a meaningful level of vegetation, provided the area of paving in the front garden is minimised. |

To minimise the dominance of car parking facilities, driveways and crossovers.

- Locate garages and car ports at or behind the line of the dwelling.
- Minimise hard paving in front yards.
- | Car parking facilities that dominate the facade or view of the dwelling. | | Responds The basement parking entry would be set behind the frontage of the building and the basement entry door would be set at |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To ensure that new buildings and extensions do not dominate the streetscape</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>Loss of front garden space.</td>
<td>basement level. The single crossover represents less than 20% of the site frontage and the redundant crossover would be removed. The entrance would be further softened with a planter above the entrance at ground level. The basement level car park would not dominate the frontage of the property.</td>
</tr>
</tbody>
</table>
| To respect the identified heritage qualities of adjoining buildings.       | Recess upper level elements from the front façade.                               | High pitched roof forms with dormer windows. | Responds  
Conditions of approval are recommended to require the parapet associated with the roof decks to be setback 2 metres from the first floor elevations below. The first floor front elevation would not be recessed back from the ground floor; however the design would incorporate a front balcony, a large amount of glazing and an angled verandah above that would assist in reducing the mass of the first floor and ensure it does not present as dominant in the streetscape. In addition there are a number of properties in the immediate surrounds with first floors that are not recessed from lower levels, including No.2B and 4A Dendy Street. |

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To ensure that new buildings and extensions do not dominate the streetscape | Where adjoining an identified heritage building, respect the height, building forms, siting and materials, of the heritage building/s in the new building design. | Buildings that dominate heritage buildings by height, siting or massing. | Responds  
No buildings surrounding the subject site have been identified as deserving of specific heritage protection in the Bayside Planning Scheme. It is noted No.2 and 4 Dendy Street are contemporary developments. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
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</thead>
</table>
| To encourage the openness of the streetscape. | • Provide open style fencing, other than along heavily trafficked roads. | High, solid front fencing. | Responds  
The proposal would construct a front boundary wall ranging from 1.8 to 2.1 metres in height to replace the existing 1 metre (approx.) high front fence. The proposed front fence would create a solid visual barrier between the street and the ground floor frontage of the development. While the proposal would not encourage openness of the streetscape, given the proliferation of high, solid front fencing at this end of Dendy Street, the proposal is considered to respond to the existing neighbourhood character. |
| To create a visually interesting and attractive built form interface with the foreshore reserve, on properties fronting the reserve and visible from the reserve. | • Articulate the form of buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies, verandahs, non-reflective glazing and light, transparent balustrading.  
• Use a mix of contemporary and traditional coastal materials, textures and finishes, including render, timber, non-masonry sheeting, glazing, stone and brick.  
• Provide a fence or landscaping treatment to delineate the property boundary fronting the foreshore reserve.  
• Provide articulated roof forms to create an interesting skyline when viewed from the beach. | Buildings that have no relationship to the foreshore setting.  
Poorly articulated roof and building forms.  
Highly reflective materials or glazing.  
Blank walls facing the foreshore.  
Lack of distinction between public and private spaces along the foreshore. | Responds  
The subject site is only visible in an obscure view from the foreshore reserve. The front elevation is considered to be well articulated with a balcony, glazing and the angled overhang below the front parapet. The proposal would employ a variety of materials including light brick, white render, light tiles, metal screens and dark metal cladding. |
## ATTACHMENT 4
### ResCode (Clause 55) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Requirement and Proposed</th>
</tr>
</thead>
</table>
| **B1 Neighbourhood Character**  
Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.  
Development responds to features of the site and surrounding area. | Yes | Refer to Attachment 3. |
| **B2 Residential Policy**  
Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.  
Support medium densities in areas to take advantage of public transport and community infrastructure and services. | Yes | The construction of a medium density development is supported by relevant policies for the site. |
| **B3 Dwelling Diversity**  
Encourages a range of dwelling sizes and types in developments of ten or more dwellings. | N/A | |
| **B4 Infrastructure**  
Provides appropriate utility services and infrastructure without overloading the capacity. | Yes | The dwellings will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development. |
| **B5 Integration with the Street**  
Integrate the layout of development with the street | Yes | The proposed high front boundary wall would preclude link between the ground floor unit and the street; however the first floor balcony and living space for Unit 3 would be orientated to look out over the street. Given the surrounding character which includes a number of high solid front fences, the development is considered to integrate appropriately with the street. |
| **B6 Street Setback**  
The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site. | No | **Required**: 5.97m  
**Proposed**: 4.6m to first floor planter and 5.5m to front elevation  
Refer to report |
| **B7 Building Height** | Yes | **Maximum**: 9.51m  
**Proposed**: 9.46m |
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Maximum</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>B8 Site Coverage</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Yes</td>
<td>50%</td>
<td>47.2%</td>
</tr>
<tr>
<td>B9 Permeability</td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
<td>20%</td>
<td>26.3%</td>
</tr>
<tr>
<td>B10 Energy Efficiency</td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>Yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B11 Open Space</td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B12 Safety</td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Yes</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| B13 Landscaping  | To provide appropriate landscaping. To encourage:  
  - Development that respects the landscape character of the neighbourhood.  
  - Development that maintains and enhances habitat for plants and animals in locations of habitat importance.  
  - The retention of mature vegetation on the site. | Yes      |         |          |
| B14 Access       | Ensure the safe, manageable and convenient vehicle access to and from the development. | Yes      | 33%     | 18.5%    |
Ensure the number and design of vehicle crossovers respects neighbourhood character.

<table>
<thead>
<tr>
<th>B15 Parking Location</th>
<th>Yes</th>
<th>Two car parking spaces are provided for each dwelling at basement level. The proposed parking location is secure and convenient for future residents.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide resident and visitor vehicles with convenient parking.</td>
<td></td>
<td></td>
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<tr>
<td>Avoid parking and traffic difficulties in the development and the neighbourhood.</td>
<td></td>
<td></td>
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<tr>
<td>Protect residents from vehicular noise within developments.</td>
<td></td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>B17 Side and Rear Setbacks</th>
<th>No</th>
<th>Refer to table below and report. Non-compliances are underlined below.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</td>
<td></td>
<td></td>
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</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>East (side)</td>
<td>Dwelling 1 – 5.2m</td>
</tr>
<tr>
<td></td>
<td>Dwelling 2 – 3.89m</td>
</tr>
<tr>
<td>West (side)</td>
<td>Dwelling 1 – 4m</td>
</tr>
<tr>
<td></td>
<td>Dwelling 2 – 2m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>0m or 3m</td>
</tr>
<tr>
<td>Parapet to roof decks</td>
<td></td>
</tr>
<tr>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>East (side)</td>
<td>Dwelling 3 – 6.08m</td>
</tr>
<tr>
<td></td>
<td>Dwelling 4 – 5.81m</td>
</tr>
<tr>
<td>West (side)</td>
<td>Dwelling 3 – 6.8m</td>
</tr>
<tr>
<td></td>
<td>Dwelling 4 – 6.08m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>7.08m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B18 Walls on Boundaries</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
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<tr>
<td>------</td>
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</tr>
<tr>
<td>B19</td>
<td>Daylight to Existing Windows</td>
</tr>
<tr>
<td>B20</td>
<td>North Facing Windows</td>
</tr>
<tr>
<td>B21</td>
<td>Overshadowing Open Space</td>
</tr>
<tr>
<td>B22</td>
<td>Overlooking</td>
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<tr>
<td>B23</td>
<td>Internal Views</td>
</tr>
<tr>
<td>B24</td>
<td>Noise Impacts</td>
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<td>B25</td>
<td>Accessibility</td>
</tr>
<tr>
<td>B26</td>
<td>Dwelling Entry</td>
</tr>
<tr>
<td>B27</td>
<td>Daylight to New Windows</td>
</tr>
<tr>
<td>Item</td>
<td>B28 Private Open Space</td>
</tr>
<tr>
<td>------</td>
<td>------------------------</td>
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<td></td>
<td>Provide reasonable recreation and service needs of residents by adequate private open space.</td>
</tr>
</tbody>
</table>
| Yes | Minimum at Ground Floor: 25m² secluded & 40m² overall  
Minimum at First Floor: 8m² balcony or 10m² roof deck  
Proposed:  
Dwelling one: 50m² secluded & 151m²  
Dwelling two: 53m² secluded & 264m²  
Dwelling three: 50m² secluded & 68m²  
Dwelling four: 53m² secluded & 69m² | Yes | Appropriate solar access to the private open space areas at roof level is provided. | Yes | Designated storage areas in excess of 6m³ are provided at the cellar level. | Yes | Refer to Attachment 3. |
|      | It is noted the development changes recommended as conditions of approval would reduce the amount of SPOS located on the roof decks; however all units would continue to comfortably achieve the standard. | Yes | Refer to report | No | Maximum: 1.2m  
Proposed: 2.1m | Yes | Communal and private areas are clearly delineated. Common property is functional and capable of efficient management. |
|      | | | | | | | Plant and air conditioning units located in basement and services and gas metres appropriately located in accessible positions. |
1. **Purpose and background**

To report a planning permit application for the sale and consumption of liquor for a food and drink premises (Café) on a lot with an area of 3,616 square metres (refer Attachment 1) at 209-213 Bay Street, Brighton (refer Attachment 2).

The site forms part of a larger development approved by Planning Permit 2013/433/5 currently under construction for “The construction of a part four and part three storey building (plus two levels of basement car parking) for use as a food and drink premises (café) and 112 dwellings, a reduction in the required car parking rate and a waiver of the loading and unloading requirement in accordance with the endorsed plans.” (Refer Attachment 3 for copy of Ground Floor Endorsed Plan).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Planning and Property Partners</th>
</tr>
</thead>
<tbody>
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<td>Date application received</td>
<td>16 May 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>22 July 2016</td>
</tr>
</tbody>
</table>

2. **Policy implications**

**Planning permit requirements**

Clause 52.27 (Licenced Premises) – Sale and consumption of alcohol.

**Planning scheme amendments**

There are no planning scheme amendments of relevance to this proposal.

3. **Stakeholder Consultation**

**External referrals**

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

**Internal referrals**

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social Planner</td>
<td>No objections, subject to conditions.</td>
</tr>
</tbody>
</table>

**Public notification**

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

- General car parking related issues including increased on street parking demand and traffic congestion;
- Negative impacts to the community including increases in delinquency, increased violence.
Consultation meeting

The applicant advised they would liaise with the objectors independently regarding the concerns raised. An offer made by Council officers to arrange a mediation meeting was declined by the applicant.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2016/374/1 for the land known and described as 209-213 Bay Street, Brighton, for the sale and consumption of liquor in association with an existing food and drink premises (café) in accordance with the application plans and subject to the following conditions from the standard conditions:

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

a) The red line area limited to those where alcohol is to be sold and consumed internally and within the title boundary. Bathroom areas are to be deleted from the red line area.

b) A maximum of 34 internal seats to be shown on the seating plan.

2. The licenced area as shown on the endorsed plans must not be altered with the written consent of the Responsible Authority.

3. The sale and consumption of alcohol may only occur within the licensed area as shown on the endorsed plan.

4. The sale of alcohol may occur only between the following hours:

   • Monday to Saturday 7:00am to 11.00pm (excluding ANZAC Day and Good Friday).
   • Sunday 10:00am – 11.00pm
   • Noon to 11.00pm, ANZAC Day and Good Friday.

