

PLANNING &  
PROPERTY**PARTNERS**

LAWYERS &amp; CONSULTANTS

24 February 2022

Mr Peter Hampton  
Senior Statutory Planner  
Development Services  
Bayside City Council  
76 Royal Avenue  
SANDRINGHAM VIC 3191

By email: [planning@bayside.vic.gov.au](mailto:planning@bayside.vic.gov.au); [phampton@bayside.vic.gov.au](mailto:phampton@bayside.vic.gov.au)

Dear Peter,

**PLANNING PERMIT APPLICATION NO.- 5/2021/331/1 - 8 & 10 LINACRE ROAD, HAMPTON  
RESPONSE TO OBJECTIONS**

We continue to act for *10 Linacre Road Pty Ltd* in relation to the above planning permit application and write in response to objections received during the public notice period.

We have reviewed the objecting submissions and the issues they raise and note the majority of concerns have previously been addressed in the application material provided to Bayside City Council ('Council'). However, the following detailed responses are provided in relation to objections received.

**Neighbourhood Character**

A primary concern and common theme in all objections received is the proposals response to existing neighbourhood character.

As a consolidated land parcel, the subject Site occupies a mid-block on the south side of Linacre Road. It forms part of the Hampton Street Major Activity Centre and is within the General Residential Zone as defined by the Bayside Planning Scheme ('the Planning Scheme'). It is therefore within an area where a diversity of housing types and housing growth is encouraged proximate to existing infrastructure and services.

The character within Linacre Road and within this part of the Hampton Street Activity Centre is therefore evolving in response to this strategic context. There are differing building forms and built form to lot ratios with varying setbacks and landscaped settings. In the surrounds, there are examples of low-rise single storey and two storey historic housing stock with traditional pitched roofs and materiality and more recent infill housing in the form of medium density multi-level (3 storey) apartments buildings, including contemporary finishes and building typologies.

Street setbacks vary as do the interactions of the varying built forms with the streetscape of Linacre Road and more widely, neighbouring streets. Many buildings have been built almost central to their respective lots, with landscaping and canopy tree planting within front setbacks and around the perimeter.

The proposed development takes cues from the varied building typology in the area by proposing a contemporary form responsive to the site's topography and sensitive residential abutments.

In so doing, the building transitions in scale from interfaces to the west and south with the three storey (4 level) form stepped down from south to north and otherwise is off-set from the respective boundaries generally in accordance with the design objectives of Rescode.

Planning & Property Partners Pty Ltd  
ABN 63 343 015 948  
Legal Directors: Mark Naughton, Chris Taylor & Tyrone Rath  
Non-Legal Directors: Paul Little, Nicholas Touzeau, Johan Moylan & Sue Zhang

13/1 Collins Street, Melbourne VIC 3000  
Telephone: +61 3 8626 9000  
Email: [admin@pppartners.com.au](mailto:admin@pppartners.com.au)  
[www.pppartners.com.au](http://www.pppartners.com.au)



Articulation is achieved with recessive breaks in each elevation. Contrasting external materials highlight this articulation further. The materiality of the uppermost level contrasts with the lower levels and ensures visual recession of this element.

Building setbacks and the extent of deep soil to be maintained on Site enable appropriate canopy tree planting within the front setback and along the perimeter. This curtilage landscaping is appropriately supplemented by upper level planter boxes which soften the massing of the development. We continue to rely on the landscape material prepared by *John Patrick Landscape Architects Pty Ltd* as an appropriate landscape response to provide a garden setting to the development and to contribute to the wider landscaped setting of the area.

On the foregoing considerations the proposed design response is complementary to the neighbourhood character and appearance of the area and consistent with the strategies of Clause 15.01-1L, the purpose of the GRZ and the design objectives of DDO12 and Standard B1 at Clause 55.02-1 of the Planning Scheme.

#### **Heritage/ Demolition**

It is acknowledged that the dwelling on the land comprising 8 Linacre Road has formed part of the existing character of the neighbourhood for a number of years and is considered by many objectors to make a positive and significant contribution to the setting of Heritage properties in the surrounds.

However, the Site is not subject to a Heritage Overlay or a Neighbourhood Character Overlay and its retention is thus not controlled by provisions of the Planning Scheme. Accordingly, a planning permit is not required to demolish the existing dwelling on site. Proposed demolition is not therefore a material consideration in the determination of the planning permit application before Council.

#### **Building Height**

Mandatory height controls within the General Residential Zone are that residential buildings must not exceed the maximum building height of 12 metres when the slope of the natural ground level at any cross section wider than 8 metre of the site is 2.5 degrees or more. The building must similarly contain no more than 3 storeys at any point.

In considering the number of storeys of a building 'at any point' this is taken from natural ground level. The development plans prepared by Ewert Leaf Pty Ltd clearly demonstrate that from natural ground level the building does not exceed 12 metres or 3 storeys.

A basement is not considered a storey for the purpose of calculating the number of storeys contained in a building.<sup>1</sup>

#### **Visual Bulk**

The scale of the building at three (3) storeys responds to the maximum building height contained within the Schedule 2 to the General Residential Zone.

