

Brighton Grammar Junior School, Brighton

Planning Permit Application No.
PA2302676



Officer Assessment Report
Development Approvals & Urban Design



Department
of Transport
and Planning

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Summary

Key information	Details
Application No.:	PA2302676
Received:	21 December 2023
Applicant:	Brighton Grammar School c/- Urbis Pty Ltd
Planning Scheme:	Bayside
Land Address:	1 McCallum Street, Brighton VIC 3186 18 Young Street, Brighton VIC 3186 20 Young Street, Brighton VIC 3186
Proposal:	Use of the land for an education centre associated with an existing primary school.
Total site area:	Combined site area of 2007m2
Development Value:	Nil
Land Uses:	The application sites encompass three single storey detached dwellings.
Zone:	Neighbourhood Residential Zone – Schedule 3 (NRZ3)
Overlays:	Development Contributions Plan Overlay – Schedule 1 (DCPO1) Design and Development Overlay – Schedule 3 (DDO13)
Particular Provisions:	Clause 53.19 – Non-Government Schools
Why is a permit required?	A permit is required for a section 2 use (education centre) within the Neighbourhood Residential Zone Schedule 3 (NRZ3).
Referral authorities/ Notice	Bayside City Council - (Section 52(1)(b) – Notice)
Public Notice	Yes. The application has the potential to cause material detriment and notice was given to owners and occupiers of adjoining lots in accordance with the notice requirements of section 52(1)(a) of the Planning and Environment Act 1987. Notice of the application was given via mail/email to adjoining land owners and occupiers. 81 submissions were received which included 80 objections.
Delegates List	15 April 2024
Why is the Minister the responsible authority?	Pursuant to clause 72.0101 of the Bayside planning scheme the Minister is the responsible authority for matters under Divisions 1, 1A, 2 and 3 of Part 4 of the Act, and endorsement of, approval of or being satisfied with matters required by a permit or the scheme to be endorsed, approved or done to the satisfaction of the responsible authority, in relation to the use of land for a primary school or secondary school if there is no existing primary or secondary school on the land.

Background



1. Pursuant to Clause 72.01-1 of the Bayside Planning Scheme, the Minister for Planning is the responsible authority for the use of an education centre ancillary to an existing primary or secondary school where there is no existing primary school or secondary school on the land.
2. Clause 53.19 applies to the use or development of land for a primary school, secondary school, or education centre that is ancillary to, carried out in conjunction with, and on the same land or contiguous land in the same ownership as a primary school or secondary school.
3. The key milestones in the process of the application were as follows:

Milestone	Date
Pre-application meeting	N/A
Application lodgement	21 December 2023
Further information requested	12 January 2024
Further information received	1 February 2024
Decision Plans	Site Plan prepared by Brighton Grammar School dated 21 December 2023.

4. The subject of this report is the site plan prepared by Brighton Grammar School submitted 21 December 2023.
5. The following plans and reports have also been submitted in support of the application:
 - Town Planning Report prepared by Urbis Pty Ltd, dated 14 December 2023
 - Site Plan prepared by Brighton Grammar School dated 21 December 2023.



Site Description

6. The Brighton Grammar Junior School is addressed as No's. 29-31 Grosvenor Street, Brighton. The primary school is located on the western side of New Street and is bound by Cadby Street to the North and Grosvenor Street to the south. The campus has multiple heritage buildings clustered towards the New Street interface with a sporting oval and associated areas to the west of the site. The campus is additionally accessed via Grosvenor Street, with carparking provided centrally.
7. This application is for use of three (3) parcels adjoining the Brighton Grammar Junior School Campus including:
 - 18 Young Street, Brighton
 - 20 Young Street, Brighton
 - 1 McCallum Street, Brighton
8. The application sites are located along the eastern end of Young Street, an established residential street that borders the Brighton Grammar Junior School site to the east. The street is a dead-end street and does not provide pedestrian or vehicle access to the Junior School Campus.
9. 18 and 20 Young Street have a combined site frontage of 30.8 metres and 1 McCallum Street has a site frontage of 14.86 metres to McCallum Street and approximately 30.2 metres to Young Street. The combined area of the sites is 2007 square metres.
10. The sites currently each have a single story detached dwelling. There are existing street trees along within the frontages of each respective property. The dead-end road along the eastern side of Young Street includes a number of established street trees and high fencing to provide screening to Brighton Grammar Junior School Campus.
11. Vehicle access is provided as follows:
 - **18 Young Street** –Via a dual width crossover within the southwestern corner of the subject site.
 - **20 Young Street** –Via a single width crossover within the southeastern corner of the subject site.
 - **1 McCallum Street** –Via a dual width crossover within the southeastern corner of the subject site.
12. On August 2022 planning permit 5/1989/3158/3 was amended to allow the following gymnasium hours at the junior school campus:
 - 7:00am to 8:00pm Monday to Friday
 - 7:00am to 6:00pm Saturday
 - 9:00am to 3:00pm Sunday



