

**4.9 8 AND 10 LINACRE ROAD, HAMPTON  
NOTICE OF DECISION TO GRANT A PERMIT  
APPLICATION: 2021/331/1 WARD: BOYD**

City Planning and Amenity - Development Services  
File No: PSF/21/9091 – Doc No: DOC/22/74649

***Officers involved in the preparation of this report have no conflict of interest in this matter.***

**1. Application details**

<b>Recommendation</b>	Notice of Decision to Grant a Permit
<b>Applicant</b>	Planning & Property Partners
<b>Title/Covenant/S173 Agreement</b>	The title of each lot is not subject to any restrictive covenants or Section 173 Agreements.
<b>Date application received</b>	25 June 2021
<b>Current statutory days</b>	130 days (as of 12 April 2022)
<b>Zoning</b>	General Residential Zone (Schedule 2)
<b>Overlays</b>	Design and Development Overlay (Schedule 12) Development Contributions Plan Overlay (Schedule 1)
<b>Site area</b>	2,437.92 sqms
<b>Number of outstanding objections</b>	89
<b>Is a Development Contribution Levy applicable?</b>	Yes
<b>Is the site located within an area of cultural heritage sensitivity?</b>	Yes, an approved CHMP has been submitted <i>(prepared by Jem Archaeology and was dated 16 December 2021)</i>

**Proposal**

The application seeks to construct a three (3) storey building over three (3) levels of basement containing thirty-five (35) apartments and the use of a medical centre in a General Residential Zone Schedule 2 (GRZ2) and buildings and works in a Design and Development Overlay Schedule 12 (DDO12). Key details of the proposal are as follows:

**Buildings and works**

- The subject site is located within the Hampton Street Major Activity Centre (Precinct E).
- The proposed mixed-use building contains 3 storeys above 3 levels of basement in the following arrangement:
  - Lower basement - 57 car spaces
  - Middle basement - 47 car spaces
  - Upper basement - medical centre comprising of 8 practitioners
  - Ground floor - 13 apartments (11 x 2-bedroom apartments and 2 x 3-bedroom apartments)

- First floor - 13 apartments (11 x 2-bedroom apartments and 2 x 3-bedroom apartments)
  - Second floor - 9 apartments (2 x 2-bedroom apartments and 7 x 3-bedroom apartments)
- Number of dwellings: A total of 35 apartments are proposed.
- The building has a maximum height of 10.716 metres and 3 storeys (over 3 levels of basement).
- Site coverage: 61%.
- Permeability: 21.63%.
- Vehicle access is provided via a ramp off Linacre Road to 2 levels of basement carparking.
- A total of 104 car spaces are provided which exceeds the statutory requirement by 25 car spaces.
- 20 bicycle spaces are provided.
- Materials, finishes and colours include light coloured concrete and metal cladding.
- Tree 11 of the submitted arborist report is proposed for removal and requires a Local Law Permit to be removed with all other vegetation on the site being exempt from requiring Council approval to be removed. Tree 11 is a Golden Elm with a height of approximately 4 metres and is located in the front setback of the existing dwelling at 10 Linacre Street.

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

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

#### History

There is no planning permit history relevant to this application.

## **2. Planning controls**

### Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.08-6 (General Residential Zone Schedule 2) – to construct two or more dwellings on the lot.
- Clause 32.08-9 (General Residential Zone Schedule 2) – to construct buildings and works associated with a Section 2 use (medical centre).
- Clause 32.08-2 (General Residential Zone Schedule 2) – to use the land for a section 2 use (medical centre).
- Clause 43.02-2 (Design and Development Overlay Schedule 12) – to undertake buildings and works that exceed 9 metres in height.

### Planning Scheme Amendments

Amendment VC174 was gazetted on 20 December 2021. The amendment implements revised Better Apartment Design Standards, which delivers improved external amenity and design outcomes for all apartment developments. The amendment changes the Victoria Planning Provisions (VPP) and all planning schemes by updating and amending clauses.

The amendment included transitional provisions under Clause 32.08-6. This clause states the new provisions do not apply to an application for a planning permit lodged

before that date of the amendment. The application is required to be assessed against the controls in force immediately before the approval date of Amendment VC174.

Planning Scheme Amendment C180 was gazetted on 18 June 2021 and forms part of the reforms and restructuring of Victoria's planning systems to make planning schemes more efficient, accessible and transparent. The amendment replaces the Local Planning Policy Framework at Clauses 21 and 22 of the Bayside Planning Scheme with a new Municipal Planning Strategy at Clause 02, local policies within the Planning Policy Framework at Clauses 11-19 and a selected number of local schedules to overlays, particular provisions and operational provisions.

### 3. Stakeholder consultation

#### External referrals

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

#### Internal referrals

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

Internal Referral	Response
Arborist	No objection, subject to conditions.
Drainage Assets Engineer	No objection subject to conditions.
Open Space Arborist	No objection subject to conditions.
Waste	No objection subject to conditions.
Traffic Engineer	No objection subject to conditions.
Sustainability	No objection subject to conditions.
Revenue (addressing)	No objection.

#### Public notification

The application was advertised pursuant to Sections 52(1)(a) and (d) of *the Planning and Environment Act 1987* and 89 objections were received.

89 objections remain outstanding at the time of this report.

The following concerns were raised:

- Neighbourhood character.
- Heritage value of 8 Linacre Road.
- Building height.
- Visual bulk.
- Setbacks.
- Amenity impacts (including overlooking, overshadowing and noise).
- Internal amenity of apartments.
- Overpopulated development.
- Proposed medical centre being inconsistent with a residential zone.
- Car parking/traffic.
- Waste management issues.
- Tree removal and insufficient landscaping opportunities.

- Site being located in an area of cultural heritage.
- Property values.
- Removal of bay views.
- Drainage and stability issues as a result of excavation.
- Precedent.

#### Consultation meeting

The applicant declined a consultation meeting, as it was felt it would not be conducive to any productive outcomes due to the large number of objections. Instead the applicant provided Council with a written response to the objections raised. This document was not circulated to objectors as it did not include any alterations to the development but instead provided further clarification on the proposed development. The response is provided at **Attachment 3**.

#### 4. Recommendation

That Council resolves to issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of planning application 2021/331/1 for the land known and described as **8 and 10 Linacre Road, Hampton**, to **construct a three (3) storey building over three (3) levels of basement containing thirty-five (35) apartments and the use of a medical centre in a General Residential Zone Schedule 2 (GRZ2) and buildings and works in a Design and Development Overlay Schedule 12 (DDO12)** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the use and development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the plans advertised prepared by Ewerth Leaf referenced as Project number 21133, date August 2021 and revision number A but modified to show:
  - a) location of lighting to pedestrian accessway and basement ramp
  - b) proposed visual privacy screens to be annotated as permanently fixed external screens to at least 1.7 metres above floor level and be no more than 25 per cent transparent in accordance with Standard B22 (overlooking) of Clause 55.04-6 of the Bayside Planning Scheme
  - c) demonstrate that the habitable room windows and balconies on the second floor comply with Standard B22 (overlooking) of Clause 55.04-6 of the Bayside Planning Scheme
  - d) proposed parking allocation is required to be annotated, showing which spaces are to be allocated to the medical centre use, visitors, and residents
  - e) details for the ramp between basement levels including width of ramp sections, width of kerbs and gradients and be consistent with information provided in the Traffic and Transport Assessment prepared by Impact and dated 4 November 2021
  - f) the Basement Level 1 plan to show any kerbs for the ramp between the crossover and basement level 1 in accordance with the Traffic and Transport Assessment prepared by Impact and dated 4 November 2021

- g) relocation of any street infrastructure including street signage for the proposed crossover
- h) a notation that the proposed crossover will be constructed in accordance with Council's Vehicle Crossing Guidelines
- i) a notation that that redundant vehicle crossings to be removed and kerb/channel/footpath/nature strip reinstated
- j) a notation that all indoor car parking areas must have a minimum grade of 1:200
- k) an amended Sustainability Management Plan in accordance with Condition 13
- l) a Landscaping Plan in accordance with Condition 16
- m) an amended Arboricultural Impact Assessment in accordance with Condition 19 and any development alterations required as a result of this
- n) a Tree Management and Protection Plan in accordance with Condition 20
- o) provision of the development contributions fee in accordance with Condition 37
- p) a Waste Management Plan in accordance with Condition 38
- q) a Construction Management Plan in accordance with Condition 40

all to the satisfaction of the Responsible Authority.