The building has been designed to comply with the objectives of the setback standards of Rescode.

The proposal appropriately transitions the scale of built form away from abutting neighbouring residential properties to the west and south. This is achieved through the increased and varying setbacks of the Second Level of the building relative to the floors below.

The provision of balconies with associated planters and the material change on the uppermost level with metal cladding enable this level to be visually recessive.

The provided setbacks around the perimeter of the Site at ground level enable appropriate opportunities for landscaping to soften the built form presentation on each of the Site's interfaces. The provision of

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<sup>1</sup> Clause 32.08-10 – General Residential Zone – Bayside Planning Scheme

landscape planter boxes on the upper levels further softens the built form perception and continues to the landscape theme, ensuring the building is built 'in the round' to offer visual interest.

The proposal presents a contemporary design response that uses robust materials and finishes which are appropriate to their setting. The careful positioning of windows, balconies and the composition of external materials modulates the building into different components when observed from neighbouring interfaces.

### **Setbacks**

#### *Street setback*

The area is characterised by moderate to large sized lots with dwellings of various architectural styles occupying a significant proportion of them. In this, there is no uniformity of defined street setback to Linacre Road, with this varying greatly within this part of Hampton.

The proposed street setbacks of the front walls of the development transition to an increasing extent from east to west across the Site and respond to the built form conditions on adjacent lots. Whilst the LG floor would have a lesser street setback to the floors above it, this is considered appropriate when taking into account the varied topography of the Site and the modulated recession of the upper levels.

In the context of the built form below it, the Second Floor Level setbacks of between 10 and 15.35 metres are considered an appropriate response which will achieve visual recession of the uppermost level.

Accordingly, the proposed development complies with the street setback objectives of Rescode and does not conflict with the built form objectives of the DDO12.

#### *Side and rear setbacks*

Variations to side setbacks are at points where there is a steep drop in natural ground level on the mutual boundary and are not representative of the otherwise fully compliant east and west elevations.

To the west variations are represented by small section of balustrades to balconies associated with Apartments 2.01, 2.07 and 2.09 with this being attributed to the slope in natural ground level of the land at these points. The variations are minor in the context of the overall compliance of the development with the western setback requirements. Notwithstanding, the permit applicant is content that should a planning permit issue for the proposed development that it include a permit condition that full compliance with Standard B17 be achieved relative to residential interfaces.

The architectural approach to the design of the building has responded to the varied topography of the land, with the building being set into the site and below natural ground level in part. The effect of this presents the building as a three-storey form to opposing interfaces thus minimising the perception of visual bulk from that interface.

The Second Floor Level is visually recessive from levels below it, being articulated with materials to assist this. This serves to minimise the bulk of the building and reduce its scale as it interfaces with the neighbouring residential properties to the south and west and otherwise that form the Linacre Private Hospital.

The reduced setbacks would not result in overlooking or overshadowing of neighbouring residential properties as demonstrated in the section diagrams and shadow analysis prepared by Ewart Leaf Pty Ltd in support of the application.

No variations are sought to rear setbacks, and, on this consideration, the development is compliant.

### **Off-site Amenity Impacts**

#### *Overlooking*

It is submitted that nearby dwellings will not be unreasonably impacted by the proposed development. This is further detailed within the assessment against Clause 55 of the Planning Scheme, included in Appendix C of the Town Planning Report prepared by *Planning & Property Partners Pty Ltd*.

It is considered that no unreasonable overlooking of adjacent and nearby dwellings will occur as a result of the proposal, and this is supported by the detailed overlooking analysis and architectural plans prepared by *Ewert Leaf Pty Ltd*.

The upper levels of the development have carefully considered habitable room windows and neighbouring private open space. The upper levels are recessed and comply with the objectives related to off-site amenity, in particular where directly adjacent to secluded private open space or habitable room windows. Dwellings with the potential to look into the rear secluded private open space areas of neighbouring residential properties to the north and west of the Site are provided with sufficient screening to limit unreasonable overlooking of those properties

#### Overshadowing

The application plans include accurate shadow diagram which demonstrate the extent of overshadowing between the hours of 9am and 3pm at the 22 September Equinox and we continue to rely upon the assessment provided at Section 7.2 of the Town Planning Report prepared by *Planning & Property Partners Pty Ltd*.

#### Noise

Noise associated with the occupation and use of apartment balconies is a matter of public order controllable through legislation other than planning legislation.

The operation mechanical plant and equipment including air condenser units, mechanical exhaust is subject to Environmental Protection Legislation governed by the Environmental Protection Authority.

#### **On-site Amenity**

A concern raised by objectors relates to the internal amenity of apartments.

As demonstrated in the Sustainable Management Plan prepared by Sustainable Design Consultants all bedrooms and 80% of living areas achieve the required daylight factor through the provision of large windows allowing excellent access to daylight.

Daylight penetration through windows and other openings will be enhanced with the use of light internal colours allowing internal reflection of daylight to habitable rooms. Please refer to Appendix 5 of the SMP which details the daylight analysis undertaken to demonstrate best practice.