5. No more than 34 seats may be available for the consumption of liquor, unless with the prior written consent of the Responsible Authority.

6. The service and consumption of liquor must remain ancillary to the primary purpose of the premises being the service and consumption of food.

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

8. No external sound amplification equipment or loudspeakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose.

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

   a) The use is not started within two years of the date of this permit.
   b) The use is discontinued for a period of two years or more.
In accordance with Section 69 of the Planning and Environment Act 1987, the Responsible Authority may extend the periods referred to if a request is made in writing within the prescribed timeframes, where the use allowed by the permit has not yet started.

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.
- Prior to commencement of any building works, an Asset Protection Application must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.
- A Local Laws Permit will be required for any footpath trading.

5. Council Policy

Council Plan 2013-2017

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 11 Settlement
- Clause 17 Economic Development
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.07 Economic Development
- Clause 21.11 Local Areas (Bay Street, Brighton Major Activity Centre)
- Clause 32.08 General Residential Zone (Schedule 2)
- Clause 34.01 Commercial 1 Zone
- Clause 43.02 Design and Development Overlay (Schedule 10)
- Clause 52.27 Licenced Premises
- Clause 65 Decision Guidelines

6. Considerations

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

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

The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

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

The site is located within the Bay Street Major Activity Centre (Clause 21.11-2 of the Planning Scheme) which encourages economic development by facilitating new retail uses that don’t undermine the vibrancy of the public realm. The site is within Precinct 2, Western Office Area which seeks to promote “uses that generate pedestrian activity such as cafes, restaurants and entertainment uses without stifling office development” and “encourage redevelopment of larger sites for mixed use developments with basement car parking, commercial uses at ground level and residential above”.

The use as a food and drink premises (café) has already been established as part of the original planning permit approval. The application for a liquor licence is considered to add a further offer to the area that will complement the existing and preferred uses advocated by policy and ultimately the vibrancy of the area.

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

Council’s Social Planner has viewed the proposal commenting that the sale and consumption of alcohol at the site will have minimal impact upon the existing amenity of the surrounding area. The following points were considered:

- The site is not located within a socio-economically disadvantaged area.
- The nature of the venue as a restaurant/café whereby liquor will be served ancillary to food with seating available for all patrons will reduce potential impacts on the amenity of the area.

In order to protect the amenity of the area the number of patrons has been limited to 34 whilst Conditions 7 and 8 require noise levels to be controlled so as to not disrupt the amenity of residential properties in close proximity. It is noted the original permit does not specify the number of patrons on site, rather the floor area which remains unchanged. The number of patrons proposed corresponds with the required parking requirements previously approved and as discussed below.

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

It is noted that the hours of operation are not specifically addressed in the existing permit.

The proposed hours of operation between 7am – 11pm seven days align with VicHealth evidence that suggests they are not associated with increased alcohol related harm. The hours also generally comply with the Victorian Commission for Gambling and Liquor Regulation’s (VCGLR) ordinary trading hours but for opening hours on Sunday, ANZAC Day and Good Friday.
Condition 4 restricts the sale and consumption of alcohol to be generally compliant with the VCGLR’s requirements, with service of alcohol not occurring after 11.00pm.

The applicant notes that it is anticipated that the café will initially commence operating from 7am to 4pm with conventional café arrangements and some evening functions upon request. Due to the limited operations in the evening, it is considered that the use remains defined as a Food and Drink Premises (Café) as opposed to a restaurant which would require a variation to the parking requirements.

The proposed hours of operation for a limited number of patrons (34 internal patrons only) are therefore considered to be reasonable and unlikely to create undue detriment to the amenity of the surrounding area.

It is noted that the waste collection will be limited to the basement level and as such noise amenity impacts to adjoining residential properties will not result. Further conditions ensuring noise impacts are minimised through restricting amplified music.

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

There are a total of 34 patrons proposed to be accommodated within the premises. Whilst the liquor licence may increase accessibility of liquor to patrons on site, tables and chairs are available for all patrons and the outlet type remains clearly as a café whereby the sale and consumption of liquor is ancillary to the serving of food. It is therefore considered that the potential impacts of the liquor licence on the amenity of the surrounding area are acceptable. The use will not encourage people to gather in or near the cafe or encourage disruptive behaviour sometimes associated with other alcohol related uses such as a 'tavern' where late night spill of people may result in noise. Rather the limited number of patrons coupled with public transport links in close proximity allow for easy dispersal of patrons.

A further 16 patrons are proposed to be accommodated on the footpath but this is not within the ambit of discretion of the planning permit process. The applicant is advised a Local Laws permit must be sought for footpath trading. Condition 1(a) requires the deletion of the red line to the external seating area and Condition 1(b) requires an annotation showing a maximum of 34 patrons internally.

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

There are an estimated 33 liquor licences within a 500 metre radius of the proposed venue. This is over the threshold of increased alcohol related harms. Approximately 24 of these venues are licenced for a café for the sale and consumption of liquor. Council’s Health Planner advises that it is unlikely that the introduction of another restaurant / café licence in the area will have an adverse effect that may be associated with cumulative impact or increased alcohol related harms.

Whilst there is a high number of licenced venues in close proximity, it is considered that the liquor licence sought on the subject site will not negatively impact upon the amenity of the surrounding area and is unlikely to be associated with an increased risk of harm due to alcohol consumption due to the nature of the venue as a café.

The proposed liquor licence has been assessed against the relevant Decision Guidelines of Clause 52.27 and Councils Alcohol Harm Minimisation Policy and on balance is considered acceptable.
6.2 Objections received

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

Non-compliant operations of other premises within the area

Concerns relating to compliance with planning permit conditions of other licenced premises in the area have been referred to Council’s Investigation Team to follow-up.

General parking traffic related issues including, increased on street parking demand, traffic congestion, increased risk to pedestrians

There is no trigger for a parking or traffic consideration under Clause 52.06 of the Planning Scheme in this instance as the cafe use and floor area of the premises are to remain as existing. Notwithstanding this and pursuant to Clause 52.06 of the Bayside Planning Scheme a food and drink premises should be provided with four spaces to each 100 m² of leasable floor area. As such the provision of five car parking spaces within the basement demonstrates compliance for this use.

Negative impacts to the community including increases in delinquency and increased violence.

There is no evidence to suggest that the proposal will raise any negative impacts of this type to the community.

Support Attachments

1. Red Line Plan ↓
2. Site and Surrounds Imagery ↓
3. Approved Ground Floor Plan of Planning Permit 2013/433/1 ↓
Figure 1. Aerial Overview of subject site and objector map.

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th>⭐</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objectors</td>
<td>⚫</td>
</tr>
</tbody>
</table>
Figure 2. View looking north and north-west to the subject site.
Figure 3. View looking west across the subject site with the approved café to the right of the picture.
4.4 118 - 120 BEACH ROAD, SANDRINGHAM
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/295/1  WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/10727

1. Purpose and background
To report a planning permit application for the construction of an 8 metre high by 2.47 metre wide major promotion sign, comprising an LED display screen on a lot with an area of 4,353 square metres (refer Attachment 1) at 118 - 120 Beach Road, Sandringham (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Bentleigh Group</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>24 June 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>21 September 2016</td>
</tr>
</tbody>
</table>

2. Policy implications
Planning permit requirements
Clause 52.05-7 (Advertising signs) – Construct or display a major promotion sign
Planning scheme amendments
Planning Scheme Amendment C153 has been initiated by Council and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process will conclude on 16 January 2017 and a report considering submissions will be presented to Council early in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and Adopted. As such, there is no statutory weight which can be given to Amendment C153. Amendment C153 does not affect proposals on this site.

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

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

Internal referrals
There were no internal referrals required 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 seven objections were received. The following concerns were raised:
- Illumination level too high and too close to bedrooms;
- Amenity impacts affecting bedroom and living areas;
- Decreased property values;
- Inconsistency of plans in relation to height of proposed sign and whether height is as per existing;
- Not in keeping with the character of the area and building façade; and
- Size of sign will obstruct ocean views.

**Consultation meeting**

The applicant declined a consultation meeting and confirmed verbally that it was felt a consultation meeting would not resolve the issues as presented by the objectors.

4. **Recommendation**

That Council:

Issues a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning Application 2016/295/1** for the land known and described as **118 – 120 Beach Road, Sandringham** for the **construction of a major promotion sign** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the use starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application Council date stamped 24 June 2016 but modified to show:
   a) The LED screen replaced with a static, non-animated image, which may be internally illuminated.
   b) The site plan fully dimensioned with all advertising along Bay Road, Beach Road and the Beach Road/Melrose Street corner, notated and marked as to be removed.
   c) The sign to be a maximum of 8 metres in height from Natural Ground Level.
   d) Any changes required by Condition 11 of this permit.

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

**Vic Roads Conditions (No’s 3 - 8)**

3. The sign hereby permitted must not:
   a) Dazzle or distract drivers due to its colouring.
   b) Be able to be mistaken for a traffic signal because it has, for example, red circles, octagons, crosses or triangles.
   c) Be able to be mistaken as an instruction to drivers.

4. The sign must be constructed to the satisfaction of the Responsible Authority, and must be maintained to the satisfaction of the Responsible Authority.

5. In relation to the images displayed on the sign:
a) Any one image must be presented in a completely static manner with no animated of moving style advertising or messages;

b) The dwell time for each image must be no less than 45 seconds;

c) Transition between each image must be instantaneous; and

d) The sign must not be used for any live television, satellite, internet or similar broadcast.

All to the satisfaction of the Responsible Authority.

6. The sign must not display intermittent light(s), advertising or messages which contain any repeated directional motion, flicker or flashing content to the satisfaction of the Responsible Authority.

7. The luminance of the sign permitted by this permit must be such that it does not give a veiling luminance to the driver of greater than 0.25cd/m² throughout the drivers approach to the permitted sign.

8. The sign must be fitted with automatic ambient light conditions sensors to control light intensity output/luminance to the satisfaction of the Responsible Authority.

General

9. All sign must be located wholly within the boundaries of the land.

10. The design and construction of the sign must not allow movement of the sign or any part of the sign.

11. All additional signs, chalkboards and advertising, along the Melrose Street/Beach Road corner, Beach Road and the Beach Road/Bay Road intersection must be removed from the site within 30 days of new major promotion sign being installed to the satisfaction of the Responsible Authority.

12. This permit does not authorise the placement of other signs on the site.

Permit expiry

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

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 2013-2017

Relevant strategies of the Council plan include:

- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.

- 3.1.3 Advocating Council’s planning and urban design objectives.
Bayside Planning Scheme

- Clause 15 Built Environment and Heritage
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.06 Built Environment and Heritage
- Clause 21.11 Local Areas
- Clause 34.01 Commercial 1 Zone
- Clause 52.05 Advertising signs
- Clause 65 Decision Guidelines

6. Considerations

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

6.1. Strategic Justification

Clause 21.11 Local Areas refers to the Local Planning Policy Framework for Sandringham Village Major Activity Centre. Objective 3, seeks to improve the physical and visual connections between Sandringham Village and the foreshore and ‘Protect existing views from the public domain to Port Phillip Bay through the siting and massing of buildings, structures, signage and the selection of vegetation species’.

The site currently has a number of signs visible along both frontages (see figures 2 and 3 of Attachment 2) and a large 7.5 metres by 3.3 metre ‘Sandringham Hotel’ pylon located at the Beach and Bay Road intersection.

