WRITTEN STATEMENTS

21 July 2020
Planning and Amenity Committee
Item 4.1  45 Sussex Street, Brighton  
1. Ms Sheelagh Wood & Mr Phil Prosser (O)  
2. Mr Nicholas Rathgeber (O)  
3. Mr Edward Cusack (O)  
4. Mr Jason Barnfather (A)  

Item 4.2  62 Champion Street, Brighton  
1. Dr Steven Brown (O)  
2. Ms Cecile Lopez-Brown (O)  

Item 4.3  8 Monaco Crescent, Beaumaris  
1. Mr Sean Thomson (A)  

Item 4.4  17 Dalgetty Road, Beaumaris  
1. Mr Kiril Jovanoski (A)  

Item 4.5  27 & 27a Walstab Street, Brighton East  
1. Mr Phillip Stewart (O)  
2. Mr Damon Hills (S)  

Item 4.6  18 Ocean Street, Hampton  
1. Ms Vikki Tselepis (O)  
2. Mr Andrew Wigg (O)  
3. Mr Tony Shepherd (O)  
4. Ms Isobell Vescovi (A)  

Item 4.7  389, 391, 393D & 395 Bay Street, Brighton  
1. Mr David Langmead (O)  
2. Mr Andrew Cameron (O)  
3. Mr Andrew Gunter (O)  
4. Mrs Helen Walker (O)  
5. Mrs Judy Batten (O)  
6. Ms Laura Dixon (A)  

Item 4.8  8-12 Were Street, Brighton  
1. Ms Belinda Evans & Mr John Campbell (O)
Item 4.9  39 Melrose Street, Sandringham
1. Dr Gayl Robinson (O)
2. Mr Andrew Robinson (O)
3. Mr Trevor Bell (O)
4. Ms Annette Bell (O)
5. Ms Kate McCombie (O)
6. Miss Mimi Nguyen (O)
7. Mr Simon Richardson (O)
8. Miss Lynn Wilkinson (O)
9. Mr Paul Rigg (O)
10. Mrs Cathrin Purcell (A)

Item 4.10  135 Beach Road, Sandringham
- No written statements received

Item 4.11  736 & 740S Hampton Street, Brighton
1. Mrs Katy McCallum (O)
2. Mr Rob Cross (O)
3. Mrs Anne Cross (O)
4. Mrs Annette Clover (O)
5. Ms Julie Ryan (O)
6. Mr Ian Ramsay (O)
7. Mrs Simone Shimmin (O)
8. Mr Derya Knight (O)

Item 4.12  31-39 Male Street, Brighton
- written statements not permitted to this item (see report)

Item 4.13  17 Nautilus Street, Beaumaris
- written statements not permitted to this item (see report)

Item 4.14  1 Dawson Avenue, Brighton
- written statements not permitted to this item (see report)

Item 4.15  Statutory Planning - VCAT Report (June 2020)
- written statements not permitted to this item (see report)

Definitions
A= Applicant
S= Supporter
O= Objector
Item 4.1

45 Sussex Street, Brighton
1. Ms Sheelagh Wood & Mr Phil Prosser (O)

Bayside City Council Planning and Amenity Committee Meeting 21 July 2020

We wish to reiterate our Objections to the construction of a roof Deck at 45 Sussex St.

Our concerns previously raised re visual impact, amenity impacts and inaccuracy of advertised plans have not been addressed. We still believe that the proposed roof deck is not in keeping with the area and will create a precedence for future developers which will impact on the environmental values of Bayside’s residential areas.

Planter Boxes/Privacy screen

The applicant has advised they will be building planter boxes in front of a 1.7m screen extending the length of the roof deck in order to reduce overlooking of our private open space, pool area and habitable windows. The Privacy screen presumably would have to be removable and not a permanent structure to allow access to maintain the garden which will impact on our enjoyment of our private open space.

Overlooking

The Advertised plans still incorrectly show our permanent existing boundary fence as being 2.75m rather than 2m and have used this to their advantage to calculate the potential overlooking of our private open space.

In conclusion I would ask you to please consider our objections. We are very concerned that the bulk and appearance of the Roof Deck from our perspective (as it has been set close to the Albert St boundary) will greatly impact on the enjoyment of our property and will be able to be viewed from the streetscape of Albert St.

Sheelagh Wood

Phil Prosser
2. Mr Nicholas Rathgeber (O)

To members of the Planning & Amenity Committee

As the owner of an adjacent property at 14 Albert Street I continue to object to the proposed roof deck at 45 Sussex Street, Brighton on the below principal grounds;

1. Proposed Roof Deck out of character and appearance with adjacent buildings
2. Proposed Roof Deck setback insufficient
3. Views of proposed roof deck into secluded private open space and habitable room windows not limited

I maintain my objection based on the 3 reasons however it is the breach of the privacy of my family that I am most concerned about. I do not believe the design of the roof deck limits views into the secluded private open space of my rear living area but most of all my backyard. My 3 children are currently 3, 6 and 8 and I am very concerned about people observing my children, particularly my 3 year-old daughter and my wife in our backyard and our pool area. This currently secluded area is the sanctuary of my young family, particularly in summer and it is not right for our privacy to be lost just so neighbours can occasionally enjoy some views from the fourth level of their already very large house. Whilst the frontage of the subject property to mine is not large, it is on the rear northern boundary, the north-west view-line to the sunset is over my property and secluded open space and so would arguably be the most popular view line from the proposed roof deck. Based on plans provided the proposed roof deck would allow clear views into our secluded private open space.

Further, Page 9 of the agenda for the meeting on 21 July 2020 states – (NO SCREEN IS PROPOSED TO THE NORTH, HOWEVER THE SETBACK FROM BOUNDARY (7.1M) COMBINED WITH THE HEIGHT ENSURE THE VIEW LINES OVER THE THAT INTERFACE WOULD BE COMPLAINT WITH OVERLOOKING STANDARDS (NO OBJECTION WAS RECEIVED FROM THIS NORTHERN NEIGHBOUR). Ignoring two grammatical errors (I assume complaint is meant to be compliant), I assume this reference relates to the adjoining property to the north on Sussex St? They may be a northern neighbour however I am also a northern neighbour as the rear northern frontage of the subject property abuts my property. I do not believe the view lines of the proposed roof deck are compliant with overlooking standards. Again, the proposed deck and absence of a screen would allow clear views into our secluded private open space.

Lastly Page 6 of the agenda states that THE APPLICANT HAS BEEN IN PRIVATE CONTACT WITH OBJECTORS ATTEMPTING TO ADDRESS THEIR CONCERNS. This is not true as it relates to my property. The applicant nor any of their consultants or associates contacted my wife or I following our objection and I challenge the applicant to prove otherwise.

My wife and I wished to specifically buy a property in the Albert/Sussex/Victoria/Manor Streets locale and waited a long time to find a suitable one, due to the proximity to the beach and shops but also as it is a very quiet, quaint and private part of Brighton. Incorporating a roof deck into the construction of a neighbouring property spoils a key reason why my family and I chose to live in Albert Street – privacy.

Yours sincerely

Nicholas Rathgeber
3. Mr Edward Cusack (O)

Re Planning Permit 5/2020/140/1  45 Sussex St Brighton

I am one of the objectors. I note from the Agenda for the Committee Meeting tomorrow that it is claimed that “the applicant has been in private contact with objectors attempting to address their concerns.” Please advise the Committee that I have not had ANY contact whatsoever from the applicant or anyone representing them.

My objection still stands. I believe my privacy concerns still remain relevant. Simply stated I do not wish to have a roof deck overlooking my bedroom window & back yard.

The other point I would like to make is that it is questionable whether “the roof deck will have noise impacts consistent with those normal to a residential zone” as stated in Agenda notes. The proposed roof deck is at an elevated level & effectively a second floor. There are no intervening structures such as fences & walls which would assist in reducing the volume of noise.

I would appreciate you drawing these matters to the attention of the Committee.

Edward Cusack
4. Mr Jason Barnfather (A)

Planning and Committee Meeting
Item 4.1
45 Sussex Street, Brighton

Dear Councillors,

I hope that you are all well in these challenging times.

On Tuesday night, our application for a roof terrace will be presented to the Council for a decision, following a recommendation of support from the Planning Department. As always, I value the opportunity to discuss applications with Councillors and present at the Committee Meetings which I understand is not possible at this time.

I therefore ask you to take into consideration the following points when making a decision on this application:

- The site is located within the Design and Development Overlay 1, where a planning permit is only required for the roof terrace.
- There are other examples of roof terraces in the immediate area including at 27 and 33 Sussex Street and also 6 Park Street.
- The design complies with the mandatory requirements of the Design and Development Overlay 1 and this acknowledged by the Planning Department in their recommendation to support the application.
- The terrace a modest size (16 square metres).
- The terrace is set into the pitched roof form, thereby minimising its presentation to adjoining properties.
- Privacy screening was provided to the south side of the terrace to prevent some overlooking and sight line diagrams were provided to demonstrate compliance in relation to overlooking to the north and west. The extent of screening proposed was compliant with the relevant overlooking standard, however objections were received, primarily from the rear adjoining property owners who were concerned about more distant views into their properties. Having considered their objections and discussing the application with one of these objectors, we lodged an amendment to the application to introduce screening to the western (rear) edge of the terrace in an effort to alleviate the concerns expressed.

I trust this submission will assist with your considerations on Tuesday night and should you have any questions prior to the meeting, please call me on 99651930 or 0438880282.

Regards, Jason

Jason Barnfather
Director
99651930
0438 880 282
Office: 29 Judd Street, Richmond, Victoria, 3121.
Post: PO Box 3376, East Melbourne Victoria. 3002.

www.squareback.com.au
Item 4.2

62 Champion Street, Brighton
1. Dr Steven Brown (O)

Dear sir / madam

I am disappointed to review your agenda and see you have granted a permit for this application. I am dismayed you have failed to identify my property correctly as an objector and have instead marked 715 Hampton st. I call for this error to be corrected and councillors to again consider my concerns with an understanding of my property's location. I feels these errors are not accidental and instead designed to minimise the efficacy of my complaints. I also remain confused as to why my pool house windows are not represented in the submitted plans as pointed out in my objection letter. I call for this meeting to defer any approval given these substantial oversights. I am happy to be called if needed.

Thanks Steve Brown
2. Ms Cecile Lopez-Brown (O)

Dear Councillors

In reading the decision to Grant a Permit by the planning department I was struck that our concerns about overlooking from the massive first floor window was not addressed. I then see some 35 pages into this decision that Planning have failed to correctly identify our house as an objector and instead labelled our neighbour who does not share a common boundary. I cannot accept that due to consideration has been given to our concerns. I call for this Council meeting tonight to postpone any approval given this major error. I ask they specifically address our overlooking issues from this massive rear wall of glass.
Item 4.3

8 Monaco Crescent, Beaumaris
1. Mr Sean Thomson (A)

Bayside City Council
76 Royal Ave,
Sandringham VIC 3191

APPLICATION NO. 5/2020/130/1
ADDRESS 8 Monaco Crescent BEAUMARIS
PROPOSAL 2 New Dwellings

RE: Proposed Construction of Two New Dwellings, Swimming Pool and Tree Removal at 8 Monaco Crescent Beaumaris.

We wish to submit the following comments in favour of supporting the above application.

The dwellings have been considerably designed to provide quality accommodation for the owners, seamless street integration and complimentary to the streetscape while being sensitive to the amenity of adjoining neighbours.

We are very pleased to have received a positive response to all referrals and completed Advertising without any objections.

We look forward to progressing to a planning permit allowing our clients to build their dream home and have had a very pleasant experience dealing with Bayside Council throughout this application.

1. Siting & Site Coverage

- Minor front setback variations are being sought to strike a balance between quality Secluded Private Open Space to the rear of the dwellings while matching the prevailing front setbacks within the broader streetscape.

- Minor side setback variations are being sought at ground and first floor levels and considered reasonable due to the high level of articulation, low roofline, the clear separating between adjoining dwellings without visual bulk, overlooking or over shadowing. All mechanical services can be positioned comfortably at ground floor level.

- Minor Site Coverage variations are being sought and considered reasonable due to the high level of garden areas provided, quality landscape & outlook opportunities, minimal hardstand within the front setback, quality outdoor living spaces without adverse effects to neighbouring dwellings.

2. Tree Removal & Landscape Design

- The proposed tree removal has been fully supported by the council planning officer and arborist,

- The Native trees on the site that are proposed to be removed are predominately palm trees with Low Arbor Value and no Protective Value,
• The proposal allows to replant indigenous flora throughout the site including canopy trees such as Coastal Banksia and Weeping She Oak to the front and rear yards enhancing the preferred natural habitat for local Fauna.

• Substantial opportunities for quality landscaping have been provided to the front, side and rear gardens of the property further enhancing the natural environment and character for residents & neighbours to enjoy.

We will expedite any requests for additional information to enable advertising a.s.a.p. please contact me on 8587 9426 or email sean.thomson@lowerdesignbuild.com.au if you have any queries.

Kind regards

Sean Thomson

SENIOR ARCHITECTURAL DRAFTSPERSON
Item 4.4

17 Dalgetty Road, Beaumaris
1. Mr Kiril Jovanoski (A)

Re: 17 Dalgety Rd Beaumaris

Dear Councillors,

I would like to take this opportunity to present this unique Beaumaris project.

Understanding this project can be a challenge without a site visit or at least viewing of the 3D model, but due to the circumstances, this is the best we can do and below are the main project features. The existing situation is presented below. A large single dwelling with large pool, garage and mixture of native and exotic vegetation. There is an issue with the bus route, both with noise and loss of privacy, which has been addressed in the new design.
The proposal utilises existing structures and elements (reducing carbon footprint) as well retains the most prominent vegetation. We retain the garage (changing wall finishes and replace pitch with a flat roof) and retain the pool and surrounding fences and landscaping concept (shortening the pool length).

We propose 2 new dwellings with significant spatial separation. Unit 1 (corner) presents as double storey and Unit 2 presents as a single storey dwelling on large 901m2 corner block.
**Removal of vegetation**

The reason this project is on the agenda is the number of native trees proposed to be removed.

The proposal has been designed to retain the most significant trees #11 Flowering Gum and #15 QLD Brush Box.

Number of other trees like Tree #19 English Oak, located along the perimeter can also be technically retained, but due to their health, structure and species they have been recommended removal both by our arborist and the Council Arborist.

During the planning process the Council Arborist advised for removal of the most significant tree #15 due to its life span and health.

Accordingly, we have amended our plans and shown it replaced with Banksia integrifolia.
The proposal triggers few variations to the numerical standards of the Res-code:

- **Front Setback**
  The proposal is consistent with the neighbourhood character- varied and reduced front setbacks along this part of Dalgetty Rd. With the proposed setback, we can still maintain 13m high and 10m wide canopy tree.
  The application was lodged in November last year and no major issues were raised.
  However, last week the planning officer conditioned significant increase to the front setback of 1.1m along Dalgetty Rd.
  Furthermore, the condition stipulates the same to be done without changing any other setbacks or articulation.

To be able to maintain a good design outcome, we are seeking flexibility and ability to vary other setbacks as well the articulation.

- **Side setback and Wall on Boundary**
  The complex topography has another layer of complexity, with what used to be natural ground level and what is ground level now.
  Although there are few areas of numerical non-compliance with the setbacks, they are based on the worst case scenario and the natural ground level of the virgin land.
  The encroachments of the walls are minimal 187-479mm.
  The ground floor non-compliance refers to the existing garage that we are retaining.
  The other non-compliance relates to the eaves and structure of the balconies, which are allowed to encroach 500mm into the side setback but they encroach additional 500-600mm.
  With the existing terrain complexity and challenges we have achieved a great outcome with minor localized encroachments, satisfying the objective and respecting the neighbours amenity, and as result there are no objections to this proposal.

- **Front Fence**
  The proposed fence is similar in height with the existing paling fence. It has the same function, mitigating the noise and sightlines from the bus. The most sensitive part is around the corner where the bus turns on the roundabout. This part is kept obscure while still providing texture and articulation.
  Parts of the fence on both streets are kept transparent integrating the gardens with the streetscape, which is significant improvement from the current 2m paling fence.

**Miscellaneous**

Although irrelevant from a planning perspective, it may be worth mentioning in the current circumstance that this project is one of the rare ones not subject to finance and ready to proceed to site ASAP.

Sincerely

Kiril Jovanoski
Item 4.5

27 & 27a Walstab Street,
Brighton East
1.  Mr Phillip Stewart (O)

Submission to Application 5/2020/86/1 to be heard on 21 July 2020

Thank you (in anticipation) for reading this submission to its conclusion.

I understand your role, as councillors, is to consider the amenity impact of the Notice of Decision to Grant a Permit and to maintain the liveability of our wonderful municipality.

This development will not enhance the neighbourhood, nor that of our municipality at all.

Background

1. I am the owner of 25 Walstabe Street, the adjoining property on the southern side, which is down the hill, from the site area;
2. After demolishing two traditionally built houses (with eves, tiles etc), the developer will now replace this with 3 dwellings, each of 2 stories, located above a large underground carpark;
3. As a retired couple, my wife and I will be returning to live in our single level house shortly;
4. Both adjoining blocks are rectangular, and of very similar land size; and
5. My house was designed and constructed close to the dividing fence, and the main secluded private open space is not located at the rear of the site but to the north side very close to the dividing fence.

Planning objections.

I have read 4. Recommendation on page 189 and comment as follows:

1. While your town planner has accepted some of my earlier objections, I do not believe these modifications are still sufficiently clear enough to prevent a poor planning outcome.

   For example 1 (f) in my view still does not comply with cl 52.06.9 (Car Parking). The vehicle access ramp (to the 10 underground car spaces) must be a minimum 6.1 metres wide, not 3.6 metres wide, as appears to be now permitted;

2. Similarly, among all the headings, there is no mention of the sewer reticulated line for my property which crosses over the site to connect to Marriage Road; when there is demolition there is a real risk that I may lose my sewerage.

I have read 6.1 Neighbourhood Character on page 195, and I make the following comments:

1. How can this proposal “demonstrate an appropriate level of compliance with Attachment 3”, when the developers are literally squashing 3 double storey dwellings, and a deep underground car park, into the site?

2. How can the proposal show “generous landscaping opportunities”? If you really look at the plans, there are so many hard surfaces (eg dwelling 2 has no place for any canopy trees) this is patently not true, and will not happen.

3. It is not correct to say “The chosen external materials with muted tones and a contemporary design, incorporating architectural feature, results in a well-articulated built form.”
Driven by cost, the developers have chosen a limited number of materials & colours to construct a "box". When you consider the large windows, long horizontal windows, panels and render, the outcome will be akin to a commercial building (not residential) and it does not reflect the design of the majority of constructed surrounding residences.

4. Again, it is not correct to say "there is visual separation whilst viewed from the landscape". In order to maximise the density, the developers have unnecessarily created a visual bulk impact which dominates the streetscape. They have chosen not to separate the first-floor levels between dwellings 2 and 3 (as was done with dwellings 1 and 2). When viewed from both my house, and again from Marriage Road, the development will appear to every one as being one long continuous rendered white building.

5. While the proposed maximum building height of 7.1 metres may be less than the maximum allowed, the height does not show the true impact, because of the sloping effect of the ground level.

The development is at the top of a rise. My home is lower down the hill. The development is huge, particularly from the southern fence, and will overshadow our living rooms, particularly during 9 am to 3 pm period during the Equinox.

6. Again, to say "the proposed 2 m high fence along Marriage Rd is not considered inappropriate" cannot be correct.

By allowing an unnecessarily "high solid front fence" (albeit with gates having 50% permeability) facing Marriage Road, you are still allowing a fence which is contrary to the majority of neighbours. Both in Marriage Rd, and in particular Waiotapu St, the fences are predominantly open style fences and low to medium in height.

These solid rendered fences will not maintain the openness of the streetscape, nor views into their front gardens.

I have read the comments in 6.2 Compliance with Clause 55 (ResCode) on page 195, and I disagree with

1. Under the heading Walls or Boundary, your planner makes the statement that "there is little increased overshadowing to the dwelling to the south (25 Waikato Street)". This is not correct. The land slopes away from the east down to the west. Why should I suffer the consequences of averaging? Why should not the wall reflect the ground level and be no greater than 3.2 metres high?

Again, under the heading Front Fences, for your town planner to accept a solid rendered fence, 2 metres high and a variation of 800 mm, when this abuts to our low and open fence is contrary to your own standard of "encouraging front fence design that respects the existing or preferred neighbourhood character".

Finally, I cannot see in the Notice where

1. the developers have in fact provided the standard B28 (Private Open Space) of 40 sqm for both Dwellings 1 & 2, and
2. where the developers have provided tree assessments for the impact on my critical root zones and tree protection zones adjacent to, and located all along my northern fence line
   a. Trees 11, 12 & 13 are at real risk because the access ramp to the below ground carpark sits immediately beside them; and
   b. Trees 12 & 13 are at risk because they are located near the BBQ wall, rain water tank and a study room wall of dwelling 2.

Conclusion

What will this all mean?

My wife and I purchased this home in 1991 as our family home, and this proposed development is our nightmare scenario. It would be yours – if you were in our position.

If the development proceeds, then the developers will sell and I will be left with the consequences of

1. The development will dominate the streetscape (in breach of Precinct D4 of CI 22.06);
2. The high solid fence facing Marriage Road and Walstab Street are unwelcoming (and suggest a security issue);
3. Our enjoyment in retirement will be substantially impacted by
   a. the visual domination from the north, and
   b. the overshadowing of our open space and our habitable room windows (particularly from dwelling 2);
4. Some of my trees and shrubs will die; and
5. My backyard will provide the only true green belt in the area.

If you were me, I am sure you would feel the same.

I ask you to act accordingly, and refuse the application.

Thank you

Phillip Stewart
2. Mr Damon Hills (S)

Finnis
Architecture
Interiors
Communities

21/07/2020
Planning and Amenity Committee
Bayside City Council
Committee Meeting – Tuesday 21 July 2020

Dear Councillors,

APPLICATION NO: 2020/06/1 – 27 & 27A WALSAB STREET, BRIGHTON EAST

Thank you for the opportunity to make this submission on behalf of the permit applicant with respect to the proposed development of three dwellings on the land at 27 & 27A Walsab Street, Brighton East.

With respect to the proposed development, we submit that the proposed development represents a high quality, considered, and appropriate response to the relevant considerations of the Bayside Planning scheme and local conditions that apply to this site.

Architecture

In preparing the design response for this project, we were drawn to the close proximity to the Dendy Shopping Village only a few doors down and the generous land area, the corner site and the prevalence of two and three lot subdivisions in the immediate surrounds as well as three level apartments.

Our contemporary response successfully addresses both street frontages. The simple palette is highly articulated with light and shadow, achieved with varying heights and setbacks.

The low height and generous setbacks encourage a meaningful landscape, improving the contribution to the streetscape.

The three contemporary family townhouses further improve the housing diversity of this Brighton East location.

Planning

We submit that the relevant considerations of the Bayside Planning Scheme that apply to this site have been considered, being:

- Neighbourhood Residential Zone – Schedule 3,
- Design and Development Overlay – Schedule 3
- Development Contributions Plan Overlay – Schedule 1
We submit that the proposed dwellings have been designed to meet and exceed the key relevant standards that apply, including:

- Site Coverage.
- Building Height.
- Permeability.
- Garden Area.
- Car Parking.
- Side and Rear Setbacks.
- Private Open Space.
- Overshadowing.