The development provides a total of 23 accessible apartments and with this, apartments with clear access and circulation paths to a living room, a main bedroom and an adaptable bathroom and door widths and openings to meet the access needs of residents. This provision being 65.7% of all apartments on Site, exceeds the requirements of Standard B41 of Clause 55 of the Planning Scheme which seeks a provision of 50% of dwellings to be accessible.

All apartments have bedrooms of apartments satisfy the requirements of Standard B46 of Clause 55 of the Planning Scheme. All living areas meet the minimum area requirements of the Standard. Whilst not all apartments meet the minimum dimension for living areas in both directions, they nevertheless are in a format i.e. open concept and well- proportioned to accommodate an adaptable furniture layout that will meet the reasonable amenity needs of residents.

A total of 37.14% of the apartments benefit from effective cross-ventilation and thus meet the requirements of Standard B49 of Clause 55 of the Planning Scheme. Both they and the remaining apartments meet the objective of the Standard in so far as they are all providing with openable windows and doors with access to private open space. Opportunities for natural ventilation have therefore been maximised.

The generous floor plans and private open spaces otherwise allow a diverse resident base with two and three-bedroom apartments provided with layouts carefully considered in terms of access and liveability.

### **Density**

A number of objectors consider the proposal to be one which moves beyond 'medium-density' and thus an overdevelopment of the land.

Medium density development can be realised in many forms and is inclusive of two storey detached/semi-detached townhouse typologies or two to four storey apartment developments. They comprise an intensified density of dwelling on a given lot.

The Site is strategically located within the Hampton Activity Centre and thus an area in which the Planning Scheme considers plays an important role in accommodating residential growth and an appropriate range of commercial services to meet the needs of residents.

The strategic vision for residential precincts within the Hampton Activity Centre is to provide for increased housing densities and diversity of housing types within the centre and to provide adequate off-street car parking for all new dwellings<sup>2</sup>.

The proposal is an appropriate response to the strategic policy objectives of the Planning Scheme and the housing growth expectations of the Hampton Activity Centre. It meets the principles of urban consolidation in an established urban area proximate to existing infrastructure and services and provides a high level of internal amenity for future occupants with the siting and scale not unreasonably impacting adjoining or nearby properties.

Car parking is provided in excess of the statutory rate to meet the anticipated needs of residents and visitors and to limit impacts to existing on-street car parking and the surrounding road network and this was a conscious decision of the permit applicant to do so.

### **Necessity of Proposed Use**

A number of objectors questioned the necessity to provide a medical centre on Site and considered it a land use better suited to Hampton Street or indeed Nepean Highway.

With regard to discretionary uses in residential areas Clause 02.03 of the Planning Scheme recognises that there 'a number of important uses that should be located within residential areas of the municipality, including childcare centres, recreation centres, medical centres, schools, churches, retirement villages and other similar uses.' (our emphasis added).

Policy at Clause 13.07-1L-02 provides guidance for preferred locations for discretionary uses in residential areas as well as built form, amenity and traffic and car parking outcomes it seeks proposed development to align with.

Objectives of Clause 13.07-1L-02 are to ensure discretionary uses respond to the preferred neighbourhood character and to support discretionary uses in residential areas that serve a local need.

The Site is within the General Residential Zone, the purpose of which inter alia is to allow education, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

As discussed in the Town Planning Report prepared by *Planning & Property Partners Pty Ltd*, the medical centre is proposed as a lower ground floor component of what is otherwise a residential building. It is proximate to existing community infrastructure and services in the form of the Linacre Private hospital and would complement health care offerings in the area.

It is some 90m from Hampton Street which is indicative of the Site's inclusion in the Hampton Activity Centre and emphasises the Site's excellent access to complementary services within the Activity Centre

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<sup>2</sup> Clause 02-03 – Strategic Directions Municipal Planning Strategy – Bayside Planning Scheme

as well as existing transport infrastructure. This includes bus services on Hampton Street and Hampton Railway Station.

#### **Hours of operation**

Clause 13.07-1L-02 of the Planning Scheme provides general amenity guidelines and with this seeks consideration to be given to limiting the hours of operation of medical centres as follows:

8am to 7pm Monday to Wednesday,

8am to 9pm Thursday and Friday,

8am to 1pm Saturday,

Closed Sunday and public holidays.

It is proposed that the medical centre operate within these parameters and therefore in a capacity that will not adversely affect residential amenity in accordance with Policy objectives and guidelines.

#### **Carparking/ Traffic Impacts**

Pursuant to Clause 52.06 of the Planning Scheme before a new use or an increase in an existing use commences the car parking provisions at Clause 52.06-5 must be provided to the satisfaction of the Responsible Authority.

In this, the development is required to provide one (1) car parking space to each one or two bedroom dwelling and two (2) car parking spaces to each three or more bedroom dwelling. In addition, one visitor car parking space is required to every five dwellings. Whilst this generates a statutory requirement to provide a total of 53 car parking spaces in association with the residential use of the Site (dwellings), the development provides 54 car parking spaces. The minimum statutory on-site car parking requirements for the residential component are therefore exceeded.

