



Planning Committee Agenda

For a meeting of the

Planning Committee

to be held in the Council Chambers, Civic Centre,
Boxshall Street, Brighton

on

Tuesday, 22 December 2009

Commencing at 7.00pm

Chairperson: Cr Alex del Porto

Councillors: Cr Louise Cooper-Shaw
Cr Felicity Frederico
Cr. Clifford Hayes (Mayor)
Cr. James Long BM, JP
Cr. Michael Norris
Cr. Simon Russell JP



Members of the Gallery

Your attention is drawn to Section 91 of Council's Governance Local Law No 1.

Section 91 The Chair's Duties and Discretions

In addition to other duties and discretions provided in this Local Law, the Chair -

- (a) must not accept any motion, question or statement which is derogatory, or defamatory of any Councillor, member of Council staff, or member of the community;
- (b) may demand retraction of any inappropriate statements or unsubstantiated allegations;
- (c) must ensure silence is preserved in the visitors' gallery during any meeting;
must call to order any person who is disruptive or unruly during any meeting;
- (d) must call to order any member of the public who approaches the Council or Committee table during the meeting, unless invited by the Chair to do so; and
- (e) must call to order any person who is disruptive or unruly during the meeting.

An Authorised Officer must, if directed to do so by the Chairperson, remove from a meeting any Councillor or other person who has committed such an offence.

In the absence of an Authorised Officer the Chairperson may cause to be removed from a meeting any Councillor or other person who has committed such an offence.

Your co-operation is appreciated

Chairperson of Committee

Planning Committee - Schedule of Meetings

Wednesday 27 January 2010

Tuesday 9 February 2010

Tuesday 9 March 2010

Tuesday 30 March 2010

Tuesday 27 April 2010

Tuesday 18 May 2010

Tuesday 15 June 2010

Planning Committee Meeting

Planning Committee Charter

To deal with all matters relating to the consideration of planning applications.

This Committee has the full delegated authority of Council to finally determine upon planning applications.

Membership of the Committee

All Councillors

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BAYSIDE CITY COUNCIL

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TUESDAY, 22 DECEMBER 2009

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1.1 **5 Olinda Avenue, Beaumaris**
Notice of Decision to Grant a Permit
Application No. 2009/0319/1 Ward: Southern

City Strategy/Statutory Planning
 File No: 2009/0319/1

APPLICATION DETAILS

Land Address:	5 Olinda Avenue, Beaumaris
Application is for:	Construction of two (2) double storey side by side dwellings and removal of vegetation within a Vegetation Protection Overlay Schedule 3
Melway Reference:	86 B7
Ward:	Southern
Application Number:	2009/0319/1
Applicant's/Owner's Name:	RAW Architecture
Date Received:	1 July 2009
Statutory Days Expiry:	1 November 2009
Zoning:	Residential 1 Zone
Overlays:	Design and Development Overlay Schedule 1 Vegetation Protection Overlay Schedule 3
Under what clause(s) is a permit required?	Clause 32.01-4 – construction of two (2) or more dwellings. Clause 42.02 – Removal of native vegetation.
Restrictive covenants on the title?	No
Current use and development:	Double storey dwelling
Objections:	Seven (7)

Preamble

Consideration of this application was deferred at the Planning Committee Meeting on the 7 December 2009 for one (1) cycle in order to discuss the matters which were raised during consideration of this item by Council at the Planning Committee Meeting.

At the meeting with the permit applicant and Council's Planning Officer the following matters were discussed:

Building height

Condition 1(l) proposed:

Dwelling 1 to be lowered by 1 metre by increasing excavation of the basement.

The applicant advised that they agreed to amend the plans to satisfy this condition.

Vegetation

Condition 1(k) amended to read:

The retention of trees 1, 2, 59, and 75.

The applicant advised that they agreed to amend the plans to satisfy this condition. Tree 76 is unworthy of retention as it is in poor condition with crown damage and may impact upon the health of Tree 75.

Condition 1(m) proposed:

The landscape plan to include at least 60% of any new planting to be locally indigenous planting.

The applicant advised that they agreed to amend the plans to satisfy this condition.

Condition 1(n) proposed:

The swimming pool of dwelling 1 to be reduced in size to retain and protect Tree 59 to the satisfaction of the Arborist.

The applicant advised that they agreed to amend the plans to satisfy this condition.

Council's Officers have informed the objectors of these matters.

The report previously presented at Council on the 7 December 2009 is provided below with the inclusion of the above mentioned conditions (shown in bold in the recommendation).

PROPOSITION

It is recommended that a **Notice of Decision to Grant a Permit** be issued subject to conditions.

PROPOSAL

It is proposed to construct two (2) double storey attached dwellings and remove native vegetation within a Vegetation Protection Overlay Schedule 3. The proposal includes the following:

- Two (2) semi-basement garages with space for two (2) vehicles. The basement of dwelling 1 also includes a multi-purpose room and cellar.
- Two (2) side by side attached double storey dwellings each containing four (4) bedrooms.
- Construction of a stone clad masonry fence with a height ranging from 1.25 metres to 1.7 metres.
- Removal of nine (9) native/indigenous trees from the site.

SUBJECT SITE & LOCALITY

An inspection of the site and the surrounding area has been undertaken.

The site has a total area of 970 square metres and currently contains:

- A double storey dwelling.

The main site/locality characteristics are:

- The adjoining to the north, at 3 Olinda Avenue, contains a double storey dwelling fronting Olinda Avenue.
- The adjoining property to the south, at 7 Olinda Avenue, contains three (3) double storey dwellings fronting onto Olinda Avenue.
- The subject site abuts one (1) single storey dwelling, at 20 Coronet Grove, and one (1) double storey dwelling, at 18 Coronet Grove, to the west.

- The subject site faces a double storey dwelling, at 2A Bruce Street, across Olinda Avenue to the east.

PERMIT/SITE HISTORY

No previous planning permits have been determined for the subject site.

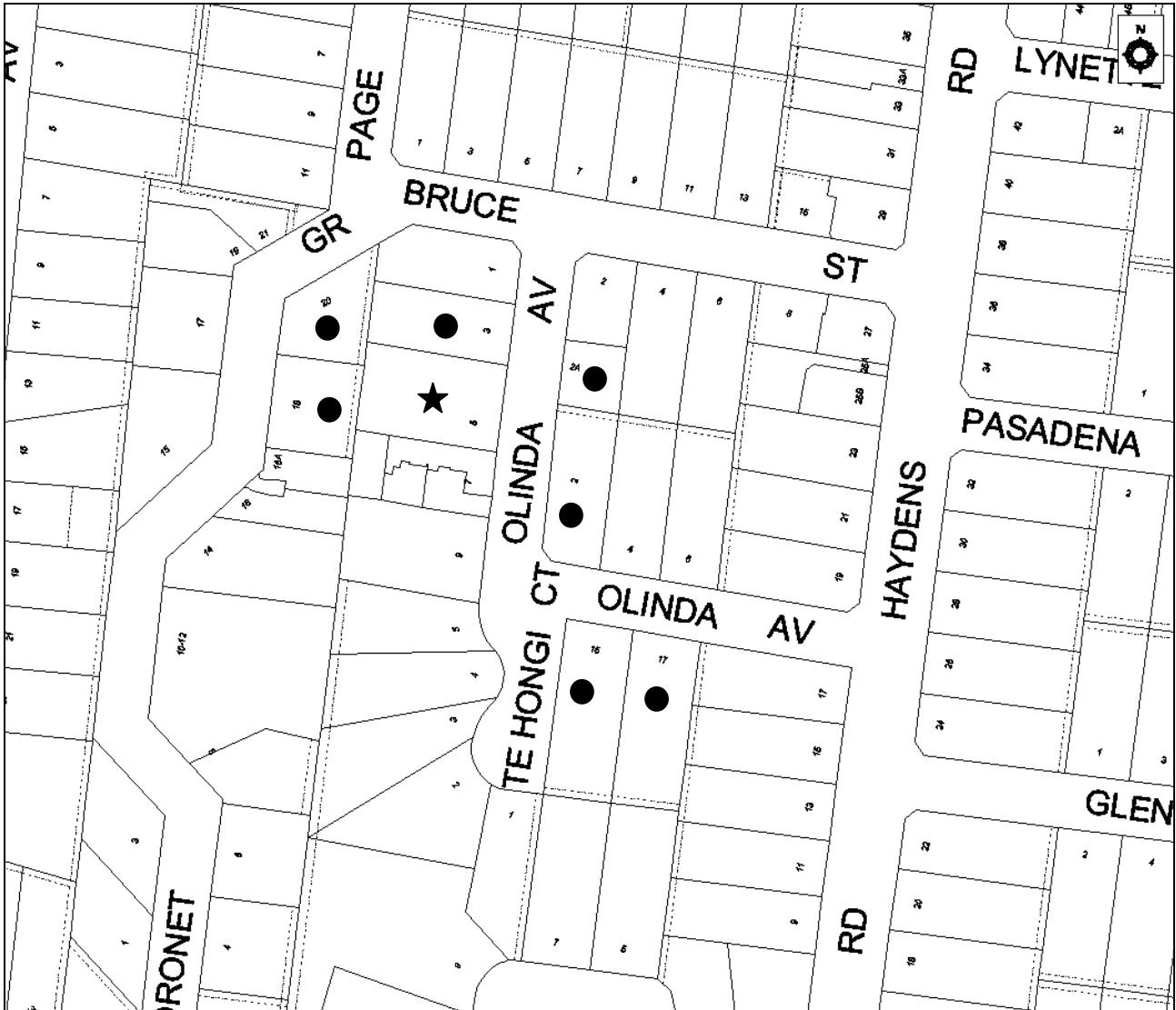
PUBLIC NOTIFICATION

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by:

- Sending notices to the owners and occupiers of adjoining land
- Placing a sign on site

The notification has been carried out correctly.

Council has received seven (7) objections to date.

LOCALITY PLAN


Legend	
Subject land	★
Location of Objectors	●

Not all objectors shown on the plan.

The key issues that were raised in the objections are:

- Overlooking.
- Visual bulk.
- Noise.
- Neighbourhood character.
- Height of the development.
- Vegetation.
- Non-compliant setbacks.
- Overdevelopment.

CONSULTATION

Consultation was not undertaken at the request of the applicant.

REFERRALS

External Referrals/Notices by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	N/A
Section 52 Notices	Letters to all adjoining property owners and occupiers and one (1) notice on-site fronting Olinda Avenue.

Internal Council Referrals	Advice/Response/Conditions
Urban Designer	No objection, subject to conditions.
Traffic Engineer	No objection, subject to conditions.
Arborist	No objection, subject to conditions.
Drainage Engineer	No objection, subject to conditions.

ASSESSMENT

Relevant Provisions of the Bayside Planning Scheme

State Planning Policies

- Clause 12 Metropolitan Development - Includes objectives and strategies for Metropolitan Melbourne.
- Clause 14 Settlement - Encourages consolidation of residential activities, with development being respectful of neighbourhood character.
- Clause 16.02 Housing - Encourages well-designed medium density housing that respects the character of the neighbourhood and improves housing choice, use of infrastructure and energy efficiency.
- Clause 19.03 Design and Built Form - Encourages architectural and Urban Design outcomes that contribute positively to local Urban Character.

Municipal Strategic Statement

- Clause 21.04 Vision and Overarching goals – Aims to enrich a ‘locality’ or ‘village’ focus whilst encouraging new economic development that adds value to the economy of Bayside and builds on a collaborative approach to achieving the goals in the planning scheme. The design and image objectives aim to achieve high quality design and continually improve the image of land use and development in Bayside, which contributes to a sense of place appropriate to Bayside’s character and maintains, strengthens and enhances local character.
- Clause 21.05 Housing - Encourages housing choice and quality design outcomes that make a positive contribution to the character of residential areas.

Local Planning Policies

- Clause 22.07-1 – Neighbourhood Character Policy - Aims to encourage development in the area that responds to the particular built form and natural environment elements that make up the neighbourhood character of Bayside.
- Clause 22.07-2 – Neighbourhood Character Objectives - Aims to ensure that development is responsive to the preferred future character of the area and to retain and enhance the identified elements that contribute to the character of the area. It is noted that the subject site is located within precinct E4.

Zoning

- Clause 32.01-4 - Residential 1 Zone - Encourages residential development at a range of densities, with a variety of dwellings to meet the housing needs of all households.

This zone requires a planning permit for the proposed residential development. The Schedule to the zone incorporates requirements specific to Bayside.

Overlays

- Clause 42.02 Vegetation Protection Overlay, Schedule 3 - Aims to prevent the loss of native and particularly indigenous vegetation, to retain the amenity, aesthetic character and habitat value of Australian native vegetation and indigenous vegetation and to promote the regeneration and replanting of indigenous species. **The overlay requires a planning permit to remove native vegetation.**
- Clause 43.02 Design and Development Overlay Schedule 1 – aims to protect and enhance the foreshore environment and views of Bayside from Port Philip Bay; to relate the scale and form of any new development to the landform of the coast; to maintain a pedestrian scale along Beach Road; and to manage increased pressure for higher buildings along the coastline; and to protect the amenity and privacy of residential properties. **The proposed development does not trigger the need for a planning permit in regards to the height of the development.**

Particular Provisions

- Clause 55 Two (2) or More Dwelling on a Lot - which includes specific objectives and standards for the proposed residential development to be assessed against.
- Clause 65, which sets out decision guidelines for the responsible authority to consider in order to ensure acceptable outcomes in terms of State Planning Policies and Local Planning Policies.

SUMMARY OF KEY ISSUES

The following is a summary of the relevant planning issues and areas of non-compliance, considering planning principles and issues raised by the objectors.

Neighbourhood Character

The subject site is located in Precinct H4 within Clause 22.07 Neighbourhood Character Policy of the Bayside Planning Scheme. The preferred future character statement reads:

The single and double storey dwellings sit within the topography and informal landscaped surrounds, including remnant and indigenous coastal trees. The variety of dwelling styles reflect the coastal setting through their design, details and finishes. An informal feel to the streetscapes is achieved by spaces around buildings, the lack of or unobtrusive style of front fencing and informal street treatments. Along Beach Road, development responds to its highly visible location on the edge of the coast by providing visually interesting forms and facades. Informal street treatments remain in those streets with no kerbing and remnant street tree planting is retained.

The precinct guidelines are as follows:

Objective	Design Response	Avoid
To enhance the bayside vegetation character of the area through the planting of indigenous coastal species.	<ul style="list-style-type: none"> Prepare a landscape plan to accompany all applications for new dwellings that utilises indigenous coastal species. Retain large, established trees and provide for the planting of new trees and shrubs wherever possible (locate footings outside root zone). 	<p><i>Lack of a landscape plan.</i></p> <p><i>Removal of large established trees.</i></p> <p><i>Use of exotic species and planting of environmental weeds</i></p>
To maintain the rhythm of spacious visual separation between buildings.	<ul style="list-style-type: none"> Dwellings should be sited to create the appearance of space between buildings and to accommodate substantial vegetation. 	
To minimise the dominance of car parking structures and the loss of front garden space.	<ul style="list-style-type: none"> Locate garages and carports behind the line of the dwelling. Minimise paving in front garden areas including driveways and crossovers. Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, 	<p><i>Car parking facilities that dominate the façade or view of the dwelling.</i></p> <p><i>Creation of new crossovers and driveways or wide crossovers.</i></p> <p><i>Front setbacks dominated by</i></p>

Objective	Design Response	Avoid
	<p>the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.</p>	<p><i>impervious surfaces.</i></p>
<p>To ensure that new buildings and extensions do not dominate the streetscape.</p>		
<p>To encourage innovative architecture that reflects the bayside setting.</p>	<ul style="list-style-type: none"> • New buildings should be individually designed to respond to the characteristics of the bay side location and the site. • Incorporate building elements and details that contribute to a lightness of structure including balconies, verandahs, glazing and light transparent balustrading. 	<p><i>Large, bulky buildings with poorly articulated front and side wall surfaces.</i></p> <p><i>Heavy design detailing (eg. Masonry columns and piers).</i></p> <p><i>Highly reflective materials or glazing.</i></p>
<p>To use lighter looking building materials and finishes that complement the bayside setting.</p>	<ul style="list-style-type: none"> • Use a mix of contemporary and traditional coastal materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick. 	<p><i>Period reproduction styles and detailing.</i></p>
<p>To maintain the openness of the streetscape and views to coastal garden settings.</p>	<ul style="list-style-type: none"> • Provide open style front fencing, other than in exceptional circumstances. 	<p><i>High or solid front fencing.</i></p>
<p>To create a visually interesting and attractive built form interface with the foreshore reserve, on properties fronting Beach Road and visible from the reserve.</p>	<ul style="list-style-type: none"> • Where the properties front to both Beach Road and another street, ensure the dwellings present visually interesting elevations on all faces visible from the public domain. • Use landscaping materials and coastal plants within the front setback that contribute to the coastal character and 	<p><i>Flat, poorly articulated roof forms and facades visible from the public domain.</i></p> <p><i>High, solid front fencing on Beach Road.</i></p>

Objective	Design Response	Avoid
	<p>amenity of the street.</p> <ul style="list-style-type: none"> • Provide articulated roof forms to create an interesting skyline when viewed from the beach. • Provide low or open style front fencing along Beach Road frontages. 	

The area surrounding Olinda Avenue contains a mixture of 1950's, 1960's, 1970's and contemporary housing on medium to large allotments and with a relatively high degree of recent architectural change, including contemporary styled dwellings. Garden and street planting are important elements in establishing building settings and the overall landscape character of the area. The most valued attributes of the area relate to the detached building style, well-developed garden settings and the visual link between garden and the street.

