Planning & Amenity Committee Meeting Agenda

Agenda

for the

Planning & Amenity Committee Meeting

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

on

Tuesday, 14 August, 2018 at 7:00pm

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

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

Section 92 The Chair's Duties and Discretions

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

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

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

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

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

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

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

Your cooperation is appreciated

Chairperson of Council
Planning & Amenity Committee Meeting

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

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

Membership of the Committee
All Councillors

Order of Business

1. Apologies

2. Declarations of Interest

3. Adoption and Confirmation of the minutes of previous meeting

4. Matters of Decision
   4.1 15 Rooding Street, Brighton Support the Grant of a Planning Permit (Consent Order) Application No: 2017/565 Ward: Northern ................................................................. 7
   4.2 48 Heath Crescent, Hampton East Support the Grant of a Planning Permit (Consent Order) Application No: 2017/500 Ward: Central................................................................. 95
   4.3 43 Willis Street, Hampton Secondary Consent - Approve Application No: 2013/343/2 Ward: Central ................................. 125
   4.4 47 Service Street, Hampton Secondary Consent - Approve Application No: 2007/843/1 Ward: Central ................................. 143
   4.5 7 Ward Street, Beaumaris Notice of Decision to Grant a Planning Permit Application No: 2018/805/1 Ward: Southern ........... 153
   4.6 238 Were Street, Brighton East Notice of Decision to Grant a Planning Permit Application No: 2018/5/1 Ward: Central ...... 165
   4.7 204 Esplanade, Brighton Notice of Decision to Grant a Planning Permit Application No: 2017/805/1 Ward: Northern .......... 203
   4.8 176 Esplanade, Brighton Notice of Decision to Amend a Planning Permit Application No: 2016/257/2 Ward: Northern ............. 265
   4.9 519 Balcombe Road, Black Rock Notice of Decision to Grant a Planning Permit Application No: 2018/63/1 Ward: Southern .. 319
   4.10 23 Kinane Street, Brighton Notice of Decision to Grant a Planning Permit Application No: 2017/782 Ward: Northern .......... 363
4.11 20 Highett Road, Hampton Notice of Decision to Grant a Planning Permit Application No: 2017/667 Ward: Central ..................... 401

4.12 82-122 Marriage Road, Brighton East (Brighton Secondary College) Notice of Decision to Amend a Planning Permit Application No: 1999/4617/2 Ward: Northern ......................... 433

5. Confidential Business
Nil

**Next Meetings 2018**

- Tuesday 28 August 2018
- Tuesday 11 September 2018
- Tuesday 16 October 2018
- Tuesday 30 October 2018
- Tuesday 13 November 2018
- Monday 10 December 2018
- Thursday 20 December 2018
1. Apologies

2. Declarations of Interest

3. Adoption and Confirmation of the minutes of previous meeting

   3.1 Confirmation of the Minutes of the Planning & Amenity Committee Meeting held on 17 July 2018.
4. Matters of Decision

4.1 15 ROODING STREET, BRIGHTON
SUPPORT THE GRANT OF A PLANNING PERMIT (CONSENT ORDER)
APPLICATION NO: 2017/565  WARD: NORTHERN

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Support the grant of a Planning Permit (VCAT Consent Order)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Becker Wright Pty Ltd</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>15 September 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>N/A</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone, Schedule 2</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay, Schedule 10 Development Contributions Plan Overlay</td>
</tr>
<tr>
<td>Number of objections</td>
<td>14 (one objector party to the appeal who represented the interests of seven other objectors)</td>
</tr>
</tbody>
</table>

Purpose
The purpose of this report is to endorse a consent position reached by all parties at a Compulsory Conference at VCAT on 24 July 2018.

History
At the Planning and Amenity Committee on 27 February 2018, Council determined to support the proposal and issue a Notice of Decision to Grant a Planning Permit (NOD) Attachment 1. The Officer Report for the 27 February Committee is provided at Attachment 2 and the development plans at Attachment 3.

Conditional upon Council’s approval was the requirement for the development to increase the provision of residential visitor car spaces, increase setbacks and screening of habitable room windows and balconies.

VCAT
An application for review against Council’s decision was lodged with VCAT by the objector at 13 Rooding Street (adjoining west) pursuant to Section 82 of the Planning and Environment Act 1987. The objector also represented the interests of seven other objectors.

No appeal against the conditions of Council’s decision was lodged by the permit applicant.

The application was heard at a Compulsory Conference (mediation) on 24 July 2018. The applicant for review (objector) was accompanied by additional objectors.

At the Compulsory Conference, the permit applicant agreed to:
• Relocate air conditioning units to the basement level;
• Increased northern and western boundary setbacks at the first and second floor (in excess of the side and rear setback requirements at Standard B17);
• Increased screening to habitable room windows and terrace areas (in excess of the overlooking requirements at Standard B22)
• Deletion of terrace areas at the second floor;
• Alterations to the street setback (in accordance with street setback requirements at Standard B6).

The permit applicant and the objectors all agreed to the above changes.

It is noted that the application has a requirement to provide for one residential visitor car space (in addition to providing for all car spaces associated with the residents). The application proposes the provision of two residential visitor car spaces, therefore exceeding the State Government requirements.

If the consent order is not endorsed by the Planning and Amenity Committee, the application will proceed to a two day hearing on 20 September 2018.

2. Recommendation

That Council resolve to:

Issue a Support the Grant of a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/565 for the land known and described as 15 Rooding Street, Brighton, for the construction of a three storey building comprising five 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 advertised plans but modified to show:
   a) The reallocation of car spaces to provide for two visitor spaces.
   b) The removal of the existing trees along the western boundary.
   c) …Deleted…
   d) The front walls of the building are to be setback a minimum of 5.6 metres.
   e) Diagrams that show full compliance with Standard B22 of ResCode for all balconies above ground floor. Whilst planter boxes can be utilised, they must not be reliant upon the heights of any proposed plants (i.e. the box structure itself must address the overlooking requirements).
   f) The removal of the pedestrian gates along the frontage that lead to the building entrance.
   g) Location of all plant and equipment, including hot water services and air conditioners etc. Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms.
   h) Evidence of compliance with standard B41 of clause 55.
i) Signage in the visitor parking bay that no parking is permitted during the Waste Management pick up period (as identified in the Waste Management Plan at condition 23). This applies only to the one space required for manoeuvrability.

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

k) Evidence of payment of the Development Contribution requirement at condition 25.

l) Reduction of front fence to 1.5 metres to comply with Standard B32 of Clause 55 of the Bayside Planning Scheme.

m) All air conditioning units located within the basement level.

n) Provision of a 2.1 metre high common boundary fence between 13 Rooding and 15 Rooding Street.

o) Provision of 1.8 metre high fixed obscure glass screening to be provided to the kitchen, bedroom 2 and western edge of the balcony of Dwelling 4.

p) Provision of a 4.0 metre (minimum) setback to the first floor walls from the northern boundary, with no change to the balcony setbacks.

q) Provision of a 1.8 metre (minimum) setback to the first floor walls from the western property boundary.

r) Deletion of the deck to the north of Apartment 5 at the second floor level and provision of fixed screening to windows along this elevation to a height of at least 1.7 metres.

s) Provision of a 4.5 metre setback to the study of Apartment 5 at the second floor level from the western boundary and deletion of the deck to the west of this study.

t) Provision of a 1.7 metre fixed screen to the northern and western edges of the decks associated with Apartment 5, excluding the front corner of the building (2.2 metre setback from the front façade).

u) Provision of a 1.8 metre fixed obscure screen to the west facing study window of Apartment 5.

All to the satisfaction of the Responsible Authority.

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

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

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

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

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

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

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

9. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by John Patrick, dated October 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.
   b) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
   d) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   e) Details of surface finishes of pathways and driveways.
   f) The removal of the existing trees along the western boundary, replaced with new screen trees to the satisfaction of the Responsible Authority.

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

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

12. Prior to the endorsement of plans pursuant to Condition 1, 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.

13. The Tree Management Plan (report) must be specific to the site, be in accordance with Australian Standard: Protection of Trees on Development Sites AS4970-2009 and include:
   - Details of Tree Protection Zones 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;
   - Comment on methods to be utilised and instruction on how to deploy them;
   - Comment on when the protection measures are to be deployed;
• Comment on when the protection measures can be modified;
• Process that will be followed if any damage occurs to a tree;
• Process that will be followed if construction works require alteration to protection measures outlined in report; and
• Stages of development at which inspections will occur.

Any proposed alteration to the plan must be assessed by the site arborist and can only occur following the approval of the site arborist. Such approval must be noted and provided to the Responsible Authority within 28 working days of a written request.

Any damaged tree must be inspected by the site arborist without any delay and remedial actions undertaken. Such actions must be documented.

The Tree Protection Plan must be drawn to scale and show the location of all tree protection measures to be utilised.

If tree protection measures are proposed to be changed during the development, one plan for each stage of tree protection measures must be submitted.

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

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

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

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

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

19. Before the development, detailed plans indicating, but not limited to, the method of storm-water discharge to the nominated Legal Point of Discharge
20. Before the occupation of the development starts, the area(s) set aside for vehicle parking and accessways must be constructed, drained and line marked to the satisfaction of the Responsible Authority. Such areas must be kept available for these purposes at all times.

21. All ancillary works and features associated with car parking as shown on the endorsed plans (i.e. convex mirror) must be installed and fully maintained at all times.

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

23. Before the endorsement of plans, 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) Storm water drains in storage areas should be fitted with a litter trap.
   c) The number and size of bins to be provided.
   d) Facilities for bin cleaning.
   e) Method of waste and recyclables collection.
   f) Types of waste for collection, including colour coding and labelling of bins.
   g) Hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines).
   h) Method of hard waste collection.
   i) Method of presentation of bins for waste collection.
   j) Sufficient headroom within the basement to accommodate waste collection vehicles.
   k) Sufficient turning circles for the waste collection vehicles to enter and exit the site in a forward direction.
   l) Strategies for how the generation of waste and recyclables will be minimised.
   m) Compliance with relevant policy, legislation and guidelines, including standard B45.

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.

24. 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.

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

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

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

Permit Notes:

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council's supervision for which 24 hours notice is required.
- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a ‘Road Opening Permit’ must be obtained to facilitate such work.
- A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.
- Before the development starts the applicant must pay $3,747.93 to the Responsible Authority for the removal and replacement of an existing street tree. This amount has been determined in accordance with Council’s current policy for the removal of street tree(s). This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by the Responsible Authority, must undertake the removal and replacement of the street tree. Any replacement planting will be at the discretion of the Responsible Authority.

Support Attachments

1. Notice of Decision
2. Planning and Amenity Committee Agenda, 27 February 2018
3. Development Plans
NOTICE OF DECISION
TO GRANT A PERMIT
NO: 5/2017/565/1

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

Address Of The Land: 15 Rooding Street BRIGHTON

The Permit Will Allow: Construction of a three storey apartment building in accordance with the endorsed plans and subject to the following conditions.

The responsible authority has decided to grant a permit. The permit has not been issued.

What Will The Conditions Of The Permit Be?

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans but modified to show:
   a) The reallocation of car spaces to provide for two visitor spaces.
   b) The removal of the existing trees along the western boundary.
   c) All external walls, inclusive of any solid screening mechanisms or structures (the top 200mm of any semi-transparent screening measure can encroach), must be setback such that full compliance with standard B17 is achieved.
   d) The front setback to fully comply with Standard B6 of Clause 55 of the Bayside Planning Scheme.
   e) Diagrams that show full compliance with Standard B22 of ResCode for all balconies above ground floor. Whilst planter boxes can be utilised, they must not be reliant upon the heights of any proposed plants (i.e. the box structure itself must address the overlooking requirements).
   f) The removal of the pedestrian gates along the frontage that lead to the building entrance.
   g) Location of all plant and equipment, including hot water services and air conditioners etc. Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms.
   h) Evidence of compliance with standard B41 of clause 55.
   i) Signage in the visitor parking bay that no parking is permitted during the Waste Management pick up period (as identified in the Waste Management Plan at condition 23). This applies only to the one space required for manoeuvrability.

Date issued: 27 February 2018

Michael Kelleher
Signature for the Responsible Authority

Planning and Environment Regulations 2005 Form 5
j) A schedule of construction materials, external finishes and colours (incorporating for example paint samples).

k) Evidence of payment of the Development Contribution requirement at condition 25.

l) Reduction of front fence to 1.5 metres to comply with Standard B32 of Clause 55 of the Bayside Planning Scheme.

All to the satisfaction of the Responsible Authority.

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

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

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

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

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

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

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

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

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

Date issued: 27 February 2018

Signature for the Responsible Authority

Planning and Environment Regulations 2005 Form 5
b) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.

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

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

e) Details of surface finishes of pathways and driveways.

f) The removal of the existing trees along the western boundary, replaced with new screen trees to the satisfaction of the Responsible Authority.

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

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

12. Prior to the endorsement of plans pursuant to Condition 1, 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.

13. The Tree Management Plan (report) must be specific to the site, be in accordance with Australian Standard: Protection of Trees on Development Sites AS4970-2009 and include:

- Details of Tree Protection Zones 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;
- Comment on methods to be utilised and instruction on how to deploy them;
- Comment on when the protection measures are to be deployed;
- Comment on when the protection measures can be modified;
- Process that will be followed if any damage occurs to a tree;
- Process that will be followed if construction works require alteration to protection measures outlined in report; and
- Stages of development at which inspections will occur.
Any proposed alteration to the plan must be assessed by the site arborist and can only occur following the approval of the site arborist. Such approval must be noted and provided to the Responsible Authority within 28 working days of a written request.

Any damaged tree must be inspected by the site arborist without any delay and remedial actions undertaken. Such actions must be documented.

The Tree Protection Plan must be drawn to scale and show the location of all tree protection measures to be utilised.

If tree protection measures are proposed to be changed during the development, one plan for each stage of tree protection measures must be submitted.

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

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

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

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

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

19. Before the development, detailed plans indicating, but not limited to, the method of 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.

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

21. All ancillary works and features associated with car parking as shown on the endorsed plans (i.e. convex mirror) must be installed and fully maintained at all times.

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

23. Before the endorsement of plans, 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) Storm water drains in storage areas should be fitted with a litter trap.

c) The number and size of bins to be provided.

d) Facilities for bin cleaning.

e) Method of waste and recyclables collection.

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

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

h) Method of hard waste collection.

i) Method of presentation of bins for waste collection.

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

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

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

m) Compliance with relevant policy, legislation and guidelines, including standard B45.
| NOTICE OF DECISION TO GRANT A PERMIT NO: 5/2017/565/1 | Responsible Authority: Bayside City Council |
| Planning Scheme: Bayside |

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.

24. 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 reasonably proximate to the site).

n) Remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site).
NOTICE OF DECISION
TO GRANT A PERMIT
NO: 5/2017/565/1

<table>
<thead>
<tr>
<th>Responsible Authority:</th>
<th>Bayside City Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>Planning Scheme:</td>
<td>Bayside</td>
</tr>
</tbody>
</table>

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.

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

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

26. 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 1997, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

Permit Notes:

• This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
• A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council’s supervision for which 24 hours notice is required.
• Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a ‘Road Opening Permit’ must be obtained to facilitate such work.
• A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.
• Before the development starts the applicant must pay $3,747.93 to the Responsible Authority for the removal and replacement of an existing street tree. This amount has been determined in accordance with Councils current policy for the removal of street tree(s). This amount may be increased by the Responsible Authority if an extension of

Date issued: 27 February 2018

Michael Keller
Signature for the Responsible Authority

Planning and Environment Regulations 2005 Form 5
time to commence work is granted and the amenity value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by the Responsible Authority, must undertake the removal and replacement of the street tree. Any replacement planting will be at the discretion of the Responsible Authority.

Date issued: 27 February 2018
Signature for the Responsible Authority
1 March 2018

Becker Wright Pty Ltd
jason@keenplanning.com.au

Dear Applicant,

Application Number: 2017/565/1
Address: 15 Rooding Street BRIGHTON

The Planning Committee considered the above application and determined to issue a Notice of Decision to Grant a Permit. The planning permit has not been issued.

Attached is a copy of the Notice which explains what the permit will allow and the conditions the permit will be subject to if issued.

Your attention is drawn to the provisions contained on the rear of the Notice.

A planning permit cannot be issued until after the period within which an objector may lodge an Application for Review or, if an Application for Review is made within that period, until the Application for Review has been determined by the Victorian Civil and Administrative Tribunal (VCAT) or withdrawn.

If there is no Application for Review a permit will be issued following notification from VCAT.

Should you have any queries, please contact Council’s Planning Officer:

Michael Kelleher
Email: enquiries@bayside.vic.gov.au
Telephone: 9599 4875

Please quote planning application 2017/565/1 – 15 Rooding Street BRIGHTON in all correspondence / emails.

Yours faithfully

Fiona Farrand (per Michael Kelleher)

STATUTORY PLANNING DEPARTMENT
Enc.
FORM 5  
Sections 64(1) and 66(2)

NOTICE OF DECISION TO GRANT A PERMIT

IMPORTANT INFORMATION ABOUT THIS NOTICE

WHAT HAS BEEN DECIDED?

The Responsible Authority has decided to grant a permit. The permit has not been issued. This notice sets out what the permit will allow and what conditions the permit will be subject to if issued.

WHAT ABOUT APPEALS?

For the Applicant—
  * The person who applied for the permit may apply for review of any condition in the notice of decision to grant a permit. The application for review must be lodged within 60 days of the giving of this notice.

For an Objector—
  * An objector may apply for review of the decision of the Responsible Authority to grant a permit. The application for review must be lodged within 21 days of the giving of this notice.
  * If there is no application for review, a permit will be issued after 21 days of the giving of this notice.

For a Recommending Referral Authority—
  * A recommending referral authority may apply for review of the decision of the responsible authority:
    (a) to grant a permit, if that recommending referral authority objected to the grant of the permit; or
    (b) not to include a condition on the permit that the recommending referral authority recommended.
  * The application for review must be lodged within 21 days of the giving of this notice.
  * If there is no application for review, a permit will be issued after 21 days of the giving of this notice.

For all applications for review—
  * An application for review is lodged with the Victorian Civil and Administrative Tribunal.
  * An application for review must be made on the Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
  * An application for review must state the grounds upon which it is based.
  * An application for review must also be served on the Responsible Authority.
  * Notice of the application for review must be given in writing to all other parties to the review as soon as practicable after an application for review is lodged. An objector who applies for a review must give notice to the person who applied for the permit.

An applicant who applies for review must give notice to all objectors.
  * Details about applications for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal — Telephone: (03) 9628 9777
Planning and Environment List

NOTIFICATION OF DECISION TO GRANT A PERMIT

Use this form to notify VCAT that you have decided to grant a permit and have issued a Notice of Decision (NOD) to objectors.

<table>
<thead>
<tr>
<th>Responsible Authority</th>
<th>Bayside City Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>Planning Officer</td>
<td>Michael Kelleher</td>
</tr>
<tr>
<td>Planning Application Number</td>
<td>5/2017/555/1</td>
</tr>
<tr>
<td>Address of Land</td>
<td>15 Rooding Street BRIGHTON</td>
</tr>
<tr>
<td>Use/Development</td>
<td>Construction of a three storey apartment building</td>
</tr>
<tr>
<td>Cost of the Development</td>
<td>$3,500,000.00</td>
</tr>
<tr>
<td>Permit Applicant’s Name</td>
<td>Becker Wright Pty Ltd</td>
</tr>
<tr>
<td>Permit Applicant’s Address</td>
<td><a href="mailto:jason@keenplanning.com.au">jason@keenplanning.com.au</a></td>
</tr>
<tr>
<td>Date NOD Issued</td>
<td>27 February 2018</td>
</tr>
<tr>
<td>Date NOD Posted</td>
<td>/ / 2018</td>
</tr>
</tbody>
</table>

List all objectors and referral authorities to the permit in the table below or provide as an attachment.

<table>
<thead>
<tr>
<th>Objectors</th>
<th>Attachment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Referral Authorities</td>
<td>n/a</td>
</tr>
</tbody>
</table>

How to lodge this form:
Please email your completed form to vcat-admin@justice.vic.gov.au using the subject line “NOD: Address of Land”
4.5 15 ROODING STREET, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO. 2017/565/1 WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/17/5452 – Doc No: DCC/18/22442

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Becker Wright Pty Ltd</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>15 September 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>102 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone (Schedule 2)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 10)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay</td>
</tr>
<tr>
<td></td>
<td>(Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>14</td>
</tr>
</tbody>
</table>

Proposal
The application seeks to construct five apartments through a three storey building (plus basement) on a lot with an area of 585 square metres. Key details of the proposal are as follows:

- Five dwellings are proposed, two with 3 bedrooms and three with 2 bedrooms;
- Proposed building height would be three storeys, or 9.9m at its maximum point;
- A basement level is included, containing 9 car park spaces (inclusive of one visitor space). No reduction in car parking is sought;
- Site coverage equates to 57%;
- Permeability 23%; and
- External finish would best be described as contemporary, with large areas of glazing, rendered finish and a flat roof.

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

History
There is no planning permit history relevant to this application.

2. Planning controls

Planning Permit requirements
A planning permit is required pursuant to:

- Clause 32.08-6 (General Residential Zone) – Construction of two or more dwellings on a lot.
Bayside City Council
Planning & Amenity Committee Meeting - 14 August 2018
Attachment 2

Bayside City Council
Planning & Amenity Committee Meeting - 27 February 2018

- Clause 43.02-2 (Design and Development Overlay 10) – Construction of buildings and works.

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

3. Stakeholder consultation

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

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>Consent with conditions. Row of ornamental trees will unlikely survive and should be removed and replaced. Tree management plan required for protection of neighbouring trees. Landscape plan generally acceptable, but requires updating to remove and replace ornamental pears.</td>
</tr>
<tr>
<td>Drainage Assets Engineer</td>
<td>Consent with standard conditions</td>
</tr>
<tr>
<td>Open Space Arborist</td>
<td>Consent with standard conditions. Removal of street tree acceptable subject to compensation costs to allow for replanting.</td>
</tr>
<tr>
<td>Waste Management</td>
<td>Consent with conditions. Private Waste Management Plan required.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>Consent subject to standard conditions. No significant issues.</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 14 objections were received. The following concerns were raised:
- Non complaint with neighbourhood character;
- Insufficient side setbacks;
- Unsympathetic to surrounding heritage dwellings;
- Excessive visual bulk;
- Overlooking and object to use of planter box for screening;
- Narrow street unable to cope with additional traffic;
- Insufficient parking;
- Safety issues associated with narrow street and lack of footpath;
- Waste Management Issues;
- Accessway into basement is one way only and will lead to vehicle conflict;
The number of objections received for this application is consistent across Council’s record management systems.

Consultation meeting

A consultation meeting was held on 22 January 2018 attended by the permit applicant and 11 objectors. As a result of this meeting no objections were withdrawn.

4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/565/1 for the land known and described 15 Rooding Street in Brighton, for the construction of a three storey apartment building in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans but modified to show:
   
a) The reallocation of car spaces to provide for two visitor spaces.
   
b) The removal of the existing trees along the western boundary.
   
c) All external walls, inclusive of any solid screening mechanisms or structures (the top 200mm of any semi-transparent screening measure can encroach), must be setback such that full compliance with standard B17 is achieved.
   
d) The front setback to increase by 400mm at ground and first floor (maintaining the same floor layout and elevation detail as currently proposed).
   
e) Diagrams that show full compliance with Standard B22 of ResCode for all balconies above ground floor. Whilst planter boxes can be utilised, they must not be reliant upon the heights of any proposed plants (i.e. the box structure itself must address the overlooking requirements).
   
f) The removal of the pedestrian gates along the frontage that lead to the building entrance.
   
g) Location of all plant and equipment, including hot water services and air conditioners etc. Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms.
   
h) Evidence of compliance with standard B41 of clause 55.
   
i) Signage in the visitor parking bay that no parking is permitted during the Waste Management pick up period (as identified in the Waste Management Plan at condition 25). This applies only to the one space required for manoeuvrability.
   
j) A schedule of construction materials, external finishes and colours (incorporating for example paint samples).
   
k) Evidence of payment of the Development Contribution requirement at condition 25.
All to the satisfaction of the Responsible Authority.

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

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

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

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

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

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

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

9. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by John Patrick, dated October 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.
   b) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
   d) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   e) Details of surface finishes of pathways and driveways.
   f) The removal of the existing trees along the western boundary, replaced with new screen trees to the satisfaction of the Responsible Authority.

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

12. Prior to the endorsement of plans pursuant to Condition 1, 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.

13. The Tree Management Plan (report) must be specific to the site, be in accordance with Australian Standard: Protection of Trees on Development Sites AS4970-2009 and include:
   - Details of Tree Protection Zones 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;
   - Comment on methods to be utilised and instruction on how to deploy them;
   - Comment on when the protection measures are to be deployed;
   - Comment on when the protection measures can be modified;
   - Process that will be followed if any damage occurs to a tree;
   - Process that will be followed if construction works require alteration to protection measures outlined in report; and
   - Stages of development at which inspections will occur.

Any proposed alteration to the plan must be assessed by the site arborist and can only occur following the approval of the site arborist. Such approval must be noted and provided to the Responsible Authority within 28 working days of a written request.

Any damaged tree must be inspected by the site arborist without any delay and remedial actions undertaken. Such actions must be documented.

The Tree Protection Plan must be drawn to scale and show the location of all tree protection measures to be utilised.

If tree protection measures are proposed to be changed during the development, one plan for each stage of tree protection measures must be submitted.

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

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

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

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

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

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

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

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

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

19. Before the development, detailed plans indicating, but not limited to, the method of 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.

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

21. All ancillary works and features associated with car parking as shown on the endorsed plans (i.e. convex mirror) must be installed and fully maintained at all times.

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

23. Before the endorsement of plans, 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) Storm water drains in storage areas should be fitted with a litter trap.

c) The number and size of bins to be provided.

d) Facilities for bin cleaning.

e) Method of waste and recyclables collection.

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

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

h) Method of hard waste collection.

i) Method of presentation of bins for waste collection.


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

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

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

m) Compliance with relevant policy, legislation and guidelines, including standard B45.

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.

24. 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.

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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.

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

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

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

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

Permit Notes:

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

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

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

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

- Before the development starts the applicant must pay $3,747.93 to the Responsible Authority for the removal and replacement of an existing street tree. This amount has been determined in accordance with Council's current policy for the removal of street trees. This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by the Responsible Authority,
must undertake the removal and replacement of the street tree. Any replacement planting will be at the discretion of the Responsible Authority.

5. **Council Policy**

Council Plan 2017-2021

Relevant objectives of the Council plan include:

- Where significant development is directed to specified and planned activity centres and strategic locations, providing a transition to surrounding residential areas and incorporating improved infrastructure and open space.
- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
- Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 9  Plan Melbourne
- Clause 11  Settlement
- Clause 12  Environmental and Landscape Values
- Clause 15  Built Environment and Heritage
- Clause 16  Housing
- Clause 17  Economic Development
- Clause 18  Transport
- Clause 19  Infrastructure
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
- Clause 21.06 Built Environment and Heritage
- Clause 21.07 Economic Development
- Clause 21.09 Transport and Access
- Clause 21.10 Infrastructure
- Clause 21.11 Local Areas (Bay Street)
- Clause 22.06 Neighbourhood Character Policy (Precinct B1)
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 Context

State Planning Policy Framework supports the intensification of development in and around public transport nodes and in activity centres.

Clause 21.03 (Settlement and Housing) identifies the need for Bayside to play its role in accommodating for the forecast population increase of Melbourne, specifically stating that “Activity Centres will play an increasingly important role in providing for future housing needs, particularly as opportunities diminish elsewhere due to neighbourhood character, heritage and environmental constraints”.

Subsection 1 of Clause 21.03 relates specifically to Activity Centres, of which Bay Street is identified as one of four Major Activity Centres within Bayside. The objectives require that medium density development be directed to Major Activity Centres to deliver increased housing density and diversity. Within policy, strategies include:

- Encourage redevelopment of larger sites for higher density residential dwellings.
- Discourage the replacement and construction of single dwellings.

The Local Areas policy (Clause 21.11-2) contains a subsection relating specifically to the Bay Street Major Activity Centre. Policy seeks to increase the number, and variety of dwelling types through the redevelopment of sites for higher density living. The subject site is designated for three storeys in Map 1 to Clause 21.11-2.

The themes contained in Clause 21 are further reinforced through clause 21.09 (Transport and Access), that encourages high density development close to Activity Centres to then encourage more sustainable transport modes (i.e. public transport).

It is considered that the proposal meets the above policy aspirations, and the subject site clearly sits in an area suitable to a development of this general scale and form (as identified in both State and Local Planning Policy)

6.2. Design and Development Overlay

The subject site is covered by Schedule 10 to the Design and Development Overlay, that controls built form standards for Bay Street Major Activity Centre.

A permit is required under this overlay for buildings and works.

The site sits within Precinct E in Map 1 at subsection 5, where the maximum building height is 11m (3 storeys). Evidence of this is detailed below:
Table to built form precinct provisions

Refer to Built Form Precinct Map at the end of the schedule.

<table>
<thead>
<tr>
<th>Precinct</th>
<th>Preferred building height</th>
<th>Maximum building height</th>
</tr>
</thead>
<tbody>
<tr>
<td>B</td>
<td>13.5m (4 storeys)</td>
<td>-</td>
</tr>
<tr>
<td>C</td>
<td>11.0m (3 storeys)</td>
<td>-</td>
</tr>
</tbody>
</table>

**Bayside Planning Scheme**

<table>
<thead>
<tr>
<th>Precinct</th>
<th>Preferred building height</th>
<th>Maximum building height</th>
</tr>
</thead>
<tbody>
<tr>
<td>E</td>
<td>-</td>
<td>11.0m (3 storeys); or 12.0m (3 storeys) where the slope of the natural ground level at any cross section of the site of the building wider than 8m is 2.5 degrees or more</td>
</tr>
<tr>
<td>E1</td>
<td>11.0m (3 storeys); or 12.0m (3 storeys) where the slope of the natural ground level at any cross section of the site of the building wider than 8m is 2.5 degrees or more</td>
<td>-</td>
</tr>
</tbody>
</table>

With a maximum height of 9.9m and three storeys, the proposed development complies with the maximum height requirements as stipulated under the overlay.

In addition to the maximum height requirements, under the heading 'Residential Precincts' at section 2.0, there is a requirement for development to comply with the setback requirements of clause 55, except for the second floor that should be setback 4.0m behind the front wall of the floor immediately below.

With respect to the setback requirements of clause 55, there are some minor variations sought, however condition 1(c) will be enforced requiring full compliance and hence this aspect of the requirement will be fulfilled when (or if) the development is constructed.
With respect to the 4.0m second floor setback, this is achieved (in fact exceeded), with the exception of the circular staircase that would be setback 2.1m. Given the minor width of this part of the overall structure (approx. 3.0m), its central location and articulation it provides to over the overall appearance of the building, the outcome is acceptable and in line with the intent sought by this requirement (to provide for a less visible and dominant uppermost floor).

6.3. Neighbourhood character

As a starting point, it must be acknowledged that the site is located within the Bay Street Major Activity Centre and is covered by the DDO10, where high density development is encouraged.

In achieving the objectives of the relevant policies that seek more intense development on this site (as has been discussed previously), there will obviously be a stark contrast in character between those buildings constructed under the current planning controls (or those being assessed like this current proposal) and the existing housing stock that was built many years ago under a very different planning regime.

This is acknowledged at the introductory sections of Council’s Neighbourhood Character Policy (Clause 22.06), including:

Objective points 3 and 4 at clause 22.06-2 that state:

- To recognise the need for change around activity centres while respecting the desired future character of the area.
- To recognise the need for new or additional Design Objectives and Design Responses for areas affected by structure planning outcomes and Melbourne 2030 housing objectives.

Furthermore, at the Policy section in Clause 22.06-3 (headed ‘Exercising Discretion’), it is stated that (underlined for emphasis):

Where a permit is required to develop or subdivide land in residential areas it is policy to take into account:

- The preferred future character and the precinct guidelines including objectives, design responses and avoid statements for each precinct as described in this policy.
- The extent to which the characteristics of the built and natural environment in the immediate vicinity of the site may determine a preferred future character that is different from that applying to the remainder of the precinct in which the site is located.
- Whether the site is located within a residential opportunity area as shown on the Strategic Framework Plan of the Municipal Strategic Statement and the extent to which this may alter the relevance of the design responses to consideration of the proposal.

The underlined section above applies to the development under consideration, and the relevance of the Neighbourhood Character Precinct B1 is diminished by the sites inclusion in the Bay Street Activity Centre and the DDO10.

Failure to acknowledge such a contradiction would result in an assessment whereby one would effectively ‘have one foot on the accelerator and one foot on the break’. I.e., the intensive development sought under the DDO10 (and various other State and Local Policy) would be severely restricted by the objectives of Clause 22.06 (Neighbourhood Character Policy) that effectively requires development to respect the surrounding, largely single story housing stock.

Notwithstanding the above, an assessment has been undertaken against Neighbourhood Character Precinct B1, and an appropriate level of compliance has been
achieved with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The proposed development contains generous areas of landscaping for a development of this type, allowing for an appropriate natural frame of the building. Car parking is located at basement level and hence would be largely hidden from the public realm. The building contains good levels of articulation and would not unreasonably overwhelm any of the adjacent properties.

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:

Development Entrance (Standards B5, B26 and B42)

The concern with respect to each of these standards relates to the pedestrian gates that sit to the front of the entrance to the building.

These gates are considered to be a poor outcome from a streetscape amenity perspective, as they obscure the entrance that would otherwise be an attractive feature when viewed from the street and provide a clear sense of address and identity. The gates are unnecessary and security would be better controlled at the entrance point itself.

The removal of the gates would increase the presence of the building to the street, provide a better aesthetic outcome and will be required through condition (condition 1(f)).

Street setback (Standard B6)

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.3m</td>
<td>5.6m (Ground)</td>
<td>0.7m</td>
</tr>
<tr>
<td></td>
<td>5.2m (First)</td>
<td>1.1m</td>
</tr>
</tbody>
</table>

The applicant correctly states that street setbacks are quite varied along Rooding Street, and contain many setbacks less than the proposed 5.2m minimum.

However, each of these reduced setbacks relate to very modest, single storey dwellings, and to rely on these for a reduced setback of a three storey building is not an acceptable approach.

Notwithstanding, the number of setbacks at or around 4.8m to 5.3m (i.e. the predominant setback pattern along the street) warrants a reduction of some form, from the formal requirement of 6.3m. An appropriate compromise would be the further recession of the entire building by 400mm, resulting in a ground floor setback of 6.0m (300mm variation) and first floor setback of 5.6m (700mm variation). This is sought at condition 1(d).

This would ensure that appropriate landscape space is provided for canopy trees to frame the proposed building.

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>Requirement</td>
<td>Proposed</td>
<td>Requirement</td>
</tr>
<tr>
<td>East (side)</td>
<td>1m</td>
<td>1.8m</td>
</tr>
<tr>
<td>West (side)</td>
<td>1m</td>
<td>1.8m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>1m</td>
<td>3.3m</td>
</tr>
</tbody>
</table>
The proposed building is largely compliant, with the exception of the east and west first floor setbacks (with the main non-compliance associated with the fire place to each dwelling on this floor).

The building can easily be made complaint, and given the generous size of each dwelling, compliance with standard B17 will be enforced through condition (condition 1(c)).

Overlooking (Standard B22)

All habitable room windows with views towards the secluded private open space and habitable room windows of adjoining properties appear to have been designed to incorporate appropriate screening measures.

The only area that requires more consideration relates to the use of screening planter boxes at first and second floor level. Whilst the use of such structures is acceptable, they should not be reliant upon mature planting height to provide for the minimum screening. This will be clarified and if required, amended through condition (refer condition 1(e)).

Front Fences (Standard B32)

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.5m</td>
<td>1.8m</td>
<td>300 mm</td>
</tr>
</tbody>
</table>

A 1.8 metre high front fence is proposed which exceeds the maximum allowable height of 1.5 metres. Given the permeable nature of the fence and noting the need to provide privacy for the ground floor dwellings open space, this outcome is acceptable, particularly when the pedestrian gate is removed to open up this section of building to the street.

Fences of this height (or similar) are not foreign along Rooding Street.

6.5. Landscaping

From an arboriculture perspective Council’s Arborist has reviewed the application and advises that there are no significant trees on site that demand retention.

Notwithstanding, the applicant has sought the retention of a Queen Palm at the rear of the site, and also a row of ornamental pear trees along the western boundary.

The Queen Palm is easily retained, and will be protected throughout construction via a Tree Management Plan (as will all neighbouring trees).