Car parking is provided for the medical centre in satisfaction of the statutory requirements of Clause 52.06 (Car parking) of the Planning Scheme with this being provided at a rate of five car parking spaces for the first five persons providing health services plus three to every other person providing health services. A total of 26 car parking spaces are therefore provided in association with the medical centre use.

As detailed in this 'Traffic and Transport Assessment' ('TTA') prepared by *Impact Traffic Engineering Pty Ltd*, the location and design of the proposed car parking is appropriate and provides safe and convenient access to all car spaces. The provision of car parking within a basement ensures that the location of such facilities will not impact upon the general amenity of the streetscape or residents. The access and servicing arrangements are therefore entirely acceptable for this site.

Dedicated bicycle storage for residents and visitors are provided in excess of statutory requirements and are met to satisfy practitioner and visitor demands.

The TTA considers traffic anticipated to be generated by the proposed residential and medical centre uses on Site with this being calculated as 98 additional movements during peak periods which is less than 14% of the maximum capacity of a collector road such as Linacre Road. 'It is therefore expected that Linacre Road can comfortably absorb traffic generated post development without adverse impacts to its performance, safety or local amenity.'<sup>3</sup>

We again refer you to the detailed assessment of the matters pertaining to car parking and traffic and the provision of bicycle parking within the TTA prepared by *Impact Traffic Engineering Pty Ltd*.

#### **Waste Management**

The waste management arrangements for the proposal raised concern for objectors.

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<sup>3</sup> Page 18 – Traffic and Transport Assessment prepared by *Impact Traffic Engineering Pty Ltd*.

It is proposed that a private waste collection will occur at Site and will comprise collection from the basement via a mini-waste wise vehicle. It is not proposed that individual bins will be collected kerbside and thus occupy the adjacent road reserve on Linacre Road.

Furthermore, bin collection times shall be in accordance with EPA and Council guidelines and shall be completed at time of least interference/ inconvenience to the local amenity and traffic conditions. We refer you to the Waste Management Plan prepared by *Leigh Design Pty Ltd* for detail of waste collection arrangements.

#### **Landscaping/ Tree Removal**

A number of trees are to be removed from the Site to facilitate the proposed development. All are considered to be of low retention value with the exception of two within the front setback that are of moderate retention value. All trees are however of an exotic or non-indigenous species.

The development would occupy 61% of the Site, with 21.63% of it being permeable. This has allowed areas of deep soil to be maintained on site to accommodate the 25 canopy trees proposed including Australian native species. Tree planting is supplemented by low-lying shrub planting and ground covers. Planter boxes at the upper levels to integrate the development with its garden and wider streetscape setting.

We continue to rely on the landscape package prepared by *John Patrick Landscape Architects Pty Ltd* as an appropriate landscape response to the development and to mitigate for the trees to be removed.

The Arboricultural Impact Assessment ('AIA') prepared by TMC Reports identifies all trees adjacent to the Site which would be impacted by the development during construction. Trees that would have encroachments within their tree protection and structural root zones are considered to remain viable post construction as a result of their health and vigour or the restrictions to their root growth within area of encroachment caused by boundary retaining structures.

Recommendations are included in the AIA for tree protection measures to be adopted during construction. Should a future planning permit issue for the proposed development, conditions of the planning permit will ensure the recommendations of the AIA are implemented and a tree protection plan be prepared in accompaniment.

#### **Cultural Heritage**

The Cultural Heritage Management Plan prepared by *Jem Archaeology Pty Ltd* confirms desk top assessment 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 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.

Notwithstanding, the Cultural Heritage Management Plan prepared by *JEM Archaeology Pty Ltd* has now been considered and approved by the Registered Aboriginal Party identified as the Bunurong Land Council Aboriginal Corporation (Bunurong) and with this approval in place, allows Council to progress the application to a decision.

#### **Precedent**

The Supreme Court in *Mornington Peninsula Shire Council v Savage*, (2002) 12 VPR 111, dealt with the question of precedent. It made the following observation:

*'It cannot be right to refuse to make a decision which the decision maker considers to be right, on the ground that it is likely to be applied in later cases where to apply it might be thought to be wrong.'*

Every development proposal should therefore be considered on its own merits or otherwise and in accordance with the policies and provisions of the Planning Scheme. It does not follow that any decision

taken by Council in respect of the development of the subject Site should set a bad precedent for the potential future development of land in the surrounding area.

#### **Other Issues**

The impact of development on the value of property is not a material consideration in the determination of a planning permit application.

The removal of soil from the land, engineering works to facilitate it and displaced water run-off as a result of bulk excavation are controllable through Building Standards legislation and are not material considerations in the determination of an application for a planning permit.

There is no Planning Scheme control relevant to the Site which seeks to protect Bay views from neighbouring residential properties. Nor is there any legal right to a view. Notwithstanding, it is considered the proposed development will not unreasonably impact wider shared views of Port Philip Bay.

