

Mornington Peninsula Shire

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1. EXECUTIVE SUMMARY

SITE

Address	1 Byron Street Mount Martha
Property Description	Lot 30 on PS012421
Title Restrictions	Nil
Land Area	755m ²
Responsible Authority	Mornington Peninsula Shire
Current Use	Dwelling
Land Owner	

PLANNING SCHEME

Planning Scheme	Mornington Peninsula Planning Scheme
Zone	GRZ1
Overlays	VPO1, DDO2, BMO2
Abuttal(s)	Nil

APPLICATION

Client	
Proposal	The development of a dwelling and associated works in accordance with the submitted plans.
Our Reference	UA26-005
Application Type	New Application
Public Notice	Pursuant to Section 52 of the <i>Planning and Environment Act 1987</i>
Referral Authorities	Nil

2. INTRODUCTION

The report provides the following information:

- A description of the site and its surrounds;
- A description of the proposed development;
- An outline of the applicable statutory planning framework; and
- An assessment of the proposal considering all relevant town planning considerations, including a Clause 54 Assessment.

The project team includes:

- UrbanArc Planning Pty Ltd
- Town Planners
- Main St Design Studio
- Project Drafting

This application affects the land at No. 1 Byron Street Mount Martha. The application is seeking approval for the development of a new split-level single storey dwelling and associated work as shown on the plans attached to the application.

The subject site is within an area that is regulated by the General Residential Zone Schedule 1 (GRZ1) and is also regulated by the Vegetation Protection Overlay Schedule 1 (VPO1), Design and Development Overlay Schedule 2 (DDO2) and Bushfire Management Overlay Schedule 2 (BMO2). Having identified the relevant planning controls it is recognised that a planning permit is required on the following basis:

- Vegetation Protection Overlay, Schedule 1 (VPO1):
 - A planning permit is required to remove, destroy or lop any vegetation.

Ordinarily, VPO1 would require a planning permit to remove vegetation on the subject site. In this instance, Clause 52.12-2 of the Planning Scheme exempts the vegetation removal from requiring a planning permit. Vegetation removal cannot therefore be considered as part of the application process. Despite this, this submission still addresses the vegetation setting to the site.

- Design and Development Overlay, Schedule 2 (DDO2):
 - A planning permit is required to construct a building or construct or carry out works for a single dwelling that varies the following general requirements:
 - No building may exceed a wall height of 5.5 metres.
 - Earthworks that exceed 1 metre.
 - Buildings must be setback at least 7.5 metres from a road frontage.

- Bushfire Management Overlay, Schedule 2 (BMO2):
 - A planning permit is required to construct a building or construct or carry out works associated with the use of accommodation (dwelling).
- Clause 52.37 – Canopy Trees:
 - A planning permit is required to remove, destroy or lop a canopy tree.

Ordinarily, Clause 52.37 would require a planning permit to remove vegetation on the subject site. In this instance, Clause 52.12-2 of the Planning Scheme exempts the vegetation removal from requiring a planning permit. Vegetation removal cannot therefore be considered as part of the application process. Despite this, this submission still addresses the vegetation setting to the site.

Importantly, Planning Scheme Amendment VC282 was approved and gazetted on the 8th of September 2025, which introduced sweeping changes to the Victorian Planning Scheme. Relevant to the planning application, VC282 approved amendments to Clause 32.08 and introduced the 'Single House Code' (Clause 54 – One dwelling on a lot or small second dwelling on a lot). The critical element to the 'Single House Code' (Clause 54) is seen within the operational statement and exemptions on pages 1 and 2 of the policy. In essence, the new Clause 54 policy stipulates that if a Standard within Clause 54 is met, the corresponding objective is deemed to be met.

Further and importantly, Clause 54 exempts the Responsible Authority from considering the Municipal Planning Strategy and Planning Policy Framework (this includes any neighbourhood character policy, irrespective of whether it is incorporated into the Planning Scheme or a seriously entertained document) from being considered.

Bearing this in mind, the proposed development complies with all standards within Clause 54 and also exceeds the minimum garden area requirement prescribed within the General Residential Zone. The proposed development is therefore following the deemed to comply pathway and is submitted to be consistent with the objectives within 54. This provides a substantial degree of support for the proposed development, thereby allowing the conclusion to be reached that a Planning Permit should be issued.

In addition to the Clause 54 requirements, a planning permit is required by the Design and Development Overlay Schedule 2. Whereby, this policy seeks to protect character where it is not addressed within Clause 54. With this in mind, the subject site sits within an established neighbourhood that has seen a prevalence of modern dwelling re-developments including double storey built form, with dwellings constructed of varying styles or design expressions. To assimilate with this existing character the design response adopts a mostly compliant Clause 54 approach, a generous SPOS area, a compliant front setback and generous side setbacks that can accommodate planting. These elements to the design ensure that the design response is consistent with the built form character values present and in turn is consistent with the relevant objectives and decision guidelines included within the Design and Development Overlay Schedule 2.

The subject site is surrounded by single and double storey dwellings. The dwellings along Byron Street and in the immediate area are generally double storey and are clearly visible and prominent when viewed from the street and the immediate area, with views to the west and north-west of Port Phillip Bay available. The proposed dwelling will introduce landscaping to soften the built form outcomes. In addition, the proposed dwelling adopts an architectural and luxurious design, combining to ensure that the design will have comparable and acceptable streetscape, character and landscape outcomes. The resulting design will not therefore subject the residents in the area to a significant or unreasonable loss of amenity, that is assured by a high level of compliance and consistency with the design objectives within the Design and Development Overlay Schedule 2.

On this basis, it is concluded and recommended to the Responsible Authority that the proposed development is appropriate and reasonable and is suitable to be granted a Planning Permit.

3. PROPOSAL

The permit sought is:

- *'Clause 43.02-2: To construct a building or construct or carry out works for a single dwelling.*
- *Clause 44.06-2: To construct a building or construct or carry out works associated with the use of accommodation (dwelling).'*

The application seeks approval for:

'The development of a dwelling and associated works in accordance with the submitted plans.'

More specifically, the development comprises the following key parameters:

- Demolish existing dwelling and associated outbuildings.
- Vegetation removal (exempt from requiring a planning permit under VPO1 & Clause 52.37).
- Earthworks (max. 824.5mm of cut & max. 1.22m of fill).
- Access is to be provided to the site via a new concrete crossover and driveway along the southern boundary of the site to replace the existing gravel crossovers circular driveway.
- Construct a new split-level dwelling with clerestory comprising a double garage including workshop, four (4) bedrooms including a master bedroom with ensuite & w/c and guest bedroom/ office, an open plan kitchen/ living/ dining including a butler's pantry, a bathroom, laundry, guest powder room, timber deck off the guest bedroom/ office and outdoor entertaining area including roofed alfresco area, paved area, outdoor fire place, bbq area, powder room and swimming pool.
- The existing fencing along the side and rear boundaries are to be replaced with new 2 metre high paling fencing and the existing 1.5 metre high brush front fence is proposed to be replaced with a new 1.8 metre high transparent front fence.

Site area	755m ²
Site coverage	467.90m ² (61.97%)
Permeability	219.81m ² (29.11%)
Garden area	293.22m ² (38.83%)
SPOS	>25m ²

Setbacks

The minimum setbacks displayed from the site's front/side/rear property boundaries to the proposed works are outlined as follows:

Title Boundary	North (side)	South (side)	East (Byron Street)	West (rear)
Proposed dwelling	1.126 metres (min.)	1.56 metres (min.)	6.48 metres (min.)	3.349 metre (min.)