Figure 1: Proposed site plan (Source: VicPlan)

★ Indicative areas of proposed change of use

12. The sites are formally identified as:
- 18 Young Street - Lot 42 on Plan of Subdivision 004740.
 - 20 Young Street – Lot 41 on Plan of Subdivision 004740.
 - 1 McCallum Street – Lot 39 on Plan of Subdivision 004740.
13. There are no restrictions on the relevant titles.

Site Surrounds

14. The area surrounding the subject site consists mainly of residential development within the NRZ3, as well as a number of non-residential uses proximate to the sites including local commercial precincts and secondary schools.
15. Development surrounding the site can be described as follows:
- To the **north** of 18 and 20 Young Street is Young Street, a dead-end road.
 - To the **north** of 1 McCallum Street is 3 McCallum Street, a double storey detached dwelling with private open space located towards the rear of the property.
 - To the **east** of 20 Young Street and 1 McCallum Street is a shared boundary with Brighton Junior School Campus. 1 McCallum Street also shares its eastern interface with 25 Cadby Street, a double storey detached dwelling.
 - To the **south** of 18 and 20 Young Street are the following properties:
 - 17- 19 Grosvenor Street – Multi-unit double storey townhouse development. The property is subject to HO656 however is listed as a Non-Contributory building.
 - 21 Grosvenor Street – Subject to HO181 and listed as an Individually Significant Building.
 - 23 and 23A Grosvenor Street – Subject to HO656 and listed as Contributory Buildings.
 - The southern interface of 1 McCallum fronts Young Street, a dead-end road.



- To the **west** of the application sites is 16 Young Street, a single storey detached dwelling with private open space located towards the rear of the property. 1 McCallum Street shares its western interface with McCallum Street, a local road.



16. The proposal seeks to change the use of the existing dwellings on the sites for the purposes of an education centre (Primary School) associated with Brighton Grammar School.
17. The additional parcels are required for overflow areas to provide additional resources as required for the school. The sites will be used for one or many of the following purposes; administrative area/offices, storage areas, one-on-one tutoring or specialist classes.
18. The sites will be accessed via the existing campus through direct pedestrian access. Any vehicular access will be directed to the existing staff car park at Grosvenor Street. No additional car spaces are required pursuant to Clause 52.07.
19. There is no proposed increase in number of staff or students at the school because of this proposal.
20. The proposal will operate in accordance with the Junior School Campus and recently approved Gymnasium hours as follows:
 - 7:00am to 8:00pm Monday to Friday
 - 7:00am to 6:00pm Saturday
 - 9:00am to 3:00pm Sunday



Municipal Planning Strategy

21. Clause 2 of the Scheme outlines the Municipal Planning Strategy. The vision for the municipality, amongst other things, is to protect and enhance the quality and character of the natural and built environment through environmentally sustainable development and management of land.
22. Clause 2.03-8 Community and education facilities encourages safe and convenient access to quality community facilities and services must be provided on an equitable basis to all sections of the community.
23. Strategic directions at Clause 2.03-4 Built environment and heritage encourages built form and public realm design that conserves and enhances valued urban character and heritage places.