#### **Conclusion**

We maintain the view that the location of the Site with excellent access to nearby amenities including Hampton Street Activity Centre and proximity to public transport infrastructure encourages the Site's redevelopment in the form and scale proposed. By being within an activity centre setting the built form in the area is likely to continue to evolve in response to clear planning policy requirements for urban consolidation and dwelling diversity.

The contemporary design response has considered the built form character and the design objectives for building in the Activity Centre including neighbourhood character. It achieves a considered balance, breaking up the built form mass to maintain the streetscape rhythm and responding to the composition of neighbouring land uses without unreasonably impacting residential amenity.

The land uses proposed are complimentary to those otherwise found in the activity centre and in the Site's residential setting and will not cause adverse impacts to amenity of the area.

We ask that this response form part of your consideration in your assessment of the proposal and that the application proceed to a determination.

Please contact the undersigned or Kirsty Slater on tel: 03 8626 9000 (email: [slater@pppartners.com.au](mailto:slater@pppartners.com.au)) should Council have any queries regarding this correspondence.

Yours sincerely,



**Paul Little**  
**Planning & Property Partners Pty Ltd**



### ResCode Clause 55 (Two or More Dwellings on a Lot and Residential Buildings)

Application type	Applicable clauses
To construct or extend a dwelling (other than a dwelling in or forming part of an apartment development); or To construct or extend a residential building.	All of Clause 55 except Clause 55.07-1 to 55.07-15 (inclusive).
To construct or extend an apartment development; or To construct or extend a dwelling in or forming part of an apartment development.	All of Clause 55 except Clause 55.03-5, Clause 55.03-6, Clause 55.04-8, Clause 55.05-1, Clause 55.05-2 and Clause 55.05-6.

CLAUSE 55.02 NEIGHBOURHOOD CHARACTER AND INFRASTRUCTURE		
Title and Objective	Complies with Standard?	Comments
<b>B1 Neighbourhood Character</b> Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.	Complies	Refer to the report for further discussion.
<b>B2 Residential Policy</b> Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.	Complies	The subject site is appropriately located with regard to services and facilities to support the construction multiple dwellings on a lot of this size. This is reflective of the site being located within the Hampton Street Major Activity Centre.
<b>B3 Dwelling Diversity</b>	Complies	The application proposes a mixture of apartment typologies including 24 2-bedroom apartments and 11 2-bedroom and 2-bathroom apartments.

Encourages a range of dwelling sizes and types in developments of ten or more dwellings.		The proposal is highly compliant with this standard.
<b>B4 Infrastructure</b> Provides appropriate utility services and infrastructure without overloading the capacity.	Complies	The proposal will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development.  Council's drainage engineers have reviewed the application and raise no issues with infrastructure capacity in the area.  It is noted that the developer will be required to pay a development contributions levy in accordance with the requirements of Clause 45.06 of the Bayside Planning Scheme.
<b>B5 Integration with the Street</b> Integrate the layout of development with the street	Complies	It is considered that the development integrates well with Linacre Street.  The development fronts the street with a pedestrian entry is located centrally to the frontage and includes a pergola structure which makes it easily identifiable. The proposed windows and upper-level balconies result in an acceptable level of passive surveillance.  The development avoids high front fencing and provides a landscaped area to the street.  The development will integrate appropriately with the street and features a staggered front setback at ground floor level, providing an appropriate transition to the setbacks of the adjoining properties.

**CLAUSE 55.03 SITE LAYOUT AND BUILDING MASSING**

Title and Objective	Complies with Standard?	Comments
<b>B6 Street Setback</b> The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.	Complies	<b>Requirement:</b> 4.585m.  <b>Proposed:</b> 6m.

<b>B7 Building Height</b> Building height should respect the existing or preferred neighbourhood character.	Complies	<b>Maximum:</b> 12m. <b>Proposed:</b> 10.716 m.
<b>B8 Site Coverage</b> Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.	Variation	<b>Maximum:</b> 60% <b>Proposed:</b> 61% Refer to the report
<b>B9 Permeability and stormwater management</b> Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.	Complies	<b>Minimum:</b> >20% <b>Proposed:</b> 21.36%
<b>B10 Energy Efficiency</b> Achieve and protect energy efficient dwellings and residential buildings.  Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.	Complies	The site orientation provides adequate solar access to the proposed units and does not unreasonably reduce solar access to adjoining properties. Living areas within each unit are considered to be appropriately located to make use of solar energy.  A NatHERS Assessment has been provided within the Sustainable Design Assessment with the application which demonstrates that the proposal complies with the standard. The proposal was referred to Council's sustainability officers who concluded the proposal is supported subject to conditions.  A condition has also been included in the recommendation requiring and amended ESD report to be submitted to Council's satisfaction.
<b>B11 Open Space</b> Integrate layout of development with any public and communal open space provided in or adjacent to the development.	N/A	There is no communal open space in or adjacent to the development.
<b>B12 Safety</b> Layout to provide safety and security for residents and property.	Complies	The pedestrian entry points are clearly recognisable while upper levels allow for the passive surveillance of the street.  Lighting will be required to both pedestrian and vehicular entrances to further assist with safety at night.