- 2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
- 3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.
- 4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.
- 5. All pipes (excluding downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
- 6. Before the occupation of the site commences, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.
- 7. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.
- 8. Vehicle Crossings must be constructed to Council's Standard Vehicle Crossover Guidelines and standard drawing unless otherwise approved by the Responsible Authority. Separate consent/permit for crossovers is required from Council's Asset Protection Unit. Kerb and channel to be constructed or reinstated to the satisfaction of Council.
- 9. The existing footpath levels must not be lowered or altered in any way at the property line (to facilitate the basement ramp). This is required to ensure that normal overland flow from the street is not able to enter the basement due to

any lowering of the footpath at the property line. Any public assets (including service pits, poles and trees) that are required to be removed/relocated to facilitate the development must be done so at the cost of the owner/applicant and subject to the relevant authority's consent. The redundant vehicular crossing must be removed and the footpath, nature strip and kerb reinstated at the owner's cost to the satisfaction of Council.

10. Prior to the commencement of any proposed works above basement level, all levels and gradients of the ramp must be checked by a qualified surveyor.
11. All basic services, including water, electricity, gas, sewerage, telephone, NBN and cable TV but excluding any substation, meters or hydrants must be installed underground and located to the satisfaction of the relevant servicing authority and the Responsible Authority.
12. Storage areas within the basement visible from common areas to be enclosed within a metal cladding to ensure they are secure and goods within the storage area are not visible and in accordance with Standard D20 of Clause 58 of the Bayside Planning Scheme.

#### Sustainability Management Plan

13. Prior to the endorsement of plans pursuant to Condition 1, an amended Sustainable Design Assessment (SDA) must be submitted to and approved by the Responsible Authority that is generally in accordance with the one submitted with the application identified as Sustainable Development Consultants S4426 SMP V2 dated November 2021 but modified to show:
  - a) show safe access point for maintenance and location of water pumps and manual over-ride switches (which should be readily accessible for access in the event of malfunction) to the underground water tank
  - b) copy of full published BESS Report as Appendix to the SMP
  - c) copies of preliminary energy ratings for sample representative dwellings to support the summary of energy ratings provided in Table 3 on page 20 of the SMP
  - d) locations of the following items to be annotated on plans:
    - i. the minimum capacity, angle and orientation of photovoltaic solar panels
    - ii. rainwater capacity (35 kL) and, if under slab, show safe access for maintenance and location of water pumps and manual over-ride switches
    - iii. individual utility meters and common area submeters to be provided
    - iv. car park with natural ventilation or CO monitoring system
    - v. taps and floor waste on balconies / courtyards
    - vi. energy efficient lift with switching off control devices, efficient power supply unit, LED lights and low friction suspension
    - vii. heat pump hot water system/s
    - viii. LED lighting level of 4.0W/m<sup>2</sup> max, domestic, commercial and common.
14. All works must be undertaken in accordance with the endorsed Environmentally Sustainable Development (ESD) Management Plan to the

satisfaction of the Responsible Authority. No alterations to the ESD Management Plan may occur without the written consent of the Responsible Authority.

15. Prior to the occupation of any dwelling approved under this permit, a report from the author of the Environmentally Sustainable Development (ESD) Management Plan report, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Environmentally Sustainable Development (ESD) Management Plan have been implemented in accordance with the approved Plan.

#### Landscaping

16. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape plan prepared by John Patrick Landscape Architects Pty Ltd, Revision D, dated 25 November 2021 and the Bayside Landscaping Guidelines and be drawn to scale with dimensions. The plan must show:
  - a) a survey, including botanical names, of all existing trees to be retained and removed on the site
  - b) a survey, including botanical names, of all existing trees on neighbouring properties where their Tree Protection Zones (calculated in accordance with AS4970-2009) encroach into the subject site
  - c) a planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. Plantings must be 80% indigenous by species type and count
  - d) the soil volume of planter boxes over basement and first floor
  - e) where practicable, the provision of green wall(s) at appropriate locations.
17. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
18. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

#### Arboricultural Impact Assessment

19. The Arboricultural Impact Assessment prepared by TMC Reports, dated 24 November 2021, Version 4 be modified to include:
  - a) Findings of a Tree Root Investigation for Tree 21 undertaken by a suitably qualified arborist.

#### Tree Management and Protection Plan

20. Before the development starts, including any related demolition or removal of vegetation, a TPMP, prepared by a suitably qualified arborist, to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority. This report must be made available to all relevant parties involved with the site.

The TPMP must include:

- a) details of Tree Protection Zones, as per AS4970-2009, for all trees to be retained on the site and for all trees on neighbouring properties (including public open space trees) where any part of the Tree Protection Zone falls within the subject site
- b) protection measures to be utilised and at what stage of the development they will be implemented
- c) appointment of a project arborist detailing their role and responsibilities
- d) stages of development at which the project arborist will inspect tree protection measures
- e) monitoring and certification by the project arborist of implemented protection measures.

Before any works associated with the approved development, a project arborist must be appointed and the name and contact details of the project arborist responsible for implementing the endorsed TPMP must be submitted to the Responsible Authority.

Any modification to the TPMP must be approved by the project arborist. Such approval must be noted and provided to the Responsible Authority within seven days.

The TPMP must include a Tree Protection Plan (TPP) in accordance with AS4970-2009 Protection of Trees on Development Sites.

The TPP must:

- f) be legible, accurate and drawn to scale
  - g) indicate the location of all tree protection measures to be utilised
  - h) include the development stage (demolition, construction, landscaping) of all tree protection measures to be utilised
  - i) include a key describing all tree protection measures to be utilised.
- 21. All protection measures identified in the Tree Management and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction of the Responsible Authority.
  - 22. Before the development starts, including demolition or removal of vegetation, the name and contact details of the project Arborist responsible for implementing the Tree Management Plan must be submitted to the Responsible Authority.
  - 23. Any pruning that is required to be done to the canopy of any tree to be retained is to be done by a qualified Arborist to Australian Standard – Pruning of Amenity Trees AS4373-1996. Any pruning of the root system of any tree to be retained is to be done by hand by a qualified Arborist.

#### Street tree protection

- 24. Soil excavation must not occur within 2 metres from the edge of the street trees numbered Trees 1, 2, 35 and 36 of the asset's stem at ground level.
- 25. A tree protection fence is for the protection of a tree's canopy and root zone. Conditions for street tree protection fencing during development are as follows:
- 26. Fencing is to be secured and maintained prior to demolition and until all site works are complete.
- 27. Fencing must be installed to comply with AS4970-2009, Protection of trees on



development sites.

28. Fencing should encompass the Tree Protection Zone (TPZ) for all street trees adjacent to the development.
29. Fencing is to be constructed and secured so its positioning cannot be modified by site workers.
30. If applicable, prior to construction of the Council approved crossover, TPZ fencing may be reduced to the edge of the new crossover to facilitate works.
31. Prior to soil excavation for a Council approved crossover within the TPZ, a trench must be excavated along the line of the crossover adjacent to the tree using root sensitive non-destructive techniques. All roots that will be affected by must correctly pruned.
32. Any installation of services and drainage within the TPZ must be undertaken using root sensitive non-destructive techniques.