The proposed sign is to be located in the same location as the existing pylon sign to be replaced and is to be 8 metres in height and 2.47 metres wide. Whilst this is slightly higher than the existing sign (7.5m), it has a reduced width, and a condition has been placed on the permit for the sign to not exceed a height of 8 metres from Natural Ground Level to ensure the sign does not dominate the site or impact the foreshore environment. In addition, this sign will replace a number of existing signs that currently clutter the site and the images being presented to motorists and pedestrians.

Overall, the 8 metre height, in conjunction with the reduced width and removal of additional signs, will reduce clutter in the area and assist to improve and enhance the existing views.

Clause 21.06 Built Environment and Heritage of the Bayside Planning Scheme supports Clause 15 of the State Planning Policy Framework (Built Environment and Heritage). These policies seek to ensure development responds appropriately to the landscape, built form and context, whilst protecting places and sites with significant heritage, architectural, aesthetic, scientific and cultural value. There are a number of key areas highlighted in the policy accompanied by objectives and strategies, which seek to ensure the appropriate outcome is met. Of these key areas, ‘Coastal Design’ is most relevant to this application.

A number of key issues have been identified under this clause, which primarily relates to views, scenic routes and the landscape. The strategies outlined seek to improve, enhance and protect the area whilst providing for safe movement of vehicles, pedestrians and cyclists.
The proposed major promotion sign is an improvement on what is currently existing and the reduction of signage will ensure the design outcome is more appropriate to the location.

6.2. Advertising signage

The proposed sign is located within a Commercial 1 Zone and is immediately adjacent to the General Residential Zone (Schedule 2) on Beach Road, as such consideration needs to be given to the impact of the sign on neighbouring residential properties.

Whilst the proposed sign and reduction in advertising is considered to be an improved outcome, the proposed LED display screen however, is deemed inappropriate and considered to detrimentally impact upon amenity of neighbouring residential areas and the foreshore.

It is considered that the location of the sign within such close proximity to residential areas (see figures 2 and 4 of Attachment 2), is excessive and not considerate of any adverse amenity impacts. As such, it is considered more appropriate to replace the LED display screen with a static, non-animated image, which may be internally illuminated. This has been included as a permit condition.

In addition to this, the sign is appropriately located within a commercial area and will not be a visually dominant element along the street, primarily due to the location being offset approximately 2.3 metres from the title boundary. Furthermore, whilst vegetation is not considered suitable screening, the location of a medium canopy tree, to the southeast of the sign will soften the impact of the sign from residential areas.

6.3. Objections received

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

Property values

Property values are not a planning consideration.

Support Attachments

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
Item 4.4 – Matters of Decision
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

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

*Three (3) objectors are located outside the boundaries of map.*
Figure 2 View towards the site from the northwest

Figure 3 View towards the site from the southeast
Figure 4 View towards the site from the northwest (noting residential apartments in background)
1. **Purpose and background**

To report a planning permit application for the construction of a two double dwellings (refer Attachment 1) on a lot with an area of 766 metres square at 6 Charlotte Street, Brighton East (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Mr Joe Cornetta of Cornetta partners Architects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>20 June 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>19 August 2016</td>
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</table>

2. **Policy implications**

   **Planning permit requirements**

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

   **Planning scheme amendments**

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

   Planning Scheme Amendment C153 has been initiated by Council and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process will conclude on 16 January 2017 and a report considering submissions will be presented to Council early in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and adopted. As such, there is no statutory weight which can be given to Amendment C153. The site is not located within the SBO and will not be included within the SBO.

3. **Stakeholder Consultation**

   **External referrals**

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

   **Internal referrals**

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

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

No objection, subject to conditions.

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

- Overlooking;
- Loss of daylight;
- Loss of a view;
- Visual bulk;
- Overshadowing;
- Traffic and car parking;
- Safety; and
- Devaluation of property.

Consultation meeting
The applicant declined a consultation meeting.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2016/114/1 for the land known and described as 6 Charlotte Street, Brighton East, for the construction of two double storey dwellings in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the decision plans prepared by Cornetta partners Architects, received by Council on 20 June 2016, but modified to show:

   a) All plant, equipment, services and architectural features to be included on the plans and located appropriately to avoid impacts on the adjoining dwellings.

   b) A schedule of construction materials, external finishes and colours (incorporating example paint samples), ensuring there is a mixture of materials and finishes at ground and first floor level.

   c) The driveway must be offset 800mm from the northern property boundary line and be 3 metres wide.

   d) The crossover must be offset 1 metre away from the southern property boundary line with a 1 metre wide separator between the new and the neighbouring crossover.

   e) The driveway at the point of change of direction, must have a 4 metre internal radius.
f) Adequate sightlines must be provided where the proposed driveway intersects with the front footpath as per the diagram shown in AS2890.0.

g) The first floor east (rear) setback of dwelling 2 to be compliant with Standard B17 (Side and rear setbacks) of the Bayside Planning Scheme.

h) Compliance with Standard B19 (Daylight to existing windows) of Clause 55.04-3 of the Bayside Planning Scheme.

i) Details of the proposed screening to be used with a maximum visual permeability of 25% compliance with Standard B22 (Overlooking) of the Bayside Planning Scheme.

j) A landscape plan in accordance with Condition 8 of this permit.

k) Detailed plans to the satisfaction of the Responsible Authority drawn to scale with dimensions to show:
   i. The type of water sensitive urban design stormwater treatment measures to be used.
   ii. The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas.
   iii. Design details of the water sensitive urban design stormwater treatment measures, including cross sections.

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

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

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

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

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

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

7. Before the development starts tree protection fencing is to be established around the street trees marked for retention prior to demolition and maintained until all works on site are complete. The fencing is to be constructed and secured so its positioning cannot be modified by site workers. The fencing is to encompass the entire naturestrip under the drip line of the tree. The Tree Protection Zone is to be established and maintained in accordance with AS 4970-2009. During construction of the crossover, tree protection fencing may be reduced to the edge of the Council approved crossover to facilitate the construction of the crossover.
8. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must show:

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

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

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

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

e) Details of surface finishes of pathways and driveways.

f) Retention of the Liquidambar styraciflua (Liquidambar) in the front setback.

g) Include one tree each dwelling in the private open space of both dwellings which can reach a mature height of 6 metres and one tree to each dwelling within the front yard area which is capable of growing to a minimum mature height of 8 metres. These trees must be drought tolerant species.

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

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

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

12. 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.

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

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

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

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

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

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

**Permit Notes:**

- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council’s supervision for which 24 hours notice is required.
- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.

Prior to commencement of any building works, an Asset Protection Application must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.

5. **Council Policy**

**Council Plan 2013-2017**

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 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 D2)
- 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 D2 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The development incorporates appropriate boundary setbacks to reflect the built form pattern of the area while promoting adequate visual separation between the adjoining dwellings. The dwellings will sit comfortably within its context largely due to the articulated facades, pitched roof, appropriate front setbacks, materials and finishes that are complementary to the existing and the preferred character of the area.

Subject to conditions, the buildings setback from the side boundaries allows suitable landscaping opportunities to enhance the landscaped character of the area. The proposal will present as a single dwelling facing Charlotte Street and the proposed setback of 9 metres provides for an appropriate opportunity within which to establish substantial trees which would, in line with the preferred neighbourhood character for the area.

The proposed 1.15 metre high front fence ensures that the garden characteristics will be fully visible to the streetscape, taking into consideration the prominence of garden characteristics which positively contribute to the neighbourhood character and define the neighbourhood character. On balance, it is considered that the proposal is respectful of both the prevailing and preferred neighbourhood character and appropriately responds to the valued prevailing neighbourhood characteristics of garden spaces, detached dwellings and low front fences.

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

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

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

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

A rear setback of 3.152 metres is proposed in lieu of the required 4.78 metre setback. It is considered that the encroachments on the east side does not meet the objective considering the context of the site.

The encroachments will affect the level of amenity currently enjoyed and offends the preferred neighbourhood character, particularly in terms of overlooking and overshadowing.

The proposed setback does not respect both the existing and preferred neighbourhood character and will present in a visually unacceptable manner when viewed from the adjacent land.

The wall height to this elevation ranges between 4.8 to 4.9 metres which is considered to be a conservative wall height for a two storey form. Further, the use of exposed brick at the ground floor level and matrix cladding partially at the first floor level together with the fenestration detailing further negates the impact of a two storey form within a back yard setting. The plans indicate that it is proposed to plant three medium sized trees along the rear boundary which will further diminish the effects of the two storey form,
however, a condition has been included in the recommendation to bring the setback into compliance to reduce the amenity impact of the built form.

**Daylight to existing windows (Standard B19)**

Standard B19 (Daylight to existing windows objective) specifies that buildings opposite an existing habitable room window should provide for a light court to the existing window that has a minimum area of 3 square metres and minimum dimension of 1 metre clear to the sky. The proposal does not comply with respect to part of the Dwelling 2 garage wall which exceeds 3 metres in height. As such, a condition has been included requiring compliance with Standard B19.

**Overlooking (Standard B22)**

All habitable room windows have been screened and sited appropriately in accordance with this Standard. The proposal incorporates either the use of obscure, fixed glazing to any part of the window located within 1.7 metres of the floor level and other windows are highlight windows with the exception of a bathroom window on the north elevation and a door/window combination from the retreat area which leads to a balcony.

The bathroom window is not required to be screened as it is a non-habitable room window. The screening from the glazed door/window combination from the retreat room to either or the balcony is not required as there will not be any views gained into any adjoining habitable room windows or private open space areas within a 9 metre range.

### 6.3. Car parking and traffic

A minimum of two off-street parking spaces are to be provided for each dwelling, in accordance with the requirements of Clause 52.06 (Car parking) of the Planning Scheme.

Council’s Traffic Engineer has raised concerns with regard to the driveway offsets proposed away from the respective side boundaries and the requirement for a 4 metre internal radius to be provided to the dwelling 2 reversing area. This is included as a condition in the recommendation.

Council’s Traffic Engineer has also requested that a corner splay be provided to enable adequate visibility between the road and footpath users. This has been included as a condition in the recommendation.

The development is likely to result in a marginal increase in traffic, but can be accommodated within the surrounding street network.

Council’s Traffic engineer has no concerns with this minor increase in traffic.

### 6.4. Vegetation & Landscaping

Council’s Arborist has attended the site and has advised that the site contains a number of trees which otherwise would have required a Local Law Permit for removal. The trees and their location are as follows:

- *Liquidambar styraciflua* (Liquidambar). This is a mature tree located adjacent to the existing driveway at the entrance to the property. This tree provides a high level of amenity to the area, being highly visible from Charlotte Street and visible from surrounding streets and properties.
- *Pittosporum undulatum* (Sweet Pittosporum), mature tree in rear yard in good health.
- *Lagunaria petersonii* (Norfolk Island Hibiscus) mature tree in rear yard in good health.
- *Grevillea robusta* (Silky Oak), maturing tree in rear yard.
Additionally, there are three smaller trees located within the site. On balance, Council’s Arborist is of the view that only the Liquidambar located within the front yard is worthy of retention. A condition has been included.

With regard to future planting on the site, the development incorporates landscaping opportunities to achieve an outcome consistent with the existing and preferred character of the area. The Bayside City Council Landscape Guidelines (2015) specify that for low density applications, one large canopy tree (8 to 15 m height and greater than 4 m canopy spread) should be planted in the front of a dwelling and one large tree or two small (6 to 8 m height) trees are planted in the rear the site.