<b>B13 Landscaping</b> To provide appropriate landscaping. To encourage: <ul style="list-style-type: none"> <li>• Development that respects the landscape character of the neighbourhood.</li> <li>• Development that maintains and enhances habitat for plants and animals in locations of habitat importance.</li> <li>• The retention of mature vegetation on the site.</li> </ul>	Complies	The siting of the development creates sufficient opportunities for meaningful landscaping subject to conditions. A condition of permit will require an amended landscape plan to be submitted to the satisfaction of the Responsible Authority. Refer to the report.
<b>B14 Access</b> Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.	Complies	An appropriate access off Linacre to basement parking has been provided. The design of vehicle crossovers complies with the standard with respect to their width of the street frontage as follows: <b>Requirement:</b> 33% <b>Proposed:</b> 12.87%
<b>B15 Parking Location</b> Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.	Complies	On site car parking is provided in the form of two levels of basement carpark. The proposal provides 104 car spaces which is 25 more than required by the Bayside Planning Scheme. Standard traffic conditions are included as permit conditions.

**CLAUSE 55.04 AMENITY IMPACTS**

Title and Objective		Complies with Standard?	Comments			
<b>B17 Side and Rear Setbacks</b>		Variations	Areas of non-compliance are underlined. Refer to the Report.			
	Ground floor		First Floor		Second Floor	
	Requirement	Proposed	Requirement	Proposed	Requirement	Proposed

<b>West (side)</b>	1m	Minimum of 3.7m	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	Minimum of 3.574m	3.33m	3.6m	4.27m to balcony, 6.76m to wall	3.6m to balcony, 5.4m to wall
<b>South (rear)</b>	1m	Minimum of 4.3m	1.14m	Minimum of 4.275m	1.618m to balconies and 3.07m to wall	Minimum of 3.5m
<b>B18 Walls on Boundaries</b> Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.			N/a	No walls are proposed on or within 200mm of a side or rear boundary.		
<b>B19 Daylight to Existing Windows</b> Allow adequate daylight into existing habitable room windows.			Complies	The development has been sufficiently setback from all habitable room windows to abutting properties. In accordance with the standard.		
<b>B20 North Facing Windows</b> Allow adequate solar access to existing north-facing habitable room windows.			N/A	Whilst there are north facing windows on two adjoining properties, they are setback greater than 3 metres from the shared boundary and therefore this standard is not applicable.		
<b>B21 Overshadowing Open Space</b> Ensure buildings do not significantly overshadow existing secluded private open space.			Complies	<p>The proposal provides reasonable setbacks to all boundaries which ensure that the impact of any overshadowing is relatively minor.</p> <p>The overshadowing created extends marginally more than the existing fence lines and of minor proportions of the Secluded Private Open Spaces of adjoining properties which will not result in any significant amenity impacts.</p> <p>The overshadowing created is well within the requirements of this standard.</p>		

<b>B22 Overlooking</b> Limit views into existing secluded private open space and habitable room windows.	Complies (through conditions)	The proposal includes a combination of obscure glazing and external screens to address overlooking to adjoining properties.  A condition will be included for the proposed screens to be fixed and no more than 25% transparent to a minimum height of 1.7 metres to ensure compliance with this Standard.  A condition will also be included for the plans to demonstrate that the second storey windows/balconies comply with this standard on the western and southern elevations however based on the setbacks, existing fence heights and proposed balustrading it is likely that this has already been achieved.
<b>B23 Internal Views</b> Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.	Complies	Balconies have generally been sited to avoid direct internal overlooking. 1.7 metre fencing has been included between ground level private open spaces.
<b>B24 Noise Impacts</b> Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.	N/a	Apartment developments such as this have are required to be assessed against Standard B40 regarding noise.

CLAUSE 55.05 ON-SITE AMENITY AND FACILITIES		
Title and Objective	Complies with Standard?	Comments
<b>B25 Accessibility</b> Consider people with limited mobility in the design of developments.	N/a	Apartment developments such as this have are required to be assessed against Standard B41 regarding accessibility.
<b>B26 Dwelling Entry</b> Provide a sense of identity to each dwelling/residential building.	N/a	Apartment developments such as this have are required to be assessed against Standard B42 regarding building entry.
<b>B27 Daylight to New Windows</b> Allow adequate daylight into new habitable room windows.	Complies	All habitable windows will open out onto a space clear to the sky.