#### Drainage

33. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where stormwater is drained under gravity to the Council network.
34. Before the development, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council's City Assets and Projects Department.
35. Council Stormwater drainage is for surface rainwater, no water below the Ground Water Table is accepted into the Council Stormwater system. Only occasional, clean, uncontaminated seepage water (associated with a rain event) is accepted to an appropriate Council underground drain OR this subterranean water must be suitably retained on-site.
36. The surface of all balconies and terraces are to be sloped to collect the stormwater run-off into stormwater drainage pipes that connect into the underground drainage system of the development to the satisfaction of the Responsible Authority.

#### Development Contribution

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

#### Waste Management Plan

38. Prior to the endorsement of the plans, a Waste Management Plan must be submitted to and approved by the Responsible Authority that is generally in accordance with the Waste Management Plan, prepared by Leigh Design Pty Ltd and dated 19 November 2021. The plan will be endorsed and will then form part of the permit.
39. Waste collection from the development must be in accordance with the plan, to the satisfaction of the Responsible Authority.

Construction Management Plan

40. Prior to commencement of any building works (including demolition works in a Heritage Overlay) and / or the issue of a Building Permit, a Construction Management Plan (CMP) prepared to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for (but not limited to):
- a) a pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure
  - b) works necessary to protect road and other infrastructure
  - c) remediation of any damage to road and other infrastructure
  - d) containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land
  - e) facilities for vehicle washing, which must be located on the land
  - f) the location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street
  - g) site security
  - h) management of any environmental hazards including, but not limited to:
    - i contaminated soil and ground water
    - ii materials and waste
    - iii dust
    - iv stormwater contamination from run-off and wash-waters
    - v sediment from the land on roads
    - vi washing of concrete trucks and other vehicles and machinery
    - vii spillage from refuelling cranes and other vehicles and machinery
  - i) the construction program
  - j) preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency
  - k) parking facilities for construction workers
  - l) measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan
  - m) an outline of requests to Council /Public authorities to occupy public footpaths or roads, or anticipated disruptions to local services
  - n) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced
  - o) the provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads
  - p) include details of bus movements throughout the precinct during the construction period

- q) a Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with Noise Control Guideline 12 for Construction (Publication 1254) as issued by the Environment Protection Authority in October 2008. The Noise and Vibration Management Plan must be prepared to the satisfaction of the Responsible Authority. In preparing the Noise and Vibration Management Plan, consideration must be given to:
- i) using lower noise work practice and equipment
  - ii) the suitability of the land for the use of an electric crane
  - iii) silencing all mechanical plant by the best practical means using current technology
  - iv) fitting pneumatic tools with an effective silencer
  - v) other relevant considerations
  - vi) any site-specific requirements
- during the construction:
- r) any stormwater discharged into the stormwater drainage system must be in compliance with Environment Protection Authority guidelines
  - s) stormwater drainage system protection measures must be installed as required to ensure that no solid waste, sediment, sand, soil, clay or stones from the land enters the stormwater drainage system
  - t) vehicle borne material must not accumulate on the roads abutting the land
  - u) the cleaning of machinery and equipment must take place on the land and not on adjacent footpaths or roads
  - v) all litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly.

If required, the Construction Management Plan may be approved in stages. Construction of each stage must not commence until a Construction Management Plan has been endorsed for that stage, to the satisfaction of the Responsible Authority.

#### Medical centre use

- 41. Not more than eight (8) medical practitioners may provide medical services on site at any one time without the prior written consent of the Responsible Authority.
- 42. The use (medical centre) allowed under this permit must operate only during the following hours, except with the further written consent of the Responsible Authority:
  - a) 8am to 7pm Monday to Wednesday
  - b) 8am to 9pm Thursday and Friday
  - c) 8am to 1pm Saturday
  - d) Closed Sunday and public holidays.
- 43. Noise emanating from the subject land (associated with the medical centre) must not exceed the permissible noise levels when determined in accordance with Environment Protection Regulations 2021, for commercial premises to the satisfaction of the Responsible Authority. Any works required to ensure and

maintain the noise levels must be completed prior to the commencement of the use or occupation of the site and maintained thereafter, all to the satisfaction of the Responsible Authority.

44. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:
- transport of materials, goods or commodities to or from the land
  - appearance of any building, works or materials
  - emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.

#### Permit Expiry

45. This permit will expire if one of the following circumstances applies:
- The development is not started within two years of the date of this permit.
  - The development is not completed within four years of the date of this permit.
  - The use of the medical centre is not started within two years of the date of this permit.
  - The use of the medical centre is discontinued for a period of two years or more.

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

#### Permit Notes:

- Council is the responsible authority for the allocation of street addressing in accordance with the "Rural and Urban Addressing Standards (4819:2011)". It is the applicant/property owner's obligation to comply with the Street address allocations prior to the completion of construction.

Ground Floor – Medical Centre – 8 Linacre Road HAMPTON 3188

Level 1 – Units 101-113/10 Linacre Road HAMPTON 3188

Level 2 – Units 201-213/10 Linacre Road HAMPTON 3188

Level 3 – Units 301-309/10 Linacre Road HAMPTON 3188

- For more information on street numbering, please contact Council's Revenue Services Team on 9599 4444.
- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council's supervision for which 24 hours' notice is required.
- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a 'Road Opening Permit' must be obtained to facilitate such work.
- A 'Road Opening / Stormwater Tapping Permit' is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.

- Council records indicate that there is no easement within the property.
- Subsurface water must be treated in accordance with Council's Policy for "Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.
- Council would be supportive of the applicant and/or owner making a tax deductible donation equal to 0.1% of the sale price of any dwelling approved under this permit to Homes for Homes Limited (CAN 143 141 544) or equivalent social and/or affordable housing not-for-profit organisation.

## 5. Council Policy

### Council Plan 2017–25

Relevant objectives of the Council plan include:

- Lead and influence change to address the climate emergency and strive to reduce its impact in the health of our community, environment and the planet.
- Land use will enhance Bayside's liveability and protect the distinctive heritage and character of our various localities.
- Transport planning and infrastructure facilities are well connected, accessible, safe and convenient transport system that contributes to a zero carbon future and wellbeing.

Relevant strategies of the Council plan include:

- Adopt and champion innovative ways of working and evaluate policy against its climate impact to reduce harm.
- Enhance vegetation (including through tree canopy) through accelerated tree planting and tree protection on public and private land.
- Strategic planning and controls protect and reflect the diverse environmental and heritage values of Bayside.
- Encourage the planning of well-designed new development that is appropriately located and consistent with the preferred neighbourhood character and residential amenity.
- Integrate our transport planning and traffic management, and employ smart solutions to address changing demand, transport trends and community needs.

### Bayside Planning Scheme

- |                      |   |
|----------------------|---|
| • Clause 2           | Municipal Planning Policy               |
| • Clause 2.03        | Strategic Directions                    |
| • Clause 11          | Settlement                              |
| • Clause 11.03-1S    | Activity Centres                        |
| • Clause 11.03-1L-04 | (Hampton Street – centre name)          |
| • Clause 12          | Environmental and Landscape Values      |
| • Clause 13          | Environmental Risks and Amenity         |
| • Clause 13.07-1L    | Discretionary Uses in Residential Areas |
| • Clause 14          | Natural Resource Management             |

- Clause 15 Built Environment and Heritage
- Clause 15.01-1L Urban Design
- Clause 15.01-5S Neighbourhood Character
- Clause 15.01-5L Bayside Preferred Neighbourhood Character
- Clause 15.03-2S Aboriginal Cultural Heritage
- Clause 16 Housing
- Clause 17 Economic Development
- Clause 18 Transport
- Clause 19 Infrastructure
- Clause 32.08 General Residential Zone (Schedule 2)
- Clause 43.02 Design and Development Overlay (Schedule 12)
- Clause 45.06 Development Contributions Plan Overlay (Schedule 1)
- Clause 52.06 Car Parking
- Clause 52.34 Bicycle Facilities
- Clause 53.18 Stormwater Management in Urban Development
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

## 5. Considerations

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

### 5.1. Strategic Justification

The proposed development involves the construction of a three storey apartment building, over one level of medical centre and two levels of basement carparking. The site is located on the southern side of Linacre Street, located in the Hampton Major Activity Centre, Precinct E. The site is approximately 200 metres from the retail core of Hampton Street, and 550 metres from Hampton Train Station. The proposal provides strong strategic grounds for the development, when considered against State and Local Policy.