The proposal does not include planting of canopy trees in the rear of the proposed dwellings. It is considered appropriate to include permit conditions requiring the planting in accordance with the Bayside City Council Landscape Guidelines (2015).

A condition is included in the recommendation to amend the landscape plan in the following ways:

- Include one tree in the private open spaces of both proposed dwellings which can reach a mature height of 8 m. These trees must drought tolerant species.

The landscape plan must also include a variety of shrubs and ground covers within the front and rear setbacks, and along the side boundaries. These requirements will achieve an outcome consistent with the preferred landscaped character of the area.

6.5. Street Trees

It is noted the existing crossover and associated upgrades are sufficiently offset from the street tree so as to avoid any impacts during construction. Council's Street Tree Arborist has viewed the proposal and has recommended that Tree Protection measures are included to safeguard the retention of those trees.

6.6. Objections received

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

Overshadowing

The applicant provided additional overshadowing analysis in response to concerns that the development will result in an unreasonable level of overshadowing to adjoining properties. The shadow diagrams submitted with the application demonstrate that at least 75%/40 square metres of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September in accordance with Standard B21 of the Bayside Planning Scheme.

Loss of a view

With regard to the concerns with regard to a 'loss of a view' it should be noted that the Victorian Civil and Administrative Tribunal has consistently found that although impact upon views can be considered amongst the amenity impacts of a proposal, there cannot be considered a right to any particular view. In the absence of particular planning controls which might require the protection of, or sharing of views, loss of views is usually afforded very limited weight. This is especially the case where a view is obtained across adjoining land and the views are not afforded any special consideration in a planning control. In this case the development is not considered to intrude unreasonably upon the skyline to reduce the amenity of neighbours through their outlook or access to daylight.

Devaluation of property

The Victorian Civil and Administrative Tribunal has consistently found that property values are speculative and not a planning matter.
Support Attachments

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment ↓
4. Clause 55 (ResCode) Assessment ↓
Item 4.5 – Matters of Decision
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th>⭐️</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objector(s)</td>
<td>⬤</td>
</tr>
</tbody>
</table>
Figure 2 View of the site as seem from Charlotte Street
ATTACHMENT 3
Neighbourhood Character Precinct D2

Preferred Future Character Statement

The simple, articulated dwellings sit within landscaped gardens. Buildings are occasionally built to the side boundary; however the overall impression of the streetscape is of buildings within a garden setting due to the regular front setbacks and additional tree planting within the area. New buildings blend with the existing, by following these patterns and using materials that harmonise, where brick colours are consistent in a street. Front fences are low or open retaining the openness of the streetscape and view of the front gardens. On properties that adjoin the golf course, buildings are sited and designed so as not to overwhelm the open space. Consistent street tree planting has assisted in unifying the appearance of the area.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To maintain and enhance the garden settings of the dwellings.</td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation.</td>
<td>Lack of landscaping and substantial vegetation. Removal of large trees. Loss of front garden space</td>
<td>There is sufficient space to provide substantial trees and to maintain and enhance the garden settings of the dwellings.</td>
</tr>
<tr>
<td></td>
<td>• Retain existing large trees, wherever possible.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To maintain the rhythm of visual separation between buildings.</td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td>The dwellings are appropriately setback from side boundaries to maintain the rhythm of visual separation between buildings.</td>
<td></td>
</tr>
<tr>
<td>To ensure that buildings do not dominate the streetscape.</td>
<td>• Incorporate articulated roof forms, plan form and wall surfaces in new buildings visible from the street.</td>
<td>Large bulky buildings with poorly articulated front or side wall surfaces.</td>
<td>The dwellings feature articulated forms and second storey elements are recessed from the front façade.</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>To reflect the building materials in locations where there is a particular consistency.</td>
<td>- Where consistent brick colours are present in the streetscape, use similar tonings in the colours of new buildings.</td>
<td>Brightly coloured external building materials in areas of consistent brick materials.</td>
<td>A combination of face brick and textured render are the predominant finishes proposed in white and grey tone punctuated with natural timber finishes. These materials and colours are consistent with both the finishes and colours found in Charlotte Street.</td>
</tr>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td>- Provide open style front fencing, other than along heavily trafficked roads. Where no front fencing predominates, use vegetation as an alternative.</td>
<td>High, solid fencing.</td>
<td>A 1.2 metre high timber pickett fence is proposed.</td>
</tr>
<tr>
<td>To encourage development that responds to its location adjacent to the golf course.</td>
<td>- Where development directly borders the golf course, recess upper levels from the boundary nearest the open space.</td>
<td>Poorly articulated or dominating development fronting the golf course.</td>
<td>The nearest golf course is over 600m away from the property.</td>
</tr>
</tbody>
</table>
## ATTACHMENT 4
### ResCode Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer Attachment 2.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support two dwellings.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly identifiable from either the streetscape or the common pedestrian access.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| **B6 Street Setback**                      | Yes                     | Minimum: 9m
Proposed: 9m                                                                 |
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Requirement</th>
<th>Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>B7</td>
<td>Building Height</td>
<td>Yes</td>
<td>Required: 9m</td>
<td>Proposed: 8.1m</td>
</tr>
<tr>
<td></td>
<td>Building height should respect the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B8</td>
<td>Site Coverage</td>
<td>Yes</td>
<td>Maximum: 50%</td>
<td>Proposed: 49.15%</td>
</tr>
<tr>
<td></td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B9</td>
<td>Permeability</td>
<td>Yes</td>
<td>Minimum: 20%</td>
<td>Proposed: 20.65%</td>
</tr>
<tr>
<td></td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B10</td>
<td>Energy Efficiency</td>
<td>Yes</td>
<td>The proposal provides appropriate solar access to the dwellings.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Achieve and protect energy efficient dwellings and residential buildings.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B11</td>
<td>Open Space</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B12</td>
<td>Safety</td>
<td>Yes</td>
<td>No safety issues are considered to be likely to arise.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Layout to provide safety and security for residents and property.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B13</td>
<td>Landscaping</td>
<td>Yes</td>
<td>Refer report.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>To provide appropriate landscaping. To encourage:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Development that respects the landscape character of the neighbourhood.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Development that maintains and enhances habitat for plants and animals in locations of habitat importance.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>The retention of mature</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Item 4.5 – Matters of Decision
vegetation on the site.

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

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>Maximum: 33% of street frontage</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Proposed crossovers:</strong></td>
<td>33% of street frontage</td>
<td></td>
</tr>
</tbody>
</table>

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

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

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

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

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (side)</td>
<td>0m or 2m</td>
<td>0m and 2.04m</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>East (rear)</td>
<td>0m or 3m</td>
<td>3m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 2m</td>
<td>0m – 4.84m</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>Maximum Height: 3.6m</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Proposed:</strong></td>
<td>3.725m</td>
<td></td>
</tr>
<tr>
<td><strong>Maximum Average Height:</strong></td>
<td>3.2m</td>
<td></td>
</tr>
<tr>
<td><strong>Maximum Length:</strong></td>
<td>22.57m</td>
<td></td>
</tr>
<tr>
<td><strong>Proposed:</strong></td>
<td>18.87m (North Boundary)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>6.47m (South boundary)</td>
</tr>
</tbody>
</table>

**B19 Daylight to Existing Windows**
Allow adequate daylight into

<table>
<thead>
<tr>
<th></th>
<th>No</th>
<th>See report.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>There are 4 habitable room windows located 1.41m away from the north of the site at 8</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Yes/No</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>--------</td>
</tr>
<tr>
<td><strong>existing habitable room windows.</strong></td>
<td>Robinson Street. Addressed via conditions.</td>
<td></td>
</tr>
<tr>
<td><strong>B20 North Facing Windows</strong>&lt;br&gt;Allow adequate solar access to existing north-facing habitable room windows.</td>
<td>Yes</td>
<td>No north facing windows on adjoining properties are affected.</td>
</tr>
<tr>
<td><strong>B21 Overshadowing Open Space</strong>&lt;br&gt;Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September.</td>
</tr>
<tr>
<td><strong>B22 Overlooking</strong>&lt;br&gt;Limit views into existing secluded private open space and habitable room windows.</td>
<td>Yes</td>
<td>The only interface that could be subject to overlooking would be to the north. A combination of raised sill heights, fixed and obscure glazing and screens have been incorporated within the design.</td>
</tr>
<tr>
<td><strong>B23 Internal Views</strong>&lt;br&gt;Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>Yes</td>
<td>There will not be any internal overviewing within the development.</td>
</tr>
<tr>
<td><strong>B24 Noise Impacts</strong>&lt;br&gt;Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
</tr>
<tr>
<td><strong>B25 Accessibility</strong>&lt;br&gt;Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
<td>Entries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong>&lt;br&gt;Provide a sense of identity to each dwelling.</td>
<td>Yes</td>
<td>The entries to both dwellings are easily identifiable from the street.</td>
</tr>
<tr>
<td><strong>B27 Daylight to New Windows</strong>&lt;br&gt;Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td><strong>B28 Private Open Space</strong>&lt;br&gt;Provide reasonable recreation and service needs of residents by adequate pos.</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall&lt;br&gt;Proposed: 42.21m² for Dwelling 1, 64.34m² for Dwelling 2</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
</tr>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Yes</td>
</tr>
<tr>
<td>B30 Storage</td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td>No</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
</tr>
<tr>
<td>B33 Common Property</td>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td>N/A</td>
</tr>
<tr>
<td>B34 Site Services</td>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
1. Purpose and background

To report a planning permit application for the construction of a three storey building containing five dwellings above basement car parking and the construction of a front fence in excess of 1.5m in height all on a lot of 860 square metres in a Special Building Overlay (refer Attachment 1) at 6 Lindsay Street, Brighton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Keen Planning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>24 January 2017 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>25 March 2017</td>
</tr>
</tbody>
</table>

2. Policy implications

Planning permit requirements

Clause 32.08-4 (General Residential Zone 2) – Construction of two or more dwellings on a lot and a front fence in excess of 1.5m in height.

Clause 43.02-2 (Design and Development Overlay 2) – Construction of a building and works.

Clause 44.05-1 (Special Building Overlay) – Construction of buildings and works.

Planning scheme amendments

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

Planning Scheme Amendment C153 has been initiated by Council and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process will conclude on 16 January 2017 and a report considering submissions will be presented to Council early in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and Adopted. As such, there is no statutory weight which can be given to Amendment C153. The Amendment proposes to remove the SBO from the site and as such will no longer apply to an application on this site.

3. Stakeholder Consultation

External referrals

The application was referred to the following authorities:

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

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

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

Public notification

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

- Excessive scale of the building;
- Excessive visual bulk;
- Development out-of-character with the neighbourhood;
- Overlooking;
- Overshadowing;
- Effect on traffic and on-street parking;
- Inconsistency of zoning boundaries;
- Increase in noise;
- Decrease in property value;
- Loss of views; and
- Impact on neighbouring garden.