Unfortunately, the row of Ornamental Pears would unlikely survive excavation works associated with the basement, and Council’s Arborist states that a superior outcome (in the longer term) would be to allow for the removal of these trees, and require the replacement of new screen vegetation along this boundary that would better screen the building from this interface over time. This will be required through condition.

In addition to the above assessment, Council’s Arborist has reviewed the submitted landscape plan and advised that it is considered acceptable, subject to the removal and replacement of the Ornamental Pears as discussed above.

Street tree(s)

A street tree is proposed for removal, which Council’s Open Space Arborist has consented to subject to compensation costs to replace the tree (two trees would be planted in its place).

The remaining street tree would be protected through condition.

6.6. Car parking and traffic

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

The development comprises 3 by two bedroom dwellings and 2 by three bedroom dwellings.

A total of 8 parking spaces are therefore required, and 9 spaces have been provided (one space in excess of that formally required).

Currently, this excess space is allocated to a resident, however the applicant has agreed to reallocate this to visitor parking. Therefore, subject to condition 1(a), the development would show full compliance with the resident parking requirements, and would exceed the visitor parking requirement by one space (two visitor spaces would be provided).

The application was referred to Council's Traffic Engineer who expressed no concern with the development subject to the inclusion of permit conditions relating to vehicle access, driveway gradients, sightlines and internal parking dimensions. These requirements were addressed in the plans resubmitted in response to Council's further information request and hence no additional conditions are required.

Increase in Traffic has been raised by a number of objections, however there is no empirical evidence to suggest that the provision of an additional four dwellings (over and above the existing dwelling) would result in traffic reaching saturation point along Rooding Street or the surrounding street network.

Related to the above, objectors also raised concerns as to the narrow nature of Rooding Street and lack of footpath creating safety issues, stating that increased density along this street is inappropriate for these reasons (amongst others). Ultimately, the suitability of Rooding Street for increased density was investigated through the creation of the Bay Street Structure Plan, and amendment C101 that introduced the findings and recommendations of the Structure Plan into the Planning Scheme (in 2013). Rooding Street was designated for higher density through these processes, and it is not up to this planning officer to now deem Rooding inappropriate for such density due to Street characteristics that were also applicable when the strategic work was being undertaken.

Council’s traffic department did not raise this as an issue within the referral response.

6.7. **Objector issues not already addressed**

**Insufficient side setbacks:**

There are some minor variations sought to the side setback requirements, however full compliance with standard B17 (side and rear setbacks) will be required through condition 1(c).

**Unsympathetic to surrounding heritage dwellings:**

The heritage dwellings along Asling and Cowper Streets are separated from the subject site by No.17 Rooding Street, which wraps around the subject site. Whilst some elements of this building would be visible from those streetscapes, it would not be so visible / dominant as to detract from the values of any heritage building.

**Excessive visual bulk:**

The proposed building would comply with all ResCode requirements that seek to control visual bulk (setbacks, ground level private open space, site coverage etc). Furthermore, the building complies with the built form objectives of the Design and Development Overlay that applies to the site.

Whilst the resulting building would be significantly larger than that of the surrounding single storey dwellings and from this respect this objection is understood, the subject site has long been earmarked for higher density development (through the Bay Street Structure Plan) and hence it was accepted at that time that this built form character would undergo significant change.
Overlooking and object to use of planter box for screening:

There was some ambiguity as to whether the balcony screens relied upon the height of plantings to meet the overlooking requirements of ResCode. If so, this would be inappropriate, and hence condition 1(e) has been included to provide clarity and/or change with respect to this concern.

Waste Management Issues:

A Waste Management Plan would be required through condition. Turning diagrams have been provided indicating that the relevant waste truck is able to sufficiently manoeuvre around the basement.

Accessway into basement is one way only and will lead to vehicle conflict;

Clause 52.06 (Car Parking) requires a passing bay only for car park areas that serve 10 or more spaces. Given that the proposed parking area comprises 9 spaces, a passing bay is not required in this instance.

Support Attachments

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

Figure 1. Aerial Overview of subject site and objector map. Please note some objectors have been received from beyond the map boundaries.

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>★</td>
</tr>
<tr>
<td>Objectors</td>
<td>●</td>
</tr>
</tbody>
</table>
Photo 2: View of the subject site.
Figure 3: View of the adjacent property at No.17 Roeding Street.
Figure 4: View of the adjacent property at No.13 Rooding Street.
Figure 5: View from the subject site looking west along Rooding Street.
Figure 6: View from the subject site looking east along Roeding Street.
Figure 7: View of four dwelling development under construction at 11 Asling Street (corner of Asling and Rooding Street).
ATTACHMENT 3
Neighbourhood Character Policy (Precinct B1)

Preferred Future Character

The diverse dwelling styles, with a continued presence of pre WW2 era dwellings, and new buildings that respect, without replicating, these styles, sit within established gardens with large trees. Garages and car ports are set behind the dwelling façade so as not to dominate the streetscape. Generous side setbacks on at least one side allow vegetation to flow around the dwellings and this, along with avenue street trees and open style front fences, contributes to the green, leafy streetscapes within 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 to should retain the front of these dwellings | Demolition of dwellings that contribute to the valued character of the Precinct.                   | The existing dwelling is not considered to hold such significance that retention would be warranted, particularly given the planning controls applicable to the site that encourage redevelopment. |
| To maintain and enhance the garden settings of the dwellings.               | * Retain large trees wherever possible.  
  * Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs | Lack of landscaping and substantial vegetation. Removal of large canopy trees.               | The proposed garden setting is acceptable for a development of this type, with sufficient open space at ground floor to provide for various planting, including canopy trees and screen vegetation.  
  A landscape plan has been prepared, and been reviewed by Council's Arborist who has stated that it meets the Landscape Guidelines. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain the rhythm of spacious visual separation between buildings and provide 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. | Lack of front garden space                                                   | Whilst some increase is setbacks will be required through condition, the development would generally be well sited to allow for a variety of plantings as discussed throughout the body of the report.  
Appropriate setbacks are provided along the frontage to transition the building from those immediately adjacent. |
| To minimise the dominance of car parking facilities, driveways and crossovers. | - Locate garages and car ports behind the line of the dwelling.  
- Provide vehicular access from a rear laneway where possible, while maintaining pedestrian access from the street frontage  
- Provide a maximum of one single-width crossover per typical property frontage, where no alternative is available | Car parking facilities that dominate the facade or view of the dwelling.  
Dominance of crossovers and driveways.                                                                 | All parking would be located at basement level and hence would be hidden from the public realm.  
Only one single width crossover is proposed.                                                                 |
| To ensure new development respects the dominant buildings forms and scale of buildings in the Precinct, through the use of innovative architectural responses. | - Recess upper storey elements from the front façade.  
- Articulate the form of buildings and elevations, particularly front facades. | Large bulky buildings with flat, poorly articulated wall surfaces.       | The proposed building is of a larger scale than its surrounds, though this is specifically encouraged for the site and has been discussed in detail throughout the report.  
The second floor is recessed from the front façade in accordance with the DDO10, and appropriate levels of articulation are provided at each remaining elevation of the building through a variety of material, colour and setbacks. |
<p>| To respect the identified heritage qualities of adjoining buildings.      | - Where adjoining an identified heritage building, reflect the dominant building form, height, materials and massing of the | Imitation or reproduction of historic building styles and detailing | The heritage dwellings along Asling and Cowper Streets are separated from the subject site by No 17 Rooding Street, which wraps around the subject site. Whilst |</p>
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>heritage building/s, of the heritage building/s in the new building design.</td>
<td></td>
<td>no avoidance required</td>
<td>some elements of this building would be visible from those streetscapes, it would not be so visible / dominant as to detract from the values of any heritage building.</td>
</tr>
<tr>
<td>To reflect the building materials in locations where there is particular</td>
<td>• Where consistent materials are used in the streetscape, use similar tonings in</td>
<td>Excessive use of render on external walls.</td>
<td>The proposed building would look more contemporary than the traditional housing stock, however would respect the more modern buildings (including single dwelling additions) where non-traditional elements such as render are being utilised. Ex examples of this can be seen at No.11 Asling Street and 2 Budd Street (both corner sites with frontages to Rooding Street) and No.7 Rooding Street. All things considered, the design detail respects the emerging character of the area, noting that further deviation from traditional character is to be expected given the planning controls applicable to the site (as discussed throughout the body of the report).</td>
</tr>
<tr>
<td>consistency.</td>
<td>the colours of new buildings</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td>• Provide open style front fences appropriate to the building era</td>
<td>High, solid front fencing.</td>
<td>A 1.8 metre high front fence is proposed which exceeds the maximum allowable height of 1.5 metres. Given the permeable nature of the fence and noting the need to provide privacy for the ground floor dwellings open space, this outcome is acceptable, particularly when the pedestrian gate is removed to open up this section of building to the street. Fences of this height (or similar) are not foreign along Rooding Street.</td>
</tr>
<tr>
<td>Title and Objective</td>
<td>Complies with Standard?</td>
<td>Comments</td>
<td></td>
</tr>
<tr>
<td>---------------------</td>
<td>-------------------------</td>
<td>----------</td>
<td></td>
</tr>
</tbody>
</table>
| **B1 Neighbourhood Character**  
Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.  
Development responds to features of the site and surrounding area. | Yes | Refer report. |
| **B2 Residential Policy**  
Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.  
Support medium densities in areas to take advantage of public transport and community infrastructure and services. | Yes | The construction of a three storey building comprising five (5) dwellings is supported by relevant policies for this 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. | No | The entrance is obscured by gates as discussed at standard B26. These gates would be removed through condition. |
| **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: 6.3m  
Proposed: 5.2m |
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Height/Percentage</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>B7</td>
<td>Building Height</td>
<td>Yes</td>
<td>Maximum allowed: 11m</td>
<td>Proposed: 9.9m</td>
</tr>
<tr>
<td>B8</td>
<td>Site Coverage</td>
<td>Yes</td>
<td>Maximum allowed: 60%</td>
<td>Proposed: 57.7%</td>
</tr>
<tr>
<td>B9</td>
<td>Permeability</td>
<td>Yes</td>
<td>Minimum: 20%</td>
<td>Proposed: 22.8%</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>B11</td>
<td>Open Space</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B12</td>
<td>Safety</td>
<td>Yes</td>
<td>The proposal provides clear legibility and access to the dwellings from the Street. The proposal allows for stairs and a lift to each apartment.</td>
<td></td>
</tr>
<tr>
<td>B13</td>
<td>Landscaping</td>
<td>Yes</td>
<td>Refer report.</td>
<td></td>
</tr>
</tbody>
</table>
Bayside City Council

Planning & Amenity Committee Meeting - 14 August 2018

Attachment 2

Bayside City Council

Planning & Amenity Committee Meeting - 27 February 2018

Attachment 4

**B14 Access**

Ensure the safe, manageable and convenient vehicle access to and from the development.

Ensure the number and design of vehicle crossovers respects neighbourhood character.

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>Refer report.</th>
</tr>
</thead>
</table>

**B15 Parking Location**

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

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>Refer report.</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 to report the table below. Areas of noncompliance are underlined.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Ground floor</th>
<th>First Floor</th>
<th>Second Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Requirement</td>
<td>Proposed</td>
<td>Requirement</td>
</tr>
<tr>
<td>East (side)</td>
<td>1m</td>
<td>1.8m</td>
<td>1.7 – 1.8m</td>
</tr>
<tr>
<td>West (side)</td>
<td>1m</td>
<td>1.8m</td>
<td>1.8m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>1m</td>
<td>3.3m</td>
<td>1.0m to 1.1m</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>Height 2.8m (max allowable 3.2m)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Length 6.7m (max allowable 15m)</td>
</tr>
</tbody>
</table>

**B19 Daylight to Existing Windows**

Allow adequate daylight into existing habitable room windows.

|            | Yes | The proposal is setback from property boundaries to ensure daylight to existing windows is maintained and comfortably complies with the setback requirements of the standard. |

**B20 North Facing Windows**

Allow adequate solar access to existing north-facing habitable room windows.

|            | N/A | There are no existing north facing habitable room windows within 3 metres of the boundary of an adjoining lot. |

---

Item 4.5 – Matters of Decision
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>B21</td>
<td>Overshadowing Open Space</td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September.</td>
</tr>
<tr>
<td>B22</td>
<td>Overlooking</td>
<td>Yes</td>
<td>All habitable room windows with views towards the secluded private open space and habitable room windows of adjoining properties appear to have been designed to incorporate appropriate screening measures. The only area that requires more consideration relates to the use of screening planter boxes at first and second floor level. Whilst the use of such structures is acceptable, they should not be reliant upon mature planting height to provide for the minimum screening. This will be clarified and if required, amended through condition.</td>
</tr>
<tr>
<td>B23</td>
<td>Internal Views</td>
<td>Yes</td>
<td>All habitable room windows have been screened and sited appropriately in accordance with this Standard.</td>
</tr>
<tr>
<td>B24</td>
<td>Noise Impacts</td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
</tr>
<tr>
<td>B25</td>
<td>Accessibility</td>
<td>Yes</td>
<td>Entries are accessible for people with limited mobility. A lift is provided for access to the upper level dwellings. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td>B26</td>
<td>Dwelling Entry</td>
<td>No</td>
<td>The entrance point is obscured by gates. These gates are considered to be unnecessary and security would be better controlled at the entrance point itself. The removal of the gates would increase the presence of the buildings to the street and hence this will be required through condition.</td>
</tr>
<tr>
<td>B27</td>
<td>Daylight to New Windows</td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td>B28</td>
<td>Private Open Space</td>
<td>Yes</td>
<td>All balconies are 8sqm or greater with a minimum width of 1.6 metres. The proposed ground floor apartments have an area of 25sqm plus open space with convenient access from a living and a minimum dimension of 3 metres or more.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Complies with Standard?</td>
<td>Comments</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>-------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>B29</td>
<td>Solar Access to Open Space</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>B30</td>
<td>Storage</td>
<td>Yes</td>
<td>External storage is provided in the basement to each apartment to meet the requirements of his standard.</td>
</tr>
<tr>
<td>B31</td>
<td>Design Detail</td>
<td>Yes</td>
<td>Refer report.</td>
</tr>
<tr>
<td>B32</td>
<td>Front Fences</td>
<td>No</td>
<td>Refer report. A 1.8 metre high front fence is proposed which exceeds the maximum allowable height of 1.5 metres. Given the permeable nature of the fence and noting the need to provide privacy for the ground floor dwellings open space, this outcome is acceptable, particularly when the pedestrian gate is removed to open up this section of building to the street. Fences of this height (or similar) are not foreign along Rooding Street.</td>
</tr>
<tr>
<td>B33</td>
<td>Common Property</td>
<td>Yes</td>
<td>Common property is easily identifiable and is limited to the basement and pedestrian access to the apartments.</td>
</tr>
<tr>
<td>B34</td>
<td>Site Services</td>
<td>Yes</td>
<td>Plans show storage and bin storage areas.</td>
</tr>
</tbody>
</table>

Clause 55.07: Apartment Development

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standard B35 Energy efficiency objectives</td>
<td>Yes</td>
<td>Each apartment has its living area and an area of private open space that will receive north and west daylight.</td>
</tr>
<tr>
<td>Standard B36 Communal open space</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>-----</td>
<td>-----</td>
</tr>
<tr>
<td>To ensure that communal open space is accessible, practical, attractive, easily maintained and integrated with the layout of the development. Developments with 40 or more dwellings should provide a minimum area of communal open space of 2.5 sq metres per dwelling or 250 sq metres, whichever is lesser.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Standard B37 Solar access to communal outdoor open space</th>
<th>N/A</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>To allow solar access into communal outdoor open space.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Standard B38 Deep soil areas and canopy trees objective</th>
<th>Yes</th>
<th>The application involves appropriate landscaping including planters to balconies and ground level planting. Deep soil area is not applicable to this site given the area less than 750sqm. Refer report for landscape discussion.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Standard B39 Integrated water and stormwater management</th>
<th>Yes</th>
<th>The application is accompanied by a WSUD report which highlights that the proposal complies with this requirement.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Standard B40 Noise impacts</th>
<th>Yes</th>
<th>It is not considered that any noise sources within the proposal will result in unreasonable amenity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standard</td>
<td>Accessible</td>
<td>Yes</td>
</tr>
<tr>
<td>-----------</td>
<td>---------------</td>
<td>-----</td>
</tr>
<tr>
<td>Standard B42 Building entry and circulation</td>
<td>No</td>
<td>As previously discussed, the entrance is obscured by the pedestrian gates and these will be removed by condition.</td>
</tr>
<tr>
<td>Standard B43 Private open space above ground floor</td>
<td>Yes</td>
<td>All SPOS areas comply.</td>
</tr>
<tr>
<td>Standard B44 Storage</td>
<td>Yes</td>
<td>Each dwelling is provided with storage in accordance with this requirement.</td>
</tr>
<tr>
<td>Standard B45 Waste and recycling</td>
<td>Yes</td>
<td>A WMP is required as a condition of permit.</td>
</tr>
<tr>
<td>Standard B46 Functional layout</td>
<td>Yes</td>
<td>All bedroom and living areas are appropriately dimensioned.</td>
</tr>
<tr>
<td>--------------------------------</td>
<td>-----</td>
<td>-------------------------------------------------------------</td>
</tr>
<tr>
<td>To ensure dwellings provide functional areas that meet the needs of residents.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Standard B47 Room depth</th>
<th>Yes</th>
<th>Each habitable room has a minimum of one window in an external wall of a building. No bedrooms require a secondary area within the bedroom for natural daylight.</th>
</tr>
</thead>
<tbody>
<tr>
<td>To allow adequate daylight into single aspect habitable rooms.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Standard B48 Windows</th>
<th>N/A</th>
<th>No bedrooms require a secondary area within the bedroom for natural daylight, all rooms are appropriately sited to ensure receipt of daylight.</th>
</tr>
</thead>
<tbody>
<tr>
<td>To allow adequate daylight into new habitable room windows.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Standard B49 Natural ventilation</th>
<th>Yes</th>
<th>Each apartment is appropriately designed to achieve dual aspect / orientation and consequently the each dwelling will receive appropriate ventilation.</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage natural ventilation of dwellings.</td>
<td>To allow occupants to effectively manage natural ventilation of dwellings.</td>
<td></td>
</tr>
</tbody>
</table>
4.2  48 HEATH CRESCENT, HAMPTON EAST
SUPPORT THE GRANT OF A PLANNING PERMIT (CONSENT ORDER)
APPLICATION NO: 2017/500  WARD: CENTRAL

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Support the Grant of a Planning Permit (VCAT Consent Order)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Hadi Zadeh</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>21 August 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>N/A</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Development Contribution Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>6 (3 parties to VCAT appeal)</td>
</tr>
</tbody>
</table>

Purpose
The purpose of this report is to endorse a consent position reached by all parties at a Compulsory Conference at VCAT on 13 July 2018.

History
On 3 April 2018, Council determined to refuse the planning application under delegation. The grounds of refusal were as follows:

1. The size, scale and design details fails to respect the existing and preferred neighbourhood character, and does not meet the objectives and/or decision guidelines of clause 22.06 of the Bayside Planning Scheme (Neighbour Character).

2. The proposal does not comply with Clause 55 of the Bayside Planning Scheme, in particular:
   - Standard B1 (Neighbourhood Character);
   - Standard B2 (Residential Policy);
   - Standard B5 (Integration with the Street);
   - Standard B17 (Side and Rear Setbacks);
   - Standard B30 (Storage);
   - Standard B31 (Design Detail).

3. The proposed driveway to dwelling 3 encroaches into the structural root zone of the neighbouring tree and no information was provided to detail how this tree would be adequately protected and survive.

4. The car parks to dwelling 3 are inappropriately located, and would require a lengthy reversing manoeuvre along Nepean Avenue that has the potential to create safety
issues. This is non-compliant with the decision guidelines of clause 52.06-10 of the Bayside Planning Scheme.

5. The plans submitted with the application contain numerous omissions that prevented a full and accurate assessment, including siting of neighbouring trees and dimensions missing from plans and elevations.

6. The proposal is an overdevelopment of the site.

VCAT

An Application for Review against the decision made by Council was lodged with VCAT pursuant to Section 77 of the Planning and Environment Act 1987.

The application was heard at a Compulsory Conference (mediation) on 13 July 2018. Four objectors registered as party to the appeal, and Council, the applicant’s representatives, owner and three objecting parties in attendance. One of the objecting parties did not attend.

In the Compulsory Conference, all parties agreed on a revised set of plans which included the following changes to the decision plans:

a) Setback of the garage of Unit 1 from western boundary increased to 2 metres.

b) Setback first floor of Unit 3 from the rear boundary to comply with Standard B17 as varied by the Schedule to the zone in the Bayside Planning Scheme.

c) 2m boundary fence plus 400mm lattice extension along the common boundary with No 50 Heath Crescent to be provided.

d) The provision of an acoustic fence to the common boundary with 2 Nepean Avenue.

e) The master bedroom of Unit 2 to be setback a minimum of 500mm from the walk in robe alignment.

f) The upper storey master bedrooms of Units 1 and 2 to be lighter in colour and the ground floor darker in colour.

g) A new 3m wide vehicle crossing to be constructed with 1m offset from the eastern boundary.

h) An angled roof to the rear section of Units 1 and 2 with a flat roof to the front section for a distance of about 6 metres from the front elevation of these units.

i) Setback the car space and garage for Unit 3 from the Nepean Avenue frontage a minimum distance of 5m.

j) Corrected plans to show the location of the trees within the front setback of No. 50 Heath Crescent within 3m of the common boundary.

A full list of the Draft Terms of Settlement and a set of Amended Plans to address all the built form changes including Condition1b), c), f), i) and n) are included at Attachment 1 and 2.

The permit applicant, objectors and Council all agreed to the above changes.

If the consent order is not endorsed by the Planning and Amenity Committee, the application will proceed to a full hearing on 6 September 2018.

At this stage, should the matter proceed to a hearing, the above-mentioned changes will be retracted and the appeal will be based on the previously advertised plans (Attachment 3).

2. Recommendation
That Council resolve to:

**Support** the Grant of a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/500 for the land known and described as 48 Heath Crescent, Hampton East, for the construction of three dwellings in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans prepared by Designworx architects, project number 1721, date August 2017 and revision number A but modified to show:
   a) A plan showing that the mandatory garden area is met.
   b) Setback of the garage of Unit 1 from western boundary a minimum of 2 metres.
   c) Setback first floor of Unit 3 from the rear boundary to comply with Standard B17 as varied by the Schedule to the zone in the Bayside Planning Scheme (with a reduction allowed to the retreat and bedroom 2 separation between first floor elements within the development of no less than 2.5m).
   d) The provision of a fence at the cost of the permit holder of a minimum height of 2m plus 400mm lattice extension along the common boundary with No 50 Heath Crescent. The section of fence adjacent to the private open space of Unit 1 is to be an acoustic fence with no gaps.
   e) The provision of an acoustic fence at the cost of the permit holder with no gaps to the common boundary with 2 Nepean Avenue to match the height of the existing fencing on the southern boundary of No. 2 Nepean Avenue so that fencing is of a consistent height along this boundary.
   f) The master bedroom of Unit 2 to be setback a minimum of 500mm from the walk in robe alignment.
   g) The upper storey master bedrooms of Units 1 and 2 to be lighter in colour and the ground floor darker in colour (reverse the colour scheme) maintaining the darker element to the stairwells at first floor.
   h) A 3m wide garage door to be provided for each townhouse.
   i) A new 3m wide vehicle crossing to be constructed with 1m offset from the eastern boundary. The existing crossover to be removed.
   j) Location of all plant and equipment, including hot water services and air conditioners etc. Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms.
   k) A angled roof to the rear section of Units 1 and 2 with a flat roof to the front section for a distance of about 6 metres from the front elevation of these units.
   l) A Landscaping Plan in accordance with Condition 10 of this permit.
   m) Water Sensitive Urban Design measures in accordance with Condition 8 of this permit.
   n) Setback the car space and garage for Unit 3 from the Nepean Avenue
frontage a minimum distance of 5m.

o) Provide turning circles by a qualified traffic engineer for the western car space that demonstrate that a car can exit the space in a forward direction.

p) Provide comparative turning circles prepared by a qualified traffic engineer for the garage for Unit 3 demonstrating that the movement is no worse than the existing garage.

q) To show the location of the trees within the front setback of No. 50 Heath Crescent within 3m of the common boundary.

r) A section showing the detail of the vertical screening to the north facing bedroom 1 window of Unit 3 demonstrating compliance with Standard B22 of Clause 55 of the Bayside Planning Scheme.

All to the satisfaction of the Responsible Authority.

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

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

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

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

6. Before the occupation of the site commences, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard A15 / Standard B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

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

Water Sensitive Urban Design

8. Prior to the endorsement of plans pursuant to Condition 1, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:

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

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

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

These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban

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

Landscaping

10. Prior to the endorsement of plans pursuant to Condition 1, a revised landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by eeDe Studio, Job number 171106, dated 21-11-2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

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

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

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

d) Details of surface finishes of pathways and driveways

e) A evergreen canopy tree in the north east corner of the private open space of Unit 3 capable of growing to a height of 3m planted at a minimum height of 1.2m.

f) A row of evergreen screen planting (such as Photinia robusta or similar species) along the west side of the private open space of Unit 1 capable of growing to a minimum height of 3 metres.

g) The provision of three small fastigiate trees along the western side of the driveway for Unit 1.

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

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

Tree Management and Protection Plan

13. 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 Tree 13 and any trees in the front yard of No. 50 Heath Crescent within 3m of the common boundary as 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.

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

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

Street tree protection

16. 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 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.

17. Soil excavation must not occur within 2.5 metres from the edge of the Dianella Revoluta street tree asset’s stem at ground level.

Drainage

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

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

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

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

Permit Expiry

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

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

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

3. Amended Plans Assessment

This report will detail how the amended plans at Attachment 2 respond to the previous Grounds for Refusal and relevant planning policies.

Ground for Refusal 1

The size, scale and design details fail to respect the existing and preferred neighbourhood character, and does not meet the objectives and/or decision guidelines of clause 22.06 of the Bayside Planning Scheme (Neighbour Character).

The first ground for refusal relates to neighborhood character, in particular, the potential impacts to the Heath Crescent streetscape character. This ground has been addressed by providing a 2m separation between the garage of TH1 and west boundary (it was previously boundary to boundary). The separation will maintain the rhythm of visual separation between buildings which complies with Clause 22.06 of the Bayside Planning Scheme.

The proposed master bedroom of TH2 will be reduced in size to provide 500mm recessed built form from its WIR alignment. In addition, the requested colour scheme changes (master bedrooms of TH1 and 2 to be lighter in colour and the ground floor darker in colour and maintaining the darker element to the stairwells at first floor) will further assist the built form articulation to address the existing streetscape character.

The agreed Condition 1k) also requests an angled roof to the rear section of Units 1 and 2 with a flat roof to the front section for a distance of about 6 metres from the front elevation of these units. It ensures the building can be exposed from distances as a pitched roof element to address neighbourhood character.

Ground for Refusal 2

The proposal does not comply with Clause 55 of the Bayside Planning Scheme, in particular:

- Standard B1 (Neighbourhood Character);
- Standard B2 (Residential Policy);
- Standard B5 (Integration with the Street);
- Standard B17 (Side and Rear Setbacks);
- Standard B30 (Storage);
- Standard B31 (Design Detail).

Standard B1, B2 and B31 have been discussed in the Ground for Refusal 1. With regards to Standard B5, the concerns was in relation to the integration with the Nepean Avenue, the proposed building location will detract the character of rhythm of this street. This concern has been addressed by the requested further setback to the upper level of TH3 to comply with the rear setback requirement under Standard B17, which means a minimum of 4.4m from the frontage of Nepean Avenue is required to be provided based on the current building height. Given the width of the frontage to Nepean Avenue is very limited, the proposed 4.4m setback will limit the impacts to the existing character of rhythm of Nepean Avenue to a minimal level.

Another concern in relation to the safety issues associated with access has been
adequately address by providing 5m setback from the proposed garage to the Nepean Avenue frontage. It will expose the front entry with a direct access to the Nepean Avenue pedestrian link.

Council also raised concern in relation to the plan does not provide location of storage for TH1 and TH2 in accordance with Standard B31. It has been conditioned in the permit as 1j).

**Ground for Refusal 3**

*The proposed driveway to dwelling 3 encroaches into the structural root zone of the neighbouring tree and no information was provided to detail how this tree would be adequately protected and survive.*

The applicant failed to provide arborist report to demonstrate retention of the tree (Tree 13) at the adjoining property of 1a Lonsdale Avenue. This issue has been addressed by the proposed condition 13, Tree Management Plan.

**Ground for Refusal 4**

*The car parks to dwelling 3 are inappropriately located, and would require a lengthy reversing manoeuvre along Nepean Avenue that has the potential to create safety issues. This is non-compliant with the decision guidelines of clause 52.06-10 of the Bayside Planning Scheme.*

This concern was raised given the proposed car parking spaces of TH3 cannot exit the site in forward direction. This issue has been addressed by providing a 5m setback from the proposed garage to the frontage of Nepean Avenue. This 5m distance will be utilised as a turning area for the west car space which allows the vehicle to exit the subject site in forward directions. Officer further suggested the Condition 1o) to provide turning circles by a qualified traffic engineer for the western car space that demonstrate that a car can exit the space in a forward direction.

Having said that, the location of the garage is still problematic and potentially has to reverse out to Nepean Avenue. However, the existing dwelling has a single garage at the similar location with vehicles reversing out to the Nepean Avenue. The proposed new garage location with a setback of 5m will not worsen the existing traffic movement. It will be further addressed by the proposed condition 1p) to provide comparative turning circles prepared by a qualified traffic engineer for the garage for TH3 demonstrating that the movement is no worse than the existing garage.

**Ground for Refusal 5**

*The plans submitted with the application contain numerous omissions that prevented a full and accurate assessment, including siting of neighbouring trees and dimensions missing from plans and elevations.*

Officer suggested two conditions to be imposed to ensure all the neighbouring trees are to be included in the plan, they are condition 1q) and Condition 13.

**Ground for Refusal 6**

*The proposal is an overdevelopment of the site.*

The last ground was to concern the proposal is an overdevelopment of the site. As discussed above, the application has been improved significantly including providing side setback to reduce the width of built form. The greater articulation has been applied to the Heath Crescent by varied materials and colours and the built form width reduction. The rear setback (Nepean Avenue) has been increased to achieve compliance of Standard B17. The turning template will demonstrate the cars for TH3 will able to exit the subject site in a safety manner. All the proposed changes have demonstrated a satisfactory response to the current Bayside Planning Scheme and this ground will not be relied on.
4. Conclusion

As described above, the changes to the plans are significant, and address the previous grounds for refusal to an acceptable level.

Whilst the total number of dwellings remain at three, the current NRZ3 allows for consideration of any number of dwellings subject to a satisfactory design response. All the concerns raised by the Council and objectors have been satisfactorily addressed by providing pitched roof, reduced building footprint, satisfied turning temple, adequate landscaping opportunities and even the acoustic fencing to further protect the existing amenities.

The overall development is considered to show an appropriate level of compliance with the Bayside Planning Scheme.

Support Attachments

1. Draft Terms of Settlement
2. Amended Plans
3. Previously Advertised Plans
4. Site and Surrounds
DRAFT TERMS OF SETTLEMENT P693/2018

The parties present at the compulsory conference held at the Tribunal on the 13 July 2018 agree to settle the proceeding subject to and conditional upon the Bayside City Council agreeing to the outcome at its meeting of the 14 August 2018 and request that upon Council consent that the Tribunal issue the following orders by consent:

1. The hearing set down for the 6 September 2018 is vacated.
2. In application P693/2018 the decision of the responsible authority is set aside.
3. In permit application No. 5/2017/500/1 a permit is granted and directed to be issued for land at 48 Heath Crescent Hampton East in accordance with the endorsed plans and subject to the conditions set out below. The permit allows the construction of 3 dwellings.

The matter will be set down for an administrative mention on the 16 August 2018 at which time Council must advise the Tribunal and all parties whether it agrees to the consent orders.

If Council does not agree, the matter will proceeding on the 6 September 2018.

COMPULSORY CONFERENCE
DRAFT CONDITIONS

<table>
<thead>
<tr>
<th>VCAT REFERENCE</th>
<th>P693/2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLANNING APPLICATION NO.</td>
<td>5/2017/500/1</td>
</tr>
<tr>
<td>ADDRESS</td>
<td>48 Heath Crescent HAMPTON EAST</td>
</tr>
</tbody>
</table>

PERMIT PREAMBLE

Construction of three dwellings in accordance with the endorsed plans

CONDITIONS

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans prepared by Designworx architects, project number 1721, date August 2017 and revision number A but modified to show:

   a) A plan showing that the mandatory garden area is met.

   b) Setback of the garage of Unit 1 from western boundary a minimum of 2 metres.

   c) Setback first floor of Unit 3 from the rear boundary to comply with Standard B17 as varied by the Schedule to the zone in the Bayside Planning Scheme (with a reduction allowed to the retreat and bedroom 2 separation between first floor elements within the development of no less than 2.5m).

13/07/2018
d) The provision of a fence at the cost of the permit holder of a minimum height of 2m plus 400mm lattice extension along the common boundary with No 50 Heath Crescent. The section of fence adjacent to the private open space of Unit 1 is to be an acoustic fence with no gaps.

e) The provision of an acoustic fence at the cost of the permit holder with no gaps to the common boundary with 2 Nepean Avenue to match the height of the existing fencing on the southern boundary of No. 2 Nepean Avenue so that fencing is of a consistent height along this boundary.

f) The master bedroom of Unit 2 to be setback a minimum of 500mm from the walk in robe alignment.

g) The upper storey master bedrooms of Units 1 and 2 to be lighter in colour and the ground floor darker in colour (reverse the colour scheme) maintaining the darker element to the stairwells at first floor.

h) A 3m wide garage door to be provided for each townhouse.

i) A new 3m wide vehicle crossing to be constructed with 1m offset from the eastern boundary. The existing crossover to be removed.

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

k) A angled roof to the rear section of Units 1 and 2 with a flat roof to the front section for a distance of about 6 metres from the front elevation of these units.

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

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

n) Setback the car space and garage for Unit 3 from the Nepean Avenue frontage a minimum distance of 5m.

o) Provide turning circles by a qualified traffic engineer for the western car space that demonstrate that a car can exit the space in a forward direction.

p) Provide comparative turning circles prepared by a qualified traffic engineer for the garage for Unit 3 demonstrating that the movement is no worse than the existing garage.

q) To show the location of the trees within the front setback of No. 50 Heath Crescent within 3m of the common boundary.

r) A section showing the detail of the vertical screening to the north facing bedroom 1 window of Unit 3 demonstrating compliance with Standard B22 of Clause 55 of the Bayside Planning Scheme.

All to the satisfaction of the Responsible Authority.

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

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

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

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

6. Before the occupation of the site commences, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard A15 / Standard B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

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

Water Sensitive Urban Design

8. Prior to the endorsement of plans pursuant to Condition 1, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:

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

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

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

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

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

Landscaping

10. Prior to the endorsement of plans pursuant to Condition 1, a revised landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by eeDe Studio, Job number 171106, dated 21-11-2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

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

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

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

d) Details of surface finishes of pathways and driveways

13/07/2018
e) A evergreen canopy tree in the north east corner of the private open space of Unit 3 capable of growing to a height of 3m planted at a minimum height of 1.2m.

f) A row of evergreen screen planting (such as Photinia robusta or similar species) along the west side of the private open space of Unit 1 capable of growing to a minimum height of 3 metres.

g) The provision of three small fastigate trees along the western side of the driveway for Unit 1.

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

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

Tree Management and Protection Plan

13. 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 Tree 13 and any trees in the front yard of No. 50 Heath Crescent within 3m of the common boundary as 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.

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

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

Street tree protection

16. 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 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.

13/07/2018
17. Soil excavation must not occur within 2.5 metres from the edge of the *Dianella Revoluta* street tree asset’s stem at ground level.

**Drainage**

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

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

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

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

**Permit Expiry**

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

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

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

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

Signed by the parties:

\[Signature\]

\[Signature\]

\[Signature\]

13/07/2018
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1. Aerial Overview of subject site and objector map.