#### State Planning Policy Framework

The State Planning Policy Framework broadly supports the intensification of development in and around public transport nodes and in activity centres. The aim of the State approach to Activity Centres across Melbourne is to develop a network of centres linked by transport; consisting of Metropolitan Activity Centres supported by a network of vibrant major and neighbourhood activity centres of varying size, role and function, of which Bayside would play its role in accommodating for the forecast population increase of Melbourne.

Clause 11.03-1S specifically indicates that the centres such as Hampton should seek to encourage a diversity of housing types at higher densities in and around the activity centre. This, coupled with strategic intent to improve access by walking, cycling and public transport to the services and facilities available within the activity centre, and by extension, reduce the number of private motorised trips by concentrating activities that generate high numbers of (non-freight) trips in highly accessible activity centres. To this end, Clause 11.02-1S outlines that opportunities for the consolidation, redevelopment

and intensification of existing urban areas should be considered.

The location of the subject site in context of the Hampton Activity Centre satisfies the opportunities and intent of these State Policies.

#### Local Policy

The core of Council's strategic directions towards activity centres and housing requirements are housed in Clause 2.03. Population forecasting shows that a trend towards smaller household sizes and an ageing population is increasing the demand for a greater variety of housing types and more affordable housing. To meet the forecast population increases and demographic changes, additional dwellings will be required.

To this end, Council's Local Policy seeks to:

- Direct increased housing densities to Major Activity Centres, Large Neighbourhood Activity Centres and residential opportunity areas, particularly those with good access to public transport routes as identified in the Residential strategic framework plan at Clause 02.04-1.
- Encourage a diversity of housing types in well serviced locations to meet the needs of the community over time, including housing for older people and affordable housing.
- Manage development associated with population growth and minimise any detrimental impact on amenity.

Again, the location of the site within the residential precincts of the Activity Centre and the inclusion of 2 and 3 bedroom units within the proposal directly strongly correlates with these strategic intentions. The site location within the moderate residential growth area, and proximity to Hampton Station and the Hampton Street Retail Core of the activity centre also provides ample opportunity to satisfy alternative transport objectives sought by Council, by making alternatives to private vehicle use viable and prioritised, including walking, cycling and public transport. These objectives are echoed further in Clause 18.01L.

#### Hampton Street Major Activity Centre

Clause 11.03-1L04 identifies Hampton Street as one of four Major Activity Centres within Bayside. Much like the general local policy, the residential strategy for this activity centre includes making provision for increased housing densities and diversity of housing types within the centre, and more specifically to provide adequate off-street parking for all new dwellings. The proposed development does not seek a waiver for parking, providing slightly above the necessary statutory spaces, including allocation for visitor parking. The Hampton Street Centre Structure Plan (2006) itself encourages additional housing in established neighbourhoods should be encouraged to be in keeping with the desired future character of the area as outlined in the Bayside Neighbourhood Character Policy, now housed in in Clause 15.01-5L. The design response to this is considered in further into the report.

#### Response

The proposed mixed use development, given its scale, location and contents adheres to the above strategies ensuring achievement of the objectives contained within the various clauses outlined of the Bayside Planning Scheme. Further, the position within a well-established urban area meets the State objectives relating to redevelopment and intensification of land in established areas.

Being located within a residential area of the Hampton Street Major Activity Centre, the proposal includes a suitable increase in density of residential development, whilst providing for ease of access to a variety of transport and service options achievable without dependence on private car use. The activity centre is located within close

proximity to public transport and is a focal point within the municipality for jobs, services and other commercial needs. The site abuts an existing priority pedestrian link along the railway line allowing easy access into the heart of the activity centre, and where car use is necessary, the site will provide ample off-street parking as expected. The development itself includes a mixture of 2 and 3 bedroom dwellings, which could accommodate a variety of household types including first home buyers, empty nesters or families.

Considering all the above, there is clear consistency between the proposal and the State and Local planning policy, which supports the development as described, based on location, density, availability of services, and transport directives. Overall, the location of the site in an activity centre, and significant intensification of the residential use on the site has significant strategic basis and support. The proposed development is a positive step towards providing housing diversity, intensifying land use, and catering for growth within Bayside. The more specific built form, character and presentation aspects of the development are less related to the strategic considerations of the proposal, and are discussed in detail further into the report.

The proposed use of a medical centre provides additional services to the Activity Centre that will be used by the broader community and the intention of the Activity Centre.

## 5.2. Design and Development Overlay Schedule 12

The Design and Development Overlay Schedule 12 provides built form standards for the Hampton Street Major Activity Centre. The subject site is located in Precinct E of this overlay. This Precinct has a maximum building height of 12 metres for the subject site and 3 storeys.

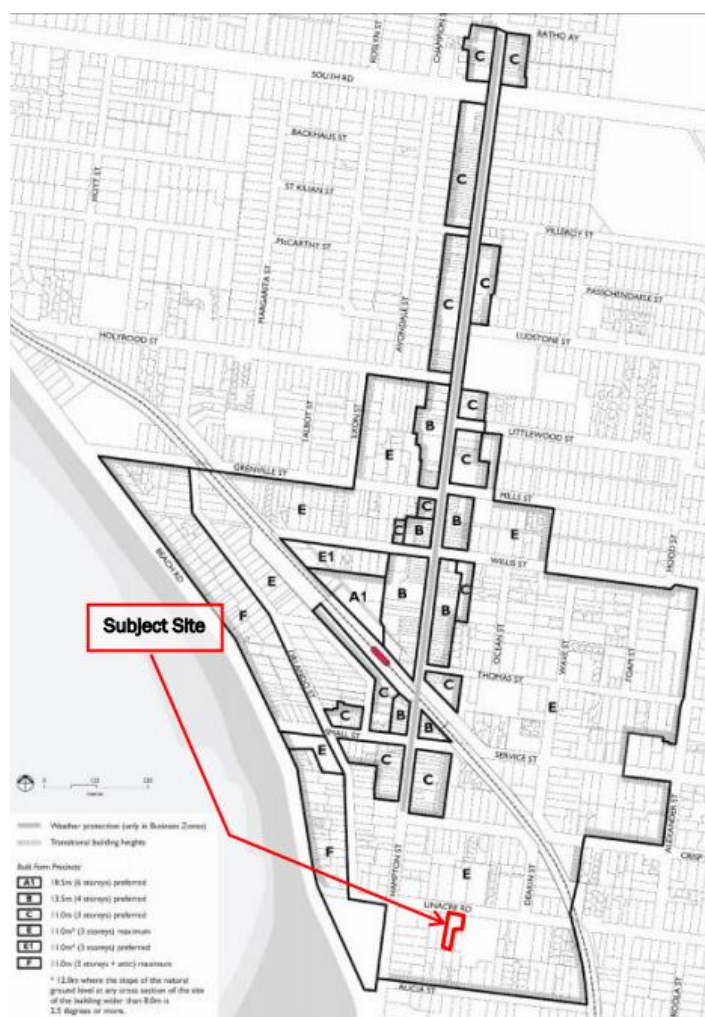


Figure 1: Map of the Hampton Street MAC and DDO12 area, with the site marked in red



*towards the south.*

#### Storeys

If a basement level projects more than 1.2 metres above natural ground level it is classed as a storey. In this instance, the medical centre level will extend less than 1.2 metres and therefore is not classed as a storey under the General Residential Zone or Design and Development Overlay Schedule 12. Therefore, the development is considered to be a 3 storey building over 3 levels of basement which is allowable under the Design and Development Overlay Schedule 12.