Heights

The maximum height of the proposed dwelling is outlined as follows:

Measurement Type	Measurement
Wall height	5.96 metres
Overall Height	5.96 metres

Materials

The application proposes to use the following finishes:

Roof Colour/ Material: Powdercoated Colorbond roofing in 'Monument'

Wall Colours/ Materials: Vertical profile cladding in 'Black', rendered foam cladding in 'Monument' and reclaimed brick.

4. SUBJECT SITE & LOCALITY

Site Description

The subject is formerly described as Lot 30 on PS012421 and is generally known as No. 1 Byron Street, Mount Martha.

The subject site is a rectangular shaped allotment on the western side of Byron Street, with a front boundary of 15.99m, a depth of 47.24m and a total site area of 755m². A 1.52 metre wide drainage easement runs along the southern and western (rear) boundaries of the site. There are no other covenants or restrictions on title.

The land is characterised by a fall from the eastern (front) of the site to the west (rear) of the site of approximately 3.81 metres. It contains an existing single storey brick weatherboard dwelling with pitched tiled roofing, single car garage and skate ramp in the north-western corner of the site to be demolished. Access is currently provided to the site via existing gravel crossovers and a circular driveway from Byron Street which is to be replaced as part of this application.

The site is bound on all sides by a mix of paling and brick fencing of differing heights and includes a 1.5 metre high brush fence with gates along the front boundary.

The site is set within an established residential environment with single and double storey dwellings with manicured gardens.

The site contains a mixture of exotic planted vegetation including fruit trees, and a Golden Elm within the front setback area, with all vegetation to be removed from the site to accommodate the development.

Refer to Clause 54.01-1 and Clause 54.01-2 for additional details illustrating the site and its context.

Surrounding Area

The surrounding land includes:

North:

No. 3 Byron Street – Contains a double storey weatherboard dwelling, weatherboard garage and weatherboard shed/ bungalow along the southern boundary of the site and swimming pool to the rear. The front boundary is defined by a 1.7 metre high rendered brick fence and a manicured garden.

East:

No. 2 Byron Street – Contains a double storey brick dwelling with pitched tiled roofing and associated outbuilding and swimming pool to the rear. The front boundary is defined by a brick fence and manicured garden.

South:

Nos. 61, 63 & 65 Bay Road – Each contain a single dwelling and associated outbuildings with a vegetated road reserve.

West:

No. 2 Moore Street – Contains a double storey rendered brick dwelling with flat galvanised iron roofing and first floor balcony along the frontage and swimming pool along the northern boundary of the site. The front boundary is unfenced and defined by a manicured garden.

5. PLANNING PERMIT REQUIREMENTS

The following is a summary of the planning controls relevant to the subject site identifying how these planning controls relate to the proposal:

Clause 32.08 – General Residential Zone – Schedule 1 (GRZ1)

The subject site is within the General Residential Zone – Schedule 1 (GRZ1) under the Mornington Peninsula Planning Scheme.

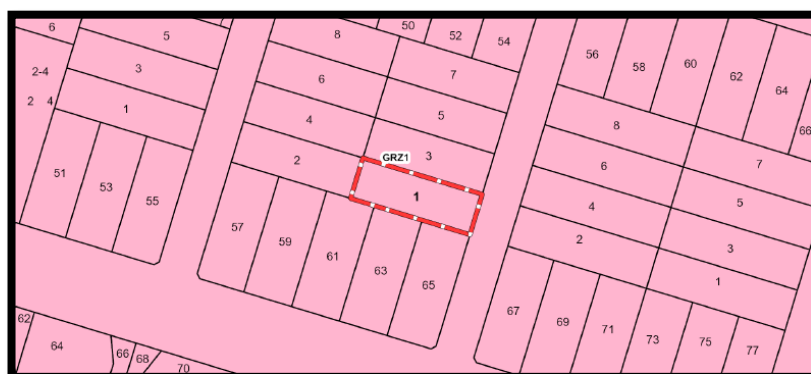
Pursuant to the requirements of the GRZ1 at Clause 32.08-5, a planning permit is not required to construct or extend one dwelling on a lot given the land is greater than 300m².

Notably, at Clause 32.08-4 a garden area of 35% of the site area is required to be provided, given the land is above 650m². A review of the plans will confirm a garden area of more than 35% is achieved (38.83% proposed).

The maximum building height requirements are outlined in Clause 32.08-11. Noting, the proposed dwelling is significantly less than the maximum 11m and three storey height requirements of the zone.

Consequently, the GRZ1, is otherwise irrelevant to the consideration of the Planning Application.

Figure 1: Zone Map



Clause 42.02 – Vegetation Protection Overlay, Schedule 1 – Township Vegetation (VPO1)

The subject site is within an area regulated by the Vegetation Protection Overlay Schedule 1 (VPO1) under the Mornington Peninsula Planning Scheme.

Pursuant to the requirements of VPO1, a planning permit is required to remove, destroy or lop any vegetation, including dead vegetation. Despite the need to remove vegetation within the footprint of the dwelling and to create defensible space, vegetation removal is exempt from requiring a planning permit pursuant to Clause 52.12-5. It cannot therefore be considered as part of the Planning Application. Despite this, this submission conservatively measures the proposal against the outcomes intended by the VPO1.

Clause 43.02 – Design and Development Overlay, Schedule 2 – Bayside and Village Design (DDO2)

The subject site is within an area regulated by the Design and Development Overlay Schedule 2 (DDO2) under the Mornington Peninsula Planning Scheme.

Pursuant to the requirements of DDO at Clause 43.02-2, a planning permit is not required to construct a building or construct or carry out works for a single dwelling, provided the general requirements set out in the Schedule are met.

As is detailed in this report, the proposal meets all but three of the applicable general requirements set out in the Schedule, and therefore a Planning Permit is triggered under DDO2 for non-compliance with the general requirements, which is described as follows:

- *No building may exceed a wall height of 5.5 metres.*
- *Earthworks that exceed 1 metre.*
- *Buildings must be setback at least 7.5 metres from a road frontage.*

Notably:

- DDO2 prescribes a mandatory 8 metre height limit and no more than 2 storeys above natural ground level.
- An application to construct a building or construct or carry out works associated with one dwelling on a lot must comply with and be assessed against the requirements of Clause 54 of the Planning Scheme.

Where a planning permit is required, and relevant to the proposed development Clause 43.02-2 prescribes that a development must meet the requirements of Clause 54.

Whereby, Clause 54 sets out:

‘Operation:

The provisions of this clause contain:

- **Objectives.** *An objective describes the outcome to be achieved in the completed development.*
- **Standards.** *A standard contains the requirements to meet the corresponding objective. (our emphasis).*

If a zone or a schedule to a zone specifies a standard that modifies the standard set out in this clause, the modified standard in the zone or a schedule to the zone applies.

If the land is included in a Neighbourhood Character Overlay and a schedule to the overlay specifies a standard that modifies the standard set out in this clause, or a modified standard in the zone or a schedule to the zone, the modified standard in the schedule to the overlay applies.

If the land is included in an overlay, other than a Neighbourhood Character Overlay, and a schedule to the overlay specifies a standard that modifies the standard set out in this clause, or a modified standard in the zone or a schedule to the zone, the modified standard in the schedule to the overlay applies.