Consultation meeting

A consultation meeting was held on 19 December 2016 attended by the permit applicant and six objectors. The application was formally amended on 24 January 2017 to address some of the concerns raised during the meeting. These changes generally consisted of:

- A section of the proposed ground floor removed so that no part of the development abuts the rear boundary and consequent minor reduction in site coverage;
- Overlooking screens were made higher to further limit overlooking;
- Acoustic screening to be provided around air conditioning units; and,
- Reduction in segments of wall heights.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2016/576/1 for the land known and described as 6 Lindsay Street, Brighton, for the construction of a building containing five dwellings and a front fence in excess of 1.5m in height on a lot in the Special Building Overlay in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the
Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must generally be in accordance with the advertised plans prepared by Martin Friedrich Architects TP0.00 to TP5.00, dated 24 January 2017, but modified to show:

a) Meters, mailboxes and clotheslines for the ground floor apartments in accordance with Standard B34 of Clause 55. Where practicable, they should be located away from existing habitable room windows.

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

c) A minimum 1.8m high fence between the “courts” of Apartments 1 & 2 in accordance with Standard B23 of Clause 55.

d) A landscaping plan generally in accordance with Condition 11 of this permit.

e) A Waste Management Plan generally in accordance with Condition 16 of this permit.

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

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

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

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

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

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

8. Before the development starts, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:

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

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

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

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

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

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

11. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape plan drawn by Jack Merlo, project number 15.209, dated 24.01.17, be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.
   b) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. The planting schedule must be altered by nominating the maintained height of the *Tilia cordata* ‘Greenspire’ (x3) at no less than 8m.
   d) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   e) Details of surface finishes of pathways and driveways.

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

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

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

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

16. Prior to the endorsement of plans pursuant to Condition 1, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must clearly indicate that waste collection is to be via a private contractor, not Council, and include:
   a) Dimensions of storage waste areas.
   b) On-site collection.
   c) Storm water drains in storage areas should be fitted with a litter trap.
   d) The number and size of bins to be provided.
e) Facilities for bin cleaning.

f) Method of waste and recyclables collection.

g) Types of waste for collection, including colour coding and labelling of bins.

h) Hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines).

i) Method of hard waste collection.

j) Method of presentation of bins for waste collection.

k) Sufficient headroom within the basement to accommodate waste collection vehicles.

l) Sufficient turning circles for the waste collection vehicles to enter and exit the site in a forward direction.

m) Strategies for how the generation of waste and recyclables will be minimised.

n) Compliance with relevant policy, legislation and guidelines.

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

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

a) A detailed schedule of works including a full project timing.

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

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

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

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

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

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

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

i) Site security.

j) Public safety measures.

k) Construction times, noise and vibration controls.
l) Restoration of any Council assets removed and/or damaged during construction.

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

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

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


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

r) Details of crane activities, if any.

18. Before the development starts tree protection fencing is to be established around the street trees marked for retention prior to demolition and maintained until all works on site are complete. The fencing is to be constructed and secured so its positioning cannot be modified by site workers. The 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.

19. Prior to soil excavation for the proposed crossover within the Tree Protection Zone, a trench must be excavated along the line of the crossover adjacent to the tree using root sensitive non-destructive techniques. All roots that will be affected must be correctly pruned. Any installation of services and drainage within the Tree Protection Zone must be undertaken using root sensitive non-destructive techniques.

20. The Platanus x acerifolia (Plane Tree) street tree asset must not be damaged or removed. Soil excavation must not occur within a radius of 2.5 metres from the edge of the stem at ground level.

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

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

23. Any installation of services and drainage within the Tree Protection zone must be undertaken using root sensitive non-destructive techniques.

Melbourne Water Conditions

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

25. Finished floor levels of the ground floor must be constructed no lower than 9.7
metres to Australian Height Datum (AHD).

26. The apex including associated bunding to the basement entrance must be constructed no lower than 9.74 metres to AHD.

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

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

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

Permit Notes
• Council records indicate that there is no easement within the property.
• Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures”.

Melbourne Water Notes
• The applicable adjacent floor level is 9.44 metres to Australian Height Datum.
• If further information is required in relation to Melbourne Water’s permit conditions shown above, please contact Melbourne Water on 9679 7517, quoting Melbourne Water’s reference 274410.

5. Council Policy

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

Bayside Planning Scheme
• Clause 11 Settlement
• Clause 12 Environmental and Landscape Values
• Clause 15 Built Environment and Heritage
• Clause 16 Housing
• Clause 21.02 Bayside Key Issues and Strategic Vision
• Clause 21.03 Settlement and Housing
• Clause 21.06 Built Environment and Heritage
• Clause 22.06 Neighbourhood Character Policy
• Clause 22.08 Water Sensitive Urban Design
• Clause 32.09 General Residential Zone (Schedule 2)
• Clause 34.01 Commercial 1 Zone
• Clause 43.02 Design and Development Overlay (Schedule 11)
• Clause 52.06 Car Parking
• Clause 55 Two or more dwellings on a lot
• Clause 65 Decision Guidelines

6. Considerations

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

6.1. Strategic Direction

The site is located in the Church Street Activity Centre and pursuant to Map 2 of Clause 21.02, the site has been identified as a key focus residential growth area. The development of the Activity Centre is further emphasised under Clause 21.03-1 which seeks to direct new medium density development to large Major Activity Centres, particularly those with good access to public transport. Within Major Activity Centres, encouragement is given to the redevelopment of larger sites for higher density residential dwellings, along with the more efficient use of built form through the consolidation of sites and the construction of basement car parks.

Pursuant to Clause 21.11-3 – Map 1 (Church Street Activity Centre), the site is located in ‘Precinct 4: Residential Precinct’, which seeks to encourage residential development. The development is therefore compatible with the preferred role of the Church Street Activity Centre.

6.2. Height and Design and Development Overlay (DDO)

The vision for the Major Activity Centre seeks to retain a spacious and leafy character while providing additional opportunities for people to live near the centre. Larger sites ought to be provided basement car parking, with a transition of building form from the business precinct to lower scale residential areas.

The precinct is broken up into built form precincts with preferred and maximum heights. The precincts contained in the Church Street Activity Centre are reflected by the adoption of Schedule 11 to the Design and Development Overlay, which contains built form precincts. The site is in Precinct E which sets a maximum height of three storeys / 11m. The Schedule also encourages recessed upper most levels and the setting back of the second floor 4m behind the front wall of the floor immediately below. The building is to be three storeys with maximum height of 10.7m and the top floor is setback 4m from the front wall of the floor immediately below in compliance with the DDO11. This will ensure that the development will generally be read as a two storey building from the street. Furthermore, the floor area of the second floor is approximately 236m², compared to 427m² and first floor level and 503m² at ground floor level.
6.3. **Neighbourhood character**

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

The development is generally setback appropriately from boundaries to ensure that the rhythm of visual separation between buildings is not interrupted while providing for the maintenance and enhancement of the garden setting of the area. The development appropriately minimises the loss of front garden space and ensures that the car parking facility is not visually dominant.

The proposed development features a solid, masonry-heavy building that reflects development typical of the area. The adjoining dwelling to the northwest (4 Lindsay Street) is a double storey brick dwelling of some bulk as is 8 Lindsay Street (two sites to the southeast).

The building features traditional materials. Although not out of place in this locality, it is considered that the submission of a schedule of materials to provide for the use of some additional materials, particularly on the side elevations, would be beneficial in creating additional visual relief.

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

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

**Street Setback (Standard B6)**

The street setback in this instance is 6.00m rather than 6.15m. Although the front setback is flat, the setback increases to 6.3m due to the front of the building not being completely parallel to the street. The setback therefore averages out at 6.15m. Given that some substantial vegetation is proposed for the front garden, it is considered that the encroachment in this instance will not be discernible and not have an unacceptable impact on the streetscape.

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

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
<th>Second Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Southeast</strong></td>
<td><strong>Northwest</strong></td>
<td><strong>Southwest</strong></td>
</tr>
<tr>
<td>(side)</td>
<td>(side)</td>
<td>(rear)</td>
</tr>
<tr>
<td>Required</td>
<td>Proposed</td>
<td>Required</td>
</tr>
<tr>
<td>0m or 1m</td>
<td>0m or 2m</td>
<td>1.9m</td>
</tr>
<tr>
<td>1.22m</td>
<td>1.84m</td>
<td>1.88m</td>
</tr>
<tr>
<td>2m</td>
<td>1.72m</td>
<td>3.47m</td>
</tr>
</tbody>
</table>

The parapet at the front of the building encroaches into the side setbacks on both sides of the property. This encroachment is considered to be minor given that the parapet is 60cm wide. The encroachment does not offend neighbourhood character and is unlikely to cause harm to the amenity of neighbours. The top of the stairs on the north-west elevation encroach into the setback by 2.5cm, which is not likely to impact neighbours.
Overshadowing (Standard B21)

The Planning Scheme seeks to ensure that secluded private open space (SPOS) of existing dwellings will not be significantly overshadowed. In this instance, the development will overshadow the 6m² of space of 6B Lindsay Street that is not overshadowed at 3pm. According to the Standard, this SPOS should not be further overshadowed as it is already significantly overshadowed during the morning. This is the only instance of the proposed building overshadowing that particular site. It is considered that this does not constitute significant overshadowing and is acceptable.

Front Fences (Standard B32)

A high wall exists at the front of the site and likewise on the two sites to the east. Such boundary treatments are not atypical of the area. The proposed front fence features brick piers with intervening vertical wrought iron railings. Such a boundary treatment will provide a greater degree of visual surveillance into the front of the site than currently exists and will be beneficial to the streetscape.

Site Services (Standard B34)

Meters, mailboxes and clotheslines (for the ground floor) have not been shown. A condition has been included in the recommendation requiring these items to be shown and away from habitable rooms to minimise any impacts to adjoining properties.

6.5. Car parking and traffic

<table>
<thead>
<tr>
<th>Category</th>
<th>Planning Scheme Requirement</th>
<th>Proposed Provision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling</td>
<td>2 per 3 bedroom dwelling</td>
<td>10 (2x5)</td>
</tr>
<tr>
<td>Visitors</td>
<td>1 per 5 dwellings</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>11</td>
<td>11</td>
</tr>
</tbody>
</table>

As shown above, car parking is being provided at the rate required by the Planning Scheme.

Council’s Traffic Engineer has examined the proposal and does not object to the development nor to the traffic to be generated by the development. Conditions have been included in the recommendation to reflect those items which require specific attention.

6.6. Street tree removal

There is one elm tree near to the existing crossover into the site. The crossover is proposed to be altered so that it is actually slightly further away from the tree, which should result in a benefit to the tree. The application has been referred to Council’s Street Tree Arborist, who did not object to the proposal, subject to conditions which have been included in the recommendation.

6.7. Vegetation & Landscaping

All trees on-site are proposed for removal. Council’s Arborist examined the proposal and found that there was minimal vegetation on-site, none of which is protected by either the Planning Scheme or by Local Law. The Landscape Plan has been reviewed and it is considered that the proposed scheme is generally acceptable. Some changes are required to the planting schedule to provide acceptable canopy cover in the front garden. These changes have been included in the landscaping plan condition in the recommendation.
6.8. Objections received

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

Noise
Following the consultation meeting, acoustic screens were introduced around plant and equipment that may generate noise.

Loss of views
Loss of views are not a planning consideration.

Loss of Property Value
This is not a planning consideration.

Inconsistency in Zoning / Overlay Boundaries
The north side of the street is not in the same zone nor is it subject to the Design and Development Overlay. Zones and Overlays are decided after significant research is undertaken through the Strategic Planning process, which is subject to significant public consultation. This is not an appropriate forum to dispute such boundaries.

Overlooking from Front Balconies
The balconies comply with Standard B22. Furthermore, passive surveillance from the site into the public realm, and vice versa, is encouraged.