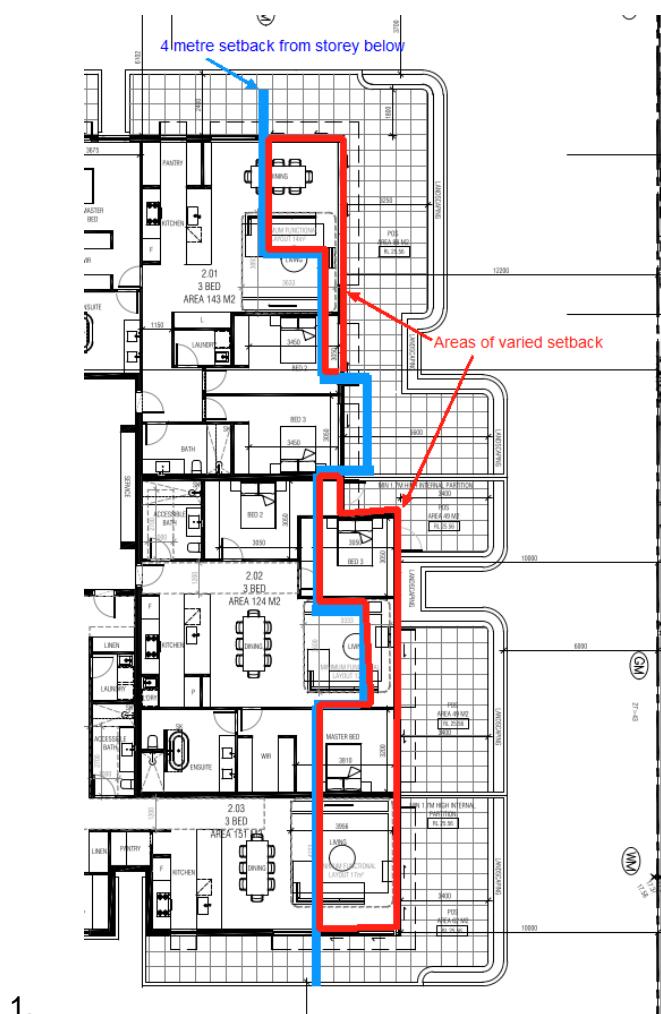
#### Building height

The maximum height of the development allowable under the Design and Development Overlay is 12 metres. The development proposes a maximum height of 10.716 metres above natural ground level and therefore is under the maximum building height that applies.

#### Setbacks

For developments in the residential zones such as this, buildings are required to be setback in accordance with the standards of Clause 55 except for the second floor which should be setback a minimum of 4 metres from the front wall of the floor immediately below. The proposal seeks some minor variations to the side setback requirements to the third storey which will be discussed in more detail into the report.

To the frontage the upper storey is required to be setback a minimum of 4 metres from the storey below. The proposal exceeds this requirement to a minor proportion of the front elevation which equates for approximately 3.5 metres and is associated with Bedroom 3 of Apartment 2.01. A variation of between 1 and 3.15 metres is sought under this requirement for the remainder of the elevation. This is illustrated in the below image.



*Figure 2: Variations to 4 metre upper storey setback requirement of DDO12*

The Design and Development Overlay stipulates that an application can vary the requirement 4 metre requirement when the objectives of the overlay are met and where a proposal demonstrates achieve a high standard of architectural design that results in minimal overshadowing and impact top the street/neighbouring properties and transitions to lower building forms.

The proposal has included a transitional setback at ground level to limit the impact of the development on the neighbouring property at 4 Linacre Road and additional landscaping opportunities and sections of the ground floor being setback further than required by Standard B6 (front setback). Theoretically the ground level could have been setback less from the street to achieve the required 4 metre recession to the upper storey however the proposed design response is considered a better outcome as it is more sympathetic to the setback at 4 Linacre Street and creates better landscaping outcomes to the streetscape.

The upper storey will be setback significantly from the streetscape at between 10.0 metres to 12.20 metres which will achieve the visual separation that the setback seeks.

Other design aspects have been included to reduce the visual dominance of the upper storey including:

- A staggered setback.
- Balconies to the streetscape including planter boxes.
- Metal cladding which is visually a lighter material and a point of difference to the lower storeys.

- Significant glazing.
- A flat roof form.
- Significant recessions to the side boundaries.
- Vegetation is proposed within the front setback that is capable of reaching a mature height of 10 metres which is a similar height to the building and will assist in softening the building.

The varied upper storey recession also is not considered to result in any significant amenity impacts to the street or adjoining properties.

The front of the site is to the north and the varied setback will not create any additional overshadowing over Linacre Street. The development also appropriately transitions from the built form of the double storey Linacre Private Hospital that is located to the east of the subject site that does not include any upper storey recessions.

The varied recessions to the upper storey are therefore considered satisfactory in this instance.

### 5.3. Use

The proposal includes the use of a Medical Centre at the lower ground floor. A Medical Centre is a Section 2 Use that requires a Planning Permit under the General Residential Zone.

The Medical Centre is considered to be compatible with Linacre Road with the neighbouring property to the east of the site being the Linacre Private Hospital. The use will provide additional medical services to the local community which will be required through the intended growing population within the Hampton Street Activity Centre.

Clause 13.07-1L-02 (Discretionary uses in residential areas) also provides direction about non-residential uses in residential areas. This policy encourages discretionary uses on the periphery of commercial areas or adjacent to other discretionary uses. It is considered that the subject site and use supports this by being located next to the Linacre Private Hospital and within walking distance of the Hampton Street commercial precinct.

The policy also encourages discretionary uses within walking distance of public transport. The proposed use would be located conveniently to Hampton Street Train Station.

The decision guidelines of the General Residential Zone and Clause 13.07-1L-02 also requires consideration of the amenity impacts of the use to the surrounding area.

It is considered that the use would not unreasonably impact the amenity of adjoining residential properties. The use is relatively low scale with a maximum of eight (8) medical practitioners. The proposal provides adequate car parking which is consistent with the requirements of Clause 52.06 (Car parking) at basement level 1 which will not be visible from the streetscape. The proposal also provides 8 bicycle spaces which will encourage other forms of transport.

If a permit was issued it is recommended that conditions be included to further reduce any potential amenity impact. This includes:

- Limiting the number of Medical Practitioners to a maximum of eight (8).
- Limiting the hours of operation to those recommended for medical centres under Clause 13.07-1L-02 as follows:
  - Monday – Wednesday 8am – 7pm
  - Thursday – Friday 8am – 9pm
  - Saturday 8am – 1pm

- Sunday and public holidays – closed
- Ensuring that noise is consistent with Environment Protection Regulations 2021.
- Ensuring amenity is not impacted by way of storage of good, light or unloading of goods.

Through the inclusion of these conditions, it is considered that the scale of the use will be relatively minor and compatible with the surrounding area.

#### **5.4. Neighbourhood character**

The site is located within Neighbourhood Character Precinct F1. The proposal is considered to demonstrate an appropriate level of compliance with the general objectives and strategies of Bayside preferred neighbourhood character policy as well as the preferred character policy guidelines and preferred character strategies for the precinct.

##### **General**

With the exception of the Linacre Private Hospital, the immediate surrounds of the subject site remains predominantly residential with detached single storey dwellings and post war unit development, constructed predominantly of face brick with pitched roof forms the consistent typology.

There is a 3 storey apartment development at 28 Linacre Road and approval for a 3 storey apartment development at 23 and 25 Linacre Road. These newer developments are consistent with the designation of the street within the Hampton Street Major Activity Centre and indication of the future preferred character.

Despite this growth is required to be balanced with valued aspects of the existing character of the area. The preferred character policy guidelines help assist with achieving this balance.

##### **Preferred character policy guidelines**

Underground car parking accessed from the front of the site only where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.

Access to the site is proposed from the front of the site and this is the only option in this instance as there is one frontage and no laneways.

##### **Preferred character strategies**

Retain wherever possible pre World War 2 era dwellings and inter-war Californian Bungalows that are intact, in good condition and contribute to the valued character of the Precinct.

The site is not subject to any heritage designation under the Planning Scheme. Although it is acknowledged that the dwelling at 8 Linacre Road is a pleasant building that offers a high level of amenity, it has no statutory protection under the Planning Scheme and could be demolished without a planning permit.