Decision guidelines. *If a standard is not met, the decision guidelines set out the matters that the responsible authority must consider before deciding if the corresponding objective is met.*

Requirements:

A development must meet all of the applicable objectives contained in this clause.

If a development meets a standard:

- *The corresponding objective is deemed to be met;*
- *The responsible authority is not required to consider the corresponding decision guidelines. (our emphasis)*

If a development does not meet a standard, the responsible authority must consider the applicable decision guidelines in determining whether the corresponding objective is met.’

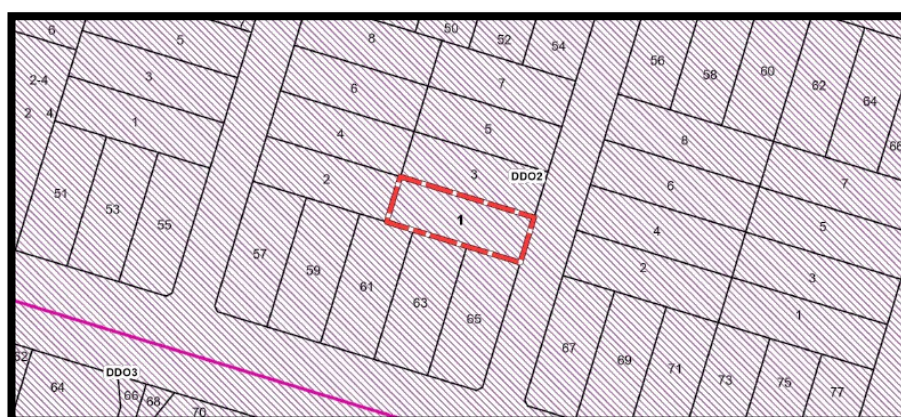
Exemptions:

Despite any other provision of this planning scheme (our emphasis), in determining applications to which this clause applies, the responsible authority is exempt from and is not required to consider:

- *The Municipal Planning Strategy and Planning Policy Framework, unless an applicable decision guideline specifies otherwise.*
- *The purpose or decision guidelines of the relevant zone, unless an applicable decision guideline specifies otherwise.*
- *The decision guidelines in Clause 65, unless an applicable decision guideline specifies otherwise. If there is any inconsistency between the requirements of this clause and another provision of this planning scheme, this clause prevails.*

Critically, Clause 54 exempts and prevents the Responsible Authority from being required or able to consider the Planning Policy Framework (under any overlay or other provision within the Planning Scheme) and the purpose and decision guidelines of the Overlay to which a compliant Clause 54 design response is proposed. In this circumstance it can only be determined that a Planning Permit is to be issued. And of equal importance, an application for review to VCAT is unable to be made by a party or objecting party for an element of a development that complies with the standard/s of Clause 54.02-1, 54.02-2, 54.02-3, 54.02-4, 54.02-5, 54.02-6, 54.02-7, 54.04 and 54.05-2.

Figure 2: DDO2 Map



Clause 44.06 – Bushfire Management Overlay, Schedule 2 – Mornington Peninsula BAL – 12.5 Areas

Pursuant to the requirements of the BMO, a planning permit is required to construct a building or construct or carry out works associated with the use of accommodation (dwelling).

Where a planning permit is required, at Clause 44.06-2 the application requirements are set out. This includes:

- A bushfire hazard site assessment
- A bushfire hazard landscape assessment
- A bushfire management statement

Unless a schedule to this overlay specifies different requirements.

Detailed earlier, the subject site is regulated by Schedule 2 to the Bushfire Management Overlay (BMO2). At Section 4.0 to the schedule, it prescribes the following application requirements:

An application must be accompanied by a bushfire management plan that:

- Shows all of the required bushfire protection measures specified in this schedule,
- Includes written conditions that implement the required bushfire protection measures,
- Identifies water supply including the location of any fire hydrant within 120 metres of the rear of the building, and
- Details vehicle access.

Consequently, we refer to the Bushfire Management Plan that is attached to the application to demonstrate an appropriate and compliant response to the bushfire threat present and the bushfire regulations.

Figure 3: BMO2 Map



6. PLANNING CONSIDERATION

Zone Assessment

Clause 32.08: General Residential Zone, Schedule 1 (GRZ1)

Detailed within Section 5 of this submission, a permit is not required by the GRZ1 for the proposed development. The consideration of the proposed development against the GRZ1 is therefore confined to the garden area requirement at Clause 32.08-4 and the mandatory building height set out at 32.08-10.

Based upon a lot size of more than 650m² in area, Clause 32.08-4 requires 35% of the land to be set aside as garden area. As evidenced on the plans, a garden area of 38.83% of the site is provided, thereby complying with the minimum mandatory garden area requirement. With respect to Clause 32.08-10, an 11m building height is permitted. The proposed development achieving a maximum 5.960m overall building height is well below this maximum building height. The development therefore complies with the requirements of the General Residential Zone, Schedule 1.

Overlay Assessment

Clause 42.02: Vegetation Protection Overlay, Schedule 1 – Township Vegetation (VPO1)

Detailed within Section 5 of this submission, vegetation removal is exempt from a permit being required. Despite this, this submission turns to the outcomes intended by the VPO1. Where a planning permit is ordinarily required, the overlay sets out the objectives and design guidelines to be considered. Noting, the overriding principles within the objectives and decision guidelines of the VPO1 is to protect native vegetation and ensure any removal proposed allows for the maintenance of the garden setting proportionate with the existing character to an area.

As can be seen on the plans attached to the planning application, the vegetation removal is confined to vegetation within defendable space and includes a mixture of planted exotic vegetation including fruit trees and a Golden Elm within the front setback area – refer to the Arboricultural Impact Assessment attached to the application assessing the vegetation on the adjoining properties and the road reserve. It is noted that the development will not impact on the vegetation on the adjoining properties and road reserve during or after construction.

Clause 43.02: Design and Development Overlay, Schedule 2 – Bayside and Village Design (DDO2)

Pursuant to the requirements of DDO3, a planning permit is required to construct a building or to construct or carry out works for a single dwelling on lot if any of the general requirements are not met. In the instance, a permit is required to vary the follow general requirements:

- *No building may exceed a wall height of 5.5 metres.*
- *Earthworks that exceed 1 metre.*
- *Buildings must be setback at least 7.5 metres from a road frontage.*

Variation: The proposed dwelling has an overall building height of 5.96 metres.

Where a variation to the general requirements of the Overlay is proposed, it must be demonstrated to the satisfaction of the responsible authority that compliance is either unreasonable or unnecessary, and that no significant loss of amenity will result.

These tests are satisfied by a developments response to the matters detailed in the objectives of the overlay.

Wall Height:

Detailed earlier, the proposed development is seeking a minor variation to the wall height requirement of the overlay. It is noted that the proposed dwelling does not seek to vary the overall building height requirement. The area includes a combination of older housing stock, as well as more recent and modern dwelling re-developments including single and double storey built form. Due to the undulating topography, the housing stock contains many elevated double storey dwellings, including along Byron Street and the surrounding streets.

The dwellings are either screened or partially screened from the street frontage or sit prominently upon the streetscape and remain visible on the landscape, indicating that either is an acceptable outcome. Where the dwelling sits within a setting that contains double storey dwellings it can be seen that compliance with the general requirement is both unreasonable and unnecessary.