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

Figure 1 Aerial overview of the site and surrounds

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

Figure 3 View towards the site from the east
ATTACHMENT 3

NEIGHBOURHOOD CHARACTER ASSESSMENT

Precinct B2

Preferred Future Character Statement

The diverse dwelling styles, with a continued presence of pre WW2 dwellings, sit within established gardens with occasional tall canopy trees. Side setbacks on both sides, and the setting back of car ports/garages from the dwelling, allows for vegetation to flow around the dwellings. New buildings blend with the existing, through using a variety of materials or colours within front façades, and by respecting the older building styles and scales without replicating them. Open style front fencing improves the visual connection between the dwelling and the street. Street tree planting consistency is improved to provide a unifying element to the area.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
• Alterations and extensions should retain the front of these dwellings. | Demolition of dwellings that contribute to the valued character of the Precinct. | The existing single-storey dwelling is not protected by any statutory instrument. It is a building of no particular architectural merit and makes little contribution to the streetscape given much of it is obscured by the front boundary wall. |
<p>| 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. | Lack of landscaping and substantial vegetation.                     | The development provides adequate space for landscaping and substantial vegetation. It is noted that the development falls short of the maximum site coverage specified for this Zone. A landscape plan has now been provided which, with some modifications, shows that the garden setting of the area can be suitably maintained. |
| To maintain the rhythm of spacious visual separation                      | • Buildings should be sited to allow space for the planting of trees and shrubs. | Loss of front garden space.                                        | As per the above, the development provides space for significant landscaping. |
| Objectives                                                                 | Design Responses                                                                                           | Avoid                                                                                                      | Planning Officer Assessment                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|---------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <strong>between buildings and provide space for front gardens.</strong>                | • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. |                                                                                                                                                                         | Visual separation occurs between buildings, with only one part of the building towards the rear of the site on the boundary. The design of the building will result in less building fabric being on the boundary than is currently the case.                                                                                                                                                                                                                                                                                                                                           |
| <strong>To minimise the loss of front garden space and the dominance of car parking facilities.</strong> | • Locate garages and carports behind the line of the dwelling. • Provide only one vehicular crossover per typical site frontage. • Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space. | Car parking facilities that dominate the façade or view of the dwelling.                                                                                           | Basement car parking is provided. It is to be accessed from one vehicular crossover. The front setback is to be converted into a mainly landscaped area. Consequently, it is considered that the car parking facilities will not dominate the façade or view of the building.                                                                                                                                                                                                                                                                 |
| <strong>To ensure new development respects the dominant buildings forms and scale of buildings in the Precinct, through the use of innovative architectural responses.</strong> | • Articulate the form of buildings and elevations, particularly front facades. • Recess upper storey elements from the front façade. | Large buildings with poorly articulated facades.                                                                                                                      | The front of the upper floor is suitably recessed from the front of the floors below to reduce its influence on the streetscape and to ensure that it appears subservient to the remainder of the building. The front of the building is not disrespectful of other development in the streetscape. Glazing on the front elevation is set to the rear of the masonry columns to ensure that a flat surface is not presented to the streetscape. |
| <strong>To respect the identified heritage qualities of adjoining buildings.</strong>   | • Where adjoining an identified heritage building, respect the height, building forms, siting and materials of the heritage building/s, in the new building design. | Buildings that dominate heritage buildings by height, siting or massing. Imitation or reproduction of historic building styles and detailing. | The dwelling to the rear of the site, at 9 Black Street, is subject to a Heritage Overlay. The rear of the house is approx 11 metres away from the common boundary between the sites, with a swimming pool and garage contained within that separation. It is considered that the development will not dominate the |</p>
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To use a variety of building materials and finishes that provide visual interest in the streetscape. | • Incorporate a variety of building materials such as brick, render, timber and non-masonry into the building design.  
• Use simple building details. | Exclusive use of one material on external wall facades. | The materials for the building primarily consists of render and glazing. Some additional elements could be incorporated into the building to provide some visual relief. A condition has been included in the recommendation requiring the submission of a schedule of materials and colours to address this. |
| To improve the visual connection between the dwellings and the streetscape and encourage views to front gardens. | • Provide open style front fences, other than along heavily trafficked roads.  
• Front fence style should be appropriate to the building era. | High, solid fences | The front fence is brick pier with intervening vertical wrought iron railings. The railings will provide a degree of visual penetration into the site and is appropriate to the building style. |
## ATTACHMENT 4
### ResCode Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer Attachment 3.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support two dwellings.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The building appropriately addresses the street and entries are clearly identifiable from either the streetscape or the common pedestrian access.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>No</td>
<td>Minimum: 6.15m</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood</td>
<td></td>
<td>Proposed: 6.00m</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Yes/No</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>--------</td>
</tr>
<tr>
<td>B7</td>
<td>Building Height&lt;br&gt;Building height should respect the existing or preferred neighbourhood character</td>
<td>Yes</td>
</tr>
<tr>
<td>B8</td>
<td>Site Coverage&lt;br&gt;Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Yes</td>
</tr>
<tr>
<td>B9</td>
<td>Permeability&lt;br&gt;Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
</tr>
<tr>
<td>B10</td>
<td>Energy Efficiency&lt;br&gt;Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>Yes</td>
</tr>
<tr>
<td>B11</td>
<td>Open Space&lt;br&gt;Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>N/A</td>
</tr>
<tr>
<td>B12</td>
<td>Safety&lt;br&gt;Layout to provide safety and security for residents and property.</td>
<td>Yes</td>
</tr>
<tr>
<td>B13</td>
<td>Landscaping&lt;br&gt;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</td>
<td>Yes</td>
</tr>
</tbody>
</table>
Bayside City Council
Planning & Amenity Committee Meeting - 14 March 2017
Attachment 4

Item 4.6 – Matters of Decision

<table>
<thead>
<tr>
<th>Description</th>
<th>Item 4.6 – Matters of Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B14 Access</strong></td>
<td>Yes</td>
</tr>
<tr>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td><strong>Yes</strong> Appropriate vehicular access is provided. <strong>Maximum</strong>: 33% of street frontage <strong>Proposed</strong>: 18% of street frontage</td>
</tr>
<tr>
<td><strong>B15 Parking Location</strong></td>
<td>Yes</td>
</tr>
<tr>
<td>Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.</td>
<td>The proposed car parking areas are appropriately located.</td>
</tr>
<tr>
<td><strong>B17 Side and Rear Setbacks</strong></td>
<td>No</td>
</tr>
<tr>
<td>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.</td>
<td>Refer report and table below. Areas of non-compliance are underlined.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
<th>Second Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td>Southeast (side)</td>
<td>0m or 1m</td>
<td>0m or 2m</td>
</tr>
<tr>
<td>Northwest (side)</td>
<td>0m or 1m</td>
<td>1.22m</td>
</tr>
<tr>
<td>Southwest (rear)</td>
<td>0m or 1m</td>
<td>2m</td>
</tr>
</tbody>
</table>

| **B18 Walls on Boundaries**                                           | Yes                             |
| 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. | **Maximum Height**: 3.6m **Proposed**: 2.4m **Maximum Average Height**: 3.2m **Proposed**: 2.4m **Maximum Length**: 18m **Proposed**: 9.3m |
| **B19 Daylight to Existing Windows**                                  | Yes                             |
| Allow adequate daylight into existing habitable room                   | The proposal is suitably setback from property boundaries to ensure daylight to existing windows is maintained. |
## Item 4.6 – Matters of Decision

<table>
<thead>
<tr>
<th>B20 North Facing Windows</th>
<th>Yes</th>
<th>No north facing windows on adjoining properties are affected.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B21 Overshadowing Open Space</td>
<td>No</td>
<td>Approximately 6m² of the SPOS of 6 Lindsay St currently receives sunlight at 3pm. This 6m² would be overshadowed by the development. It is considered that this does not constitute a significant degree of overshadowing. The proposed building will only overshadow this site after 2pm on 22 September.</td>
</tr>
<tr>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B22 Overlooking</td>
<td>Yes</td>
<td>Screening is provided to address this concern. It is noted that the applicant has provided for 1800mm high screens in this instance.</td>
</tr>
<tr>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B23 Internal Views</td>
<td>Yes</td>
<td>Balconies and windows at upper levels have been located and designed to limit internal overlooking to less than 50%. A 1.8m high fence needs to be provided between the two apartments on the ground floor. Addressed by condition.</td>
</tr>
<tr>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B24 Noise Impacts</td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building. Acoustic screens have been provided outside those items of plant and equipment that may generate noise.</td>
</tr>
<tr>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Yes</td>
<td>Entries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td>Consider people with limited mobility in the design of developments.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Yes</td>
<td>The entry to the building is easily identifiable from the street.</td>
</tr>
<tr>
<td>Provide a sense of identity to each dwelling.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td>Allow adequate daylight into new habitable room windows.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>Yes</td>
<td>Ground Floor Min: 25m² secluded, 40m² overall Proposed: 37m² &amp; 35m² secluded, 78m² &amp; 83m² overall Upper Floors Min: 8m² balcony with min dimension of 1.6m Proposed: 12m² or greater</td>
</tr>
<tr>
<td>Provide reasonable recreation and service needs of residents by adequate pos.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B29 Solar Access to Open Space</strong></td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>-----</td>
<td>---------------------------------------------------------------------</td>
</tr>
<tr>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B30 Storage</strong></th>
<th>Yes</th>
<th>Storage space of at least 6m³ in size is provided for each dwelling in the building’s basement.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide adequate storage facilities for each dwelling.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th><strong>B32 Front Fences</strong></th>
<th>No</th>
<th>Required: 1.5m  Proposed: 2.0m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th><strong>B34 Site Services</strong></th>
<th>No</th>
<th>Meters, mailboxes and clotheslines (for the ground floor) have not been shown. Addressed by condition.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
4.7 8 CAMBRIDGE STREET, BRIGHTON  
NOTICE OF DECISION TO GRANT A PLANNING PERMIT  
APPLICATION NO: 2015/730/1 WARD: NORTHERN

City Planning & Community Services - Development Services  
File No: PSF/15/8755 – Doc No: DOC/16/270590

1. Purpose and background  
To report a planning permit application for the construction of two double storey dwellings and a front fence exceeding 1.2 metres in height on a lot with an area of 834.7 square metres (refer Attachment 1) at 8 Cambridge Street, Brighton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Architectural Plans and Permit Pty. Ltd.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>26 July 2016 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>24 September 2016</td>
</tr>
</tbody>
</table>

2. Policy implications  
Planning permit requirements  
Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two dwellings on a lot.  
Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of a front fence within 3 metres of a street exceeding 1.2 metres in height.

Planning scheme amendments  
Planning Scheme Amendment C139 has been prepared by Council and requires development to provide a financial contribution for drainage infrastructure in this area. Council has adopted Amendment C139 and has submitted it to the Minister for Planning for approval. Whilst the Amendment is now considered ‘seriously entertained’, the Minister has not yet made a decision on the Amendment.  
Planning Scheme Amendment C153 has been initiated by Council and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process will conclude on 16 January 2017 and a report considering submissions will be presented to Council early in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and Adopted. As such, there is no statutory weight which can be given to Amendment C153. It is noted that the subject site is not within the SBO area and is not proposed to be included in the SBO area.

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

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

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

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

- Neighbourhood Character,
- Site Coverage,
- Visual bulk,
- Overshadowing,
- Overlooking,
- Increase to vehicular traffic, and
- Minimal landscaping.