<b>B28 Private Open Space</b> Provide reasonable recreation and service needs of residents by adequate private open space.	Complies	<b>Minimum:</b> 25m <sup>2</sup> secluded, 40m <sup>2</sup> overall with a minimum dimension of 3 m; A balcony of 8m <sup>2</sup> with a minimum width of 1.6m. <b>Proposed:</b> All apartments meet the requirements of this standard and are provided with adequate private open space for the reasonable recreation and service needs of residents.
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	Secluded Private Open Space
Apartment G.01	24m <sup>2</sup>
Apartment G.02	11m <sup>2</sup>
Apartment G.03	16m <sup>2</sup>
Apartment G.04	25m <sup>2</sup>
Apartment G.05	12.5m <sup>2</sup>
Apartment G.06	10m <sup>2</sup>
Apartment G.07	10m <sup>2</sup>
Apartment G.08	14m <sup>2</sup>
Apartment G.09	11m <sup>2</sup>
Apartment G.10	104m <sup>2</sup>
Apartment G.11	35m <sup>2</sup>
Apartment G.12	35m <sup>2</sup>
Apartment G.13	35m <sup>2</sup>
Apartment 1.01	24m <sup>2</sup>
Apartment 1.02	17m <sup>2</sup>
Apartment 1.03	17m <sup>2</sup>
Apartment 1.04	25m <sup>2</sup>
Apartment 1.05	11m <sup>2</sup>
Apartment 1.06	10m <sup>2</sup>
Apartment 1.07	10m <sup>2</sup>
Apartment 1.08	10m <sup>2</sup>
Apartment 1.09	10m <sup>2</sup>
Apartment 1.10	12m <sup>2</sup>
Apartment 1.11	12m <sup>2</sup>
Apartment 1.12	12m <sup>2</sup>
Apartment 1.13	12m <sup>2</sup>
Apartment 2.01	98m <sup>2</sup>
Apartment 2.02	49m <sup>2</sup>
Apartment 2.03	62m <sup>2</sup>
Apartment 2.04	11m <sup>2</sup>
Apartment 2.05	10m <sup>2</sup>
Apartment 2.06	28m <sup>2</sup>
Apartment 2.07	51m <sup>2</sup>
Apartment 2.08	30m <sup>2</sup>
Apartment 2.09	26m <sup>2</sup>



<b>B29 Solar Access to Open Space</b> Allow solar access into the secluded private open space of new dwellings/buildings.	Complies	The secluded private open space is appropriately located to ensure adequate solar access to the proposed spaces. Dwellings with southern facing secluded private open space also provide open space to the east or west to ensure sufficient solar access is received.
<b>B30 Storage</b> Provide adequate storage facilities for each dwelling.	N/a	Apartment developments such as this have are required to be assessed against Standard B44 regarding building storage.

CLAUSE 55.06 DESIGN DETAIL		
Title and Objective	Complies with Standard?	Comments
<b>B31 Design Detail</b> Encourage design detail that respects the existing or preferred neighbourhood character.	Complies	Refer to the report for further discussion.
<b>B32 Front Fences</b> Encourage front fence design that respects the existing or preferred neighbourhood character.	Complies	<b>Required:</b> 1.5m <b>Proposed:</b> 1.42m
<b>B33 Common Property</b> Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained.  Avoid future management difficulties in common ownership areas.	Complies	All areas of common property have been designed to clearly delineate public, communal and private areas.  Common property is functional and capable of efficient management and consists of the basement car park, internal corridors.
<b>B34 Site Services</b> Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.  Avoid future management difficulties in common ownership areas.	Complies	All appropriate site services can be easily catered for on-site. Mails boxes are shown to adjoin the pedestrian entry with waste provisions being provided within the basement level.

<b>CLAUSE 55.07 APARTMENT DEVELOPMENTS</b>
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Title and Objective	Complies with Standard?	Comments
<b>Standard B35 Energy efficiency objectives</b> To achieve and protect energy efficient dwellings and buildings. To ensure the orientation and layout of development reduce fossil fuel energy use and make appropriate use of daylight and solar energy. To ensure dwellings achieve adequate thermal efficiency	Complies	The site orientation maximises the solar access and does not unreasonably reduce energy efficiency and solar access to adjoining properties. Areas of open space facing north have been maximised where possible. The Submitted SMP demonstrates compliance with this standard.
<b>Standard B36 Communal open space</b> To ensure that communal open space is accessible, practical, attractive, easily maintained and integrated with the layout of the development. Developments with 40 or more dwellings should provide a minimum area of communal open space of 2.5 sq metres per dwelling or 250 sq metres, whichever is lesser.	N/A	This standard relates to developments with 40 or more dwellings.
<b>Standard B37 Solar access to communal outdoor open space</b> To allow solar access into communal outdoor open space.	N/A	There is no communal outdoor open space provided within this development. Communal areas within this development at ground floor level to do constitute recreational outdoor open space.
<b>Standard B38 Deep soil areas and canopy trees objective</b> To promote climate responsive landscape design and water management in developments to support thermal comfort and reduce the urban heat island effect.	Complies	<b>Required:</b> 10% of the site area with a minimum dimension of 6 metres and 1 large tree (12 metres) per 90 square metres of deep soil. Or 2 medium trees per 90 square metres of deep soil. <b>Proposed:</b> 17.74% of the site is designated to deep soil planting which equates to 428 square metres. The proposal provides 16 canopy trees of medium height (minimum 8 metres) which exceeds the 9 required by this standard.
<b>Standard B39 Integrated water and stormwater management</b>	Complies	The supporting Planning Report notes the provision of a 35,000L rainwater tanks located at