Further to this, it is not the intent of the DDO2 to confine wall heights to 5.5 metres. This is none the more evident where double storey dwellings are evident in the street and surrounding area. Rather, the wall height general requirement is intended to ensure a site responsive design that is consistent with the character values present and does not present as being visually obtrusive, all of which are achieved in the proposed development. Furthermore, the split-level single storey dwelling with generous front and side setbacks allows for meaningful planting within the front setback area that will assist in screening the development. These elements that are commonly found on adjoining and nearby properties illustrates an acceptable outcome will be achieved.

For these reasons, it is submitted that no significant loss of amenity to any adjoining properties or to the surrounding area will result from the minor variation sought.

Earthworks:

The slope of the land makes it impossible to develop a dwelling that does not necessitate earthworks, and consequently, compliance with this requirement is unreasonable and unattainable in this instance.

The proposal seeks to step the dwelling down with the natural fall of the land and cut the dwelling in at the front and fill the dwelling at the rear, with the land characterised by a fall from the eastern (front) of the site to the west (rear) of the site of approximately 3.81 metres. This results in a maximum site cut of 824mm and fill of 1.22 metres, being a minor variation to the 1m earthworks general requirement. Further, the earthworks are contained within the boundaries of the site and will not be appreciated outside of the site. In addition, the split-level single storey dwelling has been designed to follow the natural fall of the land, which is a site responsive solution and one that appears to be an encouraged feature within the street.

The need to vary this requirement is a result of the site constraints; being the natural fall of the land. This is a case where it is unreasonable to meet with the general requirement due to the site constraints and no significant loss of amenity will result. The variation proposed to the earthworks general requirement is therefore reasonable and appropriate.

For these reasons and the reasons expressed below, it is submitted that no significant loss of amenity to any adjoining properties or to the surrounding area will result from the variations sought. It is therefore both unreasonable and unnecessary to comply with the general requirements.

Front setback:

The proposed dwelling seeks a minor variation to the front setback requirement of 7.5m. The development is setback a minimum of 6.48m to the garage, increasing to 7.54m to the master bedroom wall. The garage has a setback of 6.48m which represents a variation of 1.02 metres to the front setback standard being proposed.

A review of the context to the site shows a clear emergence of the replacement of the older housing stock. Whereby, existing developments in the area along with more recent patterns of development achieve reduced front setbacks in the range of approximately 6 – 8 metres. These approved setbacks show a tolerance for reduced setbacks and establish an emerging development pattern.

Further and more importantly, the minimum front setback of 6.48m is consistent with the garage to the north at No. 3 Byron Street. Further, the proposed front setback on the site will provide landscaping opportunities within the front setback area to be undertaken.

On this basis, the proposal is submitted to integrate with the streetscape, sitting well within its site and wider context. The transitioning of built form across the site and within the street thereby supports a minor variation to the front setback.

For these reasons and the reasons expressed below, it is submitted that no significant loss of amenity to any adjoining properties or to the surrounding area will result from the variations sought. It is therefore both unreasonable and unnecessary to comply with the general requirements.

For the reasons expressed above, it is submitted to be both unreasonable and unnecessary to comply with the general requirement, thereby satisfying the tests set out within DDO2. Moreover, where a permit is required, the development must be assessed against the relevant design objectives that are stated above. We therefore provide the following response to the DDO2 design objectives, as follows:

Objectives:

Having addressed the individual variations sought to the general requirements, it is recognised that the Purpose of the Design and Development Overlay is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- To identify areas which are affected by specific requirements relating to the design and built form of new development.*

Relevant objectives of Schedule 2 include:

- To ensure that the design of subdivision and housing is responsive to the environment, landform, site conditions and character of coastal and bayside residential areas and rural villages.*
- To ensure that development densities are compatible with the environmental and infrastructure capacities of the area, including the capacity of local streets, drainage systems and sewerage systems. Where reticulated sewerage is not available, particular consideration must be given to the ability to contain all waste water onsite and the impact of development on ground water conditions. Particular attention must be given to the impact of development on streamlines, water ways and wetlands and to avoiding the development of land susceptible to stream erosion or flooding.*
- To recognise areas where substantial vegetation cover is a dominant visual and environmental feature of the local area by ensuring site areas are large enough to accommodate development while retaining natural or established vegetation cover and to provide substantial areas for new landscaping and open space.*
- To ensure that new development has proper regard for the established streetscape and development pattern in terms of building height, scale and siting.*
- To protect shared viewlines where reasonable and practical.*
- To ensure that buildings are designed and sited to avoid being visually obtrusive, particularly in terms of creating a silhouette above a skyline or existing tree canopy line when viewed from surrounding streets and properties.*
- To ensure that subdivision and development proposals have proper regard to heritage values, including those of areas such as the Ranelagh Estate in Mt Eliza and the Sorrento Heritage Precinct.*
- To ensure that subdivision proposals will enable new buildings to be integrated with their site and the surrounding area in terms of the relationship to existing buildings, open space areas and the coastal landscape.*
- To recognise areas where a lower intensity of residential activity and traffic movement contributes to the amenity of the area.*

- *To recognise areas, with limited access to infrastructure, services and facilities, including public transport, that are considered inappropriate for higher densities of occupation.*

A response to these design objectives is provided as follows:

- The proposed dwelling is responsive to the site's conditions and context. The proposed development will not have a detrimental impact upon the environment, landform, site conditions or the character of the area. This is assisted and assured by the architectural design that has been adopted.
- The building will not appear as a prominent element on the street given the single storey design. This is assured by the modest height proposed, a high degree of articulation incorporated into the design, light weight cladding and natural materials adopted, and the avoidance of walls constructed along a side or rear property boundary.
- The development does not increase the density of development on the site, given the proposal is for a single dwelling on a residential lot.
- The subject site is fully serviced and connected to reticulated services. It is therefore capable of supporting the proposed development.
- The design retains a sufficient open space area and includes setbacks to all boundaries for future landscaping opportunities. The dwelling will not therefore appear as a prominent element on the site, thereby ensuring an appropriate response and an appropriate balance between built form and the natural environment is struck on the subject site. Further, the development is single storey and does not detract from or appear prominent upon the streetscape or the wider landscape setting.
- The development is consistent with the pattern and siting of development in the area and will provide a transition of development across the site and along the street. Thereby resulting in a development that has proper regard for the existing streetscape and development pattern.
- There are no shared viewlines that will be impacted upon from the proposed development given the single storey nature of the dwelling.
- The building design and will not appear above any canopy skyline or appear as being obtrusive.

- The overall building will not appear as a prominent element on the street given the single storey design when compared to the dwellings in the street and the immediate area and will not therefore detract from the established residential environment. The open space areas will be landscaped in the front and rear setback areas to soften the proposal visually and compliment the use of natural materials, including natural stone themed in a coastal colour palette.
- The design retains sufficient open space areas, including setbacks to all boundaries for future landscaping to ensure the new dwelling will not appear as a prominent element on the site and to ensure an appropriate balance between built form and the natural environment is achieved. Further, the dwelling is comparable in scale and design to the surrounding built form, including the dwellings in the street and the immediate area. The development does not therefore seek to introduce new elements on the site that would detract from or appear prominent on the street or from the wider landscape setting.
- The new dwelling has been designed and sited such that it will not appear as visually prominent to the street. This is also assisted by the external materials, including lightweight cladding and natural materials and setbacks from the site's boundaries.
- The development will not unreasonably increase traffic volumes in the area.
- For the reasons expressed throughout this submission (above), the dwelling has proper regard for the established pattern of development and will not result in a visually obtrusive building or a building that will interrupt the streetscape.