The proposal complies with the objectives of the preferred future character, as the front setback of the development is 7.7 metres. This graduated approach to the front setback between the subject site and the adjoining properties setback at 7.714 metres and 7.596 metres ensures that the proposed townhouses are responsive to the adjoining dwellings located at 3 Olinda Avenue and 7 Olinda Avenue. The development is appropriately set back from the sides to maintain the rhythm of spacious visual separation between buildings and ensure adequate space is provided around buildings for the retention and planting of vegetation.

Car parking is located within the basement and the curved ramps positioned to minimise the loss of front garden space and lessen the dominance of car parking structures on the streetscape. The first floor component is well-articulated and provides an interesting façade to the street. The proposal incorporates the use of a variety of building materials, finishes and design details that complement the area. The proposed front fence is not excessive in height and includes setback areas for planting ensure the visual relationship between the private dwellings and the public streetscape is maintained.

Council's Urban Designer has viewed the plans and comments that the proposal has the potential to make a positive contribution to the local neighbourhood character, will not be disruptive of the streetscape rhythm and is architecturally appropriate within the site context.

It is considered that the proposed composition of the development responds appropriately to the natural topography of the land, will create a building form that is of appropriate scale to integrate with and complement the existing streetscape.

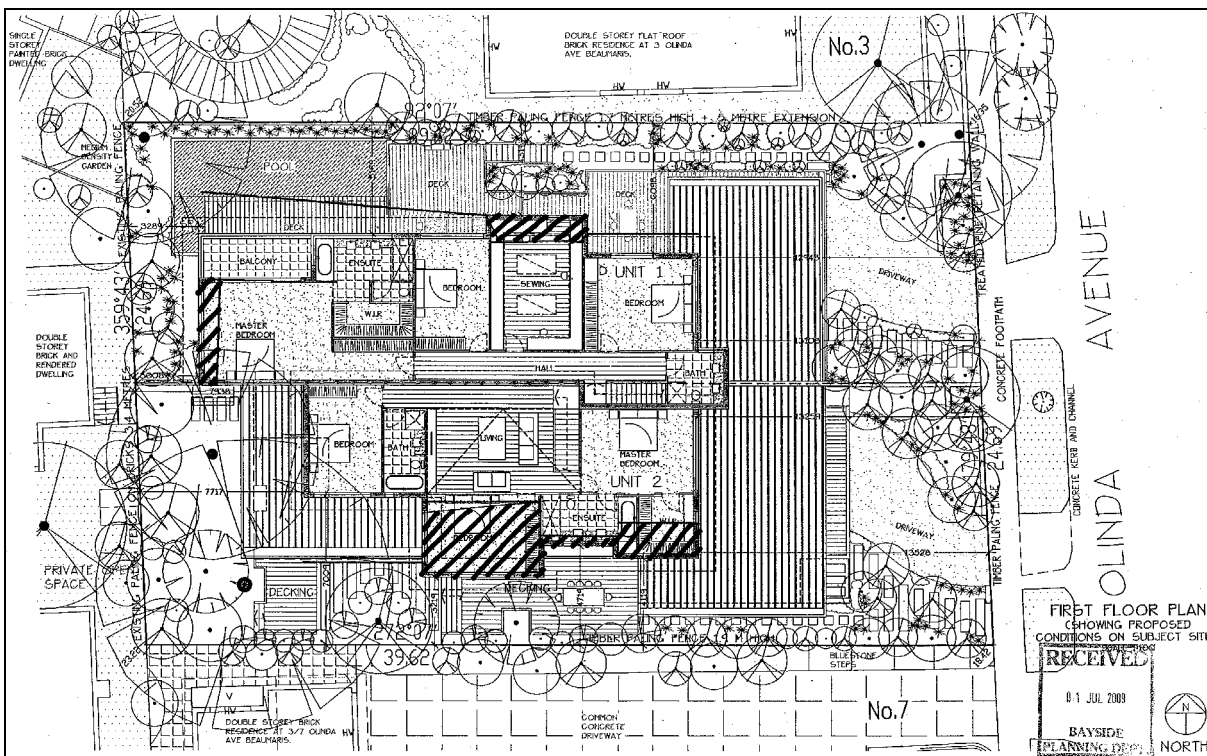
It is considered that proposed development will present as a site responsive design that respects the valued neighbourhood characteristics, respects the amenity of its residential neighbours, subject to minor modifications, as well as optimising the development potential of the site.

Setbacks

The proposed setbacks are as follows:

	Ground floor		First Floor	
	Requirement	Proposed	Requirement	Proposed
North	0 or 2 metres	4.3 – 6.1 metres	3.2 – 7.38 metres	<u>4.3 – 6 metres</u>
South	0 or 2 metres	2 – 6.9 metres	3.38 – 5.78 metres	<u>3.2 – 7 metres</u>
West	0 or 3 metres	3 – 5.4 metres	3.78 – 4.68 metres	<u>3 – 7.7 metres</u>
East (front)	Basement 7.7 metres		Ground floor 8.9 metres	First Floor 12.9 – 13.5 m

Due to the topography of the site the areas of non-compliance are indicated within the diagram below. The hatched areas indicate the areas of non-compliance at first floor level.



The proposed first floor setbacks do not comply with the requirements of the Bayside Planning scheme as indicated on the table above and illustrated within the diagram. The proposed first floor is oriented further from the north boundary to allow greater solar access to Unit 1. The south elevation is reduced in length to protect the existing north facing areas of the adjoining property at 7 Olinda Avenue (a north facing clerestory window is provided for this Unit to provide solar access). It is considered that the proposed setbacks of the development are site responsive and will respect the amenity of the adjoining properties.

Visual Bulk

Council's Urban Designer advises that the development does not present excessive bulk to the street or to the adjoining properties due to the articulation of the development and mix of materials and finishes.

The overall height of the building at 8.6 metres is consistent with the height and scale of other double storey buildings within the streetscape and area. The streetscape elevation indicates that from a streetscape perspective, the scale and height of the development fits comfortably within this area.

Overlooking

It is considered that there will be potential overlooking opportunities into the property to the north and south from the first floor bedroom windows. A condition has been included on any permit that may issue to provide screening in accordance to Standard B22 of the Bayside Planning Scheme. It is considered that subject to the inclusion of this condition there will be no unreasonable overlooking opportunities into the adjoining properties to the west.

Overshadowing

The shadow diagrams submitted have been checked and found to be correct. Taking into account the orientation of the site the level of overshadowing cast by the development complies with the provisions of Clause 55 Standard B21 of the Bayside Planning Scheme.

Traffic & Car Parking

Each dwelling is provided with two (2) car spaces within separate garages in the basement. The parking provided is in accordance with the requirements of the Bayside Planning Scheme. The existing crossover is to be maintained for dwelling 2 to ensure that the existing street tree is retained and a new crossover to be included to the north for dwelling 1.

Council's Traffic Engineer has viewed the plans and does not have any objection subject to conditions relating to the crossovers and driveways.

Landscaping/Vegetation

The proposal includes the removal of nine (9) native trees from the subject site and the relocation of the majority of vegetation on site. Council's Arborist has viewed the landscape plan provided and expressed concerns regarding the retention of Tree 75 due to the levels of the site. Council's Arborist seeks to retain Tree 2. The proposed relocation of the Archontopheonix Cunninghamiana (Bungalow Palm) was of concern, as these trees do not transplant well. A condition can be included on any permit issued requiring replacement planting of any tree that does not survive with a similar native species. On balance the proposed landscape plan is appropriate for the area with the majority of existing native planting being retained and reused. It is considered that the proposed landscape plan is appropriate for the site and will maintain and enhance the existing garden character of the area, subject to conditions.

Front Fence

It is proposed to construct a 1.25 – 1.7 metre high stone clad masonry front fence. There are similar height front fences within the streetscape of a mix of designs. The proposed front fence includes recessed areas to allow of greater planting at the street frontage. It is considered that the proposed front fence is appropriate for the site and will not affect the amenity of the adjoining properties or the existing neighbourhood character of the area.

Energy Efficiency and Water Sensitive Urban Design

The internal layout of the dwelling is designed so as to maximise daylight to habitable rooms and secluded private open space. Ground floor living areas directly abut the private open space located to the west and north of the dwelling, and the first floor habitable rooms are generally located to the north and west of the dwelling to maximise solar access. The design response is considered to adequately comply with the energy efficiency objectives of Clause 55.03.

The proposal lodged with Council is subject to Clause 22.10 of the Bayside Planning Scheme, which details Water Sensitive Urban Design measures for developments within Bayside. It is recommended that, in the event that a planning permit issues, conditions be included requiring plans be submitted detailing the measures of Water Sensitive Urban Design to be implemented on-site.

Issues Raised by Objectors

Noise – It is considered that noise levels generated by the development will be typical of normal urban residential noise levels.

CONCLUSION

The proposed development is considered to be appropriate for the site and will not detract from the existing streetscape and neighbourhood character. The proposed dwellings, subject to conditions, are of a scale and design compatible with surrounding development and will sit comfortably in the street.

The proposal will be sympathetic to surrounding development and will respect the residential amenity of adjoining properties, through the incorporation of sufficient setbacks and appropriately located and treated first floor windows. It is therefore recommended that a Notice of Decision to Grant a Permit should be issued subject to conditions.

RECOMMENDATION

That Council having caused notice of Planning Application **No. 2009/0319/1** to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of the land known and described as **5 Olinda Avenue, Black Rock** for the **construction of two (2) double storey side by side dwellings and removal of vegetation within a Vegetation Protection Overlay Schedule 3** in accordance with the application dated 1 July 2009, subject to the following conditions, including the specified conditions set out in the Council's "Town Planning Standard Conditions" adopted by the Council on 28 November 2006:-

1. Before the development starts three copies of revised plans drawn to scale and dimensioned, must be submitted to and approved by the Responsible Authority. When approved the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the application but modified to show to the satisfaction of the Responsible Authority:
 - a. All wall heights above ground level to be nominated on the plans
 - b. All paving (except driveways) to be permeable (Including details of the permeability).

- c. A schedule of all external materials and finishes to be provided to the buildings and works on the land, showing the materials, colour and finish of all external walls, roof, fascias, window frames and paving (including car park surfacing).
 - d. The proposed landscape treatment for the site including the existing and proposed species in accordance with the requirements of condition 6 of this permit.
 - e. All plant and equipment (including air conditioning units, heating units, hotwater systems, etc.) which is proposed to be located externally identified on the plans.
 - f. Details of all screening to ensure compliance with Clause 55.04-6 Standard B22 Overlooking of the Bayside Planning Scheme.
 - g. The driveway for Unit 1 to be 3.3 metres wide at its intersection with the footpath, with a 4.5 metre offset from the northern property boundary. The existing vehicle crossing removed and a new 3.3 metre wide crossing construction that is centred on the driveway.
 - h. The driveway for Unit 2 to be 3.3 metres wide at its intersection with the footpath, with a 6 metre offset from the southern property boundary. The existing vehicle crossing removed and a new 3.3 metre wide crossing construction that is centred on the driveway.
 - i. The basement not protruding more than 1.2 metres above natural ground level in any location where there are two (2) levels above.
 - j. Water sensitive urban design stormwater treatment measures in accordance with Condition 17.
 - k. The retention of trees 1, 2, 59, and 75.**
 - l. Dwelling 1 to be lowered by 1 metre by increasing excavation of the basement.**
 - m. The landscape plan to include at least 60% of any new planting to be locally indigenous planting.**
 - n. The swimming pool of dwelling 1 to be reduced in size to retain and protect Tree 59 to the satisfaction of the Arborist.**
- 2. P4 Layout not altered
 - 3. A18 Concealment of pipes.
 - 4. A19 Plant and equipment or features on roof.
 - 5. A20 Boundary Walls
 - 6. L1 Landscape plan required
 - 7. L2 Completion of landscaping
 - 8. L3 Landscaping maintenance.
 - 9. Before development starts all tree protection measures must be in accordance with AS4970- 2009 including trees on adjacent properties (within 3 metres of any common property boundary) must be adhered to before, during and after construction
 - 10. T9 Retention of existing street trees.
 - 11. The proposed internal drainage must be connected to the existing legal point of discharge. The applicant may apply for legal point of discharge and local drain information, if available; otherwise on site verification should be undertaken by the applicant.

12. Stormwater discharge is to be retained on site to the pre development level of peak stormwater discharge. The development is to have a '**Stormwater Detention System**' installed, the design capacity to be Council approved.
13. Drainage associated with basement during construction (seepage and agricultural waters are to be filtered to rain water clarity) must be pumped to the nearest Council Drain /Pit and not be discharged to the kerb and channel unless directed otherwise.
14. Any seepage / agricultural drainage water are to be filtered to rain water clarity and must be pumped to the nearest Council Drain /Pit and not be discharged to the kerb and channel unless directed otherwise.
15. Before the development begins, detailed plans (3 sets) indicating the method of stormwater discharge to the nominated '*Legal Point of Discharge*' (and Stormwater Detention Systems where applicable), must be lodged with Council's Engineering Services department for approval.
16. The driveway / Parking areas / paved courtyards / paths and 'pervious' pavements must be graded / drained to prevent stormwater discharge neither onto front footpath nor into adjacent properties.
17. Before the commencement of works, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be in accordance with the guidelines outlined in Clause 22.10 of the Bayside Planning Scheme and must show:-
 - o The type of water sensitive urban design stormwater treatment measures to be used;
 - o The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaping areas;
 - o Design details of the water sensitive urban design stormwater treatment measures, including cross sections;
 - o These plans must be accompanied by a report from an industry accepted performance measurement tool, which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

The water sensitive urban design stormwater treatment system as shown on the endorsed plan must be retained and maintained at all times in accordance with the Urban Stormwater - Best Practice Environmental Management Guidelines, CSIRO 1999, to the satisfaction of the Responsible Authority.
18. Before the occupation of the site commences or by such later date as is approved in writing by the responsible authority, all buildings and works and the conditions of this permit must be carried out and completed to the satisfaction of the responsible authority.
19. PT1 Time for starting and completion

Permit Notes

- Prior to commencement of any building works, an Asset Protection Application must be taken out. This can be arranged by calling Council's Asset Protection Administrator, Mon-Fri 9.00am-1.00pm on 9599 4444.

N1 Vehicle Crossing Permit

N2 Building approval

N6 Vehicle crossing removal

N7 Retention of existing street trees/protection during construction

N8 Sewerage

- Construction of any fence/wall/letterbox structures may necessitate removal/damage of some sections of the footpath. If this is the case, a **'Road Opening Permit'** must be obtained to facilitate such work.
- A **'Road Opening / Stormwater Tapping Permit'** is to be obtained from the Bayside City Council Infrastructure Department prior to the commencement of the connection to the kerb/channel.

STANDARD OF THE BAYSIDE PLANNING SCHEME
TWO OR MORE DWELLINGS ON A LOT AND RESIDENTIAL BUILDINGS (CLAUSE 55 AND SCHEDULE TO THE RESIDENTIAL 1 ZONE)

Title and Objective	Complies with Standard?	Requirement and Proposed
<p>B1 Neighbourhood Character</p> <p>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.</p> <p>Development responds to features of the site and surrounding area.</p>	Yes	See report.
<p>B2 Residential Policy</p> <p>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.</p> <p>Support medium densities in areas to take advantage of public transport and community infrastructure and services.</p>	Yes	N/A.
<p>B3 Dwelling Diversity</p> <p>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</p>	Yes	N/A
<p>B4 Infrastructure</p> <p>Provides appropriate utility services and infrastructure without overloading the capacity.</p>	Yes	Can be addressed through a permit condition.
<p>B5 Integration with the Street</p> <p>Integrate the layout of development with the street</p>	Yes	N/A
<p>B6 Street Setback</p> <p>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</p>	Yes	<p>Minimum: 7.7 metres</p> <p>Proposed: 7.7 metres</p>
<p>B7 Building Height</p> <p>Building height should respect the existing or preferred neighbourhood character.</p>	Yes	<p>Maximum: 9 metres</p> <p>Proposed: 8.6 metres</p>

<p>B8 Site Coverage</p> <p>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</p>	<p>Yes</p>	<p>Maximum: 50%</p> <p>Proposed: 41%</p>
<p>B9 Permeability</p> <p>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</p>	<p>Yes</p>	<p>Minimum: 20%</p> <p>Proposed: 48%</p>
<p>B10 Energy Efficiency</p> <p>Achieve and protect energy efficient dwellings and residential buildings.</p> <p>Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</p>	<p>Yes</p>	<p>See report</p>
<p>B11 Open Space</p> <p>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</p>	<p>Yes</p>	<p>N/A</p>
<p>B12 Safety</p> <p>Layout to provide safety and security for residents and property.</p>	<p>Yes</p>	<p>N/A</p>
<p>B13 Landscaping</p> <p>To provide appropriate landscaping.</p> <p>To encourage:</p> <ul style="list-style-type: none"> • Development that respects the landscape character of the neighbourhood. • Development that maintains and enhances habitat for plants and animals in locations of habitat importance. • The retention of mature vegetation on the site. 	<p>Yes</p>	<p>Can be addressed through a permit condition.</p>