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
<tr>
<td>Objectors</td>
</tr>
</tbody>
</table>
Figure 2: Looking west to 238 Were Street (subject site).
Figure 3: Looking east to 238 Were Street (subject site).
### 4.3 43 Willis Street, Hampton
SECONDARY CONSENT - APPROVE
APPLICATION NO: 2013/343/2 WARD: CENTRAL

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/138950

<table>
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<tr>
<th>Recommendation</th>
<th>Approve the secondary consent amended plans</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street address</td>
<td>43 Willis Street, Hampton</td>
</tr>
<tr>
<td>Application No.</td>
<td>2013/343/2</td>
</tr>
<tr>
<td>Applicant</td>
<td>Ken Adams</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>1 May 2018</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone (Schedule 2)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Development Contributions Overlay (Schedule 1)</td>
</tr>
<tr>
<td></td>
<td>Design and Development Overlay (Schedule 12)</td>
</tr>
<tr>
<td>Application plans and documents TRIM Ref No</td>
<td>DOC/18/96332</td>
</tr>
</tbody>
</table>

**Proposal**

Planning Permit 2013/343/2 allows:

> Construction of a three storey building over a basement accommodating multiple dwellings and a front fence exceeding a height of 1.5 metres

The application seeks approval to amend the endorsed plans pursuant to Condition 2 of Planning Permit 2013/343/2 on a lot with an area of 1,358.02 square metres.

The proposed amendments are as follows:

- Change screening on the western elevation of dwellings 18 and 19 on the second floor from a combination of planter boxes and balustrade to a fixed obscure screen 1.7 m above the finished floor level.

An aerial image of the site and surrounds are provided at **Attachment 1**.

**History**

An application was lodged 8 July 2013 for the ‘Construction of a three storey building comprising 22 dwellings and a reduction in the car parking requirements’ (Council Reference – 2013/0343).

A Planning and Amenity Committee meeting was held 24 October 2013 where Council resolved to refuse the application.

The applicant lodged an appeal against Council’s Refusal to Grant a Permit with the Victorian Civil and Administrative Tribunal (VCAT). On 5 May 2014 the Tribunal resolved to Grant a Permit subject to conditions. Subsequent plans satisfying Condition 1 requirements were endorsed 26 May 2014.

The Permit Proposal was corrected pursuant to Section 71 on the 8 May 2014.

The Planning Permit was amended under Section 72 on the 22 June 2015.
2. Planning controls

Planning Permit requirements

There are no primary permit triggers to consider as part of this application. The application seeks to amend the endorsed plans pursuant to the secondary consent provisions afforded by Condition 2 of Planning Permit 2013/343/2.

3. Stakeholder consultation

External referrals

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

Internal referrals

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

Public notification

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

4. Recommendation

That Council resolve to:

1. Approve the amended plans in accordance with secondary consent provisions of Planning Permit 5/2013/343/2.

2. Plans identified as TPO4 Rev D, TPO6 Rev D and TPO9 Rev D prepared by Finnis Architects and dated June 2013 and January 2014 be endorsed. These plans are to be read in conjunction with other currently endorsed plans.

3. Plans labelled as Sheets 4, 6 and 9 of 10 endorsed on 26 May 2014 be superseded.

5. Council Policy

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

6. Considerations

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

The tests include the following:

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

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

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

The primary consent was issued at the direction of VCAT for the construction of a three storey building over a basement accommodating multiple dwellings and a front fence exceeding a height of 1.5 metres. The amendment sought under this application is considered to be consistent with the proposal and does not authorise something for which primary consent is required for under the Bayside Planning Scheme.

Item 4.3 – Matters of Decision
Is the proposed amendment of consequence having regard to the purpose of a planning control under which the permit was granted?

Having regard to the development and the purpose of the planning controls under which the permit was granted, the proposed amendment is considered inconsequential as there has been no material change to the nature of the planning controls and policies affecting the land. It is considered that the changes are appropriate, will not detrimentally impact on the amenity of adjoining properties nor cause material detriment to any third parties. The proposed screening to a height of 1.7m will not cause any undue overlooking.

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

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

Support Attachments

1. Amended Plans
2. Site and Surrounds Imagery
3. Endorsed Plans 26 May 2014
Item 4.3 – Matters of Decision
Site and Surrounds

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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</tbody>
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1. Application details

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<tbody>
<tr>
<td>Street address</td>
<td>47 Service Street HAMPTON</td>
</tr>
<tr>
<td>Application No.</td>
<td>2007/843/1</td>
</tr>
<tr>
<td>Applicant</td>
<td>Momentum Pools</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The site is subject to Section 173 Agreement AG527085C 26/05/2009, which outlines the conditions of sub-division. The proposal does not contravene the S173 Agreement.</td>
</tr>
<tr>
<td>Date application received</td>
<td>1 June 2018</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Development Contributions Plan Overlay (Schedule 1) Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td>Application plans and documents TRIM Ref No</td>
<td>DOC/18/128984</td>
</tr>
</tbody>
</table>

Proposal

Planning Permit 5/2007/843/1 allows:

The construction of two double storey attached dwellings with basement car parking

The application seeks approval to amend the endorsed plans pursuant to Condition 2 of Planning Permit 2007/843/1 on a lot with an area of 421.20 square metres.

The proposed amendments are as follows:

- Proposed Pool Location changed and identification of pool equipment.

An aerial image of the site and surrounds are provided at Attachment 1.

History

Planning Permit 2007/843/1 was issued under delegation at the direction of the Victorian Civil and Administrative Tribunal (VCAT).

Plans were endorsed by Council on 20 August 2008.

Secondary Consent to amend plans approved on 27 October 2009.

Secondary Consent to amend plans approved on 3 August 2010.

2. Planning controls

Planning Permit requirements

There are no primary permit triggers to consider as part of this application. The application seeks to amend the endorsed plans pursuant to the secondary consent provisions afforded by Condition 2 of Planning Permit 5/2007/843/1.
3. Stakeholder consultation

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

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

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

4. Recommendation

That Council resolve to:

1. Approve the amended plans in accordance with secondary consent provisions of Planning Permit 2007/843/1.

2. Plans identified as Ground Floor Plans, prepared by Leon Meyer Architects and site plan, prepared by Momentum Pools dated 22/5/2018 be endorsed. These plans are to be read in conjunction with all other currently endorsed plans.


5. Council Policy

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

6. Considerations

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

The tests include the following:

Does the proposed amendment result in a transformation of the proposal?
The amendment does not result in a transformation of the proposal. The amendment proposes to change the location of the pool differing it from the currently endorsed plans

Does the proposed amendment authorise something for which primary consent is required under the planning scheme?
The amendment sought under this application is considered to be consistent with the proposal and does not authorise something for which primary consent is required for under the Bayside Planning Scheme.

Is the proposed amendment of consequence having regard to the purpose of a planning control under which the permit was granted?
Having regard to the development and the purpose of the planning controls under which the permit was granted, the proposed amendment is considered inconsequential as there has been no material change to the nature of the planning controls and policies affecting the land.

It is considered that the changes are appropriate, will not detrimentally impact on the amenity of adjoining properties nor cause material detriment to any third parties. The
new location for the swimming pool is at the rear of the garden. The endorsed plans did not show the location of the plant equipment. This will now be located under the deck adjacent to the pool at the furthest point from any habitable windows (minimum 8 metres). The proposed relocation of the swimming pool will therefore have no consequence on any neighbouring property.

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

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

Support Attachments

1. Site and Surrounds Imagery
2. Amended Plans
3. Endorsed Plans
Site and Surrounds

Figure 1 Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
<th>Subject site</th>
</tr>
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<tbody>
<tr>
<td></td>
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1. Application details

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<tr>
<td>Applicant</td>
<td>John Pola</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
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<td>Date application received</td>
<td>5 June 2018</td>
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<tr>
<td>Current statutory days</td>
<td>54 days – 14/8/2018</td>
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<td>Overlays</td>
<td>Design and Development Overlay (Schedule 1)</td>
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<tr>
<td></td>
<td>Vegetation Protection Overlay (Schedule 3)</td>
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<tr>
<td>Number of objections</td>
<td>1</td>
</tr>
</tbody>
</table>

Proposal
The application seeks a planning permit for the removal of four native trees on a lot with an area of 634 square metres. Key details of the proposal are as follows:

- Removal of four native trees described as:
  - Tree 1, Coast Banksia, 8 metres in height and 750mm circumference.
  - Tree 2, Melaleuca, 10 metres in height and 1.3m circumference.
  - Tree 3, Callistemon, 7 metres in height and 700mm circumference.
  - Tree 5, Callistemon, 12 metres in height and 1.3m circumference.

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

History
There is no planning permit history relevant to this application.

2. Planning controls

Planning Permit requirements
A planning permit is required pursuant to:

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

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

3. Stakeholder consultation

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

**Internal referrals**

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

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

**Public notification**

The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and one objection was received. The following concern was raised:

- The trees are within a protection overlay and should be protected.

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

**Consultation Meeting**

The applicant declined a consultation meeting as the objection related to the loss of the trees and as such agreement would not be reached.

4. **Recommendation**

That Council resolve to:

Issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning application 2018/344** for the land known and described as **7 Ward Street, Beaumaris**, for the **removal of four native trees in a Vegetation Protection Overlay** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, a detailed landscape plan 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) Replacement planting of four indigenous trees capable of reaching 10 metres tall and 6 metres wide at maturity.

   All to the satisfaction of the Responsible Authority.

2. No additional trees as shown on the endorsed plans are to be removed without the prior written consent of the Responsible Authority.

3. Unless with the further written consent of the Responsible Authority the replacement planting as shown on the endorsed plan must be undertaken within 6 months of the trees being removed.

4. 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.

**Permit Expiry**

5. This permit will expire if the vegetation removal is not completed within two years of the date of this permit.
In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 9 Plan Melbourne
- Clause 12 Environmental and Landscape Values
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.04 Environmental and Landscape Values
- Clause 22.06 Neighbourhood Character Policy (Precinct H4)
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 1)
- Clause 42.02 Vegetation Protection Overlay (Schedule 3)
- 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. Landscaping

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

The application plans show the removal of four trees from the site which are protected by the VPO3. The table below identifies those trees protected by the VPO3, those protected by the Local Law and those which are not protected by any statutory mechanism. Indigenous trees are marked with a "*".

<table>
<thead>
<tr>
<th>VPO3 protected trees</th>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
</table>

Item 4.5 – Matters of Decision
From an arboricultural perspective Council’s Arborist has reviewed the application and advises that Tree 1 is an 8 metre tall Coast Banksia and is of good health but exhibits poor structure. The amenity value is low and contributes little to the visual amenity and interest of the area. The removal and replanting will provide a superior outcome over time.

Tree 2 is a Melaleuca which is 10 metres in height, exhibits fair structure and good health. The amenity value of the tree is moderate and it contributes to an extent to the visual amenity and interest of the area. The tree is not indigenous to the area.

Tree 3 is a 7 metre tall Callistemon which is dead, therefore contributes no visual amenity or interest to the area.

Tree 5 is a 12 metre high Callistemon which exhibits poor structure but shows good health. The tree contributes a high amenity value to the visual amenity and interest of the area.

Further detail of each tree is provided in Attachment 3.

Council’s arborist is therefore supportive of the removal of the four native trees however also advises that the native trees to be removed should also each be replaced with indigenous trees capable of reaching 10 metres tall and 6 metres wide. This has been included as a condition on the planning permit.

An assessment against the decision guidelines of the VPO3 is provided at Attachment 4.

The proposed extent of vegetation removal is considered to be acceptable when assessed against the decision guidelines of the VPO3. The character of the area, including the extent of indigenous vegetation present, will be maintained once replacement plantings are undertaken. The proposed vegetation removal will also not impact on the overall quality of habitat within the broader area and the extent of removal is justified when considered against the level of development proposed.

Therefore the proposed vegetation removal is considered to comply with the objectives of the VPO3 subject to the replanting of four replacement indigenous trees capable of reaching 10 metres tall and 6 metres wide at maturity.

Support Attachments
1. Site Plan ⇩
2. Site and Surrounds Imagery ⇩
3. Arboricultural Report ⇩
4. VPO3 Decision Guidelines ⇩
## Attachment 2: Site and Surrounds

**Figure 1: Aerial View**

<table>
<thead>
<tr>
<th>Subject Site</th>
<th>![Star Symbol]</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Objector</strong></td>
<td>No street address provided.</td>
</tr>
</tbody>
</table>
Figure 2: View of 7 Ward Street Beaumaris
To whom it may concern,

Tree Assessment – 7 Ward St Beaumaris

On Thursday 12 April 2018 I performed a visual assessment of vegetation on the site 7 Ward Street Beaumaris.

Trees 1, 2, 4 and 5 were identified as trees to be removed. Tree 3 was identified to be retained and remedial pruning works recommended.

<table>
<thead>
<tr>
<th>Tree #</th>
<th>Genus</th>
<th>Species</th>
<th>Common</th>
<th>diam@1m</th>
<th>Health</th>
<th>Structure</th>
<th>Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Banksia</td>
<td>integrifolia</td>
<td>Coast Banksia</td>
<td>&gt;50cm</td>
<td>Good</td>
<td>Good</td>
<td>Remove</td>
</tr>
<tr>
<td>2</td>
<td>Melaleuca</td>
<td>stypheloides</td>
<td>Prickley-leaf Paperbark</td>
<td>&gt;50cm</td>
<td>Good</td>
<td>Fair</td>
<td>Remove</td>
</tr>
<tr>
<td>3</td>
<td>Banksia</td>
<td>integrifolia</td>
<td>Coast Banksia</td>
<td>&gt;50cm</td>
<td>Good</td>
<td>Good</td>
<td>Prune</td>
</tr>
<tr>
<td>4</td>
<td>Callistemon</td>
<td>sp.</td>
<td>Bottlebrush</td>
<td>&gt;50cm</td>
<td>Dead</td>
<td>Dead</td>
<td>Remove</td>
</tr>
<tr>
<td>5</td>
<td>Callistemon</td>
<td>salignus</td>
<td>Willow-leaf Callistemon</td>
<td>&gt;50cm</td>
<td>Fair</td>
<td>Fair</td>
<td>Remove</td>
</tr>
</tbody>
</table>
Of the trees proposed for removal, Trees 1 and 2 are inappropriately located next to the house, likely to cause structural damage in the future.

Tree 4 is dead. Tree 5 is displaying signs of canopy dieback.

Recommended replacement planting species are:

- Rear yard plantings
  - Hymenosporum flavum (Native Frangi-pani)
  - Leptospermum petersonii

- To replace Tree 5.
  - Banksia integrifolia (Coast Banksia)
  - Eucalyptus camaldulensis (River Red Gum)
  - Eucalyptus melliodora (Yellow Box)
  - Eucalyptus pauciflora (Snow Gum)
  - Eucalyptus radiata (Narrow-leaf Peppermint)
  - Melia azedarach (White Cedar)

Considering the current health/structure/location of Trees 1-2, and 4-5, they are recommended for removal. There is sufficient space to offset the canopy loss on site.

Paul Whitten
BAS Hort, Adv Dip Hort, Dip Arb.

Managing Director
Arbortryst Pty Ltd
### Attachment 4

#### Landscaping and Vegetation

**7 Ward Street Beaumaris**

**Decision Guidelines of the Vegetation Protection Overlay (Schedule 3)**

<table>
<thead>
<tr>
<th>Decision Guideline</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>The impact the vegetation removal would have on the character of the area</td>
<td>There will be no foreseeable impact of the proposed removal of trees 1, 2, 3 and 5 on the character of the area. Council's arborist recognises the four trees proposed to be removed as having a low retention and amenity value.</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the presence of indigenous species in the locality</td>
<td>The proposed removal of 1, 2, 3 and 5 will have no foreseeable impact on the presence of indigenous species in the locality.</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the appearance of development.</td>
<td>The proposal is only for the removal of four native trees and therefore this decision guideline is not relevant to this proposal.</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the habitat quality of any remaining vegetation and the fragmentation of wildlife corridors.</td>
<td>There is no evidence to suggest the proposed removal of trees 1, 2, 3 and 5 would impact on local fauna.</td>
</tr>
<tr>
<td>Any proposal to regenerate or plant indigenous vegetation on the site.</td>
<td>Four replacement trees will be required to be planted:</td>
</tr>
<tr>
<td></td>
<td>• 4 indigenous trees capable of reaching 10 metres tall and 6 metres wide</td>
</tr>
</tbody>
</table>
### Tree profile

<table>
<thead>
<tr>
<th>Tree No.</th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Botanical Name:</strong></td>
<td>Banksia Integrifolia</td>
</tr>
<tr>
<td><strong>Common Name:</strong></td>
<td>Coast Banksia</td>
</tr>
<tr>
<td><strong>Height:</strong></td>
<td>8m</td>
</tr>
<tr>
<td><strong>Trunk Circ. @ 1m:</strong></td>
<td>0.75</td>
</tr>
<tr>
<td><strong>Origin:</strong></td>
<td>Indigenous</td>
</tr>
<tr>
<td><strong>Health:</strong></td>
<td>Good</td>
</tr>
<tr>
<td><strong>Structure:</strong></td>
<td>Good</td>
</tr>
<tr>
<td><strong>Amenity Value:</strong></td>
<td>High</td>
</tr>
<tr>
<td><strong>Retention Value:</strong></td>
<td>High</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tree No.</th>
<th>2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Botanical Name:</strong></td>
<td>Melaleuca quinquenervia</td>
</tr>
<tr>
<td><strong>Common Name:</strong></td>
<td>Melaleuca</td>
</tr>
<tr>
<td><strong>Height:</strong></td>
<td>10</td>
</tr>
<tr>
<td><strong>Trunk Circ. @ 1m:</strong></td>
<td>1.3</td>
</tr>
<tr>
<td><strong>Origin:</strong></td>
<td>Indigenous</td>
</tr>
<tr>
<td><strong>Health:</strong></td>
<td>Good</td>
</tr>
<tr>
<td><strong>Structure:</strong></td>
<td>Good</td>
</tr>
<tr>
<td><strong>Amenity Value:</strong></td>
<td>High</td>
</tr>
<tr>
<td><strong>Retention Value:</strong></td>
<td>High</td>
</tr>
<tr>
<td><strong>Habitat Value:</strong></td>
<td>High</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tree No.</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Botanical Name:</strong></td>
<td>Callistemon</td>
</tr>
<tr>
<td><strong>Common Name:</strong></td>
<td>Bottlebrush</td>
</tr>
<tr>
<td><strong>Height:</strong></td>
<td>7</td>
</tr>
<tr>
<td><strong>Trunk Circ. @ 1m:</strong></td>
<td>0.70</td>
</tr>
</tbody>
</table>
### Definitions

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

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

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

**L** Low  
The tree is generally in fair health and structure, provides low levels of amenity and may do so for up to 10 years. The tree may be juvenile or otherwise small and easily replaced by advanced plantings or plantings that will provide similar amenity value in a reasonable timeframe.
4.6 238 WERE STREET, BRIGHTON EAST
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2018/5/1 WARD: CENTRAL

City Planning & Community Services - Statutory Planning
File No: PSF/15/8755 – Doc No: DOC/18/174658

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Raymond Design</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>15 January 2018 (Amended 2 May 2018)</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>77 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3) Development Contribution Plan Overlay (DCPO1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>3</td>
</tr>
</tbody>
</table>

Proposal

The application seeks approval for the construction of two dwellings including basement car park and a front fence over 1.2m in height on a lot with an area of 637 square metres. Key details of the proposal are as follows:

- Two dwellings
- Two storey over a basement car park with a maximum building height of 7.9 metres.
- Site coverage 49.9%
- Permeability 25.4%
- Garden Area: 36.8%
- A total of four car spaces are provided with two car spaces allocated to each dwelling in the basement.

The application plans are provided at Attachment 1.

An aerial image and photographs of the site and surrounds are provided at Attachment 2.

History

There is no planning permit history relevant to this application.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two or more dwellings on a lot and a front fence exceeding a height of 1.2 metres.
Planning Scheme Amendments
There are no Planning Scheme Amendments relevant to this application.

3. Stakeholder consultation

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

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

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

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

- Neighbourhood character;
- Energy efficiency concern;
- Side setbacks;
- Flooding concern;
- Number of crossover;
- Noise impact;
- Private open space to the south;
- Unarticulated front façade design; and
- Parking / Traffic

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

Consultation meeting
A consultation meeting was held on 4 July 2018 attended by the permit applicant only. Objectors did not attend the meeting. As a result, this meeting did not proceed.

4. Recommendation
That Council resolve to:

Issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2018/5/1 for the land known and described as 238 Were Street, Brighton East for the construction of two dwellings including basement car park and a front fence over 1.2m in height in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the
Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans (advertised) prepared by Raymond Design, referenced TP01-TP12, date August 2017 but modified to show:

a) Removal of the existing trees on site.

b) Redesigned pedestrian access path to both dwellings with a more natural material and finish to reduce the concrete appearance to the streetscape.

c) Provision of skylight windows to each kitchen and living room of both dwellings.

d) Internal fencing heights nominated to demonstrate compliance with Standard B23 (Internal Views).

e) Evidence that the basement does not exceed 1.2m above natural ground level at any point.

f) A minimum of 4.8m wide garage door to be provided to each garage.

g) The main ramp grade for townhouse 1 to be altered to 1 in 6.2.

h) Each ramp where it intersects with the footpath to be increased to 3.6m wide.

i) Reduction of the size of each crossover to 3.0m with a separation of 7.2m in order to provide an on-street car space.

j) Adequate slight lines are to be provided at the top of each ramp in accordance with Clause 52.06-8 of the Bayside Planning Scheme.

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

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

m) An updated Water Sensitive Urban Design measures in accordance with Condition 8 of this permit if applicable.

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

o) A Drainage Contribution Levy in accordance with Condition 17 of this permit.

All to the satisfaction of the Responsible Authority.

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

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

4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.
5. All pipes (excluding downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

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

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

Water Sensitive Urban Design

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

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

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

Landscaping

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Zenith Concepts Landscape Design, Revision B, dated March 2018 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.
   b) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
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. The proposed pathways is required to be revised in accordance with Condition 1b.

f) The tree planting zone must be shown on the landscape plan in accordance with the Bayside City Council, Landscape Guidelines 2016, Appendix 2, p.29.

g) Two canopy trees in front setback which have the capacity to reach a mature height of 10m in accordance with Bayside City Council, Landscape Guidelines 2016.

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

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

Street tree protection

13. Before the development starts, tree protection fencing is to be established around the 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 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. There is to be no soil excavation within 2 metres of the street tree asset measured from the edge of the trunk.

Drainage

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

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

Development Contributions Levy

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

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

Permit Expiry

18. This permit will expire if one of the following circumstances applies:
Item 4.6 – Matters of Decision

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

- Where significant development is directed to specified and planned activity centres and strategic locations, providing a transition to surrounding residential areas and incorporating improved infrastructure and open space.

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

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

Relevant strategies of the Council plan include:

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

- Ensure new development responds to preferred neighbourhood character in activity centres.

Bayside Planning Scheme

- Clause 9    Plan Melbourne
- Clause 11   Settlement
- Clause 12   Environmental and Landscape Values
- Clause 15   Built Environment and Heritage
- Clause 16   Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
6. Considerations

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

6.1. Neighbourhood Character

The site is located within Neighbourhood Character Precinct D2. Subject to conditions, 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 area is characterised by a variety of built form, consisting of a mix of single storey face brick/render original housing stock and contemporary single and double storey dwellings. Front fencing varies in style, materials and height, with landscaped front setbacks.

The design response is contemporary and its general form, scale and building massing (with appropriate side setbacks) responds to the varied residential feel of the streetscape and wider neighbourhood precinct. The side setbacks allow for a visual break with the adjoining properties to the west and east. Whilst boundary to boundary built form is proposed to the rear of the dwelling, this is unlikely to be noticeable given the built form has been setback for approximately 17m from the front boundary.

The proposed architectural framed elements to the front façade is an acceptable response to the existing neighbourhood character. The architectural elements assist in breaking up the visual bulk to the streetscape. Ancillary to this, the proposed cantilevering first floor elements of Unit 2 offers a recessed front façade which further assists in breaking up the building mass. Furthermore, the proposed front setback at a minimum of 9.3 metres allows sufficient landscaping spaces to soften built form impacts on the streetscape.

Whilst the abutting properties feature pitched roof forms, the wider area, including developments at 246 Were Street, 33 and 25 Collis Street all feature flat roof profiles. Therefore the proposal is considered to be acceptable in the wider character of the area.

A condition requiring a replacement of hard paving to a natural and permeable finishes (e.g., more natural finishes) for the pedestrian accesses of each unit will be required. This will assist in varying the front yard treatment, resulting in an improved design response to the preferred residential garden setting.

On balance and subject to conditions as described above, the proposal is generally supported and will contribute favourably to the preferred neighbourhood character objectives envisioned for this precinct.

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

**Energy Efficiency (Standard B10)**

The standard of requirement to ensure that living areas and private open space should be located on the north side of the development, if practicable. The developments should be designed so that solar access to north-facing windows is maximised. It is noted the subject site is north-south oriented and it is difficult to locate the living room to the north side of the dwelling while complying with other requirements. It is noted the proposed living room failed to provide any northern aspect windows given their boundary to boundary design. However, the proposal can be modified and improved by adding skylight windows to improve the internal amenity and maximise the solar access to the living area. This will be required through condition.

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

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2.24m</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m or 2.48m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>0m or 3m</td>
</tr>
</tbody>
</table>

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

The proposed 4.2 metre side setback to Townhouse 2’s bedroom 2 and ensuite fails to comply with the varied numerical side setback required by the schedule to the zone by 0.78 metres. In this instance, the proposed setback provides an appropriate separation between the built forms and respects the character within the immediate area. The amenity to the neighbour to the east is maintained given that it directly opposes a non-sensitive area (garage and service yard). Therefore, the proposed variation is considered acceptable in this instance.

**Internal Views (Standard B23)**

The purpose of this standard is to limit views into the secluded private open space and habitable room windows of dwellings and residential buildings within a development. The proposed habitable room windows have been screened accordingly. A 1.8m high fence will be provided between the secluded private open space of each dwelling, yet the submitted floor plans and/or elevations do not show the fence proposed between SPOS areas. A condition of permit is included to correct this anomaly.

**Front fences (Standard B32)**

Front fences within this section of Were Street vary in height, style and materials. The proposed 1.5m high front fence with transparent picket gate and a solid render central section respects the streetscape character and will allow oblique views to landscaping within the front setback.

6.3. **Landscaping**

**Existing vegetation**

Council’s Arborist advises that existing on-site vegetation, including on-site trees have a low amenity value and are not protected by the VPO or any local law. Support is therefore
granted for removal for Tree 5 – Tree 11. The proposed tree removal of Tree 1 and 2 requires local law permit however they are Silver Wattle, *Acacia dealbata*, it is a fast growing species with a short useful life expectancy. Both trees have structural defects and the removal is supported subject to conditions of permit requiring appropriate replacement landscaping, including canopy tree planting in accordance with Council’s Bayside Landscape Design Guidelines (2016).

**Proposed landscaping**

The Neighbourhood Character Precinct D2 guidelines specify landscape plans include substantial trees; the proposed use of Crepe Myrtle (*Lagerstroemia indica*) will not reach sufficient height in Bayside conditions to be considered substantial (Landscape Guidelines 2016, Table 6, p.32). A condition will be requested to change the species to be selected from Bayside City Council Landscape Guidelines 2016.

**Vegetation on adjoining properties**

Council’s Arborist advises that the development will have a minimal impact to existing trees located on neighbouring properties.

**Street tree**

Council’s Open Space Arborist advises that the design is supported by Open Space arborist and the street tree will require protection during the demolition and construction. It will be included in the permit as a condition.

**6.4. Car parking and traffic**

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

Each unit will comprise three bedrooms with each afforded two car parking spaces within the basement. Therefore, the proposed on-site car parking provision satisfies the requirements of Clause 52.06-5.

The submitted plans were referred to Council’s Traffic Engineer who supports the proposal subject to standard traffic conditions that seek modifications to crossovers, basement ramp grades and garage doors. The submitted plans can be amended to address these requirements via conditions of permit.

In addition, it is considered that the proposed development will have no significant impact on traffic congestion and/or the existing on-street car parking network within Were Street or surrounding streets. This was not raised as a concern by Council’s Traffic Engineer.

**6.5. Development contributions levy**

The subject site is located within catchment area 11B.

Based on the proposed application and the below recommendation, a payment of $2020 is required. The payment of the development contributions will be recommended as a condition of permit.

**6.6. Objector issues not already addressed**

**Flooding issue**

The subject site is not located in a Special Building Overlay (SBO) or any other overlays which provide planning controls to assess flooding. Furthermore, the subject site is not within the area which will be included in the SBO by the Planning Scheme Amendment C153, SBO boundary amendment. A drainage plan will be required to ensure that stormwater is adequately captured without placing an undue burden on the drainage system.
Support Attachments

1. Development Plans
2. Site and Surrounds
3. Neighbourhood Character Assessment
4. ResCode (Clause 55) Assessment
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1. Aerial Overview of subject site and objector map.

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐</td>
</tr>
<tr>
<td>Objectors</td>
<td>⬤</td>
</tr>
</tbody>
</table>
Figure 2: Looking west to 238 Were Street (subject site).
Figure 3: Looking east to 238 Were Street (subject site).
ATTACHMENT 3

Neighbourhood Character Policy (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>
</table>
| To maintain and enhance the garden settings of the dwellings.             | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation. | Lack of landscaping and substantial vegetation. Removal of large trees. Loss of front garden space | Responds Comments
The front setback allows landscaping opportunities to provide meaningful landscaping to the streetscape in response to the prevailing garden setting. The proposed Crepe Myrtle with a maturity size of 9m x 5m will not reach the requested 10m high in its maturity and a condition will be recommended to amend the landscape plan including two trees in front setback, which have a capacity to reach a mature height of 10m.
The proposed landscape plan also provides two Eastern Redbud across each unit’s rear yards which maintains the garden settings of the dwellings. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To maintain the rhythm of visual separation between buildings</td>
<td>- Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>Having said that, the proposed access to the front door of each dwelling is proposed with concrete pavers, in together with the proposed accesses to the basement car park, it is a concrete cluster which does not respect the residential garden setting. It will be conditioned to be replaced by a more natural and permeable finishes, such as nature stones finishes.</td>
</tr>
</tbody>
</table>
| To ensure that buildings do not dominate the streetscape                  | - Incorporate articulated roof forms, plan form and wall surfaces in new buildings visible from the street. | Large bulky buildings with poorly articulated front or side wall surfaces. | **Responds**  
**Comments**  
The proposed buildings have a side setback of 2.5m to each dwelling which maintain the rhythm of visual separation between buildings. It is noted the rear section of the dwellings are located on boundary, however they have been proposed to setback approximately 17m front the street frontage and they are unlikely to be visible from the Were Street. |

| Item 4.6 – Matters of Decision Page 194 of 459 |  |  |  |

**Responds**  
**Comments**  
The proposed flat roof does not respond to the requested articulated roof form. However the proposal complies with the objectives by incorporating the recessed front facade which ensures the building does not dominate the streetscape. Having said that, the proposed ground floor front setbacks are varied from 9.3m to 9.8m which farther reduce the concerns of visual dominance to the streetscape.
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<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>Responds Comments This section of the Ward street is mixed with different construction materials including rendered finishes and face bricks. The proposed ‘concrete grey’ finishes to the façade of the building is a similar tone with rendered finishes which is consistent with the common elements within this neighbourhood.</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>Responds Comments The proposed 1.5m high front fence with transparent gates to the basement car parks and a solid render central section responds to other fences within the street and will allow oblique views of the landscaping within the front setback.</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>N/A Comments The subject site does not directly border the golf course.</td>
</tr>
</tbody>
</table>
### ATTACHMENT 4
ResCode (Clause 55) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer to Attachment 3 and report for further discussion.</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 in an established suburban area and is able to take advantage of public transport and community infrastructure services.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>The proposal will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development. Council’s drainage engineers have reviewed the application and raise no issues with infrastructure capacity in the area. It is noted that the developer will be required to pay a development contributions levy in accordance with the requirements of Clause 45.06 of the Bayside Planning Scheme.</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 development will integrate appropriately with the street and features a staggered front setback at ground floor level, providing an appropriate transition to the setbacks of the adjoining properties. The overall building height of 7.9 metres, when read with the taller built forms along the streetscape, ensures that any perception of dominance is.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B6 Street Setback</td>
<td>Yes</td>
<td>Requirement: 9m. Proposed: 9.3m – 9.8m at ground floor and 9.3m – 9m at first floor.</td>
</tr>
<tr>
<td>------------------</td>
<td>-----</td>
<td>--------------------------------------------------------------------------</td>
</tr>
<tr>
<td>B7 Building Height</td>
<td>Yes</td>
<td>Maximum: 9m. Proposed: 7.9 metres (2 storeys+ basement) Note: The basement does not exceed 1.2 metres above natural ground level at any point.</td>
</tr>
<tr>
<td>B8 Site Coverage</td>
<td>Yes</td>
<td>Maximum: 50% Proposed: 49.9%</td>
</tr>
<tr>
<td>B9 Permeability</td>
<td>Yes</td>
<td>Minimum: &gt;20% Proposed: 25.4%</td>
</tr>
<tr>
<td>B10 Energy Efficiency</td>
<td>No</td>
<td>Refer to report for discussion.</td>
</tr>
<tr>
<td>B11 Open Space</td>
<td>N/A</td>
<td>There is no communal open space in or adjacent to the development.</td>
</tr>
<tr>
<td>B12 Safety</td>
<td>Yes</td>
<td>The pedestrian entry points are clearly recognisable from Were Street, while the upper level allows for the passive surveillance of the street.</td>
</tr>
<tr>
<td>B13 Landscaping</td>
<td>Yes</td>
<td>The proposed landscape opportunities are generally satisfactory. However, the proposed trees in the front yard are required to be changed to a species which can reach 10m in maturity, selected from the Bayside Landscape Guidelines. Refer to Attachment 3 and Section 6.3 of the report for further discussion.</td>
</tr>
</tbody>
</table>
- The retention of mature vegetation on the site.