**URBIS Town Planning**

URBIS Town Planners further submit the proposal responds to the relevant planning policy and is an ideal location for redevelopment given its location near the small neighbourhood activity centre, noting:

- The development assists with state and local urban consolidation objectives by providing an increase in house densities in well serviced locations.
- The development demonstrates designed excellence, incorporating well-articulated architectural features to soften the built form to neighbouring properties.
- The subject site is surrounded by several multi-unit developments including three dwellings on a lot at 23 Walstab Street and a three-storey apartment building at 770 Hampton Street.
- The proposal incorporates Water Sensitive Urban Design initiatives into the proposal to ensure that the proposal addresses the relevant requirements of the Bayside Planning Scheme.
- The proposal appropriately responds to the objectives of Clause 55 (ResiCode). A minor variation is required to Standard B32. The proposed front fence responds to the traffic volume that exists along Marigle Road. It provides a key connection between Nepean Highway and Hampton Street. This therefore warrants a taller and more solid front fence to ensure privacy to the north-facing areas of private open space. Therefore, we consider this variation to be appropriate.
- Future occupants will be provided with a high level of internal amenity through generously sized open plan living areas, spacious bedrooms, usable areas of private open space and private basement vehicle access.

**Objectors**

There were only three objections to our application, including 1 tenant at 25 Walstab Street and one from a neighbour across the road at 7 Marigle Road. Concerns were:

- Character
- Walls on the boundary (to 25 Walstab Street)
- Car parking

In relation to character, we submit that the development is appropriate contemporary response to the precinct guidelines being:

- To maintain and enhance the garden settings of the dwellings and rhythm of front boundary setbacks.
- To maintain the rhythm of visual separation between buildings.
- To minimise the dominance of car parking structures in the streetscape.
- To ensure that buildings and extensions do not dominate the streetscape.
- To maintain the openness of the streetscape and the views into front gardens.
In relation to the walls on the boundary to 25 Walslab, we submit that the proposed building will sit beyond the existing walls on the boundary, and with compliance with the Bayside setbacks, the building will be substantially recessive.

The parking provided on site is well in excess of the required carparking required under the planning scheme. We have provided ten spaces on site, being four spaces greater than the statutory requirement. Further, we are removing an existing crossover from Marriage Rd, increasing on street parking potential. In response to point that the residents will not use the basement as it is too difficult, we submit that the basement is fully compliant, and access is done with ease.

Summary

In summary, we commend the constructive engagement with the council planning officer through the planning process and both Finnis architecture and Urbis Town Planning support her recommendation to issue a Notice of Decision to Grant a Permit along with the permit conditions.

We respectfully request that the councillors support her recommendation this evening.

If you have any questions, please don’t hesitate to contact me on (03) 9948 9900.

Yours sincerely,

[Signature]

Damon Hills RAA
Associate Director
Item 4.6

18 Ocean Street, Hampton
1. Ms Vikki Tselepis (O)

WRITTEN STATEMENT FOR REQUEST TO BE HEARD AT COUNCIL PLANNING MEETING ON TUESDAY JULY 21, 2020.

OBJECTION TO GRANT A PLANNING PERMIT – 5/2019/708/1 - 18 Ocean Street Hampton.

MY STATEMENT IS TO RECONFIRM SIGNIFICANT HISTORICAL INFORMATION PROVIDED TO MY FAMILY IN JUNE 2020, BY THE FORMER OWNER OF 18 OCEAN STREET, (NAMED ON THE COPY OF THE TITLE IN THE PLANNING DOCUMENT) WHICH CONTRADICTS AND I BELIEVE INVALIDATES THE TREE HEALTH REPORT PREPARED BY LUKE STURGESS IN NOV 2019, CONTAINED IN THE PLANNING DOCUMENT. I ALSO WISH TO HIGHLIGHT THE AESTHETIC QUALITIES OF THE TREES.

THERE ARE 3 SIGNIFICANT TREES DISCUSSED IN THE REPORT AS WORTHY OF PRESERVATION.

THE TITLE HOLDER IN THE PLANNING REPORT HAS KNOWN THE PROPERTY, WHICH HAS BEEN IN HER FAMILY FOR AT LEAST 3 GENERATIONS, FOR MOST OF HER LIFE. SHE RECALLS BOTH TREE #2, CORYMBIA RED FLOWERING GUM, AND TREE #3 LIQUIDAMBAR, BEING PLANTED BY HER MOTHER AND BROTHER IN THE YEAR 1960.

AGE CLASS:

THIS INFORMATION PLACES BOTH TREES AT 60 YEARS OF AGE AND INTO THE ‘MATURE ‘AGE CLASS, RATHER THAN THE ‘YOUNG ‘AND ‘SEMI-MATURE’ CATEGORY IN THE ARBORICULTURAL REPORT.

SITE SIGNIFICANCE

THE DECIDUOUS LIQUIDAMBER IS CLOSEST TO THE STREET AND THE MOST VISIBLE AND DOMINANT TREE IN THE OCEAN STREET SCAPe. IT IS A LARGE BEAUTIFUL SIGNIFICANT TREE WHICH COMPLEMENTS AND CONTRIBUTES EXTENSIVELY TO THE LANDSCAPE OF THE STREET AND SURROUNDING HOMES, AND ADDS NATURAL BEAUTY, ATTRACTS BIRDLIFE YEAR-ROUND, AND BRINGS A POSITIVE ENHANCEMENT TO OUR WELL BEING IN OUR ENVIRONMENT.

THE SIZE OF THE TREES ARE LARGE, THE CANOPY OF THE LIQUIDAMBER SPANS AT LEAST 10-12 METERS IN WIDTH AND LIKELY MORE IN HEIGHT, AND THE FLOWERING RED GUM AT LEAST 9-10 METERS IN WIDTH, AS ESTIMATED FROM MY BACKYARD. THIS MAKES BOTH TREES OF SITE SIGNIFICANT DUE TO THE LARGE SIZE.

HEALTH:

THE ARBORICULTURAL REPORT SHOWS AN IMAGE OF THE LIQUIDAMBER ONLY IN THE DORMANT STATE IN WINTER.

I CAN CONFIRM THERE IS SIGNIFICANT HEALTHY GREEN SPRING AND SUMMER AND MULTI COLOURED RED AND YELLOW HUED DECIDUOUS AUTUMN FOLIAGE FOR 9 MONTHS OF THE YEAR, WITH A HEALTHY DENSITY OF GREATER THAN 70% AND LESS THAN 10% CANOPY DIE BACK TO THE NAKED EYE. WE SEE A HEALTHY TREE YEAR-ROUND. (THERE ARE PHOTOS ATTACHED BELOW IN MY ORIGINAL OBJECTION SUBMITTED IN JUNE, PHOTOGRAPHED IN MAY 2020 OF THE REMAINING AUTUMN FOLIAGE).
THE STREET SCAPE HAS ALREADY BEEN SIGNIFICANTLY ALTERED BY THE NEW MULTI DEVELOPMENTS IN THOMAS AND OCEAN STREETS. I URGE YOU TO NOT ALLOW THE REMOVAL OF THE LIQUIDAMBER TREE SO WE CAN PRESERVE SOME BEAUTY FROM THE ORIGINAL SUBURBAN CHARACTER OF THE ENVIRONMENT. THE TREES DESTINED AS REPLACEMENTS ARE A VERY POOR SUBSTITUTE FOR THIS EXISTING TREE. I BELIEVE A SENSITIVE RENOVATION /DEVELOPMENT OF THE ORIGINAL HOUSE AT 18 OCEAN STREET WHICH INCORPORATES AT LEAST THE LIQUIDAMBER AND IDEALLY THE FLOWERING GUM INTO THE PROPERTY WOULD BE MORE SUITABLE FOR THIS PROPERTY AND THE STREETSCAPE.

BELOW IS MY ORIGINAL OBJECTION SUBMITTED IN JUNE. PLEASE SCROLL TO SEE PHOTOGRAPHS OF LIQIDAMBER WITH THE LAST OF THE AUTUMN FOLIAGE OF THIS YEAR.

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OBJECTION TO GRANT A PLANNING PERMIT – 5/2019/708/1 - 18 Ocean Street Hampton.

Submitted by Mrs. Anna Tselepis, of 11 Thomas Street Hampton, property owner on immediate adjacent southern boundary of proposed development at 18 Ocean Street Hampton. This document contains three objections:

1. **Objection to removal of tree #3, specifically Liquidambar stryaciflua:**

I object in the strongest possible manner to the removal of this established Liquidambar tree.

This tree is a well-established attractive mature exotic tree which adds an attractive beauty and unique quality not only to my property, but also the surrounding properties and neighborhood ambience, and the overall quality of the treescape of Ocean Street and Thomas Street.

The photographs of this tree in the proposed plans, are taken in the tree’s dormant state. However, every Spring and Summer over two seasons there is a dense healthy and attractive green foliage, and throughout Autumn a beautiful display of changing colour from green to orange to a deep vibrant red until the start of Winter. It is dormant for only 3 months. The maturity and quality of this tree adds beauty for 9 months of the year, i.e. for 3 full seasons of the year, attracting birdlife throughout the year including in the dormant state and providing a cool pleasant shade at the height of summer.

The size of this Liquidambar stryaciflua adds a quality to the street scape, and neighborhood which has taken 60 years to develop. My recent conversation with the former owner of this property informed me that this tree, along with the Red Flowering Gum in the report, was planted in 1960 by her mother and older brother. This makes the Liquidambar a 60-year-old tree and therefore should be classified as ‘mature’ according to the classifications listed given this age, rather than the ‘semi-mature’ (i.e. 25 yrs. old) category in the Arborist’s report. This also applies to the Red Flowering Gum which the former owner reports was planted as the time.

While I understand that progress is necessary, I believe that the holistic quality of the neighborhood is something of we should not lose sight and perspective. Already I have experienced new developments on my immediate eastern boundary and to the immediate west of my property, and consequently have already experienced the removal of many trees from my neighborhood. We risk it becoming a concrete jungle. An exotic specimen tree such as this Liquidambar, which has taken 60 years to mature, is irreplaceable once a development such as the one proposed at 18 Ocean street proceeds. Whatever trees are proposed to be planted as compensation, will be far from being able
to replace this unique and beautiful tree and the enhancement to the quality of life, health benefits and enjoyment of my neighborhood. I urge you to save this beautiful tree.

Below are 4 images taken on May 6, 2020 toward the end of Autumn when most of the leaves have fallen. Unfortunately, I do not have any photos of Spring or Summer when then foliage is much denser and a light green. The first 3 images are taken in the street outside 18 Ocean Street, and the last 2 images from my backyard looking toward my boundary with 18 Ocean street.
2. Objection to the architecture and proposed building materials:

The architecture and building materials, as depicted in the photograph in the document are not attractive. It appears unsympathetic to the existing early period dwellings in the neighborhood. The development looks more like an office building rather than a residential building. It is an ugly building which does not seem to fit into the street.

3. Objection to the height and proximity of the building to my boundary:

Reason for objection - the proposed 3 storey development is located a few meters from and runs along the entire length of my northern boundary fence line which is the southern boundary of 18 Ocean Street.

Impact - This represents a significant increase in height which will mass over my property creating serious problems, the first is massing of the building along the boundary will visually alter and detract from the secluded but sunny open private space I now enjoy and have enjoyed as a resident of over 55 years, and second will overlook my property, and thirdly will create significant shadow for most of the morning onto the rear of my property at 11 Thomas street. My entire property risks being surrounded by 3 storey buildings on my northern boundary, as is already the case on my entire western boundary by 15 Thomas street, and on the opposite side of Ocean street at Number 9 Thomas street and 15 and 17 Ocean streets where I am now overlooked onto my entire property by these three, 3 storey developments.

Impact - My vegetable garden and a significant number of mature fruit trees including 2 large fig trees, 2 citrus trees, and a quince tree, will be in shadow created by the development for much of the day. I derive significant pleasure from my garden and object to the effect this will have on the health of my trees and garden.

Thank you.
2. Mr Andrew Wigg (O)

Dear Cr Rob Grinter (Deputy Mayor & Chair) and Councillor Members of the Planning and Amenity Committee,

I refer to Item 4.6 on the Committee’s Agenda for the meeting on 21 July 2020.

The report assesses the proposal for three (3) double storey dwellings at 18 Ocean Street Hampton under Application 2019/708.

I own the property immediately north of the site at 16 Ocean Street and lodged an objection.

I have reviewed the Council report and recommendation to grant a Notice of Decision and do not support the recommendation for the following reasons:

• The proposed design response does not provide appropriate space around the dwellings (and particularly between the site and my property) to maintain the garden setting of the dwellings;
• The proposed building setbacks, including provision of a basement and ground floor on the northern boundary, do not reflect the existing spacious visual separation of buildings;
• The proposed northern elevation is imposing and will create significant bulk adjoining my property and will loom over my existing Secluded Private Open Space and pool;
• The proposed bulk is exacerbated by the reduced setback of the proposed dwellings, which is significantly forward of my dwelling. The proposed setback may reflect the existing setback for the dwelling on 18 Ocean Street however the current dwelling is only single storey and appropriate in scale to the streetscape and adjoining dwellings;
• The design response and materials do not include elements of the existing dwelling styles; and,
• The proposed second floor setback does not satisfy the objective of Clause 55.04-1 (Side and rear setbacks) and its associated Standard B17, which further establishes that the proposed development is inconsistent with the character of the area and will impact my amenity.

On these grounds the proposal is inappropriate and I seek your support to refuse the application.

I hope the submission is clear and please do not hesitate to contact me on 0466 017 198 to discuss my concerns.

Regards

Andrew Wigg
3. Mr Tony Shepherd (O)

Planning and Amenity Committee Meeting 21 July 2020

Item 4.6 – 18 Ocean Street

Submission from Hampton Neighbourhood Association

Hampton Neighbourhood Association (HNA) supports development which is consistent with Bayside Planning Guidelines. In this case, HNA considers the application for a permit is not consistent with Bayside Planning Guidelines and should be rejected.

The proposed development is for three terraced townhouses of three storeys, with a side driveway to access basement garage parking within the Hampton MAC.

From the elevations and visual render it appears to be of relatively low quality in terms of finishes and appearance. Diagonally opposite is a recently constructed apartment development on the corner of Ocean and Thomas Streets, which, in HNA’s view, is also of relatively low quality in terms of finish and appearance. The low-quality standard of the current proposal therefore further degrades the valued character of Ocean Street instead of conserving and enhancing it.

This effect will be further exacerbated by the inadequate setback of the proposed development from the street. A 4.59m variation in setback sought from planning scheme requirements is both excessive/extraordinary, and will result in a completely different streetscape from that intended, exacerbating neighbourhood character concerns further.

Additionally, proposed site permeability, at 19%, is a stormwater concern, potentially affecting neighbouring residencies. HNA notes that site permeability would likely be compliant with planning scheme requirements if the front setback of the proposal from the street was compliant.

In light of the above, HNA urges councilors to reject the application and encourage the applicant to submit a proposal which better meets community expectations with respect to both built form compliance and also neighbourhood character.
4. Ms Isobell Vescovi (A)

Planning and Amenity Council Meeting – Tuesday 21 July 2020
Council chambers (via live stream http://stream.bayside.vic.gov.au/) – 7pm

Item 4.6 Application No.5/2019/708/1
No.18 Ocean Street, Hampton
Construction of three (3) dwellings

We act on behalf of Bankai Property Pty Ltd, the permit applicant, in relation to Planning Application No.5/2019/708/1 affecting the land, No.18 Ocean Street, Hampton.

Our client is seeking approval from Bayside City Council for construction of three, three-storey dwellings, constructed side by side, above a shared basement located in the heart of the Hampton Street Major Activity Centre.

Acceptability of proposal

The proposed application is worthy of a planning permit for the following reasons:

- The proposed development is consistent with the Zone purpose, decision guidelines and height expectations for the site, as set out in the General Residential Zone – Schedule 2 (GRZ2);
- The proposal complies with the requirements of Design and Development Overlay 12 and does not exhibit any unreasonable amenity impacts to neighbouring properties;
- The subject site is one that is suitable for ‘change’ and as a ‘residential opportunity site’ where building mass should be intensified, given its location in the Hampton Major Activity Centre and surrounding built form context (both existing and emerging);
- The proposal will contribute to housing growth and diversity within a major activity centre, where change is expressly encouraged by Council policy on account of the proximity to established public transport and services;
- The proposed development is consistent with relevant State and Local Planning Policy concerning design and built form, neighbourhood character and the environment and the objectives of Clause 55;
- The proposed development makes efficient use of an underutilised site and is respectful of the existing built form on surrounding properties;
- The proposed development will provide increased housing diversity within an existing established residential area by providing three (3) dwellings of contemporary style and
the proposal provides a well-articulated and high-quality design response.

Permit Conditions

Our client has reviewed all conditions of the Notice of Decision and comment as follows:

Condition 1a -
Compliance with the requirements of Clause 55, Standard B7 (Permeability) of the Bayside Planning Scheme.

The proposal achieves 19% permeability, which is only 1% less than the recommended ResCode requirement of 20%. Council officers recognise that an objective of this area is to provide increased housing densities. We submit that to achieve an objective for greater densities, it will be generally necessary to require that the residential standards in relation to setbacks, site coverage and permeability are varied.

A 1% variation to the permeable area is sought which equates to 6.1 square metres. Permeable areas within the development have been maximised, ensuring adequate landscaping and on-site stormwater infiltration is provided. A storm rating of 100% is achieved with a rainwater tank provided to each dwelling.

We submit that a minor variation of 1% is an acceptable outcome in an area where higher density forms part of the existing and emerging context and is contemplated by Council policy in relation to the Hampton Street Major Activity Centre.

Condition 1d:

Updated shadow diagrams submitted demonstrating compliance with Clause 55, Standard B21 (Overshadowing Open Space) of the Bayside Planning Scheme, with no increased overshadowing beyond the existing boundary fence shadow at 2pm.

To provide certainty to the requirements of the condition, we suggest that the wording of the condition is altered as follows:

Updated shadow diagrams demonstrating no additional shadow between 9am and 2pm beyond the existing shadow cast by the eastern boundary paling fence to the ground level private open spaces of 15 Thomas Street.

Compliance with planning policy framework

It is submitted that the proposal will achieve the following important State and Local Planning Policy objectives:

- The proposal provides an appropriate response to Clause 21.02 by providing a townhouse development in a location identified as a moderate residential growth area so as to respond to the changing needs of the community at a scale that is considered to be respectful to surrounding built form.

- It will facilitate residential development that makes efficient and appropriate use of the land (providing an increased yield), noting that the site is provided with excellent accessibility to public transport network (Bus routes No.922 and No.828 and Hampton Railway Station) while responding to the residential interfaces on adjoining properties (Clause 16.01, 18.21.03 and 21.06).

- The proposed dwellings are ideally positioned to take advantage of the recreation, transport, social and community facilities of the Hampton Major Activity Centre (Clause 21.02, 21.03 and 21.06). The site is approximately 150 metres from Hampton Street Local Shopping Strip, 500m from Hampton Foreshore Reserve and 200 metres from Hampton Railway Station.

- The dwellings will further diversify housing types found in this area, being contemporary, side by side, dwellings, in accordance with Council’s direction for improved urban design (Clause 21.02 – Built Form).

1 Planning & Amenity Committee Meeting – 21 July 2020, pg. 259

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- The development exhibits attention to detail such as amenity, accessibility, landscape design, urban design and architecture that will provide a quality contemporary addition to Ocean Street, consistent with other existing examples at No.9 Thomas Street (corner lot) and No. 15 Thomas Street (backs onto eastern boundary of subject site) (Clause 21.06 and 22.05).

- The proposed development contributes to the evolving and diverse nature of residential dwellings found within this area. Each dwelling will be articulated through the ground, first and second floor setbacks when viewed from the streetscape and well selected materials and finishes (Clause 22.05).

It is submitted that the proposal is entirely consistent with the State and local planning policy frameworks.

**Objections and response to objections**

A total of five (5) objections were received during the advertising period.

The grounds of objection raised by each objector can be summarised as:

- Retention of the *Liquidambar styraciflua* tree;
- Construction management related concerns;
- Supply of on-street car parking;
- Architectural language, materials and finishes;
- Height and massing of the building;
- Visual bulk to west facing dwellings at 15 Thornton Street;
- Proposed setbacks to southern boundary creating visual impact;
- Overlooking to the south;
- Shadowing cast onto south and east facing SFPs;
- Decreased front setback impacting rhythm of streetscape;
- Lack of front steps;
- Basement parking – cars will not be able to enter and depart in a forward manner. Vehicles will be parked on street; and
- Overdevelopment of the land.

A response is provided as follows:

**Retention of the *Liquidambar styraciflua* tree**

Whilst existing canopy trees can contribute to neighbourhood character, the amenity value of removed trees cannot be replaced with new, replacement planting. Small, medium and large canopy trees are proposed to be planted as detailed in the landscape concept plan prepared by Faukner & Chapman Landscape Design. Our client notes and accepts Condition 11 requiring larger canopy trees in the front and rear setbacks.

The arborist report prepared by *Sustainable Tree Management* concludes that the *Liquidambar styraciflua* tree (being an exotic tree) should be removed. The arborist report confirms that removal is acceptable as this tree is of low retention value, has poor structure and fair health. The arborist also confirms that due to this tree having a low retention value, it is not worthy of retention due to its decline in health that cannot be improved through modifications to the site and/or plant or structural defects that limit the long term retention of the tree.

The subject site is in the heart of the Hampton Street Major Activity Centre, where higher density development is encouraged and is supported by the controls and relevant policies that seek more ‘intense’ development and a change in built form and character over time. When assessing an application, a
balanced planning outcome is sought. We submit that the policy and DDO12 objectives for higher density outcomes contemplated in the activity centre should take precedent and are more important than the retention of one tree.

Council officers support removal of this tree.

Construction management related concerns

Whilst concerns relating to construction management are not planning related, our client is committed to ensuring that adequate levels of amenity are preserved for surrounding residents during the construction phase of the development. Our client notes and accepts Condition 21 requiring a Construction Management Plan to be submitted and approved by the Council.

Supply of on-street car parking

Ocean Street is provided with kerbside parking on both sides of the street. The eastern side of Ocean Street is subject to car parking restrictions, whereas the western side of Ocean Street is subject to 2-hour parking ‘8am-8pm Monday to Saturday’ restrictions.

The resident car parking requirements of Clause 52.06 of the Bayside Planning Scheme are fully met on-site (2 car spaces per garage, noting that no on-site visitor car parking is required as the land falls within the Principal Public Transport Network.

The proposal meets the car parking requirements and design standards of Clause 52.06 and, with the proposal for only three dwellings, we submit that the development will not impact the availability of on-street car parking on Ocean Street.

Architectural language and materials and finishes

The contemporary design delivers a well-integrated built form into the existing Ocean Street streetscape. The form and height of the development has been composed and articulated respectfully to avoid a “bookcase” design and impacts to adjoining buildings.

Particularly, the use of face brickwork, render finished in beige/sand, cladding and aluminium window framing will create visual interest and provide building articulation while expressing a natural palette. These materials combined are in keeping with the existing and emerging built form character of the surrounding area.

Height and massing of the building

The proposal results in a maximum building height of 10.23 metres, being below the 11-metre maximum, allowable height pursuant to the DDO12 and zone.

With respect to massing and acknowledging the site’s location in the Hampton Street Major Activity Centre, it is appropriate to form the view that the subject site is one that is suitable for change and a “residential opportunity site” where building mass should be intensified, given its location in the Major Activity Centre and surrounding built form context (both existing and emerging).