<p>B14 Access</p> <p>Ensure the safe, manageable and convenient vehicle access to and from the development.</p> <p>Ensure the number and design of vehicle crossovers respects neighbourhood character.</p>	<p>Yes</p>	<p>N/A</p>	
<p>B15 Parking Location</p> <p>Provide resident and visitor vehicles with convenient parking.</p> <p>Avoid parking and traffic difficulties in the development and the neighbourhood.</p> <p>Protect residents from vehicular noise within developments.</p>	<p>Yes</p>	<p>N/A</p>	
<p>B16 Parking Provision</p> <p>Ensure car and bicycle parking meets the needs of residents and visitors.</p> <p>Accessways should be practical, attractive and easily maintainable.</p>	<p>Yes</p>	<p>Minimum: Two (2) spaces each Proposed: Two (2) spaces each</p>	
<p>B17 Side and Rear Setbacks</p> <p>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</p>	<p>No</p>	<p>Required:</p> <p><u>Ground Floor</u></p> <p>North: 0 or 2 metres East: N/A South: 0 or 2 metres West: 0 or 3 metres</p> <p><u>First Floor</u></p> <p>North: 3.2 – 7.38 metres East: N/A South: 3.38 – 5.78 metres West: 3.78 – 4.68 metres</p>	<p>Proposed:</p> <p><u>Ground Floor</u></p> <p>North: 4.3 – 6.1 metres East: N/A South: 2 – 6.9 metres West: 3 – 5.4 metres</p> <p><u>First Floor</u></p> <p>North: 4.3 – 6 metres East: N/A South: 3.2 – 7 metres West: 3 – 7.7 metres</p>

<p>B18 Walls on Boundaries</p> <p>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</p>	<p>Yes</p>	<p>Maximum: 17.4 metres and average height of 3 metres with no part greater than 3.6 metres in height.</p> <p>Proposed: No walls are proposed on the boundaries.</p>
<p>B19 Daylight to Existing Windows</p> <p>Allow adequate daylight into existing habitable room windows.</p>	<p>Yes</p>	<p>N/A</p>
<p>B20 North Facing Windows</p> <p>Allow adequate solar access to existing north-facing habitable room windows.</p>	<p>Yes</p>	<p>N/A</p>
<p>B21 Overshadowing Open Space</p> <p>Ensure buildings do not significantly overshadow existing secluded private open space.</p>	<p>Yes</p>	<p>See report.</p>
<p>B22 Overlooking</p> <p>Limit views into existing secluded private open space and habitable room windows.</p>	<p>Yes</p>	<p>See report.</p>
<p>B23 Internal Views</p> <p>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</p>	<p>Yes</p>	<p>N/A</p>
<p>B24 Noise Impacts</p> <p>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</p>	<p>Yes</p>	<p>N/A</p>
<p>B25 Accessibility</p> <p>Consider people with limited mobility in the design of developments.</p>	<p>Yes</p>	<p>N/A</p>
<p>B26 Dwelling Entry</p> <p>Provide a sense of identity to each dwelling/residential building.</p>	<p>Yes</p>	<p>N/A</p>

B27 Daylight to New Windows Allow adequate daylight into new habitable room windows.	Yes	N/A
B28 Private Open Space Provide reasonable recreation and service needs of residents by adequate private open space.	Yes	Minimum: 40 square metres Proposed: Unit 1: 189 square metres Unit 2: 188 square metres
B29 Solar Access to Open Space Allow solar access into the secluded private open space of new dwellings/buildings.	Yes	See report.
B30 Storage Provide adequate storage facilities for each dwelling.	Yes	Can be addressed through a permit condition.
B31 Design Detail Encourage design detail that respects the existing or preferred neighbourhood character.	Yes	See report.
B32 Front Fences Encourage front fence design that respects the existing or preferred neighbourhood character.	No	Maximum: 1.2 metres in height Proposed: 1.25 – 1.7 metres
B33 Common Property Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.	Yes	N/A
B34 Site Services Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. Avoid future management difficulties in common ownership areas.	Yes	N/A

1.2 **16-20 Edward Street, Sandringham**
Support
Application No. 2009/0301/1 Ward: Southern

City Strategy/Statutory Planning
 File No: 2009/0301/1

APPLICATION DETAILS

Land/Address:	16 – 20 Edward Street, Sandringham
Application is for:	Construction of four (4) two storey buildings (each containing two apartments) with basement car parking and the removal of one (1) native tree in a Vegetation Protection Overlay Schedule 3
Melway Reference:	76 J12
Ward:	Southern
Application Number:	2009/0301/1
Applicant's/Owner's Name:	Lowe Construction
Date Received:	9 July 2009
Statutory Days Expiry:	3 November 2009
Zoning:	Residential 1 Zone
Overlays:	Design and Development Overlay Schedule 1 Vegetation Protection Overlay Schedule 3
Under what clause(s) is a permit required?	32.01-4 Construction of two or more dwellings on a lot 42.02 Removal of native vegetation in a VPO3
Restrictive covenants on the title?	No
Current use and development:	Three (3) dwellings
Objections:	Eleven (11)

PROPOSITION

On 1 December 2009, the Applicant lodged an appeal to VCAT (pursuant to Section 79 of the *Planning and Environment Act 1987*) for failure to determine within the prescribed time. As such Council cannot formally determine the application.

It is recommended that Council **Support** this application subject to conditions.

PROPOSAL

It is proposed to demolish the three (3) existing dwellings and to construct four (4) double storey buildings over a basement car park. Two of the buildings will front Edward Street and the remaining two buildings will be located towards the rear of the site. Each building will contain of two dwellings. It is also proposed to remove one (1) native tree in a Vegetation Protection Overlay Schedule 3.

Dwellings 1, 3, 5, and 7 will be located on the ground level and Dwellings 2, 4, 6 and 8 will be located at the second storey.

All dwellings will contain three (3) bedrooms plus study.

Access to the site is proposed to be via a newly constructed crossover leading to the basement, which will accommodate eighteen (18) car spaces.

SUBJECT SITE & LOCALITY

An inspection of the site and the surrounding area has been undertaken.

The site comprises of three (3) allotments, with a combined total area of 2,444 square metres. The sites currently contain:

- No. 16 Edward Street contains a single storey weatherboard dwelling with a carport located within the front setback of the dwelling. Outbuildings are located at the rear of the site. A 1.9 metre high vertical timber board fence is located along the frontage of the site.
- No. 18 Edward Street contains a single storey weatherboard dwelling with a carport located to the side of the dwelling. A 1.9 metre high horizontal timber board fence is located along the frontage of the site.
- No. 20 Edward Street contains a double storey (attic style) brick dwelling with an attached carport located to the side of the dwelling. Out buildings/structures are located at the rear of the site. A 1.6 metre high brick fence is located along the frontage of the site.

The main site/locality characteristics are:

- A Lilly Pilly tree is located adjacent to the southern property boundary (rear) of 20 Edward Street.
- No street trees are located within the nature strip fronting Edward Street.
- The properties to the **north**, across Edward Street, are single and double storey brick and weatherboard dwellings.
- The subject site adjoins three (3) adjoining properties to the **south**. No. 5 Red Bluff Road contains six (6) single storey attached brick dwellings. The rear dwelling has a garage built to the rear property boundary. No. 9 Red Bluff Road contains a single storey dwelling with a swimming pool located behind the dwelling. An outbuilding is located adjacent to the rear property boundary. Nos. 11 and 11A Red Bluff Road contains two (2) single storey dwellings built one behind the other.
- The adjoining property to the **east**, at No. 14 Edward Street, contains a double storey brick dwelling with an attached brick garage in front of the dwelling. The garage has a front setback of 7.811 metres. A 1.7 metre high brick/horizontal timber board fence is located along the frontage of the site.
- The adjoining property to the **west**, at No. 22 Edward Street, contains a double storey (attic style) weatherboard dwelling with an attached carport to the side of the dwelling. The dwelling has a front setback of 8.988 metres. A 1.6 metre high brush fence is located along the frontage of the site.

PERMIT/SITE HISTORY

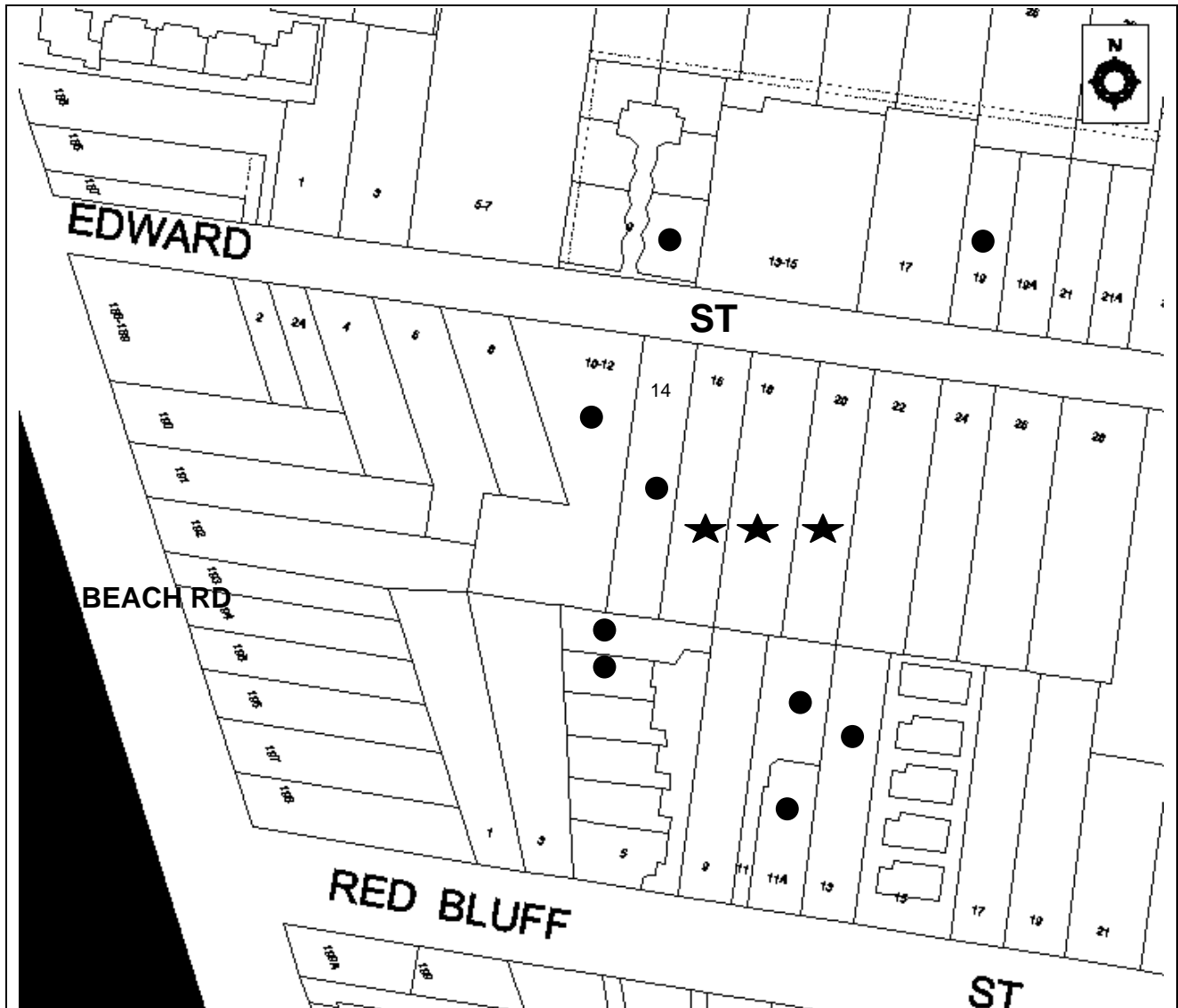
There is no planning history associated with the site.

PUBLIC NOTIFICATION

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by:

- Sending notices to the owners and occupiers of adjoining land
- Placing three (3) signs on site

The notification has been carried out correctly. Council has received eleven (11) objections to date.

Locality Map – 16-20 Edward Street, Sandringham


Legend	
Subject land	★
Location of objectors	●
Note: Not all objectors are shown on the locality map	

The key issues that were raised in the objections are:

- Out of character with the established neighbourhood
- Increased front fence height
- Reduced side setback
- Double storey dwellings at the rear
- Overlooking

- Overshadowing
- Solar access to open space of adjoining property
- Increase in noise from communal pool and equipment
- Overdevelopment of the site
- Visual bulk
- Limited on street parking
- Waste collection
- Landscaping
- Impact on neighbourhood
- Consolidation
- Devaluation of property

CONSULTATION

A Consultation Meeting was held on 18 November 2009 and was attended by the Council planner, a Ward Councillor, the applicant and objectors. All objections remain outstanding.

REFERRALS

External Referrals/Notices by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	Not required
Section 52 Notices	Letters sent to all adjoining and opposite property owners and occupiers and three (3) signs erected on the site.

Internal Council Referrals	Advice/Response/Conditions
Drainage Engineer	No objections, subject to conditions
Traffic Engineer	No objections, subject to conditions
Urban Designer	No objections
Arborist	No objections subject to permit conditions

ASSESSMENT

Relevant Provisions of the Bayside Planning Scheme

State Planning Policies

- Clause 12 Metropolitan Development - Includes objectives and strategies for Metropolitan Melbourne.
- Clause 14 Settlement - Encourages consolidation of residential activities, with development being respectful of neighbourhood character.
- Clause 16.02 Housing - Encourages well-designed medium density housing that respects the character of the neighbourhood and improves housing choice, use of infrastructure and energy efficiency.
- Clause 19.03 Design and Built Form - Encourages architectural and Urban Design outcomes that contribute positively to local Urban Character.

Municipal Strategic Statement

- Clause 22.07-1 Neighbourhood Character Policy - Aims to encourage development in the area that responds to the particular built form and natural environment elements that make up the neighbourhood character of Bayside.
- Clause 22.07-2 Neighbourhood Character Policy Objectives - Aim to ensure that development is responsive to the preferred future character of the area and to retain and enhance the identified elements that contribute to the character of the area.
- Clause 22.10- Water Sensitive Urban Design (Stormwater Management) – Aim to promote the use of water sensitive urban design, including stormwater re-use. To protect the surface water and ground waters in the Port Phillip Bay catchment from stormwater pollutants. To reduce the impacts of peak stormwater flows. To integrate stormwater treatment measures into the landscape. To reduce the entry of pollutants into stormwater run-off. **The proposed design provides in ground water tanks to store stormwater and reuse for toilets and gardens**

Zoning

- Clause 32.01 Residential 1 Zone - Encourages residential development at a range of densities, with a variety of dwellings to meet the housing needs of all households. The zone requires a planning permit for the proposed residential development. The Schedule to the zone incorporates requirements specific to Bayside. **A permit is required for the construction of two or more dwellings on a lot.**

Overlays

- **Clause 42.02 - Vegetation Protection Overlay Schedule 3** – Seeks to prevent the loss of native and particularly indigenous vegetation incurred by development, to retain the amenity, aesthetic character and habitat value of Australian native vegetation and indigenous vegetation in particular within the Beaumaris and Black Rock area and to promote the regeneration and replanting of indigenous species in the Beaumaris and Black Rock area. **The proposal triggers a planning permit, as a native tree will be removed from the subject site.**

- Clause 43.02 - Design and Development Overlay Schedule 1** – Aims to protect and enhance the foreshore environment and views of Bayside from Port Phillip Bay, to relate the scale and form of any new development to the landform of the coast, to maintain a pedestrian scale along Beach Road, to maintain consistency with urban design and development objectives in the Bayside Coastal Strategy 1997 and the Victorian Coastal Strategy 2002, to protect the foreshore from overshadowing, to manage the increased pressure for higher buildings along the coast and to protect the amenity and privacy of residential properties. **The proposal does not trigger a planning permit, as the proposed dwellings are two (2) storey in height, the floor to ceiling height does not exceed 3.5 metres and there are no roof decks or attics above the two storey buildings.**

Particular Provisions

- Clause 55 Construction of two or more dwellings on a lot** - Includes specific objectives and standards for the proposed residential development to be assessed against. A schedule to the Residential 1 Zone provides specific requirements for Bayside.

General Provisions

- Clause 65 Decision Guidelines** - Provides guidelines that the responsible authority must consider in assessing the application including the Planning Policy Framework, the purpose and objectives of the Zone to encourage the orderly planning of the area and the effect on the amenity of the area.

SUMMARY OF KEY ISSUES

The following is a summary of the relevant planning issues and areas of non-compliance, considering planning principles and issues raised by the objectors.

Neighbourhood Character

The subject site is located within Precinct E4 of Clause 22.07 Neighbourhood Character Policy of the Bayside Planning Scheme. The Preferred Future Character statement for Character Precinct E4 states the following:

“The diverse dwelling styles sit within informal coastal gardens with large trees. There is a lightness to the structures and streetscapes due to the use of lighter building materials, colours and design detailing. The informal coastal feel is enhanced by street treatments including informal coastal street trees and the retention of the wide nature strips. Buildings fronting the foreshore reflect their setting and provide a visually attractive built form interface with the reserve.”