As can be seen from the extensive discussion (above), although a variation is sought to a general requirement to the DDO2, the development is site responsive, and an appropriate development is proposed that is entirely consistent with the outcomes sought by DDO2. Furthermore, the proposal is compliant with all mandatory requirements of the DDO2. It is therefore submitted to be appropriate for a planning permit to be issued as proposed.

Clause 44.06 Bushfire Management Overlay, Schedule 2 – Mornington Peninsula BAL – 12.5 Areas (BMO2)

Pursuant to the requirements of BMO2, a planning permit is required to construct a building or construct or carry out works associated with an accommodation use (in this instance, a dwelling). Where a permit is required, the overlay specifies bushfire protections measures to be implemented into the design. Noting, the overriding principles within the objectives and decision guidelines of BMO2 is the prioritisation of the protection of human life and to strengthen the community's resilience to bushfire.

It is noted that a Bushfire Management Plan must accompany the proposal, which includes the following requirements to construct a dwelling:

- The dwelling must be constructed to BAL-12.5
- Defendable space is to be provided for a distance of 30 metres around the dwelling or to the property boundary, whichever is the lesser and maintained in accordance with the vegetation management requirements of Clause 53.02 with the following requirement:
 - The canopy of trees must be separated by at least 2 metres.
- A 10,000L water tank is nominated on the plans for firefighting purposes, due to the land being more than 1000sqm, consistent with the Table 4 requirements at Clause 53.02-5, and
- As fire authority access to the water supply is required under AM4.1, fire authority vehicles should be able to get within 4 metres of the water supply outlet, consistent with the Table 5 requirements at Clause 53.02-5.

The Bushfire Management Plan included in the proposal documentation outlines the proposed design and siting for the replacement dwelling is appropriate in that bushfire protection measures are specified and met.

To meet outcomes sought by the Bushfire Management Overlay, the design provides a fully compliant BMO2 design response, to be regulated through on-going obligations imposed by any planning permit issued. The proposed development therefore proposes an appropriate bushfire design response and is consistent with the outcomes sought within the BMO and BMO2 of the Planning Scheme.

Particular Provision Assessment

Clause 52.02 – Car Parking

Detailed within Section 5.0 (particular provision) of this submission, to comply with Clause 52.06 and to avoid a planning permit being required for the proposed development by Clause 52.06, the design must comply with the carparking requirements detailed in Table 1. For ease of reference the Table 1 – Car parking requirements, to Clause 52.06-5, states that the following car spaces be provided for Dwellings:

- *1 car space to each one or two bedroom dwelling.*
- *2 car spaces to each three bedroom dwelling (with studies or studios that are separate rooms counted as bedrooms).*
- *1 visitor space to every 5 dwellings for developments of 5 or more dwellings.*

The dwelling contains four (4) bedrooms, therefore requiring a total of 2 car spaces.

The design that provides a compliant double garage for the dwelling and compliant with the Clause 52.06 design standards, avoids the need to obtain a permit by Clause 52.06. Clause 52.06 is therefore otherwise irrelevant in the consideration of the Planning Application. An appropriate and complaint degree of parking is therefore proposed, further supporting the position a Planning Permit can and should be issued.

Clause 54 Assessment – One Dwelling on a Lot or a Small Second Dwelling on a Lot

Detailed within Section 5.0 of this submission, an application that is 'deemed to comply' (as in it complies with a Standard) is consistent with the objective and decision guidelines of the relevant standard. As detailed in the following Clause 54 submission, the proposed development complies with all the (applicable) Standards within Clause 54 of the Planning Scheme:

Clause 54 Assessment

Clause 54.01 – Site Description

To fulfill the application requirements within Clause 55.01 and to respond to the information requirements within Clause 55.01-1, the following submission/information is provided and is to be read in conjunction with the town planning drawings attached to the planning application:

The Site Description (plans and details included in this submission) demonstrate the existing conditions of the development site and its surrounds. The following information complements the site description plan:

The subject site is within an established residential area that contains a mix of dwellings including single and double storey dwellings with various styles and sizes on medium to large sized residential blocks with varying degrees of plantings. The 755m² lot size offers reasonable opportunities to develop a site in keeping with the existing character of the area without causing detriment to adjoining properties or the streetscape. Notably, the architectural expression within the area is varied with a variety of dwelling styles and varying heights – refer to DDO2 assessment above for a more rigorous discussion on the character and the developments response to the character of the area.

The proposed dwelling provides for a built form that is consistent with the scale and form of the existing dwelling to be demolished and other dwellings in the surrounding area, particularly newly developed sites, and will appropriately blend into the existing built form environment. The flat roof form and external materials including lightweight cladding and natural materials in coastal hues are consistent themes found within the area, providing for a coastal feel. In addition, the minimum setbacks to the site's boundaries are consistent with those in the street and the immediate area thereby providing a sense of space in and around the dwelling that is consistent with and will positively contribute to the character of the area – refer to DDO2 assessment above.

Subject Site

The location and context of the subject site is illustrated in Figures 4 & 5, below.

Figure 4: Aerial Photograph taken from www.nearmap.com.au



Figure 5: View of existing dwelling from Byron Street



Surrounding Area

The subject site is within an established residential area within the Mount Martha township.

The area includes a combination of older housing stock commonly externally clad with brick, render or weatherboards, as well as more recent and modern dwelling re-developments including double storey-built form finished in a range of contemporary materials.

The dwellings are clearly visible from their street frontages due to the available views, with a mixture of front fencing styles or no front fencing. Many properties contain formal established gardens with street trees present. Due to the available views of Port Phillip Bay, the housing stock contains many elevated double storey dwellings.

Further, the site and surrounding area is readily accessible to a wide range of community facilities and services within the broader area.

To provide certainty on the site description requirements Clause 54.01-1 prescribes a detailed list of information that must be provided. For completeness, the information requirements are repeated and responded to as follows:

- ***The built form, scale and character of surrounding development including front fencing:***
As detailed above, the built form character of the area includes a broad variety of developments, including single and double storey developments, including modern re-developments with a range of colours and materials found. The dwellings along Byron Street and in the immediate area are clearly visible and prominent when viewed from the street and the immediate area, with views of Port Phillip Bay available.
- ***Site shape, size, orientation and easements:***
The site shape, size, orientation and easements are shown on the plans and described in this submission. Generally speaking, lots are rectangular, some with service easements along the rear title boundaries. Lot sizes vary between 300 – 3000m².
- ***Levels of the site and the difference in levels between the site and surrounding properties:***
Levels of the site and the difference in levels between the site and surrounding properties is shown on the demolition plan.
- ***The location of existing buildings on the site and on surrounding properties, including the location and height of walls built to the boundary of the site:***
Surrounding properties are shown on the demolition plan. It is noted that the garage wall and bungalow wall on the adjoining property to the north at No. 3 Byron Street is built to the boundary of the site.