Visual bulk to west facing dwellings at No. 15 Thomas Street

The proposed dwellings are set back between 3.5 metres and 4.4 metres to the apartment building at No. 15 Thomas Street. Our client notes and accepts Condition 1b) which requires an increase in the setback of the second floor to 5.19 metres. This setback exceeds the recommended at Clause 55 (Standard 517) setbacks.

We note the setbacks of 15 Thomas Street to our client’s eastern is between 2 metres – 3.18 metres.

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As the application material demonstrates, the design has considerable regard for the wall height and setback profile contemplated at Clause 55. Wall heights and setbacks typically either meet or exceed the Standard’s expectations and, in doing so, will deliver acceptable visual outcomes in the neighbourhood setting.

There are aspects of the design which propose to depart from Standard B17, occurring at:

- The second level at the eastern, northern and southern setbacks (approximately 0.87-0.92 metre at most).

These variations from the standard are minor and compliance would have little appreciable impact on the form and appearance of the building when viewed from neighbouring properties, particularly No. 15 Thomas Street which is also three storeys in height and is set back less than what is proposed.

The development is well articulated using a combination and different external materials and colour variations.

Importantly, the building side and rear setbacks, and very limited construction on the boundary, enables the site’s outer edges to be landscaped. To the east, ample areas of landscaping is provided, softening the built form when viewed from No. 15 Thomas Street. In time, this vegetation will filter views of the dwellings from the residential properties to the east, south and north to degree acceptable in a neighbourhood that is expected to change over time due to its Major Activity Centre context.

We also note that the development, at its maximum height in the order of 10.23 metres is below the mandatory 11 metres permitted in the GRZ2 and DDO12, and further, that the dwellings contain no more than the maximum allowable three storeys.

Proposed setbacks to southern boundary creating visual impact

The proposal complies with Standard B17 at the ground floor level and first floor level at the southern elevation. Non-compliance at the second level is considered to be minor (approximately 0.87 – 0.92 metre at most) and acceptable as the shadowing impacts to No. 11 Thomas Street comply. As the land is in Hampton Street Activity Centre, where a more intensified built form is preferred and encouraged, the allowable encroachments contemplated by the Standard are appropriate and will not result in any unreasonable visual bulk impacts to No. 11 Thomas Street. Notwithstanding this, the ground floor, southern ground floor level is set back 2.7 metres and the southern first floor level is set back 4.45 metres, exceeding the required setback of 1.95 metres.

Overlooking to south

No overlooking will occur to the south. One habitable room window is provided at the Ground Floor Level of Dwelling 3 and will be screened in accordance with S22 as the existing paling fence is 1.95 meters above NGL. A south facing ensuite window is provided on the second-floor level of Dwelling 3, being a non-habitable room window.

Shadowing cast onto south facing Secluded Private Open Space (SPOS)

No. 11 Thomas Street is located to the south of the subject site and additional shadow will be cast to the northern portion of the SPOS of this lot. More than 400 sqm of SPOS will remain free of shadow between the hours on 10am and 3pm on 22 September therefore Standard B21 is complied with.

Shadowing cast onto east facing SPOS

Four (4) ground floor courtyards of No. 15 Thomas Street are located adjacent to the eastern boundary of the subject site. The courtyard located within the north-east corner is provided with 59 square metres of secluded private open space and will be subject to the most shadowing due to its size. The other three (3) courtyards are provided with 23 square metres of SPOS and are 100% in shadow between 6am – 12noon (consistent with existing conditions). No additional shadowing impacts occur at 12 noon and 3pm, with the shadow cast increasing at 2pm and 3pm.

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As these areas are less than 40sqm and more than 25% of the SPOS will be in shadow, a variation will be required to the Standard. We note that these areas currently don’t comply with Standard B2.1 due to the existing shadow cast by itself and the paling fence.

The additional shadow cast by the proposal is minor and is considered acceptable given the layout of the apartment building, being set back a minimum of 2 metres from the common boundary shared with the subject site.

In response to this concern, our client is accepting of Condition 1b and 1c which will ensure that the objective of Clause 55.04-5.

**Decreased front setback impacting rhythm of streetscape**

A minimum street setback of 7.59 metres is recommended to comply with Standard B6, that is, the average setback of the two adjoining buildings.

The existing dwelling at No. 16 Ocean Street is set back 12.18 metres from Ocean Street and the side elevation of No. 11 Thomas Street is set back 3 metres from Ocean Street. The existing dwelling at No. 18 Ocean Street is set back 4.61 metres.

Whilst a variation against the recommended setback of Standard B6 of 4.59 metres is proposed, the development has been sensitively designed to ensure that the building provides a transitional design response between both adjoining buildings whilst not dominating the streetscape. This has been achieved by the front setback of Dwelling 1 increasing from 3 metres to 3.85 metres where the land interfaces with No. 16 Ocean Street, providing a transition across the façade. In addition, the contemporary design, varied materiality, setbacks and substantial landscaping all assist with the proposal respecting the preferred neighbourhood character whilst making efficient use with the site.

In areas where higher densities are contemplated, it follows that reduced setbacks are appropriate, particularly where the mandatory height control and garden area are met; the discretionary site coverage requirement is met; and generous landscaping is provided.

We are satisfied that the varied front setback responds appropriately to the streetscape and provides sufficient area for landscaping.

**Lack of front fence**

By not providing a front fence, the proposal maintains the openness of the streetscape and views to each dwelling, which is consistent with the objectives of the Precinct F1 design guidelines.

**Basement parking – cars will not be able to enter and depart in a forward manner. Vehicles will be parked on street**

The memorandum and swept path diagrams provided by One Mile Grid which accompanied our submission confirms that all vehicles in the basement can enter and exit the site in a forward direction, complying with the design standard 1 requirement of Clause 52.06-9.

As noted above, the requirements of Clause 52.06 are fully met on-site and as such, there should be no loss of on-street car parking.

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Overdevelopment of the land

The proposed development makes efficient use of an underutilised site and is respectful of the existing built form on surrounding properties. The subject site has a number of characteristics which make it very suitable for medium density housing:

- It is a part of the General Residential Zone (ie Schedule 2);
- Location within the heart of the Hampton Major Activity Centre and DDO12;
- Proximity to community services and facilities;
- Good size and readily developable proportions;
- It is not proximate to any heritage places;
- The area is undergoing a level of change in response to the Hampton Major Activity Centre design objectives for higher density development; and
- It has a recent medium density development located to the east and west.

At its core, we consider that the proposal is not an over development and satisfies the relevant purposes of the GRZ and objectives of the DDO12 because:

- The scale, siting and design of the development has had regard for the mixed suburban character of the neighbourhood; and
- The proposal will contribute to housing growth and diversity within a major activity centre and where change is expressly encouraged on account of the area’s supply of established infrastructure and services.

Summary

For the above reasons, it is considered that the proposed development responds appropriately to the relevant planning controls and policies and is accordingly, worthy of a planning permit.

Should you have any further queries or require any further clarification on the above please do not hesitate to contact the undersigned via email or on 8648 3500.

Yours sincerely,

[Signature]

Isobell Vescon
Senior Planner

[Email]

SJB Planning

[Address]
Item 4.7

389, 391, 393D & 395 Bay Street, Brighton
1. Mr David Langmead (O)

SUBMISSION TO PLANNING AND AMENITY COMMITTEE MEETING 21 JULY 2020

Agenda Item 4.7

389, 391, 393D & 395 BAY STREET, BRIGHTON
NOTICE OF DECISION TO GRANT A PERMIT
APPLICATION NO: 2019/711/1
WARD: NORTHERN
City Planning & Amenity - Development Services
File No: PSF/20/10 – Doc No: DOC/20/189333

A. Variation to preferred building height

Schedule 10 to the Design and Development Overlay for the Bay Street Major Activity Centre requires an application to achieve outcomes including:

- A high standard of architectural design.
- Minimal impact on the amenity of adjoining residential precincts
- Respect for places subject to the Heritage Overlay.
- Transitions in scale to lower building forms

The proposal does not meet those outcomes as follows:

1. High standard of architectural Design

This criterion is not met.

The Council officers’ conclusion that the northern façade “reflect the style of more recent contemporary development on Warleigh Grove”, is incorrect. All recent contemporary developments on Warleigh Grove are set back from the street boundaries and the laneway, and are varied in their facades to the street.

Examples of new build in Warleigh Grove are below:

![Image of Warleigh Grove properties](image-url)
The Warleigh Complex, 32-42 Warleigh Grove, with 306 units and townhouses

Units 1-6 43 Warleigh Grove

The proposed building is monolithic, being three storeys built right on the northern boundary with a width across four current parcels of land, and the balconies of the fourth storey extending to the boundary – effectively four storeys right on the boundary. It will be the only three storey building adjoining the lane/Warleigh Grove or adjoining the street frontages of the residential precinct north of the laneway.

2. Minimal impact on the amenity of adjoining residential precincts.

The criterion is not met.

The building will have a major impact on amenity of the adjoining residential precinct in Warleigh Grove. The amenity will be adversely affected by:

a. the sheer immense scale will present a confronting and oppressive panorama to Warleigh Grove, especially as it is intended to build right up to the northern boundary of the property (the artist’s sketch at page 365 of the agenda appears inaccurate as it appears to omit the fourth storey);
b. the disproportionate height of the proposed building, and its mass, being the lower three storeys built to the northern boundary and across four previously existing properties, topped with two more storeys;
c. the lack of any setback for the rear of the proposed building onto the narrow, 5.6 metre wide laneway (boundary to boundary – there is no footpath on either side) which separates it from 55 and 52 Warleigh Grove Brighton. (The angle of the photo of the intersection of Warleigh Grove and the laneway, which is Figure 12 at page 377 of the Agenda, exaggerates the width and dimensions of the intersection).

The proposed residences will be able to look directly into habitable room windows of the residences at 55, 50 and 52 Warleigh Grove, and secluded private open space of 55 Warleigh Grove. The building will be only 9.9 metres from my bedroom window (not the 10.5 m asserted by the applicant). It will be only 7.6 metres from private open space on the south side of our property, contrary to Standard B22 (not addressed by the applicant or Council officers).

Further, the noise of the opening and shutting of the doors for the garage (24/7), loading bays and waste bays will be intrusive for residents of 55, 50 and 52 Warleigh Grove.

3. Respecting the Heritage Overlay

The criterion is not met.

The building will not respect the Heritage Overlay.

The north side of Bay Street Bay Street Heritage Precinct between the railway line and Hillcrest Avenue comprises shops of no more than two storeys.

The Statement of Significance for the Bay Street Precinct notes "...the precinct as a whole is unified by its fine-grained rhythm, its low scale, and its nineteenth and early twentieth century commercial character" (bolding and italics added for emphasis).

The proposed building does not respect the heritage significance of the Bay Street Precinct between the railway line and Hillcrest Avenue:

- it is not sympathetic to the scale and form of the existing heritage buildings.
- it is not concealed from Bay Street.
- it will have a high visual impact and detract from the significance of the heritage place. It will dominate the adjacent significant or contributory heritage places and the precinct as a whole. *The artist’s sketch at page 364 of the Agenda demonstrates the bulk and incongruity of the building.*

- The photo below show part of the north side of the Bay Street precinct between the proposed building site and Hillcrest Avenue.

Recognition of the small scale of existing buildings.

4. **Transition in scale to lower built forms in the area**

The criterion is not met.

The five storey building does not transition between the adjacent existing built form, which are one, two and three storey in Warleigh Grove, and two storey on the north side of Bay Street, and the preferred built form which is three storeys. The Coles building on the corner of Male Street and Bay Street is an exception to the Bay Street Heritage Precinct and the only building of such scale. It is on the south side of Bay Street. Bay Street from the Coles building to the railway line comprises buildings of one and two storeys. The Coles building setbacks begin at the second storey, not the third as proposed in the application under consideration.

There is no effective setback of the fourth storey on the building facing Warleigh Grove as the balconies extend to the boundary of the laneway.

**B. Car Parking/Insufficient Information**

The exemption for parking is not justified.
The building does not meet the requirements, and Council officers have not addressed the requirements.

The purposes of the provisions for Car Parking in the Bayside Planning Scheme include:

- To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.
- To ensure that car parking does not adversely affect the amenity of the locality.

The Car Parking Demand Assessment must address the matters specified in the Bayside Planning Scheme.

The applicant’s Car Parking Assessment does not address these matters nor does the report to the Committee.

Drivers frequently park all day in Warleigh Grove in the restricted zone (two hours) between Grandview Road and the unnamed laneway at the rear of the proposed development, apparently secure in the knowledge that Council officers infrequently police this street. As these drivers arrive around 9 am and depart after 5 pm it can be assumed that they are staff from businesses in Bay Street. Exemption from the requirements to provide on-site parking for the shops in the proposed building will add to the shortage of parking in Warleigh Grove and environs.

Whilst there is Council-provided off-street parking behind premises on the south side of Bay Street, the closest is some 300 metres distance from the proposed building, and is restricted to two hours during the week. The exemption sought will further reduce the availability of parking for all visitors to Bay Street shops.

Visitors to the building will also seek to park in Warleigh Grove. There is no parking allowed in the one-way laneway at all, nor from part of 49 through to 55 Warleigh Grove (nearest the proposed development), for safety reasons.

There are regular occurrences of parking in no standing zones in Warleigh Grove, including on weekends. As Warleigh Grove is quite narrow this is dangerous. Approval of this development will only increase this danger.

David Langmead

20 July 2020
2. Mr Andrew Cameron (O)

I propose the development is excessive in regards to complimenting its surroundings and
neighbouring properties. The height, scale and design is not in accordance with the Heritage
overlay Parking is less than required and will only add to the already extremely limited parking in
Warleigh grove and surrounds. When do we so NO to such developments. Precedence can
become a dangerous thing. I trust council has fully considered all safety aspects regarding the
laneway. Please refer to David Langmead’s more detailed submission which I totally support.

regards Andrew
3. Mr Andrew Gunter (O)

20 July 2020

The Chief Executive Officer
Bayside City Council

By email: enquiries@bayside.vic.gov.au

Dear Sir/Madam

Planning permit application 2019/711/1
389-395 Bay Street, Brighton

We act for D Salter, objector to planning permit application 2019/711/1, at 389 to 395 Bay Street, Brighton (the subject site). D Salter is the owner of a residential apartment on the uppermost floor of 380 Bay Street, Brighton, opposite the subject site.

Our client objects to the grant of permit 2019/711/1 on a range of statutory planning and strategic planning grounds, as set out below:

1. Height

The proposed 5-storey building height exceeds the preferred building height but without meeting the requirements set out in Design and Development Overlay Schedule 10 (DDO10) for preferred height to be exceeded.

DDO10 specifies a preferred building height for the subject land of 11 metres (3 storeys), and provides that any application to vary the requirements of the schedule "must... include an assessment of how any departure from a preferred building height or building setback specified in this schedule assists in achieving the design objectives and built form outcomes to be achieved for the proposal as specified in this schedule."

We have reviewed the permit applicant’s planning report and Council’s officer report and recommendation. Neither contains an assessment of how the departure from the preferred building height assists in achieving the design objectives and built form outcomes [our emphasis]. Therefore, a mandatory precondition to any variation regarding height has not been demonstrated, and either no variation can be granted or to do so is evidently premature.
2. **Setbacks**

Building setbacks do not comply with the provisions of DDO10 or with the Heritage Overlay (HOT47), with insufficient justification for departing from those controls provided.

Any varying of setback requirements under DDO10 can only occur following an assessment of how the departure assists objectives and outcomes referred to above. That has also not occurred in relation to setback variation. The required precondition to vary this DDO10 control is also absent, and Council’s jurisdiction to do so has therefore not been enlivened.

3. **Privacy Impacts**

The amenity effects of the uppermost levels of the proposed development have significant impact upon residential land associated with dwellings at 380 Bay Street, Brighton, partly as a result of excessive height, and partly as a result of insufficient setback.

Clause 3.0 of DDO10 requires Council to consider, inter alia, “the impact of the upper levels of the building on surrounding residential land” before deciding on an application. That land need not be residential zoned land, as the two terms are used distinctly and separately in DDO10.

Our client’s apartment and its balcony (which are residential land despite not being residential zoned land) are directly impacted by the two upper levels of the proposal. The balcony and all habitable rooms of our client’s apartment face toward Bay Street and the subject site. The proposal’s setbacks at those levels from the Bay Street property boundary are noticeably less than the 12 metres (approx.) by which our client’s balcony is set back from Bay Street, greatly affecting privacy in circumstances that are difficult to screen. This is possibly as a consequence of our client’s apartment complex being on a significantly deeper block more suited to its height. It may be that adequate setback of Level 3 and Level 4 dwellings and their balconies cannot be achieved on the subject (shallower) site.

The relative lack of depth of the subject site strongly suggests that any attempt to justify the proposed building height based on the height of a building opposite (380 Bay Street, on a site with more than twice the subject site’s depth) will result in compromised setbacks and amenity impacts on both the public realm (shadowing and streetscape impacts) and the private realm (residential privacy).

For the above reasons, those levels of the proposal over the preferred height in DDO10 should be removed, or the application refused.

4. **Public realm**

The greater height and lesser setback of the proposal compared with the DDO10 controls would cause additional shadowing in the public areas of Bay Street, with significant impact on the public realm between the autumn and spring equinoxes.

This impact, referred to also in section 3 above, also results from the attempt to justify the proposed building height based on the height of a building opposite (380 Bay Street, on a site with more than twice the subject site’s depth). The compromised setbacks and
amenity impacts on the public realm (shadowing and streetscape impacts) as well as the private realm (residential privacy).

5. Parking

The shortfall of parking spaces in relation to retail uses improperly assumes that customers of those retail uses would be more likely to walk than to drive to those retail businesses – a significant proportion of those potential customers will drive, therefore a shortfall of 10 parking spaces is an excessive shortfall.

It may be that, if more detailed research is prepared, a smaller shortfall (representing a minority of the spaces otherwise or usually required) could be acceptable – the research would need to be detailed, then reviewed for comment.

6. Strategic planning – mischaracterisation of the role of 380 Bay Street

The current application's proposed departure from the DDO10 preferred height and setback controls should not rely on buildings or other developments approved before the gazettal/commencement of Bayside Planning Scheme Amendment C101, the amendment that introduced DDO10 in response to previous development trends, which the Amendment sought to correct.

As was noted in the Panel Report for Amendment C101 (section 11.1, page 55), the Amendment was considered in a "design vacuum" since the lapse of interim controls in 2009. The development of 380 Bay Street was approved (permit 695/2009) by VCAT, in Carendon Property Investments Pty Ltd v Bayside CC [2010] VCAT 1879, after the lapse of interim controls and prior to the gazettal of Amendment C101. Even though the depth of 380 Bay Street allows (and has incorporated, thankfully) greater setback from Bay Street, it can be treated as a "design vacuum" permit, for which Amendment C101's DDO10 was in part an antidote.

Permits granted at variance with Amendment C101's preferred controls, without very careful consideration, undermine the strategic planning objectives of that Amendment.

7. Strategic planning should not be undertaken by statutory planning mechanisms

Strategic planning is to be undertaken openly and consciously under Part 3 of the Planning and Environment Act 1987 (the P&E Act), not by means of statutory planning processes under Part 4 of the P&E Act.

Any attempt to "reset" building heights or setbacks by means of planning permit applications, in a way which would risk being used as a precedent, "new context" or other justification for future developments exceeding DDO10 standards would be to adopt strategic planning outcomes by statutory planning means, contrary to Parliament's intention set out in the P&E Act.

The P&E Act provides for strategic planning to be undertaken in accordance only with Part 3, and (using entirely different procedures) statutory planning to take place in accordance with Part 4, unless a combined planning scheme amendment and planning permit are applied for together. That has not occurred here.

If Council decides to grant the application as it currently stands, it will have (in effect) also made strategic planning amendments by significantly varying preferred building envelope standards. Our client reserves the right to take any necessary steps to require
Council to implement proper strategic planning only by strategic planning mechanisms set out in the P&E Act. Our client also reserves the right to take any other available steps to oppose the application.

Generally

Please do not hesitate to contact the writer if you have any questions.

Yours faithfully
Hunt & Hunt

Andrew Gunter
Special Counsel

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cc: The Mayor and Councillors
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    Development Services, City Planning & Amenity
    planning@bayside.vic.gov.au
4. Mrs Helen Walker (O)

I raise specific objection to the following aspects of the proposal:

1. Design and Development Overlay – Schedule 10

The Design and Development Overlay provisions outlined in Schedule 10 Built Form Standards for Bay Street Major Activity Centre, specify a preferred building height of 11 m (3 storeys).

Any variation to the built form precinct provisions must demonstrate that the proposal will achieve the outcomes detailed below in italics.

I submit that the proposal is not eligible for the additional height sought above 11 metres, as the following design outcomes are not satisfactorily achieved:

- A high standard of architectural design.

The architectural design fails to meet built form setbacks specified in Schedule 10, specifically at third floor or above, buildings should be set back a minimum of 5 metres from the front street boundary and any street boundary adjacent to a Residential Zone.

Minimal setbacks are proposed from the Bay Street frontage, with upper levels cantilevering over those below. The building is set back only 3.2 metres, at its closest point, to a balcony balustrade. The reduced setbacks will form a dominant, rather than recessive, built form.

The northern elevation adjoining land in the Residential Zone, is a sheer three storey wall, a harsh interface at the southern end of Warleigh Grove. The building form also fails to achieve a 5 metre setback from the rear (northern boundary) from the second floor and above.

- Innovative environmental design.

Other than on-site rainwater harvesting, it is not clear how the development achieves innovative environmental design.

A BESS score of 51% only just achieves best practice, rather than excellence, which requires a score of 70%+.

Innovation scored 0% in the BESS Scorecard, with Stormwater Treatment the only area to receive full marks.

- Minimal overshadowing of adjoining streets, public spaces and residential properties.

A reduction in building height, and increase setback from the Bay Street frontage at upper floor levels, would see less shadow cast over Bay Street. This would improve the amenity of the public realm.

- Minimal impact on the amenity of adjoining residential precincts.
The building will present a bulky interface to the adjoining residential precinct, to the north.

- Respect for places subject to the Heritage Overlay.

The Bryce Raworth Memorandum of Heritage Advice dated 5 June 2019 clarifies that ‘While our support for the scheme is qualified at this stage due to the limited available documentation, the overarching style can be seen to respond appropriately to the style and character of the retained shops and broader heritage street wall.’

As such, it is not clear that Bryce Raworth has actually reviewed the application plan set or given his support to it.

The preliminary advice provides general support, but notes that:

‘Council may seek a more substantial setback, possibly of 4-5 metres for the visible levels above the facade. The greater setback at level 5 is supported.’(p5)

The report also makes a comparison between the Coles development, which is a new building on a very large corner site. This site is not located in the Heritage Overlay, and as such, is not comparable in terms of the built form outcomes anticipated.

- Transitions in scale to lower building forms.

The scale transition to lower building forms is questionable, with sheer walls and setbacks less than those outlined in the Design and Development Overlay.

Whilst a combined site provides opportunities, it will also set a precedent for all development to follow, with the reduced front and rear setbacks becoming the yardstick for future development.

2. Clause 21.11 - Local Areas

With regard to local policy, at Clause 21.11-2 Bay Street, Brighton, the site is located in an area designated Retail Core.

Policy envisages modern buildings respecting the traditional height of those older two storey shopfront buildings. The street setback proposed and building height we result in a dominant built form in this valued heritage streetscape.