Planning Policy Framework

24. The Planning Policy Framework (PPF) provides the broad policy direction within the Victoria Planning Provisions. The planning principles set out under the PPF are to be used to guide decision making on planning proposals across the state. The following policies are considered relevant to this application:
 - Clause 11 – Settlement
 - Clause 11.01-R – Settlement – Metropolitan Melbourne
 - Clause 11.02-1S – Supply of Urban Land
 - Clause 11.02-3S – Sequencing of Development
 - Clause 13 – Environmental risks and amenity
 - Clause 13.07- Amenity, human health and safety
 - Clause 13.07-1S – Land use compatibility
 - Clause 13.07-1L-01 – Amenity
 - Clause 13.07-1L-02 – Discretionary uses in residential areas
 - Clause 17.01 – Employment
 - Clause 17.01-1S – Diversified economy
 - Clause 19 – Infrastructure
 - Clause 19.02 – Community infrastructure
 - Clause 19.02-2S – Education facilities

Statutory Planning Controls

Neighbourhood Residential Zone (NRZ3)

25. Pursuant to Section 2 of Clause 32.09-2, a planning permit is required for the use of the land for the purpose of an education centre. It is noted that there is no proposed change to the staff or student numbers because of this application.

26. Schedule 3 to the NRZ relates to Minimal Residential Growth Areas. However, this schedule does not contain any additional requirements for education centres.

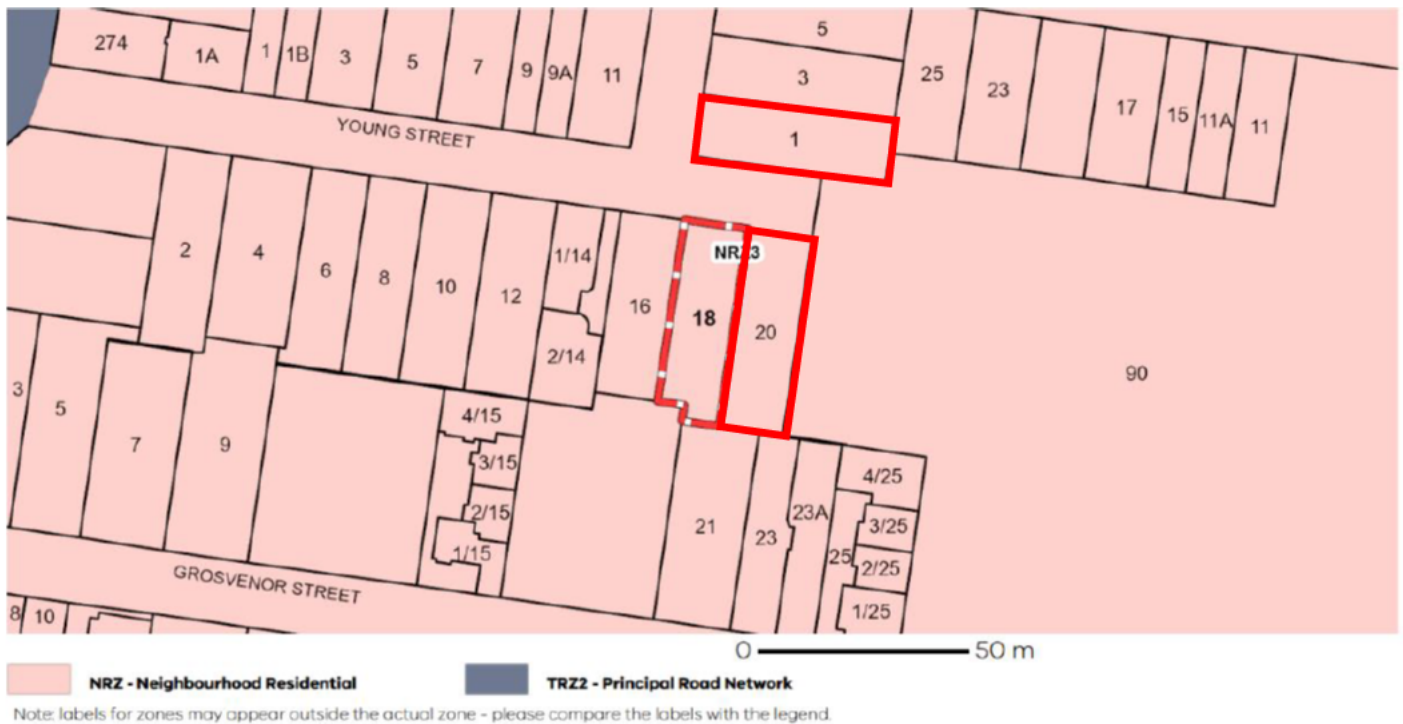


Figure 2: Subject site zone map – Neighbourhood Residential Zone – Schedule 3 (VicMap, 2024)

Development Contributions Plan Overlay (DCPO1)

27. Pursuant to Clause 45.06, a permit granted must include conditions which give effect to the contributions or levies set out in Schedule 1 to the Development Contributions Plan Overlay.
28. However, further ministerial directions released on 11 October 2011 and 1 July 2018 have clarified that the developer contributions plans must not impose development infrastructure or community infrastructure levies for the development of non-government schools.
29. Therefore it is apparent that the DCP requirement is not applicable to the proposal as it is associated with the use of the land as a non-government school.