Clause 22.07 provides the following guidelines for development in Area E4:

Objective	Design Response	Avoid
To maintain and enhance the garden settings of the dwellings.	<ul style="list-style-type: none"> Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. 	<i>Lack of landscaping and substantial vegetation.</i>
To enhance the bayside vegetation character of	<ul style="list-style-type: none"> Retain established native and traditional coastal 	<i>Removal of large, native</i>

Objective	Design Response	Avoid
the area through the retention and planting of appropriate coastal species.	vegetation and provide for the planting of new indigenous coastal trees. <ul style="list-style-type: none"> Minimise paving in front garden areas including driveways and crossovers. 	<i>trees.</i> <i>Front setbacks dominated by impervious surfaces.</i> <i>Planting of environmental weeds.</i>
To ensure that building setbacks from boundaries contribute to the informality and spaciousness of the area and visual separation of the buildings.	<ul style="list-style-type: none"> Buildings should be sited to allow space for the planting of trees and shrubs. Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. 	<i>Loss of front garden space.</i>
To minimise the dominance of car parking facilities.	<ul style="list-style-type: none"> Locate garages and carports behind the line of the dwelling. Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space. 	<i>Car parking facilities that dominate the façade or view of the dwelling.</i>
To encourage innovative architecture that reflects the coastal setting.	<ul style="list-style-type: none"> New buildings should be individually designed to respond to the characteristics of the coastal location and the site. Incorporate building elements and details that contribute to a lightness of structure. 	<i>Large bulky buildings</i> <i>Flat, poorly articulated front wall surfaces.</i> <i>High pitched roof forms with dormer windows.</i>
To respect the identified heritage qualities of adjoining buildings.	<ul style="list-style-type: none"> Where adjoining an identified heritage building, respect the height, building forms, siting and materials, in 	<i>Period reproduction detailing.</i>

Objective	Design Response	Avoid
<p>To use lighter looking building materials and finishes that complements the vegetation and coastal setting.</p>	<p>the new building design.</p> <ul style="list-style-type: none"> Incorporate timber or other non-masonry wall materials where possible. Use lighter coloured building materials and finishes. 	<p><i>Heavy materials and design detailing (eg. Large masonry columns and piers)</i></p> <p><i>Excessive use of render on external wall surfaces.</i></p>
<p>To create a visually interesting and attractive built form interface with the foreshore reserve.</p>	<ul style="list-style-type: none"> Articulate the form buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies, verandahs, non-reflective glazing and light-transparent balustrading. Use a mix of contemporary and traditional coastal materials, textures and finishes, including render, timber, non-masonry sheeting, glazing, stone and brick. Provide articulated roof forms to create an interesting skyline when viewed from the beach. 	<p><i>Buildings that have no relationship to the foreshore setting.</i></p> <p><i>Poorly articulated roof and building forms.</i></p> <p><i>Highly reflective materials or glazing.</i></p>

It is considered that the proposed development accords with the existing and preferred future neighbourhood character objectives for Precinct E4.

Although the proposed buildings are large and bulky, they are built on large allotments and provide adequate setbacks for the planting of vegetation including canopy trees. The dwellings are spaciouly set out with separation to minimise the potential for ‘crowding/overdevelopment’ of the site and incorporate appropriate setbacks to maintain the prevailing ‘detached’ dwelling characteristics of the area.

The dwellings incorporate design details which include well articulated facades to the side and front elevations, traditional elements such as pitched terracotta tiled roofs and light colour render, face brick and stone finishes in accordance with the neighbourhood character objectives outlined above.

The existing native vegetation is to be removed and a landscape plan has been provided which demonstrates that there will be sufficient open space areas to support the planting of canopy trees to enhance the vegetation character of the area. The landscape plan shows extensive planting within the generous setbacks.

Car parking does not dominate the site but is designed to be recessive with only one driveway access point for all eight (8) dwellings.

The application was referred to Council's Urban Designer who considered the proposed development to be a quality proposal that is respectful of its setting, highly compliant, of an interesting design and which provides high level of private and public amenity.

Setbacks

Front

The proposed front setback is 9 metres to Edward Street at ground and first floor level.

The front setback for the development fully complies with the requirements of Clause 55, Standard B6 of the Schedule to the Residential 1 Zone of the Bayside Planning Scheme.

Side

The ground level side setbacks are proposed to be between 2.1 metres and 4.11 metres, which comply with the 2.0 metres side setback requirement of the Schedule to the Residential 1 Zone to the Bayside Planning Scheme.

The maximum wall height is proposed to be 6.1 metres, which requires a first floor setback of 3.5 metres from the side boundaries and 4.5 metres setback from the rear boundary. The upper levels of the four buildings are proposed to be set back from the side boundaries setbacks between 3.4 metres and 4.5 metres which, with the exception of the section at 3.4 metres complies with the setback requirements of the Bayside Planning Scheme. The non-compliance section of the wall for each of the second storey dwelling is located at the walk-in-robe and ensuite to Bedroom 1 for a length and is only 100mm. These sections of walls are located at least 16 and 50 metres from the front property boundary and are considered only marginal encroachments of the side setbacks.

Rear

The rear setback for the upper levels is proposed to be 4.9 metres, which exceeds the 4.5 metres rear setback requirement of the Bayside Planning Scheme Schedule to the Residential 1 Zone.

Visual Bulk

The maximum height of the proposed development is 7.2 metres to the ridgeline, which is less than the 9.0 metres maximum height allowed in Clause 55 - Standard B10 of the Bayside Planning Scheme.

The double storey dwellings to the rear of the site are considered to be acceptable in this instance as they will have minimal impact on the 'backyardscape' of the area, as the rear setback fully complies with the setback requirements of Standard B17 of the Schedule to the Residential 1 Zone of the Bayside Planning Scheme, 0 or 3 metres at the ground level and 4.5 metres at the second storey. The two storey dwellings provide sufficient separation from each other to allow the planting of vegetation including canopy trees.

It is considered that the two storey buildings at the rear of the site will not cause unreasonable material detriment upon the backyards of the adjoining properties, as they will be adequately setback from the rear and will have screening trees along the entire width of the rear property boundary.

Overdevelopment of the Site

The proposed site coverage is 32%, which is less than the 50% maximum site coverage required by Clause 55 Standard B8 of the Bayside Planning Scheme.

The permeability is proposed to be 50%, which exceeds the minimum 20% permeability requirement of Clause 55 - Standard B9 of the Bayside Planning Scheme.

Energy Efficiency

The dwellings have been designed with living areas oriented towards the northern sunlight to maximise solar benefits. Each dwelling has been provided with either a ground level private open space area or private balconies at the second storey, which receives northern light.

The development has also been designed respectfully to ensure that solar benefit to neighbouring properties is not unreasonably reduced.

Open space

Communal open space has been provided within the development which accords with the 'communal open space' objectives of Clause 55 Standard B11, which states that:

If any public or communal open spaces provided on site it should:

- *Be substantially fronted by dwellings*
- *Provide outlook for as many dwellings as practicable*
- *Be designed to protect any natural features on the site*
- *Be accessible and usable.*

Secluded Private Open Space

The development is designed with living areas directly accessing the side or rear secluded private open space areas. Dwellings 1 and 5 have each been provided with 51.85 square metres of secluded private open space to the side of the dwelling at ground level. An additional 100 square metres of private open space is located within the front setback of Dwelling 1 and 5. Dwellings 3 and 7 have each been provided with 126 square metres of secluded private open space to the side and rear of the dwelling at the ground level. The first floor dwellings have been provided with 48 square metres of secluded private open space on the balconies.

The area of private open space provided for each dwelling complies with Clause 55, Standard B28 of the Bayside Planning Scheme.

Overshadowing

The shadow diagrams submitted have been checked and found to be correct. It is considered that the adjacent properties to the north, east and west of the site will not be unreasonably overshadowed by the proposed development. The proposed development satisfies the objectives of Clause 55, Standard B21 of the Bayside Planning Scheme.

Overlooking

Objections have been submitted with regards to the proposal having the potential to overlook the adjoining properties.

It is considered that this method of screening (fixed obscure glazing to first floor windows and privacy screens to balconies to a height of 1.7 metres above the floor level) will satisfy the objectives of Clause 55.04-6, Standard B22 of the Bayside Planning Scheme.

Traffic & Car Parking

Each dwelling has been provided with two (2) car spaces in the basement along with two (2) on-site visitor spaces. The parking provision complies with the requirements of Clause 55.03-11, Standard B16 of the Bayside Planning Scheme.

Council's Traffic Engineer has no objections to the application subject to permit conditions, should one issue.

Front Fence

The proposed front fence at 1.8 metres in height will provide privacy to the additional private open space in the front of Dwellings 1 and 5. The overall height of the front fence exceeds the minimum 1.2 metres height requirement of Clause 55, Standard B32 of the Schedule to the Residential 1 Zone of the Bayside Planning Scheme.

The non-compliant height of the front fence is considered reasonable, as the height of the existing front fences on the subject site vary from 1.6 to 1.9 metres and front fence height of adjoining properties (Nos. 14, 22 and 13-15 Edward Street) also varies from 1.7 to 1.8 metres. It is noted that the width of the front fence would only be 19.6 metres out of the total frontage width of the subject site of 39.62 metres. It is also noted that bulk of the front fence will be recessed from the front boundary by at least 0.7 metre and will be softened by a landscaping strip in front of the fence. The remaining width of the frontage would be unfenced to provide a visually interesting 'open' garden, which will make a positive contribution to the streetscape.

It is considered that the increase in the height of the proposed front fence will not detract from the streetscape of the area and will not affect the sightline of vehicles exiting the basement via a ramp.

Vegetation

The subject site is located within a Vegetation Protection Overlay Schedule 3, which seeks to prevent the loss of native and particularly indigenous vegetation incurred by development, to retain the amenity, aesthetic character and habitat value of Australian native vegetation and indigenous vegetation in particular within the Beaumaris and Black Rock area and to promote the regeneration and replanting of indigenous species in the Beaumaris and Black Rock area.

There is one (1) native tree (Lilly Pilly) located adjacent to the rear property boundary of No. 20 Edward Street, which is proposed to be removed. Council's Arborist has inspected the site and advises that there is no vegetation on the site worthy of retention and has no objection to the removal of the Lilly Pilly, as it does not provide any significant value to the streetscape. There are three (3) trees on the neighbouring properties within close proximity to the property boundaries, which require protection. A permit condition, should one issue, can ensure the protection of the neighbouring trees. The submitted concept landscape plan provides seven (7) canopy trees to be planted on site.

Noise

Objections have been raised in relation to the increase of noise level, as a result of the additional dwellings on the site, in particular to the communal pool and equipment.

It is considered that the noise level that may be generated by the additional dwellings on the site including the use of the communal pool will be residential noise no different from other residential areas.

It is noted that the pool plant and equipment will be enclosed within a brick structure to minimise noise to adjoining properties to the rear of the subject site.

Devaluation of property

The issue of property devaluation as a result of unit development is not a relevant planning matter.

Waste management

It is noted that Edward Street is a one-way street and most of the bins are located on the north side of the street during waste collection day. Accordingly, a Waste Management Plan is required as a permit condition, should one issue.

Water Sensitive Urban Design

A permit condition, should one issue, has been included to ensure that the proposed development incorporates water sensitive urban design stormwater treatment measures.

CONCLUSION

The proposed development is considered to be appropriate for the site and will not detract from the existing streetscape and neighbourhood character. The proposed dwellings are of a design compatible with and complementary to surrounding development and will sit comfortably within the streetscape.

The proposal will be sympathetic to surrounding development and will respect the residential amenity of adjoining properties, through the incorporation of appropriately articulated facades, recessive car parking, sufficient separation between the dwellings and suitable areas for the planting of canopy trees. It is therefore considered appropriate that Council Supports this application subject to conditions to be placed on any permit that may issue.

RECOMMENDATION

That Council having caused notice of Planning Application No. **2009/0301/1** to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to **Support** the proposal under the provisions of the Bayside Planning Scheme in respect of the land known and described as **16-20 Edward Street, Sandringham** for the **construction of four (4) two storey buildings each containing two (2) apartments with basement car parking and the removal of one (1) native tree in a Vegetation Protection Overlay Schedule 3** in accordance with the application dated 9 July 2009, subject to the following conditions, including the specified conditions set out in the Council's "Town Planning Standard Conditions" adopted by the Council on 28 November 2006:-

1. Before the development starts three copies of revised plans drawn to scale and dimensioned, must be submitted to and approved by the Responsible Authority. When approved the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the application submitted on 9 July 2009, but modified to show to the satisfaction of the Responsible Authority:
 - a. The visitor spaces in the basement must be 3.6 metres wide.
 - b. The basement ramp must be redesigned so that either the ramp leads directly to the centre of the parking aisle or the entire basement is shifted to the west so that the parking aisle is centred on the ramp.
 - c. The existing side entry pit must be converted to have a grate cover and the ramp and crossing must be widened to 4.5 metres with a 17metre offset from the western property boundary. The vehicle crossing must be 4.5 metres wide and centred on the ramp and the pit contained in the tray of the crossing.
 - d. At the base of the basement access ramp there must be a clear 4 metres radius leading to the first car spaces on each side of the parking aisle.
 - e. A longitudinal section must be provided showing all levels, grades, transitions and headroom clearances. There must be a transition of at least 2 metres long at 9%, a base transition of at least 2 metres at 12.5% with a main grade of 20% for 10.6 metres.
 - f. A sign must be displayed at the top of the ramp stating 'No Left Turn' or 'All Vehicles Must Turn Right'.
 - g. All paving (except driveway) to be permeable.
 - h. A schedule of all external materials and finishes to be provided to the buildings and works on the land. The schedule shall show the materials, colour (including two colour samples) and finish of all external walls, roof, fascias, window frames and paving (including car park surfacing).
 - i. The proposed landscape treatment for the site including the existing and proposed species in accordance with Condition 7 of this permit.
 - j. The Water Sensitive Urban Design on the site in accordance with Condition 10 of this permit.
2. Before the occupation of the site, plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority to consolidate Nos. 16, 18 and 20 Edward Street.
3. P4 Layout not altered

4. Before the occupation of the site commences or by such later date as is approved in writing by the responsible authority, all buildings and works and the conditions of this permit must be carried out and completed to the satisfaction of the responsible authority.
5. CP1 Car parking construction
6. A20 Boundary Walls
7. Before the developments starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and two copies must be provided. The landscaping plan must show:-
 - a survey (including botanical names) of all existing vegetation to be retained and/or removed;
 - buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary;
 - details of surface finishes of pathways and driveways;
 - details of water sensitive urban design elements to be incorporated and the plant species to be used;
 - a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant;
 - landscaping and planting within all open areas of the site.
 - provision of an inground irrigation system to all landscaped areas.All species selected must be to the satisfaction of the Responsible Authority.
8. L2 Landscaping before commencement of use
9. L3 Landscaping maintenance
10. Before the development starts, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be in accordance with the guidelines outlined in Clause 22.10 of the Bayside Planning Scheme and must show:-
 - The type of water sensitive urban design stormwater treatment measures to be used;
 - The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaping areas;
 - Design details of the water sensitive urban design stormwater treatment measures, including cross sections;These plans must be accompanied by a report from an industry accepted performance measurement tool, which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines 1999.

The water sensitive urban design stormwater treatment system as shown on the endorsed plan must be retained and maintained at all times in accordance with the Urban Stormwater – Best Practice Environmental Management Guidelines 1999, to the satisfaction of the Responsible Authority.

11. Before the development (including demolition) starts, a tree protection fence must be erected inside the property from the centre of the following trees.

Tree Name Approximate location	Tree Protection Zone Distances
<i>Callistemon viminalis</i> 0.3m from west boundary and 0.3m from north boundary at 22 Edward Street.	2.5m from trunk centre
<i>Schinus molle</i> 2m from west boundary and 23m from south boundary at 22 Edward Street	2.5m from trunk centre
<i>Magnolia grandiflora</i> 1m from east boundary and 1m from north boundary at 14 Edward Street	4m from trunk centre

The fence must be constructed of star pickets and chain mesh or similar to a minimum height of 1.8m.

The tree protection fence must remain in place until construction is completed. The fence can only be removed to allow for landscaping to be installed.

A 100mm deep layer of mulch must cover the ground surface of the Tree Protection Zone before the development starts until landscaping commences.

Watering of trees must occur as directed by any written request from Council.

No storage or dumping of tools, equipment or waste is to occur within this area.

No excavation for any purpose should occur in this area. Services should be located at a distance from the tree that is greater than the distance required for the Tree Protection Zone.

12. Internal drainage must be connected to the existing legal point of discharge.
13. Stormwater discharge must be retained on site to the pre-development level of peak stormwater discharge. The development is to have a 'Stormwater Detention System' installed, the design capacity to be Bayside City Council approved.
14. Any seepage/agricultural drainage water is to be filtered to rain water clarity and must be pumped to the nearest Council Drain/ Pit and not be discharged to the curb and channel unless directed otherwise.
15. The driveway/parking areas / paved courtyards / paths and 'pervious' pavements must be graded / drained to prevent stormwater discharge neither onto the front footpath nor into adjacent properties.
16. Before the development starts, construction management plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit.
17. Before the use starts, a waste management plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. Waste management operations on and adjacent to the site must conform to this endorsed plan.
18. PT1 Time for starting and completion.

Permit Notes

- N1 Vehicle Crossing Permit
- N2 Building approval
- N8 Sewerage
- N10 Asset Protection

Construction of any fence/wall/letterbox structures may necessitate removal/damage of some sections of the footpath. If this is the case, a **'Road Opening Permit'** must be obtained to facilitate such work.

A **'Road Opening / Stormwater Tapping Permit'** is to be obtained from the Bayside City Council Infrastructure Department prior to the commencement of the connection to the kerb/channel.