With regard to design detail, The Bay Street Centre Framework Plan notes that the rear of the site has been earmarked for ‘future laneway widening’ and that ‘transitional heights are adopted at the interface to the Residential Zone’. These points are not adequately addressed in the application submission.

3. Summary

The proposal seeks approval for a built form at a height and scale significantly beyond that
anticipated by the preferred controls outlined in Design and Development Overlay – Schedule 10, with the scheme failing to demonstrate any outcomes which would justify the additional building height sought.

As a person occupying an apartment which will have a direct outlook to this new development, I am concerned about the adverse impact the development will have on the visual amenity of the area and the heritage listed streetscape.

I respectfully request to be kept informed of the application’s progression through Council’s planning application process. If you have any queries regarding this objection, please do not hesitate to contact me on 0417 532 179

Regards

Helen Walker
5. Mrs Judy Batten (O)

I am an 86 yo woman and I live alone on the first floor of the apartment block above Coles. I have submitted two previous objections to this development and so far my concerns have not been addressed by the applicants.

I remain extremely concerned that due to the height of the proposed development, which still exceeds the preferred building height for this area by 6 meters and 2 storeys, that I will loose my northern sunlight during the winter months.

The applicant has only provided details of overshadowing on the southern side of Bay Street for the 22 September ie for Spring. No information has been provided by the applicant for the shadow cast by their proposed building on the southern side of Bay Street for the 21 June ie the Winter solstice.

The winter sun is critical for my wellbeing living in my apartment. I have osteoporosis so vitamin D is vital for my health. It is increasingly difficult for me to walk outside and the current pandemic has only exacerbated this difficulty.

I do not believe the Council should approve this application without first sighting evidence that my winter sunlight will definitely not be impacted by this proposed development. This information must also be provided to me. I have been a rate payer living in Bayside for the past 55 years. I do not think this request should continue to be ignored.
20 July 2020

Planning and Amenity Committee
Bayside City Council
Committee Meeting – Tuesday 21 July 2020

Dear Councillors,

PLANNING APPLICATION NO. 2019/711/1 – NO. 389-395 BAY STREET, BRIGHTON

1. INTRODUCTION

Thank you for the opportunity to make this submission on behalf of the permit applicant, Brightbay Investments Pty Ltd, in relation to Planning Permit Application No. 2019/711/1.

The planning application seeks the development of a five-storey building, comprising two ground floor shops and 14 dwellings above, with 23 car parking spaces provided within two basement levels, and an additional car parking space at the ground floor. A key element of the proposal is the retention and restoration of most of the existing heritage façade, fronting Bay Street.

Since the pre-application stages of this application (prior to lodgement in December 2019), we have worked collaboratively with Council Officers to achieve their support and provide an outcome which also seeks to address many of the objector’s concerns. Notably, one objection was withdrawn after amended plans were circulated, following the initial notice period of the application.

Located within the Bay Street Major Activity Centre, the proposed development is generally compliant with the associated built form controls (DDO10) and where variations have been allowed, these have been appropriately justified as described in the Council Officer’s Report.

It is the submission on behalf of the permit applicant to support the recommendation of Council’s Planning Officer with respect to the proposed development.

We submit that the proposed development represents a site responsive design and responds appropriately to the relevant policies of the Bayside Planning Scheme applicable to the site, as summarised below.

- Clause 34.01 – Commercial 1 Zone – Schedule 1
- Clause 43.02 – Design and Development Overlay – Schedule 10 (Built Form Standards for Bay Street Major Activity Centre)
- Clause 43.01 – Heritage Overlay (HO747) (Bay Street Precinct, Brighton)

Applicant Submission Item 4.7 – Planning & Amenity Committee Meeting – 20JUL2020
2. KEY CONSIDERATIONS

This submission will focus on the key changes that have been made through the application process and our response to the key concerns raised by the objectors in relation to the proposal, including elements of the Council Officer’s report. This submission is to be read in conjunction with our response to objector concerns submitted to Council and included as Attachment 3 to Item 4.7 of the Meeting Agenda.

2.1. OVERDEVELOPMENT

The concern was raised by some objectors that the proposal is an overdevelopment of the site, however, there is strong policy support within Bayside’s Planning Policy Framework for the height and scale of the built form proposed and we believe its an appropriate outcome for the site.

In our review, the proposed development represents an excellent response to the Bay Street Major Activity Centre, which will provide for increased housing density and commercial activity on a consolidated site, while enhancing the heritage characteristics of the Bay Street Precinct. The proposed intensification of retail activity at the ground floor level and provision of housing above will improve the vitality of the area and strengthen the role of the Bay Street Major Activity Centre and is not considered an overdevelopment of the site.

To this end, the Council Officer’s Report notes that the assessment against the relevant provisions of the Planning Scheme, including Clause 58, ‘demonstrate that the proposal is not an overdevelopment despite being more intensive than what existed before’.

2.2. HERITAGE

We note that the subject site is located within the Heritage Overlay and specifically within the Bay Street Precinct, Brighton.

Notably, we submitted amended plans following notice of the application which incorporated various changes in direct response to comments from Council’s Heritage Advisor, including increased setbacks from Bay Street and the replacement of the first floor windows reinstated to match the original window.

As stated within the Council Officer report, Council’s Heritage Advisor is supportive of the amended application, subject to the inclusion of permit conditions for a Schedule of Conservation Works and a Demolition Management Plan, which we are happy to accept. Council’s Heritage Advisor notes:

‘the proposed façade treatment, massing and materiality, while clearly contemporary, responds to the valued characteristics of the heritage building through the strong horizontal emphasis, rounded corners, materiality and balance of solid and void. It is therefore considered that the proposed additions will be complementary and respectful to the heritage façade and will make a positive contribution to the precinct as required by Clause 22.05-2.’
2.3. CAR PARKING AND TRAFFIC

The proposed development provides 23 car parking spaces within the basement levels, which will be allocated to ensure that the statutory car parking requirement for the residential component of the development is met.

A waiver to the car parking requirements is only sought for the proposed shops. As outlined in the Council Officer’s report, Council’s Traffic Engineers are supportive of the shortfall in staff parking provided the car parking spaces are allocated as stated within the associated condition. We are happy to accept this as a condition on permit to ensure that sufficient spaces are allocated to the proposed shops, while ensuring the use of more sustainable forms of transport by future employees on site are encouraged.

While some concern was raised in relation to increased traffic congestion as a result of the proposed development, a Transport Impact Assessment was provided as part of the application which notes the increase in additional trips generated by the proposed development is not anticipated to compromise the safety or function of the surrounding road network. Further, we note that Council’s Traffic Engineer did not raise any concern in this regard.

3. CONCLUSION

Thank you for the opportunity to make this submission for the Council Meeting. In summary, we support the recommendation of the Council Officer and the Conditions within the permit and request that you support their recommendation this evening.

If you have any questions, please don’t hesitate to contact me on 03 9617 6623.

Yours sincerely,

[Signature]

Laura Dixon
Consultant
03 9617 6623
ldixon@urbis.com.au
Item 4.8

8-12 Were Street, Brighton
1. **Ms Belinda Evans & Mr John Campbell (O)**

Dear Councillors

**8-12 Were Street, Brighton – Application to Amend a Planning Permit**  
**Reference No 5/2014/666/2**

As longstanding residents of 5 Winmarleigh Close, Brighton we are pleased to have this opportunity to reinforce our key objections to the above Application. Our concerns relate to overlooking and overshadowing of our property from the proposed roof deck on Lot 6 and overshadowing from the proposed tree planting along the eastern boundary of Lot 6.

**Setting**

The western boundary of our property abuts Lot 6. Our kitchen/living room and dining room are on the western side of our house, close to the boundary with Lot 6 and facing Lot 6. We have large full-length windows, and double glass doors open from the living room and dining room onto a small patio which is adjacent to the boundary fence.

Our house is single storey, but because our land slopes downwards from north to south and east to west our living and dining rooms and patio are elevated relative to our land, the floors being only about 40 centimetres lower than the height of the boundary fence.

**Overshadowing**

As the windows in our living room and dining room face the west, we are dependent on light coming from the direction of Lot 6. While we accept the development of a two-storey house on Lot 6 as first proposed, we are greatly concerned about a further reduction in light by the addition of a roof deck. We note that after objections from neighbours the Applicant removed the proposed roof decks from Lots 1-4, but not from Lot 6.

We are also greatly concerned about the loss of light which would be caused by the proposed inappropriate planting on Lot 6 along our common boundary. (This is our first opportunity to comment on the current Landscape Plan.) We understand it is not usual for the Council to take loss of light due to vegetation into account, but we request that the Council does so on this occasion given the adverse impact on our property by the proposed planting.

On page 406 of the Agenda document prepared for the Committee Meeting the Planning Report acknowledges that, “These proposed trees will potentially have some impact on the sunlight access to the adjoining property at 5 Winmarleigh Close in the late afternoon and evenings.” In the winter months the impact would be greater. Because the only light into our kitchen, living and dining rooms is from the west, it is essential that any trees planted on Lot 6 along our common boundary do not exceed 4 metres in height (at maturity) above the ground level of Lot 6 (which is lower than our property) to prevent a further reduction in light.
The five Leucopin parviflorum (Coast Beard Heath) trees proposed along the boundary are expected to reach a mature height of up to 5 metres which would clearly be detrimental to us.

The Landscape Plan also shows that a Melaleuca lanceolate (Moonah) - which is expected to reach a mature height of between 5 and 10 metres and a width of 5 metres - is to be planted along the boundary of Lot 6 directly adjacent to the garden bed at the front of our property. We object to this as it would: (a) reduce the sunlight on the shrubs and other plants we have planted in our garden; (b) reduce the sunlight coming into our dining room; and (c) may interfere with the existing tree in the nature strip in front of our property near the boundary fence.

Further, the Landscape Plan shows that both types of proposed trees will extend horizontally over the boundary fence into our property which we do not want. It is vital that alternative trees that will be no taller than four metres at maturity and which will not extend over the fence are planted instead.

**Overlooking**

We are also concerned about overlooking from the proposed roof deck onto our patio and into our kitchen/living room and dining room. Condition 16(j) of the Planning Permit states that the Memorandum of Common Provisions to be registered on the titles of the subdivided lots must contain a clause regarding “The prevention of any overlooking from Lot 6 into the secluded private open space and rooms of 5 Winmarleigh Close, Brighton.” (Use of italics here and below is our emphasis.)

However, this requirement that there be no overlooking has not been adhered to. First, dot point 8 of Section 5 of the Design Guidelines prepared on behalf of the Applicant merely states that, “A roof deck must be designed to limit views into secluded private open space and habitable room windows of adjacent dwellings”, suggesting there will be some views (page 420 of the Agenda). Secondly, the Planning Report only refers to there being “no view to the secluded private open spaces or habitable room windows within 9 metres of the proposed roof top deck”, not that there is to be no overlooking at all as required by the Planning Permit (page 405 of the Agenda). Thirdly, the Planning Report refers to “a translucent glass screen being proposed above the parapet on the eastern elevation to further reduce overlooking impacts from the proposed roof top deck on the adjoining property to the east at 5 Winmarleigh Close”, suggesting there will be some overlooking (page 405 of the Agenda).

None of these limited views into our property is acceptable. There must be no overlooking into our property as required by the Planning Permit, otherwise the roof deck should not be permitted.

We respectfully request that you take our concerns into consideration.

Yours sincerely

Belinda J Evans and John C Campbell, per Belinda Evans
Item 4.9

39 Melrose Street, Sandringham
19/07/2020

Objection : Application 425/2017 | 39 Melrose Street Sandringham | Side Bar

1. Objection to proposal

Objection to proposed rear courtyard:
The proposed courtyard is set among apartment blocks and is overlooked by many balconies. It is not an appropriate place to have people consuming alcohol and will have a high impact (noise and disturbance) on the surrounding residents, which include children. The proposed courtyard is not walled in and everything in the courtyard can be seen from the rear carpark.

Amenities: There does not seem to be consideration in the application to appropriate toilet amenities, room for waste and recycling bins, wash down areas, ventilation, noise control and fire ratings.

Objection to the proposed increase in patron numbers: The proposed 66 patrons is three times the number of patrons approved in the original permit for this business issued less that three years ago.

Objection to the proposed increase in trading hours and days: The proposed hours are not consistent with the venue’s setting among apartment blocks and with nearby residential homes - or with the Bayside Councils Alcohol Harm Minimisation Policy which highlights ensuring a “minimal impact on neighbourhood amenity and alcohol related harms”, and which also states that “the risk of increased harms can be associated with venues that trade after 11pm”.

2. Objection to the disregard of previous assurances:

The owner of Sidebar reassured a concerned neighbour in writing in 2017 that “The rear yard at the back of 39 Melrose St does not form part of the wine bar”. Now, in disregard, we see a proposal for a rear courtyard to be added to the Wine Bar.

The original proposal to open a Wine Bar at 39 Melrose St stated that: “There will be no outdoor seating, all consumption of alcohol will be inside the premises”. In disregard to this statement, the premises have been trading on the footpath, and now propose a rear courtyard as well.

The original proposal also stated that: “The nature of the premises can only accommodate a limited number of patrons at any given time and will not result in a large influx of patrons into the Sandringham precinct”. In disregard to this, the latest proposal provides for a tripling of the original patron numbers.

Your Sincerely

Dr Gayl Robinson
2. Mr Andrew Robinson (O)

Request to be heard: Application 425/2017 | 39 Melrose Street Sandringham | Side Bar

I live with my family at 2/33-35 Melrose Street, Sandringham.

I would like to address the application and planning determination as they relate to:
- the proposed courtyard
- trading on Melrose Street footpath
- increase in patron numbers
- increase in trading hours
  - which will all negatively impact the amenity of the surrounding area.

The current application represents a significant step-change in the use and impact of these premises. At 66 the number of patrons would be triple the original permit granted less that 3 years ago. The proposed redline plan more than doubles the existing area available for the consumption of alcohol and the extended hours would have people leaving the premises in the early hours of the morning.

Many of the key impact mitigations that were included in the original application for this site are now being removed: all consumption of alcohol to occur inside the premises, seating for all patrons and the original trading hours.

Proposed courtyard

The proposed courtyard is set among apartment buildings, with other residential dwellings nearby, and is overlooked by a number of balconies. It is not an appropriate place to have people consuming alcohol in a courtyard setting and will have a high impact on the surrounding residents at all trading times, not just in the evenings as suggested by the proposed operating hours.

The application contains no details as to how the proposed courtyard is to be managed. The area will not be seen from inside the premises and the conduct of patrons could not be managed unless staff were permanently located in the courtyard at all times. The current fence is not solid and provides no mitigation to the proposed use of the courtyard.

The noise, lights, sights and smells associated with people consuming alcohol in the proposed courtyard would be a significant detraction and nuisance to me and my family in the use and enjoyment of our home and of other residents in the area.

The proposed mitigations in the planning determination - based on hours and numbers are not adequate. Effective mitigations would require walls and a roof.

Trading on Melrose Street footpath

With the increased number of patrons able to be accommodated inside the premises the trading on Melrose Street footpath should be stopped.

It cannot be possible to supervise or control the footpath drinking area from inside the premises.

The application and the planning determination do not prescribe adequate control or limitations over the trading on Melrose Street footpath. If trading is to continue on Melrose Street footpath then it should be subject to conditions on hours and numbers and with requirements covering supervision, screening, separation and safety for pedestrians and patrons. As proposed it appears that trading on Melrose Street footpath could occur until closing without any limitation as to numbers.

Where used the footpath is not particularly wide, the doorway to the premises is a chokepoint for pedestrians and patrons and without screening or separation of the drinking area from people using the footpath the trading on the footpath is a potential safety hazard.

The vibe is also quite different to outside seating at the restaurants and cafes in the Village - where people’s predominant purpose is food and coffee, not alcohol. As a result it is hard to walk along the footpath without feeling like you are walking through a bar and I avoid taking my children that way to the shops when there are people outside drinking.
Increase in the number of patrons
It is still not clear to me what the limit is on the maximum number of patrons for the entire venue. Is it 66 inside, plus 15 in the courtyard plus those on Melrose Street footpath? If 66 is the maximum number of patrons being sought then I ask that it be clearly stated to apply to the entire venue.

Significantly more people at this venue means significantly more impact on nearby residents - both while in any outside areas of the venue and when coming and going, including congregating on Melrose Street. The impact of the increase in patrons is exacerbated by the proposed changes to trading hours and trading on Melrose Street footpath.

I agree with the requirement in the planning determination for acceptable amended plans demonstrating that all patrons at the venue can be comfortably seated at all times, but I question whether those plans should be provided as part of the application process and open to public consideration rather than as something to be provided after approval.

I still wonder whether 2 toilets are sufficient for 66 patrons plus staff. It is not how I read the QS report supplied.

Extended hours
The proposed change in hours will change the nature of the venue and its patrons, particularly later in the night. It will make it a venue for "last drinks", with people who have been drinking at other venues arriving late in the evening to continue drinking. It will also become a venue where people can drink for long periods of time.

The proposed extension in hours are not consistent with the venue's setting among apartment buildings with nearby residential homes or the Bayside Councils Alcohol Harm Minimisation Policy.

[extract from policy] Council will seek to achieve trading hours of alcohol outlets to ensure minimal impact on neighbourhood amenity and alcohol related harms. Evidence indicates that the risk of increased harms can be associated with venues that trade after 11pm in residential areas.

The application identifies that the premises are adjacent to residential properties and that Melrose and adjoining Streets include mixed retail and residential properties.

Sandringham already has a purpose built venue in the Sandringham Hotel that can meet the needs of those who want to drink after 11pm, with appropriate supervision and security.

In closing, while the premises are within the Sandringham Major Activity Centre, I would suggest that good planning of mixed retail and residential areas should provide balance. Both aspects should work together and each enhance the other, and it does not follow that because something could be permitted that it should be permitted. For the reasons given I do not consider that the current application and the planning determination have got that balance right.

Thank you

Andrew Robinson
3. Mr Trevor Bell (O)

I spent 10 years working in the Wine Business and I have often enjoyed a glass of wine at Sidebar. However, I am objecting to the proposed Application on the following grounds:

1. The significant expansion in both number of patrons and hours of opening is wholly unsuitable / unnecessary and will result in significant damage to the amenity of the area.

   - The premises will have trebled in size in 3 years from 26 patrons when the premises opened in 2017 to a proposed 66.

   - The extension of opening hours to as late as 1am (vs. a maximum of 11pm currently) is excessive
     - Sandringham does not require premises where close to 70 patrons could be spilling out onto the streets at 1am, causing noise and disturbance to residents, both those in close proximity and those in the Village as a whole, and causing significant damage to the amenity of the area.
     - Extending opening hours to 1am will result in the premises becoming a venue for last drinks in the early hours of the morning, increasing the likelihood of anti-social behaviour directly adjacent to residential properties.

   - The provision of an open-air Rear Courtyard 4m-10m directly beneath Residential dwellings is wholly unacceptable and directly contravenes previous commitments given by the Applicant
     - The photographs below show the immediate proximity of several apartments to the proposed Courtyard.
At the time Council granted the original permit in 2017 an explicit written assurance was provided by the owners of Sidebar (who continue to own the business) that the rear yard would **not form part of Sidebar** and would remain part of the residence at 39 Melrose St.

- Councillors have been provided with copies of this correspondence by my immediate neighbour Simon Richardson in 3/33-35 Melrose St.
- Based on this written assurance, an Objection to the original Sidebar application was withdrawn and Council decided to grant a permit with the Objection having been withdrawn
- To now propose a Courtyard given the above background is unacceptable.

2. **The Applicant has significantly deviated from the basis of the original permit and I am concerned that they cannot be relied upon to respect any conditions associated with the latest Application**
   - When the proposal to open a Wine Bar at 39 Melrose St was first lodged in 2017 it stated:
     "**There will be no outdoor seating, all consumption of alcohol will be inside the premises**"

Sidebar now has tables on the footpath to the front of the building for the consumption of alcohol.

**I believe this is in breach of the redline area on which the original permit was granted.**

In conjunction with the proposal for a rear Courtyard - in direct contradiction to written assurances to the contrary at the time of the original permit application, which resulted in Objections being withdrawn - this is unacceptable.
4. **Ms Annette Bell (O)**

I would like to object to this application as it would have a negative impact on the amenity of the area.

The Sandringham village structure plan encourages the development of shop-top housing in Melrose and other streets as this provides a "human presence" day and night.

As shop-top residents of 10 years we welcome the addition of shops, cafes, restaurants and bars and support many of them.

We also accept the fact that there will be a certain amount of noise associated with where we live (delivery lorries and general trading etc).

However, allowing a wine bar to trade until 1am, having an open rear courtyard in extremely close proximity to residences and increasing patron numbers significantly is not in keeping with the shop-top housing goal of a harmonious environment.

The close proximity of the rear courtyard would mean an unacceptable level of noise for those residents who live at the back of Melrose, Waltham and Station Streets and also the Crescent. It would mean up to 10 hours a day of unacceptable levels of noise from the courtyard as the applicant is seeking to operate from noon every day.

The extension of the hours until 1am would significantly alter the character of Sandringham Village and attract those looking for somewhere to drink between 11pm and 1am.
5. Ms Kate McCombie (O)

Request to be heard:

I have been a property owner and resident at 29-31 Melrose St, Sandringham for over 15 years and currently enjoy a pleasant and comfortable level of amenity living within Sandringham village. I have concerns regarding the application, particularly in the following areas:

1. The Proposed Rear Courtyard.
Only a few years ago this area was a backyard to a shop/residential property. The proposed courtyard area is completely open (now surrounded by an open topped metal cage). If approved, the proposed courtyard would result in greatly increased activity and noise coming from the rear of the bar. The applicant makes no provision whatsoever for the containment of any of this noise. There has been no acoustic report provided. I believe the proposed courtyard area should be rejected in its entirety.

2. Disposal of Bottles and Waste Management
The disposal of bottles also adds to the noise generated by this venue. The triple whammy of extended trading hours, extended premises and increased numbers of patrons will mean a far greater number of bottles, cans, etc and waste being thrown into bins and then later collected by large garbage trucks. If Council were to grant an amended permit I believe it’s important to include conditions regarding the appropriate disposal of waste items.

3. Suitability of Premises for Increased Patron Numbers
When the bar initially made its application for a permit less than 3 years ago the maximum number of patrons was set at 22 people. Now the applicant wishes to use the old residence at the rear of the property to enlarge the bar and increase patronage to 66 people. The residence was never designed to contain the noise that a bar generates and the applicant is not proposing to upgrade the building so that it may be suitable. I do not wish to live in the vicinity of a licensed establishment where the noise cannot be adequately contained.

4. Suitability of 1am closing
We already have a number of premises in Sandringham village with a 1am licence. Whilst I believe that it’s entirely reasonable that Sandringham village should have a “nightlife” I also believe that such nightlife shouldn’t have an unreasonable impact on the amenity of the area. The later closing hours will inevitably attract a younger patronage, many of whom will come from other venues, looking for a “bar of last resort”. This would be highly detrimental to the amenity of the neighbouring residential properties.

5. Pedestrian Amenity
The applicant currently takes up a considerable proportion of the narrow footpath outside the premises with wine barrel tables and chairs, outside the approved red line plan. If approval is granted to trade on the footpath then this should be limited by patron numbers and the times should be restricted.

I’ve been living in a Major Activity Centre for 15 years now and would like to see a balance maintained where neighbours are respectful towards each other and good planning decisions prevail.