Consultation meeting
A consultation meeting was held on 17 October 2016 attended by the permit applicant, owner and all objectors. As a result of this meeting no objections were withdrawn.

4. Recommendation
That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Permit 2015/730/1 for the land known and described as 8 Cambridge Street, Brighton, for the construction of two double storey dwellings and a front fence greater than 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 amended plans prepared by Architectural Plans and Permits and dated 6 June 2016 but modified to show:

   a) The north and south elevations to be correctly labelled on the elevations plan.
   b) The first floor to be recessed from the ground floor by 1 metre, without any reduction in any other setbacks.
   c) All first floor habitable windows to be screened in accordance with Standard B22 of Clause 55.04-6 of the Bayside Planning Scheme.
   d) The fence located between units 1 and 2 and the protruding wall located between the rumpus rooms of units 1 and 2 to be clearly identified and designed in accordance with Standard B23 of Clause 55.04-7 of the Bayside Planning Scheme.
   e) The storage areas located in each garage to show cubic measurements in
accordance with Standard B30 of Clause 55.05-6 of the Bayside Planning Scheme.

f) The east parapet height to be reduced by 600mm and west parapet height to be reduced by 800mm; or,

One of the first floor bathrooms (being the main bedroom ensuite or the bathroom beside bedroom 4) for each dwelling be recessed an additional 1 metre to provide further relief to the built form.

g) Adequate sight lines must be provided where each driveway intersects with the footpath in accordance with AS2890.1. Accordingly, all structures including foliage and fences within these sightlines to be a maximum height of 700mm.

h) A landscape plan generally in accordance with the landscape plan prepared by Architectural Plans and Permits dated 22/7/2016 and the associated Arborist Report prepared by Tree Radar Australia dated 21/7/2016, but modified to show:

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

ii. 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.

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

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

v. Details of surface finishes of pathways and driveways.

vi. One tree capable of reaching a height of 10 metres and a canopy width of 6 metres at maturity to be provided in the front setback of unit 1.

vii. One tree capable of reaching a height of 10 metres and a canopy width of 6 metres at maturity to be provided in the front setback of unit 2.

i) Both driveways to be 3 metres wide and setback from each perspective side boundary a minimum of 1 metre where each intersects with the footpath of Cambridge Street.

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

k) A tree management report and a tree protection plan in accordance with Condition 10 of this permit.

l) A Water Management Plan in accordance with Condition 6 of this permit.

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

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

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

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

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

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

9. The existing crossover to be removed and reconstructed, to the cost of the applicant to the satisfaction of the Responsible Authority.

10. 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.

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

13. Before the development starts tree protection fencing is to be established around the two street trees marked for retention prior to demolition and maintained until all works on site are complete. The fencing is to be constructed and secured so its positioning cannot be modified by site workers. The fencing is to encompass the 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.

14. Soil excavation must not occur within 2.7 metres of the two Cinnamomum camphora (Camphor Laurel) street tree’s stems at ground level.

15. Prior to soil excavation for a Council approved crossover within the Tree Protection Zone, a trench must be excavated along the line of the crossover adjacent to the tree using root sensitive non-destructive techniques. All roots affected must be correctly pruned by a qualified arborist.

16. Any installation of services and drainage within the Tree Protection Zone must be undertaken using root-sensitive non-destructive techniques.

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

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

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

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

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

Permit Notes
- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- Council records indicate that there is no easement within the property.
- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.
- Unit 1 should be addressed 8B Cambridge Street, Brighton.
- Unit 2 should be addressed 8A Cambridge Street, Brighton.
• The applicant is to bear the cost to reinstate/relocate the Council assets to provide the required access to the proposed development.

5. Council Policy

Council Plan 2013-2017

Relevant strategies of the Council plan include:

• 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.

• 3.1.3 Advocating Council’s planning and urban design objectives.

Bayside Planning Scheme

• Clause 11 Settlement
• Clause 12 Environmental and Landscape Values
• Clause 15 Built Environment and Heritage
• Clause 16 Housing
• Clause 21.02 Bayside Key Issues and Strategic Vision
• Clause 21.03 Settlement and Housing
• Clause 21.06 Built Environment and Heritage
• Clause 22.06 Neighbourhood Character Policy Precinct B5
• 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 B5 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3, subject to minor alterations that are included in the recommended conditions.

The proposal includes the demolition of the existing dwelling, this dwelling is not located within Downes Avenue or Meyer Court and as such is not classified as significant under Precinct B5.

Concerns have been raised by adjoining owners and occupiers that the proposal is not sympathetic to the existing Californian Bungalow and Edwardian dwelling and does not incorporate some of the main features of the existing dwellings within the precinct. In particular, the proposal incorporates a flat roof and not a pitched roof.

The steeply sloped, usually hipped with wide eves and sometimes prominent front facing gable ends are a main feature of the Edwardian dwelling. Likewise, the usually gabled
roofs with chimneys on outside walls and shingles gables are a main feature of the Californian bungalow.

The precinct guidelines are definite in the avoidance of reproduction of historic building styles and period reproduction detailing. The preferred future character is silent in regards to the shape of the roof line, however as the preference is to avoid reproduction of historic building styles, it is seen as meeting the objective. It is further noted that the design is contemporary and a pitched roof line would further add to the bulk and height of the dwellings.

The design incorporates timber cladding at ground floor and render at first floor, avoiding excessive use of one material on the front elevation in accordance with the preferred future precinct objectives and design guidelines.

Spaces has been provided in the front setback to allow adequate landscaping, including substantial trees and shrubs as well as being sited to allow for visual separation between dwellings, subject to minor alterations as per the recommendation.

The garages have been designed to not dominate the facades of the dwellings and materials are respectful of the existing character.

The area of non-compliance under Precinct B5 is the cantilevered first floor façade, this can be dealt with in way of permit condition to ensure the buildings do not visually dominate the streetscape in accordance with the objective.

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

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

**Street Setback (Standard B6)**

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Floor</td>
<td>9m</td>
<td>8m</td>
<td>1m</td>
</tr>
</tbody>
</table>

This non-compliance is due to the cantilevered first floor, as the proposed ground floor has a setback of 9.49 metres.

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. The proposed setback of the ground floor makes sufficient use of the site. However, the proposed cantilevered first floor does not comply with the street setback requirements of Standard B6 to respect existing and preferred character or the design guidelines of Neighbourhood Character Policy, Precinct B5 to recess upper levels.

A condition has been included in the recommendation for the first floor façade to be recessed from the ground floor in accordance with Standard B6 and the Neighbourhood Character Policy, Precinct B5.

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

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m</td>
<td>0m</td>
</tr>
<tr>
<td>West (side)</td>
<td>2m</td>
<td>2m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>3m</td>
<td>4.5m</td>
</tr>
</tbody>
</table>

The proposal seeks a 1.37m variation to the first floor east elevation and a 1.33m variation to the first floor west elevation. The purpose of Standard B17 is to ensure that
the proposal respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwelling.

Concerns regarding the length of the built form and lack of articulation have been raised by adjoining neighbours. At first floor level the development presents 28.02 metres of unobstructed built form constructed on the same plain and with the same materials. A 4 metre indentation on both sides containing the stairwell, before a section of 6.27 metres in line with the front of the first floor. This is a total section of 34.29 metres of rendered finished first floor walls on both the east and west elevations.

Further articulation to the facades to break the visual bulk in the built form would assist in reducing the perception of visual bulk to adjoining properties. This can be achieved by a reduction in the height of the parapet of the east and west elevations, introduction of additional materials such as timber cladding or a second indentation on both sides.

A condition has been included in the recommendation, Condition 1(b) requiring compliance with the design responses associated with objectives of Neighbourhood Character Policy, Precinct B5. This requires the cantilevered first floor to be amended to be recessed from the first floor, reducing the visual bulk to the front and side setbacks.

Additionally, it has been included in the recommendation that either the parapet be reduced or either the bathroom or the ensuite for each dwelling be recessed an additional 1 metre to provide further relief to the built form. It is noted this requirement can be accommodated with minor internal changes to generously proportioned rooms. These recommendations have been at Condition 1(f).

It is considered that the proposal, with minor alterations, has met the objective by respecting the existing separation of first floor setbacks within the streetscape and is orderly in design and as such is respectful of the existing character. Due to the site constraints, being a width of 15.24m, the requested variation would be reasonable, with the minor alterations, to allow the development of two dwellings on the lot, with a reduction of the parapet height.

Overlooking (Standard B22)

The window sill heights on the first floor east elevation have not been shown. A condition will be included in the recommendation requiring compliance with Standard B22.

Likewise, the first floor south windows, while located 9 metres from the private open space of 52 Milroy Street, do not show compliance with overlooking at a 45 degree angle to the private open space of the adjoining properties at 6 and 10 Cambridge Street. A condition will be included in the recommendation requiring sightlines demonstrating no overlooking in accordance with the objective or screening to comply with Standard B22. Please refer to Condition 1(c).

Internal Views (Standard B23)

The plans show a solid line between the secluded private open spaces for unit 1 and 2, however no details regarding height or materials have been supplied. Likewise, while the plan shows a protruding wall between the rumpus rooms for unit 1 and 2, no diagrammatic evidence that compliance is achieved has been shown.

A condition requiring compliance with Standard B23 will be included in the recommendation.

Storage (Standard B30)

A storage space has been provided in each garage, however no size has been shown. A condition will be included in the recommendation requiring compliance with Standard B32, being 6 cubic metres.

Front Fence (Standard B32)
### Front Fence

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.2m</td>
<td>1.8m</td>
<td>0.6m</td>
</tr>
</tbody>
</table>

A section of front fence, measuring 4 metres long, with a height of 1.8 metres has been proposed between units 1 and 2 to include house numbering and mailboxes for each dwelling.

As the proposed front fence section does not run the full length of the boundary and only for 26%, it allows for visibility and separation between public and private. Furthermore, the landscaping within the front setback will add to the character of the streetscape, while maintaining the openness of the streetscape.

6.3. **Car parking and traffic**

Each dwelling is provided with at least two car spaces in accordance with Clause 52.06. Council’s Traffic Engineer has reviewed the application and raised no objection, subject to conditions. Please refer to Conditions 1(f), 7, 8 and 9.

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

6.4. **Street tree removal**

Council’s Open Space Arborist has reviewed the application and advises that the two existing *Cinnamomum camphora* (Camphor Laurel) street trees do not meet the criteria for removal. Retention of both trees will not require alteration to the existing site design. Protective measures have been included in the conditions recommendation. Please refer to Conditions 13-16 inclusive.

6.5. **Vegetation & Landscaping**

Council’s Arborist has reviewed the proposed landscape plan and advises there are no trees proposed for removal located on site.

Conditions relating to the proposed vegetation and protection of trees on adjoining properties, have been included in the recommendation following the Arborist’s advice.

6.6. **Objections received**

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

**Site coverage**

Site coverage has been calculated at 50%, in accordance with Standard B8 of Clause 55 of the Bayside Planning Scheme.

**Visual bulk**

It is considered that the development, following the changes included in the recommendation, will sufficiently respect neighbourhood character, while also providing additional housing promoted by the Planning Scheme.

**Overshadowing**

Upon review of the submitted shadow diagrams and due to the silence of the Bayside Planning Scheme in relation to existing solar panels, there are minimal shadow impacts on adjoining properties, with compliance with the standard achieved.