Figure 3: Subject site Overlay map – Development Contributions Plan Overlay – Schedule 1 (VicMap, 2024)

Design and Development Overlay (DDO3 – Building height control for non-residential buildings in the inland minimal residential growth area)

30. Pursuant to Clause 43.02-2 a permit is required to construct a building or construct or carry out works. This does not apply if a schedule to the overlay specifically states that a permit is not required.
31. Pursuant to Clause 2.0 of Schedule 3 to the Design and Development Overlay:
 - A permit is not required to construct a building or to construct or carry out works for any other use with a building height of not more than 2 storeys and more than
 - 8 metres, or
 - 9 metres where the slope of the natural ground level at any cross section of the site of the building wider than 8 metres is 2.5 degrees or more.
32. The proposal does not trigger a permit under Clause 43.02 (DDO3) as no buildings and works are proposed.



Figure 4: Subject site Overlay map – Design and Development Overlay – Schedule 3 (VicMap, 2024)

Clause 53.19 – Non-government Schools

33. Clause 53.19 applies to use or development for a primary school, secondary school or education centre that is ancillary to, carried out in conjunction with, and on the same land or contiguous land in the same ownership as, a primary school or secondary school.
34. An application to which Clause 53.19 applies is exempt from the decision requirements of section 64(1), (2), and (3), and the review rights of section 82(1) of the Act.

Plan Melbourne

35. Plan Melbourne 2017-2050: Metropolitan Planning Strategy (DELWP, 2017) outlines the long-term plan to manage growth in the city and suburbs to the year 2050. It seeks to integrate long-term land use, infrastructure and transport planning, and in doing so, meet the city's future environmental, population, housing and employment needs. The following are relevant:
 - Direction 4.4: Respect Melbourne's heritage as we build for the future.
 - Direction 5.3: Deliver social infrastructure to support strong communities.
 - Policy 5.3.2: Create health and education precincts to support neighbourhoods.



36. No referrals were required for the application. Notice of the application was given to the following groups:

Referral / Notice	Provision / Clause	Organisation	Response Received (date)
Notice	Section 52(1)(b) of the <i>Planning and Environment Act 1987</i>	Bayside City Council	10 January 2024

Municipal Council Comments

37. The Bayside City Council (the council) was given notice of the application under section 52(1)(b) of the Act and on 10 January 2024 advised that they did not object to the application.
38. On 14 March 2024, however, Council provided a revised submission stating that the application was heard at a Planning and Amenities Committee meeting where *“Councillors ultimately decided to object to the proposal on the following grounds”*:
- *The use will not deliver proper and orderly planning outcomes for the area.*
 - *The use of the sites will introduce commercial activity into the residential street which will erode the primary purpose and activity in the street.*
 - *The use will undermine the residential integrity and have a negative impact on the amenity of the area.*
 - *The granting of the use could strengthen the argument for future unacceptable commercial or institutional buildings and works outcomes.*
39. In addition, Council has stated in the response that in the event that DTP were to support the application, that the following conditions be implemented.
- *Restricting the number of staff and students on the properties*
 - *That the approval does not permit the increase in the number of staff and students at the school site.*
40. The issues identified by Bayside City Council have been noted and considered as part of the assessment of this application.
41. Conditions generally addressing Council’s concerns will be included on a permit, where relevant. It is noted however, that DTP officers do not recommend the inclusion of permit conditions restricting staff and student numbers on site given the minimal intensity of the proposed change of use. In addition, permit conditions capping the number of staff and students at the school site are not recommended as the proposal does not seek to increase existing numbers, and because the application is for the three house lots, and cannot impose use conditions on land that is not subject of the application (ie the main school campus)..