<table>
<thead>
<tr>
<th>Item</th>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td><strong>B14 Access</strong></td>
<td>Yes</td>
<td>The proposed access to/from Were Street to the basement car parking is generally acceptable, however conditions requiring modifications to crossovers and ramp grades are recommended. Refer to Section 6.4 of the report for further discussion.</td>
<td></td>
</tr>
<tr>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Item | Yes | On site car parking is provided in the form of a basement car park. Standard traffic permit conditions are recommended to clarify ramp widths and garage door width. Refer to Section 6.4 of the report for further discussion. | |
| **B15 Parking Location** | | | |
| Provide resident and visitor vehicles with convenient parking. | | | |
| Avoid parking and traffic difficulties in the development and the neighbourhood. | | | |
| Protect residents from vehicular noise within developments. | | | |

| Item | No | Refer to the report for further discussion. | |
| **B17 Side and Rear Setbacks** | | | |
| Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings. | | | |

| Ground floor | First Floor |
|---|---|---|---|---|---|
| Requirement | Proposed | Requirement | Proposed | |
| **West** (side) | 0m or 2.24m | 150mm and 2.5m | 4.18m to 3.68m | 4.2m to 3.8m | |
| **East** (side) | 0m or 2.48m | 150mm and 2.5m | 4.98m, 3.98m to 3.68m | 4.2m, 4.2m to 3.8m | |
| **South** (rear) | 0m or 3m | 6m and 6.6m | 4.68m | 8.1m and 7.58m | |
| **B18 Walls on Boundaries**  
Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings. | Yes | Unit 1's pantry and sitting walls are proposed to be constructed to the west boundary.  
**West boundary**  
Maximum Height: 3.6m  
Proposed: 3.5m  
Maximum Length: 15.9m  
Proposed: 8.5m  
The proposed wall height and length accords with the standard.  
Unit 2's pantry and sitting walls are proposed to be constructed to the east boundary.  
**West boundary**  
Maximum Height: 3.6m  
Proposed: 3.5m  
Maximum Length: 15.9m  
Proposed: 8.5m  
The proposed wall height and length accords with the standard. |
| **B19 Daylight to Existing Windows**  
Allow adequate daylight into existing habitable room windows. | Yes | The development has been sufficiently setback from all habitable room windows to abutting properties. |
| **B20 North Facing Windows**  
Allow adequate solar access to existing north-facing habitable room windows. | Yes | The development has been setback in excess of the standard requirement to ensure solar access to existing habitable room windows of 5 Roosevelt Court. |
| **B21 Overshadowing Open Space**  
Ensure buildings do not significantly overshadow existing secluded private open space. | Yes | Additional overshadowing will occur over the adjoining driveway to the west and the abutting tennis court to the west, non-sensitive areas which do not result in any amenity impacts and complies with the standards. |
| **B22 Overlooking**  
Limit views into existing secluded private open space and habitable room windows. | Yes | All habitable room windows have been screened to a minimum height 1.7 metres above finished floor level or have been sited appropriately in accordance with this Standard. |
| **B23 Internal Views**  
Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development. | No | A 1.8m high fence will be provided between the secluded private open space of each dwelling, yet the submitted floor plans and/or elevations do not show the fence proposed between SPOS areas. A condition of permit is included to correct this anomaly. |
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Yes/No</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>B24</td>
<td>Noise Impacts</td>
<td>Yes</td>
<td>It is anticipated that the level of noise which will be emitted from the dwellings will not exceed levels otherwise expected from residential uses.</td>
</tr>
<tr>
<td>B25</td>
<td>Accessibility</td>
<td>Yes</td>
<td>Entries are accessible for people with limited mobility with a lift provided from the basement car park to all floors. In addition, the development could be further retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td>B26</td>
<td>Dwelling Entry</td>
<td>Yes</td>
<td>The development faces Were Street and includes a clearly identifiable entries and separate pedestrian pathways. The entries provide shelter, a sense of personal address and a transitional space for the residential building. The requested natural finishes access pavers will assist to address the sense of identity.</td>
</tr>
<tr>
<td>B27</td>
<td>Daylight to New Windows</td>
<td>Yes</td>
<td>All habitable windows will open out onto a space clear to the sky.</td>
</tr>
<tr>
<td>B28</td>
<td>Private Open Space</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall with a minimum dimension of 3 m; Note: No balconies are proposed. Proposed: Both units meet the requirements of this standard and are provided with adequate private open space for the reasonable recreation and service needs of residents.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Private Open Space</th>
<th>Secluded Private Open Space</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit 1</td>
<td>Approx. 125m²</td>
</tr>
<tr>
<td>Unit 2</td>
<td>Approx. 120m²</td>
</tr>
<tr>
<td></td>
<td>Approx. 60m²</td>
</tr>
<tr>
<td></td>
<td>Approx. 54.6m²</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
</tr>
<tr>
<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>
</tr>
<tr>
<td>B30 Storage</td>
<td>Provide adequate storage facilities for each dwelling.</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</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>
</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>
</tr>
</tbody>
</table>
4.7 204 ESPLANADE, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/805/1 WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/155448

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Travis Walton Architecture</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>15 December 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>145 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 1)</td>
</tr>
<tr>
<td></td>
<td>Special Building Overlay</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay</td>
</tr>
<tr>
<td></td>
<td>(Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>4</td>
</tr>
</tbody>
</table>

Proposal

The application seeks approval for the construction of two dwellings on a lot (above basement level), construction of a roof deck on land affected by Design and Development Overlay (Schedule 1), alteration of access to a road in a Road Zone, Category 1 and a two lot subdivision on land affected by the Special Building Overlay. The lot has an area of 1,230 square metres. Key details of the proposal are as follows:

- Two double storey attached dwellings;
- Basement car parking containing five car parking spaces per dwelling and associated amenities. The basement is accessed via a centrally located shared driveway;
- The ground floor of each dwelling contains four bedrooms and associated ensuites and living room;
- The first floor of each dwelling contains three living rooms, a kitchen, study and bathroom;
- Roof deck;
- 9.73 metres building height;
- 44% site coverage; and
- 22.3% permeability.

The application plans are provided at **Attachment 1**.

An aerial image and photographs of the site and surrounds are provided at **Attachment 2**.

History
There is no planning permit history relevant to this application.

2. Planning controls

Planning Permit requirements
A planning permit is required pursuant to:
- Clause 32.09-3 (Subdivision) – Subdivision of land.
- Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two or more dwellings on a lot.
- Clause 43.02 (Design and Development Overlay Schedule 1) – Construction of roof deck in a DDO1.
- Clause 44.05 (Special Building Overlay) – Buildings and works in a Special Building Overlay.
- Clause 52.29 (Land Adjacent to a Road) – Alteration of an access to a Road in a Road Zone Category 1.

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

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

Public notification
The application was advertised pursuant to Sections 52(1)(a) and (d) of the *Planning and Environment Act 1987* and four objections were received. The following concerns were raised:
- Neighbourhood Character;
- Setbacks;
- Visual Bulk;
- Overlooking;
- Overshadowing;
- Solar access;
- Noise;
- Screening of services;
Car parking; and

Construction Management.

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

Consultation meeting

A consultation meeting was held on 30 April 2018 attended by the permit applicant and two objecting parties. As a result of this meeting no objections were withdrawn.

Draft amended plans were informally submitted in response to the discussions at the consultation meeting (see Attachment 5). These plans included the following changes:

- Privacy screens to the northern and southern widows.
- The front windows in the living rooms with a privacy film up to 1.7 metres high, and the rear four slot windows in the meals, kitchen, pantry and study/guest room screened. Changes to window profiles but continued to be screened as per the requirements of Standard B22 (Overlooking). An additional screening diagram page has been included for reference.
- Sliding timber screens to the front façade to retain timber screens for façade articulation, but also option of opening them up for views.

The plans were circulated to the objecting parties who advised they continue to object to the proposal.

As these plans detail a number of improvements and are readily achievable, these are translated into the officer recommendation (see condition 1a).

4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/805/1 for the land known and described as 204 the Esplanade, Brighton, for the construction of two dwellings on a lot (above basement level), construction of a roof deck on land affected by Design and Development Overlay (Schedule 1), alteration of access to a road in a Road Zone, Category 1 and a two lot subdivision on land affected by 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. The plans must be generally in accordance with the Keystone alliance Pty Ltd, Project L6270, Rev C, Date 28/03/18, Keystone alliance Pty Ltd, Project L6270, Rev B, Date 31/10/17, Travis Walton, Job No 230, Date April 2017, Dwg No TP001 Rev A, TP002 Rev A, TP100 Rev A to 104 Rev A, TP200 Rev A to 203 Rev A, TP300, 400, 500, 501 all Rev A but modified to show:
   a) Changes as per the draft amended plans Travis Walton, Job No 230, Date April 2017 TP100 Rev B, TP101-102 Rev C, TP103-201 Rev B, TP202 Rev C, TP301 Rev A and TP400 Rev B.
   b) Screening to the north and south facing living room windows in accordance with Standard B22 (Overlooking). All screening must be permanently fixed.
c) The lift cores of each dwelling setback a minimum 2 metres from the roof edge of the floor immediately below, with any consequential changes absorbed within the building envelope.

d) Sectional diagrams confirming RL’s and ramp gradients.

e) Location of all plant and equipment. Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms.

f) All air conditioning units to be located within the basement level.

g) The pool equipment to be acoustically screened and appropriately enclosed.

h) Reduction in the extent of decking and paving within the front and side setbacks of each dwelling to allow for greater landscaping opportunities.

i) The common wall between each dwellings roof decks to be a maximum height of 1.8 metres and acoustically treated.

j) Any design changes to accommodate the retention of the Cupressus sempervirens tree located within the north–west corner of the site.

k) Any design changes to accommodate the retention of the vegetation on adjoining properties.

l) Water Sensitive Urban Design measures in accordance with Condition 7 of this permit.

m) Development Contributions requirements in accordance with Condition 11 of this permit.

n) A Landscaping Plan in accordance with Condition 12 of this permit.

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

p) A Construction Management Plan in accordance with Condition 18 of this permit.

q) VicRoad Conditions in accordance with Conditions 19 to 21 of this permit.

r) Melbourne Water requirements in accordance with Condition 22 to 25 of this permit.

All to the satisfaction of the Responsible Authority.

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

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

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

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

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

Water Sensitive Urban Design

7. 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.

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

Drainage

9. 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.

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

Development Contribution

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

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

Landscaping

12. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:
a) The *Cupressus sempervirens* located within the north-west corner to be retained.

b) A reduction in paving to facilitate the required planting areas for replacement canopy trees in accordance with Bayside City Council’s Landscape Guidelines (2016).

c) Sufficient soil volume for the *Gleditsia ‘Sunburst’* located opposite the entry to Dwelling 1 to reach a mature height.

d) Tree protection zones (TPZ) for those neighbouring trees where their TPZ extends into the subject site.

e) Within the front setback of each dwelling:
   - One (1) large replacement canopy tree with a minimum mature height of 12m or two (2) small replacement canopy tree species with a minimum mature height of 8 metres. Tree selections must be tolerant to the coastal environment.

f) Within the rear setback of each dwelling:
   - One (1) large replacement canopy tree with a minimum mature height of 10m or two (2) small replacement canopy tree species with a minimum mature height of 6 metres. Tree selections must be tolerant to the coastal environment.

g) 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.

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

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

j) Details of surface finishes of pathways and driveways.

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

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

**Tree Management and Protection Plan**

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

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

The Tree Protection Plan must be in accordance with AS4970-2009, be drawn to scale and provide details of:
a) The Tree Protection Zone and Structural Root Zone for all trees to be retained on the site) including the Cupressus sempervirens tree located within the north west corner) and for all trees on neighbouring properties (tree located to the south-east corner of 208 the Esplanade) where any part of the Tree Protection Zone falls within the subject site.

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

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

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

Construction Management Plan

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

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

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

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

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

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

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

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

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

i) Site security.

j) Public safety measures.

k) Construction times, noise and vibration controls.

l) Restoration of any Council assets removed and/or damaged during construction.
m) Protection works necessary to road and other infrastructure (limited to an area reasonably 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.

VicRoads Conditions

19. Prior to the commencement of the use or occupation of the development, all disused or redundant vehicle crossings must be removed and the area reinstated to the satisfaction of the Responsible Authority (RA) and at no cost to VicRoads or the RA.

20. The level of the footpaths must not be lowered or altered in any way to facilitate access to the site.

21. Any security boom, barrier, gate or similar device controlling vehicular access to the premises must be located a minimum of 6m inside the property to allow vehicles to store clear of the Esplanade pavement and footpath.

Melbourne Water Conditions

22. Prior to the development plans being endorsed, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Plans must be submitted with surface and floor levels to Australian Height Datum (AHD) and must show:

   a) The basement car park must incorporate a flood proof apex constructed no lower than 3.75 metres to Australian Height Datum (AHD).

23. Finished floor levels of the dwellings must be constructed no lower than 3.75 metres to Australian Height Datum (AHD).

24. The basement must incorporate a flood proof apex constructed no lower than 3.75 metres to AHD.

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

Subdivision

26. The subdivision on the endorsed plans must not be altered without the written consent of the Responsible Authority.

27. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
28. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.

29. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

30. The owner of the land must enter into an agreement with:
   a) A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider’s requirements and relevant legislation at the time; and
   b) A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

31. Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:
   a) A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider’s requirements and relevant legislation at the time; and
   b) A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

32. Prior to the Plan of Subdivision being certified by the Responsible Authority, unless otherwise agreed in writing by the Responsible Authority, the owner of the land must enter into an agreement pursuant to Section 173 of the Planning and Environment Act 1987 with the Responsible Authority to the effect that:
   a) The development of Lots 1, 2 and Common Property indicated on the plan of subdivision shall be in accordance with approved plans forming part of Planning Permit No. 2017/805/1 or any amendment to the plans approved by the Responsible Authority.

The agreement shall be prepared and executed at the owners cost.

Permit Expiry

33. 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.

34. This permit will expire if:
   a) The plan of subdivision is not certified within two years of the date of this permit.
   b) The plan of subdivision is not registered within five years of the original date of certification.

   The Responsible Authority may extend the time if a request is made in writing before the permit expires or within six months afterwards.

**Permit Notes:**

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council's supervision for which 24 hours notice is required.
- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a ‘Road Opening Permit’ must be obtained to facilitate such work.
- A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.
- The applicable flood level is 3.45 metres to Australian Height Datum (AHD).
- For the purpose of the Building Code of Australia – Building in Flood Hazard Areas, Melbourne Water, as the relevant floodplain management authority has determined that the maximum flow rate of flood water (velocity) for this property is below 1.5 metres per second.
- No work must be commenced in, on, under or over the road reserve without having first obtaining all necessary approval under the Road Management Act 2004, the Road Safety Act 1986, and any other relevant acts or regulations created under those Acts.

5. **Council Policy**

**Council Plan 2017-2021**

Relevant objectives of the Council plan include:

- Where significant development is directed to specified and planned activity centres and strategic locations, providing a transition to surrounding residential areas and incorporating improved infrastructure and open space.
- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.

Relevant strategies of the Council plan include:
• Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.

Bayside Planning Scheme

• Clause 9 Plan Melbourne
• Clause 11 Settlement
• Clause 15 Built Environment and Heritage
• Clause 16 Housing
• Clause 21.03 Settlement and Housing
• Clause 21.05 Environmental Risks
• Clause 21.06 Built Environment and Heritage
• Clause 22.06 Neighbourhood Character Policy (Precinct C1)
• Clause 22.08 Water Sensitive Urban Design
• Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
• Clause 43.02 Design and Development Overlay (Schedule 1)
• Clause 44.05 Special Building Overlay
• Clause 45.06 Development Contributions Plan Overlay (Schedule 1)
• Clause 52.06 Car Parking
• Clause 52.29 Land Adjacent to a Road Zone Category 1.
• Clause 55 Two or more dwellings on a lot
• Clause 65 Decision Guidelines

6. Considerations

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

6.1. 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. The subject site is located in an area characterised by a variety of built form comprising a blend of architectural styles, including WW2 dwellings set within spacious gardens and modern infill developments. It is however noted that the Esplanade typically comprises of double storey dwellings and apartments buildings with roof decks.

The front setback provided is sufficient to ensure that the building does not dominate the streetscape. In addition, the proposal is generally consistent with the preferred neighbourhood character and all the requirements of Clause 55, but for minor variations to the side setbacks opposite which do not result in any discernible impacts to the street rhythm and character of the area. The proposal is designed to integrate with the existing and preferred built form character of the area and adopts a building height of 9.73 metres which falls below the height of the two adjoining properties.

The proposed built form is respectful of the scale and form of development which presents to the Esplanade streetscape and does not result in any adverse character or amenity impacts. The flat roof profile reduces and perception of bulk from oblique views.

Conditions of permit that require the relocation of the lift core (see condition 1c) will
ensure any perception of bulk is mitigated through the massing being centrally located on the site. This condition will also ensure compliance with the requirements of Design and Development Overlay (Schedule 1).

The contemporary built form, incorporates a mixture of materials commonly found within the foreshore setting such as timber and stone cladding, ram and glazing are responsive to the modern developments along the esplanade. Further landscaping conditioned as part of the recommendation will ensure that the garden setting of the area is maintained and enhanced. It is considered that, with minor changes detailed in the recommendation, the proposal demonstrates a high level of compliance with the precinct guidelines.

6.2. Design and Development Overlay, Schedule 1

The land is affected by Schedule 1 of the Design and Development Overlay (building height control-coastal). The Schedule seeks to protect and enhance the foreshore environment and views of Bayside from Port Phillip Bay.

The Schedule mandates that a roof desk must:

- Be setback 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.

As advertised, the lift shaft fails to satisfy this requirement. Therefore, Condition 1 c) of the recommendation brings the proposal into compliance by the requiring the relocation of the lift shaft.

The Schedule also seeks to ensure that the proposed siting, height and design of the development is in keeping with the character of the area. Noting the frequency of development and evolving character along the Esplanade (as discussed within Section 6.1 above) it is considered that the development appropriately responds to the decision guidelines of the Schedule.

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:

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

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>First Floor</th>
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<tr>
<td>Requirement</td>
<td>Requirement</td>
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<tr>
<td>North (side)</td>
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<td></td>
<td></td>
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<tr>
<td></td>
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<tr>
<td>South (side)</td>
<td>0, 2m</td>
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<td></td>
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<tr>
<td>West (rear)</td>
<td>0, 3m</td>
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The only non-compliant aspect of the development relates to the lift core that service each dwelling. The lift core has an area of approximately 3 square metres and is setback 5 metres from both the northern and southern side boundary setbacks.

The lift core extends 2.4 metres above the roof profile of the building and is setback in excess of 20 metres from the property frontage.

Due to the limited scale of the lift core, it is considered that a variation to the setback requirements is acceptable. This position is further assisted by its non-sensitive interfaces (to the north and south) and the limited visibility it will have from the streetscape.
Notwithstanding this, the Design and Development Overlay (Schedule 1) directs that the roof deck be setback a minimum of 2 metres from the edge of the floor immediately below. The lift core is proposed to be located within this 2 metre mandatory setback. Therefore, a condition of permit is recommended to rectify the siting of the lift core to ensure its compliance with the Design and Development Overlay (see condition 1c). This condition will further mitigate the bulk/mass impacts that the lift core may have on adjoining properties.

**North facing windows (Standard B20)**

The southern building line should be setback no less than 3.1m from the common boundary with 202 Esplanade to maintain adequate solar access. The proposed development proposes a minimum setback of 4.38m and therefore comfortably complies with this standard.

It is noted the lift core would necessitates a setback of 5.58m. The lift core is proposed to be setback 5m and therefore is 0.58m less than the recommended standard.

This variation is considered acceptable given the affected room has a secondary light source which features both west and north facing elevations. It is further noted, the non-compliant wall extends for 1.9 metres and therefore not considered to result in an unreasonable impact to one north-facing window.

**Overlooking (Standard B22)**

The draft amended plans included at Attachment 5 denotes all habitable room windows have been screened to a height 1.58 metres above finished floor level and have been sited appropriately to restrict views in accordance with this Standard.

Whilst the Standard calls for a minimum screen height of 1.7 metres, the screens are offset from the window (overlooking source) and prevent direct and downward views to adjoining areas of secluded private open space and any habitable room windows in accordance with this Standard.

The extending wing walls associated with the living rooms of both dwellings meet this Standard and restrict views into adjoining front setbacks and areas of open space associated with 202 and 206 Esplanade and this element complies with the Standard. Notwithstanding this, the applicant has nominated that sliding timber screens be included to allow for additional privacy to these areas. It is noted that the proposed sliding screens provide articulation to the front façade and is in keeping with the contemporary and beach front character of the area. The extent of screening proposed exhibits more than provided to the front façade of the adjoining properties.

Screening to the stairwell windows do not require screening as these windows serve a non-habitable room / space.

Notwithstanding the above compliant aspects of this assessment, a ‘Privacy film’ is proposed to be included to the living room windows associated with both dwellings. ‘Privacy film’ is not considered to meet the requirements of the Standard as it is not fixed, permanent and details of opacity have not been provided. A condition of permit has been included requiring compliance with this Standard.

**6.4. Landscaping**

As the land is not affected by the Vegetation Protection Overlay, no planning permission is required for the removal of vegetation.

**On-Site Vegetation**

The application seeks the removal of eight trees from the site, including two native trees. Council’s arborist has identified the *Cupressus sempervirens* (Italian Cyprus) located within the north-west corner of the site as being suitable for retention. This is a local law protected tree.
The retention of this tree is considered appropriate and achievable having regard to the development scheme. Therefore, conditions of permit (condition 1j) seek the retention of this tree.

The removal of all other vegetation from the subject land is considered appropriate, especially having regard to the post-construction landscaping opportunities.

**Adjoining Vegetation**

A tree is located on adjoining site (the south east corner of 206 the Esplanade) with their Tree Protection Zones (TPZ) extending into the subject site.

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

**Proposed Landscaping**

The proposed landscaping has been reviewed by Council’s Arborist who has noted that the extent of hard paving needs to be significantly reduced to assist with the establishment of landscaping opportunities. The proposed front and rear setback are considered generous and conditions of permit have been included requiring the planting of canopy trees in these locations. Conditions of permit require planters to be located along side boundaries where soil volumes are limited due to the basement.

It is noted that the large architectural void to the entry of Dwelling 1 is heavily glazed. The landscape plan proposes a *Gleditsia* 'Sunburst' which is a good selection for this location as it will provide protection from the northern sun. The soil volume associated with the establishment of this tree is limited and a condition of permit is included requiring sufficient soil volume to be demonstrated.

6.5. **Car parking and traffic**

The application proposed to alter the access to the Esplanade, a Road Zone Category 1. VicRoads as the Referral Authority have reviewed the application and do not object to the proposed access arrangements, subject to conditions. These are included in the recommendation.

Each dwelling is provided five car parking spaces each, this exceeds the requirements of two car parking spaces per dwelling. It is anticipated these additional spaces will be available for visitors to the residences.

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. Further, the proposed development will not result in an unreasonable level of vehicular movements within the surrounding road networks.

Melbourne Water have required the apex of the basement access ramp to be constructed no lower than 3.75 AHD. The proposal meets this requirement and therefore this condition will have no resultant impacts on the ramp gradients.

A car parking metre is located along the frontage of the subject site. It is noted that the proposed cross-over is located in excess of 4 metres from the ticketing machine and therefore will not require relocation.

6.6. **Special Building Overlay**

The application was referred to Melbourne Water who does not object to the proposal subject to conditions. These have been included as part of the recommended permit conditions.

6.7. **Development contributions levy**
The subject site is located within catchment area 11A.

Based on the proposed application and the below recommendation, a payment of $2020 is required. The payment of the development contributions will be recommended as a condition of permit.

6.8. Subdivision

The development and subdivision will respect the existing and preferred neighbourhood character. The lots will have dimensions and layouts that enable the appropriate siting and construction of dwellings, solar access, private open space, vehicle access and parking and water management. Common areas will be identified for vehicle access as necessary. The subdivision will not impact on the efficient manner of utilities provision.

In addition, the pattern of the proposed subdivision would result in an acceptable spacing of buildings as required by the zone. The subdivision is therefore supported.

6.9. Objector issues not already addressed

Disturbances during construction

A condition requiring the submission and approval of a Construction Management Plan has been included in the recommendation. Construction Management Plan’s typically contain measures to control impacts on neighbouring properties, including traffic movements, site access and dust.

Support Attachments

1. Development Plans
2. Site and Surrounds Imagery
3. Neighbourhood Character Assessment (Precinct C1)
4. ResCode (Clause 55) Assessment
5. Draft Amended Plans
Item 4.7 – Matters of Decision
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1. Aerial Overview of subject site and objector map.

Legend

<p>| | |</p>
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Subject site</td>
<td>★</td>
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<td>Objectors</td>
<td>●</td>
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</tbody>
</table>
Figure 2: 210, 208 and 206 the Esplanade, Brighton.

Figure 3: 208 and 206 the Esplanade, Brighton.
Figure 4: View looking north across the Esplanade, Brighton towards the 206, 204 (subject site) and 202 to the left of the photograph.
Figure 5: View looking north across the Esplanade, Brighton towards 204 (subject site) and 202 to the left of the photograph.

Figure 6: View looking north across the Esplanade to 202 the Esplanade.
ATTACHMENT 3

Neighbourhood Character Policy (Precinct C1)

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development. • Alterations and extensions should retain the front of these dwellings. | Demolition of dwellings that contribute to the valued character of the Precinct. | Responds  
The existing dwelling on site is not protected by a Heritage Overlay or Neighbourhood Character Precinct. The proposed replacement dwellings are considered to make a good fit within the streetscape and will contribute to the valued character of the area. |
| To maintain and enhance the spacious garden settings of the dwellings. | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. | Lack of landscaping and substantial vegetation. | Responds, subject to conditions  
The proposed development fails to provide sufficient opportunities for landscaping and provide opportunities for meaningful landscaping within the site due to the extent of hard standing. Refer to Section 6.3 of the report for further discussion. |
| To enhance the bayside vegetation character of the area. | • Retain large trees and established native and traditional coastal vegetation and provide for the | Removal of large native and coastal trees. | Responds, subject to conditions  
The proposal, subject to conditions will provide opportunities for replacement |
<table>
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<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
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<tr>
<td>planting of new indigenous coastal trees where possible.</td>
<td></td>
<td>Planting of environmental weeds.</td>
<td>planting on site. A condition of permit requires all vegetation to be responsive to its coastal environment. Refer to Section 6.3 of this report for further discussion.</td>
</tr>
<tr>
<td>To retain the sense of spaciousness in the area and provide adequate space for front gardens.</td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td></td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>The development continues to provide for a front garden and opportunities for landscaping to wrap around the side setbacks of the development. The proposed street, side and rear setbacks maintain the street rhythm and ensure a sense of visual separation with adjoining built forms. The location of the common driveway centrally to the site further enhances the sense of spaciousness and large front gardens. Conditions of permit require a reduction in the level of hard standing and improved selection of coastal tolerant trees.</td>
</tr>
<tr>
<td>To minimise the dominance of car parking facilities, driveways and crossovers.</td>
<td>• Locate garages and car ports at or behind the line of the dwelling.</td>
<td>Car parking facilities that dominate the facade or view of the dwelling.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Minimise hard paving in front yards.</td>
<td>Loss of front garden space.</td>
<td>Basement car parking is proposed centrally to the site frontage. Due to the site's access off the Esplanade which is categorised as a Road Zone Category 1, a 61 metres wide crossover is proposed for safety reasons. The basement access ramp is flanked by two pedestrian access paths to each dwelling with upper floor balconies cantilevering. Conditions of permit requiring improved landscaping and tree selections within the front setback will minimise any perception.</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
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<tr>
<td>To ensure that new buildings and extensions do not dominate the streetscape.</td>
<td>• Recess upper level elements from the front façade.</td>
<td>High pitched roof forms with dormer windows.</td>
<td>Responds: The proposed development at two storeys with roof decks sit at a lower level than the adjoining built form at 202 and 206 the Esplanade. The overall building height is 9.73 metres, 0.5 metres lower than the lower of the adjoining properties. Whilst concerns regarding the bulk of the lift core have been raised conditions of permit, discussed in Section 6.2 of the report under Standard B17 (Side and Rear Setbacks) talk to relocating the massing of these structures. The remainder of the front façade provides for a well-articulated design with the appropriate use of setbacks and a material schedule which ensures the proposal comfortably within the streetscape.</td>
</tr>
<tr>
<td>To respect the identified heritage qualities of adjoining buildings.</td>
<td>• Where adjoining an identified heritage building, respect the height, building forms, siting and materials, of the heritage building/s in the new building design.</td>
<td>Buildings that dominate heritage buildings by height, siting or massing.</td>
<td>Responds: The proposed building sufficient offset from Heritage assets in the area so as not to compromise their special architectural or historic interest.</td>
</tr>
</tbody>
</table>
| To encourage the use of a variety of building materials, finishes and design detail that complement the coastal setting.               | • Use a mix of materials including timber or other non-masonry wall materials in building design.  
• Use simple building details and articulate roof forms.                   | Large, poorly articulated external wall surfaces or one material only.  
Heavy materials and design detailing (e.g. large masonry columns and piers). | Responds: The external finishes of the building include timber, render and glazing combined with stone cladding. These finishes are characteristic of the wide variety of materials found within this coastal setting. The use of materials combined with the flat roof form ensures a well-articulated, appealing design which is contemporary but respectful if the site’s coastal setting. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage the openness of the streetscape.</td>
<td>• Provide open style fencing, other than along heavily trafficked roads.</td>
<td>High, solid front fencing</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>A 1.8m high rendered front fence with picket pedestrian access gates ensures some visibility into the front setback. The inclusion of garden beds to the front of the front fence softens the presentation of the building. Given the volume of traffic along the Esplanade and prevailing fence heights to adjoining properties the proposed fence is considered acceptable and in keeping with the prevailing character of the area.</td>
</tr>
</tbody>
</table>
| To create a visually interesting and attractive built form interface with the foreshore reserve, on properties fronting the reserve and visible from the reserve. | • Articulate the form of buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies, verandahs, non-reflective glazing and light-transparent balustrading.  
• 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 proposed architectural design presents a well composed design which reflects the scale, massing and setbacks of the adjoining properties and as such provides a complementary built form to the streetscape.  
The recesses and palette of materials including glazing softened with the use of native vegetation required by a planning permit condition ensures the development is respectful of its locality. |
### ATTACHMENT 4

**ResCode (Clause 55) Assessment**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer to 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 the construction two dwellings on a lot of this size.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>The proposal will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development. Council’s drainage engineers have reviewed the application and raise no issues with infrastructure capacity in the area. It is noted that the developer will be required to pay a development contributions levy in accordance with the requirements of Clause 45.06 of the Bayside Planning Scheme.</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 development will integrate appropriately with the street. The proposed building has a 9.96m front setback to the Esplanade at ground floor and is setback 11.15m at first floor (with a balcony encroaching into this setback). The proposed side setbacks are generous at both and ground floor level, resulting in the built form being centrally massed on the site.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| B6 Street Setback | Yes | Requirement: 9m
Proposed: 9.98m at ground floor and 11.15m at first floor.
Setback to the first floor balconies: 9.66m |
|-------------------|-----|---------------------------------|
| B7 Building Height | Yes | Maximum: 9m or pursuant to Clause 32.09-9 a building may exceed the applicable maximum building height or contain more than the applicable number of storeys if there are existing buildings on both abutting allotments that face the same street and the new building does not exceed the building height or contain a greater number of storeys than the lower of the existing buildings on the abutting allotments.
The lower of the two adjoining dwellings has an overall height of 10.23m and therefore the proposal is well within the permissible height limit.
Design and Development Overlay, Schedule 1 also identifies a height of 2 storeys excluding an attic and basement.
Proposed: 9.73m to the top of the roof access structure (2 storeys + roof deck)
It is noted that the basement at no point rises above natural ground level and the access structures do not exceed an overall height of 2.4 metres.
Refer to Appendix 5 for details of adjoining building heights. |
| B8 Site Coverage | Yes | Maximum: 50%
Proposed: 44% |
| B9 Permeability | Yes | Minimum: >20%
Proposed: 22.3% |
| Item 4.7 – Matters of Decision Page 247 of 459 |
|---|---|
| **Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.** |  |
| **B10 Energy Efficiency**  
Achieve and protect energy efficient dwellings and residential buildings.  
Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy. | Yes  
All habitable areas, including habitable rooms and secluded private open space areas have been located to maximise solar access and no habitable rooms rely on secondary light sources.  
It is noted the proposed uses within the basement are not considered to be habitable. |
| **B11 Open Space**  
Integrate layout of development with any public and communal open space provided in or adjacent to the development. | N/A  
There is no communal open space in or adjacent to the development. |
| **B12 Safety**  
Layout to provide safety and security for residents and property. | Yes  
The pedestrian entry points are clearly recognisable while upper levels allow for the passive surveillance of the street. |
| **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. | No  
See Section 6.3 of the report for further discussion. |
| **B14 Access**  
Ensure the safe, manageable and convenient vehicle access to and from the development.  
Ensure the number and design of vehicle crossovers respects neighbourhood character. | Yes  
An appropriate access off the Esplanade to basement car parking has been provided. Standard traffic conditions are included as permit conditions.  
It is further noted that VicRoads have offered no objection to the  
See Section 6.4 of the report for further discussion. |
| **B15 Parking Location**  
Provide resident and visitor vehicles with convenient parking.  
Avoid parking and traffic difficulties in the development and the neighbourhood.  
Protect residents from vehicular noise within developments. | Yes  
On site car parking is provided in the form of a basement carpark. Standard traffic conditions are included as permit conditions.  
Refer to Section 6.4 of the report for further discussion. |
## B17 Side and Rear Setbacks
Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>North (side)</td>
<td>0, 2m</td>
<td>2m, 2.05m, 4.4m, 4.69m and 4.85m</td>
<td>4.38m Lift core: 9.18m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0, 2m</td>
<td>2m, 4.39m, 4.38m and 4.68m</td>
<td>4.38m Lift core: 9.18m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>0, 3m</td>
<td>7.02m</td>
<td>5.38m</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>
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<th>Requirement</th>
<th>Proposed</th>
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<tr>
<td>West (rear)</td>
<td>0, 3m</td>
<td>7.02m</td>
<td>5.38m</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
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<th>Requirement</th>
<th>Proposed</th>
</tr>
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</tr>
<tr>
<td>West (rear)</td>
<td>0, 3m</td>
<td>7.02m</td>
<td>5.38m</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>North (side)</td>
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<td>2m, 2.05m, 4.4m, 4.69m and 4.85m</td>
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<tr>
<td>South (side)</td>
<td>0, 2m</td>
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<td>4.38m Lift core: 9.18m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>0, 3m</td>
<td>7.02m</td>
<td>5.38m</td>
</tr>
</tbody>
</table>

There are no walls proposed to be constructed on the boundary.

The development has been sufficiently setback from all habitable room windows to abutting properties at 202 and 206 Esplanade.

The closest windows are located at 202 Esplanade which has four habitable room windows offset 1.1m and three windows offset 2.15m from the common boundary.

The wall window, adjacent to the boundary is required to be setback 3.55m from the window. The proposal is setback 4.21m, 5.63m, 5.92m and 7.42m and therefore complies with this standard.

See Section 6.2 of the report for further discussion.
<table>
<thead>
<tr>
<th>B21 Overshadowing Open Space</th>
<th>Yes</th>
<th>Additional overshadowing will occur to areas of secluded private open space associated with 202 Esplanade at 9am. The increase in overshadowing affects a side passageway and does not impact the primary area of secluded private open space. Notwithstanding this, the affected area will continue to receive a minimum of five hours of sunlight between 8am and 3pm on 22 September. Due to the generous side setbacks no other properties will be affected by overshadowing resulting from the proposed development. All associated overshadowing will fall within the shadows cast by the existing fence line.</th>
</tr>
</thead>
<tbody>
<tr>
<td>B22 Overlooking</td>
<td>No</td>
<td>See Section 6.2 of report for further discussion.</td>
</tr>
<tr>
<td>B23 Internal Views</td>
<td>Yes</td>
<td>The proposed east (rear) facing windows restrict views into the secluded private open space of the adjoining dwelling within the development. It is acknowledged that the window will allow for some views, however the standard do not prohibit views, rather seeks minimise views to no more than 50% of both the front and rear areas of secluded private open space.</td>
</tr>
<tr>
<td>B24 Noise Impacts</td>
<td>Yes</td>
<td>It is anticipated that the level of noise which will be emitted from the dwellings will not exceed levels otherwise expected from residential uses.</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Yes</td>
<td>Entries are accessible for people with limited mobility with a wheelchair lift provided to the Esplanade frontage. Lifts are provided in each dwelling, however condition of permit require relocation of the lift cores to ensure compliance with the mandatory setbacks to the roof deck pursuant to Design and Development Overlay (Schedule 1). The development could be further retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Yes/No</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>--------</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling/residential building.</td>
<td>Yes</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>Provide reasonable recreation and service needs of residents by adequate private open space.</td>
<td>Yes</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>Yes</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>
</tbody>
</table>
### B32 Front Fences
Encourage front fence design that respects the existing or preferred neighbourhood character.

| Yes | As the site fronts a Road Zone Category 1, a 2 metre high front fence is as of right. The front fence is proposed at 1.8 metres and includes permeable elements to the pedestrian access points associated with each dwelling. |

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

| Yes | Areas of common property are proposed are practical and easy to maintain. The proposed layout will avoid any future management difficulties. |

### B34 Site Services
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.

| Yes | All appropriate site services can be easily catered for on-site. Mails boxes are shown to adjoin the pedestrian entries with ample storage for waste storage within the basement level. A condition has been included requiring the location of solar hot water systems and air conditioning units to be located away from adjoining habitable room windows. |
### Draft Amended Plans

#### AT: 204 Esplanade, Brighton 3186

<table>
<thead>
<tr>
<th>Diagram</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### TRAVIS WALTON

<table>
<thead>
<tr>
<th>Diagram</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### 4.8 176 ESPLANADE, BRIGHTON
NOTICE OF DECISION TO AMEND A PLANNING PERMIT
APPLICATION NO: 2016/257/2 WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/172871

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant an Amended Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Dale Crowhurst &amp; Garry Williams</td>
</tr>
<tr>
<td></td>
<td>Crowhurst Building Design</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>23 April 2018 (Amended)</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>85 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 1)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>4</td>
</tr>
</tbody>
</table>

#### Proposal

This application seeks alterations and additions including the construction of a roof deck to a dwelling on a lot with an area of 455 square metres.

The application was lodged pursuant to Section 72 of the *Planning and Environment Act 1987* as an amendment to make design changes to the scheme of development approved by planning permit 2016/257/1 and to delete Condition 1(a) and 1(c) of the planning permit.

The development plans submitted in support of the application show the following changes:

- Addition of ground floor en-suite extension to southwest corner of the dwelling.
- The setback of the rear extension to the dwelling 1 metre from the southern property boundary as opposed to 2 metres at ground floor.
- The setback of both the first floor balcony and dining room wall 2 metres and 3.28 metres respectively from the southern boundary.
- The setback of the first floor kitchen wall 2 metres from the southern boundary as opposed to 4.2 metres.
- A reduction of the sill height of the first floor windows in the west elevation and the western end of the south elevation of the dwelling to 800mm above the finished first floor level as opposed to 900mm.
- An extension of the roof and thus the eave at the northwest corner of the roof of the dwelling.
- The abutment of the roof deck to the title boundary with 178 Esplanade as opposed to a 2 metre setback.
The application plans are provided at Attachment 1.
An aerial image and photographs of the site and surrounds are provided at Attachment 2.