Regards,
Kate McCombie
6. Miss Mimi Nguyen (O)

Dear sir or madam,

My name is Mimi Nguyen and I have been a proud resident of Bayside Council, specifically Bay Street Brighton, since 2016.

Having lived in South Yarra, Prahran and Richmond suburbs as a tenant for the better part of 10 years, I decided when it was time for me to purchase my own home, I would find a place that’s not a concrete jungle and as respectful to the community spaces as possible. After much research, I chose Brighton due our famous leafy streets, beach walks, sunny open spaces, friendly neighbours and three storey mandatory height controls would protect these qualities. I saved enough money to get myself a flat that has tree top views and city skylines at night. It is my pride and joy.

Having a development at this height and size (on a heritage building) and directly blocks the view from my flat would be heartbreaking and completely out of character of the area. This would negatively impacts the value of my property as well as the value of our street. Please protect Brighton from becoming another South Yarra where banks have blacklisted due to oversupply. The image every Melbournian has when we think of Brighton is not the one this development offers (including seeking reducing the set backs from 5m to 2.5m and also reducing the number of car parks normally required).

As a council rate payer, I urge you to protect our space, my and your rate payers’ interest.

Thank you for your time and consideration.

Mimi Nguyen
Dear Councillors,

I live with my partner in townhouse # 3 of 33-35 Melrose Street, at the rear of Ulysses bookshop, and 2 doors down from Sidebar wine bar located at 39 Melrose St. My main objection is the proposal to include the small rear courtyard within the proposed extended redline plan, for the purposes of drinking of alcohol by patrons.

I also do not think the proposed extended hours beyond 11pm during weekdays is appropriate, nor beyond midnight on Friday / Saturday. My partner and I do not wish to see Sandringham become a late-night drinking ‘destination’ with associated anti-social behaviour.

The Courtyard: Background + Broken promise by the applicant:

When we purchased our property in 2015, 39 Melrose Street was a standard, quiet retail premises operating during the daytime only. It then applied for a change of use in 2017, to become a high-end wine bar. We objected because of concerns over the courtyard, including Smoking, Noise and Littering. We withdrew our objection after receiving a written reassurance from Mr Ray Purcell of KPA Lawyers, on behalf of 39 Melrose Street, reproduced below (the full letter is attached as an Appendix to this document):

“To alleviate your concern I can confirm:

1. The rear yard at the back of the property 39 Melrose Street, Sandringham does not form part of the wine bar.
2. The rear yard will, in the future, be fenced and be part of the residence at the rear of 39 Melrose Street, Sandringham. This cannot however be done until the building works at 58 Station Street, Sandringham have reached a certain stage
3. There will be no access to the wine bar from the rear of 39 Melrose Street, Sandringham.
4. There will be the need to have an emergency exit from the rear of the wine bar through the back of 39 Melrose Street, Sandringham. This will be a fire exit door.”

Points 1 & 2 make it clear that the rear yard is part of the residential property at the back of 39 Melrose Street, and that it will also NOT be used as part of the wine bar in the future, other than to serve as a rear fire exit.

It was based on these assurances that my partner and I withdrew our original objection to the granting of the initial license to Sidebar in 2017. I find it totally unacceptable that the applicant has blatantly disregarded their
earlier promise to us. We trusted them, especially since the assurance was provided by a Lawyer. I wish now, with hindsight, that I had asked the Council to include the exclusion of the rear courtyard in the permit, at the time I withdrew my objection, and that the previous assurance could be enforced.

With a breach of good faith such as this, it casts doubt on any further promises from the applicant.

I am also extremely disappointed that Mr Purcell of KPA Lawyers, and his son Erik (the applicant + owner of Sidebar), are pushing ahead when they know that it is against all their immediate neighbours’ wishes. Residents within 58 Station St, 33-35 Melrose St, 31 Melrose St, Waltham St and The Crescent are opposing this application. The applicant is changing the status quo, from the rear of 39 Melrose St being a residential property, to a commercial one, and does not seemingly care about the impact to his neighbours.

**Misleading proposal:**

The proposal states on pg 4 that ‘it has been identified as a need’ due to ‘higher density residential development’ – but neighbours surrounding Sidebar, on all flanks, including 58 Station St, 33-35 Melrose Street, 31 Melrose St and Waltham St, are part of the ‘higher density’ and do not want it!

**Outstanding Problems with the Proposed Courtyard:**

- All noise in the courtyard will reverberate loudly between the neighbouring buildings of 58 Station St + 37 Melrose St, rising-up to the balconies of 58 Station Street + 33-35 Melrose Street, which are only 4m + 7m away from the courtyard, respectively.
- Unlike some commercial noises which are intermittent such as deliveries/collections, the noise of patrons drinking in the courtyard will likely be constant.
- There are no meaningful measures provided by the Planning officer for preventing Noise from courtyard patrons adversely affecting the amenity of the neighbours who sit on their outside balconies or who wish to have their balcony doors/windows open.
- The Planning officer has not requested an Acoustic report and has not quantified the impact of noise of patrons drinking in the rear courtyard in such close proximity to the residential properties, yet has made a recommendation to allow it with an arbitrary figure of 15 patrons. How is this fair to the residents?
- The Planning officer states that he has mitigated the concerns over the courtyard by putting a cap of 15 patrons in this small courtyard, and by restricting the hours of use to 9pm (Sun-Wed) + 10pm (Thurs-Sat). There is no mention of how the Planning officer arrived at the figure of 15 patrons, which seems far too many. 15 patrons can make a lot of noise when intoxicated. I also don’t understand how putting a cap of 15 persons and allowing the use of the courtyard up to 9pm/10pm resolves any of my concerns, as I wish to use my balcony during the daytime/evening, not after 9pm/10pm.
The Planning officer’s mitigations mentioned in his recommendations for the courtyard are insufficient and are also flawed. They rely on the “State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1” (SEPP-N-1 policy) to control the noise emanating from the land (including courtyard). However, I spoke to the Planning officer on 17-JUL-2020 and he did not realise when he made his recommendation that the SEPP-N-1 policy excludes from its scope the assessment of ‘Music’, ‘Voices’ and ‘Noise from crowds’. These are the exact things that concern me: noisy voices/behaviour and music, only 7 metres away from my property. So, what is the redress available to the neighbours if the courtyard patrons are noisy, since SEPP-N-1 does not assess noise from voices or music?

- The Planning officer has not considered whether music can be played in the courtyard. If music were to be played, then the volume of voices and overall noise will be even worse.
- How can I trust the applicant not to relax the No Smoking rule in the future, given they are reneging upon their promise from 2017 about the rear courtyard?
- Although the applicant has told me by email that there will be no access between the courtyard and the carpark, how will they stop people entering/exiting via the courtyard gate, and patrons opening the gate to let their friends in? Is the courtyard gate to have a proper fire escape opening, so that it can only be opened from the inside in the event of a fire or for collection of bins? And what is to stop the applicant relaxing this rule in the future?
- Are Sidebar going to have staff permanently supervising the courtyard to ensure the limit of patrons is not exceeded?

**Noise from the proposed internal dining in the current residential building:**

The rear building may not be suitable to contain the noise that will be the inevitable consequence of the increase in numbers. The rear building (what has been a residence to date) is timber stud and will be porous, not containing the noise sufficiently. Noise will also be able to escape from windows and open doorways leading into the courtyard. There has been no Acoustic report provided to prove otherwise.

**Late night drinking ‘destination’:**

- Sidebar already fulfils the requirement of Sandringham – for a quiet drink at a high-end establishment.
- It is now trying to extend its opening hours to midnight and 1 am on weekdays (12am: Mon-Wed + 1am: Thurs) and to 1am on Friday/Saturdays, for which there is absolutely no need. It is certainly inappropriate to open to midnight on weekdays, when noise of leaving patrons may disturb sleeping residents.
- Sandringham is not known as a late-night drinking destination and should not become so. To allow it to do so will reduce the amenity of the neighbourhood, cause anti-social behaviour, reduce the desirability of the village, and adversely affect the residents, for the benefit of those that might travel into Sandringham from outside just so they can continue drinking after other bars have closed.
• Have the Sandringham Police been consulted whether they want late night drinking in the village?
• To allow Sidebar to become a late-night drinking destination will change the fundamental nature of the village, and not for the better.

Pushing the boundaries:

• As per Sidebar’s original proposal back in 2017, page 28 of the ‘advertised document’ stated that “There will be no outdoor seating, all consumption of alcohol will be inside of the premises” but this has not been the case, as they extended seating onto the front pavements outside 37 + 39 Melrose St (both sanctioned by Council without consultation with neighbours, and against the applicant’s own initial proposal). Refer to the photo in Appendix 3 (page 13) of the current proposal that shows the tables/barrels that provide seating for approx. 20 extra patrons.
• Furthermore, since the redline plan of the existing planning permit (5/2017/425/2) does not include the front pavement area, does that mean that Sidebar has been serving alcohol to patrons on the front pavement outside of their Council permit?

Major Activity Centre (MAC):

Although we are in a Major Activity Centre (MAC) in a Commercial Zone, the Council policies have also been to encourage the mix of residential properties with commercial ones, promoting the ‘shop-top’ housing concept. Our apartments are built over the Ulysses bookshop, so we fit into this category. I understand that being in a MAC zone, we should balance the rights of the commercial activities with those of the residents, and that we have a reduced expectation of residential amenity, however our residential amenity has not been given any real consideration by the planning officer, nor our own wellbeing. The courtyard was never a part of the wine bar, we were given a written assurance by the owner that it wouldn’t be, and the courtyard only looks into a car park with no views of the Bay from the ground level. The Council has already provided a seating permit for the front outside pavement area and the proposed extended redline plan is to include this, therefore there is no need to include the rear courtyard at the expense of the neighbours’ amenity, since there is already ample outside seating at the front. This application is being driven for sole reasons of profit and not for the good of the whole community, as it’s at the expense of the neighbours who, on all 3 sides (west/east/north), have objected to the courtyard.
Summary:

This is a very significant expansion proposal, in terms of trebling the original number of patrons, with unnecessary extended hours of opening, inflicting noise on the neighbours from premises that are not designed for such large numbers of patrons, and from a courtyard that is unnecessary.

There is potential for anti-social behaviour when a larger number of patrons leave the premises late at night, in a more drunken state.

The Planning officer has not taken the objections of the residents seriously enough and has not done due diligence regarding the rear courtyard, since he has not evaluated and quantified the noise impact and has not provided any safeguard to the residents in respect of the same.

There has been insufficient consideration provided to the rights of the ‘Shop-Top’ residents. The Council’s Wellbeing Coordinator has only considered the health and wellbeing of the patrons, not of the neighbouring residents.

The application for the courtyard should be declined as unnecessary and harmful to the nearby residents. It is a proposal based on economic profit for the owner rather than what is best for the whole community. The courtyard would be better used for the bins and as a parking space for the owner/staff since parking is a premium in Sandringham at peak hours.
Below: picture of courtyard from Apartment 4, 33 Melrose St. Courtyard is approx. 7 metres away from my balcony.
Our Ref: 200027
Your Ref:

27 October 2017

Ms Lynn Wilkinson & Mr Simon Richardson
3/33 Melrose Street
SANDRINGHAM 3191

Email: lynn.wilko@gmail.com

Dear Lynn and Simon

Our client: 37 Melrose Street Pty Ltd (atf 37 Melrose Street Discretionary Trust)
Application for Planning Permit: Wine Bar
Address of Land: 39 Melrose Street, Sandringham
Application Ref. No. 5/2017/425/1

I have been provided with a copy of your objection to the lodged planning application.

By way of background:

a) The property 39 Melrose Street, Sandringham is owned by my family.

b) I am the director of KPA Lawyers that operates from the building 37 Melrose Street, Sandringham.

c) I reside at Level 1, 37 Melrose Street, Sandringham with my family.

d) The proposed wine bar at 39 Melrose Street, Sandringham will be owned and managed by my adult son.

I am pleased that you have identified the potential economic benefit to Sandringham of having a small, high-end wine bar and shop and are pleased to see that the applicant has made a conscious effort to mitigate impact to the surrounding area.

To alleviate your concern I can confirm:

1) The rear yard at the back of the property 39 Melrose Street, Sandringham does not form part of the wine bar.

2) The rear yard will, in the future, be fenced and be part of the residence at the rear of 39 Melrose Street, Sandringham. This cannot however be done until the building works at 58 Station Street, Sandringham have reached a certain stage.
3) There will be no access to the wine bar from the rear of 39 Metrose Street, Sandringham.

4) There will be the need to have an emergency exit from the rear of the wine bar through the back of 39 Metrose Street, Sandringham. This will be a fire exit door.

Hopefully this assists.

Myself and my son, Erik, would be happy to meet with you both to discuss what is proposed.

Alternatively, please feel free to contact me on the telephone.

Yours sincerely,
KPA Lawyers

Ray Purcell
Director.
Request to be heard by Lynn Wilkinson:
Application 5/2017/425/3 | Side Bar, 39 Melrose Street Sandringham

I live at 3/33-35 Melrose Street, Sandringham and strongly object to all aspects of this application:

- the proposed courtyard
- the increase in patron numbers
- the increase in trading hours

as all will negatively impact the amenity of the surrounding area.

I have 6 main areas of concern:

1. Assurances were given in 2017 that the courtyard would not form part of Side Bar.
   - In 2017 when Side Bar first applied for a permit, my partner and I lodged an objection, as we understood the courtyard was included. We subsequently received an email assurance from Ray Purcell, owner of 39 Melrose Street, that the courtyard was not included and would instead by residential. (Appendix A.) As a result, we withdrew our objection.
   - This new application, to include a courtyard, completely disregards this original assurance.
   - The courtyard will adversely impact my home, which is only 7 metres away, along with residents in 58 Station Street that are only 4 metres away. The photo on page 498 of the meeting pack clearly shows the proximity of 58 Station Street, and 33 Melrose is just out of shot on the right-hand side.

2. The State Environment Protection Policy (SEPP) No. N-1 quoted in the recommendation does not cover the type of noise (voices, music, noise from crowds) that the Side Bar courtyard will create.
   - Given the inadequacy of SEPP No N-1 for Side Bar’s application, the planning recommendation needs to be revised and further acoustic investigations conducted.
   - No mention is made in the application, and no condition has been recommended, on whether music can be played in the courtyard. Given the proximity to residential buildings this would be highly inappropriate to allow.
   - If the SEPP No N-1 condition is not changed, what course of redress will residents have when the constant noise of talking, and potentially music, mean they are unable to open doors or sit on balconies? Or worse still, they are unable to avoid the noise even inside their homes?
   - As the Side Bar courtyard will be nestled between 2 much larger buildings (33 Melrose Street & 58 Station Street), how will the effect of sound ‘bouncing’ between walls be avoided?
   - What consideration to resident wellbeing has been taken when courtyard patron voices will naturally get louder as more alcohol is consumed? As a considerable amount of alcohol can be consumed by 9 or 10pm.

3. No patron management plan for the courtyard has been included.
   - Given no acoustic investigations have been conducted for the courtyard, how has a maximum number of 15 patrons been determined, as this is not provided in the recommendation?
   - As there is no line of sight from inside Side Bar to the proposed courtyard, how will the Side Bar management ensure any conditions are met?
There is also no mention in the application, or recommendation, on how the courtyard gates will operate. Some emergency access will I presume be required, but what restrictions will prevent public access, and patrons ‘letting their friends in’ from the car park?

4. **No bin management conditions are included.**
   - No assurances or conditions have been included to consider the impact on nearby residents of what time of day empty bottles are disposed of by Side Bar.
   - No details have been provided regarding the storage of bins by Side Bar. A reasonable expectation would be to ensure these are screened from view, maintained in a clean condition to prevent offensive odours and all required drainage is to standard.

5. **The extended hours and increased patron numbers are out of character with the Sandringham amenity.**
   - Sandringham has long established a reputation of being a respectful, family orientated and quiet suburb. In fact, this is what attracts many residents to settle and call Sandringham home. Permitting establishments, such as Side Bar, to offer alcohol late into the night to increased number of patrons will irreparably damage this long-held reputation, and negatively impact the amenity. Replacing it instead with the tag of being a ‘last drinking’ suburb. Is this really how Council wishes to promote Sandringham?
   - Residents on all sides of Side Bar (Melrose Street, Station Street and Waltham Street) have objected to this application. This clearly demonstrates that this application is not in keeping with the Sandringham that residents want or expect.
   - How is allowing Side Bar to open until midnight on weekdays being considerate to the needs of residents to sleep ready for the next working day?
   - Side Bar has been operating with its current opening hours and patron number, and this is suitable for Sandringham. The only need to increase numbers and hours is for the pursuit of profit.
   - I recognise that I live in the Sandringham Major Activity Centre (MAC) and, as a result, already accept a greater level of noise than would be considered reasonable in a residential zone. The MAC zoning, however, should not enable Side Bar to negatively impact on my wellbeing, or the Sandringham amenity.

6. **Is Sidebar already operating outside its current permit by serving alcohol on the footpath?**
   - If already imposed conditions are not being adhered to, what assurance can Council give to residents that any future conditions will be met?

In closing, for the Sandringham MAC to work a balance is required between the needs of mixed retail and residents. Granting this application will not achieve this, as greater preference is being given to the need to ‘make a profit’, over the needs of residents and the Sandringham amenity.
Appendix A – Email letter received in 2017 (Yellow highlighting added)

Our Ref: 200027
Your Ref: 

27 October 2017

Ms Lynn Wilkinson & Mr Simon Richardson
3/33 Melrose Street
SANDRINGHAM 3191

Email: lynn.wilko@gmail.com

Dear Lynn and Simon

Our client: 37 Melrose Street Pty Ltd (atf 37 Melrose Street Discretionary Trust)
Application for Planning Permit: Wine Bar
Address of Land: 39 Melrose Street, Sandringham
Application Ref. No. 5/2017/429/1

I have been provided with a copy of your objection to the lodged planning application.

By way of background:

a) The property 39 Melrose Street, Sandringham is owned by my family.

b) I am the director of KPA Lawyers that operates from the building 37 Melrose Street, Sandringham.

c) I reside at Level 1, 37 Melrose Street, Sandringham with my family.

d) The proposed wine bar at 39 Melrose Street, Sandringham will be owned and managed by my adult son.

I am pleased that you have identified the potential economic benefit to Sandringham of having a small, high-end wine bar and shop and are pleased to see that the applicant has made a conscious effort to mitigate impact to the surrounding area.

To alleviate your concern I can confirm:

1) The rear yard at the back of the property 39 Melrose Street, Sandringham does not form part of the wine bar.

2) The rear yard will, in the future, be fenced and be part of the residence at the rear of 39 Melrose Street, Sandringham. This cannot however be done until the building works at 58 Station Street, Sandringham have reached a certain stage.
3) There will be no access to the wine bar from the rear of 39 Melrose Street, Sandringham.

4) There will be the need to have an emergency exit from the rear of the wine bar through the back of 39 Melrose Street, Sandringham. This will be a fire exit door.

Hopefully this assists.

Myself and my son, Erik, would be happy to meet with you both to discuss what is proposed.

Alternatively, please feel free to contact me on the telephone.

Yours sincerely,
KPA Lawyers

Ray Purcell
Director.
9. Mr Paul Rigg (O)

We would like to object to the proposed application to extend trading hours to 1am on Thursday, Friday, and Saturday and to midnight on every other day of the week except Sunday (11pm). Also, to the 50% increase within the building itself and addition of a rear courtyard.

Our home is a one-minute walk from 39 Melrose Street, and we are extremely concerned about the negative impact this will have on the amenity of the area. We have been living at 112 Beach Road for over 37 years and purchased our home because of the unique location and lifestyle. We do not want to see this amenity downgraded by having a bar opened to late hours with increased patronage. This bar may be suitable for many of the inner suburbs such as Richmond and St. Kilda but not here in Sandringham.

We ask that you do not approve this application but retain the unique amenity that we have here in Sandringham. I would be more than happy to discuss our concerns and can be contacted through this email address.
10. Mrs Cathrin Purcell (A)

Application No. PP 5/2017/425/3

SUBMISSION TO BAYSIDE CITY COUNCIL BY:

Applicant: 37 Melrose Street Pty Ltd
Owner of freehold: 37 Melrose Street Pty Ltd
Business Operator: 39 Melrose Street Pty Ltd (t/a Sidebar Sandringham Unit Trust)
trading as Sidebar Sandringham
Address of land: 39 Melrose Street, Sandringham

Description of application: Variation of Planning Permit 5/2017/452/2 by extension of red line plan to include an area incorporating rear courtyard, additional room, variation to trading hours and increase in patron numbers.

This is a joint submission by the Applicant and the Business Operator.

The Application for variation of existing Planning Permit can be divided into four distinct components:

  a) Variation to trading hours.
  b) Increase in patron numbers.
  c) Variation of red line plan to include additional room
  d) Variation of red line plan to incorporate courtyard.

Initial comments relating to outdoor and proposed courtyard trading

1. There will be no live music on the premises.
2. Security cameras will be installed covering all areas of the premises including the rear courtyard to assist in monitoring patron behaviour.
3. No ingress and egress of patrons to the proposed rear courtyard from the council carpark at the rear of the site.
4. Patron numbers will be limited to 12 in the rear courtyard with allocated seating.
5. Limited outdoor trading hours (rear courtyard and footpath trading)
6. Sidebar is a no smoking venue and will not provide any allocation for designated smoking.
7. Footpath trading is in accordance with Bayside City Council Footpath Trading Policy 2018. There is no proposed increase in hours for footpath trading.

215384 Submission to council
1. Variation to trading hours

There are some objections to the proposed trading hours. However, the proposed trading hours are in line with other establishments that trade in Melrose Street. Refer to Appendix 1 for other venues.

**Increase in internal trading hours:**

**Current internal trading hours:**
- Monday to Wednesday 12 noon – 10pm
- Thursday to Saturday 12 noon – 11pm
- Sunday 12 noon – 9pm

**Proposed internal trading hours:**
- Monday to Wednesday 12 noon – 12am (midnight)
- Thursday to Saturday 12 noon – 1am (next day)
- Sunday 12 noon – 11pm
- New Year’s Eve 12 noon – 1am (next day)

**Proposed external trading hours (Courtyard and Footpath Trading):**

The proposed courtyard hours will be limited to 10pm each night.

There is no proposed change to the existing alfresco dining footpath trading hours.

2. Increase in patron numbers

There are some objections to the increase in patron numbers. Sidebar will remain a small venue with a total capacity of 68 patrons. This is the permitted number as outlined in the commissioned Building Surveyors Report (Appendix 2)

The maximum number of patrons for the existing space is 43 persons.

The total increase in patronage for proposed red line plan across the entire venue is 23 persons.

The total number of patrons permitted in the proposed rear courtyard will be limited to 12 persons at any one time.

There is already much larger venues operating in Melrose Street. Refer to Appendix 1 for other venues.

215384 Submission to council
3. Variation of red line plan to incorporate additional room

There are two objections to the increase of the red line plan to include the additional room. These objections relate to the possibility of unreasonable audible noise extending outside of the venue. There will be no unreasonable noise from the additional room. This will be addressed in the commissioned acoustic report.

The area of the additional room is 23.2 m².

The additional room will include two separate toilets:

- One pan and one basin for male patrons
- One pan and one basin for female patrons

The additional room will provide:

- An additional area for dining; including private dining experiences for groups up to 18 patrons. This is less than the permitted maximum of 23 persons
- A separate bar area
- Wine tastings and wine appreciation courses

4. Variation of red line plan to incorporate proposed rear courtyard

There are some objections to increase the red line plan to include the proposed rear courtyard.