To encourage the use of alternative water sources such as rainwater, stormwater and recycled water. To facilitate stormwater collection, utilisation and infiltration within the development. To encourage development that reduces the impact of stormwater run-off on the drainage system and filters sediment and waste from stormwater prior to discharge from the site.		underground, adjacent to the basement. Notwithstanding this, a condition has been included requiring integrated storm water and management objectives.
<b>Standard B40 Noise impacts</b> To contain noise sources in developments that may affect existing dwellings. To protect residents from external and internal noise sources.	Complies, subject to conditions	As previously mentioned at Standard B24 above. Conditions have been included requiring the sensitive placement of services and mechanical equipment.
<b>Standard B41 Accessibility</b> To ensure the design of dwellings meets the needs of people with limited mobility.	Complies	<b>Requirement:</b> 50 per cent of dwellings should have: <ul style="list-style-type: none"> <li>• A clear opening width of at least 850mm at the entrance to the dwelling and main bedroom.</li> <li>• A clear path with a minimum width of 1.2 metres that connects the dwelling entrance to the main bedroom, an adaptable bathroom and the living area.</li> <li>• A main bedroom with access to an adaptable bathroom.</li> <li>• At least one adaptable bathroom that meets all of the requirements of either Design A or Design B specified in Table B7.</li> </ul> <b>Proposed:</b> 23 of the proposed dwellings meet this standard which equates to 65.7% of the dwellings.
<b>Standard B42 Building entry and circulation</b> To provide each dwelling and building with its own sense of identity.  To ensure the internal layout of buildings provide for the safe, functional and efficient movement of residents.  To ensure internal communal areas provide adequate access to daylight and natural ventilation.	Complies	The building entry and foyer area provides a clearly identifiable area which benefits from direct solar access and natural ventilation.
<b>Standard B43 Private open space</b>	Complies	<b>Requirement:</b> An area of 15 square

<b>above ground floor</b> To provide adequate private open space for the reasonable recreation and service needs of residents.		metres, with a minimum dimension of 3 metres at a podium <u>or</u> other similar base and convenient access from a living room, <u>or</u> a balcony with an area of 12m <sup>2</sup> with a minimum dimension of 2.4 metres.  <b>Proposed:</b> All apartments comply with the requirements of this standard.
<b>Standard B44 Storage</b> To provide adequate storage facilities for each dwelling.	Complies	<b>Required:</b> 3 bed apartments require 18m <sup>3</sup> total minimum storage volume and 12m <sup>3</sup> minimum storage volume with the dwelling.  <b>Provided:</b> a minimum of 12m <sup>3</sup> has been provided internally for all apartments.
<b>Standard B45 Waste and recycling</b> To ensure dwellings are designed to encourage waste recycling.  To ensure that waste and recycling facilities are accessible, adequate and attractive.  To ensure that waste and recycling facilities are designed and managed to minimise impacts on residential amenity, health and the public realm.	Complies, subject to conditions	The proposal provides for appropriate and conveniently located areas for waste collection on site. A waste management Plan has been included as a condition of permit requiring on-site waste collection services.  Refer to the report for further detail.
<b>Standard B46 Functional layout</b> To ensure dwellings provide functional areas that meet the needs of residents.	Variation	<b>Requirement:</b> Bedrooms should provide for a main bedroom with a minimum dimensions of 3mx 3.4m. All other bedrooms should have a minimum dimension of 3m x 3m.  2 or more bedroom dwellings should have a minimum living area width of 3.6m with a minimum area of 12m <sup>2</sup> .  <b>Proposed:</b> some of the proposed living rooms seek variations to the 3.6 metre minimum dimension to this standard. Refer to the report.
<b>Standard B47 Room depth</b> To allow adequate daylight into single aspect habitable rooms.	Complies	<b>Requirement:</b> Single aspect habitable rooms should not exceed a room depth of 2.5 times the ceiling height.  <b>Proposed:</b> Many rooms have double aspects but all single aspect rooms comply with this standard.
<b>Standard B48 Windows</b> To allow adequate daylight into new	Complies	<b>Requirement:</b> Habitable rooms should have a window in an external wall of the building. A window may

habitable room windows.		<p>provide daylight to a bedroom from a smaller secondary area within the bedroom where the window is clear to the sky. The secondary area should be:</p> <ul style="list-style-type: none"> <li>• A minimum width of 1.2 metres.</li> <li>• A maximum depth of 1.5 times the width, measured from the external surface of the window.</li> </ul> <p><b>Proposed:</b> All rooms have a window in an external wall of the building.</p>
<p><b>Standard B49 Natural ventilation</b></p> <p>To encourage natural ventilation of dwellings.</p> <p>To allow occupants to effectively manage natural ventilation of dwellings.</p>	Variation	<p><b>Requirement:</b> At least 40 per cent of dwellings should provide effective cross ventilation that has:</p> <ul style="list-style-type: none"> <li>• A maximum breeze path through the dwelling of 18 metres.</li> <li>• A minimum breeze path through the dwelling of 5 metres.</li> <li>• Ventilation openings with approximately the same area.</li> </ul> <p><b>Proposed:</b> 37.14% of appartments comply with these requirements. Therefore a variation is sought. Refer to the report.</p>