- ***The use of surrounding buildings:***
The use of the surrounding buildings is notated on the demolition plan and includes housing developments surrounding the subject site.
- ***The location of secluded private open space and habitable room windows of surrounding properties which have an outlook to the site within 9 metres:***
The location of SPOS and habitable room windows of surrounding properties which have an outlook to the site within 9m are notated on the demolition plan.
- ***Solar access to the site and to surrounding properties:***
Solar access to the site and surrounding properties is shown on the demolition plan.
- ***Location of existing trees 5 metres in height or greater, with a trunk circumference of 0.5 metres or greater at 1.4 metres above ground level, on the site:***
The location of all existing trees on the site are shown on the demolition plan. This includes a notation of trees that are 5m in height.
- ***Any cut and filled areas of soil, where known:***
To our knowledge there are no cut and fill areas of soil on the subject site and surrounding properties, other than what is shown on the plans.
- ***Street frontage features such as poles, services, street trees and kerb crossovers:***
The street frontage features, including poles, services, street trees and kerb crossovers are shown on the demolition plan.
- ***The location of any existing domestic solar energy system on the roof of a dwelling, apartment development or residential building on surrounding properties:***
The location of the existing solar panels on the roof of the adjoining property to the north at No. 3 Byron Street & south at No. 63 Bay Road are shown on the plans.

Clause 54.02 – Design Response

The Design Response (details included in this submission) explains how the proposed design derives from and responds to the Site Description.

The Design Response Plan has considered the neighbourhood and site context. It adopts a proposal that takes advantage of key features of the site and the local area and seeks to minimise any potential impact on neighbouring properties, resulting in a development that will sit well on the subject site and within the streetscape. The proposal is unlikely to result in any off-site amenity issues.

To provide certainty on the design response requirements Clause 54.01-2 prescribes a detailed list of information that must be provided. For completeness, the information requirements are repeated and responded to as follows:

- **Retention and planting of canopy trees:**
The demolition plan shows all vegetation to be removed and retained. Further, a concept landscape plan detailing proposed planting including canopy trees is attached to the application.
- **Planting of other vegetation including location, species, number and size at maturity of vegetation:**
The proposed planting details are included on the concept landscape plan attached to the application.
- **Where required, areas of deep soil and root barriers:**
The deep soil areas are nominated on the landscape and development plans.
- **Irrigation system to support existing and planted vegetation including details of any alternative water supply sources:**
Notations confirming these requirements are detailed on the concept landscape plan.
- **Selection of vegetation that responds to the site's environment and geographic factors:**
The concept landscape plan provides for a selection of species that are native to the relevant Ecological Vegetation Class (EVC).
- **A plan showing the location of site services, clothes drying and storage:**
The proposed site plan details the location of site services, clotheslines and external storage within the SPOS.

CLAUSE 54.02 NEIGHBOURHOOD CHARACTER

Clause 54.02-1 Street setback (Standard A2-1)

- *Walls of buildings are set back from streets:*
 - *At least the distance specified in a schedule to the zone if the distance specified in the schedule is less than the distance specified in Table A2-1; or*
 - *If no distance is specified in a schedule to the zone, the distance specified in Table A2-1.*
- *Porches, pergolas and verandahs that are less than 3.6 metres high and eaves may encroach not more than 2.5 metres into the setbacks of this standard.*

Response – deemed to comply

- There is an existing building on one abutting allotment facing the same street and no building on the other abutting allotment facing the same street, and the site is not on a corner.

Minimum setback from front street

If there is a building on one of the abutting allotment facing the front setback and no building on the other abutting allotment, the same distance as the setback of the front wall of the existing building on the abutting allotment facing the front street or 6 metres, whichever is the lesser.

The proposal complies with the 6m front street setback requirement.

Clause 54.02-2 Building Height (Standard A2-2)

- *The maximum building height does not exceed the maximum height specified in the zone, schedule to the zone or an overlay that applies to the land.*
- *If no maximum height is specified in the zone, schedule to the zone or an overlay, the maximum building height does not exceed 9 metres, unless the slope of the natural ground level at any cross section wider than 8 metres of the site of the building is 2.5 degrees or more, in which case the maximum building height does not exceed 10 metres.*

Response – deemed to comply

- The maximum building height for the proposed dwelling is 5.96 metres above natural ground level. This is below the 11m vertical dimension above natural ground level and the three storey building height requirements prescribed within the General Residential Zone. Therefore, the proposal satisfies this Standard.

Clause 54.02-3 Side and rear setbacks (Standard A2-3)

- *A new building not on or within 200mm of a boundary is set back from side or rear boundaries at least 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.*
- *Sunblinds, verandahs, porches, eaves, facias, gutters, masonry chimneys, flues, pipes, domestic fuel or water tanks, and heating or cooling equipment or other services may encroach not more than 0.5 metres into the side and rear setbacks.*
- *Landings that have an area of not more than 2 square metres and less than 1 metre high, stairways, ramps, pergolas, shade sails and carports may encroach into the side and rear setbacks.*

Response – deemed to comply

- All new walls not on or within 200mm of the side or rear boundaries are setback in accordance with the requirements of this Standard.

Clause 54.02-4 Walls on boundaries (Standard A2-4)

- *A new wall constructed on or within 200mm of a side or rear boundary of a lot or a carport constructed on or within 1 metre of a side or rear boundary of a lot does not abut the boundary for a length that exceeds the greater of the following distances:*
 - *10 metres plus 25 per cent of the remaining length of the boundary of an adjoining lot, or*
 - *The length of existing or simultaneously constructed walls or carports abutting the boundary on an abutting lot.*
- *A new wall or carport may fully abut a side or rear boundary where slope and retaining walls or fences would result in the effective height of the wall or carport being less than 2 metres on the abutting property boundary.*
- *A building on a boundary includes a building set back up to 200mm from a boundary.*

- *The height of a new wall constructed on or within 200mm of a side or rear boundary or a carport constructed on or within 1 metre of a side or rear boundary does not exceed an average of 3.2 metres with no part higher than 3.6 metres unless abutting a higher existing or simultaneously constructed wall.*

Response – deemed to comply

- Not applicable – there are no walls proposed on the site's title boundaries.

Clause 54.02-5 Site Coverage (Standard A2-5)

- *The site area covered by buildings does not exceed:*
 - *The maximum site coverage specified in a schedule to the zone; or*
 - *If no maximum site coverage is specified in a schedule to the zone, the percentage specified in Table B2-5.*
- *If the maximum site coverage is specified in a schedule to a zone, it must be greater than the percentage specified in Table B2-5.*

Response – deemed to comply

- The proposed site coverage is 61.97% and is less than the maximum site coverage of 65% permitted by this Standard.

Clause 54.02-6 Tree canopy (Standard A2-6)

- *Provide a minimum canopy cover as specified in Table A2-6.*
- *A tree must meet the following:*
 - *Reach a height of at least 6 metres at maturity.*
 - *Achieve a canopy width of at least 4 metres at maturity.*
 - *Planted in a minimum deep soil area of 12 square metres with a minimum plan dimension 2.5 metres or in a planter with a minimum volume of 12 cubic metres with a minimum depth of 0.8 metres of planter soil.*
- *Existing trees to be retained meet all of the following:*
 - *Has a height of at least 5 metres,*
 - *Has a trunk circumference of 0.5 metres or greater at 1.4 metres above ground level,*
 - *Has a trunk that is located at least 4 metres from proposed buildings.*
- *Existing trees that are retained can be used to satisfy the tree canopy requirement.*
- *Any tree required to be planted under this standard must be of species to the satisfaction of the responsible authority, having regard to the location and relevant geographic factors.*

Response – deemed to comply

- Standard B2-6 requires three (3) canopy trees to be provided or retained on the subject site. A review of the plans shows 3 canopy trees proposed within the site (along the south-west rear boundary of the site). The canopy trees each have a height of 6 metres, a canopy width of 4 metres and are planted in a minimum deep soil area of 12sq m with a minimum plan dimension 2.5m, thereby complying with the standard.