The proposed rear courtyard will have:

- A maximum of 12 patrons at any one time with provided seating
- No live music
- No ingress or egress from patrons to the rear courtyard via the council carpark
- Limited operating hours to 10pm each night
- Any necessary amelioration of noise impact (if any) if recommended in the commissioned acoustic report will be implemented

A before and after is provided in the form of two photographs at Appendix 3 showcasing the rear of 39 Moreso Street.

215384 Submission to council
5. **Major Activity Centre**

**Local Policy**

The site is within the Sandringham Major Activity Centre.

Clause 17 of the Bayside Planning Scheme refers to 'Economic Development'.

Needs for retail and entertainment activities are encouraged in areas to take advantage of accessibility and efficient infrastructure use.

Sandringham is one of eight (8) large commercial centres within the Municipality.

Objectives under the scheme for the area include:

- To support the economic and social sustainability of activity centres.
- To encourage new economic development which maintains and enhances the supply of and access to a range of employment and training opportunities.

The Sandringham Village Structure Plan 2006 is a reference document in the Scheme. Relevant strategies identified in the Structure Plan for Precinct 3, which encompasses Melrose Street, include:

- Encourage a mix of uses with active street frontages
- Encourage active uses on Melrose street such as cafes and restaurants
- Encourage development of shop-top housing.

These objectives and strategies are consistent with the proposed use of the site.

The proposed extension of Sidebar operations has been identified as a need in the Sandringham Major Activity Centre. This extension is desirable, taking into account the higher density residential development in the City of Sandringham and will add to Sidebar's offering and increased social activity of the Major Activity Centre.

Sidebar has become a much-loved establishment in Sandringham Village. Sidebar has been used in promotional material by Marshall White, Hocking Stuart and Pavilion Green. It is highlighted as an attraction for people living in Sandringham.

**Zoning and Overlays**

The subject site and neighbouring properties along Melrose Street are located within the Commercial 1 Zone (C1Z) under the Bayside Planning Scheme.
6. Analysis of objections

List of objectors:

58 Station Street, Sandringham (which consists of 1 shop and 8 apartments)

There have been no objections lodged by the shop proprietor or by the residents of Units 2,3,4,5,6,7 and 8 Station St.

a) Ric Howard – developer – 58 Station Street, Sandringham: Objection lodged on behalf of Owners Corporation for PS802166T.

This objection does not provide evidence of the owner’s corporation resolution.

b) Lyn Howard (wife of Ric Howard and owner of three apartments (non-resident)).

The lodged objections “a” and “b” are in the same form and are generally in favour to the proposal but seeks:

- Trading hours not to be extended beyond 10pm. *Note the existing permit allows for trading to 11pm Thursday to Saturday
- No consumption of alcohol in the proposed rear courtyard before 10am or after 6pm. Mr Howard has advised me that he has no personal objection to extending the rear courtyard hours until 10pm. Mr Howard is the developer of 58 Station Street and retains ownership of some of the apartments. He has advised that the South/Western facing windows overlooking the courtyard are double glazed UPVC windows from the lounge room.

    c) Chris Hunting, resident, Unit 9, 58 Station Street, Sandringham

There is no merit to this objection.

The objector references his neighbours. I note that Mr Hunting is the only resident of 58 Station Street that has lodged an objection. I note that the overwhelming the majority of people in close proximity to Sidebar have not objected. The referenced graffiti in the photograph is on the second level at 37 Melrose Street and is historical. It has not been done by patrons of Sidebar. A parking report has previously been commissioned and is referenced in the application. This report highlights that there is sufficient parking and that the area is well served by public transport.

This objector resides in one of the upper apartments facing Melrose Street. This objector has no open space facing onto the proposed rear courtyard.

It is important to note that this resident is the only objector of the 58 Station Street complex that has objected.

I reside at 37 Melrose Street Sandringham and have no objection to the proposal.

This means that only one resident from nine adjoining residences (to Sidebar) has objected to the proposal.
33-35 Melrose Street, Sandringham (which consists of 1 shop and 5 apartments)

There is no objection by the shop owner or by the residents of Unit 1 and 5 of 33-35 Melrose Street Sandringham.

This building does not adjoin the premises and is separated by a two-story double brick building. There is a distance of approximately 7.5 metres from the premises to the building. There is a limited partial view of the proposed rear courtyard from this building and there is no view of the premises from the front of the building.

d) Andrew Robinson, resident, Unit 2, 33-35 Melrose Street, Sandringham

e) Gayl Robinson (wife of Andrew Robinson), resident, Unit 2, 33-35 Melrose Street, Sandringham

There is no merit in these objections.

The items that are referenced in these objections are dealt with in the original application.

The footpath trading is in accordance with the issued footpath trading permits associated with both:

- Sidebar Sandringham – 37 Melrose Street SANDRINGHAM – Footpath Trading Permit 2020 / 5
- Sidebar Sandringham – 39 Melrose Street SANDRINGHAM – Footpath Trading Permit 2018 / 36

The footpath trading is also in accordance with Bayside City Council Footpath Trading Policy 2018.

f) Lynn Wilkinson, resident, Unit 3, 33-35 Melrose Street, Sandringham

g) Simon Richardson (partner of Lynn Wilkinson), resident, Unit 3, 33-35 Melrose Street, Sandringham

These objections are without merit and are adequately dealt with in the original application.

The attached letter from KPA Lawyers dated 27 October 2017 addressed to Ms Lyn Wilkinson and Mr Simon Richardson is irrelevant to this application. It was provided with specific reference to the original application. This application for the variation of the town planning permit is to be considered on its own merits and at the time of this application.

The initial concerns by Ms Wilkinson and Mr Richardson related to concerns over possible noise and smoke emanating from the backyard at 39 Melrose Street.

These are not legitimate concerns in this application and are adequately addressed by:

- Limiting the use of the proposed rear courtyard to 10pm
- No live music on the premises
- Limiting the total patrons in the proposed rear courtyard to 12 patrons at any one time
- No ingress or egress from patrons to the rear courtyard via the council carpark
- Sidebar being a non-smoking venue. Food will be offered to patrons across the entire venue including the rear courtyard

h) Trevor Bell, resident, Unit 4, 33-35 Melrose Street, Sandringham.

i) Annette Bell (wife of Trevor Bell), resident, Unit 4, 33-35 Melrose Street, Sandringham

215384 Submission to council
There is no merit to these objections.

They are similar to the objections raised by Lyn Wilkinson and Simon Richardson.

29-31 Melrose Street, Sandringham (which consists of 2 shops and 5 apartments)

There is no objection by either of the two shop owners or by the residents of units 1, 2, 3, and 4.

j) Adrian Fitzpatrick, Director, Mobbat Pty Ltd. – owner of 29-31 Melrose Street, Sandringham and resident of Unit 5, 29-31 Melrose Street, Sandringham

k) Kate McCombie (partner of Adrian Fitzpatrick), resident, Unit 5, 29-31 Melrose Street, Sandringham

There is no merit in either objection.

The matters raised are adequately dealt with in the application.

Mr Fitzpatrick’s objection is offensive. Mr Fitzpatrick references the current owner and operator as someone who is “19-20 years old” whilst referencing the original promoter as a “mature aged man with a passion for fine wine”. Mr Erik Purcell is the referenced “19-20-year-old”. I am 22 years of age and I have worked on this project since 2016. Originally, I was the sole owner. I invited Danny Corcoran who joined me in the business after I had obtained the original town planning permit. Mr Corcoran had applied for a town planning permit for a different premises in Melrose Street that I understand was objected to by Mr Fitzpatrick. Mr Erik Purcell acquired Mr Danny Corcoran’s interest in December 2019 and is the sole owner of Sidebar.

Since 2019, there have been significant developments made in the business’s offering. There is a new and exciting wine list with a clear focus on small Victorian producers and Italian varieties as well as an extensive food offering catering to inhouse dining. Sidebar has transitioned from what was primarily a venue for enjoying high quality wines with light food to a venue that now offers a high-quality dining experience with a key focus on accompanying meals with fine wine and offering a more “complete experience”.

Reference is made to our wine list which has been curated by our very own sommelier, Rod Morris with over twenty years’ experience in the fine dining scene as well as our food offering which has been developed by two hatted chef Joe Gribac (Appendix 4).

Furthermore, Mr Fitzpatrick references an excess of thirty apartments in seven buildings within a 30-metre proximity of Sidebar. It is important to note that out of these thirty apartments that there are only residents living in five of the apartments objecting. By inference 83% of nearby residents living in these apartments support this application.

I understand that Mr Fitzpatrick was the principal objector to a proposal by Council to sell the rear carparks behind 39 Melrose Street and 37 Melrose Street Sandringham. In his objection to Council’s proposal to sell the carparks he referenced the need for that area to be used for deliveries for traders in Melrose Street. A sale by Council of the rear carpark at the rear of 39 Melrose would have meant that Sidebar could have had a loading bay area exclusively servicing the business. Presently the site is landlocked, and it is not physically possible to provide a loading bay area. The requirement for a loading bay area has consequently been waived by Council.

215384 Submission to council
Mr Fitzpatrick also makes unfounded statements relating to the potential noise not being able to be contained within the building. Interestingly he has not lodged any complaints regarding the existing activities of Sidebar.

Mr Fitzpatrick is incorrect in his statement outlining that there has been no provision made for the storage and cleaning of bins. There is a bin wash and a grease trap on the premises. (Appendix 5)

A trade waste bin is also kept on the premises and is collected during the permitted hours. Mr Fitzpatrick states that "bottles and cans are emptied at all hours of the night". This is incorrect, bins are emptied in the late morning prior to opening.

Mr Fitzpatrick is also incorrect in saying that bins are collected at all hours including "late at night and the early hours of the morning". The contracted trade waste company is contracted to remove the waste no earlier than 9am Monday to Friday and no later than 9pm Monday to Friday.

By way of observation the area behind the shops in Melrose Street is frequently used by delivery trucks for the businesses in Melrose Street and Waltham Street. Attached at Appendix 6 are photographs of delivery truck activity in the Council car park annexed with dates and times.

References are made to the behaviour of some of the patrons without citing specific examples or instances. Again, these are unfounded and unsubstantiated comments. There have also been no complaints concerning the operations of Sidebar from when the business commenced trading in October 2018.

Mr Fitzpatrick may comment on the operations and patrons of Sidebar; however, I question the validity of his personal judgment.

Ms McCombie's (Mr Fitzpatrick's partner) objection is without basis.

Only the one residence of the 5 apartments have objected to the proposal.

Paul and Margaret Rigg, residents, 112 Beach Road, Sandringham

The objection is without merit and the premises is located a significant distance away with no impact on the amenity.

Lyndall and Malcolm Baird, residents, 9 Sims Street, Sandringham.

The objection is without merit and the premises is located a significant distance away with no impact on amenity.

215384 Submission to council
7. Acoustic report

An acoustic report has been commissioned from Clarity Acoustics and will be provided on receipt (prior to the planning meeting).

_Note from patrons associated with venues is not covered by the SEPPS or any Victorian Guideline. In the absence of state policy or criterion, the acoustic consultant has taken guidance from the criteria provided in the City of Yarra Planning Scheme Clause 37.01 Schedule 6. While the Clause does not strictly apply to the subject site, these criteria represent commonly accepted patron noise benchmarks and are based on criteria regularly used at VCAT for patron noise assessments._

<table>
<thead>
<tr>
<th>Period</th>
<th>External criteria</th>
<th>Internal criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Equivalent average patron noise level, $L_{Aeq}$</td>
<td>Maximum patron noise level, $L_{N,10}$</td>
</tr>
<tr>
<td>Day</td>
<td>50 dB or $L_{Aeq} + 10$ dB whichever is higher</td>
<td>75 dB</td>
</tr>
<tr>
<td>Evening</td>
<td>45 dB or $L_{Aeq} + 10$ dB whichever is higher</td>
<td>75 dB</td>
</tr>
<tr>
<td>Night</td>
<td>40 dB or $L_{Aeq} + 5$ dB whichever is higher</td>
<td>65 dB</td>
</tr>
</tbody>
</table>

All recommendations in the acoustic report to ameliorate any noise amenity concerns (if any) and to meet the commonly accepted patron noise benchmarks will be implemented.

8. Prominence of site: 39 Melrose Street, Sandringham

The site is in a key location of Sandringham Village. The dynamic nature of the business opposite the station and being the focal point when entering Melrose Street and enjoying the Melrose Street vista to the beach and Rotunda cannot be understated. Reference is made to the attached photograph Appendix 7.

The prominence of the building will be further enhanced by the construction of an outdoor canopy on the facade of the building. This canopy has been designed in accordance to the original canopy of the building. (Appendix 6)

A planning permit and a building permit has been obtained. The commencement of work has been scheduled for the week commencing 20 July 2020.

9. Property improvements and improved amenity

There has been a large capital outlay by both the building owner and business owner. There have been a large number of improvements made to the property. I make reference to photographs of the site's prior use (front, internal and rear) in comparison to the current use, which highlights the great improvement to the amenity of the area. (Appendix 9)
10. Community support

There is overwhelming community support for the proposal. This is evidenced by the few objections that have been lodged.

- Only residences of 5 apartments within two residential buildings within the Sandringham Village have objected to the Proposal.
- No objections have been lodged by any of the apartment owners in Waltham Street.
- No objections have been lodged by any of the apartment owners in Station Street.
- Only one of the residential owners whose property backs on to the laneway in the Council carpark has objected.
- No business proprietors in Sandringham Village have opposed the application
- An online petition providing the scope of the proposal has gained over 400 supporting signatures (Appendix 10)
- Photographs of updates of the proposed courtyard has drawn 124 likes in the Sandringham Village Facebook Page (Appendix 11)
- Patrons of Sidebar regularly enquire about the status of the proposal and are eagerly awaiting the expansion of Sidebar.

11. Impact of COVID-19

Sidebar has continued to trade throughout the COVID-19 restrictions:

- Operated as a takeaway only venue as required
- Operated for the limited period when allowed as a business serving alcohol with meals
- Social distancing requirements has meant that the maximum number of patrons in the existing operating internal area is ten

The business is not sustainable in the long term with a maximum internal patronage of ten people.

When Stage 2 restrictions are re-introduced:

- The additional room will increase potential numbers by five
- The proposed rear courtyard will increase potential numbers by twelve

Residents choosing to reside in a Major Activity Centre must reasonably expect that there will be commercial activity in the Centre including establishments such as this business.

The use is an appropriate use and is consistent with the objectives of the Planning Schemes.
12. Request for favourable decision and grant of variation of permit for all requested items or in part.

Approval of the four distinct components of to the variation of the planning permit is sought:

a) Variation to trading hours.
b) Increase in patron numbers.
c) Variation of red line plan to include additional room
d) Variation of red line plan to incorporate courtyard.

Having regard to the four discernable variations sought, it remains open to the Council to accept all of the items in whole or in part and or to impose whatever conditions considered appropriate if considered necessary for the amenity of residents within the Major Activity Centre of Sandringham Village. For example;

a) Approve variation internal trading hours.
b) Approve increase in patron numbers.
c) Approve of variation of red line plan to include additional room with increased internal trading hours
d) Approve variation of red line plan to incorporate courtyard with reduced trading hours and subject to implementation of recommendations to ameliorate any noise amenity concerns and to meet the commonly accepted patron noise benchmarks.
Appendix 1

Venues in Melrose Street that trade to and past 1am.

- Baia Di Vino
- The Hobsons Stores
- The Sandringham Hotel
Restaurant and cafe Licence

Licence No. 32247666

Subject to the provisions of the Liquor Control Reform Act 1998 and any conditions specified in the licence, the licensee is authorized to supply liquor up to and including 31 December 2020.

Licensee: WINE BAY PTY LTD (ACN:638 686 629)
Address for service of notices: 1 MELROSE STREET SANDRINGHAM 3191
Trading as: BAIA DI VINO

Licensed premises address: 1 MELROSE STREET SANDRINGHAM 3191

Additional person(s) endorsed on licence: FRANCESCO CIORCIARI - approved as nominee, and is liable as if the licensee, until ceasing to manage and control the licensed premises.

GENERAL INFORMATION
A liquor licence does not override local laws, planning schemes and conditions on planning permits. It is the licensee's responsibility to ensure they comply with these.

TYPE OF LICENCE
This licence is a restaurant and cafe licence and authorizes the licensee to supply liquor on the licensed premises for consumption on the licensed premises during the trading hours specified below.

RESTAURANT & CAFE CONDITIONS
This licence is subject to the following conditions:
(a) the predominant activity carried out at all times on the licensed premises must be the preparation and serving of meals for consumption on the licensed premises; and
(b) tables and chairs must be placed in position on the licensed premises so as to be available for at least 75% of the patrons attending the premises at any one time; and
(c) the licensee must not permit -
(i) the live performance of any musical works; or
(ii) the playing of any recorded musical works - on the premises at higher than background music level at any time outside ordinary trading hours.

Condition (c) does not apply to music performed or played on the licensed premises outside ordinary trading hours as part of a function that is held in an area of the premises that is set aside for the exclusive use of persons who have booked a table in that area and their guests, and at attend only by those persons and their guests.

AMENITY
The licensee shall not cause or permit any detriment to the amenity of the area to arise out of or in connection with the use of the premises to which the licence relates during or immediately after the trading hours authorized under this licence.

The licensee shall ensure that the level of noise emitted from the licensed premises shall not exceed the permissible noise levels for entertainment noise as specified in the State Environment Protection Policy (Control of Music Noise from Public Premises) No.N-2.

MAXIMUM CAPACITIES
Internal area 118 patrons

TRADING HOURS
Sunday: Between 10am and 11pm
Good Friday & ANZAC Day: Between 12 noon and 11pm
Monday to Wednesday: Between 7am and 12 midnight
Thursday to Saturday: Between 7am and 1am the following morning

APPROVALS/CONSENTS
Section 41(1)(b)/41A(1)(b)/11A(3)(b) Footpath/External area. The licensee is authorized to supply liquor on premises, other than the licensed premises, authorized by the Victorian Commission for Gambling and Liquor Regulation and shown on the approved plan during the hours specified below for consumption on those premises.
Sunday: Between 10am and 11pm
Good Friday & ANZAC Day: Between 12 noon and 11pm
Restaurant and cafe Licence

On any other day Between 7am and 11pm

End of Conditions - Printed on 02/06/2020

Page 2

CONDITIONS OF LICENCE (Continued)
Late night (general) Licence

Ref No. 31913230

Subject to the provisions of the Liquor Control Reform Act 1998 and any conditions specified in the licence, the licensee is authorised to supply liquor up to and including 31 December 2020

Licencee

AUSTRALIAN LEISURE AND HOSPITALITY GROUP PTY LTD (ACN:067 391 511)

Address

LEVEL 2, 10 YARRA STREET Licensed premises address

LEVEL 2, 10 YARRA STREET Licensed premises address

for service

SOUTH YARRA 3141

Trading as

SANDRINGHAM HOTEL

Additional person(s) endorsed on licence

CLAIRE TERESA CROTTY - approved as nominee, and is liable as if the licensee, until ceasing to manage and control the licensed premises.

GENERAL INFORMATION

A liquor licence does not override local laws, planning schemes and conditions on planning permits. It is the licensee's responsibility to ensure they comply with these.

TYPE OF LICENCE

This licence is a general licence and authorises the licensee to supply liquor on the licensed premises for consumption on or off the licensed premises during the trading hours specified below.

AMENITY

The licensee shall not cause or permit undue detriment to the amenity of the area to arise out of or in connection with the use of the premises to which the licence relates during or immediately after the trading hours authorised under this licence.

The licensee shall ensure that the level of noise emitted from the licensed premises shall not exceed the permissible noise levels for entertainment noise as specified in the State Environment Protection Policy (Control of Music Noise from Public Premises) No.N-2.

When live or recorded amplified music other than background music is provided:

- The licensee shall install and maintain a surveillance recording system able to clearly identify individuals, which shows time and date and provides continuous images of all entrances and exits, bars and entertainment/dance floor areas. The surveillance recording system must operate from 30 minutes before the start of the entertainment being provided until 30 minutes after closure. A copy of the recorded images must be available upon request for immediate viewing or removal by the Victoria Police, or a person authorised in writing by the Victorian Commission for Gambling and Liquor Regulation, or otherwise retained for at least 1 month.

- Crowd controllers, licensed under the Private Security Act 2004, are to be employed at a ratio of 2 crowd controllers for the first 100 patrons and 1 crowd controller for each additional 100 patrons or part thereof. One crowd controller is to be present outside the premises to monitor patrons arriving at and departing from the premises. Crowd controllers are to be present from 30 minutes before the start of the entertainment being provided, until 30 minutes after closure.

CONDITIONS IMPOSED BY THE VICTORIAN CIVIL AND ADMINISTRATION TRIBUNAL DATED 17 JUNE 2009.

MAXIMUM CAPACITIES

Outdoor area adjacent to the Gaming Room (17 patrons) Beer Garden (130 patrons)

The maximum patron capacity for the premises shall not exceed 1052 patrons.

TRADING HOURS FOR CONSUMPTION OFF THE LICENSED PREMISES -

Sunday

Good Friday & ANZAC Day

On any other day

Between 10am and 12midnight

Between 12noon and 12midnight

Between 7am and 12midnight

TRADING HOURS FOR CONSUMPTION ON THE LICENSED PREMISES -

In the Bar and Lounge/Dining areas -

Sunday

Good Friday & ANZAC Day

On any other day

Between 10am and 3am the following morning

Between 12noon and 3am the following morning

Between 7am and 3am the following morning

In the Gaming Room -

At any time on any day except for the period between 3am and 12noon on ANZAC Day.
Late night (general) Licence

In the remainder of the premises, including the hotel's terrace area -
Sunday
Good Friday
ANZAC Day (not being a Sunday)
On any other day

Between 10am and 11pm
Between 12noon and 11pm
Between 12noon and 12midnight
Between 7am and 12midnight

Outdoor area adjacent Gaming Room - Anzac Day
On any other day

Between 12noon and 5am the following morning
Between 7am and 5am the following morning except for the morning of
ANZAC Day when trade shall cease at 3am

Beer Garden -
Sunday
Good Friday
ANZAC Day
On any other day

Between 10am and 11pm
Between 12noon and 11pm
Between 12noon and 12midnight
Between 7am and 12midnight

APPROVALS/CONSENTS
Section 106 Consent to permit another person to carry on a business of supplying liquor on the licensed premises. The terms and conditions of the consent given to the licensee under section 106 are incorporated as terms and conditions of the licence as if set out here in full.

Employees of Endeavour Group Ltd are approved to be engaged in the business of supply of liquor at this premises and this approval will cease on 1 February 2023.

End of Conditions - Dated on 02/02/2023
On-Premises Licence

Licensee: CUMMINS ROAD PTY LTD (ACN: 127 370 500)
Address for service: SANDRINGHAM 3191
Trading as: THE HOBSON STORES

Licence No. 32235821

Subject to the provisions of the Liquor Control Reform Act 1998 and any conditions specified in the licence, the licensee is authorised to supply liquor up to and including 31 December 2020

GENERAL INFORMATION
A liquor licence does not override local laws, planning schemes and conditions on planning permits. It is the licensee's responsibility to ensure they comply with these.

TYPE OF LICENCE
This licence is an on-premises licence and authorises the licensee to supply liquor on the licensed premises for consumption on the licensed premises during the trading hours specified below.