Retain the front of valued existing dwellings in alterations and extensions and design them to be complementary to the building era.

As discussed above the existing dwelling is proposed to be removed however is considered acceptable as it can be removed without a planning permit.

Retain established trees and vegetation.

The subject site proposes the removal of all existing vegetation on the site. This will be discussed in more detail into the report however much of the vegetation is exotic and not considered significant.

Replace any trees removed with species that will grow to a similar height.

The proposal includes setbacks to all boundaries to allow significant replanting opportunities. This is demonstrated by the submitted Landscape Plan (prepared by John Patrick Landscape Architects Pty Ltd, Revision D, dated 25 November 2021), which shows the planting of 16 trees with a minimum mature height of 8 and 10 metres. This will create an improved landscaping outcome for the subject site.

Encourage replanting of indigenous sandbelt vegetation.

The landscape plan has included the planting of predominately indigenous and native which is an improvement on the existing vegetation on the site which will help assist in enhancing the development and contributing positively to the vegetated character of the area.

Site buildings to create the appearance of space between buildings and accommodate substantial vegetation.

No walls are proposed on boundaries and reasonable setbacks are provided to every boundary which ensures separation is provided with neighbouring properties. This creates good opportunities for vegetation to be planted to all boundaries to provide transition between neighbouring properties. Canopy trees and lower-level planting has been proposed within all setbacks.

Minimise loss of front garden space.

The proposal provides a front setback that exceeds the average setback of the two adjoining properties which provides a reasonable opportunity for a front garden. This includes the planting of 9 canopy trees and lower-level planting. This will assist in integrating the development with the streetscape.

Locate garages and car ports at or behind the line of the dwelling.

Car parking is provided in the form of basement car parking which will not be visible from the street.

Recess second storey elements from the front façade.

The proposal includes recessions to the upper storeys with open balconies which assist in reducing the dominance of the building to the streetscape.

Avoid high pitched or mansard roof forms with dormer windows.

The proposal includes a flat roof form that reduces the potential maximum height of the development and reduces the dominance of the upper storey.

Reflect the lightness of the streetscape created through the use of a mix of building materials and finishes such as a variety of timber or other non-masonry wall materials where possible.

The proposal incorporates a mix light coloured, concrete and metal clad and avoids masonry walls. The frontage also includes balconies and significant glazing which softens the development to the streetscape. This is consistent with other developments in the street including 28 Linacre Road.

Avoid heavy design detailing (eg. large masonry columns and piers).

As discussed above the proposal does not include any heavy design detailing which is consistent with this policy guideline.

Provide low, open style front fences other than along heavily trafficked roads.

The proposal includes a relatively low rendered front fence with a maximum height of 1.4 metres. Landscaping is provided in intervals in front of the proposed fencing. The combination of the landscaping and height of the fence ensures the development is well integrated with the streetscape.

Design front fences to be consistent with the building era.

The proposed front fence is rendered and consistent with the style of the modern style of the development. Within the street there is no consistent fence theme.

Create a visually interesting and attractive built form interface with the foreshore reserve, on properties fronting the reserve and visible from the reserve by:

- Articulating the form of buildings and elements, particularly front façades, including elements that lighten the building form such as balconies, verandahs, non-reflective glazing and light-transparent balustrading.
- Avoiding blank walls facing the foreshore.
- Using a mix of contemporary and traditional coastal materials, textures and finishes, including render, timber, non-masonry sheeting, glazing, stone and brick and avoiding highly reflective materials or glazing.
- Providing articulated roof forms to create an interesting skyline when viewed from the beach.

The subject site does not adjoin the foreshore, nor would it be visible from the foreshore. Therefore this particular objective is not relevant to this application.

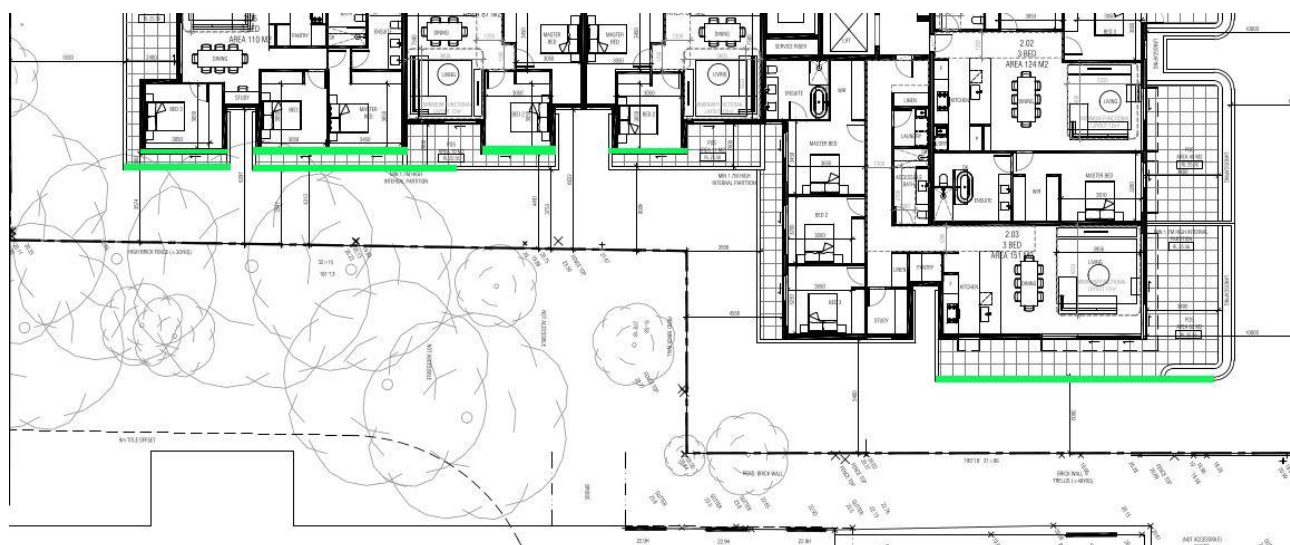
#### 5.5. Compliance with Clause 55 (ResCode)

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

Side and rear setbacks (Standard B17)

	Ground floor		First Floor		Second Floor	
	Required	Proposed	Required	Proposed	Required	Proposed
<b>West (side)</b>	1m	3.7 metres to 6.105m	1m to balcony and 1.25m to wall	3.7m to balcony and 4.255m to wall	3.06m – 3.25m to balcony. 5.39m to 5.8m to wall.	3.7m to balcony and 6.1m to wall
<b>East (side)</b>	1.41m	3.574m to 7.9m	3.33m	3.6m	4.27m to balcony, 6.76m to wall	<u>3.6m</u> to balcony, <u>5.4m</u> to wall
<b>South (rear)</b>	1m	4.273m to 6.551m	1.14m	Minimum of 4.275m	1.618m to balconies and 3.07m to wall	Minimum of 3.5m

The proposal seeks minor variations to the side setbacks to the eastern side boundary to the upper storey. These variations are illustrated in the below image.



*Figure 3: Side setback variations*

The variations to the balustrading of the upper level balconies is less than 100mm and therefore is considered inconsequential. The variations to the walls of the dwellings are larger and a maximum of 1.26 metres. These variations are considered satisfactory for the following reasons:

- The variations are to a garden area of Linacre Private Hospital which is not considered a sensitive interface.
- The land of Linacre Private Hospital is on considerably higher ground due to the proposed excavation.
- There will be no unreasonable overshadowing as demonstrated by the submitted shadow diagrams.
- Due to the shape of the block the varied walls will not be visible from the streetscape.
- The proposal provides sections that are recessed further then the requirement to break up the built form and create visual breaks.
- The proposal provides setbacks at ground level to this boundary which will allow for canopy trees to be planted to further break up the built form.

For these reasons the minor variations to Standard B17 are considered acceptable.