Notice

42. An application to use or develop land for a primary school, secondary school, or education centre that is ancillary to, carried out in conjunction with, and on the same land or contiguous land in the same ownership as a primary school or secondary school is not exempt from the notice requirements of section 52(1)(a), (b), (c) and (d), of the Act.
43. Notice of the application was given via mail/email to adjoining landowners and occupiers. 81 submissions including 80 objections [REDACTED] were received which raised concerns in relation to:
- Change of use and setting a negative precedent for future development.



- Traffic and carparking.
 - Noise generation.
 - Insufficient notice and community consultation.
 - Heritage and neighbourhood amenity impacts.
 - Overshadowing and obstruction of views.
 - Decrease in property values.
44. The assessment considers these matters below. Decrease in property values are not a valid planning consideration.
45. An application to which Clause 53.19 applies is exempt from the decision requirements of section 64(1), (2), and (3), the review rights of section 82(1) of the Act. The grounds raised in the objections are discussed in detail in the assessment section of this report.
46. Objectors will be informed of the decision and advised that there is no opportunity for any objector to submit an application for review of this decision to the Victorian Civil and Administrative Tribunal.
47. The proponent has been made aware of the submissions.
48. One issue of concern was that children would access the school from Young Street creating pedestrian and vehicle traffic. The proponent has confirmed that in order to prevent students from accessing the Junior School Campus via Young Street (and prevent any associated traffic impacts to Young Street), a permit condition could require that access be regulated via signage on site. Furthermore, the signage will nominate that students cannot access the campus via Young Street and this will be regulated and monitored by the school. A condition will also prohibit pedestrian access to and from the school via Young Street.



Key Policy Issues

49. The proposal is supported by relevant state and local planning policies.
50. The proposal will deliver improved facilities for the existing school, which has been operating for over 140 years. No change in the use or operation of the existing school campus is proposed by this application. The new education use is consistent with the site's existing use and character.
51. The state planning policies encourage appropriate land use and development that considers demographic trends, existing, future demand requirements and the integration of facilities into local and regional communities in planning for the location of education and early childhood facilities. (Clause 19.02-2S).
52. The proposal is consistent with the planning policies for an existing education facility by ensuring that new development has been sited and designed to respect adjacent buildings and is compatible with the surrounding residential area (Clause 13.07-1L-01).
53. No external changes are proposed to the existing buildings which will remain compatible with the surrounding context and the existing Bayside Preferred Neighbourhood Character (Clause 15.01-1S and 15.01-5S).
54. Furthermore, the retention of the existing dwellings will ensure that the precinct will maintain the residential character of the area and be consistent with the strategies for Precinct C1 at Clause 15.01-5L. Specifically, the proposal is consistent with strategies that seek to retain the front of valued existing dwellings.

Land Use and Built Form Issues

55. The zoning and overlay provisions have been considered in the application.
56. The proposal comprises the change of use of the existing dwellings for the purposes of an education centre to be used by an existing school, which meets the purpose (as relevant) of the NRZ3, to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.
57. The additional parcels of land are required for overflow areas to provide additional resources required for the school. It is highlighted that the proposal does not seek to increase staff and student numbers and that the proposed change of use will be serviced by existing staff and students at the school and be of a minimal intensity.
58. The proposed land use is to operate within the existing hours of the school (and recently approved school gymnasium (Planning Permit 5/1989/3158/3).
59. Furthermore, the internal layout of the existing building is proposed to provide spaces for administrative area/offices, storage area, one-on-one tutoring or specialist classes.
60. In regard to the objections concerning the rezoning of land, as well as the potential negative precedent set for future development, it is emphasised that the proposal only seeks a change of land use for three sites for the purposes of an education centre which is a permissible use within the NRZ and an existing use at the adjoining Brighton Grammar School Campus.
61. It is noted that development and the potential for future development is not a relevant consideration as there are no buildings and works proposed the existing dwellings as part of the application. If further buildings and works are proposed across the sites, the proponent would need to request a planning permit amendment or lodge a new application which would be re-advertised to the public for comment and DTP would need to consider these works at that time of a formal application.
62. The proposal appropriately responds to the decision guidelines for non-residential use and development outlined in the NRZ through ensuring staff and students can easily satisfy low-intensity educational and administrative uses for the school.

Built Form

63. The proposal is located on the western side of the school campus. No external changes are proposed to the existing buildings, street, trees and access to the site. This will ensure that the identified neighbourhood and streetscape character is respected.



64. Concerns regarding overshadowing and obstruction of views are considered as not relevant to the application as there are no buildings and works proposed to the dwellings and no change to existing conditions.