History
Planning application 2016/257/1 was submitted to Council on 6 April 2016 for alterations and additions including the construction of a roof deck at the subject site. The application was approved by Council at their meeting of the Planning & Amenity Committee on 22 November 2016.

The permit applicant lodged a conditions appeal at VCAT pursuant to Section 80 of the Planning & Environment Act 1987 in regard to the removal of conditions 1a, 1d, 1e, 1f, 1g, 1j, 1l, 8a, 8b, 8c, 8d, 8e, 8f, 8g, 8h, 8l, 8j, 8k, 8l, 8m, 8n, 8o, 8p, 8q and 8r of the permit.

Additionally, objectors lodged an Application for Review pursuant to Section 82 of the Planning & Environment Act 1987 against Council's decision. The appeals were heard at VCAT on 9 August and 20 October 2017. A permit was issued at the direction of VCAT with variations to Conditions 1(d) and 1(f) to better clarify setbacks and screening to minimise overlooking. Conditions 1(b) and 1(l) were deleted.

The planning permit is provided at Attachment 3, while the VCAT decision plans are provided at Attachment 4 for information.

Development plans have not been endorsed as the applicant seeks an amendment to planning permit 2016/257/1 and the endorsement of plans simultaneously.

2. Planning controls

Planning Permit requirements
A planning permit is required pursuant to:
- Clause 32.09-5 (Neighbourhood Residential Zone) – Construction and extension of one dwelling on a lot.
- Clause 43.02-2 (Design and Development Overlay) – Construction of a roof deck above the second storey of a building.

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

3. Stakeholder consultation

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

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection, subject to the replacement tree being setback 2m setback from the south boundary fence and soft landscaping being defined in planting area.</td>
</tr>
</tbody>
</table>

Public notification
The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and four objections were received. The following concerns were
raised:
- Neighbourhood character;
- Non-compliant side setbacks;
- Overlooking;
- Overshadowing;
- VCAT recommendations, and;
- Mandatory requirements of Design and Development Overlay (Schedule 1).

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

Consultation meeting

A consultation meeting was held on 28 June 2018 attended by the permit applicant and 2 objectors. As a result of this meeting no objections were withdrawn.

The objectors were informed as to the detail of the proposal and drawings provided for their information. They were advised that Council could only consider the amendments to the planning permit and could not revisit whether the principle of an extension or roof deck were acceptable.

4. Recommendation

That Council resolve to:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect to Planning Application number 2016/257/1 for the land known and described as 176 Esplanade, Brighton, for the alterations and additions on a lot less than 500 square meters and a roof deck in a DDO1 in accordance with the endorsed plans and subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans prepared by Crowhurst Building Design, drawing nos TP1-10 393 and TP Appendix 1 to 3 dated April 2018 and Landscape Concept Plan TP L1 of 1 prepared by Bayview Landscaping dated April 2018 but modified to show:
   a) Deleted.
   b) Deletion of the words ‘raised roof section’ and replaced with the word ‘roof’ and annotated to say that ‘this area is not part of the roof deck’.
   c) Deleted.
   d) Pantry window to be openable by not more than 150mm from the vertical position.
   e) Compliance with Standard A15 of Clause 54 of the Bayside Planning Scheme including screening to 1.7 metres from the first floor level of the westernmost south facing lounge window.
   f) Water sensitive urban design measures in accordance with Condition 4 of this permit.
   g) Location of all plant and equipment, including hot water services and air conditioners etc. Plant equipment is to be located away from habitable
room windows of dwellings and the adjoining properties habitable rooms.

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

i) A Construction Management Plan prepared by a suitably qualified individual in accordance with Condition 8 of this permit.

j) A landscape plan showing:
   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, including their location.
   d) Details of surface finishes of pathways and driveways.
   e) Planting of a Banksia integrifolia within the front setback of the dwelling 2 metres from the south boundary fence.

2. 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.

3. 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.

4. Before the endorsement of plans pursuant to Condition 1 of this permit, 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.

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.

5. 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.

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. Before occupation, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard A15 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

8. 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 reasonably 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.

9. 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.

THE PERMIT INCORPORATES THE FOLLOWING AMENDMENTS:

<table>
<thead>
<tr>
<th>Date Amended</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>14 August 2018</td>
<td>Amendment pursuant to Section 72 of the Planning and Environment Act 1987, involving:</td>
</tr>
<tr>
<td></td>
<td>Amendment to the plans endorsed under the permit:</td>
</tr>
<tr>
<td></td>
<td>• Addition of ground floor ensuite extension to southwest corner of the dwelling.</td>
</tr>
<tr>
<td></td>
<td>• The setback of the rear extension to the dwelling 1 metre from the southern property boundary.</td>
</tr>
<tr>
<td></td>
<td>• The setback of both the first floor balcony and dining room wall 2 metres and 3.28 metres respectively from the southern boundary.</td>
</tr>
<tr>
<td></td>
<td>• The setback of the first floor kitchen wall 2 metres from the southern boundary.</td>
</tr>
<tr>
<td></td>
<td>• A reduction of the sill height of the first floor windows in the west elevation and the western end of the south elevation of the dwelling to 800mm above the finished first floor level.</td>
</tr>
<tr>
<td></td>
<td>• An extension of the roof and thus the eave at the northwest corner of the roof of the dwelling.</td>
</tr>
<tr>
<td></td>
<td>• The abutment of the roof deck to the title boundary with 178 Esplanade.</td>
</tr>
<tr>
<td></td>
<td>Delete conditions 1a and 1c.</td>
</tr>
<tr>
<td></td>
<td>Vary condition 1j(c) to read:</td>
</tr>
<tr>
<td></td>
<td>A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant, including their location.</td>
</tr>
<tr>
<td></td>
<td>Vary condition 1j(e) to read:</td>
</tr>
<tr>
<td></td>
<td>Planting of a Banksia integrifolia within the front setback of the dwelling a minimum of 2 metres from the south boundary fence.</td>
</tr>
</tbody>
</table>

THIS PERMIT SUPERSEDES ALL OTHER PERMITS ISSUED
5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 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 C1)
- Clause 22.07 Discretionary Uses in Residential Areas
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 1)
- Clause 52.06 Car Parking
- Clause 54 One dwelling 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. The proposal is considered to demonstrate an acceptable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 5.
The existing dwelling is semi-detached from 178 The Esplanade, to the north. Both dwellings are almost a mirror image of the other and are essentially two storey in form containing window detailing and front verandahs located at the first floor level providing views to the foreshore. Garages are located to the rear of the site, accessed via a Right-of-Way (ROW).

The proposed amendments would appropriately respect the character of the dwelling and would not compromise the development for which approval has already been given. Whilst the setbacks would not comply with the standard varied by Schedule 3 to the Neighbourhood Residential Zone or the intent of the condition imposed on the planning permit to control it, the setbacks would nevertheless be responsive to the existing established neighbourhood character of the area.

6.2. Compliance with Clause 55 (ResCode)

An assessment against the requirements of Clause 55 is provided at Attachment 6. Those non-compliant standards are discussed below:

**Site coverage (Standard A5)**

<table>
<thead>
<tr>
<th>Required</th>
<th>Approved</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>50%</td>
<td>56.10%</td>
<td>57.46%</td>
<td>7.46%</td>
</tr>
</tbody>
</table>

The proposed site coverage is a marginal increase on the site coverage already approved for the subject site, being only 1.36%.

The additional site coverage would not result in an overdevelopment of the site. Rather it is a consequence of the size of the site. Any dwelling on this site other than a very small home would have a higher than standard site coverage.

The proposal reflects the built form pattern evident in the area and responds to the constraints of the site including the existing and preferred neighbourhood character.

The proposed site coverage is considered acceptable because there are suitable areas within the front and rear of the dwelling to provide landscaping to improve the landscape character of the neighbourhood.

**Side and rear setbacks (Standard A10)**

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

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

Notwithstanding the setback required by the Standard, in the determination of planning application 2016/257/1 a reduced south side setback was considered acceptable subject to a condition modifying it. Condition 1c of the planning permit requires the following:

‘An increased southern side boundary setback at ground floor level of 2 metres and increased southern side boundary setback at first floor level of 2 metres which includes the first floor level balcony and increasing the dining room and kitchen walls setback from 3.2 to 4.2 metres with no other changes to the building footprint.’
It is now proposed that the ground floor components comprising the existing bathroom and bedroom be retained and thus the existing south setback of this element of the dwelling be maintained. The proposed ground floor kitchen would be setback 1.04 metres from the south boundary to be consistent with this existing setback.

The proposed ensuite would be setback to be consistent with the 2 metres setback of the proposed walk-in-robe and bedroom required by condition 1c.

The southern wall, including the kitchen of the first floor extension to the dwelling would be setback 2 metres from the south property boundary with the exception of the dining room which would be setback 3.28 metres. The balcony in front of the dining room would be modified to a Juliet balcony and would assume a 2 metre setback in line with the lounge, kitchen and master suite components of the first floor extension.

Whilst part of the ground floor setback would not comply with the requirements of Condition 1(c) it would be unreasonable for Council to exert this control on an element of the dwelling that is to be retained. The proposed ground floor kitchen, although not compliant with condition, would nevertheless be sufficiently setback so as not to detrimentally impact the amenity of the neighbouring residential properties to the south though overlooking or overshadowing.

The first floor setbacks would for the most part, comply with Condition 1c of the planning permit. The setback of the dining room and correspondingly the balcony although not compliant with the condition would nevertheless assume the same 3.28 metre setback of the existing first floor of the dwelling. In this, it is not considered the proposed amended setback would impose any greater amenity impact on the neighbouring residential properties to the south than can reasonably occur at present. Nor would the amended setback compromise the scheme of development for which planning approval has already been given.

In respecting, where applicable, the existing dwelling setbacks and the requirements of Condition 1c of planning permit 2016/257/1, the proposed amendments to the setbacks of the extension would be consistent with the density and form of development in the area and would be compatible with the existing and preferred neighbourhood character of the area.

On the foregoing considerations it is appropriate to delete Condition 1c of planning permit 2016/257/1.

**Overlooking (Standard A15)**

Existing 2.18 metre high brick fencing and screening on the mutual south property boundary would limit overlooking of the neighbouring residential property of Apartment 1 of 174 Esplanade to the south.

Whilst there is no requirement to provide screening to the window openings of the proposed new ensuite extension, the existing high fencing on the mutual south boundary would limit overlooking from the extension.

The Juliet balcony is to be enclosed on its south side by a 1.7 metres high privacy screen consisting of a solid wall with a planter box extending above it. This treatment would sufficiently limit overlooking of Apartment 1 of 174 Esplanade to the south from the first floor dining room and kitchen.

The drawings indicate the first floor pantry window will open no more than 150mm from the vertical position to accord with Condition 1e. This window is also shown as obscured.
A window box is shown to surround both the first floor east facing master bedroom window and its ensuite window which would extend 300mm from the rear elevation of the extension.

A 1.7m high privacy screen is also shown to be formed to the east side of the first floor western-most window.

Overlooking diagrams submitted in support of the application demonstrate that these measures would, where applicable, sufficiently limit overlooking to the secluded open space of 178 Esplanade to the north and the residential properties of Apartment 1 and 3 of 174 Esplanade to the south. The measures to limit overlooking are therefore considered to comply with the requirement of Condition 1f of the planning permit 2016/257/1.

Notwithstanding a window box would surround the master ensuite window, there is no planning justification for this as the window would serve a non-habitable room. There is therefore no requirement to provide screening to this window to meet the objective of the Standard or to comply with Condition 1f of the original planning permit.

6.3. Landscaping

There is no significant vegetation on the site with the exception of a Coast Banksia (Banksia integrifolia) located along the south boundary and approximately 7 metres away from the front title boundary. The removal of this tree was assessed and considered acceptable in the approval of planning permit 2016/257/1. Therefore the principle of its removal is not a material consideration in the determination of this application.

It is however a requirement of Condition 1j of planning permit 2016/257/1 that a landscape plan be submitted for the prior approval of the Responsible Authority to include replacement planting, consisting of a Coastal Banksia within the front garden of the dwelling.

A landscape plan has been submitted in accordance with Condition 1j and Council’s Arborist raises no objection to the proposal subject to the Coastal Banksia being planted 2 metres from the southern property boundary and soft landscaping being defined within the planting bed. It would therefore be prudent to amend Condition 1k of the planning permit to reflect this accordingly.

On the basis that the landscape plan must be revised to accord with Council Arborist comments, the submitted landscape plan cannot be endorsed simultaneously with the issue of a permit.

6.4. Street tree(s)

No street trees will be impacted by the proposed amendments.

6.5. Car parking and traffic

The provisions of Clause 52.06 do not apply to the extension of one dwelling on a lot in a Neighbourhood Residential Zone. Notwithstanding, the proposed amendments would not affect existing car parking arrangements on the site.

6.6. Roof Deck (Design and Development Overlay – Schedule 1)

The development plans on which VCAT made their decision showed the provision of a roof deck above the first floor of the dwelling.

The Design and Development Overlay – Schedule 1 (DDO1) states that 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).

Under the original application, the proposed roof deck was not considered to comply with the mandatory 2 metre setback and included a structure that exceeded 1.7 metres in height that was not an access structure. A portion of the roof deck was shown with a note that it had a raised roof.

Condition 1a of planning permit 2016/257/1 requires the roof deck to be ‘setback a minimum of 2 metres from the roof edge immediately below on all sides, including the north side’. Provision is given in the condition for the stairs which lead to the roof deck to be modified to accommodate for this change, with no further encroachment of the access structure to the deck extending beyond the current front setback.

The development plans again show the provision of a roof deck above the first floor of the dwelling. The deck is shown to be setback 2 metres from both the southern and western edge of the roof the dwelling. The structure associated with the proposed roof deck is now limited to an access structure which does not exceed 2.4 metres measured from the floor level at the point of access onto the roof deck. The access structure does not enclose any useable floor space.

On the considerations of the west and south setbacks and roof deck access structure the proposed amended roof deck does not conflict with Condition 1a of the planning permit or the requirements of DDO1.

The amended roof deck does not however have a setback of 2 metres from the north side of the roof the dwelling.

A consideration in this case is whether the roof deck would abut a roof edge.

The literal definition of “edge” is the ‘outside limit of an object, area or surface’.

In circumstances where the roof of a building is pitched and with eaves, a roof edge is also taken to be an overhanging area with an outward projecting lower edge, intended to control the direction of dripping water.

The applicant's dwelling is semi-detached from the neighbouring residential property of 178 Esplanade to the north. In this, the conjoined building is provided with one roof structure separated internally by a party wall. The roof takes the form of a hipped pitched roof with overhanging eaves and a flat roof component. Other pitched roof components form part of the roof structure.

For the purposes of defining a roof edge, it would not be unreasonable to consider the eaves line of the roof of the conjoined building as the roof edge and not the point of the roof which transitions between the ownership of one party from another.

On this count the amended roof deck would not conflict with the requirements of DDO1.

Also relevant to the determination of this application are the decision guidelines of the Design and Development Overlay (Schedule 1) which state that the Responsible Authority must consider:
The integration of the structure and form of the roof deck and associated access with the building.

The visual impact of the roof deck and associated access when viewed from the street and surrounding area.

Amenity impacts including overlooking into surrounding private open spaces, views into surrounding habitable room windows and overshadowing.

Use of materials, finishes and colours.

Part of the established character of Esplanade are large dwellings or residential buildings on modest to large blocks facing the foreshore, many of which have roof decks above their first floor. The amended roof deck would be similar in its locational circumstance and form to those other roof decks. So too would the access to it. Examples of other roof decks/terraces on Esplanade can be found, most notably, at 174 Esplanade, 184 Esplanade, 202 Esplanade, 206 Esplanade, 212 and 214 Esplanade. The roof decks at 174, 202 and 206 Esplanade having been constructed up to the title boundary with its neighbour.

In the context of these other roof structures and roof decks the proposed amended roof deck would not by virtue of its extent, access, form and materials, be harmful to the character and appearance of the dwelling as it is proposed to be extended and altered. It would not appear incongruous within its streetscape setting. Nor would the amended roof deck compromise the scheme of development for which planning approval has already been given.

Privacy screening would enclose the east and part of the south sides of the roof deck. Otherwise it would be enclosed on its north side by a 1 metre high solid wall and on its west and part of its south side by a glass balustrade. Owing to this, the proposed roof deck would be sufficiently screened to limit overlooking of the neighbouring residential property of 174 Esplanade to the south.

On the foregoing considerations, it is appropriate to delete condition 1a of planning permit 2016/257/1.

It has been raised by an objector the owner occupier of Apartment 3 of 174 Esplanade, their ability to harmfully overlook the proposed development. The windows and balcony of that neighbouring residential property are provided with privacy screening to limit overlooking. It is considered that direct overlooking would only be achieved when a person is purposefully elevated within that neighbouring property. The impact of this is not a material consideration in the determination of this amendment application.

6.7. Endorsement of Plans

Whilst the applicant has sought an amendment to planning permit 2016/257/1 and the endorsement of development plans simultaneously, matters concerning landscaping and the submission of a Construction Management Plan in accordance with condition 1i and 8 of the planning permit remain outstanding. It would not therefore competent to endorse plans to correspond with the issue of a permit.

Support Attachments

1. Development Plans
2. Site & Surrounds
3. Planning Permit
4. VCAT Decision Plans
5. Neighbourhood Character Assessment - Precinct C1
6. Rescode Clause 55 Assessment
### Materials and Finishes Schedule

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<tr>
<th>Material</th>
<th>Finish</th>
<th>Color</th>
<th>Sample</th>
</tr>
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<td>Finish 3</td>
<td>Color 3</td>
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</tr>
<tr>
<td>Material 4</td>
<td>Finish 4</td>
<td>Color 4</td>
<td>Sample 4</td>
</tr>
</tbody>
</table>

**Advertised Plan**
Figure 1 Aerial overview of the site and surrounds

A total of four objections were lodged to the application. Two were lodged by the same party.

<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>
<tr>
<td>Withdrawn</td>
<td>▲</td>
</tr>
</tbody>
</table>
Figure 2 View towards the site and 174 Esplanade from the west

Figure 3 View towards 184 Esplanade from the southwest
Figure 4 View towards Esplanade north of subject site.

Figure 5 View towards Esplanade further north of subject site.
Figure 6 View south of Subject site along Esplanade
PLANNING PERMIT
5/2016/257/1

Address Of The Land: 176 Esplanade BRIGHTON

The Permit Allows:
To construct alterations and additions to a semi-attached existing double storey dwelling on a lot less than 500 square metres in the Neighbourhood Residential Zone Schedule 3; and, to construct buildings and works including a building greater than 6 metres in height and a roof deck above the second floor level in the Design and Development Overlay Schedule 1 in accordance with the endorsed plans and subject to the following conditions.

The Following Conditions Apply To This Permit:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans prepared by Crowhurst Building Design, drawing numbers 393 E, TP 1 to 8, dated: 5/7/17 and TP Appendix 1 to 5, dated June 2017 and prepared by Bayview Landscaping, landscape concept plan sheet TPL1, dated June 2017 as substituted by Tribunal order dated 14 August 2017 but modified to show:

(a) The roof deck setback a minimum of 2 metres from the roof edge immediately below on all sides, including the north side. The stairs may be modified to accommodate for this change, but the access structure must not encroach beyond the current front setback.

(b) Deletion of the words ‘raised roof section’ and replaced with the word ‘roof’ and annotated to say that ‘this area is not part of the roof deck’.

(c) An increased southern side boundary setback at ground floor level of 2 metres and increased southern side boundary setback at first floor level of 2 metres which includes the first floor level balcony and increasing the dining room and kitchen walls setback from 3.2 to 4.2 metres with no other changes to the building footprint.

(d) Pantry window to be openable by not more than 150mm from the vertical position.

Date issued: 1 December 2017

Michael Henderson
Signature for the Responsible Authority

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
(e) Compliance with Standard A15 of Clause 54 of the Bayside Planning Scheme including screening to 1.7 metres from the first floor level of the westernmost south facing lounge room window and the rear east facing master bedroom window.

(f) Water sensitive urban design measures in accordance with Condition 4 of this permit.

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

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

(i) A Construction Management Plan prepared by a suitably qualified individual in accordance with Condition 8 of this permit.

(j) A landscape plan showing:

i 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.

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 Details of surface finishes of pathways and driveways.

v Planting of a Banksia integrifolia within the front setback of the dwelling.

2 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.

3 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.

Date issued: 1 December 2017

Michael Henderson

Signature for the Responsible Authority
4 Before the endorsement of plans pursuant to Condition 1 of this permit, 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.

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.

5 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.

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 Before occupation, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard A15 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

8 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.

Date issued: 1 December 2017

Planning and Environment Regulations 2005 Form 4

Signature for the Responsible Authority

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
PLANNING PERMIT
5/2016/257/1

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.

Date issued: 1 December 2017

Michael Henderson
Signature for the Responsible Authority

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
(r) Details of crane activities, if any.

9  This permit as it relates to development (buildings and works) will expire if one of the following circumstances applies:

(a) The development is not started within two (2) years of the issue date of this permit.

(b) The development is not completed within four (4) years of the issue date of this permit.

In accordance with section 69 of the Planning and Environment Act 1987, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.
ATTACHMENT 5
Neighbourhood Character Policy (Precinct C1)

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
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</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 proposed amendments would result in more of the existing dwelling being retained than previously proposed.  
The proposed ensuite extension would not harmfully compromise the façade of the dwelling. |
| To maintain and enhance the spacious garden settings of the dwellings.    | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. | Lack of landscaping and substantial vegetation.                     | Responds, subject to amended conditions  
Council's Arborist raises no objection to the proposed landscape plan subject to conditions relating to the location of replacement tree planting and soft landscaping being defined. |
| To enhance the bayside vegetation character of the area.                 | • Retain large trees and established native and traditional coastal vegetation and provide for the | Removal of large native and coastal trees.                          | Responds |


<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>planting of new indigenous coastal trees where possible</td>
<td></td>
<td>Planting of environmental weeds.</td>
<td>Council’s Arbourist is satisfied with the number and species of plants scheduled on the proposed landscape plan. Consents has already been given for the removal of the existing Banksia tree within the front garden of the dwelling through the approval of planning permit 2016/25771.</td>
</tr>
<tr>
<td>To retain the sense of spaciousness in the area and provide adequate space for front gardens.</td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td></td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>The proposed amendments would respect in part the setbacks of the existing dwelling and be reflective of the setbacks in the area. They would maintain an appropriate level of visual spaciousness.</td>
</tr>
<tr>
<td>To ensure that new buildings and extensions do not dominate the streetscape.</td>
<td>• Recess upper level elements from the front façade.</td>
<td>High pitched roof forms with dormer windows.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The scale and articulation of the dwelling will not be harmful compromised by the development ensuring it sits comfortably with the low scale built form of the area.</td>
</tr>
<tr>
<td>To minimise the dominance of car parking facilities, driveways and crossovers.</td>
<td>• Locate garages and car ports at or behind the line of the dwelling.</td>
<td>Car parking facilities that dominate the facade or view of the dwelling.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Minimise hard paving in front yards.</td>
<td>Loss of front garden space.</td>
<td>N/A</td>
</tr>
<tr>
<td></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></td>
<td></td>
</tr>
<tr>
<td>To ensure that new buildings and extensions do not dominate the streetscape.</td>
<td>• Recess upper level elements from the front façade.</td>
<td>High pitched roof forms with dormer windows.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The proposed amendments will ensure that the dwelling is respectful to the scale of the existing dwelling and the streetscape.</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 respect the identified heritage qualities of adjoining buildings.</td>
<td>• Where adjoining an identified heritage building, respect the height, building forms, sitting and materials, of the heritage building/s in the new building design.</td>
<td>Buildings that dominate heritage buildings by height, sitting or massing.</td>
<td>Responds N/A</td>
</tr>
</tbody>
</table>
| To encourage the use of a variety of building materials, finishes and design detail that complement the coastal setting. | • Use a mix of materials including timber or other non-masonry wall materials in building design.  
• Use simple building details and articulate roof forms.               | Large, poorly articulated external wall surfaces of one material only.                          | Responds                                          |
|                                                                            |                                                                                   | Heavy materials and design detailing (eg large masonry columns and piers).                      | The external finishes of the amended extensions and alterations are characteristic of the wide variety of materials found within this coastal setting. |
| To encourage the openness of the streetscape.                             | • Provide open style fencing, other than along heavily trafficked roads.            | High, solid front fencing.                                                                      | Responds                                          |
|                                                                            |                                                                                   |                                                                                                 | N/A                                               |
| 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 amendments to the proposed architectural design presents a well composed design which reflects the scale, massing and setbacks of the adjoining properties and as such provides a complementary built form to the streetscape. |                                                  |
### ATTACHMENT 6
ResCode (Clause 54) Assessment

ResCode Clause 54 (One Dwelling on a Lot)

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer Attachment 3</td>
</tr>
<tr>
<td>Design respects existing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>contributes to a preferred</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development responds to</td>
<td></td>
<td></td>
</tr>
<tr>
<td>features of the site and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A2 Integration with Street</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Integrate the layout of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A3 Street Setback</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Setbacks of buildings from a street</td>
<td></td>
<td></td>
</tr>
<tr>
<td>respect the existing or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>preferred neighbourhood character</td>
<td></td>
<td></td>
</tr>
<tr>
<td>and make efficient</td>
<td></td>
<td></td>
</tr>
<tr>
<td>use of the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A4 Building Height</strong></td>
<td>No</td>
<td>Maximum: 9.0m</td>
</tr>
<tr>
<td>Building height respects the</td>
<td></td>
<td>Proposed: 9.45m</td>
</tr>
<tr>
<td>existing or preferred</td>
<td></td>
<td>The area of non-compliance is derived from the</td>
</tr>
<tr>
<td>neighbourhood character.</td>
<td></td>
<td>access structure proposed for the roof deck.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The proposal nevertheless respects both the</td>
</tr>
<tr>
<td></td>
<td></td>
<td>existing and preferred neighbourhood</td>
</tr>
<tr>
<td></td>
<td></td>
<td>character.</td>
</tr>
<tr>
<td><strong>A5 Site Coverage</strong></td>
<td>N/A</td>
<td>Maximum: 50%</td>
</tr>
<tr>
<td>Site coverage should respect the</td>
<td></td>
<td>Existing: 44%</td>
</tr>
<tr>
<td>existing or preferred</td>
<td></td>
<td>Previously approved: 56.10%</td>
</tr>
<tr>
<td>neighbourhood character and</td>
<td></td>
<td>Proposed: 57.48%</td>
</tr>
<tr>
<td>respond to the features of the site.</td>
<td></td>
<td>The proposal reflects the built form pattern</td>
</tr>
<tr>
<td></td>
<td></td>
<td>evident in the area and responds to the</td>
</tr>
<tr>
<td></td>
<td></td>
<td>features of the site. The existing and</td>
</tr>
<tr>
<td></td>
<td></td>
<td>preferred neighbourhood character.</td>
</tr>
</tbody>
</table>
### A6 Permeability
Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.

Yes

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

Yes
The proposal allows for appropriate solar access to the dwelling as it is proposed to be altered.

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

N/A

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

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

<table>
<thead>
<tr>
<th></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>N/A</td>
<td></td>
</tr>
<tr>
<td>East (rear)</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 2m</td>
<td>2m – 1.04m</td>
</tr>
</tbody>
</table>

### A11 Walls on Boundaries
Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

N/A

### A12 Daylight to existing windows
Ensure daylight to existing windows is maintained.

Yes
The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>A13</td>
<td>North Facing Windows</td>
<td>N/A</td>
</tr>
<tr>
<td>A14</td>
<td>Overshadowing Open Space</td>
<td>Complies</td>
</tr>
<tr>
<td>A15</td>
<td>Overlooking</td>
<td>Complies</td>
</tr>
</tbody>
</table>

**A13 North Facing Windows**

Allow adequate solar access to existing north-facing habitable room windows.

**A14 Overshadowing Open Space**

Ensure buildings do not unreasonably overshadow existing secluded private open space.

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.

**A15 Overlooking**

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

The Juliet balcony is to be enclosed on its south side by a 1.7 metres high privacy screen consisting of a solid wall with a planter box extending above it. This treatment would sufficiently limit overlooking of Apartment 1 of 174 Esplanade to the south from the first floor dining room and kitchen.

The drawings indicate the first floor pantry window will open no more than 150mm from the vertical position to accord with Condition 1e. This window is also shown as obscured.

A window box is shown to surround both the first floor east facing master bedroom window and its ensuite window which would extend 300mm from the rear elevation of the extension.

A 1.7m high privacy screen is also shown to be formed to the east side of the first floor western-most window.

Overlooking diagrams submitted in support of the application demonstrate that these measures would, where applicable, sufficiently limit overlooking to the secluded open space of 178 Esplanade to the north and the residential properties of Apartment 1 and 3 of 174 Esplanade to the south. The measures to limit overlooking are therefore considered to comply with the requirement of Condition 1f of the original planning permit.

Notwithstanding a window box would surround the master ensuite window, there is no planning justification for this as the window would serve a non-habitable room.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Requirement</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>A16</td>
<td>Daylight to New Windows</td>
<td>Yes</td>
<td>The dining room/kitchen would have direct access to daylight.</td>
</tr>
<tr>
<td></td>
<td>Allows adequate daylight into new habitable room windows.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A17</td>
<td>Private Open Space</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall. Existing: 138.89m² approximately overall Proposed: 81.61m² secluded, 57.28m² private.</td>
</tr>
<tr>
<td></td>
<td>Provide adequate private open space for the recreation and service needs of residents.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A18</td>
<td>Solar Access to Open Space</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Allow solar access into secluded private open space of a new dwelling.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A19</td>
<td>Design Detail</td>
<td>Yes</td>
<td>Refer report.</td>
</tr>
<tr>
<td></td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A20</td>
<td>Front Fences</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Encourage front fence design that respects the exiting or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
4.9  519 BALCOMBE ROAD, BLACK ROCK
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2018/63/1  WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/170516

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Pink Architecture</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>15 February 2018</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>104</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Vegetation Protection Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>5</td>
</tr>
</tbody>
</table>

Proposal

The application seeks approval for the construction of three dwellings on a lot, a front fence exceeding 1.2 metres in height and alter access to a Road Zone, Category 1 on a lot with an area of 948 square metres.

Key details of the proposal are as follows:

- 3 double storey attached dwellings with double garages
- Overall maximum height 7.49 metres
- Flat roof, metal cladding and render finishes in muted tones
- 1.2 metre - 1.8 metre high rendered front fence
- Site coverage 50%
- Permeability 32%
- Garden Area 35%

The application plans are provided at Attachment 1.

An aerial image and photographs of the site and surrounds are provided at Attachment 2.

History

There is no planning permit history relevant to this application.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:
- Clause 32.09-6 (Neighbourhood Residential Zone) - Construction of two or more dwellings on a lot and a front fence exceeding a height of 1.2 metres.
- Clause 52.29 (Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road) – Create or alter access to a Road Zone, Category 1.

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

3. Stakeholder consultation

External referrals
The application was referred to the following authorities:

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

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

The following concerns were raised:
- Overlooking
- Overshadowing
- Loss of privacy
- Traffic congestion
- Loss of on street parking
- Construction impacts
- Noise and Dust
- Loss of amenity during construction
- Cyclist behaviour

Consultation meeting
A consultation meeting was held on 12 July 2018 attended by the permit applicant and 4 objectors. As a result of this meeting no objections were withdrawn.

4. Recommendation
That Council resolve to:
Issue a Notice of Decision to Grant a Planning Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2018/63/1 for the land known and described as 519 Balcombe Road, Black Rock, for the **construction of three dwellings on a lot, a front fence exceeding 1.2 metres in height and alter access to a Road Zone, Category 1** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the use and/or development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans prepared by Pink Architecture referenced RFI SET, date stamped 4 April 2018 and revision date 20 March 2018 but modified to show:

- a) Increase the ground and first floor front setback to Balcombe Road to a minimum of 6.7 metres to accord with Clause 55.03-1, Standard B6: Street Setback of the Bayside Planning Scheme without any further changes to the setbacks and absorbed within the building envelope.

- b) Dwellings 1, 2 and 3 ground floor front setback to Keating Street increased to a minimum of 2.7 metres to accord with Clause 55.03-1, Standard B6: Street Setback of the Bayside Planning Scheme without any further changes to built form and absorbed within the building envelope.

- c) Dwellings 1, 2 and 3 first floor rear western elevation to demonstrate compliance with Clause 55.04-1, Standard B17: Side and rear setbacks of the Bayside Planning Scheme without any further changes to built form and absorbed within the building envelope.

- d) A notation specifying that the all obscure glazing is no more than 25% transparent to accord with Clause 55.04-6, Standard B22 of the bayside Planning Scheme.

- e) Internal fencing between the dwellings at ground floor to be nominated at a height of 1.8 metres to limits views between adjoining secluded private open space.

- f) Dwelling 2 accessway setback increased to a minimum of 2 metres from Council street tree 4.

- g) The ramp gradients to each accessway modified to a minimum of 1 in 10.

- h) Adequate sight lines where each driveway intersects with the front footpath in accordance with Design Standard 1 – Accessways of Clause 52.06-9 of the Bayside Planning Scheme.

- i) A 2m x 2m corner splay to be provided at the north-east corner of the property and infilled with concrete to match the existing footpath.


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

- l) Development Contributions Levy in accordance with Condition 15 of this permit.

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

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

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

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

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

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

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

Landscaping

9. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by John Patrick Landscape Architects – Revision A – dated 22.03.18, be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) All development changes.
   b) The Water Sensitive Urban Design measures as specified on the advertised STORM report and dated 13 November 2017 reflected on all development plans.

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.

Street tree protection

12. Soil excavation must not occur within 2 metres from the edge of any Council street tree assets at ground level.
13. A tree protection fence is for the protection of a tree's canopy and root zone. Conditions for street tree protection fencing during development are as follows:
   a) Fencing is to be secured and maintained prior to demolition and until all site works are complete.
   b) Fencing must be installed to comply with AS4970-2009, Protection of trees on development sites.
   c) Fencing should encompass the Tree Protection Zone (TPZ) for all street trees adjacent to the development.
   d) Fencing is to be constructed and secured so its positioning cannot be modified by site workers.
   e) If applicable, prior to construction of the Council approved crossover, TPZ fencing may be reduced to the edge of the new crossover to facilitate works.
   f) Prior to soil excavation for a Council approved crossover within the TPZ, a trench must be excavated along the line of the crossover adjacent to the tree using root sensitive non-destructive techniques. All roots that will be affected by must correctly pruned.
   g) Any installation of services and drainage within the TPZ must be undertaken using root sensitive non-destructive techniques.

14. Street trees must not be removed, lopped, damage or pruned by any party other than Bayside City Council authorised tree care contractors.

**Development Contribution**

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

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

**Drainage**

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

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

**VicRoads**

18. Prior to the commencement of the use of the development, all disused or redundant vehicle crossings must be removed and the area reinstated to the satisfaction of and at no cost to VicRoads and the Responsible Authority.

**Permit Expiry**

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

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

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

Permit Notes:

- Council records indicate that there is no easement within the property.
- Subsurface water must be treated in accordance with Council’s Policy for Works on Assets within the Road Reserve Policy 2018.
- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council's supervision for which 24 hours notice is required.
- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a ‘Road Opening Permit’ must be obtained to facilitate such work.
- A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.
- No work must be commenced in, on, under or over the road reserve without having first obtaining all necessary approval under the Road Management Act 2004, the Road Safety Act 1986, and any other relevant acts or regulations created under those Acts.

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 9 Plan Melbourne
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 H6. 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 highly articulated dwellings are appropriately sited and successfully transition to the differing characters found at either end of the subject site. Elements of the design response acknowledge the urban character established to the northern title boundary of Balcombe Road and the treed character apparent to the southern boundary that shares a frontage with First Street.

Moreover, the removal of the majority of the side boundary fencing to Keating Street enhances the visual amenity of the streetscape. The extensive native and indigenous vegetation proposed will significantly improve upon the existing landscaping on the site, wrapping around the three dwellings and further softening the massing of the development and meeting the preferred future character sought for the precinct with ease.

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:

<table>
<thead>
<tr>
<th>Street setback (Standard B6)</th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
The objective of the standard is to ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of a site.