Clause 54.02-7 Front Fences (Standard A2-7)

- *A front fence within 3 metres of a street is:*
 - *The maximum height specified in a schedule to the zone, or*
 - *If no maximum height is specified in a schedule to the zone, the maximum height specified in Table B2-8.*

Response – deemed to comply

- A 1.8 metre high transparent fence is proposed along the frontage ensuring that the open streetscape aspect will be retained. It is considered that the Standard has been complied with.

Clause 54.02-8 Building setback for small second dwellings (Standard A2-8)

- *Walls of a small second dwelling are set back behind the front wall of the existing dwelling on the lot, facing the frontage.*
- *Porches, pergolas, verandahs, and eaves do not encroach into the setback of this standard.*

Response – deemed to comply

- Not applicable.

CLAUSE 54.03 LIVEABILITY

Clause 54.03-1 Street integration (Standard A3-1)

- *Where a development fronts a street, a vehicle accessway or abuts public open space passive surveillance is provided by a direct view from a balcony or a habitable room window to each street, vehicle accessway and public open space.*
- *This standard does not apply to a small second dwelling.*

Response – deemed to comply

- The dwelling has habitable room windows fronting the road, with a transparent front boundary fencing proposed to demonstrate compliance with Standard A3-1.

Clause 54.03-2 Private open space (Standard A3-2)

- *A dwelling or residential building has private open space of an area and dimensions specified in a schedule to the zone.*

If no area or dimension is specified in a schedule to the zone, a dwelling or residential building has private open space with direct access from a living area, dining area or kitchen consisting of:

- *An area of 20 per cent of the area of the lot, but not less than 25 square metres. At least one part of the private open space consists of secluded private open space with a minimum area of 25 square metres and a minimum dimension of 3 metres width; or*
- *A balcony with at least the area and dimensions specified in Table A3-2; or*
- *An area on a roof of at least 10 square metres, with a minimum dimension of 2 metres width.*
- *If the area and dimensions of the private open space or secluded private open space is specified in a schedule to the zone;*
 - *The area and dimensions specified for private open space and secluded private open space must be less than the area and dimensions specified in this standard, and*
 - *The area and dimensions specified for a balcony or an area on a roof must be less than the area and dimensions specified in this standard.*
- *A small second dwelling has a secluded private open space consisting of an area of 8 square metres with a minimum dimension of 1.6 metres and convenient access from a living area, dining area or kitchen.*
- *If a cooling or heating unit is located in the secluded private open space or private open space the required area is increased by 1.5 square metres.*
- *Where ground level private open space is provided an area for clothes drying is provided.*

Response – deemed to comply

- The dwelling is provided with a minimum of 25m² of secluded private open space area that has a minimum 3 metre dimension and is accessed from a living area. The SPOS areas are detailed on the site plan/ floor plans.
- There are no heating or cooling units located within the 25m² private open space areas.
- Additional POS areas are set aside and available for clothes drying, water tanks and storage sheds (if required).

Clause 54.03-3 Solar access to open space (Standard A3-3)

- *The southern boundary of secluded private open space is set back from any wall on the north of the space at least $(2 + 0.9h)$ metres, where 'h' is the height of the wall.*

Response – deemed to comply

- The SPOS is west of the dwelling, thereby complying with the standard.

Clause 54.03-4 Daylight to new windows (Standard A3-4)

- *A window in an external wall of the building is provided to all habitable rooms.*
- *Habitable rooms in a dwelling have a window that faces:*
 - *An outdoor space clear to the sky or a light court with a minimum area of 3 square metres and minimum dimension of 1 metre clear to the sky, not including land on an abutting lot; or*
 - *A verandah provided it is open for at least one third of its perimeter; or*
 - *A carport provided it has two or more open sides and is open for at least one third of its perimeter.*

Response – deemed to comply

- A window has been provided in an external wall to all habitable rooms. The location and design of proposed habitable room windows will maximise natural light into the respective room. Each of these windows is located to face an outdoor space clear to the sky. It is considered that the Standard has been satisfied.

Clause 54.03-5 Safety and accessibility for small second dwellings (Standard A3-5)

- *A small second dwelling is provided with a clear and unobstructed path from the frontage that:*
 - *Has a minimum width of at least 1 metre, with no encroachments. If the path is longer than 30 metres, the minimum width of the path is at least 1.8 metres.*
 - *Has a minimum clear height of at least 2 metres, with no encroachments.*
 - *Has a gradient no steeper than 1 in 14.*
 - *Has a cross fall no steeper than 1 in 40.*
 - *Is sealed or has an all-weather access.*

Response – deemed to comply

- Not applicable.

CLAUSE 54.04 EXTERNAL AMENITY

Clause 54.04-1 Daylight to existing windows (Standard A4-1)

- *Buildings opposite an existing habitable room window provide for a light court to the existing window that has a minimum area of 3 square metres and minimum dimension of 1 metre clear to the sky. The calculation of the area may include land on the abutting lot.*

- *Walls or carports more than 3 metres in height opposite an existing habitable room window are set back from the window at least 50 per cent of the height of the new wall if the wall is within a 55 degree arc from the centre of the existing window. The arc may be swung to within 35 degrees of the plane of the wall containing the existing window.*
- *Where the existing window is above ground floor level, the wall height is measured from the floor level of the room containing the window.*

Response – deemed to comply

- The building provides for a light court with a minimum area of 3 metres and minimum dimension of 1 metre clear to the sky to the existing habitable room windows on the adjoining property to the north, thereby ensuring compliance with Standard A4-1.

Clause 54.04-2 Existing north-facing windows (Standard A4-2)

- *Where a north-facing habitable room window of a neighbouring dwelling or small second dwelling is within 3 metres of a boundary on an abutting lot, a new building is to be set back from the boundary by at least 1 metre, plus 0.6 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres. This setback is to be provided for a distance of at least 3 metres from the edge of each side of the window.*
- *For this standard a north-facing window is a window with an axis perpendicular to its surface oriented from north 20 degrees west to north 30 degrees east.*

Response – deemed to comply

- There are no north-facing habitable room windows on the adjoining properties within 3m of the boundaries common with the subject site. It is considered that the Standard has been satisfied.

Clause 54.04-3 Overshadowing secluded open space (Standard A4-3)

- *The area of secluded private open space that is not overshadowed by the new development is greater than 50 per cent, or 25 square metres with a minimum dimension of 3 metres, whichever is the lesser area, for a minimum of five hours between 9 am and 3 pm on 22 September.*
- *If existing sunlight to the secluded private open space of an existing dwelling or small second dwelling is less than the requirements of this standard, the amount of sunlight will not be further reduced.*

Response – deemed to comply

- The submitted shadow diagrams demonstrate a compliant response to Standard A4-3. Furthermore, while the properties to the south experience shadow from the proposed development, these properties have a substantive SPOS area, with substantially more than 50% of the adjoining SPOS being free of shadows from the proposed development.