AMENITY
The licensee shall not cause or permit undue detriment to the amenity of the area to arise out of or in connection with the use of the premises to which the licence relates during or immediately after the trading hours authorised under this licence.
The licensee shall ensure that the level of noise emitted from the licensed premises shall not exceed the permissible noise levels for entertainment noise as specified in the State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2.

SPECIAL CONDITIONS
No music is permitted in the courtyard.

MAXIMUM CAPACITIES
Ground Floor Internal (149 patrons) Roar Courtyard (45 patrons)
First Floor Internal (109 patrons)
Between 7 a.m. and 6 p.m. (100 patrons)
Between 6 p.m. and 1 a.m. the following morning (200 patrons)

TRADING HOURS
Internal -
Sunday Between 10 a.m. and 12 midnight.
Good Friday and Anzac Day Between 10 a.m. and 1 a.m. the following morning except for Good Friday.
On any other day

CONDITIONS IMPOSED BY ORDER OF THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL DATED 16 APRIL 2010

Courtyard
Good Friday & Anzac Day Between 12 noon and 12 midnight.
Friday and Saturday Between 10 a.m. and 1 a.m. the following morning except for Good Friday.
On any other day Between 10 a.m. and 12 midnight.

APPROVALS/CONSENTS
Section 9(1)(a)(b)(c)(d)(e)(f) Footpath/External area. The licensee is authorised to supply liquor on premises, other than the licensed premises, authorised by the Victorian Commission for Gambling and Liquor Regulation and shown on the approved plan during the hours specified below for consumption on those premises.
Good Friday & Anzac Day Between 12 noon and 11 p.m.
On any other day Between 10 a.m. and 11 p.m.

End of Conditions - Printed on 02/08/2020
Appendix 2

Building Surveyors Report - BSGM
Enth Degree Architects
122-124 St Kilda Road St Kilda VIC 3182
St Kilda VIC 3182

Attention: Esther Choi

Dear Esther,

Re: Liquor License Report –
39 Melrose Street, Sandringham VIC 3191

Further to your request we have carried out a desktop audit from the plans provided and calculated the maximum number of patrons permitted to occupy the proposed building at the above address, in accordance with the guidelines of the Liquor Licensing Commission. A further report is also provided with patron calculations on the same basis as per an occupancy permit under the Building Act 1993.

Our calculations are based on a desktop audit of drawing No. 1624 (prepared by Enth Degree Architects Pty Ltd) dated 19/08/2019. Measurements were taken from these drawings.

Assessment
A summary of these calculations is listed below.

Floor area (based on Liquor Commission guidelines 0.75m²/person)
According to the allowable floor area, each part of the building would be able to accommodate the following number of patrons:

<table>
<thead>
<tr>
<th>Area</th>
<th>Floor area (m²)</th>
<th>Number of patrons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wine Bar 1</td>
<td>43.1</td>
<td>57</td>
</tr>
<tr>
<td>Wine Bar 2</td>
<td>23.2</td>
<td>30</td>
</tr>
<tr>
<td>Total:</td>
<td></td>
<td>87</td>
</tr>
</tbody>
</table>

Building Surveyor Report (In lieu of Occupancy Permit)
Floor area (Based on BCA Clause D1.13)
According to the allowable floor area, each part of the building would be able to accommodate the following number of patrons, based on a total of 1m²/person (Restaurant/dining use):

<table>
<thead>
<tr>
<th>Area</th>
<th>Floor area (m²)</th>
<th>Number of patrons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wine Bar 1</td>
<td>43.1</td>
<td>43</td>
</tr>
<tr>
<td>Wine Bar 2</td>
<td>23.2</td>
<td>23</td>
</tr>
<tr>
<td>Total:</td>
<td></td>
<td>66</td>
</tr>
</tbody>
</table>
Sanitary facilities (Based on BCA Table F2.3)
According to Table F2.3 of the BCA the sanitary facilities within the building can accommodate the following number of patrons:

<table>
<thead>
<tr>
<th>Facilities provided</th>
<th>Number of patrons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>1 pan + 1 urinal + 2 hand basins</td>
</tr>
<tr>
<td>Female</td>
<td>2 pans + 2 hand basins</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td></td>
</tr>
</tbody>
</table>

*Note: The patron capacity calculations are based on both sanitary compartments may be sued as unisex facilities.*

Exits (Based on BCA Clause D1.6)

According to Clause D1.6 of the BCA, the building can accommodate the following number based on the aggregate exit width from each level. The BCA allows for the path of travel to the exit to be reduced at the door by 250mm for each 750mm minimum wide door.

<table>
<thead>
<tr>
<th>Area</th>
<th>Exit Width</th>
<th>Number of Patrons Allowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground Floor</td>
<td>1935mm</td>
<td>193</td>
</tr>
</tbody>
</table>

Summary

According to the above calculations, the building can accommodate up to **66 patrons** at any one time. This figure is based on the total floor area as per BCA Clause D1.13.

We have not undertaken an assessment of the mechanical ventilation to determine whether this building is suitable to accommodate the maximum number of people calculated above, however we predict there will be more than sufficient levels of ventilation to all areas of the building.

If you require further clarification of this correspondence, please do not hesitate to contact our office.

Yours faithfully,

Con Glazi
BS-U 1553
BSGM Consulting Building Surveyors
Appendix 3

Before and after - Rear of 39 Melrose Street
Appendix 3

Before and after - Rear of 39 Melrose Street
Appendix 4

Wines by the glass and food menu
**WINE BY THE GLASS AND HALF BOTTLE CARAFE**

<table>
<thead>
<tr>
<th>Type</th>
<th>Description</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>BUBBLY</td>
<td>2018 FREEMAN PROSECCO, HILLTOPS, NSW</td>
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<td>NV QUARTZ REEF TRADITIONELLE BRUT, CENTRAL OTAGO</td>
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<td>NV J M SÉLÈQUE ‘SOLESSENCE’ BRUT NATURE, CHAMPAGNE, FR</td>
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<td>WHITE</td>
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<td>2019 ARLIE BANK SAUVIGNON BLANC, YARRA VALLEY, VIC</td>
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<td>2011 TUNKALILLA RIESLING, OREGON, USA</td>
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<td>2019 MOTLEY CRU PINOT GRIGIO, ALPINE VALLEYS, VIC</td>
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<td>2019 SINAPIUS ‘CLEM’ FIELD BLEND, PIPERS BROOK, TAS</td>
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<td>2018 ALTA MORA ETNA BIANCO, MOUNT ETNA, ITA</td>
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<td>2019 TWO CELLS CHARDONNAY, BEECHWORTH, VIC</td>
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<td>ROSÉ</td>
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<td>2017 CHATEAU RIOTOR, COTES DU PROVENCE, FR</td>
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<td>2018 JOURNEY PINOT NOIR, YARRA VALLEY, VIC</td>
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<td>2017 ROSI SCHUSTER SANKT LAURENT, BURGENLAND, AUT</td>
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<td>2018 CAMPORSINO CHIANTI DOCO, TUSCANY, ITA</td>
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<td>2018 TOMAI TEMPRANILLO/GARNACHA, NAVARRA, ESP</td>
<td>12/27</td>
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<td>2017 CHATEAU MONT REDON RES GSM, COTES DU RHONE, FR</td>
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<td>2018 BULL LANE SHIRAZ, HEATHCOTE, VIC</td>
<td>19/37</td>
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<td>DESSERT</td>
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<td>2013 BAUMARD ‘CARTE D’OR’, COTEAU DU LAYON, FR</td>
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<td>2012 TERRE À TERRE PINOT GRIS, Wrattonbully, SA</td>
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*All Wines are available for takeaway. Please see staff for prices*
**SNACKS**
- Toolunna Creek Olives
- House Roasted Almonds

**IDEAL FOR SHARING**
- Chicken, Leek & Thyme Terrine
- Pork And Pecan Terrine
- Chicken Liver Parfait
- Pork Rillettes
- Black Pudding (Served Warm)
- Pickled Octopus
- Pullled Pork Sliders [3]

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<tr>
<th>Charcuterie</th>
<th>18 Per 100g</th>
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<td>Borgo Soppresa, Pork, Qld</td>
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<td>Quatro Tartufo Salami, Pork, New</td>
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<tr>
<td>Mr Dannutili Cappocollo, Pork, Vic</td>
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**SOMETHING MORE SUBSTANTIAL**
- Pork Hoc And Farro Soup
- Vegetable Soup
- Handmade Gnocchi
- With Wild Mushroom, Bolognese Or Amatriciana
- Hand Rolled Egg Fettuccine
- With Wild Mushroom, Bolognese Or Amatriciana

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<tr>
<th>Cheese</th>
<th>18 Per 100g</th>
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<td>D'Athinais Excellence, Dow, Fra</td>
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<tr>
<td>Blue D'Auvergne, Dow, Fra</td>
<td></td>
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<tr>
<td>Meredith Chevre, Goat, Aus</td>
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<tr>
<td>Ossau - Iraty, Dow, Fra</td>
<td></td>
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<tr>
<td>Quickeys Cheddar, Dow, Eng</td>
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**SWEET THINGS**
- Chocolate Brownie
- Caramel Slice

**PASTA SPECIAL 12PM - 3PM TUESDAY TO FRIDAY $30**
Choose from either handmade gnocchi or hand rolled egg fettuccine with a glass of tombal white or red wine, cavalleri lager schooner or soft drink
Appendix 5

Bin wash and grease trap - Rear of 39 Metrose Street
Appendix 6

Delivery truck activity in Council Carpark behind Melrose Street and Watham Street

15 June - 8:48am

15 June - 8:55am

15 June - 8:55am

15 June - 9:14am
Appendix 6

Delivery truck activity in Council Carpark behind Metrose Street and Waltham Street continued.

15 June - 8:55am

15 June - 8:59am
Appendix 7

Image of the facade of Sidebar Wine Store and Bar
Appendix 8

Design of the canopy at the front of 39 Melrose Street.
Appendix 9

Before and after - Facade
Appendix 9

Before and after - Internal
Appendix 9

Before and after - Internal continued
Appendix 9

Before and after - Rear
Appendix 10

Online petition outlining scope of proposal

**Sidebar Wine Store and Bar Extension**

This week we have submitted an application to Bayside Council to extend our red line area to include a dining/tasting room and a rear courtyard. We have also applied to extend our trading hours. We are very excited to build and improve on what we are already offering to the community.

Things to look forward to:

1. Masterclasses with talented wine makers
2. The option of private dining
3. A more substantial food offering
4. Wine dinners and;
5. A rear courtyard for you and your friends to enjoy!

We believe this can only benefit Sandringham and add to the overall vibrancy of the village centre.

The idea behind this petition is to show Bayside Council that you, the people of Sandringham are in full support of this application. We are hoping for 500 signatures and would appreciate your support.

If you have any questions or concerns, please do not hesitate to contact us directly at hello@sidebarwine.com or feel free to come in for a chat.

We look forward to welcoming you back to a bigger and better Sidebar!
Appendix 10

Online petition outlining scope of proposal - comments

**Reasons for signing**

See why other supporters are signing why this petition is important to them, and share your reason for signing (this will mean a lot to the starter of this petition).

- **Kim Tennyson**
  - May 9, 2020
  - "This is exactly what we need in a sleepy uptown area bar."
  - ❤️ 1

- **Catherine Walker**
  - Apr 30, 2020
  - "I believe it will improve the overall vibe of the area."
  - ❤️ 0

- **Sam Samuels**
  - Apr 30, 2020
  - "The addition of a great local business is crucial to our community and our great operation. Anything to do with this addition will only enhance the enjoyment of this product."
  - ❤️ 0

- **Jenny Sheppard**
  - Apr 26, 2020
  - "This would be an excellent addition to Sandringham."
  - ❤️ 0

- **Alex Bevan**
  - Apr 20, 2020
  - "Great for great food. Perfect place to relax with friends."
  - ❤️ 0

- **Hayley Peggs**
  - Apr 25, 2020
  - "We really do need more great restaurants and bars in town."
  - ❤️ 0

- **Sarah Wicks**
  - Apr 20, 2020
  - "Local businesses need support, more so now than ever before. Great to see businesses that are stepping forward."
  - ❤️ 0

- **Fraser McMillan**
  - Apr 29, 2020
  - "Great local business."
  - ❤️ 0

- **Richard Brown**
  - Apr 23, 2020
  - "Support because it adds to the Sandringham community."
  - ❤️ 0

- **Marie Parker**
  - Apr 25, 2020
  - "Great addition to Sandringham village."
  - ❤️ 0

- **Gina Good**
  - Apr 24, 2020
  - "Great to hear - good luck with this one."
  - ❤️ 0

- **Kerry Smiley**
  - 3 months ago
  - "This fabulous local business is just what Sandringham needs. It's a bustling hive of activity..."
  - ❤️ 1

- **Garrett Monrof**
  - 3 months ago
  - "Great idea."
  - ❤️ 1

- **Linda McManus**
  - 3 months ago
  - "What a great improvement for Sandy."
  - ❤️ 0

- **John Livingstone**
  - 3 months ago
  - "Great local business."
  - ❤️ 0

- **Lillian Smith**
  - 3 months ago
  - "Great idea. Love this place. Big plus for Sandringham."
  - ❤️ 0

- **Eileen McCartney**
  - Apr 24, 2020
  - "Good initiative by Sid."
  - ❤️ 0

- **Nicholas Gill**
  - Apr 24, 2020
  - "It is important to support local businesses, especially those adding opportunities to socialise with the community."
  - ❤️ 0

- **Katherine Tutt**
  - Apr 24, 2020
  - "We need to support our local businesses."
  - ❤️ 0

- **Olivia Rich**
  - Apr 23, 2020
  - "I want great places to eat and drink in our village."
  - ❤️ 0

- **Lillie Smith**
  - Apr 23, 2020
  - "Great idea! Love this place. Big plus for Sandringham."
  - ❤️ 0
<table>
<thead>
<tr>
<th>Name</th>
<th>Date</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Susan Ferrer</td>
<td>Apr 10, 2020</td>
<td>Great local venue!</td>
</tr>
<tr>
<td>Caroline Elliott</td>
<td>Apr 10, 2020</td>
<td>Sandringham needs more local bars and restaurants to attract people into the area</td>
</tr>
<tr>
<td>Emily Read</td>
<td>Apr 10, 2020</td>
<td>StiloBar is a great venue that was needed greatly in Sandringham village and has lifted the profile of the product to a higher standard</td>
</tr>
<tr>
<td>Sarah Taylor</td>
<td>Apr 10, 2020</td>
<td>StiloBar is a wonderful addition to an neighborhood, with excellent food and wine. The proposed extension will ensure that it remains a great local experience.</td>
</tr>
<tr>
<td>Peter Lapa</td>
<td>Apr 10, 2020</td>
<td>For a local who loves good wine and food, StiloBar supports local business</td>
</tr>
<tr>
<td>Sharon Jansen</td>
<td>Apr 20, 2020</td>
<td>A lovely place to have a lovely glass of wine - the proposed additions sound fantastic for Sandringham</td>
</tr>
<tr>
<td>Lindy McNamara</td>
<td>Apr 20, 2020</td>
<td>What a great improvement for Sandy</td>
</tr>
<tr>
<td>Mercedes Felizia</td>
<td>Apr 20, 2020</td>
<td>Good people, good company and good local business</td>
</tr>
<tr>
<td>Jennifer Tracey</td>
<td>Apr 20, 2020</td>
<td>Sandringham needs a classy wine bar and the new additions will be a drawcard to Sandringham</td>
</tr>
<tr>
<td>John Lapa</td>
<td>Apr 20, 2020</td>
<td>Great local business. If you want to enjoy great places we must support them.</td>
</tr>
<tr>
<td>Joyce Bollard</td>
<td>Apr 21, 2020</td>
<td>Love StiloBar, it's just what Sandringham needed. The only downside has been the absence of food. Thoroughly support this extension plan.</td>
</tr>
<tr>
<td>Virginia McDonald</td>
<td>Apr 22, 2020</td>
<td>This sounds fantastic for the Village</td>
</tr>
<tr>
<td>Nathalie Benavent</td>
<td>Apr 22, 2020</td>
<td>Our village needs it.</td>
</tr>
<tr>
<td>Oliver Peters</td>
<td>Apr 22, 2020</td>
<td>Stila Bar is an addition to Sandringham - let's keep the future plans.</td>
</tr>
<tr>
<td>Kelly Train</td>
<td>Apr 22, 2020</td>
<td>I think the testing nothingness room would be a fantastic addition</td>
</tr>
<tr>
<td>Maria Lacy</td>
<td>Apr 22, 2020</td>
<td>StiloBar is a stylish addition to Sandringham - I love their future plans.</td>
</tr>
<tr>
<td>Elizabeth Williams</td>
<td>Apr 22, 2020</td>
<td>It's important to support solid opportunities in the local community such as StiloBar Wine when people can gather, enjoy themselves and feel safe doing so</td>
</tr>
<tr>
<td>Kelly Cannon</td>
<td>Apr 22, 2020</td>
<td>This is the best local business in the Sandringham area. It's a dining experience that would greatly benefit from an increased footprint</td>
</tr>
<tr>
<td>Graeme Maccafe</td>
<td>Apr 23, 2020</td>
<td>Great idea</td>
</tr>
<tr>
<td>Sarah Williams</td>
<td>Apr 23, 2020</td>
<td>We love StiloBar, such a great addition to our Sandringham village</td>
</tr>
<tr>
<td>Monica Taylor</td>
<td>Apr 23, 2020</td>
<td>Agree</td>
</tr>
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</table>
Our rear courtyard is definitely coming along. I could think of worse things to be doing than enjoying a drink and some food on a beautiful sunny afternoon in this space when it's completed and open for business!!
Appendix 11

Community Support - comments on Courtyard post

Megan Waters
Excellent.
Like · Reply · Message: 3 w

Deanne Barby
Jason Frost
Like · Reply · Message: 3 w

Sonia Blakay
Beautiful doors!
Like · Reply · Message: 3 w

Fran Harkin - McGrath Real Estate
Those doors are gorgeous...can't wait to come and enjoy your new creation!
Like · Reply · Message: 3 w

Pip Hall
Looking good! Can't wait to try it out.
Like · Reply · Message: 3 w

Anthony Clyde
I can smell the oil on the timber doors and furniture
Like · Reply · Message: 3 w

Jenny Feiler
Beautiful doors!!!
Like · Reply · Message: 3 w

Kara Longden
Looks amazing. Great job Erik!
Like · Reply · Message: 3 w

Brigid Fennington
Looks great
Like · Reply · Message: 3 w

Christopher J Voca
Good one guys - we'll definitely be up when it's done.
Like · Reply · Message: 3 w

Aida Williams
Fantastic!
Like · Reply · Message: 3 w

Sally Ann Tilley
What a great asset for Sandringham...congrats
Like · Reply · Message: 2 w

Sandra Michael
Looks great!!
Like · Reply · Message: 2 w

Anna Bostel
Can't wait
Like · Reply · Message: 2 w

Helon Paleologos
Looks great
Like · Reply · Message: 2 w

Comment as Sidebar Wine Store and Bar

Page | 127
Item 4.11

736 & 740S
Hampton Street, Brighton
1. **Mrs Katy McCallum (O)**

Object to a 4 storey building to be built in this area. Two or three stories at the most.
2. Mr Rob Cross (O)

Planning and Amenity Committee Meeting 20 July 2020 – Item 4.11

5/2019/147/1 - 736-742 Hampton St, Brighton

1. Background
1.1. Council

This site is located in Dendy Village on the corner of Hampton and Pine Sts. After 43 objections were received a Council Planning and Amenity Committee meeting was held on 13 August 2019, and Councillors unanimously voted against the granting of a permit on the following grounds (as advised by Council in a letter dated 15 August 2019):

1.2. VCAT

The Applicant applied to VCAT, with a Practice Day Hearing, a Compulsory Conference and a 4-day Hearing. These proceedings were attended by 5 residents, representing approximately 20 residences opposed to the development in the form presented, particularly the height at 4 storeys, but also in relation to visual bulk, neighbourhood character, traffic, car parking, safety, noise and flooding.

VCAT granted a permit for 3 storeys on 23 December 2019, with conditions.

2. Current Status

Since the VCAT decision, the Applicant has amended the plans, however they do not reflect all the conditions covered in the permit. Within about 2 months of the VCAT decision the Applicant has again applied to VCAT, basically to have the earlier VCAT decision overturned by reinstating the 4th storey.

A group of residents are again opposing the development, particularly related to the height as being inappropriate for the location, being on the south-east corner of Dendy Village. This case will go to a Compulsory Conference on 20 July 2020 and a 4-day Hearing in September.

3. Objections

The application is a repeat appeal and coming so soon after the Tribunal’s earlier decision it amounts to an abuse of process in utilising section 87A of the Planning and Environment Act 1987 as effectively a measure to appeal the Tribunal’s own decision. The November 2019 hearing was held over 4 days with an Order and Permit dated 23 December 2019, and to have another “bite of the cherry”, the Applicant will require another 4 day hearing. This is oppressive to the residents and a waste of time and resources for both Bayside Council and the Tribunal. It could also be seen as a breakdown of the review and planning processes and potentially erode public confidence in the entire planning system.

The proposal has demonstrated no relevant change in circumstances or relevant provisions since the last time this matter was before the Tribunal in November 2019.

The height of the proposal is too excessive. The Tribunal’s decision was very clear namely it thought that a 4 storey development was not appropriate. It specifically required the building to be lowered by one storey to 3 storeys with 12 apartments. The prior Tribunal was comprised of two very competent members. One being a long standing member and the other an architect who would have already taken a wide view of the proposal and that the
building was not acceptable as a 4 storey building. There were and remain no such circumstances to alter this decision.

Even in its modified form the building is not an appropriate response to the character and amenity of the area. As a Small Neighbourhood Activity Centre (SNAC), Dendy Village is the smallest designation of activity centres in the municipality. A building as tall as what is proposed is incongruent with the current buildings comprising the SNAC and the surrounding low rise residential dwellings.

We also oppose the application on the following grounds:

a) The design response fails to respond to the key features and existing character and amenity of the neighbourhood as low rise with a strong garden character, being a 4 storey high building (15 metres) extending to all property boundaries, leaving no permeable surface area and providing no transition to neighbouring residences.

b) Car parking – the development will generate more need for on-street car parking, mainly in Pine St. Parking in Pine Street is already an ongoing problem.

c) Traffic – the extra traffic flows generated by the development will be detrimental to the current residents of Pine Street. The nature of the entrance and exit of the development car park trains cars to enter from and exit to Pine Street. Setbacks abutting the laneway are unacceptable for the increased traffic using the laneway resulting from the development.

d) Safety – there are a number of safety concerns with this development in relation to increased traffic flows.

e) Flooding – the proposal will exacerbate the flooding problems currently experienced in Pino and Hampton Streets, with evidence presented by the either incorrect or misinterpreted by the previous Tribunal.

f) Noise – the proposal will create more noise and nuisance for the immediate neighbours. This would be a further commercial intrusion into a residential area.

g) Landscaping – the proposed landscaping arrangements are not acceptable and does not provide for planting of canopy trees at the eastern end of levels 1 and 2 to provide some form of soft surface screening to enhance the neighbourhood outlook and provide an obstruction to overlooking for privacy and security for neighbours across the unnamed laneway.

h) Visual Bulk – the visual bulk of the proposal is totally opposed to the finer grain of Dendy Village and surrounding residential dwellings, not just as to height, but also as to its horizontal extent, spanning 2 blocks on Hampton Street, being approximately 20 metres wide. In comparison to the plans before the Tribunal in November 2019, the addition of more balconies on Pine Street adds to the visual bulk.

i) Contribution to the Public Realm – the proposal does not contribute in a positive way to the public realm, in fact it has a negative impact due to its height and visual bulk, occupying the entire site, without any appropriate transition in scale and height to the adjoining residential dwellings, nor landscaping to soften the impact.

j) Innovative Environmental Design – the proposal is not considered an innovative environmental design, with a number of these features not relevant to this particular site, eg preserving the top soil on the site – its all going to be covered in concrete!
4. Request of Council

Our request of Council is that they:

a) Endorse their previous decision and the recommendation before them, in opposing this development, as a 4 storey build.

b) Provide legal representation to defend such decision at the VCAT Hearing.

c) Include as a condition of any permit that the unnamed laneway bounding the development to the east, is widened to 6 metres, for passing purposes, for the length of the development, as was previously submitted by Council as a condition of permit.

d) Limit the building height in Dendy Village to 3 storeys.