A street setback from Balcombe Road of 6.1 metres is proposed, when a setback of 6.7 metres is required to achieve numerical compliance with the standard. The 100 millimetre variation is confined to dwelling 1’s kitchen/living area and bedroom 2 and 3 at first floor. The 600 millimetre variation to Balcombe Road is attributed to the design feature of projecting wall nibs that encroach into the setback at both levels.

Although the visual impact of the 100 millimetre variation will not be discernible and the projecting elements that are confined to minor sections assist in articulating the facade, the wall nibs are not an allowable encroachment into the standard. Accordingly, a condition of permit is recommended to ensure compliance with the standard. Whilst the change is minor, it will only further assist in reducing visual bulk impacts and respecting the existing neighbourhood character.

A street setback from Keating Street of 2.5 metres is proposed, when a setback of 2.7 metres is required. The 200 millimetre variation is confined to the wall nibs that delineate and highlight various aspects of the front façade at ground level.

Similarly to the aforementioned condition seeking compliance with the Balcombe Road frontage, compliance with the standard will not adversely impact upon the design integrity of the proposal. A condition requiring the front setbacks to be increased is included.

### 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>South (side)</td>
<td>0m or 2m</td>
<td>0m, 2m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>0m or 3m</td>
<td>4m</td>
</tr>
</tbody>
</table>

Due to the slight convex contour of the site, the minimum required first floor setbacks to the dwellings vary at first floors to the southern elevation.

The first floor rear setback to the western title boundary requires a setback between 4.7 metres to 5.5 metres where a setback of 4.5 and 5 metres is proposed. At different points, the non-compliance varies from 100 millimetres to 500 millimetres.

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.

A number of habitable rooms and areas of secluded private open space associated with the two dwellings are located adjacent to the western boundary. The variation is considered to be unacceptable to this sensitive interface as minimal separation between...
ground and first floor is provided.

To ensure visual bulk impacts as a result of the sheer western elevation wall are reduced, a condition of permit requiring full compliance has been included.

**Overlooking (Standard B22)**

A number of habitable windows are provided with obscure glazing to 1.7 metres above finished floor level to ensure compliance with the standard.

However, a notation specifying that the all obscure glazing is no more than 25% transparent to accord with the standard is required to be shown on the plans.

A condition to this effect has been included.

**Interval Views (Standard B23)**

The internal fencing between the dwellings at ground floor are required to be a height of 1.8 metres to limits views between secluded private open spaces.

A condition to this effect has been included.

**Front Fences (Standard B32)**

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Balcombe Road</td>
<td>2m</td>
<td>1.8m</td>
<td>N/A</td>
</tr>
<tr>
<td>Keating Street</td>
<td>1.2m</td>
<td>1.2 m – 1.8m</td>
<td>600 mm</td>
</tr>
</tbody>
</table>

A front fence of 1.8 metres in height is proposed to the front boundary of the site on Balcombe Road. Balcombe Road is nominated as a Road Zone Category 1, whereby a 2 metre high front fence is as of right. The rendered front fence is set 1.9 metres away from the title boundary and incorporates a 600mm planter box to integrate plantings to the frontage.

The 1.8 metre front fence extends around the corner for a total of 10 metres to Keating Street, enclosing the private open space to dwelling 1.

Pursuant to Standard B32 a front fence to a maximum of 1.2 metres in height is preferred. The objective of this standard is to encourage front fence design that respects the existing or preferred neighbourhood character.

The extension of the 1.8 metre front fence for a section to the Keating Road frontage is considered to be acceptable in a streetscape that predominately features solid and high front fences.

Dwelling 2 and 3 incorporate a 1.2 metre high fence with steel infills. The fence does not extend across to the pedestrian access points or garages associated with both dwellings allowing sections of unobstructed views to the development.

Oblique views to the private open space of dwelling 1 and 2 are encouraged by the open style fencing, and will allow the proposed vegetation to make a noteworthy contribution to the streetscape that transitions to a highly vegetated affect south of the subject site.

The variation is considered acceptable.

**6.3. Landscaping**

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

The application plans show the removal of all trees from the site however, no trees are protected by the Vegetation Protection Overlay (VPO3).
The table below identifies those trees protected by the VPO3, those protected by the Local Law and those which are not protected by any statutory mechanism.

Council street trees assets are marked with a ‘*’.

<table>
<thead>
<tr>
<th>VPO3 protected trees</th>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed for removal</td>
<td>Proposed for retention</td>
<td>Proposed for removal</td>
</tr>
<tr>
<td>N/A</td>
<td>N/A</td>
<td>5</td>
</tr>
</tbody>
</table>

From an arboriculture perspective Council’s Arborist has reviewed the application and advises that tree 5 a Chinese Photinia (*Photinia glabra*) has moderate amenity value. The tree would require a permit under a Local Law however is not protected by the VPO3 due to its exotic origin. The application proposes to remove tree 5.

Tree 6 has low amenity value and is not protected by the VPO3 or the Local Law. The application proposes to remove tree 6.

Council’s Arborist has not objected to the removal of tree 5 and 6 due to their replacement with new canopy tree plantings in accordance with Bayside City Council Landscape Guidelines (2016).

Council’s Arborist has advised that no trees are located on adjoining sites with their Tree Protection Zones (TPZ) extending into the subject site. Accordingly, no Tree Protection Plan or Tree Management Plan is required as a condition of permit.

In addition to the above assessment, Council’s Arborist has reviewed the submitted landscape plan. The landscape plan includes the planting of 5 canopy trees - Sweet Bursaria (*Bursaria spinosa*) in the front and rear setbacks and provides for an excess of 80% of indigenous plantings by species number and type.

Accordingly, Council’s Arborist has advised that the proposed Landscape Plan is acceptable as it has been prepared in accordance with Bayside City Council Landscape Guidelines (2016).

6.4. Street tree(s)

Native street trees No. 1 – 4 (inclusive) are located within the nature strip and are proposed for retention.

Council’s Street Tree Arborist has advised that no design modifications are required to the development for the retention of trees 1, 2 and 3. The trees however will require protection during the demolition and construction of the development.

A condition of permit has been included to this affect.

Tree 4 is proposed to be retained, however the construction of the new vehicle crossing to dwelling 2 with a proposed setback of 1.47 metres is insufficient for the retention and viability of the street tree asset.

A minimum setback of 2 metres is required and an assessment by Councils Open Space Arborist suggests that this modification is achievable.

A condition of permit has been included to increase the setback to tree 4 to a minimum of 2 metres.

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

All dwellings comprise four bedrooms and are afforded two car parking spaces in the form of double garages. The proposed on site car parking meets the requirements of Clause 52.06-5.

The application was referred to Council’s Traffic Engineer who expressed no concern with the development subject to the inclusion of permit conditions relating to driveway gradients and sightlines. These are included as conditions of the permit.

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

6.6. Objector issues not already addressed

Loss of on street parking

Vehicles, whether they are related to this or other developments in the street, can only park on the street in accordance with any parking regulations. The number of vehicles that can park on the street and at what time will be dictated by the parking restrictions and the availability of on street car spaces.

Concerns with the accessibility and usability of the on street car parking cannot be sustained. The traffic experts are satisfied that the proposed access from Keating Street is sufficient to provide safe access and egress for the site.

Construction impacts

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

Noise and Dust

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

Loss of amenity during construction

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

Cyclist behaviour

The behaviour and actions of all road users including cyclists is not controlled by the planning regulatory system and is not a relevant planning consideration in assessing an application under the provisions of the Planning & Environment Act 1987, or the Bayside Planning Scheme.

Support Attachments

1. Attachment 1 Development Plans
2. Attachment 2 Sites and Surrounds
3. Attachment 3 Neighbourhood Character Assessment (Precinct H6)
4. Attachment 4 ResCode (Clause 55) Assessment
Bayside City Council
Planning & Amenity Committee Meeting - 14 August 2018
Attachment 1

Item 4.9 – Matters of Decision
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>★</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>●</td>
</tr>
<tr>
<td>Withdrawn</td>
<td>▲</td>
</tr>
</tbody>
</table>
Figure 2 View towards the sites frontage from the north - Balcombe Road

Figure 3 View towards the sites frontage from the north - Balcombe Road showing the adjoining neighbours at 521 (front) and 521a (rear) Balcombe Road, Black Rock.
Figure 3 View towards the junction of Balcombe Road and Keating Street frontage from the North. Note the subject site to the right.

Figure 3 View towards the sites Keating Street frontage from the east, showing the existing single storey dwelling.
Figure 4 View towards the sites southern title boundary and the garage and accessway associated with the adjoining dwelling at 65 First Street, Black Rock.

Figure 5 Panoramic view towards the sites frontage to Keating Street.
Figure 6 The front façade of the adjoining property to 65 First Street facing Keating Street and the heavily treed landscaping in the public and private domains.

Figure 7 Looking north from Keating Street towards Balcombe Road, showing the heavily treed corner of First and Keating Street which contains the boundary of 65 First Street – the adjoining lot of the subject site back.
ATTACHMENT 3

Neighbourhood Character Policy (Precinct H6)

Neighbourhood Character Precinct H6

Preferred Future Character Statement

The dwellings of diverse styles sit within gardens of indigenous coastal species with occasional tall trees. Buildings are occasionally built to the side boundary and sited to gain views to the bay and coast, however they do not dominate the streetscape and have regard to the view corridors from nearby properties. The impression of the streetscape is of openness due to the low or open style fencing complemented by the wide grassy verges and long straight roads. The coastal character is enhanced by street trees of native coastal species throughout 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 utilises appropriate coastal species.</td>
<td>Lack of landscaping and substantial vegetation</td>
<td>Complies</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>To enhance the bayside vegetation character of the area through the retention and planting of appropriate coastal species.</td>
<td>• Retain established native and traditional coastal vegetation and provide for the planting of new native coastal trees and shrubs where possible (locate footings outside root zone).</td>
<td>Removal of large, native trees, Planting of environmental weeds.</td>
<td>Complies</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The proposed landscaping will provide a vegetated response that significantly improves upon the existing landscaping on site.

In combination with the proposed 5 x Sweet Bursaria (Bursaria spinosa) as canopy trees, the balance of landscaping includes 80% indigenous plantings by species number and type and will regenerate new fauna habitat and corridors on a large site.

There site does not contain any existing native trees.
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To ensure adequate space is provided around buildings for retention and planting of vegetation. | • 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 vegetation.  
• Minimise impervious surfaces particularly in front garden spaces. | Loss of front garden space.                                                      | Complies                                                                                   |
|                                                                          |                                                                                  |                                            | Sufficient space for planting has been provided to allow meaningful planting surrounding the development. Dedicated areas of private open space will allow the planting of canopy trees in the front setback that will provide an unencumbered contribution to the heavily treed nature of the streetscape, specifically to the south of the subject site. The proposed landscaping will provide a vegetated outcome that is significantly improved than what currently exists on site. |
| To minimise the dominance of car parking facilities.                     | • Locate garages and car ports behind the line of the dwelling.                  | Car parking facilities that dominate the façade or view of the dwelling. | Complies                                                                                   |
|                                                                          | • 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. |                                            | The double garages are located behind the front line of the dwellings and are increasingly staggered from dwelling one to dwelling three towards the western boundary. The garage doors are proposed in dark colours that assist in recessing the garages from the facades whilst the recessive and cantilevered elements of the first floor further reduce any perceived dominance of the garages. |
| To provide for reasonable sharing of views to the bay and coast.         | • Buildings should be sited to take into account the view corridors to the bay and coast from nearby properties and public viewing areas. | Buildings that completely obscure views from public viewing areas. | N/A                                                                                        |
| To ensure that buildings and extensions do not dominate the streetscape.  |                                                                                  |                                            | Complies                                                                                   |
|                                                                          |                                                                                  |                                            | The proposed siting of the development on the corner site is an appropriate response that will not dominate the Balcombe Road and Keating street frontages. |
| Objectives                                                                 | Design Responses                                                                 | Avoid                                                                 | Planning Officer Assessment                                                                                                                                                                                                 |
|---|---|---|---|---|
| To encourage innovative architecture that reflects the coastal setting. | • New buildings should be individually designed to respond to the characteristics of the coastal location and the site.  
• Incorporate building elements, materials and details that contribute to a lightness of structure including balconies, verandahs, glazing and light transparent balustrading. | Large bulky buildings.  
Flat, poorly articulated front wall surfaces. | Complies  
The proposal seeks to deliver a high end design response and level of articulation that is responsive to the coastal setting of the precinct while balancing design restraints resulting from the location of the site to a Road Zone Category, 1. |
| To use building materials and finishes that complement the natural setting. | • Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick. | Period reproduction styles and detailing. | Complies  
Although the design response seeks a wider application of materials, it would result in the dilution of the simple and refined design architectural integrity of the proposal.  
Large expanses of glass are balanced with the predominant use of slim render profiles in muted tones visible to the public domain.  
Accordingly, the design response is considered to meet the objectives of complementing the coastal setting whilst acknowledging that the immediate natural setting of the site is of the heavily treed corridor to the south of First Street. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To maintain the openness of</td>
<td>• Provide open style front fences, other than along</td>
<td>High, solid</td>
<td>Complies.</td>
</tr>
<tr>
<td>the streetscape.</td>
<td>heavily trafficked roads</td>
<td>fences.</td>
<td>A 1.8 metre high rendered front fence is provided to Dwelling 1 and extends 13 metres to the Keating Street frontage. This section of the fence to Keating Street is considered to be acceptable due to the provision of private open space to this elevation and to reduce negative externalities as a result of the Balcombe Road frontage. Dwelling 2 and 3 are provided with 1.2 metre high open style high front fences that are an appropriate style to match the dwellings. The open elements allow vegetation associated with the front garden areas to make a visual contribution and transition to the heavily tree nature of this section of Keating Street that features a footpath significantly elevated above the accessway.</td>
</tr>
</tbody>
</table>


### ATTACHMENT 4
ResCode (Clause 55) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer to 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 the construction two dwellings on a lot of this size.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>The proposal will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development. Council’s drainage engineers have reviewed the application and raise no issues with infrastructure capacity in the area. It is noted that the developer will be required to pay a development contributions levy in accordance with the requirements of Clause 45.06 of the Bayside Planning Scheme.</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 development will integrate appropriately with the street. The proposed building has setbacks varying between 3 metres to 4.5 metres across ground and first floor. The proposed side setbacks are generous at both first and ground floor, resulting in the centralising of developments siting. Recessive and projective elements across all facades are utilised in</td>
</tr>
<tr>
<td>Item 4.9 – Matters of Decision Page 357 of 459</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-----------------------------------------------</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B6 Street Setback</strong></th>
<th>No</th>
<th><strong>Balcombe Road</strong></th>
</tr>
</thead>
</table>
| The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site. | | **Requirement:** 6.7m  
**Proposed:**  
**GF:** 6.1m (wall nib), 6.6m – 7.1m ground floor  
**FF:** 6.4m (wall nib), 6.6m, 7.1m  
**Keating Street**  
Front walls of new development fronting the side street.  
**Required:** 2.7m (65 First Street)  
**Proposed**  
**GF:** 2.5 (wall nib), 3m, 3.5m, 4.5m  
**FF:** 3m, 3.5m, 4.5m |

| **B7 Building Height** | Yes | Maximum: 9m  
**Proposed:** 7.4m |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Building height should respect the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| **B8 Site Coverage** | Yes | Maximum: 50%  
**Proposed:** 50% |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| **B9 Permeability** | Yes | Minimum: >20%  
**Proposed:** 32% |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Reduce the impact of stormwater runoff on the drainage system and facilitate on-site stormwater infiltration.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B10 Energy Efficiency</strong></th>
<th>Yes</th>
<th>All habitable areas, including habitable rooms and secluded private open space areas have been located to maximise solar access and no habitable rooms rely on secondary light sources.</th>
</tr>
</thead>
</table>
| Achieve and protect energy efficient dwellings and residential buildings.  
Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy. | | |

Combination with meaningful breaks between dwellings at first floor break to reduce the visual bulk and dominance of the proposal to immediately adjoining properties.  
The dwellings have been orientated to front the secondary frontage, that been Keating Street, providing for a well composed design that incorporates delineated pedestrian access to the clearly identifiable entries.  
See Neighbourhood Character assessment for further discussion.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>B11</td>
<td>Open Space</td>
<td>N/A</td>
<td></td>
<td>There is no communal open space in or adjacent to the development.</td>
<td></td>
</tr>
<tr>
<td>B12</td>
<td>Safety</td>
<td>Yes</td>
<td></td>
<td>The pedestrian entry points are clearly recognisable while upper levels allow for the passive surveillance of the street.</td>
<td></td>
</tr>
<tr>
<td>B13</td>
<td>Landscaping</td>
<td>Yes</td>
<td></td>
<td>See Section 6.3 of the report for further discussion.</td>
<td></td>
</tr>
<tr>
<td>B14</td>
<td>Access</td>
<td>Yes</td>
<td></td>
<td>Access is relocated to Keating Street with the provision of three new crossovers. Standard traffic conditions are included as permit conditions. See Section 6.4 of the report for further discussion.</td>
<td></td>
</tr>
<tr>
<td>B15</td>
<td>Parking Location</td>
<td>Yes</td>
<td></td>
<td>Refer to Section 6.4 of the report for further discussion.</td>
<td></td>
</tr>
<tr>
<td>B17</td>
<td>Side and Rear Setbacks</td>
<td>No</td>
<td></td>
<td>Refer to Section 6.2 of the Report.</td>
<td></td>
</tr>
</tbody>
</table>

<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>South (side)</td>
<td>0 or 2m</td>
<td>0m, 2m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>0 or 3m</td>
<td>4m</td>
</tr>
<tr>
<td>Item 4.9 – Matters of Decision Page 359 of 459</td>
<td></td>
<td></td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B16 Walls on Boundaries</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ensure the location, length and height of a</td>
<td></td>
<td></td>
</tr>
<tr>
<td>wall on a boundary respects the existing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>or preferred neighbourhood character and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>limits the amenity impacts on existing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maximum Height: 3.6m</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposed: 3m</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maximum Average Height: 3.2m</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposed: 3m</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maximum Length: 12m</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposed: 6.2m</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B19 Daylight to Existing Windows</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Allow adequate daylight into existing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>habitable room windows.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The development has been sufficiently</td>
<td></td>
<td></td>
</tr>
<tr>
<td>setback from all habitable room windows</td>
<td></td>
<td></td>
</tr>
<tr>
<td>to abutting properties at 521 Balcombe Road.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The closest windows are located at 521</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Balcombe Road which has one habitable room</td>
<td></td>
<td></td>
</tr>
<tr>
<td>window offset 5.4m from the common</td>
<td></td>
<td></td>
</tr>
<tr>
<td>boundary.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The wall, associated with dwelling 2 and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>adjacent to the boundary is required to</td>
<td></td>
<td></td>
</tr>
<tr>
<td>be setback 3.2m from the window. The proposal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>is setback 4m; therefore complies with this</td>
<td></td>
<td></td>
</tr>
<tr>
<td>standard.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B20 North Facing Windows</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Allow adequate solar access to existing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>north-facing habitable room windows.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>There are no north facing windows within</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3m of the shared boundary.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B21 Overshadowing Open Space</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ensure buildings do not significantly</td>
<td></td>
<td></td>
</tr>
<tr>
<td>overshadow existing secluded private open</td>
<td></td>
<td></td>
</tr>
<tr>
<td>space.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Additional overshadowing will occur to</td>
<td></td>
<td></td>
</tr>
<tr>
<td>areas of secluded private open space</td>
<td></td>
<td></td>
</tr>
<tr>
<td>associated with 521 and 521a Balcombe Road</td>
<td></td>
<td></td>
</tr>
<tr>
<td>at 9am.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The increase in overshadowing affects the</td>
<td></td>
<td></td>
</tr>
<tr>
<td>secluded private open space for both</td>
<td></td>
<td></td>
</tr>
<tr>
<td>dwellings and one habitable room window</td>
<td></td>
<td></td>
</tr>
<tr>
<td>located to 521a.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The shadow extends beyond the existing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>shadows produces by the boundary fence,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>however by 10am, the shadows are expected</td>
<td></td>
<td></td>
</tr>
<tr>
<td>to dissipate and at least 75 per cent, or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>40 square metres with minimum dimension of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3 metres of the affected area, whichever is</td>
<td></td>
<td></td>
</tr>
<tr>
<td>the lesser area, will continue to receive a</td>
<td></td>
<td></td>
</tr>
<tr>
<td>minimum of five hours of sunlight between 9am</td>
<td></td>
<td></td>
</tr>
<tr>
<td>and 3pm on 22 September.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B22 Overlooking</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Limit views into existing secluded</td>
<td></td>
<td></td>
</tr>
<tr>
<td>private open space and habitable room</td>
<td></td>
<td></td>
</tr>
<tr>
<td>windows.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Although all habitable room windows</td>
<td></td>
<td></td>
</tr>
<tr>
<td>have been screened to a minimum height</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.7 metres above finished floor level or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>have been sited appropriately in accordance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>with this Standard, a notation will be</td>
<td></td>
<td></td>
</tr>
<tr>
<td>required to confirm that the obscure glazing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>is no more than 25% transparent to accord</td>
<td></td>
<td></td>
</tr>
<tr>
<td>with the standard.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>------</td>
<td>--------------</td>
<td>----------</td>
</tr>
<tr>
<td>B23 Internal Views</td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>No</td>
</tr>
<tr>
<td>B24 Noise Impacts</td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling/residential building.</td>
<td>Yes</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>Provide reasonable recreation and service needs of residents by adequate private open space.</td>
<td>Yes</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><strong>B30 Storage</strong></td>
<td>Yes</td>
<td>A minimum area of 6 cubic metres of designated storage areas are provided externally to dwellings 2 and 3 within the garage of dwelling 1.</td>
</tr>
<tr>
<td>------------------</td>
<td>-----</td>
<td>----------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>B31 Design Detail</strong></td>
<td>Yes</td>
<td>Refer to Section 6.2 of the report and Attachment 3 for further discussion.</td>
</tr>
<tr>
<td><strong>B32 Front Fences</strong></td>
<td>No</td>
<td>Refer to Section 6.2 of the report and Attachment 3 for further discussion.</td>
</tr>
<tr>
<td><strong>B33 Common Property</strong></td>
<td>N/A</td>
<td>No areas of common property are proposed.</td>
</tr>
<tr>
<td><strong>B34 Site Services</strong></td>
<td>Yes</td>
<td>All appropriate site services can be easily catered for on-site. Air conditioning units are shown to be located away from adjoining habitable room windows.</td>
</tr>
</tbody>
</table>
4.10 23 Kinane Street, Brighton  
Notice of Decision to Grant a Planning Permit  
Application No: 2017/782  Ward: Northern

City Planning & Community Services - Development Services  
File No: PSF/15/8755 – Doc No: DOC/18/171531

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Keen Planning</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants</td>
</tr>
<tr>
<td>Date application received</td>
<td>20 November 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>185 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 1)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>5 objections</td>
</tr>
</tbody>
</table>

Proposal

The application seeks approval for the construction of three dwellings on a lot with an area of 1,283 square metres. Key details of the proposal are as follows:

- Construction of three double-storey dwellings
- Basement level including 10 car spaces, media rooms and storage/cellars
- Maximum building height - 7m
- Site coverage 49.6%
- Permeability 22.9%
- 10 car parking spaces

The application plans are provided at Attachment 1.

An aerial image and photographs of the site and surrounds are provided at Attachment 2.

History

There is no planning permit history relevant to this application.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:
- Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two or more dwellings on a lot.

Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.
3. Stakeholder consultation

   External referrals

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

   Internal referrals

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

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

   Public notification

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

   - Neighbourhood character;
   - Overdevelopment;
   - Damage to neighbouring trees;
   - Car parking and traffic; and
   - Construction impacts.

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

   Consultation meeting

   A consultation meeting was held on 4 April 2018 attended by the permit applicant and 1 objector. As a result of this meeting no objections were withdrawn, though Council notes that additional root investigations were undertaken in communication with the officer.

4. Recommendation

   That Council resolve to:

   Issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/782/1 for the land known and described as 23 Kinane Street Brighton, for the construction of three dwellings on a lot in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

   1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans prepared by Stonnington Residential Pty Ltd and Council date stamped 29 December 2017 but modified to show:

   a) Deletion of all references to new boundary fencing on TP-03 and TP-04.

   b) Deletion of the communal entry portico, with the pedestrian entrance gate setback 2.0 metres behind the façade of Dwelling 1.
c) Dwelling 1 courtyard 2, setback 5.8 from the southern property boundary (in-line with the southern edge of the light court).

d) Deletion of the first floor north-facing screens to bedroom 3 of dwellings 1 and 2. Demonstration that the remaining first floor privacy screens are compliant with Standard B22 (Overlooking) is required.

e) Provision of a window adjacent the entrance of each dwelling, with an orientation towards the communal pathway.

f) The eastern boundary walls associated with the portico’s of each dwelling deleted.

g) The width of the secluded private open spaces associated with dwelling 1 and 2 increased to 5.9 metres.

h) The Dwelling 3 outdoor paved area changed to a decked area. A 2.0m landscaping strip is to be provided between the deck and the northern property boundary.

i) All air conditioning units to be located within the basement.

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

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

l) Water Sensitive Urban Design measures in accordance with Condition 8.

m) A Landscaping Plan in accordance with Condition 10.

n) Tree Management Plan and Tree Protection Plan in accordance with Condition 13.

o) Construction Management Plan in accordance with Condition 24.

p) Provision of the development contributions fee in accordance with Condition 25.

All to the satisfaction of the Responsible Authority.

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

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

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

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

6. Before the occupation of the site commences, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.
7. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.

**Water Sensitive Urban Design**

8. Prior to the endorsement of plans pursuant to Condition 1, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:

   a) The type of water sensitive urban design stormwater treatment measures to be used.
   
   b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas.
   
   c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections.

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

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

**Landscaping**

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Tract, and Council date stamped 29 December 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

   a) One large canopy tree in the front setback of dwelling 1 capable of reaching 12m in height at maturity.

   b) One large canopy tree (10m in height at maturity) or two small canopy trees (6m in height at maturity) in the rear private open space of dwelling 3.

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

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

   e) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. The vegetation should be responsive to the sites coastal environment as identified in Neighbourhood Character Precinct C1.
f) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
g) Details of surface finishes of pathways and driveways

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

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

Tree Management and Protection Plan

13. 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.

14. Any proposed alteration to the plan must be assessed by the site arborist and can only occur following the approval of the site arborist. Such approval must be noted and provided to the Responsible Authority within 28 working days of a written request.

15. If tree protection measures are proposed to be changed during the development, one plan for each stage of tree protection measures must be submitted.

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

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

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

Street tree protection

19. Soil excavation must not occur within 2 metres from the edge of the Ulmus parvifolia (Chinese Elm) street tree asset’s stem at ground level.
20. A tree protection fence is for the protection of a tree’s canopy and root zone. Conditions for street tree protection fencing during development are as follows:

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

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

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

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

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

Drainage

21. 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.

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

23. Council records indicate that there is a 1.22m wide drainage and sewerage easement along the East property boundary as indicated on the drawings provided. The plans indicate that 4 porticos shall be constructed over the easement. Any proposal to encroach into the easement will require Build Over Easement consent from the Responsible Authority/Authorities. The porticos shall be partially demountable over the easement, and the proposal may require a Section 173 agreement to be created on the property title to ensure the continuation of Council rights of drainage.

Construction Management Plan

24. 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.

Development Contribution

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

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

Permit Expiry

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

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

b) The development is not completed within four years of the date of this permit.
In accordance with Section 69 of the *Planning and Environment Act 1987*, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

**Permit Notes:**
- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council's supervision for which 24 hours notice is required.
- 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 2017-2021**

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

**Bayside Planning Scheme**
- Clause 9  Plan Melbourne
- Clause 11  Settlement
- Clause 15  Built Environment and Heritage
- Clause 16  Housing
- Clause 21.02  Bayside Key Issues and Strategic Vision
- Clause 21.03  Settlement and Housing
- Clause 21.06  Built Environment and Heritage
- Clause 22.06  Neighbourhood Character Policy (Precinct C1)
- Clause 22.08  Water Sensitive Urban Design
- Clause 32.09  Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02  Design and Development Overlay (Schedule 1)
- Clause 45.06  Development Contributions Plan Overlay (Schedule 1)
- Clause 52.06  Car Parking
- Clause 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. The proposal is considered to demonstrate an acceptable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

Currently, Kinane Street is characterised by large double-storey dwellings on large lots with tennis courts and swimming pools. High and solid front fences are common along the streetscape which is well shaded by street trees. Materiality, roof forms and building styles vary greatly due to the different eras of development present in the neighbourhood. The colour theme of the street is generally comprised of lighter colours such as white, cream and light grey, though many other materials and colours are present. There is an emerging presence of multi-dwelling developments along the street.

The proposed architectural response presents a well composed design which reflects the scale, massing and setbacks of the adjoining properties and provides a complementary built form to the streetscape. The proposed building footprint is in keeping with the large dwellings present along the streetscape. The light grey finish of the dwellings is in keeping with the existing colour theme of the coastal area.

The first floor of dwelling 1 has been setback from the ground floor front façade to ensure that the dwellings do not dominate the streetscape. A flat roof has been utilised in the design to reduce the maximum building height to 7m, lower than the height of the neighbouring dwellings. The external finishes of the building include stained timber, render and a bronze feature gate. These finishes are characteristic of the wide variety of materials found within this coastal setting.

The proposal provides for garden and landscaping opportunities in the 9m front setback of the development. However, the proposal fails to provide sufficient canopy tree plantings. Conditions have been included in the recommendation to provide additional canopy trees in the front and rear setbacks of the dwellings (refer to Section 6.3 of the report). Furthermore, conditions have been included in the recommendation to remove the pedestrian entry portico and reduce the size of the dwelling 1 front courtyard to increase the amount of space available for landscaping in the front setback.

The proposal includes an extensive basement level comprising of 10 car parking spaces, media rooms, cellars, powder rooms and storage areas. Whilst the size of the basement is significant, officers are indicate that is it not out of keeping with the area. Access to the basement car parking is from the existing crossover. The ground floor of dwelling 1 and the porte cochere both cantilever over the basement access ramp to minimise its dominance when viewed from the street. Conditions of the recommendation requiring improved landscaping within the front setback will further minimise any perception of the basement access ramp dominating the streetscape.

A planning permit is not required for the removal of the existing dwelling as it is not protected by a Heritage Overlay or Neighbourhood Character Overlay. The proposed removal and replacement dwellings are considered to be acceptable within the streetscape and will contribute to the valued coastal character of the area.

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:

<table>
<thead>
<tr>
<th>Side and rear setbacks (Standard B17)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground floor</td>
</tr>
</tbody>
</table>
The objective of the standard is to ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

At ground floor, the dwelling 2 wall to the kitchen and study is setback 0.3m from the western property boundary. This is a 1.7m variation from the standard. Whilst technically noncompliant, this wall would have been located on the boundary, if not for the neighbouring boundary wall at 21 Kinane Street encroaching into the subject site by 0.24m. Given this non-sensitive interface, the variation is considered acceptable.

There is a 2cm variation to the standard proposed along the western elevation to the first floor bedroom and ensuite walls. Given the small amount of noncompliance, it is considered that the proposal will not have any unreasonable amenity impacts to adjoining dwellings. The variation is supported.

Walls on boundaries (Standard B18)

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>East (side)</td>
<td>0m or 2m</td>
<td>0m, 2.9m and 3.0m</td>
<td>4.0m</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2m</td>
<td>0m, 0.3m, 2.7m and 3.9m</td>
<td>3.9m - 4.18m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>0m or 3m</td>
<td>5.8m</td>
<td>4.9m</td>
</tr>
</tbody>
</table>

The average height of the boundary walls to the porticos and driveway canopy wall exceeds the standard by variations of 0.3m and 0.4m.

These walls interface with the adjoining driveway, service yard and secluded private open space of the neighbouring dwelling at number 25 Kinane Street and the front yard of 21 Kinane Street.

It is recommended that the portico’s be open to the eastern elevation (deleting the boundary wall aspect) and therefore ensuring compliance with the walls on boundary requirements. This will improve daylight access and amenity along the common pathways and the amenity afforded to adjoining properties.

Solar access to open space (Standard B29)

The solar access to the secluded private open space areas of dwellings 1 and 2 fail to meet the requirements of Standard B29. The standard requires the width of the secluded private open space areas to be 8.1 metres (based on the wall height 6.8 metres). The application proposes a width of 5.6 metres to these spaces.

Although a variation can be supported, having regard to the total area of the secluded private open spaces (in excess of 60 square metres), a variation to this extent is not supported. Accordingly, it is recommended that the width of the secluded private open space areas of dwellings 1 and 2 be increased to 5.9 metres. This will ensure an appropriate level of internal amenity for the future residents, without compromising the built form of the development.

The solar access to the dwelling 3 secluded private open space compliance with this standard.

6.3. Internal amenity
As detailed above, conditions of permit have been recommended to increase the width of the secluded private open space areas of dwellings 1 and 2. Further conditions are recommended to provide for a better sense of address and safety along the communal pathway by requiring the provision of windows adjacent the entrances of each dwelling.

It is noted that the first floor north facing bedroom 3 windows of dwellings 1 and 2 are screened to avoid any potential overlooking of adjoining habitable room windows and secluded private open spaces. However, it is noted that these windows do not have an outlook or orientation towards adjoining properties and therefore the screening is unnecessary and compromises the internal amenity of the future occupants. Accordingly, it is recommended that these screens be deleted. Notwithstanding this, a condition of permit is recommended to ensure that the screening of all residual windows is in accordance with Standard B22 – Overlooking.

6.4. Landscaping

The subject site contains a wide variety of trees and shrubs, primarily of exotic species. The proposal includes the removal of 13 trees from the site. Most of the trees proposed for removal are identified as being of low arboricultural value. Council’s arborist has no objection to their removal subject to replacement planting.

The application proposes to remove two trees protected by the Local Law:

- Tree 9 – Eucalyptus nichollii – This tree is approximately 16m high and is of good health. A Local Law permit has already been issued by Council for its removal.
- Tree 14 – Banksia integrifolia – This tree is approximately 11m in height is of fair health and structure. Given its size, the tree requires removal under Local Law. Whilst the tree is of moderate protection value, its location in the centre of the site hinders all potential redevelopment. Council is supportive of its removal subject to the inclusion of a condition on the permit requiring a replacement tree capable of reaching 12m in height at maturity.

There are 11 trees located on neighbouring properties that have their Tree Protection Zones (TPZ) extending into the subject site. As such, consideration must be given to these trees.

Trees 2 and 3 are located on the adjoining site at 25 Kinane Street with their TPZs extending significantly into the subject site. In response to Council’s request, the applicants Arboretum conducted non-destructive root investigations on these trees to assess whether the proposed works will adversely impact the trees. A root investigation trench was dug to a depth of 600mm. The root investigation found 2 roots at 40mm in diameter, 2 roots of 30mm diameter and 2 roots of 10mm diameter within the TPZs of Trees 2 and 3. There were also a number of smaller roots of less than 10mm in diameter found, however it was presumed that these were from other shrubs located within the area. Based on these findings, it has been determined that the proposed building footprint will have no detrimental impact on Trees 2 and 3.

Officers and Council’s Arborist note that the proposed works will occur to a much greater depth than what has been investigated and the depth of viable soil mass in which root colonisation is likely to occur has not been established by the applicant. However, most arboricultural studies suggest that the majority of root mass is in the upper 600mm of soil volume. As such, Council is confident that the trees can be adequately protected by a Tree Protection Plan and Tree Management Plan. These have been included as conditions in the recommendation.

The Arboricultural report submitted with the application has also assessed the impact of the development on Trees 16-22 and Tree 24, all of which are located on adjoining
properties. The report has given these trees a high protection value due to their location on adjoining land.

Trees 16 (group) are located approximately 6m away from the basement and ground floor of the development. Officers are confident that the trees can be suitably protected by the Tree Protection Plan and Tree Management Plan included in the recommendation. A condition has been included on the permit to replace the dwelling 3 paved area with a decked area to further protect these trees.

Trees 17-20 are located on the eastern neighbouring property at 25 Kinane Street. Given the presence of the existing tennis court and dwelling, it is likely that the impacts to these trees will be negligible as the tennis court and dwelling would have reduced the root spread into the subject site.

Trees 21, 22 and 24 are located in the front yard of the western neighbouring property at 21 Kinane Street. The applicants Arborist has advised that the development would result in a major (30%) encroachment into the TPZs of these trees. However, the actual impact to these trees is likely to be much less due to the location of the existing driveway that would have prevented the roots of the trees from spreading into the subject site. As above, officers are confident that Trees 17-22 and Tree 24 can be suitably protected by the Tree Protection Plan and Tree Management Plan included in the recommendation.