Clause 54.04-4 Overlooking (Standard A4-4)

- *In Clause 54.04-4 a habitable room does not include a bedroom.*
- *A habitable room window, balcony, terrace, deck or patio is located and designed to avoid direct views into the secluded private open space of an existing dwelling or small second dwelling within a horizontal distance of 9 metres (measured at ground level) of the window, balcony, terrace, deck or patio. Views are measured within a 45 degree angle from the plane of the window or perimeter of the balcony, terrace, deck or patio, and from a height of 1.7 metres above floor level.*
- *A habitable room window, balcony, terrace, deck or patio that is located with a direct view into a habitable room window of an existing dwelling or small second dwelling within a horizontal distance of 9 metres (measured at ground level) of the window, balcony, terrace, deck or patio:*
 - *Is offset a minimum of 1.5 metres from the edge of one window to the edge of the other;*
or
 - *Has sill heights of at least 1.7 metres above floor level; or*
 - *Has fixed, obscure glazing in any part of the window below 1.7 metre above floor level;*
or
 - *Has permanently fixed external screens to at least 1.7 metres above floor level and be no more than 25 per cent transparent; or*
 - *Has fixed elements that prevent the direct view, such as horizontal ledges or vertical fins.*
- *Obscure glazing in any part of the window below 1.7 metres above floor level may be openable provided that there are no direct views as specified in this standard.*
- *Screens used to obscure a view are:*
 - *Perforated panels or trellis with a maximum of 25 per cent openings or solid translucent panels.*
 - *Permanent, fixed and durable.*
 - *Designed and coloured to blend in with the development.*
- *This standard does not apply to a new habitable room window, balcony, terrace, deck or patio which faces a property boundary where there is a visual barrier at least 1.8 metres high and the floor level of the habitable room, balcony, terrace, deck or patio is less than 0.8 metres above ground level at the boundary.*

Response – deemed to comply

- It is noted that in Clause 54.04-4 a habitable room window does not include a bedroom.
- The proposal has addressed any potential for overlooking to occur into adjoining properties as follows:
 - North (side) boundary setback:
 - The guest bedroom/ office window/ door is not a habitable room window and therefore not required to be screened and the living/ dining room windows are highlight windows (minimum 1.7 metres above finished floor level). Regardless of this, these windows abut external fencing with a minimum height of 1.8 metres (proposed new 2 metre high paling fencing along the northern boundary of the site).
 - South (side) boundary setback:
 - The Bed 2, Bed 3, bathroom, laundry and butler's pantry windows/ doors are not habitable rooms and therefore are not required to be screened. Further, the kitchen is not required to be screened as it abuts external fencing with a minimum height of 1.8 metres (proposed new 2 metre high paling fencing along the southern boundary of the site).
 - West (rear) boundary setback:
 - The kitchen/ dining windows/ sliding doors are not required to be screened as it abuts external fencing with a minimum height of 1.8 metres (proposed new 2 metre high paling fencing along the western boundary of the site).

CLAUSE 54.05 SUSTAINABILITY

Clause 54.05-1 Permeability (Standard A5-1)

- *The site area covered by the pervious surfaces is at least 20 percent of the site.*

Response – deemed to comply

- The proposed site permeability of 29.11% is above the 20% minimum specified in the Standard.

Clause 54.05-2 Overshadowing domestic solar energy systems (Standard A5-2)

- *Any part of a new building that will reduce the sunlight at any time between 9 am and 4 pm on 22 September to an existing domestic solar energy system on the roof of a building on an adjoining lot be set back from the boundary to that lot by at least 1 metre at 3.6 metres above ground level, plus 0.3 metres for every metre of building height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.*
- *This standard applies to an existing building in a Township Zone, General Residential Zone or Neighbourhood Residential Zone.*
- *In Clause 54.05-2 domestic solar energy system means a domestic solar energy system that existed at the date the application was lodged.*

Response – deemed to comply

- The location of the existing solar panels on the roof of the adjoining properties to the north at No. 3 Byron Street & south at No. 63 Bay Road are shown on the plans. The proposed dwelling complies with this Standard. This is further illustrated on the shadow diagrams that shows the shadow cast does not extend to the adjoining solar panels that are located on the roof of the garage at No. 3 Byron Street.

Clause 54.05-3 Rooftop solar energy generation area (Standard A5-3)

- *In Clause 55.05-3 rooftop solar energy area means an area provided on the roof of a dwelling to enable the future installation of a solar energy system.*
- *An area on the roof is capable of siting a rooftop solar energy area for each dwelling which:*
 - *Has a minimum dimension of 1.7 metres.*
 - *Has a minimum area in accordance with Table A5-3.*
 - *Is oriented to the north, west or east.*
 - *Is positioned on the top two thirds of a pitched roof.*
 - *Can be a contiguous area or multiple smaller areas.*
 - *Is free of obstructions on the roof of the dwelling within twice the height of each obstruction (H), measured horizontally (D) from the centre point of the base of the obstruction to the nearest point of the rooftop solar energy area.*
- *Obstructions located south of all points of the rooftop solar energy area are not subject to the horizontal distance requirements.*
- *This standard does not apply to a small second dwelling.*

Response – deemed to comply

- The dwelling contains four bedrooms, thereby requiring a minimum 34m² area nominated on the roof as a potential future rooftop solar energy system area. The 'Roof Plan' illustrates the development is provided with the minimum roof top solar generation area, noting the two thirds requirement does not constrain the location of the solar energy area on the roof.

Clause 54.05-4 Solar protection to new north-facing windows (Standard A5-4)

- *North facing windows are shaded by eaves, fixed horizontal shading devices or fixed awnings with a minimum horizontal depth of 0.25 times the window height.*
- *This standard does not apply to a small second dwelling.*

Response – deemed to comply

- All north facing room windows are shaded by eaves or a shading device a minimum horizontal depth of 0.25 times the window height to ensure compliance with Standard B5-4. To demonstrate compliance, the maximum window height of the north facing windows and the eaves/shading device dimensions are shown on the floor plans.

7. PUBLIC NOTIFICATION

Public notice of the application is governed and required by Section 52 of the Act if in the opinion of the Responsible Authority the application has the potential for material detriment to result.

8. CONCLUSION

It is submitted that the development has been demonstrated throughout the discussion contained within this report to be appropriate and is suitable to be granted a permit on the following basis:

- The proposal complies with the standards of Clause 54 (One Dwelling a Lot).
- The proposed development is consistent with the purpose of the General Residential Zone and satisfies the Garden Area requirement.
- The proposal is consistent with the applicable design objectives for the Bayside and Village Design (DDO2). In particular, the location and appearance of the proposed buildings and works is consistent with the appearance of existing buildings within the immediately surrounding area, will be visually recessive when viewed from the public realm and adjoining properties, and will harmoniously blend into the streetscape.

- The proposed development is entirely consistent with the relevant objectives and outcomes contemplated by the DDO2 and BMO2 of the Planning Scheme.
- The proposed dwelling utilises an appropriate palate of colours, materials and finishes, including muted tones that are consistent design themes found within the area and reinforce the woodland residential character.
- The proposal will not unreasonably impact upon shared viewlines.
- The development proposal respects the local area character, will be non-obtrusive and will harmoniously blend in with the streetscape and surrounding area.
- The proposed development complies with all of the standards and objectives within Clause 54 of the Planning Scheme.
- The proposal is entirely consistent with the objectives and decision guidelines of Clause 65.
- The proposal will not impinge on the orderly planning of the area or affect the amenity of any sensitive uses in proximity to the subject site.
- The proposed development will not result in a significant or unreasonable loss of amenity to any person.
- The proposed development is entirely consistent with the outcomes sought by the Mornington Peninsula Planning Scheme.

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