Rob Cross
3. Mrs Anne Cross (O)

Council Planning and Amenity Meeting 20July 2020 – Item 4.11
5/2019/147/1 - 736-742 Hampton St, Brighton

General comments on the development and surrounding area.

Having lived in Pine Street for more than 30 years, and viewing the development and progress of the area, I consider this development to be totally out of both scale and character with the surrounding buildings and neighbourhood environment. It would be incongruous and detrimental to the amenity, neighbourhood character and safety of the street. Essentially our street, Pine St, is residential and not commercial in nature.

There is no heritage value in the existing building with its arches facing Hampton Street, as recognised by Council, in that no heritage overlay exists for the site. The adoption of the existing arches as a theme for the design is out of character with the existing buildings in Dendy Village, most dating from the 1920s, and particularly where the arches are continued into Pine Street.

Specific Objections

1. Neighbourhood Character – The Bayside Strategy Plan notes this area is of moderate growth and sensitivity to existing residential context and amenity standards should be considered. The design response fails to respond to the key features and existing character and amenity of the neighbourhood as low rise with a strong garden character, being a 4 storey high building (15 metres); covering 2 blocks (20 metres wide); extending to all property boundaries, leaving no permeable surface area. The proposed development with its height and visual bulk, overshadowing, loss of light, effects on solar panels, lack of planting and green space will overwhelm neighbouring sites. There is minimal landscaping, no green wall planting of any type for visual softening and carbon capture.
2. **Car Parking** – the development will put pressure on car parking in Pine St. The reasons are i) that on any day, car spaces in Pine Street can be fully occupied, particularly with cars from the crash repair business at 744 Hampton Street; ii) residents of the development are more likely to use Pine Street to park if they are using their car several times in the day, as the entrance to the residential area is located in Pine Street; iii) patients of the Medical Centre are more likely to park in Pine Street than use the car parks in the development as they have to navigate the development car park, find a spare car park, if one exists, and then get themselves down to the Medical Centre; iv) customers and goods suppliers for the food and drink venues are more likely to park in Pine Street, as it is the closest parking to the venue; and v) with 14 residences there will be a number of visitors they attract, who will park in Pine Street, being closest to the residence entrance.

The car parking occupancy survey identified 230 car spaces in the vicinity. I would like to know where all these car spaces are. For instance if you consider the Council car park across Hampton Street, people have to cross a busy street to get to their residences or venues, which is less attractive and less safe, as there is no pedestrian crossing provided by Council or VicRoads.

3. **Traffic Flows** - There is an existing problem with concentration of traffic and pressure for parking in Pine St. It has been so for some years. The extra traffic flows generated by the development will be detrimental to the amenity of the current residents of Pine and Walstab Streets. The nature of the entrance and exit of the development car park leads cars to enter from and exit to Pine Street. The existing difficulty of making a turn from Pine Street right into Hampton Street means that most drivers will choose to travel east along Pine Street to Walstab Street, increasing traffic considerably in these streets. The narrow roadway of Pine Street means that when cars are parked either side, only one car can travel along Pine Street. Pine Street is regularly used as a “rat run” for people avoiding the traffic lights at Dendy and Hampton Streets.
4. Safety - there are a number of safety concerns if this development is approved. These concerns relate mainly to traffic and its flow. Travelling north along the unnamed laneway, it is difficult to see cars coming out of the car park at 770 Hampton Street, which also enters and exits to the unnamed laneway, and a similar situation will exist travelling south along the unnamed laneway with the proposed development’s car park; nor do the drivers exiting the proposed car park have any opportunity to see cars travelling in the laneway. The extra traffic generated in Pine Street, with its narrow pavement, has the potential to result in accidents. In Pine Street there are families with young children and older people. Cars speed through our street as it used as a ‘rat run’ to avoid the traffic lights at Hampton and Dendy Streets.

5. Community Consultation - There has been no consultation with the community by the developer, and an information session held by Bayside Council on June 25th was of little use. The planner was unhelpful and ambiguous, the designers representing the developer didn’t listen to our concerns and were only interested in boosting their design elements, exhibiting no understanding, knowledge or indeed interest in our lived experience of this neighbourhood.

6. I was part of the first approach to VCAT in November 2019, where the decision was taken to remove the fourth storey. I am dismayed that this has to be visited again. What a waste of time, resources and energy. In my opinion the developer is undermining the purpose and importance of the Planning System and VCAT.

Anne Cross
4. Mrs Annette Clover (O)

Application No: 5/2019/147/1 Item 4.11 Planning & Amenity Committee Meeting – 21 July 2020

Address: 736-742 Hampton Street, Brighton (in Dendy Village) aka Knobs & Knockers

Proposal: construct a four-storey building comprising of dwellings, food and drink outlets, a medical centre and reduction of car parking

Dear Councillors

My name is Mrs Annette Clover and here are my reasons to not support the Grant of an Amendment to a Permit for this application as follows:

You may recall, 43 objections were received by Council last year for the above site. A Council Planning and Amenity Committee meeting was held on 13 August 2019, whereby Council unanimously refused to grant a permit listing many Objectives and Standards of the Planning Scheme in which the proposal had failed to comply. Before the Committee meeting (we were notified on 18 June 2019) the Applicant had lodged an application for review at VCAT. Failing to resolve this matter at a Compulsory Conference, the application was heard at a 4-day Hearing from 6 November 2019 with a decision made on 23 December 2019. On 7 May 2020, the Applicant had lodged another application for review at VCAT. I submitted a Statement of Grounds with consent of several of my neighbours contesting to this application. A Compulsory Conference is scheduled for 20 July 2020 with a 4-day Hearing from 21 September 2020.

1. I believe this application is a repeat appeal (a further attempt to resurrect a four storey building) and amounts to an abuse of the process in utilising the Planning and Environment Act 1987 as effectively a measure to appeal the Tribunal’s own decision. The Applicant has come back again, requiring a 4-day hearing. This is oppressive to the residents and a waste of time and resources for the Tribunal.

2. Dendy Village is not a Major Activity Centre and should not be treated as such to facilitate such a proposal. Dendy Village is the smallest designation of activity centres in the municipality (SNAC) with an eclectic mixture of small shops and businesses, relying on local traffic with no tourists. The nearest train station is approximately 1.4km with an hourly bus service along Marriage Road. This proposal is best suited in Church or Black Streets but not in Dendy Village.

3. The proposal will comprise of 2 lots and when consolidated will add to the visual bulk. Furthermore, this site is on the corner of Hampton Street and Pine Street and will include the unnamed laneway (between Pine Street and Marriage Road). There must be a reasonable transition to commercial and residential which this proposal fails to achieve.

4. The height of the proposal is too excessive and will dominate the streetscape. I believe a two-storey development is more appropriate. However, the Tribunal’s decision was noticeably clear namely it thought that a 4-storey development was not appropriate. It specifically required the building to be lowered by one storey to 3 storeys, with a reduction of apartments from 15 to 12. The prior Tribunal was comprised of two very
competent members (one of long standing and the other an architect) who would have taken a wider view that the proposal was not acceptable. I believe the circumstances since the VCAT decision has not changed.

5. The design in its modified form is not sensitive enough to reduce the impact of overlooking, overshadowing and privacy of the existing streetscape of Pine Street and the character and amenity of the neighbourhood. The tall arches attempt to hide a second level. However, with the addition of balconies this will encroach further onto the residential properties on Pine Street.

6. Traffic and car parking - Access to the development will be via Pine Street and the unnamed laneway. Pine Street is a very narrow street and safety concerns are real. Most of the residents are owner occupiers with elderly and small children in residence. The additional vehicular traffic associated with the proposed development and limited car parking spaces will increase vehicular traffic not only in Pine Street but also the surrounding streets. There are no traffic lights in Dendy Village. I find it exceedingly difficult to access my driveway due to the ongoing on street parking issues and extremely hazardous when attempting a right-hand turn into Hampton Street from Pine Street.

7. Landscaping - My property is directly opposite the unnamed laneway and the rear of the proposal. Pine Street is garden in character. The existing canopy trees on the subject site (we believe 3 out of the 11 existing trees are of protection value and provides suitable habitats for nesting birds) greatly softens the transition from commercial to the residential properties on the east side of the unnamed laneway. The Tribunal recommended deep soil planting to provide planting of trees which is part of the neighbourhood character. The proposal provides no planting of trees. Removal of these existing trees will not only gain a development advantage but will have a negative impact.

8. Setbacks - There are no setbacks between ground level and unnamed laneway which limits the impact on the amenity of existing dwellings, especially, 29 Pine Street. The proposal does little to provide sufficient setbacks on all levels.

9. Noise - There is no doubt the development will bring increase noise to Pine Street. Including foot and vehicular traffic plus frequent waste collections. The impact will be dramatic due to the additional dwellings and commercial entities. This will cause conflict with the harmony and surrounding residential properties.

10. Waste Management – The prior Tribunal heard that waste collection will be provided by “special trucks” that can squeeze into tight spaces. The Tribunal had recommended three of the surplus car parking spaces in the proposed basement be removed to provide a sufficient turning circle for these trucks to enter and exit safely. We believe that the proposal fails to take this issue into account. Due to the tightness of the laneway waste collection will likely be taking place on the nature strip to avoid any property damage. The proposed Waste Management Plan fails in this regard. This is unacceptable and therefore the development does not provide for a bigger loading bay or safe access to the basement.

11. Contribution to the Public Realm – The proposed design does not contribute in a positive way. In its modified form there are no permeable
surface area to provide good landscaping, the height and visual bulk does not achieve harmony and conflicts with the current buildings comprising of SNAC and the surrounding low-rise residential areas. Furthermore, as residents, the Applicant has never consulted us in the early stages of submitting their application before Council.

12. Flooding – This is a constant concern and I believe that the data provided by both Applicant and Melbourne Water does not support climate change or is not sufficient to deal with future issues. I believe that the strategies to achieve and protect our drainage system is not enough. My experience is that every time we have heavy rain Hampton and Pine Streets floods. This will increase property damage over time. New developments although encouraged by the Planning Scheme are not helping the situation.

The proposed amendment fails to address all the issues raised in the recent 2019 VCAT decision. I ask Council not to support this application and to defend this matter at the scheduled VCAT hearing in September 2020. Also request that Council reinstates as a condition of any permit for this site that the unnamed laneway at the rear be widened to 6 metres to allow for sufficient vehicular access and exit at the entrance of Pine Street, as was previously submitted by Council as a condition of the permit.

Thanking for your consideration.

Dated 16 July 2020.
5. Ms Julie Ryan (O)

To: Planning and Amenity Committee, Bayside City Council
Via: https://www.bayside.vic.gov.au/request-be-heard-council-meeting-0
Re: ‘Request to be heard’ at meeting of Tuesday July 21, 2020

AGENDA ITEM 4.11 “736 & 740S HAMPTON STREET, BRIGHTON
NOT SUPPORT THE GRANT OF AN AMENDMENT TO A PERMIT
APPLICATION NO: 2019/147/1 WARD: CENTRAL”

Date: July 18, 2020
From: Julie Ryan & Chris Ryan, Unit 2, 15 Walstab St, Brighton East 3187 (also known as 38 Pine St as the unit fronts onto Pine St).

We object to the amended planning application for 736-742 Hampton St, Brighton in terms of:

1. Scant regard to VCAT decision re building height and neighbourhood impact: it continues to press for a four storey building, despite the VCAT decision and objections raised there, and is not in keeping with the local residential community and the existing low density/level shopping strip of Dendy Village;

2. Scant regard to VCAT decision re housing density: it only reduces the originally planned 15 flats by one flat (rather than three) and thus still impacts significantly on the local housing density;

3. Impact on existing food shop businesses: we are concerned for the viability of the existing long-established eight food and drink shops that will be adversely affected (about half of all the businesses). Three extra food and drink shops are not actually needed;

4. Public transport: Middle Brighton railway station is more than one kilometre away – google maps shows the two shortest paths from the corner to the station are both 1.3 km;

5. Need for a passing lane behind the shops: there is a need for a passing lane behind the shops to stop congestion, blocking and horn blowing from greatly increased traffic/deliveries along the lane;

6. Unrealistic provision of onsite parking and further reduction: the basement parking allocated for the staff of the four new businesses and the building residents is unrealistic (there is only one underground parking spot for each food business and no apparent underground parking for medical clients or visitors to the proposed 14 flats) and so displacement of parking to Pine St and Walstab St;

7. Increase in traffic and on-street parking affecting safety: drivers already use Pine St/Walstab St as a rat-run to avoid the lights at the Hampton St/Dendy St intersection. There will be a significant increase in traffic and on-street parking in Pine St and Walstab St further affecting safety and personal well-being in the neighbourhood: several children play along Pine St and Walstab St and there is no other play area or park nearby; cyclists will be in more jeopardy; the area is poorly serviced by buses so additional residents will need to rely on cars or delivery services more than other areas;

8. Greatly increased heavy duty waste disposal traffic: the number and frequency of heavy-duty waste disposal trucks and food and medical delivery trucks, coming and going several times a week via Pine and Walstab Sts and down the laneway, will have a negative impact on the lives of neighbourhood residents in terms of noise, safety and security during the day and night;

9. Safety for cars and pedestrians: traffic congestion at the Hampton St and Pine St intersection will increase: traffic backs up on Hampton St in both directions when cars on Hampton St turn...
right into each part of Pine St. When cars face each other the problem worsens further. For drivers exiting Pine St onto Hampton St, vision will be further impeded by footpath trading and parked vans. The many happy dog-walkers and exercise walkers will be compelled to change their normal routes to avoid the on-street dining and narrowing of the pedestrian pathway;

10. **Increased noise in the evening**: we could find no indication of the hours of business for the proposed new food shops and medical centre so it is unclear whether there will be a significant increase in nightly trading and thus increased noise and activity in the neighbourhood during the evening;

11. **On-street dining and pedestrian congestion**: The introduction of nine on-street dining tables for 36 people on the Hampton St corner will also impede pedestrian access to the pharmacy, veterinary clinic, the post office, restaurant, pizza house and the existing fish and chip shop. Crossing the road to the other existing food shops and grocer/bottle shop will also create further safety issue;

12. **Pine Street footpath and nature strip**: the footpath and nature strip on Pine St are both too narrow for shop/business frontage abutting the footpath. Social distancing will not be possible along this stretch. The ratepayer should not have to pay for the damage to the nature strip for the inevitable extra trampling by pedestrians. This strip should remain 'green' with plant life as it might no doubt risk being appropriated for signage and street trading which should be expressly prohibited; and

13. **Disability and Access**: One of us is disabled and the impact of the further increase in traffic flow and increased on-street parking demand in Pine St and Walstab St will affect caring support services’ access to parking.
6. Mr Ian Ramsay (O)

The Planning and Amenity Committee
Bayside City Council
76 Royal Avenue
Sandringham 3191
July 17, 2020

Objection to:

APPLICATION NO. 5/2019/147/1
ADDRESS 736 Hampton Street BRIGHTON, 736R Hampton Street BRIGHTON, 740S Hampton Street BRIGHTON, 740 Hampton Street BRIGHTON, 742 Hampton Street BRIGHTON

PROPOSAL use of land for dwellings; construct a building and construct and carry out works; and a reduction in car parking

We are the current owners of Unit 1 / 29 Pine Street Brighton East and wish to oppose the development application as our home will be significantly impacted if this development is allowed to proceed in its current design.

It is of note and concern that local residents, at great cost and their time, previously opposed the original development application and here we are a few months later, having the developer not accepting VCAT’s recent ruling, for them to resubmit putting local residents through the angst and stress of having to oppose the application once again. We believe this application demonstrates a total lack of care and empathy for the local residents as the developers pursue their monetary goals.

The following are our grounds in opposing the stated application:

- **Significant reduction in sun and natural light** - due to the height of the proposal being too excessive. The major issue will be exacerbated by the proposal abutting the laneway. This will have a serious impact on sun and natural light into our apartment and our front yard.
- **Significant reduction in privacy** - Privacy for our front yard is extremely high and enjoyable at present. This will be completely eliminated due to the building height and balconies overlooking our home.
- **Security** – Security will become a major concern due to the lack of privacy with the overlooking apartments in addition to the significant
increase in car and foot traffic in the laneway which borders our garage, western fence and gate access.

- **Significant increase in laneway traffic** - Access in and out of our garage will be much tighter however as the driveway for the proposed development is opposite our garage there will be significant issues accessing our garage. Also our western fence has been damaged on numerous occasions by vehicles in the laneway. Significant increase in laneway traffic will increase the risk of fence damage.

- **Dramatic increase in noise and increased disruptions** – Significant increase in noise as a result of the overlooking balconies, the additional laneway traffic and the increase in garbage collection service and other industrial equipment navigating a very tight laneway. The increase in laneway traffic will greatly increase noise levels and will be in conflict with the harmony and peaceful nature of surrounding residential properties.

- **Traffic congestion in Pine Street with parking becoming scarce**. Concern that Pine Street will be heavily congested. Suggest reduced access measures to ensure Pine Street remains a quiet suburban street.

- **Additional traffic load on the intersections of Hampton Road with Pine Street and Marriage Road** – Pedestrians crossing Hampton Street in Dendy Village are currently at risk of injury or death due to the dangerous road conditions. Currently there are no provisions in place for a safe crossing in the village other than a centre reservation area which is far too narrow for a parent with a pram to safely cross during peak times. Existing speed limit of 60kph is way too excessive for the safety of pedestrians. In addition, vehicles accessing Hampton Street from Pine Street will endure a more difficult crossing experience with the current layout if the proposed development proceeds.

- **Proposed security lighting will be invasive** - Proposed lighting will accentuate the issue due to very poor street lighting.

- **Unacceptable landscaping plan** - including the removal of long established trees, the plan shows minimal vegetation and is in conflict with the peaceful and ecofriendly green surroundings of the local area and the displacement of native wildlife.

- **Reduction in carparking** - will create extra pressure to on street parking for local residents. Permit parking may need to be introduced.

Ian Ramsay
7. Mrs Simone Shimmin (O)

Statement of Grounds – Application No: 2019/147/1

We have been residents of Pine Street for the past 4 years and have several concerns regarding the amended plans submitted for the development of 736 - 740 Hampton Street, Brighton.

We object to the application on the following grounds:

First, the Tribunal hearing in November 2019 determined that a 4th storey was not appropriate. It explicitly required the building to be reduced by one storey to three storeys.

Dendy Village is categorised as a Small Activity Centre within Bayside City Council and it is the smallest activity centre within the municipality. As far as I am aware, there are no buildings that are four storeys within other Small Activity Centres, not even along Church Street, Brighton, which is categorised as a Major Activity Centre.

A further concern for us should the four levels of the building be approved, is that it sets a precedent for other businesses in Dendy Village to potentially develop four storey buildings or even higher as well. This would be especially distressing for our residential property as we would then have a lot of buildings overlooking and overshadowing into our backyard as there are 12 other businesses on the same side of this development that have the potential to be developed to four storeys.

It is particularly distressing to read in the Planning & Amenity Committee Meeting’s Agenda on page 536 that ‘such a proposal (for a fourth storey) would be better suited within the middle regions of the centre, where a more genuine transition to the more sensitive interfaces could be provided and the additional height would be less prominent’.

Such a recommendation is very concerning as it would represent a significant issue with overlooking from the Dendy Village strip due to the potential number of apartments looking directly into our backyard, which is actively used by our family and would drastically reduce our privacy.

The development that took place at 770 Hampton Street, Brighton (located on the same side of the street, at the opposite end of the shopping strip) was a total of three storeys, which is more preferred and in accordance with Bayside Council’s guidelines for Small Activity Centres. By having the development of 736 – 740 Hampton Street, Brighton approved for three storeys would ‘bookend’ the shopping strip and would therefore be in keeping with the amenity of Dendy Village in an appropriate manner and establish the precedent for the other businesses located in between the two ‘bookend’ apartment blocks. The inclusion of an additional storey by the applicant, in my opinion represents excess profiteering for the developer and no consideration for the neighbourhood.
amenity that must be maintained and encouraged.

Second, Pine Street (east of Hampton Street) is a narrow street and is already heavily utilised throughout the day with people parking their cars in the street. This consists of employees of businesses at Dendy Village; various cars from the workshop of the commercial business, Dendy Panels; several residents from 29 Pine Street who do not use their garage for parking their cars during the day; and customers visiting the Dendy Village shops.

With the proposed development there will be a higher demand for car parks, particularly on Pine Street (east of Hampton Street), with flow onto Walstab Street. The increased demand will come from customers attending the 3 proposed food and beverage outlets; employees of the 3 food and beverage outlets due to only 1 car park per tenant allowed on-site; suppliers to the 3 food and beverage outlets; patients and sales reps attending the medical practice; visitors to the residents of 736 Hampton Street, Brighton and the residents from 736 Hampton Street, Brighton utilising the car parking on Pine Street as it may be more convenient than parking their car in the basement when they need to run errands during the day. Furthermore, gaining access and reversing out of our property will be more problematic due to the high volume of traffic that Pine Street will encounter. Pine Street is a family orientated residential street which comprises of 9 children under 12 years of age.
8. Mr Derya Knight (O)

This application is a repeat appeal, coming so soon after the November 2019 hearing that was held over 4 days with a decision made on 23 December 2019. This amounts to an abuse of the process, is oppressive to residents and a waste of time and resources for the Tribunal. The proposal has demonstrated no relevant change since the last time this matter was before the Tribunal in November 2019. The Tribunal's decision was very clear that a 4 storey development was not appropriate and the height of the proposal is too excessive. It specifically required the building to be lowered by one storey to 3 storeys with 12 apartments. Despite this, on the 24 April 2020 both owner and developer (Applicant) had obtained a Tribunal's Order (VCAT) to put forward their proposed amended permit and plans which essentially is 4 storeys, 14 apartments and 35 parking spaces with very little set-backs. Even in its modified form the building is not an appropriate response to the character and amenity of the area. As a Small Neighbourhood Activity Centre (SNAC), a building as tall as what is proposed is incompatible with the current buildings comprising the SNAC and the surrounding low rise residential area. The proposal will have an unacceptable impact on the amenity of the area through overlooking, privacy and overshadowing. In addition, parking, access to the unnamed laneway and waste collection arrangements are not acceptable. Parking in Pine Street is already an ongoing problem along with a number of other concerns covered in the November 2019 hearing. The new proposal has not materially addressed any of these issues and its progression could also be seen as a breakdown of the review processes and potentially a lack of public confidence in the entire planning process.