#### Site coverage (Standard B8)

Required	Proposed	Variation
60%	<u>61%</u>	1%

The objective of this standard is to ensure that the site coverage respects the existing or preferred neighbourhood character and responds to the features of the site.

It is considered that the minor variation to this standard remains consistent with this objective.

The site is located in the Hampton Activity Centre where larger development is encouraged.

While exceeding the numeric standard, it is noted that the proposed development has provided the required 35% garden area requirement and minimised the amount of hard stand area and no walls are proposed on boundaries. As such the site has generous areas for landscaping around the perimeter of the site which are capable of

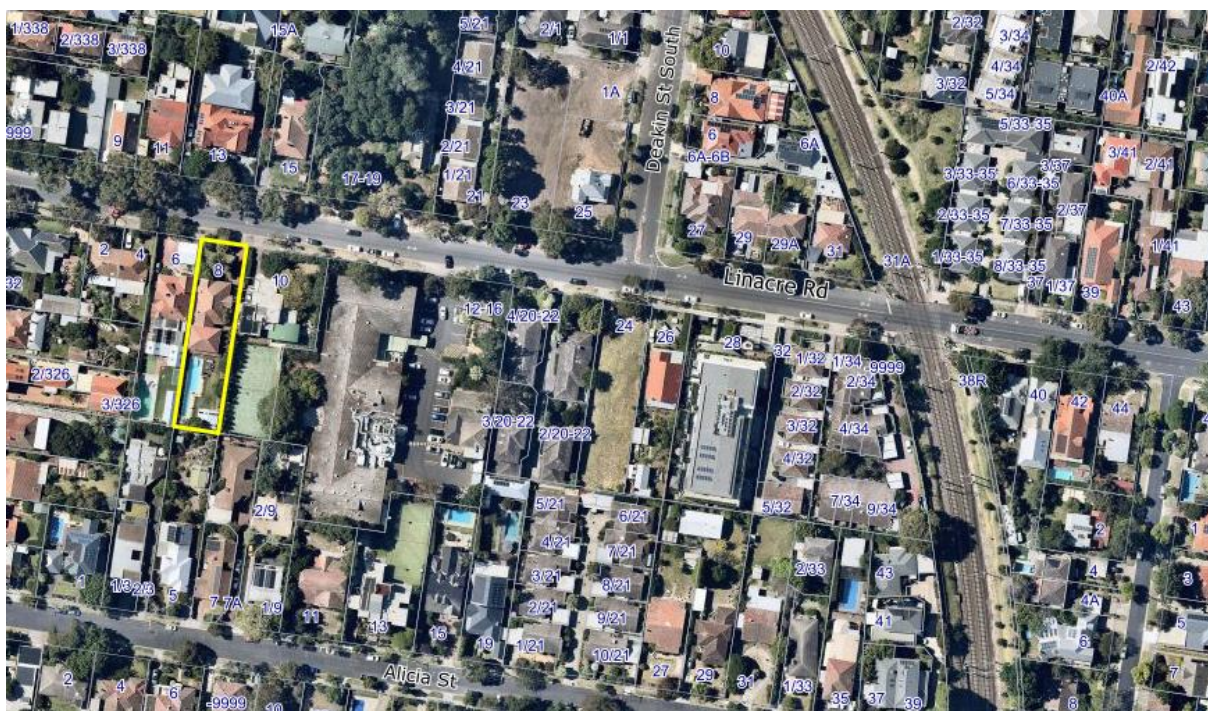


accommodating significant landscaping consistent with both the current and future character aspirations of the area.

The proposal is fully compliant with the critical amenity impacts Standards at Clause 55.04, and the application does not deviate from the existing and preferred development pattern of the streetscape.

Given that the proposed dwellings display good internal amenity and private open space, seeking compliance with this Standard is inconsequential to the streetscape but will reduce the provision of one small dwelling to the area.

The site coverage is also considered consistent with the existing streetscape where there are a number of older developments that have a considerable site coverage as evident by the below image.



*Figure 4: Existing development in surrounding area*

For these reasons the variation is supported.

#### Solar access to Open Space (Standard B29)

The objective of the Standard is to allow solar access into the secluded private open space of new dwellings and residential buildings.

Where appropriate, the private open space should be located on the north side of the dwelling or residential building, and the southern boundary of secluded private open space should be set back from any wall on the north of the space at least  $(2 + 0.9h)$  metres.

Where possible, the balconies are dual aspects and good solar access.

Only one of the 35 dwellings, that being 2.06, does not achieve compliance with the standard.

Given that the balcony meets the standard for minimum width and provide good internal amenity, the variation is considered to be acceptable.

#### Functional Layout (Standard B46)

This standard sets minimum dimension requirements for bedrooms and living areas as follows:



- Main bedroom 3 metre x 3.4 metre.
- Other bedrooms 3 metre x 3 metre.
- Living area for 1 bedroom dwelling with a minimum width of 3.3 metres and an area of 10 square metres.
- Living area for 2 bedroom dwelling with a minimum width of 3.6 metres and an area of 12 square metres.

All bedrooms comply with the requirements of this standard. All living areas also comply with the minimum area for living areas. Despite this, 22 dwellings have living areas that do not comply with the minimum dimensions of 3.6 metres in both directions. The variations to this standard are generally relatively minor and no more than 0.27 metres.

Importantly all areas that don't comply with the minimum required dimensions adjoin an open dining/kitchen area that does not contribute to the living room dimensions. The internal layout of furniture could be modified to meet the internal amenity needs of future residents.

#### Natural Ventilation (Standard B49)

This standard encourages natural ventilation of dwellings and to allow occupants to effectively manage natural ventilation of dwellings.

The standard calls for:

*'At least 40 per cent of dwellings should provide effective cross ventilation that has:*

- A maximum breeze path through the dwelling of 18 metres.
- A minimum breeze path through the dwelling of 5 metres.
- Ventilation openings with approximately the same area.'

The proposal provides 13 of the 35 apartments that comply with the above requirements which equates to 37.14% of the proposed dwellings. The majority of these apartments are located on the corners of buildings where they have dual orientation or on the top storeys of the buildings where they have openable skylights. There are however a number of single orientation lower and middle level apartments where the breeze paths required by the standard are not achieved. However, large openable windows are provided to all habitable rooms allowing for through ventilation. In addition, as private open space areas are accessed directly from living rooms this is considered to ensure that there will be adequate access to natural ventilation to the main habitable areas of all the dwellings.

#### **5.6. Landscaping**

The application plans show the removal of 23 trees from the site including 1 that requires a Local Laws Permit as identified in the below table.

Local Law protected trees			
Proposed removal	for	Proposed retention	for
Tree 11			

Tree 11 is located in the frontage of 10 Linacre and is Golden Elm with a height of approximately 4 metres. Council's Arborist in their referral response advised that they are in support of the tree being removed given it is an exotic species that precludes the development given its location.

Council's Arborist has reviewed the submitted landscape plan and advised that it aligns with the Bayside Landscaping Guidelines. The landscape plan includes the planting of 16 canopy trees (trees with mature heights of 8m or greater) in the front, side and rear setbacks. This will cater for the loss of the vegetation on the subject site and enhance the landscaping outcome for the site. Council's arborist has requested minor modifications to the submitted Landscape Plan to indicate the soil volume of planter boxes over basement and first floor.

There are a number of trees located on adjoining sites with their Tree Protection Zones (TPZ) extending into the subject site. As such, consideration must be given to the impact of the development upon these trees. This includes a major encroachment into the Tree Protection Zone of Tree 21. An amended Arboricultural assessment generally consistent with the one submitted with the application will be required to be amended to include root mapping of this tree. This will be included as a condition of the permit. Council's Arborist has advised that a Tree Protection Plan and Tree Management Plan will be required to be submitted to ensure these trees remain viable both during and post construction. An additional condition to this effect is included in the recommendation. It is not considered that this will result in significant built form implications but if any modifications were to be made it would result in a minor reduction in built form at ground level.