STANDARD OF THE BAYSIDE PLANNING SCHEME
TWO OR MORE DWELLINGS ON A LOT AND RESIDENTIAL BUILDINGS (CLAUSE 55 AND SCHEDULE TO THE RESIDENTIAL 1 ZONE)

Title and Objective	Complies with Standard?	Requirement and Proposed
<p>B1 Neighbourhood Character</p> <p>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.</p> <p>Development responds to features of the site and surrounding area.</p>	Yes	See report.
<p>B2 Residential Policy</p> <p>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.</p> <p>Support medium densities in areas to take advantage of public transport and community infrastructure and services.</p>	Yes	See report.
<p>B3 Dwelling Diversity</p> <p>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</p>	Yes	N/A
<p>B4 Infrastructure</p> <p>Provides appropriate utility services and infrastructure without overloading the capacity.</p>	Yes	Can be addressed through a permit condition.
<p>B5 Integration with the Street</p> <p>Integrate the layout of development with the street</p>	Yes	N/A
<p>B6 Street Setback</p> <p>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</p>	Yes	<p>Required: 9.0 metres</p> <p>Proposed: 9.0 metres</p>
<p>B7 Building Height</p> <p>Building height should respect the existing or preferred neighbourhood character.</p>	Yes	<p>Required: 9 metres</p> <p>Proposed: 7.2 metres</p>
<p>B8 Site Coverage</p> <p>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of</p>	Yes	<p>Required: 50%</p> <p>Proposed: 32%</p>

the site.		
B9 Permeability Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.	Yes	Required: 20% Proposed: 50%
B10 Energy Efficiency Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.	Yes	See report
B11 Open Space Integrate layout of development with any public and communal open space provided in or adjacent to the development.	N/A	N/A
B12 Safety Layout to provide safety and security for residents and property.	Yes	N/A
B13 Landscaping To provide appropriate landscaping. To encourage: <ul style="list-style-type: none"> • Development that respects the landscape character of the neighbourhood. • Development that maintains and enhances habitat for plants and animals in locations of habitat importance. • The retention of mature vegetation on the site. 	Yes	See report
B14 Access Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.	Yes	See report
B15 Parking Location Provide resident and visitor vehicles with convenient parking.	Yes	See report

<p>Avoid parking and traffic difficulties in the development and the neighbourhood.</p> <p>Protect residents from vehicular noise within developments.</p>				
<p>B16 Parking Provision</p> <p>Ensure car and bicycle parking meets the needs of residents and visitors.</p> <p>Accessways should be practical, attractive and easily maintainable.</p>	<p>Yes</p>	<p>Required: 2 car spaces per dwelling and 2 visitor spaces for a total of 18 car spaces</p> <p>Proposed: 18 car spaces</p>		
<p>B17 Side and Rear Setbacks</p> <p>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</p>	<p>No – see report</p>	<table border="0"> <tr> <td style="vertical-align: top;"> <p>Required:</p> <p><u>Ground Floor</u></p> <p>East: 0 or 2m</p> <p>South: 0 or 3m</p> <p>West: 0 or 2m</p> <p><u>First Floor</u></p> <p>East: 3.5m</p> <p>South: 4.5m</p> <p>West: 3.5m</p> </td> <td style="vertical-align: top;"> <p>Proposed:</p> <p><u>Ground Floor</u></p> <p>East: 2.082 to 4.112m</p> <p>South: 3.622 to 5.314m</p> <p>West: 2.082 to 4.112m</p> <p><u>First Floor</u></p> <p>East: <u>3.4</u> to 4.506m</p> <p>South: 4.857 to 6.799m</p> <p>West: <u>3.4</u> to 4.506m</p> </td> </tr> </table>	<p>Required:</p> <p><u>Ground Floor</u></p> <p>East: 0 or 2m</p> <p>South: 0 or 3m</p> <p>West: 0 or 2m</p> <p><u>First Floor</u></p> <p>East: 3.5m</p> <p>South: 4.5m</p> <p>West: 3.5m</p>	<p>Proposed:</p> <p><u>Ground Floor</u></p> <p>East: 2.082 to 4.112m</p> <p>South: 3.622 to 5.314m</p> <p>West: 2.082 to 4.112m</p> <p><u>First Floor</u></p> <p>East: <u>3.4</u> to 4.506m</p> <p>South: 4.857 to 6.799m</p> <p>West: <u>3.4</u> to 4.506m</p>
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<p>B18 Walls on Boundaries</p> <p>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</p>	<p>None</p>	<p>N/A</p>		
<p>B19 Daylight to Existing Windows</p> <p>Allow adequate daylight into existing habitable room windows.</p>	<p>Yes</p>	<p>N/A</p>		
<p>B20 North Facing Windows</p> <p>Allow adequate solar access to existing north-facing habitable room windows.</p>	<p>Yes</p>	<p>N/A</p>		
<p>B21 Overshadowing Open Space</p> <p>Ensure buildings do not significantly overshadow existing secluded private open space.</p>	<p>Yes</p>	<p>See report.</p>		

B22 Overlooking Limit views into existing secluded private open space and habitable room windows.	Yes	See report.
B23 Internal Views Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.	Yes	See report.
B24 Noise Impacts Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.	Yes	N/A
B25 Accessibility Consider people with limited mobility in the design of developments.	Yes	N/A
B26 Dwelling Entry Provide a sense of identity to each dwelling/residential building.	Yes	N/A
B27 Daylight to New Windows Allow adequate daylight into new habitable room windows.	Yes	N/A
B28 Private Open Space Provide reasonable recreation and service needs of residents by adequate private open space.	Yes	Required: 40 square metres for each dwelling at the ground level 8 square metres for each dwelling at the second storey balcony Proposed: In excess of 40 square metres for each dwelling at the ground level plus communal open space areas. 48.72 square metres for each dwelling at the second storey balconies See report
B29 Solar Access to Open Space Allow solar access into the secluded private open space of new dwellings/buildings.	Yes	See report.
B30 Storage Provide adequate storage facilities for each dwelling.	Yes	Within the basement

<p>B31 Design Detail</p> <p>Encourage design detail that respects the existing or preferred neighbourhood character.</p>	<p>Yes</p>	<p>See report.</p>
<p>B32 Front Fences</p> <p>Encourage front fence design that respects the existing or preferred neighbourhood character.</p>	<p>No. See report</p>	<p>Required: 1.2 metres Proposed: 1.8 metres Existing: 1.6 to 1.9 metres</p>
<p>B33 Common Property</p> <p>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained.</p> <p>Avoid future management difficulties in common ownership areas.</p>	<p>Yes</p>	<p>Basement car park and between the two sets of buildings</p>
<p>B34 Site Services</p> <p>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</p> <p>Avoid future management difficulties in common ownership areas.</p>	<p>Yes</p>	<p>N/A</p>

1.3 **8 Berwick Street, Brighton**
Notice of Decision to Grant a Permit
Application No: 2008/0686/1 Ward: Northern

City Strategy/Statutory Planning
 File No: 2008/0686/1

APPLICATION DETAILS

Land/Address:	8 Berwick Street, Brighton
Application is for:	Construction of a double storey dwelling on a lot less than 500 square metres and in a Special Building Overlay
Melway Reference:	67 E9
Ward:	Northern
Application Number:	2008/0686/1
Applicant's/Owner's Name:	Sketch Building Design
Date Received:	13 October 2008
Statutory Days Expiry:	1 January 2010
Zone:	Residential 1 Zone
Overlays:	Design and Development Overlay Schedule 2 Special Building Overlay
Under what clause(s) is a permit required?	32.01-3 – Construction of a dwelling on a lot less than 500 square metres 44.05 – Buildings and works in a Special Building Overlay
Restrictive covenants on the title?	No
Current use and development:	A single storey dwelling
Objections:	Three (3)

PROPOSITION

It is recommended that a **Notice of Decision to Grant a Permit** be issued subject to conditions.

PROPOSAL

It is proposed to construct a new double storey dwelling on a site is less than 500 square metres in area, and in a Special Building Overlay.

The dwelling is to be double storey and will contain:

- Living/meals area, kitchen, study and laundry at ground floor
- Three (3) bedrooms, walk-in robe, en suite, and a bathroom at first floor
- A double garage accessed from Berwick Street
- Private Open Space facing to the north and east, with an area of 70.4 square metres.

The application was referred to Melbourne Water, who objected to the proposal. The applicant subsequently submitted revised plans on 2 November 2009. These plans are in accordance with Melbourne Water's requirements. The revised plans are the plans assessed for the purpose of this report.

SUBJECT SITE & LOCALITY

An inspection of the site and the surrounding area has been undertaken.

The site has a total area of 325.75 square metres and currently contains:

- A single storey dwelling

The main site/locality characteristics are:

- The subject site is located on the eastern side of Berwick Street.
- To the north of the site, at 10 Berwick Street, is a double storey dwelling.
- To the east of the site, at 7 and 9 Snooks Court, are two (2) double storey dwellings.
- To the south of the site, at 6 Berwick Street, is a single storey dwelling.
- To the west of the site, at 3 Berwick Street, is a single storey dwelling.
- At the corner of Berwick Street and Bay Street, a three (3)-storey apartment building has recently been approved by VCAT.

PERMIT/SITE HISTORY

Title and Covenants

The applicant has submitted a copy of title for the subject site, issued by the titles office on 13 October 2008. The title is not subject to any covenants or restrictions.

Background

No previous planning applications have been determined for the subject site.

PUBLIC NOTIFICATION

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by:

- Sending notices to the owners and occupiers of adjoining land
- Placing a sign on site

Council received a signed Statutory Declaration, stating that the sign was erected on the site on 20 November 2008 and that the sign was maintained in good order and condition for 14 days from that date.

The notification has been carried out correctly.

Council has received three (3) objections to date.

LOCALITY PLAN


Legend	
Subject Site	★
Objector	●

The key issues that were raised in the objections are:

- Neighbourhood Character
- Setbacks
- Boundary wall height
- Private Open Space
- Overlooking
- Overshadowing
- Compliance with BCA fire rating

- Impact on property value
- Visual Bulk

CONSULTATION

A consultation meeting was not held as the applicant addressed Melbourne Water's concerns in a revised application, and wished to proceed to a Council meeting.

REFERRALS

The following advice has been received from referral authorities:

Traffic Engineer	No objection, subject to conditions
Urban Designer	No objection
Melbourne Water	No objection, subject to conditions.

ASSESSMENT

State Planning Policy Framework

- **Clause 12 – Metropolitan Development** - Provides specific objectives and strategies for Metropolitan Melbourne.
- **Clause 14 - Settlement** - Encourages consolidation of residential activities, with development being respectful of neighbourhood character.
- **Clause 16 - Housing** - Encourages well-designed medium density housing that respects the character of the neighbourhood and improves housing choice, use of infrastructure and energy efficiency
- **Clause 19 - Design and Built Form** - Encourages architectural and Urban Design outcomes that contribute positively to local Urban Character.

Local Planning Policy Framework

- **Clause 21.05 - Housing** - Encourages housing choice and quality design outcomes that make a positive contribution to the character of residential areas.
- **Clause 22.07 – Neighbourhood Character Policy** – Aims to ensure that development is responsive to the preferred future character of the area, to retain and enhance the identified elements that contribute to the character of the area, to implement the recommendations of the Bayside Neighbourhood Character Review 2004, to recognise the need for change around activity centres while respecting the desired future character of the area, and to recognise the need for new or additional Design Objectives and Design Responses for areas affected by structure planning outcomes and Melbourne 2030 housing objectives.
- **Clause 22.10 – Water Sensitive Urban Design** – Seeks to promote the use of water sensitive urban design, including stormwater re-use, to protect the surface water and ground waters in the Port Phillip Bay catchment from stormwater pollutants, and to reduce the impacts of peak stormwater flows to integrate stormwater treatment measures into the landscape to reduce the entry of pollutants into stormwater run-off.

Zone

- **Clause 32.01 - Residential 1 Zone** - Provides for residential development at a range of densities with a variety of dwellings to meet the housing needs of all households, encourages residential development that respects the neighbourhood character, allows educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs, in appropriate locations. **A planning permit is required to construct a dwelling on a lot less than 500 square metres within the R1Z.**

Overlays

- **Clause 43.02 - Design and Development Overlay Schedule 2** – Aims to achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties, to preserve the existing character and amenity of the areas as low rise (up to two storeys) suburban areas with a strong garden character, to maintain the prevailing streetscape rhythm, building scale and height of neighbourhoods and to maintain a strong landscape character with buildings set within vegetated surrounds. **A planning permit is not required for the proposal pursuant to the DDO2.**
- **Clause 44.05 - Special Building Overlay** – Identifies land in urban areas liable to inundation by overland flows from the urban drainage system as determined by, or in consultation with, the floodplain management authority, ensures that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity and protects water quality in accordance with the provisions of relevant State Environment Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria). **A planning permit is required to carry out buildings and works in a SBO.**

Particular and General Provisions

- **Clause 54 – One Dwelling on a Lot** – Includes specific objectives and standards for residential development.
- **Clause 65 – Decision Guidelines** – Details matters to be considered when determining a planning application.

SUMMARY OF KEY ISSUES

Below is a summary of relevant planning considerations and matters raised by objectors.

Neighbourhood Character

The subject site is located with Neighbourhood Character Area B1. The preferred future character statement and precinct guidelines are shown below.

The diverse dwelling styles, with a continued presence of pre WW2 era dwellings, and new buildings that respect, without replicating, these styles, sit within established gardens with large trees. Garages and carports are set behind the dwelling façade so as not to dominate the streetscape. Generous side setbacks on at least one side allow vegetation to flow around the dwellings and this, along with avenue street trees and open style front fences, contributes to the green, leafy streetscapes within the area.

Objective	Design Response	Avoid
To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.	<ul style="list-style-type: none"> Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development. Alterations and extensions to should retain the front of these dwellings. 	<i>Demolition of dwellings that contribute to the valued character of the Precinct.</i>
To maintain and enhance the garden settings of the dwellings.	<ul style="list-style-type: none"> Retain large trees wherever possible. Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. 	<i>Lack of landscaping and substantial vegetation.</i> <i>Removal of large canopy trees.</i>
To maintain the rhythm of spacious visual separation between buildings and provide space for front gardens.	<ul style="list-style-type: none"> Buildings should be sited to allow space for the planting of trees and shrubs. Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. 	<i>Lack of front garden space</i>
To minimise the dominance of car parking facilities, driveways and crossovers.	<ul style="list-style-type: none"> Locate garages and carports behind the line of the dwelling. Provide vehicular access from a rear laneway where possible, while maintaining pedestrian access from the street frontage Provide a maximum of one single-width crossover per typical property frontage, where no alternative is available. 	<i>Car parking facilities that dominate the facade or view of the dwelling.</i> <i>Dominance of crossovers and driveways.</i>
To ensure new development respects the dominant buildings forms and scale of buildings in the Precinct, through the use of innovative architectural responses.	<ul style="list-style-type: none"> Recess upper storey elements from the front façade. Articulate the form of buildings and elevations, particularly front facades. 	<i>Large bulky buildings with flat, poorly articulated wall surfaces.</i>
To respect the identified heritage qualities of adjoining buildings.	<ul style="list-style-type: none"> Where adjoining an identified heritage building, reflect the dominant building form, height, materials and massing of the heritage building/s, of the heritage building/s in the new building design. 	<i>Imitation or reproduction of historic building styles and detailing.</i>
To reflect the building materials in locations where there is particular consistency.	<ul style="list-style-type: none"> Where consistent materials are used in the streetscape, use similar tonings in the colours of new 	<i>Excessive use of render on external walls.</i>

Objective	Design Response	Avoid
To maintain the openness of the streetscape.	buildings. • Provide open style front fences appropriate to the building era.	<i>High, solid front fencing.</i>

The proposed dwelling is to be well articulated in its presentation to the street, and will provide appropriate landscaping within the 5.4 metre front setback. The dwelling is to be of a modern design and will combine render with cladding to external facades.

Council's Urban Designer has viewed the proposal and is of the opinion that the dwelling will be capable of fitting in with the streetscape style and scale. The majority of the building is to be centrally located on the block. While the garage door provides a blank façade, it is offset by the large windows above, the recessed entry court and the use of varied building material provide interest and texture.

This section of the streetscape development pattern demonstrates a predominance of small narrow lots with low scale cottages adjacent to double storey dwellings with reduced setbacks.

It is considered that the proposed dwelling will not have a detrimental impact upon the Neighbourhood Character.

Street Setback

The dwellings to either side of the subject site are set back 5.2 metres and 6.2 metres. The prevailing setback in the street is between 6.2 metres and 4.4 metres. Pursuant to the Schedule to the Residential 1 Zone of the Bayside Planning Scheme, the proposed dwelling should be set back 6.2 metres. The dwelling is proposed to be setback 7.03 metres at ground floor and 5.43 metres at first floor. It is considered that the proposed setback is acceptable, as it will provide articulation to the front of the dwelling, and will be in character with the prevailing street setback.

Side and Rear Setbacks

At ground floor, the dwelling is proposed to be set back a minimum of 1.0 metre from the southern boundary and is to be built to the northern boundary. There is to be a section of wall set 1.5 metres from the northern boundary, with the remainder set back 2.5 metres.

At first floor, the dwelling is to be constructed to a height of 7.0 metres, and is to be set 2.23 metres back from the northern boundary and 1.79 metres from the southern boundary. Pursuant to the Schedule to the Residential 1 Zone, the upper storey should be set back 4.18 metres.

While these proposed setbacks are not in accordance with the Schedule to the Residential 1 Zone, the street consists of narrow blocks of land, with little separation between dwellings. It is considered that the proposed ground and first floor setbacks are appropriate for the 9.2 metre width of the site and will provide adequate separation to the adjoining lots in the context of the streetscape. It is considered that the proposal accords with the objectives of Standard B16 of Clause 55 of the Bayside Planning Scheme and will sit comfortably within the context of the streetscape.