In addition to the above assessment, Council’s Arborist has reviewed the submitted landscape plan and advised that it is not considered acceptable as additional canopy tree plantings are required. An amended landscaping plan is required and a condition to this effect has been included in the recommendation. The landscaping plan must include:

- One large canopy tree in the front setback of dwelling 1 capable of reaching 12m in height at maturity; and,
- One large canopy tree (10m in height at maturity) or two small canopy trees (6m in height at maturity) in the rear private open space of dwelling 3.

6.5. Car parking and traffic

All dwellings are afforded three bedrooms. As such, each dwelling requires two car parking spaces to meet the requirements of Clause 52.06-5. Dwellings 2 and 3 are afforded three car spaces each and dwelling 1 is afforded four car spaces.

The number of car parking spaces provided exceeds the requirements of Clause 52.06. All car parking spaces are located at basement level.

The application was referred to Council’s Traffic Engineer who expressed no concern with the development subject to the inclusion of a permit condition relating to sightlines. This is included as a condition of the permit.

Concerns have been raised in relation to increased car parking congestion. It is considered that the proposed development will not unreasonably impact on the car parking network in the street (after construction is completed), especially given that the car parking spaces provided exceeds the requirements of Clause 52.06. In addition, car parking congestion was not raised as a concern by Council’s Traffic Engineer.

Council officers note that traffic congestion during the construction period was also raised as an issue by multiple objectors. As such, a condition has been included in the recommendation requiring a Construction Management Plan (CMP) to the satisfaction of Council. Refer to Section 6.5 of report.

6.6. Objector issues not already addressed

Overdevelopment

State and Local Planning Policy envisage an increase in housing density in well serviced areas such as this. Clause 11.02 (Urban Growth) of the Bayside Planning Scheme encourages higher density housing development on sites that are well located in relation
to activity centres, employment corridors and public transport. The increase in population and density at this site is considered an appropriate response to the state of the site and the proximity of the site to public transport, open spaces, shops and other services. While any increase in population density will likely increase the level of activity around the site and area, it is not envisioned that such an increase would be detrimental or substantially more intensive than what is currently experienced.

The proposal satisfies the substantive requirements of Clause 55 in respect to site coverage, permeability, car parking, and open space provision and therefore the proposal is not considered to be an over development of the site.

Construction impacts

Multiple objections to the application have raised concerns regarding the narrow width of the site and potential impacts to the street and neighbouring properties during construction. As such, a condition has been included in the recommendation to provide a Construction Management Plan (CMP) to the satisfaction of Council. The CMP will provide a detailed schedule of all works, traffic management plan, waste management plan and public safety measures during the construction of the dwellings.

Support Attachments

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment ↓
4. Clause 55 Assessment ↓
Item 4.10 – Matters of Decision
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1: Aerial overview of subject site and objector map

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>★</td>
</tr>
<tr>
<td>Objectors</td>
<td>●</td>
</tr>
</tbody>
</table>
Figure 2: View towards the site from the south

Figure 3: View down Kinane Street looking west
Figure 4: View down Kinane Street looking east

Figure 5: View towards neighbouring property at 25 Kinane Street
ATTACHMENT 3
Neighbourhood Character Policy (Precinct C1)

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage the retention of dwellings that contribute to the valued</td>
<td>• Attempt to retain wherever possible intact and good condition dwellings that</td>
<td>Demolition of dwellings that contribute to the valued character of the Precinct</td>
<td>Responds</td>
</tr>
<tr>
<td>character of the Precinct in the design of development proposals.</td>
<td>contribute to the valued character of the Precinct in designing new development.</td>
<td></td>
<td>The existing dwelling is not protected by a Heritage Overlay or Neighbourhood Character</td>
</tr>
<tr>
<td></td>
<td>• Alterations and extensions should retain the front of these dwellings.</td>
<td></td>
<td>Overlay. As such, a planning permit is not required for its removal. The proposed</td>
</tr>
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<td></td>
<td>replacement dwellings are considered to be acceptable within the streetscape and will</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>contribute to the valued character of the area.</td>
</tr>
<tr>
<td>To maintain and enhance the spacious garden settings of the dwellings.</td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that</td>
<td>Lack of landscaping and substantial vegetation.</td>
<td>Responds, subject to conditions</td>
</tr>
<tr>
<td></td>
<td>include substantial trees and shrubs.</td>
<td></td>
<td>The proposed development fails to provide sufficient opportunities for canopy tree planting.</td>
</tr>
<tr>
<td></td>
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<td></td>
<td>Conditions have been included in the recommendation to provide additional canopy trees in</td>
</tr>
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<td></td>
<td></td>
<td></td>
<td>the front and rear setbacks of the dwellings. Refer to Section 6.3 of the report for</td>
</tr>
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<td></td>
<td></td>
<td></td>
<td>further discussion.</td>
</tr>
<tr>
<td>To enhance the bayside vegetation character of the area.</td>
<td>• Retain large trees and established native and</td>
<td>Removal of large native and coastal trees.</td>
<td>Responds, subject to conditions</td>
</tr>
<tr>
<td></td>
<td>traditional coastal vegetation and provide for the planting of new indigenous</td>
<td></td>
<td>The proposal, subject to conditions will provide opportunities for replacement planting on</td>
</tr>
<tr>
<td></td>
<td>coastal trees where possible.</td>
<td></td>
<td>site. A condition has been</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Positive</td>
</tr>
</tbody>
</table>

Positive
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| 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. | Planting of environmental weeds included in the recommendation requiring all vegetation to be responsive to its coastal environment. Refer to Section 6.3 of this report for further discussion. |                                                                                                                                           |
| To minimise the dominance of car parking facilities, driveways and crossovers. | • Locate garages and car ports at or behind the line of the dwelling.              
• Minimise hard paving in front yards.                                                
• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space. | Car parking facilities that dominate the façade or view of the dwelling.  
Loss of front garden space.                                                                                      | Responds  
The proposal provides for garden and landscaping opportunities in the generous 9m front setback of the development.  
The proposed street, side and rear setbacks ensure a sense of visual separation between the dwellings and the neighbouring properties. |
| To ensure that new buildings and extensions do not dominate the streetscape.    | • Recess upper level elements from the front façade.                               | High pitched roof forms with dormer windows.                          | Responds  
The first floor of the development has been setback from the ground floor front façade to ensure that the dwellings do not dominate the streetscape. A flat roof has been utilised in the design to reduce the maximum building height to 7.0m, lower than the height of the neighbouring dwellings. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<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 massing.</td>
<td>N/A</td>
</tr>
<tr>
<td>To encourage the use of a variety of building materials, finishes and design detail that complement the coastal setting.</td>
<td>• Use a mix of materials including timber or other non-masonry wall materials in building design. • Use simple building details and articulate roof forms.</td>
<td>Large, poorly articulated external wall surfaces of one material only Heavy materials and design detailing (eg. large masonry columns and piers).</td>
<td>Responds The external finishes of the building include stained timber, render and a bronze feature gate. These finishes are characteristic of the wide variety of materials found within this coastal setting. The use of materials combined with the flat roof form ensure a well-articulated, appealing design which is contemporary but respectful if the site’s coastal setting.</td>
</tr>
<tr>
<td>To encourage the openness of the streetscape.</td>
<td>• Provide open style fencing, other than along heavily trafficked roads.</td>
<td>High, solid front fencing.</td>
<td>N/A A front fence is not proposed.</td>
</tr>
<tr>
<td>To create a visually interesting and attractive built form interface with the foreshore reserve, on properties fronting the reserve and visible from the reserve.</td>
<td>• 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.</td>
<td>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.</td>
<td>Responds The proposed architectural response presents a well composed design which reflects the scale, massing and setbacks of the adjoining properties and as such provides a complementary built form to the streetscape. The recesses and palette of materials softened with the conditioned canopy trees will ensure that development is respectful of its locality.</td>
</tr>
</tbody>
</table>
## ATTACHMENT 4

### ResCode (Clause 55) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>
| **B1 Neighbourhood Character**  
Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.  
Development responds to features of the site and surrounding area.  | Complies | Refer to Attachment 3 and Section 6.1 of the report. |
| **B2 Residential Policy**  
Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.  
Support medium densities in areas to take advantage of public transport and community infrastructure and services.  | Complies | The subject site is appropriately located with regard to services and facilities to support three dwellings. |
| **B3 Dwelling Diversity**  
Encourages a range of dwelling sizes and types in developments of ten or more dwellings.  | N/A |  |
| **B4 Infrastructure**  
Provides appropriate utility services and infrastructure without overloading the capacity.  | Complies | The proposal will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development. Council's drainage engineers have reviewed the application and raise no issues with infrastructure capacity in the area. It is noted that the developer will be required to pay a development contributions levy in accordance with the requirements of Clause 45.06 of the Bayside Planning Scheme. |
| **B5 Integration with the Street**  
Integrate the layout of development with the street.  | Complies | The dwellings appropriately address the street. Dwelling 1 interfaces with Kinane Street with access from the common pedestrian pathway. Dwelling 2 and 3 also have pedestrian access from the common pedestrian entry. Individual dwelling entries are accessed from porticos to add a sense of address to each dwelling. Vehicle access is from the existing vehicle crossover to a |
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Compliance</th>
<th>Minimum</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>B6</td>
<td>Street Setback</td>
<td>Complies</td>
<td>9.0m</td>
<td>9.0m</td>
</tr>
<tr>
<td></td>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B7</td>
<td>Building Height</td>
<td>Complies</td>
<td>9m</td>
<td>7.0m</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>Complies</td>
<td>50%</td>
<td>49.6%</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>Complies</td>
<td>20%</td>
<td>22.9%</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>Complies</td>
<td></td>
<td>The proposal provides appropriate solar access to all dwellings. Living areas and private open spaces are orientated to the north side of the development, where practicable. The dwellings have been appropriately sited to ensure that the energy efficiency of adjoining dwellings is not unreasonably reduced.</td>
</tr>
<tr>
<td></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></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B11</td>
<td>Open Space</td>
<td>Complies</td>
<td></td>
<td>The communal entry path and garden is appropriately located to provide a buffer between the neighbouring trees and vegetation and the proposed dwellings. The path is easily accessible from all dwellings.</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>Complies</td>
<td></td>
<td>No safety issues are considered to be likely to arise as a result of the development. The entrance to the pedestrian entry and communal entry path and garden is clearly visible from Kinane Street.</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>Complies, subject to conditions</td>
<td>Refer to Section 6.3 of report.</td>
<td></td>
</tr>
</tbody>
</table>
and enhances habitat for plants and animals in locations of habitat importance.
The retention of mature vegetation on the site.

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Compliance</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<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>Complies</td>
<td>Appropriate vehicular access is provided. The retention of the existing crossover ensures that on-street car parking is not reduced from the existing conditions. <strong>Maximum:</strong> 40% of street frontage <strong>Proposed:</strong> 21.5%</td>
</tr>
<tr>
<td>B15 Parking Location</td>
<td>Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.</td>
<td>Complies</td>
<td>Car parking spaces to all dwellings have been provided at basement level. The car parking spaces have been provided adjacent to the basement lobbies and access points to provide convenient access to all dwellings.</td>
</tr>
<tr>
<td>B17 Side and Rear Setbacks</td>
<td>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.</td>
<td>Variation required</td>
<td>Refer to Section 6.2 of 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>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td><strong>East (side)</strong></td>
<td>0m or 2m</td>
</tr>
<tr>
<td><strong>West (side)</strong></td>
<td>0m or 2m</td>
</tr>
<tr>
<td><strong>North (rear)</strong></td>
<td>0m or 3m</td>
</tr>
</tbody>
</table>

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

**Variation required**

<p>| <strong>Maximum Height:</strong> 3.6m | <strong>Proposed:</strong> 3.2m, 3.3m, 3.5m and 3.6m |
| <strong>Maximum Average Height:</strong> 3.2m | <strong>Proposed:</strong> 3.2m, 3.5m and 3.6m |
| <strong>Maximum Length:</strong> Eastern boundary – 30.1m total length Western boundary – 30.2m total length | <strong>Proposed:</strong> Eastern boundary – 14.6m total |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Complies</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>B19</td>
<td>Daylight to Existing Windows</td>
<td>Complies</td>
<td>The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained.</td>
</tr>
<tr>
<td>B20</td>
<td>North Facing Windows</td>
<td>N/A</td>
<td>There are no north facing windows on adjoining properties.</td>
</tr>
<tr>
<td>B21</td>
<td>Overshadowing Open Space</td>
<td>Complies</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September.</td>
</tr>
<tr>
<td>B22</td>
<td>Overlooking</td>
<td>Complies, subject to conditions</td>
<td>The first floor habitable room windows within 9m of a neighbouring dwelling have horizontal timber screens to prevent overlooking. At ground floor, fencing between the site and neighbouring properties will restrict views to these neighbouring dwellings and secluded private open space. A condition has been included on the permit to confirm that the screens will be no more than 25% transparent.</td>
</tr>
<tr>
<td>B23</td>
<td>Internal Views</td>
<td>Complies</td>
<td>The dwellings and SPOS have been appropriately sited to ensure that there are no opportunities for overlooking into the SPOS of other dwellings within the development.</td>
</tr>
<tr>
<td>B24</td>
<td>Noise Impacts</td>
<td>Complies</td>
<td>The development will not generate any noise above that typically expected from residential buildings.</td>
</tr>
<tr>
<td>B25</td>
<td>Accessibility</td>
<td>Complies</td>
<td>Entries are easily accessible for people with limited mobility. Lifts have been provided at basement level to provide access to the dwellings other than from the stairs. The development could be further retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td>B26</td>
<td>Dwelling Entry</td>
<td>Complies</td>
<td>The proposed entries provide adequate shelter and are easily identifiable from the street. Individual dwelling entries are accessed from porticos to add a sense of address to each dwelling.</td>
</tr>
<tr>
<td>B27</td>
<td>Daylight to New Windows</td>
<td>Complies</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Compliance</td>
<td>Additional Information</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>------------</td>
<td>------------------------</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>Provide reasonable recreation and service needs of residents by adequate positions.</td>
<td>Complies</td>
<td>Minimum: 25m² secluded, 40m² overall. Proposed: Dwelling 1: 83m² secluded, Dwelling 2: 82m² secluded, Dwelling 3: 114m² secluded.</td>
</tr>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Variation required</td>
<td>Refer to Section 6.2 of report.</td>
</tr>
<tr>
<td>B30 Storage</td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td>Complies</td>
<td>Externally accessible storage spaces exceeding 6m² in size are provided in the garage of all dwellings.</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Complies</td>
<td>Refer to Section 6.1 of report.</td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td>N/A</td>
<td>There are no front fences proposed within 3m of Kinane Street.</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>Complies</td>
<td>The proposed common property spaces clearly delineate public and private areas. The common property is functional and is 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.</td>
<td>Complies</td>
<td>Plans show adequate space for meters, bins and storage to each dwelling. Mailboxes have been provided near the pedestrian entry to the dwellings.</td>
</tr>
</tbody>
</table>
4.11 20 HIGHETT ROAD, HAMPTON  
NOTICE OF DECISION TO GRANT A PLANNING PERMIT  
APPLICATION NO: 2017/667  WARD: CENTRAL

City Planning & Community Services - Statutory Planning  
File No: PSF/15/8755 – Doc No: DOC/18/171700

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Viola Architecture</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
</tbody>
</table>
| Date application received             | 6 October 2018  
Amended under Section 57A on 16 May 2018 |
| Current statutory days                | 84 days                                        |
| Zoning                                | Neighbourhood Residential Zone (Schedule 3)    |
| Overlays                              | Design and Development Overlay (Schedule 3)    |
|                                      | Development Contributions Plan Overlay (Schedule 1) |
| Number of objections                  | 4                                              |

Proposal
The application seeks the development of two double storey dwellings and associated works on a lot with an area of 784 square metres. Key details of the proposal are as follows:

- Two double storey dwellings,
- Maximum building height of two storeys and 7.34m,
- Site coverage 49.86%,
- Permeability 33.5%, and
- Double garage provided for dwelling 1 and double carport for dwelling 2

The application plans are provided at Attachment 1.

An aerial image and photographs of the site and surrounds are provided at Attachment 2.

History
There is no planning permit history relevant to this application.

2. Planning controls

Planning Permit requirements
A planning permit is required pursuant to:

- Clause 32.09-6 (Neighbourhood Residential Zone) – Construction of two or more dwellings on a lot.

Planning Scheme Amendments
There are no Planning Scheme Amendments relevant to this application.
3. Stakeholder consultation

External referrals

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

Internal referrals

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

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

Public notification

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

- First floor setbacks;
- Request unnamed track to rear be kept clear of obstructions;
- Loss of light;
- Overshadowing;
- Overlooking;
- Wall on boundary;
- Requesting a Traffic Management Plan.

The number of objections received for this application is consistent across Council’s record management systems. One objection was subsequently withdrawn.

Consultation meeting

A consultation meeting was held on 30 April 2018 attended by the permit applicant and the remaining four objectors. As a result of this meeting no objections were withdrawn.

The applicant subsequently amended the plans under Section 57A of the Planning and Environment Act 1987 and these were re-advertised to the objectors. The following changes were made to the plans:

- Design changes including increased balcony setbacks;
- Façade changes;
- Reduction in the cantilevered first floor at the rear;
- Reduction in height of walls on boundaries to comply with Standard B18; and
- Increased landscaping at the front of the site.

No objections were withdrawn as a result of these amended plans.

4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/667 for the land known
and described as **20 Highett Road, Hampton**, for the **development of two double storey dwellings and associated works** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans prepared by Viola Architecture referenced A0.00-A4.03, date May 2018 and revision number TP3 but modified to show:
   a) The proposed double car port for dwelling 2 to be replaced with a single garage setback 2m from the eastern boundary.
   b) Provision of a 3.6m wide vehicle crossing for dwelling 1 with a 1m offset from the western property boundary.
   c) Remove the existing crossover and construct a 3.6m wide vehicle crossing for dwelling 2 with a 1m offset from the eastern property boundary.
   d) Provision of adequate sight lines where each driveway intersects with the front footpath in accordance with AS2890.1.
   e) The proposed driveway for dwelling 2 to be constructed at existing grade with no excavations within the Tree Protection Zone (TPZ) of the Brush Cherry (*Syzygium paniculatum*) located in the front garden of 22 Highett Road.
   f) Relocation of the rain garden for dwelling 2 outside of the TPZ of the Brush Cherry (*Syzygium paniculatum*) located in the front garden of 22 Highett Road.
   g) Deletion of the boundary fencing notations on the eastern, western and southern boundaries.
   h) Details of internal fencing between the rear garden areas.
   i) Details of the storage sheds for each dwelling in accordance with Standard B30 of the Bayside Planning Scheme.
   j) Location of all plant and equipment, including hot water services and air conditioners etc. Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms.
   k) A schedule of construction materials, external finishes and colours (incorporating for example paint samples).
   l) Water Sensitive Urban Design measures in accordance with Condition 8 of this permit.
   m) A Landscaping Plan in accordance with Condition 10 of this permit.
   n) Provision of the development contributions fee in accordance with condition 15.

All to the satisfaction of the Responsible Authority.

2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.

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

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

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

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

**Water Sensitive Urban Design**

8. Prior to the endorsement of plans pursuant to Condition 1, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:

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

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

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

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

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

**Landscaping**

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan 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.

d) The provision of two (2) small canopy trees to reach a minimum height of 8 metres at maturity; or one (1) large canopy tree to reach a minimum height of 12 metres at maturity within the front setback of each dwelling.

e) The provision of two (2) small canopy trees to reach a minimum height of 6 metres at maturity; or one (1) large canopy tree to reach a minimum height of 10 metres at maturity.

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

g) Details of surface finishes of pathways and driveways

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

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

Drainage

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

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

Development Contributions Levy

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

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

Permit Expiry

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.

- 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.

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

5. Council Policy

Council Plan 2017-2021
Relevant objectives of the Council plan include:
- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
- Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

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

Bayside Planning Scheme
- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 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 E3)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 45.06 Development Contribution Plan Overlay (Schedule 1)
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct E3. The proposal is considered to generally demonstrate an acceptable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

Sufficient space has been provided within the front setbacks and throughout the site to allow for substantial landscaping and planting. A condition is included requiring the garage for dwelling 2 to be set back 2 metres from the side boundary to respect the spacious street character. The front fence is open style and of a low height to integrate within the streetscape. Whilst the first floor is not recessed, the roof design is of a gambrel style with a pitched roof, allowing the building to integrate with the streetscape.

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:

<table>
<thead>
<tr>
<th>Side and rear setbacks (Standard B17)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Requirement</strong></td>
</tr>
<tr>
<td>West (side)</td>
</tr>
<tr>
<td>East (side)</td>
</tr>
<tr>
<td>South (rear)</td>
</tr>
</tbody>
</table>

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

The top of the western elevation has variations of between 100mm and 500mm, however the lower elements of the roof are compliant. These small encroachments will not have any significant impact in terms of the overall bulk of the building or impact on neighbouring amenity (noting the adjacent interface that comprises a driveway). Two dormer windows are also proposed on this elevation which encroach 1.2m into the setback. As these are only small protrusions from the roof, there is limited impact and contribute to the articulation of this façade.

On the eastern elevation, the top of the roof has encroachments of between 300mm and 600mm. Like the western elevation, these are not considered to have any significant impact on neighbouring amenity or the wider area, noting the neighbouring interface that comprises a side service area. The proposal is compliant with all other aspects of Clause 55 and as such these minor variations to the side setbacks are considered acceptable.

6.3. Landscaping

Council’s Arborist has advised that the existing vegetation on the site has a low amenity values and would not require a permit for its removal under Local Law. There are no vegetation planning controls on the site and none of the existing vegetation is proposed for retention.
There is a Brush Cherry (*Syzygium paniculatum*) located within the front setback of the neighbouring property at 22 Highett Road, which is likely to be impacted upon by the proposal. The encroachment will be greater than 10% due to the 600mm excavation proposed within the tree protection zone (TPZ) and structural root zone (SRZ). The applicant has submitted a Construction Impact Assessment which indicates that the tree will remain viable post construction. Council's Arborist is satisfied with this subject to a condition requiring the proposed driveway to be constructed at existing grade with no excavation within the TPZ other than those associated with the proposed carport. This condition is included within the recommendation.

### 6.4. Street tree(s)

The street tree fronting 20 Highett Road has been assessed by Council's Open Space Arborist. This tree is dead and as such will be removed under maintenance criteria. Replanting will be delayed until post development.

### 6.5. Car parking and traffic

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

Dwelling 1 comprises four bedrooms and is afforded two car parking spaces in the form of a double garage. Dwelling 2 comprises four bedrooms and has a double carport. Although a condition is included in the recommendation requiring that this be reduced to a single garage to address the neighbourhood character, there is still sufficient space within the site for two vehicles to be parked. The proposed on site car parking meets the requirements of Clause 52.06-5.

The application was referred to Council’s Traffic Engineer who expressed no concern with the development subject to the inclusion of permit conditions relating to vehicle access and sightlines. These are included as conditions of the permit. It is noted that one of the objections raised was in respect to the provision of a Traffic Management Plan (TMP). The proposal is for one additional dwelling on a lot, which is not considered to warrant the provision of a TMP. Furthermore, Council’s traffic engineer has raised no concern in respect of this.

In respect of the concern about the laneway being kept clear of obstructions, this is the responsibility of the developer to ensure access is provided for all users of the laneway.

### 6.6. Response to objections

All issued raised by the objectors have been addressed in the main body of the report.

### Support Attachments

1. Development Plans ⬇️
2. Site and surrounds imagery ⬇️
3. Neighbourhood Character Assessment ⬇️
4. Clause 55 Assessment ⬇️
ATTACHMENT 2
Site Surrounds and Imagery

Figure 1 – aerial overview of site

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>🟠</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>🟢</td>
</tr>
</tbody>
</table>
Figure 2 – view of subject site from Highett Road
Neighbourhood Character Precinct E3

Preferred Future Character Statement

The low lying dwellings with pitched roof forms and articulated front wall surfaces sit within established garden settings. There is a continued frequent presence of California Bungalow style dwellings, however, new buildings respect, without replicating, this style. The lightness in the streetscapes is maintained by the use of lighter building materials in building facades, particularly in the streets dominated by timber materials. Medium height, open style front fences assist in retaining an open streetscape.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
• Alterations and extensions should retain the front of these dwellings and be appropriate to the building era. | Demolition of dwellings that contribute to the valued character of the Precinct. | Responds:  
The existing dwelling on the site is a single storey dwelling with little architectural merit. It does not make any significant contribution to the character of the precinct. |
| 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. | Responds:  
No landscape plan has been submitted with the proposal, however there is sufficient space within the site to ensure substantial planting. Conditions requiring the planting of canopy trees are included in the recommendation. |
| To provide space for front gardens.                                      | • Buildings should be sited to allow space for the planting of trees and shrubs. | Loss of front garden space.                | Responds:  
The proposed front setbacks comply with the Recode requirements and space is provided for landscaping. |
| To maintain the rhythm of spacious visual separation between buildings.  | • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | Secured via condition:  
A condition is included within the recommendation requiring the double carport on the eastern side to be converted to a single garage, thereby pulling in the width of the building to allow for improved visual separation. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<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>Secured via condition: A condition is included within the recommendation requiring the double carport on the eastern side to be converted to a single garage, thereby pulling in the width of the frontage and reducing the impact of the garages.</td>
</tr>
<tr>
<td></td>
<td>• Minimise paving in front garden areas including driveways and crossovers.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To ensure new development respects the dominant building scale and forms within the streetscape.</td>
<td>• Recess upper storey elements from the front façade.</td>
<td>Responds in part: Whist the first floor is not recessed from the front façade, the roof design is of a gambrel style, with a pitched roof, which helps to reduce the bulk at first floor level.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Incorporate pitched roof forms with eaves.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To use lighter looking building materials and finishes that complement weatherboard where it predominates in the streetscape.</td>
<td>• Incorporate timber or other non-masonry wall materials where possible.</td>
<td>Heavy materials and design detailing where weatherboard predominates (e.g. Large masonry columns and piers)</td>
<td>Responds: The design incorporates timber cladding and face brickwork in an off white colour. The roof will comprise of light coloured colorbond.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td>• Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High, solid front fencing.</td>
<td>Responds: A 1.2m high front fence is proposed with open style slats between solid piers. It will maintain the openness of the streetscape.</td>
</tr>
<tr>
<td></td>
<td>• Front fence style should be appropriate to the building era.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## ATTACHMENT 4

**ResCode (Clause 55) Assessment**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer to 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 the construction two dwellings on a lot of this size.</td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>The proposal will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development. Council's drainage engineers have reviewed the application and raise no issues with infrastructure capacity in the area. It is noted that the developer will be required to pay a development contributions levy in accordance with the requirements of Clause 45.06 of the Bayside Planning Scheme.</td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The development will integrate appropriately with the street.</td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>Requirement: 9m</td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Yes</td>
<td>Maximum: 9m</td>
</tr>
<tr>
<td>Building height should respect the existing or preferred neighbourhood character.</td>
<td>Proposed: 7.34m maximum</td>
<td></td>
</tr>
<tr>
<td>B9 Site Coverage</td>
<td>Yes</td>
<td>Maximum: 50%</td>
</tr>
<tr>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Proposed: 49.86%</td>
<td></td>
</tr>
<tr>
<td>B9 Permeability</td>
<td>Yes</td>
<td>Minimum: &gt;20%</td>
</tr>
<tr>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Proposed: 33.5%</td>
<td></td>
</tr>
<tr>
<td>B10 Energy Efficiency</td>
<td>Yes</td>
<td>Whilst the orientation of the block means that the secluded private open space and living areas are to the south, large areas of glazing mean that solar access has been optimised.</td>
</tr>
<tr>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B11 Open Space</td>
<td>N/A</td>
<td>There is no communal open space in or adjacent to the development.</td>
</tr>
<tr>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B12 Safety</td>
<td>Yes</td>
<td>The pedestrian entry points are clearly recognisable while upper levels allow for the passive surveillance of the street.</td>
</tr>
<tr>
<td>Layout to provide safety and security for residents and property.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B13 Landscaping</td>
<td>Yes</td>
<td>Although no landscaping plan has been submitted, there is sufficient space within the site to allow for appropriate landscaping. This is included as a condition in the recommendation.</td>
</tr>
<tr>
<td>To provide appropriate landscaping. To encourage:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development that respects the landscape character of the neighbourhood.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development that maintains and enhances habitat for plants and animals in locations of habitat importance.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The retention of mature vegetation on the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B14 Access</td>
<td>Yes</td>
<td>Conditions are included in the recommendation to ensure the vehicle accesses are the required width.</td>
</tr>
<tr>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B15 Parking Location</td>
<td>Yes</td>
<td>One of the proposed dwellings will have a double garage and the other a double carport.</td>
</tr>
<tr>
<td>----------------------</td>
<td>-----</td>
<td>-------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>B17 Side and Rear Setbacks</td>
<td>No</td>
<td>Refer to Section 6.2 of the Report.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>West (side)</td>
<td>0-0.2m or 2.0m</td>
</tr>
<tr>
<td>East (side)</td>
<td>0-0.2m or 2.0m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>0-0.2m or 3.0m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B18 Walls on Boundaries</th>
<th>Yes</th>
<th>The proposed walls on the boundaries will be 3m high (max) and comply with the length.</th>
</tr>
</thead>
<tbody>
<tr>
<td>B19 Daylight to Existing Windows</td>
<td>Yes</td>
<td>The development has been sufficiently setback from all habitable room windows to abutting properties.</td>
</tr>
<tr>
<td>B20 North Facing Windows</td>
<td>N/A</td>
<td>There are no north-facing windows within 3 metres of the boundary of the subject site.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td></td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td></td>
</tr>
<tr>
<td>B21</td>
<td>Overshadowing Open Space</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Additional overshadowing will occur to areas of secluded private open space associated with 18 Higlett Road at 9am, however 40 square metres with minimum dimension of 3 metres, will receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September. The other adjacent property, 22 Higlett Road will also receive additional overshadowing, however 40 square metres will still receive a minimum of 5 hours of sunlight.</td>
<td></td>
</tr>
<tr>
<td>B22</td>
<td>Overlooking</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>All side facing first floor windows will be screened to 1.7m above finished floor level. This will either be through opaque glazing, screens or high level windows. At the rear of the property, the submitted plans show that the first floor windows are set 8.6m away from the rear boundary, with the rear laneway beyond. As such these windows will be in excess of 9 metres from any private open space or habitable room windows and will not therefore require screening.</td>
<td></td>
</tr>
<tr>
<td>B23</td>
<td>Internal Views</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>At ground floor level fencing will be provided between the two adjoining garden areas. At first floor level small fins projecting from the building will provide some screening. It is acknowledged that the windows will allow for some views, however the standard do not prohibit views, rather seeks minimise views to no more than 50% of both the front and rear areas of secluded private open space.</td>
<td></td>
</tr>
<tr>
<td>B24</td>
<td>Noise Impacts</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>It is anticipated that the level of noise which will be emitted from the dwellings will not exceed levels otherwise expected from residential uses.</td>
<td></td>
</tr>
<tr>
<td>B25</td>
<td>Accessibility</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Consider people with limited mobility in the design of developments.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Entries are accessible for people with limited mobility. The development could be further retrofitted to accommodate people with limited mobility in the future if required.</td>
<td></td>
</tr>
<tr>
<td>B26</td>
<td>Dwelling Entry</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Provide a sense of identity to each dwelling/residential building.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The development clearly delineated entries to the dwellings, with separate pedestrian and vehicle access and a covered porch area.</td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>Provide reasonable recreation and service needs of residents by adequate private open space.</td>
<td>Yes</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>Yes</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. Avoid future management difficulties in common ownership areas.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
4.12 82-122 MARRIAGE ROAD, BRIGHTON EAST  
(BRIGHTON SECONDARY COLLEGE)  
NOTICE OF DECISION TO AMEND A PLANNING PERMIT  
APPLICATION NO: 1999/4617/2  WARD: NORTHERN

City Planning & Community Services - Development Services  
File No: PSF/15/8755 – Doc No: DOC/18/170642

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Amend a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Alisia Simmons (on behalf of the Committee of Management)</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>12 December 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>53 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Public Use Zone (Schedule 2)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 2)</td>
</tr>
<tr>
<td></td>
<td>Special Building Overlay</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of submissions</td>
<td>7 objections, 1 letter of comment</td>
</tr>
</tbody>
</table>

Proposal

The application seeks amendments to planning permit 1999/4617/1 which allowed the use of land for a minor sports facility on Brighton Secondary College. The permit pertains to the use of Brighton Dendy Sports Ground. Key details of the proposed amendments are:

- Increase to the hours of use to allow Monday night use over the winter period.
- Amendments allowing greater use of the floodlights, in particular on Monday nights.
- Reduction of restrictions on the use during the winter school holidays.
- Use of land for competition matches to extend to four days per week including Monday & Wednesday nights.

The application plans are provided at Attachment 1.

The existing planning permit (1999/4617) is provided at Attachment 2.

An aerial image and photographs of the site and surrounds are provided at Attachment 3.

History

Planning permit 1999/4617/1 was granted by Council at the direction of VCAT on 21 December 1999. This enabled a hockey field on the Brighton SC campus to be used by other groups involved in the sport of hockey.

It is noted that the permit has no impact to the use of land for an education facility, which is ‘as-of-right’ under the Public Use Zone. It is further noted that the use of the hockey

Item 4.12 – Matters of Decision  
Page 433 of 459
facility occurs entirely outside ‘normal’ school hours.

A separate planning permit has allowed the use of the basketball stadium on the public land for non-school activities. A number of enforcement orders were carried out in the early and mid-2000’s regarding both the hockey field and basketball stadium’s use outside of school hours.

Officers note that the land use has been operating without any enforcement action or formal amendments since 2005.

2. Planning controls

Pursuant to Section 72 of the Planning and Environment Act 1987, the ambit of discretion is limited to the proposed changes sought by the applicant. Consideration cannot be given to elements already approved as part of the original application but not sought to be amended.

Original Planning Permit requirements

A planning permit was required pursuant to:

- Clause 36.01-1 (Public Use Zone) – Use of land for a minor sports facility

Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.

3. Stakeholder consultation

External referrals

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

Internal referrals

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

Public notification

The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and eight submissions were received, including seven objections and one general comment.

The following concerns were raised:

- Definition of ‘minor sports facility’ is compromised;
- Noise impacts;
- Traffic and car parking;
- Cumulative impacts on neighbourhood amenity;
- Contradicts the Joint Use Agreement;
- Possibility of additional non-education land uses.

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

Consultation meeting

A consultation meeting was held on 13 June 2018 attended by the permit applicant and 4 objector parties. A number of issues pertaining to the land use were discussed and the objector parties explained their position regarding the existing and proposed terms of the land use.

As a result of this meeting no objections were withdrawn, however the application was formally amended. The amendments reinstated a level of restriction on the use of the
Nonetheless, all 8 submissions, including 7 objections, remain current at the time of this meeting.

4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Amend a Planning Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 1999/4617/1 for the land known and described as 82-122 Marriage Road, Brighton East (Brighton Secondary College) for the use of land for a minor sports facility in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. The use as shown on the endorsed plans shall not be altered without the written consent of the Responsible Authority.

2. Before the use starts, three copies of plans drawn to scale and dimensioned shall be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. Such plans shall be to the satisfaction of the Responsible Authority and generally in accordance with the plans submitted with the application but modified to show:


b) The designation of parking areas on the site. 17 cars space shown abutting the driveway leading from the Marriage Road into the site may be deleted.

c) A pedestrian path leading from the basketball court to the pitch and a gate to provide entry to the pitch area.

d) Details of all works associated with flood lighting.

e) Details of lighting to parking areas, pathways change rooms and toilets.

f) Details including all levels, and detail of any cut and fill and other earthworks.

g) Details, including elevations, of the proposed shelter.

h) The existing basketball court to the east of the sports field to be identified on the plans.

i) A 2.6 metre masonry rebound wall along or adjacent to the western edge of the basketball court, between the basketball court and the sports field. A coating to deaden sound should for part of the western face of the wall, to the satisfaction of the Responsible Authority and the form and extent of that coating should be specified on the plans.