Traffic and Pedestrian Access

65. The proposal will not increase the number of staff or students on the land. Therefore, no additional car parking and bicycle facilities are required to be provided pursuant to Clause 52.06-5 and Clause 52.34 of the Scheme. Furthermore, staff are to utilise the existing carparking arrangements at Grosvenor Street.

66. Additionally, the application proposes that pedestrian access to the sites will be through the adjoining school campus to the east (see figure 5 below). It is noted that minor demolition to the existing boundary fences may be required to allow for this access. These works would be exempt from requiring a permit pursuant to Clause 62.05.

67. Although there are no proposed changes to the existing traffic conditions at the school as a result of the application, numerous objections were received that raised concern over the potential for Young Street to become a pedestrian thoroughfare for students entering and departing from the sites and that potential traffic impacts that may arise relating to pick/up drop off.

68. The proponent has been aware of the concerns raised in the objections and has proposed that access be regulated via signage on site.

69. To prevent any traffic impacts to Young Street, DTP officers recommend the following permit conditions:

- *No student may access or egress from the school site via Young Street. Students and staff must access and egress the sites via the school campus to the satisfaction of the Responsible Authority.*
- *Directional signage must be provided that nominates that staff and students cannot access and egress the sites via Young Street to the satisfaction of the Responsible Authority.*



Figure 5: Proposed Pedestrian Access to the sites via school campus (Urbis, 2024)



Neighbourhood Character, Heritage and Amenity

70. Several concerns have been raised in regard to existing and potential amenity impacts from the school. The proposed change of use is intended to deliver facilities to improve the administrative capabilities of the staff at Brighton Grammar School, forming part of the school grounds to service educational/administrative needs. The existing single storey dwellings will remain unchanged and will integrate into the existing neighbourhood context with respect to noise pollution and amenity consideration.
71. Furthermore, as the existing dwellings which will be retained in their current form, it is considered that there will be no impact to the abutting heritage properties at 17-19, 21 and 23 Grosvenor Street.
72. The proposed land use will also operate within the existing hours of the school (and recently approved school gymnasium) and will have very limited associated noise noting that these areas will be predominately used during school hours by existing staff and limited student access. Noise is not anticipated to be generated from the sites after-hours and on weekends.



Figure 6: Subject site Overlay map – Heritage Overlay (VicMap, 2024)

Notice

73. A substantial number of objections have been raised around the nature of the notice period given and the lack of consultation to date.
74. In accordance with Section 52(1)(a) of the *Planning and Environment Act 1987*, notice of the application was given via mail/email to adjoining land owners and occupiers for **14 days** from the 20th of February to the 6th of March with objections able to be received up until a decision is made. It is noted that as no proposed buildings and works were proposed as part of the application, DTP officers did not recommend erecting signs on the sites.
75. As previously mentioned, should any future works be proposed to the sites, the proponent would need to request a planning permit amendment or lodge a new application which would be re-advertised to the public for comment with DTP would need to consider these works at that time of a formal application. Furthermore, in response to the



objections, the proponent has confirmed that should any future works be proposed, *'that would affect adjoining properties in a meaningful way beyond the change of use application'* consultation would be undertaken.

Conclusion



76. The change of use is consistent with the relevant planning policies of the Bayside Planning Scheme and will contribute to the provision of high-quality educational facilities within the Brighton area.
77. Although the proposal is not supported by the council, all issues raised have been noted and considered as part of the assessment of this application. Furthermore, conditions addressing Council's concerns have been included where appropriate.
78. **It is recommended** that Planning Permit No. **PA2302676** for the use of the land for an education centre associated with an existing primary and secondary school at 1 McCallum Street and 18 and 20 Young Street, Brighton, be issued subject to conditions.
79. It is recommended that the applicant, objectors and the council be notified of the above in writing.



Prepared by: [REDACTED]

I have considered whether there is a conflict of interest in assessing this amendment and I have determined that I have:

- No Conflict**
- Conflict and have therefore undertaken the following actions:
 - Completed the **State Planning Services declaration of Conflict/Interest form**.
 - Attached the State Planning Services declaration of Conflict/Interest form on to the hardcopy file.
 - Attached the State Planning Services declaration of Conflict/Interest form into the relevant electronic workspace.

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Reviewed by: [REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Approved by: [REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]