Visual Bulk

Council's Urban Designer has viewed the proposal and does not believe that the development will result in unreasonable visual bulk to the adjoining properties or to the street. Objections have been received from properties to the rear raising concerns of visual bulk. It is considered that the proposed rear setback of 4.79 metres at ground floor and 9.24 metres at first floor, in addition to the varied setbacks and mix of building materials and finishes, will ensure that the dwelling will not present unreasonable visual bulk to adjoining properties.

Overdevelopment of the site

It is proposed that the development will cover 51.29% of the subject site. Pursuant to the Schedule to the Residential 1 Zone of the Bayside Planning Scheme the site coverage should be no more than 50%. It is considered that the variation required is small (less than 4 square metres) and will have little impact upon the open space or permeability of the site, both of which exceed the requirements. It is considered that the proposal is not an overdevelopment of the site.

The proposal provides for 38.57% permeability, exceeding the required 20%, pursuant to Standard B8 of the Bayside Planning Scheme.

Overlooking

The proposed dwelling is to include highlight windows or obscured glazing to the north and south first floor elevations to ensure there is no unreasonable overlooking of adjoining properties. Architectural fins have been proposed to windows facing to the north to prevent unreasonable overlooking. It is considered that the proposed development will not result in unreasonable overlooking of adjoining properties Private Open Space.

Overshadowing

Shadow diagrams have been submitted with the proposal and have been examined and found to be correct. These show that the development will create shadows across the property to the south. The diagrams show that the shadows will largely fall across the dwelling, rather than open space, and that they will not greatly increase shadowing beyond that currently occurring due to the boundary fence and existing dwelling. More than 75% of the Private Open Space of the adjoining dwelling is to remain free of shadows between the hours of 9AM and 3PM. It is considered that the proposed development will not result in unreasonable overshadowing of adjoining properties.

Traffic & Car Parking

The dwelling is to be provided with a double garage facing Berwick Street. The provision of two car spaces is in accordance with Standard A9 of Clause 55 of the Bayside Planning Scheme. Council's Traffic Engineer has viewed the proposal and has no objection to the proposal.

Melbourne Water and Construction in a Special Building Overlay

Melbourne Water lodged an objection to the original proposal, due to the dwelling having insufficient clearance above the flood level, and being of a boundary-to-boundary design, which would limit overland flow. The applicant has submitted revised plans addressing these concerns, and Melbourne Water no longer objects.

Energy Efficiency and Water Sensitive Urban Design

The proposed dwelling will have Private Open Space areas to the north and east, with access to natural light. Living areas are located adjacent to these outdoor areas, allowing natural lighting and heating to reduce the need for artificial lighting and heating.

The design includes no details of Water Sensitive Urban Design (WSUD) measures. It is recommended that, in the event that a planning permit is issued, a condition be included requiring the applicant to submit plans showing WSUD measures to be implemented on-site.

CONCLUSION

It is recommended that a planning permit be granted, subject to conditions.

RECOMMENDATION

That Council having caused notice of Planning Application No. **2008/0686/1** to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to **Issue a Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of the land known and described as **8 Berwick Street, Brighton**, for the **construction of a double storey dwelling on a lot less than 500 square metres and in a Special Building Overlay** in accordance with the application dated 15 October 2008, subject to the following conditions, including the specified conditions set out in the Council's "Town Planning Standard Conditions" adopted by the Council on 28 November 2006:-

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted on 2 November 2009 but modified to show:
 - a) A schedule of construction materials, external finishes and colours (incorporating two (2) paint samples)
 - b) A landscape plan in accordance with Condition 9 of this planning permit
 - c) Water Sensitive Urban Design measures in accordance with Condition 12 of this permit
 - d) Changes as required by Melbourne Water, in accordance with Condition 13 of this permit.
2. P4 Layout not altered
3. Before the occupation of the site commences or by such later date as is approved in writing by the responsible authority, all buildings and works and the conditions of this permit must be carried out and completed to the satisfaction of the responsible authority.
4. A18 Concealment of pipes, etc.
5. A19 Plant/equipment or features on roof
6. A20 Boundary walls
7. CP7 Vehicular crossings
8. CP8 Vehicle crossing removal

9. Before the development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The landscaping plan must show:
- a) A survey (including botanical names) of all existing vegetation to be retained and/or removed
 - b) Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary
 - c) Details of surface finishes of pathways and driveways
 - d) Details of water sensitive urban design elements to be incorporated and the plant species to be used
 - e) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant
 - f) Landscaping and planting within all open areas of the site
 - g) An in-ground irrigation system to all landscaped areas.

All species selected must be to the satisfaction of the Responsible Authority.

10. L2 Completion of landscaping

11. T9 Retention of existing street trees

12. Before the commencement of works, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be in accordance with the guidelines outlined in Clause 22.10 of the Bayside Planning Scheme and must show:-

- a) The type of water sensitive urban design stormwater treatment measures to be used;
- b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaping areas;
- c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections;

These plans must be accompanied by a report from an industry accepted performance measurement tool, which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

The water sensitive urban design stormwater treatment system as shown on the endorsed plan must be retained and maintained at all times in accordance with the Urban Stormwater - Best Practice Environmental Management Guidelines, CSIRO 1999, to the satisfaction of the Responsible Authority.

13. Conditions required by Melbourne Water

- a) Finished floor levels of the dwelling must be constructed a minimum of 300mm above the applicable flood level. Prior to the issue of a Certificate of Occupancy for the dwelling, a certified survey plan showing finished floor levels of the dwelling and garage, reduced to Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.
- b) Any new garage must be constructed with finished floor or surface levels a minimum of 150mm above the applicable flood level. Prior to the issue of a Certificate of Occupancy for the dwelling, a certified survey plan showing finished floor levels of the dwelling and garage, reduced to Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.
- c) The decking area, situated on the southern boundary of the property is to be constructed with unenclosed foundations to allow for the passage of overland flows.
- d) The dwelling and garage is to be setback a minimum of 1 metre from the southern property boundary.
- e) No polluted and/or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or watercourses during the construction phase of the development.

14. PT1 Time for starting and completion

Permit Notes

N1 Crossover permit
N2 Building approval
N8 Sewerage
N10 Asset Protection

STANDARD OF THE BAYSIDE PLANNING SCHEME

For single dwellings on lots <500 square metres (clause 54 and schedule to the residential 1 zone)

Title and Objective	Complies with Standard?	Requirement and Proposed
A1 Neighbourhood Character Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.	Yes	See report
A2 Integration with Street Integrate the layout of development with the street.	Yes	
A3 Street Setback Setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site	No	Minimum: 6.2 metres Proposed: 5.43 metres
A4 Building Height Building height respects the existing or preferred neighbourhood character.	Yes	Maximum: 9.0 Metres Proposed: 7.0 metres
A5 Site Coverage Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.	No	Maximum: 50% Proposed: 51.29%
A6 Permeability Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.	Yes	Minimum: 20% Proposed: 38.57%
A7 Energy Efficiency Achieve and protect energy efficient dwellings. Ensure the development's orientation and layout reduce fossil fuel energy use and makes appropriate use of daylight and solar energy.	Yes	See report
A8 Significant Trees Development respects the landscape character of the neighbourhood and retains significant trees on site.	Yes	Addressed within conditions

A9 Parking Ensure car parking is adequate for the needs of residents.	Yes	Minimum: 2 Spaces Proposed: 2 spaces	
A10 Side and Rear Setbacks Ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.	No	Required: <u>Ground Floor</u> North: 0 or 2.0m East: 0 or 3.0m South: 0 or 2.0m West: - <u>First Floor</u> North: 4.18m East: 5.18m South: 4.18m West: -	Proposed: <u>Ground Floor</u> North: 0 – <u>1.5</u> – 2.53m East: 4.79m South: <u>1.0</u> – 2.0m West: - <u>First Floor</u> North: <u>2.23m</u> East: 9.24m South: <u>1.79m</u> West: -
A11 Walls on Boundaries Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.	No	Maximum Length: 16.5m Proposed: 7.1m Maximum Height: 3.6m Proposed: <u>4.0m</u>	
A13 North Facing Windows Allow adequate solar access to existing north-facing habitable room windows.	Yes	N/A	
A14 Overshadowing Open Space Ensure buildings do not unreasonably overshadow existing secluded private open space.	Yes	See report.	
A15 Overlooking Limit views into existing secluded private open space and habitable room windows	Yes	See report.	
A16 Daylight to New Windows Allows adequate daylight into new habitable room windows.	Yes	N/A	
A17 Private Open Space Provide adequate private open space for the recreation and service needs of residents.	Yes	Minimum: 40 square metres with 25 square metres secluded Proposed: 70.4 square metres total 53 square metres, secluded	
A18 Solar Access to Open Space Allow solar access into secluded private open space of a new dwelling.	Yes	N/A	
A19 Design Detail	Yes	See report.	

Encourage design detail that respects the existing or preferred neighbourhood character.		
A20 Front Fences Encourage front fence design that respects the existing or preferred neighbourhood character.	Yes	Maximum Height: 1.2 metres Proposed Height: 1.2 metres

23-27 Church Street, Brighton
Notice of Decision to Grant a Permit
Application No.: 2009/0372/1 Ward: Northern

1.4

 City Strategy/Statutory Planning
 File No: 2009/0372/1

APPLICATION DETAILS

Land/Address:	23-27 Church Street, Brighton
Application is for:	Internally Illuminated Business Identification Signage in a Business 1 Zone
Melway Reference:	67 E11
Ward:	Northern
Application Number:	2009/0372/1
Applicant's/Owner's Name:	PHD Retail Pty Ltd
Date Received:	31 July 2009
Statutory Days Expiry:	7 November 2009
Zone:	Business 1 Zone
Overlays:	None
Under what clause(s) is a permit required?	52.05-7 – Business Identification Signage in a Business Area
Restrictive covenants on the title?	No
Current use and development:	A restaurant
Objections:	One (1)

PROPOSITION

It is recommended that a **Notice of Decision to Grant a Permit** be issued subject to conditions.

PROPOSAL

It is proposed to erect Business Identification Signs to the front of the subject site, facing Church Street. The signs are to be internally illuminated, and will have a total area of 9.275 square metres.

SUBJECT SITE & LOCALITY

An inspection of the site and the surrounding area has been undertaken.

The site has a total area of 543 square metres and currently contains:

- A restaurant

The main locality characteristics are:

- The subject site is within the Church Street Major Activity Centre
- To the north of the site, at 8 Black Street, is a double storey dwelling.
- To the east of the site, at 29 Church Street, is a single storey bookshop.
- To the south of the site, at 26 to 38 Church Street, are double storey shops and restaurants.
- To the west of the site, at 21 Church Street, is a single storey shop.

PERMIT/SITE HISTORY

Title and Covenants

The applicant has submitted a copy of title for the subject site, issued by the titles office on 29 July 2009. The title is not subject to any covenants or restrictions.

Background

The following planning applications have been determined for the subject site:

App. No.	Proposal	Determination	Date
2008/0076	Building and works, alterations to front facade to create alfresco area.	Granted	14 April 2008
2004/0362	Increase in patron numbers and reduction in car parking requirements	Refused Council – Granted VCAT	28 April 2005
2002/7327	Alterations to existing restaurant	Granted	3 June 2002
3477	Alterations to premises	Granted by VCAT	7 December 1990
2822	Advertising signage and changes to layout		21 December 1987
1405	Cabaret	Granted	24 February 1981
1190	Restaurant	Granted	Unknown

PUBLIC NOTIFICATION

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by:

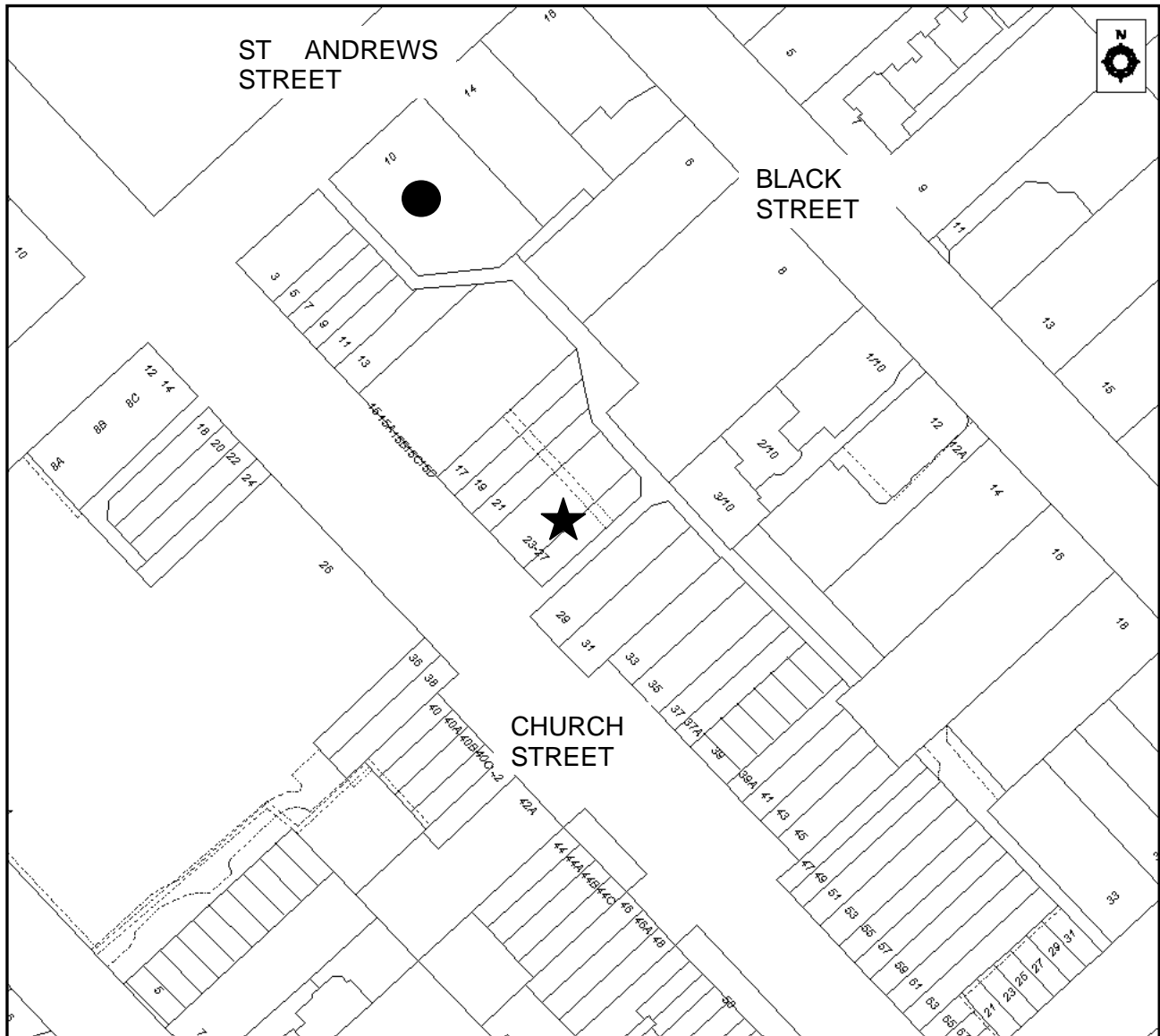
- Sending notices to the owners and occupiers of adjoining land
- Placing a sign on site

Council received a signed Statutory Declaration, stating that the sign was erected on the site on 23 September 2009 and that the sign was maintained in good order and condition for 14 days from that date.

The notification has been carried out correctly.

Council has received one (1) objection to date.

LOCALITY PLAN



Legend	
Subject Site	★
Objector	●

The key issues that were raised in the objections are:

- Size of signs
- Visual clutter
- Loss of amenity
- Increased traffic congestion
- Inconsistent with outdoor advertising theme of Church Street
- Light spill will adversely affect landscaping
- Visual pollutant

CONSULTATION

A consultation meeting was not held as it was considered unlikely that the objector's concerns could be addressed.

REFERRALS

None required

ASSESSMENT

State Planning Policy Framework

- **Clause 12 – Metropolitan Development** - Provides specific objectives and strategies for Metropolitan Melbourne.
- **Clause 17.01 – Activity Centres** - Encourages the concentration of major retail, commercial, administrative, entertainment and cultural developments into activity centres (including strip shopping centres) which provide a variety of land uses and are highly accessible to the community.
- **Clause 19 - Design and Built Form** - Encourages architectural and Urban Design outcomes that contribute positively to local Urban Character.

Local Planning Policy Framework

- **Clause 21.06 – Activity Centres** - Promotes sustainable development of shopping centres within a regional context, seeks to improve traffic circulation and the amenity of shopping centres, and to facilitate attractive well-designed centres that are in keeping with the neighbourhood character.
Clause 21.06-3 - Objective 3 - Aims to facilitate attractive well-designed centres that are in keeping with the neighbourhood character. The policy also promotes the incorporation of art and creative advertising in appropriate locations.

Zone

- **Clause 34.01 – Business 1 Zone** - Encourages the intensive development of business centres for retailing and other complementary commercial, entertainment and community uses.

Overlays

None

Particular and General Provisions

- **Clause 52.05 – Advertising signs** – Contains assessment criteria for signage.
- **Clause 65 – Decision Guidelines** – Details matters to be considered when determining a planning application.

SUMMARY OF KEY ISSUES

Below is a summary of relevant planning considerations and matters raised by objectors.

Clause 52.05 aims to regulate the display of signs and associated structures and to provide for signs that are compatible with the amenity and visual appearance of an area, including the existing or desired future character. Further objectives of Clause 52.05 aim to ensure signs do not contribute to excessive visual clutter or visual disorder and to ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.