### Support Attachments

1. Development Plans ↓
2. Site Surrounds and Imagery ↓
3. Neighbourhood Character Assessment Precinct B5 ↓
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
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<tbody>
<tr>
<td>Subject site</td>
<td>✪</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>●</td>
</tr>
</tbody>
</table>
**Figure 2** View south towards the site

**Figure 3** View west towards the Nepean Highway
Figure 4 View east towards Clonaig Street
ATTACHMENT 3
Neighbourhood Character Precinct B5

Preferred Future Character Statement

The area retains a predominance of pre WW2 dwellings, and in Meyer Court, 1950s brick dwellings. The new pitched roof dwellings sit within established, largely exotic gardens and respect the older dwellings while not replicating these styles. Dwellings are well articulated in plan and elevation, use simple detailing and contain a variety of materials within the front façade. They are also low in scale and do not dominate the streetscape. Space for the planting of vegetation is provided in front yards by the provision of generous front and side setbacks and locating car ports and garages behind the line of the dwelling. Fences are open in style and appropriate to the era of the dwelling. In Meyer Court front fences are not provided.

Downes Avenue and Meyer Court are areas of significant neighbourhood character.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
• Alterations and extensions should retain the front of these dwellings and be appropriate to the building era. | Demolition of dwellings that contribute to the valued character of the Precinct. | The proposal is for the removal of the existing dwelling and construction of two dwellings.  
The dwelling proposed for removal is not located within an area of significant neighbourhood 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. | Lack of landscaping and substantial vegetation. | The proposal allows for enough space for substantial trees and shrubs.  
However, the proposed tree species in the front setback do not allow for a substantial height at maturity. Trees capable of reaching a height of 10 metres and a canopy width of 6 metres at maturity will be conditioned for the front setback. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To provide adequate space for front gardens.</td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td>Loss of front garden space.</td>
<td>The proposal allows for enough space for substantial trees and shrubs. However, the proposed tree species in the front setback do not allow for a substantial height at maturity. Trees capable of reaching a height of 10 metres and a canopy width of 6 metres at maturity will be conditioned for the front setback.</td>
</tr>
<tr>
<td>To maintain the rhythm of spacious visual separation between buildings.</td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>The proposal allows for enough space for substantial trees and shrubs. The design provides visual separation between each dwelling through side setbacks. However, the proposed tree species in the front setback do not allow for a substantial height at maturity. Trees capable of reaching a height of 10 metres and a canopy width of 6 metres at maturity will be conditioned for the front setback.</td>
</tr>
<tr>
<td>To minimise the loss of front garden spaces and the dominance of car parking structures.</td>
<td>• Locate garages and carports behind the line of the dwelling.</td>
<td>Car parking structures that dominate the façade or view of the dwelling. Front setbacks dominated by impervious surfaces.</td>
<td>The proposed car parking, inclusive of a single car garage for unit 2 and a double car garage for unit 3 have been designed in a manner that does not dominate the front of the dwelling.</td>
</tr>
<tr>
<td>To ensure that buildings and extensions do not visually dominate the streetscape.</td>
<td>• Recess upper level elements from the front façade.</td>
<td></td>
<td>The first floor is proposed to be cantilevered. A condition will be included in the recommendation requiring setback of the first floor facade.</td>
</tr>
<tr>
<td>To encourage modern and contemporary architectural responses to surrounding dominant building forms.</td>
<td>• Adopt, adapt or re-interpret existing building forms (eg. Façade proportions and articulation, roof forms and plan forms) without copying period design details.</td>
<td>Reproduction of historic building styles.</td>
<td>The application does not reproduce the historic building styles of the area, however, it does not adopt the roof forms of existing dwellings.</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>
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<tr>
<td>To respect the identified heritage qualities of adjoining buildings.</td>
<td>Where adjoining an identified heritage building, respect the height, building forms, siting and materials of the heritage building/s in the new building design.</td>
<td>Buildings that dominate heritage buildings by height, siting or building massing</td>
<td>No Heritage Overlay buildings adjoin the subject site.</td>
</tr>
</tbody>
</table>
| To use a variety of building materials and finishes that reflect those in the streetscape. | Incorporate a variety of building materials such as brick, render, timber and non-masonry into the building design.  
Roof materials should generally be terracotta, red black or subdued coloured tiles or similar.  
Use simple building details. | Exclusive use of one material on external wall surfaces.  
Period reproduction detailing.                                                                 | The front façade includes a rendered first floor and timber cladding ground floor, avoiding exclusive use of one material.  
The predominate materials within the area are wood and faux-wood cladding, as such, the design reflects the predominate materials and finishes within the streetscape. |
| To maintain the openness of the streetscape.                             | Provide open style front fences, other than along heavily trafficked roads.  
Front fence style should be appropriate to the building era. | High, solid front fencing.                                                                         | The proposal includes the provision of a 1.8 metre high section of wall, measuring 4 metres long, to contain two mailboxes and house numbering for each dwelling.  
This design allows for openness to the streetscape.                                              |
4.8 VCAT DECISIONS

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/49216

Executive summary
To inform Council of Victorian Civil and Administrative Tribunal (VCAT) determinations received in the months of February 2017 and to show the progress of VCAT outcomes for the financial year.

Summary details for the decisions handed down are attached.

<table>
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<tr>
<th>Month</th>
<th>Year</th>
<th>Council Upheld</th>
<th>Council Over-turned</th>
<th>Delegate Upheld</th>
<th>Delegate Over-turned</th>
<th>Other (e.g. Varied, by Consent or Sec87A)</th>
<th>Withdrawn</th>
<th>Total</th>
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</table>

*Local Government Performance Reporting Framework (Data to be reported to State Government)

Recommendation
That the report on the VCAT decisions on the planning applications handed down during February 2017 be received and noted.

Support Attachments
1. VCAT Report ↓
Considerations and implications of recommendation

Liveable community

Social
The recommendation will not have any social effects.

Natural Environment
The recommendation will not have any effect on the natural environment.

Built Environment
The recommendation will not have any effect on the built environment.

Customer Service and Community Engagement
The recommendation will not have any effect on customer service or on community engagement.

Human Rights
The recommendation will not have any effect on human rights.

Legal
The recommendation does not create any legal issues for Council.

Finance
The recommendation does not have any strategic financial implications for Council.

Links to Council policy and strategy
The decisions of the VCAT may affect Council’s capacity to achieve objectives set out in the Council Plan.
## VCAT Determined Appeals from 01/02/2017 to 28/02/2017

<table>
<thead>
<tr>
<th>Subject land</th>
<th>6 Brooklyn PL, SANDRINGHAM</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application no.</td>
<td>2015.344.1</td>
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<tr>
<td>VCAT reference no.</td>
<td>P896/2016</td>
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<tr>
<td>Applicant</td>
<td>Rosemarie Weller</td>
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<tr>
<td>Referral Authority</td>
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<tr>
<td>Respondents</td>
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<tr>
<td>Before</td>
<td>S McDonald</td>
</tr>
<tr>
<td>Date of hearing</td>
<td>25/10/2016</td>
</tr>
<tr>
<td>Date of order</td>
<td>20/02/2017</td>
</tr>
<tr>
<td>Proposal</td>
<td>1 Dwelling - New - Lot &lt; 500m2</td>
</tr>
<tr>
<td></td>
<td>Construction of a double storey dwelling on a lot less than 500 square metres and variation of the building envelope</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Officer recommendation</th>
<th>Notice of decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Council recommendation</td>
<td>Notice of decision</td>
</tr>
<tr>
<td>Appeal type</td>
<td>Conditions</td>
</tr>
<tr>
<td>Plans substituted (prior to hearing)</td>
<td>No</td>
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<tr>
<td>VCAT determination</td>
<td>Varied Permit</td>
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<tr>
<td>LGPRF outcome</td>
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<tr>
<td>Subject land</td>
<td>320 South RD, HAMPTON EAST</td>
</tr>
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<tr>
<td>Application no.</td>
<td>2015.804.1</td>
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<td>VCAT reference no.</td>
<td>P1463/2016</td>
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<tr>
<td>Applicant</td>
<td>South Road Medical P/L</td>
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<td>Referral Authority</td>
<td>Melb. Water; VicRoads - Southeast Region</td>
</tr>
<tr>
<td>Respondents</td>
<td>N Blackmore, T Hodges, G Dickens, K Warden-Dickens, D D'Abate and N Oliver</td>
</tr>
</tbody>
</table>

**Before**

J A Bennett

**Date of hearing**

30/01/2017

**Date of order**

01/02/2017

**Proposal**

Use of land for accommodation in Commercial 1 Zone; Use of land for a medical centre, convenience shop and food and drink premises in General Residential Zone 1; Construction of buildings and works for a 6 storey mixed use building comprising 64 dwellings and a medical centre, convenience shop and food and drink premises in the Commercial 1 Zone, General Residential Zone 1, Design and Development Overlay 2 and Special Building Overlay; Advertising signs pursuant to Clause 52.05; Reduction in on-site car parking requirements pursuant to Clause 52.06; Waiver of loading bay requirement pursuant to Clause 52.07 and alteration of access to a road in a Road Zone Category 1 pursuant to Clause 52.29 Refusal to Grant a Permit

<table>
<thead>
<tr>
<th>Officer recommendation</th>
<th>Refused</th>
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<tbody>
<tr>
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</tr>
<tr>
<td>Appeal type</td>
<td>Refusal</td>
</tr>
<tr>
<td>Plans substituted</td>
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<td>(prior to hearing)</td>
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</table>

<table>
<thead>
<tr>
<th>VCAT determination</th>
<th>Permit to issue</th>
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</thead>
<tbody>
<tr>
<td>LGPRF outcome</td>
<td>SET ASIDE</td>
</tr>
</tbody>
</table>
Subject land: 5 Lilac CRES, BRIGHTON EAST
Application no.: 2015.837.1
VCAT reference no.: P1630/2016
Applicant: Darroll Treble
Referral Authority: N/A
Respondents: N/A

Before: G Code
Date of hearing: 09/02/2017
Date of order: 27/02/2017
Proposal:
2 New Dwellings
Construction of two dwellings in a Neighbourhood Residential Zone

Officer recommendation: Refusal
Council recommendation: N/A
Appeal type: Refusal to Grant a Permit
Plans substituted (prior to hearing): No
VCAT determination: Permit to Issue
LGPRF outcome: SET ASIDE
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<tr>
<td>Applicant</td>
<td>Chris Le Page &amp; Sarah Morris</td>
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<tr>
<td>Referral Authority</td>
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<td>Respondents</td>
<td>YinDesign</td>
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<td>Before</td>
<td>Jeanett G Rickards</td>
</tr>
<tr>
<td>Date of hearing</td>
<td>09/02/2017</td>
</tr>
<tr>
<td>Date of order</td>
<td>14/02/2017</td>
</tr>
<tr>
<td>Proposal</td>
<td>2 New Dwellings</td>
</tr>
<tr>
<td></td>
<td>Construction of two double storey dwellings on land in the Neighbourhood Residential Zone 3 (NRZ3)</td>
</tr>
</tbody>
</table>

**Officer recommendation**  
Notice of decision

**Council recommendation**  
Notice of decision

**Appeal type**  
Conditions

**Plans substituted**  
No

**VCAT determination**  
Varied Permit

**LGPRF outcome**  
N/A
5. Confidential Business

Nil

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

Adrian Robb
Chief Executive Officer