#### 5.7. Street tree(s)

There are 5 street trees located on the frontage of the site. These are Trees 1, 2, 34, 35 and 36 of the submitted Arborist Report. Of these trees 1, 2, 35 and 36 are proposed to be retained. All works are proposed outside of the tree Protection Zones of these trees and through standard tree protection conditions will be able to be retained.

Tree 34 is proposed for removal. This tree is a Flowering Gum with a mature height of approximately 4 metres. Despite this, Council's Street Tree Arborist has advised that the tree is below valuation thresholds and meets the guideline criteria for removal under the Street and Park Tree Management Policy and therefore can be supported for removal subject to removal and replacement costs being paid to Council.

#### 5.8. Car parking and traffic

Proposed Use	Quantity / Size	Statutory Parking Rate
Three or more bedroom dwelling	11 dwellings	22 spaces (2 per dwelling)
Two bedroom dwellings	24 dwellings	24 spaces (1 per dwelling)
Visitor Parking	35 dwellings	7 (1 per 5 dwellings)
Medical centre use	8 practitioners	26 spaces (5 to the first person providing health services plus 3 to every other person providing health services)
<b>Total car spaces required</b>		<b>79</b>
<b>Total car spaces proposed</b>		<b>104</b>

The proposed car parking exceeds the provision of Clause 52.06 of the Bayside Planning Scheme by 25 spaces. It is therefore unlikely that the proposal will cause any significant demand to on street car parking.

There is expected to be an increase in traffic as a result of the development. According to the Traffic Engineering report submitted with the application, this would equate to approximate maximum of 98 vehicle trips in peak hours. This is not considered to be an unacceptable burden on the local road network. It is noted that Linacre Road is a collector

road and capable of accommodating the higher volumes of traffic expected. Advice from Council's Traffic Engineer indicates that the road still has substantial available capacity.

The application was referred to Council's Traffic Engineer who expressed no concern with the development subject to the inclusion of relatively minor permit conditions relating to matters including:

- Allocating car spaces
- Curbs and ramps within basement to be consistent across plans
- Crossover to be constructed to council specifications
- Basement car spaces to have a minimum grade of 1:200
- Relocation of any street infrastructure (e.g street signage) to construct the crossover.

These have been included in the proposed recommendation.

#### 5.9. Bicycle facilities

Proposed Use	Quantity / Size	Statutory Parking Rate
Dwelling	In developments of four or more storeys, 1 to each 5 dwellings for residents  In developments of four or more storeys, 1 to each 10 dwellings for visitors	3
Medical centre use	1 to each 8 practitioners for employees  1 to each 4 practitioners for visitors	11
<b>Total car spaces required</b>		<b>14</b>
<b>Total car spaces proposed</b>		<b>20</b>

Whilst the development is three storeys in height it nevertheless provides development over four levels and therefore an assessment under bicycle facilities has been undertaken for dwellings.

The proposal exceeds the required number of bicycle spaces under Clause 52.34 by over 6 spaces.

#### 5.10. Sustainability

Environmentally Sustainable Development Clause 15.02-1L (Energy and Resource Efficiency) outlines the following strategy.

Design development to:

- Promote sustainable design measures such as water efficient design and solar access using site layout, design and construction techniques.
- Allow for adaptive re-use in the future.
- Use landscape design to assist with passive solar heating and cooling.
- Make use of buildings and materials with minimal environmental impact, such as recycled materials and re-use of existing buildings.

- Include communal open space areas in larger residential developments.

The application included a Sustainability Management Plan (SMP), a BESS score of 56% and a STORM Rating of 101%.

The SMP was reviewed by Council's Sustainability Officer was supported of the proposal subject to the inclusion of an amended SMP providing further clarification on proposed measures. Through the inclusion of these conditions, included in the proposed recommendation, it is considered that the proposal will be consistent with the strategies of Clause 15.02-1L of the Bayside Planning Scheme.

#### **5.11. Waste Management**

A Waste Management Plan has been submitted with the application. The application proposes a bin storage area within the basement car park that would be collected by a private contractor within the basement. The submitted Waste Management Plan has been reviewed by Council's Waste Management Coordinator who has advised it is satisfactory.

#### **5.12. Cultural Heritage management plan**

Based on the Aboriginal heritage planning tool questionnaire, a cultural heritage management plan is required and has been undertaken. This was prepared by Jem Archaeology and was dated 16 December 2021. This CHMP has been approved by the Bunurong Land Council on 21 December 2021.

The Cultural Heritage Management Plan did not identify any previously recorded Aboriginal places within the subject site however the results of the assessment suggest that it is likely that Aboriginal cultural heritage 8 & 10 Linacre Road, Hampton may be present within the activity area given its proximity to Port Phillip Bay. Given the absence of Aboriginal cultural heritage or areas of Aboriginal Archaeological sensitivity located within the subject site, there are no specific cultural heritage management conditions required.

#### **5.13. Development contributions levy**

The subject site is located within catchment area 12.

Based on the proposed application and the below recommendation, a payment of \$43,808 is required. The payment of the development contributions levy is included as a condition of permit.

#### **5.14. Objector issues not already addressed**

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

##### Overpopulated development.

The planning scheme does not restrict the number of units that can be located within a given area. Therefore, each planning permit application must be assessed against the relevant provisions of the Bayside Planning Scheme. The existence of a high number of dwellings in the area would not be sufficient grounds for Council to justify refusal of the application before the Victorian Civil and Administrative Tribunal.

State and Local Planning Policy envisage an increase in housing density in well serviced areas such as this. State Planning Framework of the Bayside Planning Scheme encourages higher density housing development on sites that are well located in relation to activity centres, employment corridors and public transport. The increase in population and density at this site is considered an appropriate response to the underutilised state of the site and the proximity of the site to public transport, shops and other services. While any increase in population density will likely increase the level of activity around the site and area, it is not envisioned that such an increase would be detrimental or substantially more intensive than what is currently experienced.

The Victorian State Government has provided a clear policy imperative of urban consolidation which is heavily dependent on medium density housing development. Density of the development is determined from a quantitative assessment of a development's compliance with a series of criteria set out in the Bayside Planning Scheme. This includes an assessment of the design's ability to provide for the amenity of future residents, protect the amenity of existing residents and respond to the attributes and constraints of the site. The number of dwellings and associated pedestrian and vehicle movements account for the site's accessibility and location.

#### Visual bulk.

It is considered that the development, will sufficiently respect neighbourhood character, while also providing additional housing promoted by the Planning Scheme. The proposal provides setbacks to all boundaries and has included design features such as staggered setbacks, the use of balconies, recessions and the use of lighter building materials at the upper storey in metal cladding to further reduce the visual dominance of the building.

#### Property values.

The Victorian Civil and Administrative Tribunal has consistently found that property values are speculative and not a planning matter. Fluctuations in property prices are not a relevant consideration in assessing an application under the provisions of the *Planning & Environment Act 1987*, or the Bayside Planning Scheme.

#### Removal of bay views.

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

#### Drainage and stability issues as a result of excavation.

Building work can sometimes affect adjoining properties. An owner who is proposing building work has obligations under the *Building Act 1993* to protect adjoining property from potential damage from their work. If building work is close to or adjacent to adjoining property boundaries, then the relevant building surveyor may require the owner to carry out protection work in respect of that adjoining property. Any damage that did occur would be dealt with through civil processes. This is consequently not a planning consideration.

Problems related to drainage as a result of the excavation is unlikely to occur. The application has been referred to Council's Drainage Engineer who has required that specific drainage conditions be included on any planning permit that is issued. This will include the preparation of a detailed drainage plan as a condition of any permit issued.

#### Precedent

Future planning permit applications on this site or neighbouring and nearby land will be assessed against relevant planning policy and site conditions, based on their own merits at the time of assessment.

The possibility of setting an undesirable precedent cannot be substantiated and is not a relevant planning consideration.

### **Support Attachments**

1. Development Plans ↓
2. Subject Site and Surrounds ↓
3. Applicant response to objections ↓
4. Clause 55 assessment ↓