Business Identification Signs

Pursuant to Clause 52.05 of the Bayside Planning Scheme, a planning permit is required to install Business Identification Signage greater than 8 square metres in area in a Business 1 Zone. The proposed signage area is 9.275 square metres. It is considered that, given the location of the subject site in an Activity Centre, and the commercial nature of the precinct, as well as the double frontage of the site, that the proposed signage will not have a detrimental impact upon the precinct.

The proposed signage is to be illuminated by internal LED panels. It is considered that the proposed illuminated signage will be modest, and will not create an unreasonable amount of light in the street, or to adjoining properties.

It is considered that the proposed signs identifying the business are appropriate and subject to a permit condition requiring the sign mounted on the face of the verandah to be reduced in size so that no part of the sign projects above the verandah roof, the signs will not contribute excessively to the existing signage in the activity centre and will not result in visual clutter or adversely affect the safety, appearance and efficiency of the centre which is characterised by a variety of signage types, colour and sizes which help to enliven the centre.

Matters Raised by Objector

Many of the issues raised by the objector revolve around amenity impacts of the illuminated signs. It is considered that the proposed signs will not have an adverse impact upon amenity in the streetscape. The signs are to be LED displays, which will not emit an excessive amount of light.

CONCLUSION

It is recommended that a planning permit be issued, subject to conditions.

RECOMMENDATION

That Council having caused notice of Planning Application No. **2009/0372/1** to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of the land known and described as **23-27 Church Street, Brighton**, for the **Internally Illuminated Business Identification Signage in a Business 1 Zone** in accordance with the application dated 31 July 2009, subject to the following conditions, including the specified conditions set out in the Council's "Town Planning Standard Conditions" adopted by the Council on 28 November 2006:-

1. Before the signs are erected, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a) The sign proposed to be mounted on the face of the verandah to be reduced in size so that no part of the sign projects above the roof (top) of the verandah.
 - b) The total area of signage must be reduced from the proposed 9.25 square metres to 8.25 square metres.
2. AS1 Signs not altered
3. AS2 No flashing lights
4. AS4 Light emissions
5. AS5 Illumination during specified hours
6. AS6 Sign Maintenance
7. AS7 Removal of existing signs
8. AS8 Expiry date
9. PT1 Time for starting and completion

Permit Notes

- N2 Building approval
- N5 No further signs
- N10 Asset Protection

1.5 **12 Lonsdale Street, Hampton East**
Secondary Consent - Approve
Application No: 2007/0738/1 Ward: Central

City Strategy/Statutory Planning
 File No: 2007/0738/1

APPLICATION DETAILS

Land/Address:	12 Lonsdale Street, Hampton East
Application is for:	Secondary consent – Amended plans
Melway Reference:	77 B6
Ward:	Central
Application Number:	2007/0738/1
Applicant's/Owner's Name:	Rohan Murley
Date Received:	20 November 2009
Statutory Days Expiry:	20 December 2009
Zoning:	Residential 1
Overlays:	Design and Development Overlay Schedule 2

PROPOSITION

It is recommended that the applicant's request to amend the endorsed plans under the provision of Secondary Consent be **approved**.

PROPOSAL

The applicant has applied pursuant to the Secondary Consent provision afforded by Condition 2 of Planning Permit No. 2007/0738/1, issued for the construction of two (2) double storey attached dwellings for the following changes to the endorsed plans:

- Addition of a roof to the proposed deck to Dwelling 2.
- Addition of a roofed landing adjacent to laundry entry to Dwelling 2.
- A 1.5 metre high front gate to Dwelling 2.
- The clotheslines to be relocated.
- Lilydale topping to replace grass to the side of Dwelling 1.
- Water tanks to be relocated.

PERMIT/SITE HISTORY

Planning Permit 2007/0738/1 was issued on 23 July 2008 at the direction of VCAT for the construction of two (2) double storey attached dwellings.

Condition 1 plans were endorsed on 20 October 2008.

SUBJECT SITE & LOCALITY

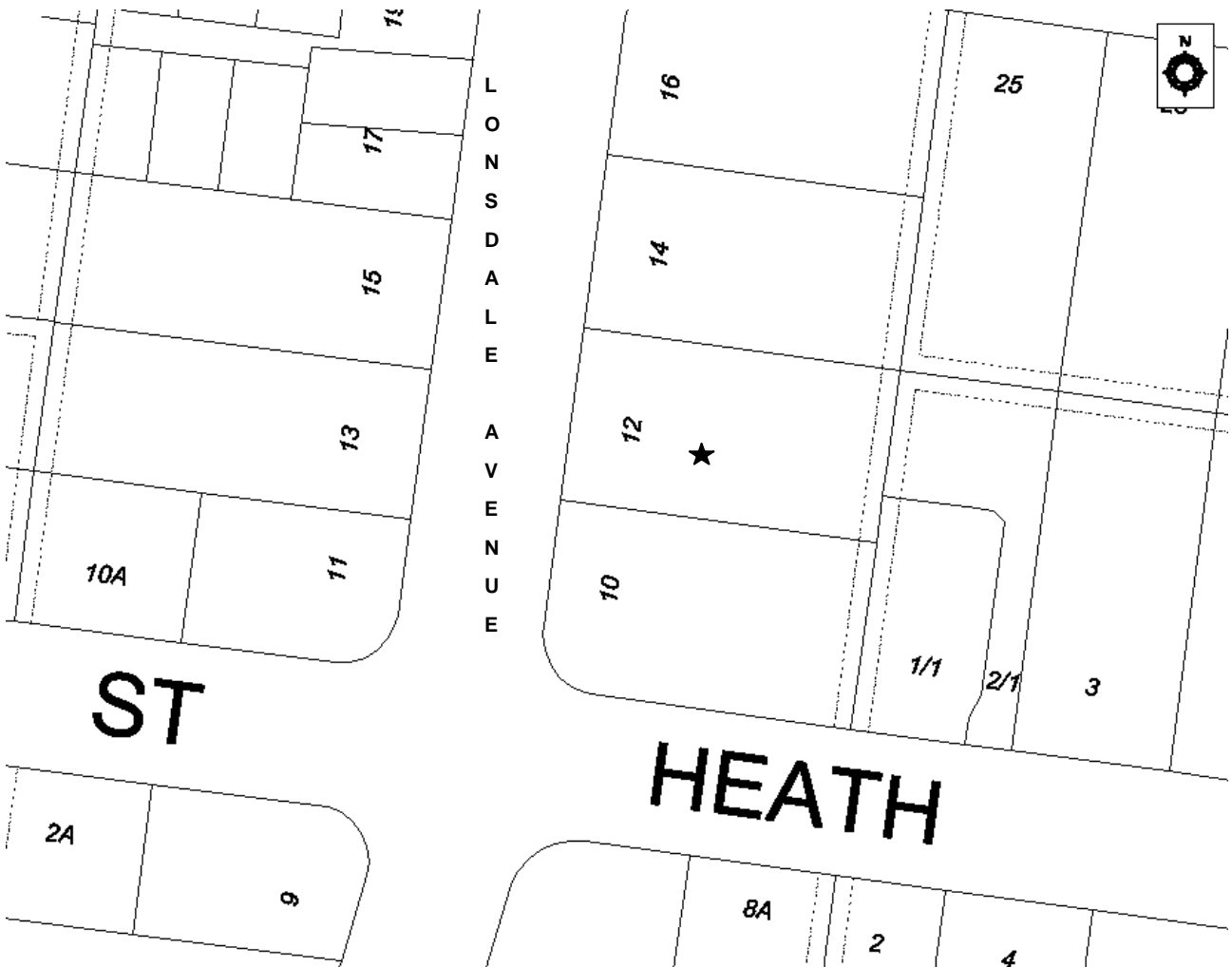
An inspection of the site and the surrounding area has been undertaken.

The site has a total area of 310 square metres and currently contains:

- A single storey dwelling.

The main site/locality characteristics are:

- The adjoining property to the north at 14 Lonsdale Street contains a single storey brick dwelling.
- The adjoining property to south at 10 Lonsdale Street contains a single storey brick dwelling.
- To the east (rear) of the site at 1 Heath Crescent contains two (2) dwellings. At the front of the site is a single storey brick dwelling and at the rear of the site is a double storey brick dwelling.
- To the west opposite the site are predominantly single storey dwellings.

LOCALITY MAP


Legend	
Subject Site	★

PUBLIC NOTIFICATION

Applications made under the provision of Secondary Consent are exempt from the notice requirements of Section 52(1)(a), (b) and (d) of the *Planning and Environment Act 1987*.

REFERRALS

External Referrals/Notices by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	N/A
Section 52 Notices	This application is exempt from the notice requirements of Section 52(1)(a), (b) and (d) of the <i>Planning and Environment Act 1987</i> .

ASSESSMENT

The applicant has applied under the Secondary Consent to amend the approved plans in accordance with Condition 2 of Planning Permit 2007/0738/1 which states:

The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

The principles, or tests, of Secondary Consent

The Victorian Civil and Administrative Tribunal have set out, on a number of occasions, the principles, or tests, of Secondary Consent (eg. *Westpoint Corporation PL v Moreland CC [2005]*).

The tests include the following:

- *The proposed amendment does not result in a transformation of the proposal.*
 The planning permit was issued for the construction of two (2) double storey attached dwellings. The proposed alterations are minor in nature and will not transform the existing permit.
- *The proposed amendment does not authorise something for which primary consent is required under the planning scheme.*
 The primary consent of the Planning Permit is for the construction of two (2) double storey attached dwellings. Given that the proposal is for minor amendments, it does not authorise something for which primary consent is required under the planning scheme.
- *The proposed amendment is of no consequence having regard to the purpose of the planning control under which the permit was granted.*

The purpose of the planning controls under which the original Planning Permit was granted is to ensure that the development accords with the standards and objectives of the Bayside Planning Scheme. The proposed amendments to the endorsed plans relates to minor changes and does not change the purpose of the permit. It is considered that the minor changes will not result in any detrimental amenity impact. The proposal is therefore considered satisfactory in the context of the provisions under which the original permit was granted.

The addition of the roof covering over the Dwelling 2 veranda will result in a 2.5% increase to the approved site coverage (from 48.01% to 50.51%).

It is considered that whilst the 50.51% site coverage does not accord with the preferred 50% site coverage requirement of the Bayside Planning Scheme Schedule to the Residential 1 Zone the increased site coverage is considered appropriate as it does not constitute an increase in the building footprint but an improvement to the outdoor residential amenity for the occupants of the dwelling and will not result in detriment to the neighbours.

- *The proposed amendment is not contrary to a specific requirement (or condition of the permit) as distinct from an authorisation within the permit, which itself cannot be altered by consent.*

There is no specific permit requirement or condition that the proposed amendment contravenes.

The proposed amendments are considered minor in nature and will not affect the amenity of the adjoining properties, and meet the 'tests' of Secondary Consent. It is considered that the proposed amendments are appropriate and are suitable for support.

CONCLUSION

It is considered that the proposed modifications are acceptable, and meet the above tests of Secondary Consent. It is therefore recommended that the amended plans be supported.

RECOMMENDATION

That the Amended Plans be **approved** by Council under the Secondary Consent provisions of **Planning Permit 2007/0738/1** issued for the construction of two (2) double storey attached dwellings, at the land known as 12 Lonsdale Avenue, Hampton East and the following table be added to the permit.

Date	Amendment
22 December 2009	Secondary Consent to Amend Plans: <ul style="list-style-type: none"> ➤ Addition of a roof to the proposed deck to Dwelling 2. ➤ Addition of a roofed landing adjacent to laundry entry to Dwelling 2. ➤ A 1.5 metre high front gate to Dwelling 2. ➤ The clotheslines to be relocated. ➤ Lilydale topping to replace grass to the side of Dwelling 1. ➤ Water tanks to be relocated.

1.6 **9 Deakin Street, Hampton**
Consent to end a Section 173 Agreement
Application No. 2000/6103/1 Ward: Central

City Strategy/Statutory Planning
 File No: 2000/6103/1

APPLICATION DETAILS

Land Address:	9 Deakin Street, Hampton
Application is for:	Removal of Section 173 Agreement from Certificate of Title Volume 06057 Folio 368
Melway Reference:	76 G6
Ward:	Central
Application Number:	2000/6103/1
Applicant's/Owner's Name:	Ms M F Foley & Mr A Foley
Date Received:	20 November 2009
Zoning:	Residential 1 Zone
Overlays:	None
Restrictive covenants on the title?	None
Current use and development:	Dwelling
Objections:	Not applicable

PROPOSITION

It is recommended that Council **Support** the ending of the Section 173 Agreement from Certificate of Title Volume 06057 Folio 368.

PROPOSAL

The property owner has sought Council's agreement to end a Section 173 Agreement from Certificate of Title Volume 06057 Folio 368, which restricts the existing car parking space from being enclosed by a carport, garage or any other built structure, at any time.

SUBJECT SITE & LOCALITY

An inspection of the site and the surrounding area has been undertaken.

The site has a total area of 772 square metres and currently contains:

- Double storey dwelling

The main site/locality characteristics are:

- The site abuts two (2) single storey dwellings, at 18 & 20 Thomas Street, and a medical centre, at 22 Thomas Street, to the north.
- The adjoining property to the south, at 7 Deakin Street, contains four (4) single storey dwellings fronting onto Deakin Street.

- The adjoining property to the west, at 8-16 Thomas Street, contains a Church fronting onto Thomas Street.
- The subject site fronts a double storey dwelling to the east across Deakin Street, at 36 Deakin Street.

PERMIT/SITE HISTORY

The history of the site includes:

- Council issued Planning Permit No. 2000/6103/1 on 2 May 2001 for the construction of an attic style dwelling to the rear of an existing double storey dwelling. This permit has not been acted upon and expired on 2 May 2003.

The planning permit included the requirement that a Section 173 Agreement be entered into.

PUBLIC NOTIFICATION

It was considered that the request did not require public notification, as the removal of the Section 173 agreement will not affect any other person.

CONSULTATION

Not applicable.

DISCUSSION

Pursuant to Section 177 of the *Planning and Environment Act 1987* (the 'Act') an Agreement under Section 173 of the 'Act' can be ended by the Responsible Authority with the approval of the Minister of Planning or the consent of all parties to the Agreement. The Registrar of Titles must be notified of Council's consent to end the Agreement in the prescribed Form (Form 19)

The owner of the subject site has requested Council's consent to end the Section 173 Agreement from Copy of Title Volume 06057 Folio 368.

Condition 2 of Planning Permit No. 2000/6103/1 required the applicant/owner to enter into a Section 173 Agreement to the effect that the parking space located to the front of the existing dwelling shall not be enclosed in the form of a carport, garage or any other built structure at any time in the future. As the planning permit expired on 2 May 2003 and the development has not been undertaken, it is considered that the Section 173 Agreement is no longer required.

CONCLUSION

The proposed ending of the Section 173 Agreement from certificate of title Volume 06057 Folio 368 is appropriate as the agreement is no longer required as planning permit 2000/6103/1 expired on 2 May 2003 and has not been acted upon.

RECOMMENDATION

That Council consents to the request to end the Section 173 Agreement from Certificate of Title Volume 06057 Folio 368 known as 9 Deakin Street, Hampton

1.7 **2-4 Cochrane Street, Brighton & 1-6/32 Outer Crescent, Brighton**
Secondary Consent - Approve
Application No. 2003/0979/1 Ward: Northern

City Strategy/Statutory Planning
 File No: 2003/0979/1

APPLICATION DETAILS

Land/Address:	2-4 Cochrane Street, Brighton and 1-6/32 Outer Crescent, Brighton
Application is for:	Secondary Consent – Amended plans
Melway Reference:	67 E9
Ward:	Northern
Application Number:	2003/0979/1
Applicant's/Owner's Name:	SJB Planning
Date Received:	27 November 2009
Statutory Days Expiry:	27 December 2009
Zoning:	Residential 1 Zone
Overlays:	Special Building Overlay Design and Development Overlay Schedule 2
Restrictive covenants on the title?	No
Current use and development:	Construction site with building works nearing completion for the approved four (4) storey building and basement car parking.

PROPOSITION

It is recommended that Council approve the proposed changes under secondary consent.

PROPOSAL

The applicant has applied to amend the approved plans pursuant to the Secondary Consent provision afforded by Condition 2 of Planning Permit No. 2003/0979/1 which was issued for the construction of a four storey building with fifteen (15) apartments and basement car parking in a Special Building Overlay.

The request for secondary consent seeks council approval for the following amendments to the endorsed plans:

- To construct a decorative pergola (architectural feature) that will frame the upper levels of the building facade.

SUBJECT SITE & LOCALITY

An inspection of the site and the surrounding area has been undertaken.

The subject site is irregular in shape. It has a frontage of approximately 41.6 metres to the north side of Outer Crescent, a frontage of 26.01 metres to the east side of Cochrane Street, a depth of 35.28 metres from Outer Crescent and a total area of 1,306.9 square metres and currently contains:

- A four storey apartment building under construction.

The main site/locality characteristics are:

- To the north of the site is the 'back of shops' fronting on to the Bay Street Activity Centre.
- To the west of the site is a church building.
- To the south of the site is the playing field of Firbank Grammar.
- To the east of the site is a commercial building at 182 Bay Street.

LOCALITY PLAN – 2-4 COCHRANE STREET, BRIGHTON &
1-6/ 32 OUTER CRESCENT, BRIGHTON



 SUBJECT SITE

PERMIT/SITE HISTORY

The history of the site includes:

- Planning Permit 2003/0979/1 refused by Council and permit issued by VCAT on 21 July 2004.
- Extension of time issued on 29 May 2007.
- Extension of time issued on 21 May 2008.
- Secondary Consent issued on 3 November 2008 for the following changes to the plans:
 - Reconfiguration of the internal layout of apartments and private open spaces.
 - Increase in overall height of the building from 12.375m to 12.709m.
 - Construction of decorative framing encasing the top two floors and minor changes to the building envelope.
 - Modifications to the materials and finishes of the building.
 - Modifications to the fenestration of the building.