3. The use of the Facility, other than in respect of use by Brighton Secondary College, may only occur between the dates, on the days and within the hours, (all three expressed inclusively), specified in this condition, as follows:

a) From 2 March to 31 March in any one year.

   i) Monday, 3.30pm to 5.30pm
ii) Tuesday to Thursday, 3.30pm to 9.30pm
iii) Friday, 3.30pm to 5.30pm
iv) Saturday, 9.00am to 6.30pm
v) Sunday, 11.00am to 6.30am

b) From 1 April to 30 September in any one year.
i) **Monday to Friday, 3.30pm to 9.30pm**
ii) Saturday, 9.00am to 6.30pm
iii) Sunday, 11.00am to 6.30am

c) From 1 October to 1 March in any one year.
i) Monday, 3.30pm to 5.30pm
ii) Tuesday to Friday, 3.30pm to 8pm
iii) Saturday, 9.00am to 8pm
iv) Sunday, 11.00am to 8am

d) Provided that use of the Facility, other than use by the Brighton Secondary College, during gazetted school holding periods shall be further limited as follows:
i) Between 1 February and 30 November in any calendar year, to no more than 3 days in respect of each of the holiday periods.
ii) Between 1 December and 31 January in the following year to no more than 3 days in any one week.
iii) At no time for more than 18 days over the relevant calendar year.
iv) Between the hours of 9.00am and 3.30pm
v) **During the gazetted ‘winter’ school holiday period, the restrictions contained at condition 3b apply.**

e) Provided that no use of the Facility may occur on Good Friday, Anzac Day morning or Christmas Day.

f) Provided that the times set out in this condition refer to the use of the Facility for practice, training or match sessions and therefore in addition to the times stated in this condition people shall be allowed one half hour:
i) After cessation of that sporting use to leave the School Grounds, and
ii) Before commencement of that sporting use to enter the School Grounds.

4. The number of persons who may be on the School Grounds (including within the Facility) in association with the proposed use at any one time shall be limited to:
a) 150 persons; or
b) 300 persons on not more than three occasions per calendar year with the written agreement of the Responsible Authority and the Brighton Secondary College.

5. All lighting (including floodlights to illuminate the playing surface) shall be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land and specifically:
a) A maximum of eight (8) poles to illuminate the playing surface is permitted.

b) Floodlight poles shall be 21 metres high, from the playing surface level.

c) The lights shall be of a matching specification and otherwise in accordance with details on the endorsed plans, including, as required, the fitting of any special louvres or shielding hoods.

d) Light spill shall not exceed 4 vertical initial lux (measured 1.0 metres above ground level) at 50 metres from the western and eastern alignment of the floodlight poles and shall not exceed 9 vertical initial lux (measured 1.0 metres above ground level) at 50 metres from the north and south alignment of the floodlight poles. The floodlight poles shall be located in accordance with the endorsed plans.

e) Floodlights shall be turned off no later than 5 minutes after any practice, training or match session ceases.

f) Floodlights shall be fitted with, and only operate when controlled by, an automatic shut off mechanism which cannot be overridden to allow a later shut off and can allow earlier shut off. In no case shall the lights remain turned on for more than 5 minutes after the relevant finishing time referred to in Condition 3.

g) No floodlighting shall be permitted on Saturdays, Sundays or Good Friday.

h) No floodlighting shall be permitted from 1 October in any year to 1 March in the following year.

6. Day to day operation of the facility permitted under this Permit shall be in accordance with a Joint Use Agreement to be maintained between the Brighton Secondary College, Bayside City Council, Sandringham Hockey Club Inc. and the Minister for Education and such agreement shall include:

a) The maintenance of a Management Committee to have responsibility for the management of the Facility (“The Management Committee”).

b) An obligation that the operation of the Facility shall comply with the provisions of this planning permit.

c) A requirement that residents so designated in the Joint Use Agreement be entitled to address the Management Committee of the site appointed under the Joint Use Agreement, not less than on one (1) occasion every year and on every occasion there in any intention to try and amend any aspect of the operation of the Facility which is restricted or controlled by this permit.

d) A requirement for the Management Committee to make available to the residents so designated in the Joint Use Agreement the contact telephone number(s) of the Chairperson of other empowered person representing the Management Committee.

7. The amenity of the area shall not be adversely affected by the behaviour of patrons. Without limited the generality of this condition:

a) At each and every practice or training or match session during the entire time that such activities are occurring or persons associated with the use are present at the Facility, a person over the age of 18 who is designated as responsible to the Management Committee for management and control of the particular session, shall be present at the Facility and immediately available to take action in respect of any breach of the
permit during the operation of the Facility raised by residents or other relevant parties.

b) A requirement for the Management Committee to make available to the residents so design in the Joint Use Agreement the contact telephone number(s) of the Chairperson or other empowered person representing the Management Committee.

8. No nuisance (other than that necessarily occasioned by the emission of noise which is dealt with in this permit) is to be caused to persons beyond the Facility by the use permitted and without limiting the generality of this condition, specifically:

a) No external sound amplification equipment, mega-phones or loud speakers are to be used or installed for the purpose of announcements, giving instructions, playing of music or any other purpose.

b) No use of the Facility shall be made unless the acoustic control measures in accordance with the endorsed plans, are completed and maintained and including, if requirement to the satisfaction of the Responsible Authority, double glazing of any residential property.

c) Appropriate material to the satisfaction of the Responsible Authority shall be fixed to the internal area of any goals to limit noise impact.

d) In order to minimise the impact of the noise of balls or equipment hitting the fence, no metallic signage of any kind shall be permitted on the fence surrounding the playing surface.

9. All noise emanating from any mechanical plant (air conditioners, etc.) on the site shall comply with the State Environmental Protection Policy N-1.

10. All parking associated with the use shall be:

a) Within the School Grounds, at locations shown on the endorsed plans.

b) Be thereafter directed to Dendy Street adjacent to the frontage of the site or Brighton Golf Course.

11. Before the use starts all works specified in this permit shall be completed to the satisfaction of the Responsible Authority. The Responsible Authority shall be advised in writing when all works are completed to enable the Facility to be inspected.

12. The use of the Facility as a Minor Sports Ground shall be limited as follows:

a) Competition matches for either junior or senior hockey shall only be permitted on Monday & Wednesday nights and on Saturdays & Sundays until 6.30pm and otherwise in accordance with the hours of operation in Condition 3.

b) Subject to Conditions 12 a) and 12 c), the Facility shall not be used for other than training and practice sessions.

c) The Facility may be used for another function or match in respect of any sport for social or promotional or charitable purposes and may only occur with the written consent of the Responsible Authority and the Brighton Secondary College.

13. The Facility shall be kept drained, tidy and maintained at all times to the satisfaction of the Responsible Authority.

14. No materials or goods shall be stored or left exposed outside the building so as to be visible from any public road, the School Grounds or adjacent land.
15. The amenity of the area shall not be detrimentally affected by the use, through the:
   a) Carrying out of the use (including, but not limited to, the striking of balls or equipment in any way other than on the Facility synthetic playing surface).
   b) Transport of persons, materials, goods or commodities to or from the land.
   c) Appearance of any building, works or materials.
   d) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
   e) Presence of vermin.

16. A schedule of all external materials and finishes shall be submitted to the satisfaction of the Responsible Authority prior to the commencement of any buildings and works on the land. The schedule shall show the materials, colour and finish of all external walls, roof, fascia, window frames, paving, lights and fencing.

17. All plant and equipment (including air conditioning units, heating units, hot water systems, etc.) which is proposed to be located externally shall be identified on plans and located to the satisfaction of the Responsible Authority and an endorsed copy of such plan shall form part of this permit. Such plan shall be endorsed prior to commencement of construction and shall include plan and evaluation details.

18. Prior to the commencement of the development, the report of a qualified arborist shall be provided to the Responsible Authority which shall address what impacts (if any) footings, services or structures proposed on the land may have on the trees that are proposed to be retaining along the southern boundary of the site. If any impacts are assessed, such measure to the satisfaction of the Responsible Authority shall be undertaken to modify the design and ensure that during the construction of the development the trees identified in the report as likely to suffer an impact are not unreasonably damaged.

19. Before the use hereby permitted starts three copies of landscape plan drawn to scale and dimensioned shall be submitted to and approved by the Responsible Authority. Once endorsed, this will form part of the permit. The plan shall:
   a) Show the proposed landscape treatment including the location of all existing and proposed species.
   b) Show suitable mature evergreen trees between the Facility and the residencies, which will assist in filtering views of the Facility.
   c) Be accompanied by a detailed analysis of how view are filtered by the species chosen and the number of trees used.

20. Prior to the use allowed by this permit of the occupation of the building hereby permitted, landscaping works as shown on the endorsed plans shall be completed to the satisfaction of the Responsible Authority and then maintained to the satisfaction of the Responsible Authority.

21. All existing vegetation shown on the endorsed plans shall be suitable market before any development starts of the School Grounds and that vegetation shall not be removed, destroyed or lopped without the written consent of the Responsible Authority.
22. This permit will expire if the use is not started within two years of the date of this permit. The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.

23. An existing crossing on Marriage Road, to the north-west corner of the land, may be retained until the portable classrooms within the School Grounds are removed. The crossover and driveway must only be used in association with the removal of the classrooms from the land. The driveway is to be secured to prevent vehicle access at other times, with a gate or other barrier that complements the form of fencing along Marriage Road, to the satisfaction of the Responsible Authority.

Permit Notes:
- This permit was amended on 11 October 2005 by amending condition 2(b) and also adding conditions 1(h) & (i) and condition 23 as directed by VCAT.
- This permit was amended on 6 December 2005 by amending Condition 2(b) and 10(a) as directed by VCAT.

5. Council Policy

Council Plan 2017-2021

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

Bayside Planning Scheme
- Clause 9 Plan Melbourne
- Clause 19 Infrastructure
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.08 Open Space
- Clause 21.10 Infrastructure
- Clause 22.07 Discretionary Uses in Residential Areas
- Clause 36.01 Public Use Zone (Schedule 2)
- Clause 43.02 Design and Development Overlay (Schedule 2)
- Clause 44.05 Special Building Overlay
- Clause 45.06 Development Contributions Plan Overlay (Schedule 1)
- Clause 52.06 Car Parking
- 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. Consideration of amendments

The ambit of discretion for consideration is limited to those applied for under this amendment application. To summarise, the amendments sought are:
Condition 3b currently allows the use to occur from 1 April to 30 September in any one year, on:

i) Monday, 3.30pm to 5.30pm
ii) Tuesday to Friday, 3.30pm to 9.30pm
iii) Saturday, 9.00am to 6.30pm
iv) Sunday, 11.00am to 6.30pm

The applicant proposes to align the use on Mondays with the current allowed on Tuesday to Friday during this time. The proposed new condition 3b would read:

i) Monday to Friday, 3.30pm to 9.30pm

ii) Saturday, 9.00am to 6.30pm

Condition 3d currently limits the use during gazetted school holiday periods. The applicant has requested that a new condition is added to allow the use during the winter school holidays to align with regular winter hours of use.

The additional permit condition is sought for condition 3d(v) to read:

v) During the gazetted ‘winter’ school holiday period, the restrictions contained at condition 3b apply.

Condition 5g currently reads:

g) No floodlighting shall be permitted on Saturdays, Sundays, Mondays or Good Friday.

The applicant has proposed that the new condition reads:

 g) No floodlighting shall be permitted on Good Friday.

Condition 12 currently places restrictions on the use with regard to ‘competition matches’. Conditions 12a currently reads:

a) Competition matches for either junior or senior hockey shall only be permitted on one night per week and on Saturdays and Sundays until 6.30pm and otherwise in accordance with the hours of operation.

The applicant has requested that the additional hours on Monday nights to facilitate competition matches and has requested that the condition is reworded accordingly.

The decision guidelines associated with the application are limited with regard to the Public Use Zone. As such, it is prudent for Council to consider the general decision guidelines housed at Clause 65 of the Bayside Planning Scheme for the proposed amendments. Specifically, the primary decision guideline for the amendments is the effect on the amenity of the area.

The hockey field is located on the southern aspect of Brighton Secondary College, approximately 15 metres north of the school's interface with Dendy Street. The field is located 175 metres south of the interface with Marriage Road and approximately 50 metres east and west are direct residential interfaces. The residential interfaces are protected by earthen mounds and, on the western aspect, a high screened fence. Notwithstanding that, a number of objector parties reside in the vicinity, along Sara Avenue or Burwah Avenue. Public land, in the form of Brighton Golf Course, lies further south across Dendy Street.

The amendments being considered under this application primarily relate to ‘winter-time’ use of the facility.
The current permission (under Condition 3b) allows weeknight use of the hockey field between 1 April and 30 September until 9.30pm Tuesday-Friday and until 5.30pm on Mondays. One weeknight is permitted for competition matches (Condition 12a). The use of the floodlights is controlled by Condition 5 which currently restricts floodlight use on weekends, Mondays and Good Friday (Condition 5g). Separate to these controls and owing the facility’s location on a public school property, Condition 3d restricts the use during school holidays.

A letter submitted with the application from the Southern United Hockey Club Inc. outlines that a significant increase in the number of hockey players has spurred this application. The field is used by a variety of schools, community groups and the state Hockey body. The on-site facilities were upgraded in January 2015 and approximately 1,000 players use the site across all groups.

In consultation with objecting residents, officers could surmise that the primary direct amenity concerns are increases in traffic and on-street car parking during events and noise impacts from players entering and exiting vehicles, balls smacking wooden goals and loud voices prior to and during games. At the June consultation meeting, residents explained that summer is a more sensitive time of year regarding the enjoyment of their outdoor spaces. The applicant responded to this by formally withdrawing any proposed intensification of the use during that time of year and committing to re-engaging players and groups around allowing residents the quiet enjoyment of their property.

On merit, the increase in the hours of use on Monday nights during the ‘wintertime’ period are considered reasonable. The facility already operates Tuesday-Friday nights until 9.30pm. Several residents expressed that winter is a more suitable time of year than summer for late evening use of the facility, although they objected generally to any increase in use. Furthermore, the increase in the use on Monday is preferred to weekend evenings, when adjoining outdoor spaces are more likely to be used. It is more likely that residents would be consuming evening television or entertaining indoors during winter. As such, the amendment to the hours of use on Mondays nights during ‘winter-time’ is recommended for support.

The concurrent amendments to the time allowed for floodlights to be used is supported on Monday nights but not weekend evenings. The justification for the Monday increase is outlined above. It is considered that the neighbourhood amenity is more sensitive on weekend evenings in winter where surrounding residents are more likely to be hosting outdoor events or garden parties. This is considered less likely on Monday evenings. Significantly, no residents raised direct concerns in their objections pertaining to light spill in evenings. Nonetheless, officers consider it is inappropriate for the floodlights to operate in a residential area on weekends.

As such, the following condition is recommended:

5g) No floodlighting shall be permitted on Saturdays, Sundays or Good Friday.

The amendment to the use of the facility during the winter school holiday period is also supported. The hours of use during this period would align with the regular winter hours resulting in no discernible difference between the school term and school holiday hours of use. The facility cannot be used prior to 3.30pm on these days and the use will not result in a greater level of amenity impact than it would otherwise. A number of residents requested that the use is reduced during school holidays for respite from the ruckus of the site’s constant use throughout the school term. Nonetheless, the consistent use of the site during the hockey season would not result in any greater level of amenity impact than at other times in the winter.

Lastly, it is considered reasonable that one additional weeknight for competition matches is permitted. In order to provide consistency a condition has been added to the permit that only Monday & Wednesday nights are used for competition matches as following:
12a) Competition matches for either junior or senior hockey shall only be permitted on Monday & Wednesday nights and on Saturdays & Sundays until 6.30pm and otherwise in accordance with the hours of operation in Condition 3.

Surrounding residents have found that the amenity impacts from competition matches and training sessions vary slightly. Competition matches anecdotally cause greater voice spill over and car parking impacts. Officers consider that the undertaking of competition matches on weeknights is unlikely to result in unreasonably intrusive amenity impacts when carried out within the gamut of the permitted hours of operation.

6.2. Objector issues not already addressed

Definition of ‘minor sports facility’

Clause 74 of the Bayside Planning Scheme defines Minor sports and recreation facility as land used for leisure, recreation, or sport, without substantial provision for spectators, and which is usually open to non-paying spectators.

Officers consider that the amendments contained within this application will not result in a transformation of the land use beyond the scope of this definition. Furthermore, no additional evidence has been presented to officers outlining any provision of additional seating for spectators or any requirement for spectators to pay money.

Contradicts the Joint Use Agreement

The requirement for a Joint Use Agreement is housed at Condition 6 of the existing planning permit. Officers note that there is no requirement for a resident group to be engaged within this agreement outside of addressing the Committee of Management once annually. The merit of this potential oversight is outside the range of consideration for this application to amend the existing planning permit. Furthermore, no additional evidence has been presented to officers that the Joint Use Agreement has been contradicted.

Traffic and car parking

The amendments are unlikely to result in an increase in traffic and car parking congestion. A number of objectors raised concerns about cars being parked across their crossover accesses. In the consultation meeting, the applicant noted that the Committee of Management would re-engage the members around parking in the school’s car park and diverting overflow traffic into Brighton Golf Course, as directed at Condition 10.

Possible future non-education land uses

Any future planning permit application is subject to assessment under the Planning and Environment Act 1987. Council cannot assess or consider an application that is yet to be lodged and each application is to be considered on its merits at that time.

Support Attachments

1. Application Documents ↓
2. Existing Planning Permit ↓
3. Site Surrounds and Imagery ↓
27 November 2017

Damien Van Trier
Manager Open Space, Recreation & Wellbeing
Bayside City Council
PO Box 27
Sandringham VIC 3191
Via email -DVanTrier@bayside.vic.gov.au

Re: Brighton Dendy Sports Ground – hours of operation extension

Dear Mr. Van Trier

Following earlier correspondence, I am pleased to submit a revised letter, which will accompany a formal Application to amend a Planning Permit.

The Brighton Dendy Sports Ground, located at Brighton Secondary College on Dendy Street, is an artificial grass surface used for hockey, tennis and general sports. The facility has lighting and is considered well sheltered from local residents given its location within a school campus.

The pitch is used by Brighton Secondary College, Brighton Grammar School, Southern United Hockey Club, Sandringham Women's Hockey Club, Bayside Hockey Club, Hockey Victoria and for tennis coaching. Administratively, the organisations italicised in the preceding sentence form a committee of management who manage and finance the facility. The most recent resurfacing of the pitch, in January 2015, which will last more than 10 years cost $400,000. The resurfacing was funded by the committee of management, with a $75,000 grant from Bayside City Council. The facility was initially constructed in 2000.

When the facility was constructed in 2000, the operating hours granted by Bayside City Council were as set out below. However, the operating hours in winter, which is hockey season, are limited by the period in which the lights may be operated, also set out below. In practice, this means that hockey activities must cease at approximately 16:30 on Mondays, Saturdays, and Sundays given the need for good visibility in a sport which involves a hard ball.

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<td>Until</td>
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<td>Lights off</td>
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<td>5 minutes after the conclusion of training</td>
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During hockey season, the pitch is used continuously, and the growth of player numbers, particularly since the re-emergence of Bayside Hockey Club in 2011 now means that the clubs...
using the pitch struggle to accommodate available players, with clubs now truncating training
sessions during the week, and matches being played at ‘away’ venues, making the sport much
less attractive to participants and particularly the parents of junior players who have to commute
from Bayside to play hockey, on weekends. Opportunities to promote active, healthy lifestyles
and involvement Bayside residents in community activity are now being missed, as we simply don’t
have time to accommodate all who want to play.

Collectively, the four hockey clubs and schools have over 1,000 hockey players and hockey is a
fast growing sport, with balanced female and male participants, but also a sport played by
people from 6 years old, to over 60 years old.

The users would like to propose a reassessment of the available time in which lights and field could
be used, to extend the time in which the facility can be used and allow more people to
participate, but respecting the right of residents to quiet enjoyment of their properties. Allowing
the ground to be used for “masters” matches, for participants between 35 years old and 70 years
old would really allow the clubs to offer participatory sports for people in an age group which is
well represented in Bayside and also needs to be more active.

We wish to propose:

- Extending Monday evening use and adding the use of lights until 21:30, allowing in
  practice another 4.0 hours of use allowing more training time for junior and senior players
  and the addition of Men’s masters games.
- Extending Saturday and Sunday afternoon use and adding the use of lights to 19:00,
  allowing in practice another 2.5 hours per day allowing an additional game per day.

Lighting installed includes an automatic “cut out” process, so there is no prospect that lights could
be accidentally, or otherwise, left illuminated beyond these hours.

Extending the use of this facility on Dendy Street would also seem to be logically connected as
part of developing a sports precinct in this area, as recently evidenced by Bayside City Council’s
recent significant investment in Dendy Park.

The schools and clubs involved do deeply respect the rights of local residents and undertake to
ensure that students and club members also continue to behave in an appropriate way.

On behalf of the, the user schools and clubs, who have all agreed to the presentation of this letter,
we, would be pleased to speak with council to advance this request. In the first instance, Alissa
Simmons Director of Sport, Brighton Secondary College, tel. 9561 5581, email sim@brightonsc.vic.edu.au or Roger Arnold, President Southern United Hockey Club, tel.
0421274148, email president@suhc.com.au would be pleased to arrange any further discussions.

Regards

Roger Arnold
President Southern United Hockey Club, on behalf of all of the schools and clubs listed above.

Advertised Pdc
Cc:
Alisia Simmons – Brighton Secondary College - SIM@brightonsc.vic.edu.au
Bobby Quadera – Bayside Hockey Club - bobbyq@gmail.com
Judy Sllom – Sandringham Womens’ Hockey Club - sainityjudy@hotmail.com
Ken John – Bayside Dendy Sport Committee - kjohn@bigpond.net.au
Luke Stewart – Brighton Grammar School - lstewart@brightongrammar.vic.edu.au
Richard Minack – Brighton Secondary College - MIN@brightonsc.vic.edu.au
Declaration for amendment to a planning permit application

Planning and Environment Act 1987, Sections 50 & 50A & 57A
Planning and Environment (Fees) Regulations 2000

The applicant: Who is making the Amendment?
Applicant: ALISIA SIMMONS
Phone: 0409 182 085
Address: 120 MARRIAGE ROD, BRIGHTON EAST
Email: SIMO BRIGHTONSC.VIC. LED.AU
Fax: 

Planning permit and land affected by this application: Include permit number if known:
Planning Permit No.: 99/4617
Address: 120 MARRIAGE ROAD, BRIGHTON EAST

The amendment: Under what section of the Planning and Environment Act 1987 is the amendment being made?
Section 50 Amendment to the application at request of the applicant before notice
Section 50A Amendment of application by responsible authority before notice
Section 57A Amendments to application after notice of application is given

Amendment being applied for: List changes that are being applied for (more space overleaf) and highlight changes on corresponding plans – a copy of the plans must be submitted with this application.

(Condition 3 b) - change Monday to 3:30pm-9:30pm
(Condition 3 c) - Allow regular use during the June/July school holidays
(Condition 59) - Allow holidays on Mondays and weekends
(Condition 128) - 3 nights per week to allow for Monday & Wednesday nights

The owner: Must be notified of proposed changes (Planning and Environment Act 1987, S 48)
Owner name: \(\text{\textasteriskcentered}\) (name)
Phone: 9637 2000

Training Reform Act 2006 (Schools)

Declaration to be completed for all applications: This form must be signed. Complete box A, B or C.

A. I declare that I am the Applicant and Owner of this land and that all information given is true and correct.
Owner/ Applicant signature: [Signature]
Date: [Date]

B. I am the Owner of the land. I have seen this application. I see the Applicant declare that all information given is true and correct.
Owner signature: [Signature]
Date: [Date]
Applicant signature: [Signature]
Date: [Date]

C. I / We the Applicant declare that I / We have notified the owner about this application and that all information given is true and correct.
Applicant signature: [Signature]
Date: 22/6/18

Applications to amend an application
Amend an application prior to notice being given under Section 50 or 50A
Nil
Amend an application after notice has been given under Section 57A.
Refer to fee schedule

Please forward this application to:
E-mail: enquiries@bayside.vic.gov.au
Mail: PO Box 27, Sandringham VIC 3191
In person: 76 Royal Avenue Sandringham

G:\A-TPI\Web Site\2016_Declaration for amendment to a planning permit application
Bayside City Council
Planning & Amenity Committee Meeting - 14 August 2018
Attachment 2

Bayside City Council
Municipal Offices, Royal Avenue, Sandringham 3191
Telephone: 9599-4444  FAX: 9598-4474

Planning Permit

Address of the Land
120 Marriage Road, Brighton East

The Permit Allows
The use of the land for a Minor Sports Ground.

The Following Conditions Apply to this Permit

1. The use as shown on the endorsed plans shall not be altered without the written consent of the Responsible Authority.

2. Before the use starts, three copies of plans drawn to scale and dimensioned shall be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. Such plans shall be to the satisfaction of the Responsible Authority and generally in accordance with the plans submitted with the application but modified to show:

   a) details of mounding and any other works associated with acoustic measures generally in accordance with Drawing No. F322/TP1 by Crema Bahraini Architects dated June 1999 and Report No. 7685-1 dated March 1999 by Watson Moss Growcott Acoustics Pty Limited;
   b) the designation of parking areas on the site. 17 cars spaces shown existing the driveway leading from the Marriage Road into the site may be deleted;
   c) a pedestrian path leading from the basketball court to the pitch and a gate to provide entry to the pitch area;
   d) details of all works associated with flood lighting;
   e) details of lighting to parking areas, pathways, change rooms and toilets;
   f) details including all levels, and detail of any cut and fill and other earthworks;
   g) details, including elevations, of the proposed shelter;
   h) The existing basketball court to the east of the sports field to be identified on the plans;
   i) A 2.6 metre high masonry rebound wall along or adjacent to the western edge of the basketball court, between the basketball court and the sports field. A coating to deaden sound should form part of the western face of the wall, to the satisfaction of the Responsible Authority and the form and extent of that coating should be specified on the plans.

Date: 21 December 1999

Signature of the Responsible Authority

Planning & Environment Regulations 1988 Form 4.4

Received 12 Dec 2017
Planning Department

Item 4.12 – Matters of Decision
The Following Conditions Apply to this Permit

3 The use of the Facility, other than in respect of use by the Brighton Secondary College, may only occur between the dates, on the days and within the hours, (all three expressed inclusively), specified in this condition, as follows:

a) From 2 March to 31 March in any one year;
   i) Monday, 3.30pm to 5.30pm;
   ii) Tuesday to Thursday, 3.30pm to 9.30pm;
   iii) Friday, 3.30pm to 5.30pm;
   iv) Saturday, 9.00am to 6.30pm;
   v) Sunday, 11.00am to 6.30pm.

b) From 1 April to 30 September in any one year;
   i) Monday 3.30pm to 5.30pm;
   ii) Tuesday to Friday, 3.30pm to 9.30pm;
   iii) Saturday, 9.00am to 6.30pm;
   iv) Sunday, 11.00am to 6.30pm.

c) From 1 October to 1 March in the following year;
   i) Monday, 3.30pm to 5.30pm;
   ii) Tuesday to Friday, 3.30pm to 8pm;
   iii) Saturday, 9.00am to 8pm;
   iv) Sunday, 11.00am to 8pm.

d) Provided that use of the Facility, other than use by the Brighton Secondary College, during gazetted school holding periods shall be further limited as follows:
   i) Between 1 February and 30 November in any calendar year, to no more than 3 days in respect of each of the holiday periods;
   ii) Between 1 December and 31 January in the following year to no more than 3 days in any one week;
   iii) At no time for more than 18 days over the relevant calendar year;
   iv) Between the hours of 9.00am and 5.30pm.

e) Provided that no use of the Facility may occur on Good Friday, Anzac Day morning or Christmas Day.

f) Provided that the times set out in this condition refer to the use of the Facility for practice, training or match sessions and therefore in addition to the times stated in this condition people shall be allowed one half hour:
   i) after cessation of that sporting use to leave the School Grounds; and
   ii) before commencement of that sporting use to enter the School Grounds.

Date: 21 December 1999

Planning & Environment Regulations 1988 Form 4.4

Signature of the Responsible Authority
The Following Conditions Apply to this Permit

4. The number of persons who may be on the School Grounds (including within the Facility) in association with the proposed use at any one time shall be limited to:
   a) 150 persons; or
   b) 300 persons on not more than three occasions per calendar year with the written agreement of the Responsible Authority and the Brighton Secondary College.

5. All lighting (including floodlights to illuminate the playing surface) shall be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land and specifically:
   a) a maximum of eight (8) poles to illuminate the playing surface is permitted;
   b) floodlight poles shall be 21 metres high, from the playing surface level;
   c) the lights shall be of a matching specification and otherwise in accordance with details on the endorsed plans, including, as required, the fitting of any special louvres or shielding hoods;
   d) light spill shall not exceed 4 vertical initial lux (measured 1.0 metres above ground level) at 50 metres from the western and eastern alignments of the floodlight poles and shall not exceed 9 vertical initial lux (measured 1.0 metres above ground level) at 50 metres from the north and south alignment of the flood light poles. The flood light poles shall be located in accordance with the endorsed plan;
   e) floodlights shall be turned off no later than 5 minutes after any practice, training or match session ceases;
   f) floodlights shall be fitted with, and only operate when controlled by, an automatic shut off mechanism which cannot be overridden to allow a later shut off and can allow earlier shut off. In no case shall the lights remain turned on for more than 5 minutes after the relevant finishing time referred to in Condition 3;
   g) no floodlighting shall be permitted on Saturdays, Sundays, Mondays or Good Friday;
   h) no floodlighting shall be permitted from 1 October in any year to 1 March in the following year.

6. Day to day operation of the facility permitted under this Permit shall be in accordance with a Joint Use Agreement to be maintained between the Brighton Secondary School, Bay City Council, Sandringham Hockey Club Inc. and the Minister for Education and such agreement shall include:
   a) the maintenance of a Management Committee to have responsibility for the management of the Facility ("The Management Committee");
   b) an obligation that the operation of the Facility shall comply with the provisions of this planning permit;
   c) a requirement that residents so designated in the Joint Use Agreement address the Management Committee of the site appointed under the Joint Use Agreement, not less than on one (1) occasion every year and shall have any intention to try and amend any aspect of the operation restricted or controlled by this permit;

Date: 21 December 1999

Signature of the Responsible Authority
The Following Conditions Apply to this Permit

d) a requirement for the Management Committee to make available to the residents so designated in the Joint Use Agreement the contact telephone number(s) of the Chairperson or other empowered person representing the Management Committee.

7 The amenity of the area shall not be adversely affected by the behaviour of the patrons. Without limited the generality of this condition:

a) at each and every practice or training or match session during the entire time that such activities are occurring or persons associated with the use are present at the Facility, a person over the age of 18 who is designated as responsible to the Management Committee for management and control of the particular session, shall be present at the Facility and immediately available to take action in respect of any breach of the permit during the operation of the Facility raised by residents or other relevant parties.

b) a requirement for the Management Committee to make available to the residents so designated in the Joint Use Agreement the contact telephone number(s) of the Chairperson or other empowered person representing the Management Committee.

8 No nuisance (other than that necessarily occasioned by the emission of noise which is dealt with in this permit) is to be caused to persons beyond the Facility by the use permitted and without limiting the generality of this condition, specifically:

a) no external sound amplification equipment, mega-phones or loud speakers are to be used or installed for the purpose of announcements, giving instructions, playing of music or any other purpose;

b) no use of the Facility shall be made unless the acoustic control measures in accordance with the endorsed plans, are completed and maintained and including, if requirement to the satisfaction of the Responsible Authority, double glazing of any residential property;

c) appropriate material to the satisfaction of the Responsible Authority shall be fixed to the internal area of any goals to limit noise impact;

d) in order to minimise the impact of the noise of balls or equipment hitting the fence, no metallic signage of any kind shall be permitted on the fence surrounding the playing surface.

9 All noise emanating from any mechanical plant (air conditioners etc.) on the site shall comply with the State Environmental Protection Policy N-1.

10 All parking associated with the use shall be:

a) Within the School grounds, at locations shown on the endorsed plans.

b) Be thereafter directed to Dendy Street adjacent to the frontage of the site or Brighton Golf Course.

Date: 21 December 1999

Signature of the Responsible Authority
The Following Conditions Apply to this Permit

11 Before the use starts all works specified in this permit shall be completed to the satisfaction of the Responsible Authority. The Responsible Authority shall be advised in writing when all works are completed to enable the Facility to be inspected.

12 The use of the Facility as a Minor Sports Ground shall be limited as follows:
   a) Competitions matches for either junior or senior hockey shall only be permitted on one night per week and on Saturdays and Sundays until 6.30pm and otherwise in accordance with the house of operation;
   b) Subject to Conditions 12 a) and 12 c), the Facility shall not be used for other than training and practice sessions;
   c) The Facility may be used for another function or match in respect of any sport for social or promotional or charitable purposes and may only occur with the written consent of the Responsible Authority and the Brighton Secondary College.

13 The Facility shall be kept drained, tidy and maintained at all times to the satisfaction of the Responsible Authority.

14 No materials or goods shall be stored or left exposed outside the building so as to be visible from any public road, the School Grounds or adjacent land.

15 The amenity of the area shall not be detrimentally affected by the use, through the:
   a) Carrying out of the use (including, but not limited to, the striking of balls or equipment in any way other than on the Facility synthetic playing surface);
   b) Transport of persons, materials, goods or commodities to or from the land;
   c) Appearance of any building, works or materials;
   d) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
   e) Presence of vermin.

16 A schedule of all external materials and finishes shall be submitted to the satisfaction of the Responsible Authority prior to the commencement of any buildings and works on the land. The schedule shall show the materials, colour and finish of all external walls, roof, fascias, window frames, paving, lights and facing.

17 All plant and equipment (including air conditioning units, heating units, hot water systems, etc.) which is proposed to be located externally shall be identified on plans and located to the satisfaction of the Responsible Authority and an endorsed copy of such plan shall form part of this permit. Such plan shall be endorsed prior to commencement of construction and shall include plan and evaluation details.

Date: 21 December 1999

Signature of the Responsible Authority

Planning & Environment Regulations 1988 Form 4.4
The Following Conditions Apply to this Permit

18 Prior to the commencement of the development, the report of a qualified arborist shall be provided to the Responsible Authority which shall address what impacts (if any) footings, services or structures proposed on the land may have on the trees that are proposed to be retained along the southern boundary of the site. If any impacts are assessed, such measures to the satisfaction of the Responsible Authority shall be undertaken to modify the design and ensure that during the construction of the development the trees identified in the report as likely to suffer an impact are not unreasonably damaged.

19 Before the use hereby permitted starts three copies of landscape plan drawn to scale and dimensioned shall be submitted to and approved by the Responsible Authority. Once endorsed, this will form part of the permit. The plan shall:
   a) show the proposed landscape treatment including the location of all existing and proposed species;
   b) show suitable mature evergreen trees between the Facility and the residencies, which will assist in filtering views of the Facility; and
   c) be accompanied by a detailed analysis of how views are filtered by the species chosen and the number of trees used.

20 Prior to the use allowed by this permit or the occupation of the building hereby permitted, landscaping works as shown on the endorsed plans shall be completed to the satisfaction of the Responsible Authority and then maintained to the satisfaction of the Responsible Authority.

21 All existing vegetation shown on the endorsed plans shall be suitably marked before any development starts of the School Grounds and that vegetation shall no be removed, destroyed or lopped without the written consent of the Responsible Authority.

22 This permit will expire if the use is not started within two years of the date of this permit. The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.

23 An existing crossing on Marriage Road, to the north-west corner of the land, may be retained until the portable classrooms within the School grounds are removed. The crossover and driveway must only be used in association with the removal of the classrooms from the land. The driveway is to be secured to prevent vehicle access at other times, with a gate or other barrier that complements the form of fencing along Marriage Road, to the satisfaction of the Responsible Authority.

Note:
- This permit was amended on 11 October 2005 by amending condition 2 (b) and also adding conditions 1 (b) & (c) and condition 23 as directed by VCAT.
- This permit was amended on 6 December 2005 by amending Condition 2 (b) and 10 (a) as directed by VCAT.

Date: 21 December 1999

Signature of the Responsible Authority

Planning & Environment Regulations 1988 Form 4.4
Figure 1. Overview of the site and surrounds demonstrating objector properties

<table>
<thead>
<tr>
<th>Legend</th>
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<tbody>
<tr>
<td>Subject site</td>
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<td>Objectors</td>
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<td>Comment</td>
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Figure 2 Aerial image of Brighton SC and surrounds

Figure 3 View towards the facility from the south along Dendy Street
Figure 4 View towards the car parking facility along the western side of the facility

Figure 5 View towards the noise attenuation fence from Sara Avenue
Figure 6 Residential interface with dwellings fronting Burwah Ave to the east – 55 metre setback from hockey facility

Figure 7 View towards the hockey fields from south-eastern corner of the school site
5. Confidential Business

Nil

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

Mick Cummins

Chief Executive Officer