PUBLIC NOTIFICATION

Applications made under the provision of Secondary Consent are exempt from the notice requirements of Section 52(1)(a), (b) and (d) of the *Planning and Environment Act 1987*.

REFERRALS

External Referrals/Notices by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	Not applicable.
Section 52 Notices	This application is exempt from the notice requirements of Section 52(1)(a), (b) and (d) of the <i>Planning and Environment Act 1987</i> .

ASSESSMENT

The application to amend the plans is a result of a change of architects supervising the construction and design details of the building. The current project architect has reviewed the progress of the design 'built form' in its current stage of construction and has identified a potential to improve the building's streetscape presentation.

The secondary consent application does not propose to increase the net floor area of the building (as approved) but to add character and architectural elements that will create a visually interesting three dimensional feature that will effectively 'break up' the mass and improve the appearance of the building.

The application for secondary consent consideration was referred to Council's Urban Designer who did not object to the proposed changes and considered that the changes were an improvement on the design approved by VCAT.

The principles, or tests, of Secondary Consent

The Victorian Civil and Administrative Tribunal have set out, on a number of occasions, the principles, or tests, of Secondary Consent (eg. *Westpoint Corporation PL v Moreland CC [2005]*).

The tests include the following:

- *The proposed amendment does not result in a transformation of the proposal.*

The planning permit was issued for the construction of a four storey apartment building. The proposed alterations are minor changes to the design elements that will not alter what was previously approved, it will not result in the transformation of the proposal.

- *The proposed amendment does not authorise something for which primary consent is required under the planning scheme.*

The primary consent of the Planning Permit is for the construction of a four storey apartment building. Given that the proposal is for minor amendments to the façade treatment of the building (along the Cochrane Street and Outer Crescent interfaces), the proposed changes do not authorise something for which primary consent is required under the planning scheme.

- *The proposed amendment is of no consequence having regard to the purpose of the planning control under which the permit was granted.*

The purpose of the planning controls under which the original Planning Permit was granted provide the tools with which to assess the proposed buildings and works, the design response within the context of the site and compliance with the standards and objectives of the Bayside Planning Scheme.

The proposed amendments to the approved plans relate to the addition of an architectural frame to the facade of the approved built form. It does not contravene any planning control.

- *The proposed amendment is not contrary to a specific requirement (or condition of the permit) as distinct from an authorisation within the permit, which itself cannot be altered by consent.*

The proposed amendments to the plans are considered minor in nature and are not contrary to any planning permit requirement.

CONCLUSION

It is considered that the proposed changes will not result in detrimental impact upon the amenity of the adjoining properties and will not result in detriment to the streetscape. The proposed 'frame' will improve the design of the building by adding visual interest in the form of light weight three dimensional articulation that will reduce the potential for visual bulk.

It is therefore considered that the application for secondary consent to amend the approved plans meets the 'tests' of Secondary Consent and is appropriate for support.

RECOMMENDATION

That Council in regard to the application for Secondary Consent to amend the plans endorsed under Planning Permit 2003/0797/1 for the land at 2-4 Cochrane Street, Brighton and 32 Outer Crescent, Brighton for the construction of a four storey building with fifteen (15) apartments and basement car parking in a Special Building Overlay resolves to:

- Approve the proposed changes listed below under secondary consent and that the permit be updated to record the list of changes considered under secondary consent (refer to table below) and that the relevant plans be endorsed.

Date	Amendment
24 November 2009	Secondary Consent to Amend Plans: <ul style="list-style-type: none">• Construct an architectural feature surrounding the built form to the façade of the building

1.8 **7 Thomas Street, Brighton East**
Secondary Consent - Approve
Application No: 2006/793/2 Ward: Northern

City Strategy/Statutory Planning
 File No: 2006/793/2

APPLICATION DETAILS

Land/Address:	7 Thomas Street, Brighton East
Application is for:	Secondary Consent – Amended Plans
Melway Reference:	77A1
Ward:	Northern
Application Number:	2006/793/1
Applicant's/Owner's Name:	Pickwick Design
Date Received:	28 September 2009 Revised plans submitted 26 November 2009
Statutory Days Expiry:	26 December 2009
Zoning:	Residential 1
Overlays:	Design and Development Overlay Schedule 2
Restrictive covenants on the title?	No
Current use and development:	Construction has commenced for the development of two (2) double storey dwellings and one (1) single storey dwelling

PROPOSITION

It is recommended that the applicant's request to amend the endorsed plans under the provision of Secondary Consent be **approved**.

PROPOSAL

The applicant has applied pursuant to the Secondary Consent provision by condition 2 of Planning Permit 2006/0793/1 to amend the plans by including the following changes to the endorsed plans:

- Timber decks within the rear private open spaces areas for Dwellings 1 and 2.
- Decks are proposed to replace areas of paving as shown on the approved permit plans. The decks will be raised 500mm with 2 steps above natural ground level to account for the change in levels between the finished floor level of the dwelling and the natural ground level.

PERMIT/SITE HISTORY

On 22 August 2007, Council issued Planning Permit 2006/0793/2 at the direction of VCAT for the construction of two (2) double storey dwellings and one (1) single storey dwelling.

On 12 December 2007 condition 1 plans were endorsed by Council.

On 25 February 2008 amended plans to reduce the first floor setbacks and to add a tree protection note on the plans were approved.

On 8 December 2008 amended plans under secondary consent to increase the ground floor rear setback to Dwelling 3 were approved.

Revised plans were submitted to Council on the 26 November 2009 showing details of the proposed decks.

SUBJECT SITE & LOCALITY

An inspection of the site and the surrounding area has been undertaken.

The site has a total area of 982 square metres and currently contains:

- Two (2) double storey dwellings and one (1) single storey dwelling.

The main site/locality characteristics are:

- The site is rectangular and has a frontage to Thomas Street of 17.98 metres.
 - The site has a depth of 55.32 metres.
 - To the north of the site is a semi attached single storey brick dwelling at 9 Thomas Street.
 - To the south of the site are two (2) single storey dwellings at 5 Thomas Street.
 - Opposite the site to the east is the Classic Brighton Retirement Village.
 - To the west of the site at 2 Montgomery Street is a multi unit development containing six (6) dwellings.
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LOCALITY MAP



Subject land	★
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PUBLIC NOTIFICATION

Applications made under the provision of Secondary Consent are exempt from the notice requirements of Section 52(1)(a), (b) and (d) of the *Planning and Environment Act 1987*.

REFERRALS

External Referrals/Notices by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	Not applicable.
Section 52 Notices	This application is exempt from the notice requirements of Section 52(1)(a), (b) and (d) of the <i>Planning and Environment Act 1987</i> .

ASSESSMENT

Condition 2 of Planning Permit 2006/0793/1 which states:

The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

The principles, or tests, of Secondary Consent

The Victorian Civil and Administrative Tribunal have set out, on a number of occasions, the principles, or tests, of Secondary Consent (eg. *Westpoint Corporation PL v Moreland CC [2005]*).

The tests include the following:

- *The proposed amendment does not result in a transformation of the proposal.*

The planning permit was issued for the construction of two (2) double storey dwellings and one (1) single storey dwelling. The proposed alterations are minor in nature and have not altered what was previously approved.

- *The proposed amendment does not authorise something for which primary consent is required under the planning scheme.*

The primary consent of the Planning Permit is for the construction of two (2) double storey attached dwellings and one (1) single storey dwelling. Given that the proposal is for minor amendments to the plans, it does not authorise something for which primary consent is required under the planning scheme.

- *The proposed amendment is of no consequence having regard to the purpose of the planning control under which the permit was granted.*

The purpose of the planning controls under which the original Planning Permit was granted is to ensure that the development accords with the standards and objectives of the Bayside Planning Scheme. The proposed amendments to the endorsed plans relate to minor changes to the plans and do not change the purpose of the permit.

It is considered that the minor changes will not result in any unreasonable overlooking to the adjoining properties. The property to the north has a driveway with a series of non-habitable rooms (kitchen and laundry) with obscure highlight windows adjacent to the proposed deck areas. The proposed decks will be setback 4.0 metres from the north title boundary and will match the finished floor levels the approved dwellings.

The proposal is therefore considered satisfactory in the context of the provisions under which the original permit was granted and will not result in any unreasonable amenity impacts to the neighbours.

- *The proposed amendment is not contrary to a specific requirement (or condition of the permit) as distinct from an authorisation within the permit, which itself cannot be altered by consent.*

There is no specific permit requirement or condition that the proposed amendment contravenes.

The proposed changes are considered minor in nature and will not affect the amenity of the adjoining properties, and meet the 'tests' of Secondary Consent. It is considered that the proposed amendments are appropriate and are suitable for support.

CONCLUSION

It is considered that the proposed modifications are acceptable, and meet the tests of Secondary Consent. It is therefore recommended that the amended plans be approved.

RECOMMENDATION

That the Amended Plans for the alterations to the landscape plan to include decks, be **approved** by Council under the Secondary Consent provisions of **Planning Permit 2006/0793/1** issued for the construction of two (2) double storey dwellings and one (1) single storey dwelling, at the land known as 7 Thomas Street, Brighton East and the following table be added to the permit.

Date	Amendment
22 December 2009	Secondary Consent to Amend Plans: <ul style="list-style-type: none"><li data-bbox="512 860 1380 987">➤ Timber decks within the private open spaces areas Dwellings 1 and 2. The decks are proposed to be 500mm above natural ground level to match the finished floor level of the proposed dwellings.

1.9 **3 Male Street, Brighton**
Secondary Consent - Approve
Application No. 2008/0310/1 Ward: Northern

City Strategy/Statutory Planning
 File No: 2008/0310/1

APPLICATION DETAILS

Land/Address:	3 Male Street, Brighton
Application is for:	Secondary Consent – Amended Plans
Melway Reference:	67 E12
Ward:	Northern
Application Number:	2008/0310/1
Applicant's/Owner's Name:	A Quinert
Date Received:	10 December 2009
Statutory Days Expiry:	9 January 2010
Zoning:	Business 2 Zone
Overlays:	None
Restrictive covenants on the title?	No
Current use and development:	Four (4) storey building comprising shops, offices and serviced apartments.

PROPOSITION

It is recommended that the applicant's request to amend the endorsed plans under the provision of Secondary Consent be **approved**.

PROPOSAL

On 18 August 2005 VCAT issued Planning Permit No 2004/0804/1 for the development and use of a four (4) storey building for offices and serviced apartments with basement car parking and a reduction in car parking requirements.

On 7 April 2009 VCAT issued Planning Permit No 2008/0310/1 for the development of two dwellings above an existing four storey building. These additional dwellings created a five storey development.

The applicant has applied pursuant to the Secondary Consent provision afforded by Condition 2 of Planning Permit No. 2008/0310/1 for the following amendments to the endorsed plans:

- Internal rearrangement of the two (2) apartments.
- Setback from the north-east boundary (north) reduced from 7.90 metres to 6.22 metres.
- Setback from the north-east boundary (east) increased from 8.56 metres to 10.05 metres.
- Installation of spa's and louvred screens to the south-west of dwelling 401 and north of dwelling 402.
- Other minor internal alterations.

SUBJECT SITE & LOCALITY

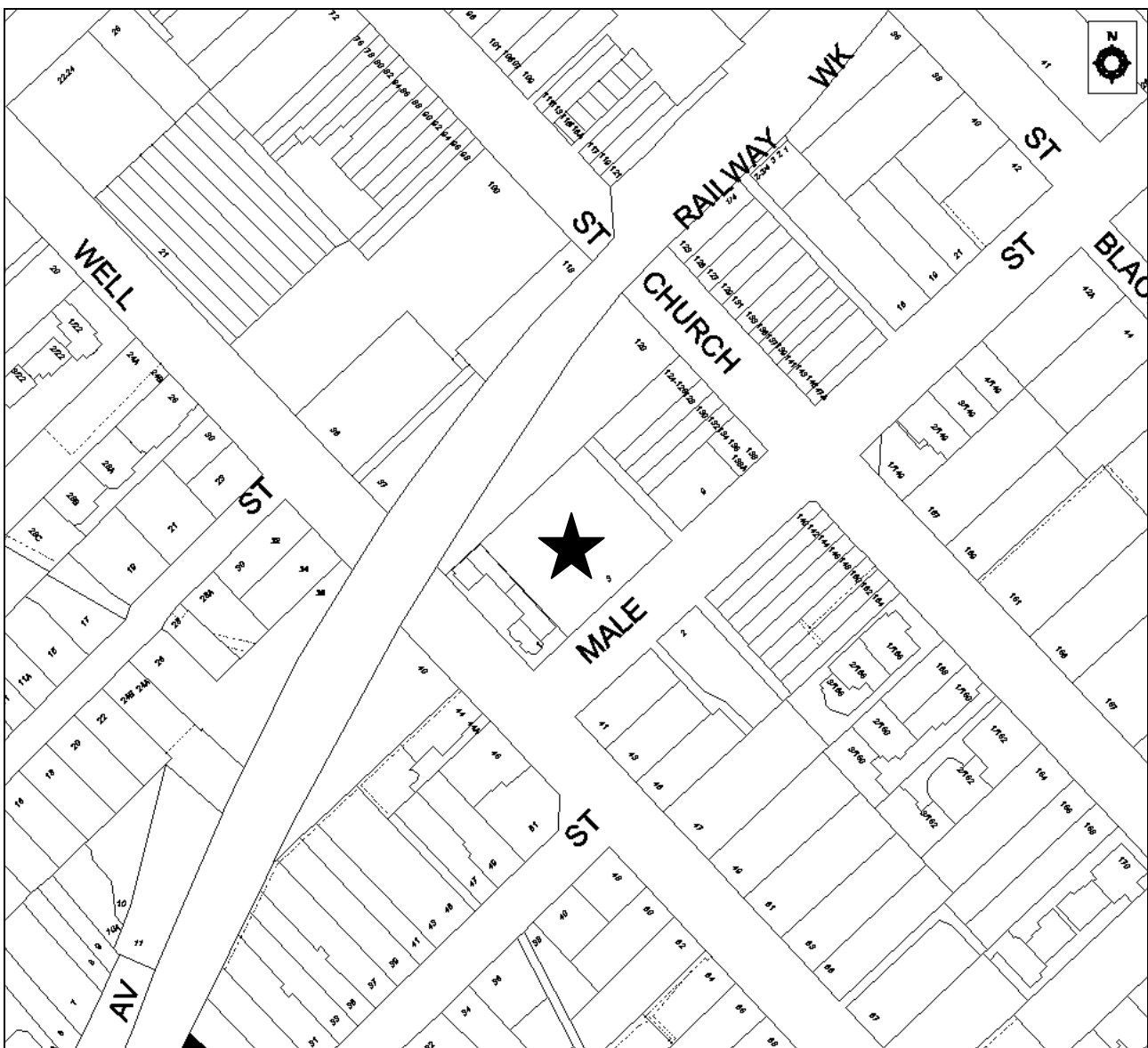
An inspection of the site and the surrounding area has been undertaken.

The site is located on the outskirts of the Church Street Activity Centre, adjacent to commercial development and opposite low scale ‘single storey’ residential development. The site is located on the north-western side of Male Street, close to the Well Street and Male Street T-intersection.

The site has a total area of 1,801 square metres and currently contains:

- A four (4) storey building comprising shops, offices and serviced apartments. The approved (Planning Permit 2008/0310/1) fifth storey, which contains two (2) additional dwellings is yet to be constructed.

LOCALITY PLAN – 3 MALE STREET, BRIGHTON



The main site/locality characteristics are:

- The north-east boundary of the site abuts the rear service areas of shops and commercial developments fronting onto Church Street. The site's immediate abuttal (9 Male Street) contains a 'Tuscan' style double storey warehouse and beyond this the Church Street shops which comprise of single, double and the occasional three-storey building.
- The opposite side of Male Street, (south-east) contains single storey dwellings with double storey commercial buildings fronting on to Church Street to the east of these.
- Abutting the west (south-west) boundary of the site is a double storey commercial development (1 Male Street) and beyond this (across Well Street) there are single and double storey dwellings.
- The rear boundary of the site (north-west) abuts 181 Church Street and beyond this is the Sandringham Rail line. Further east is 37 Well Street, a single storey building which abuts the Safeway car park.

PERMIT/SITE HISTORY

The history of the site includes:

- On 18 August 2005, Planning Permit 2004/0804/1 was issued at the direction of the *Victorian Civil and Administrative Tribunal* for the use and development of a 4 storey building for offices and serviced apartments with basement parking.
- On 9 July 2007, Planning Permit 2007/0317/1 was issued under delegation for the use of part of the site (Lot 16) for a medical centre (cardiologist) for 4 practitioners and car parking waiver.
- On 12 November 2007, Planning Permit 2007/3549/1 was issued under delegation to subdivide the site into 80 lots (staged) generally in accordance with the development approved under Planning Permit 2004/0804/1.
- On 7 April 2009, Planning Permit 2008/0310/1 was issued at the direction of the *Victorian Civil and Administrative Tribunal* for the construction of two (2) additional apartments above an existing four (4) storey building.
- On 26 August 2009, Planning Permit 2009/0244/1 was issued under delegation for use of part of the site (Suite 1G) for a food and drink premises (cafe) and reduction in car parking.

PUBLIC NOTIFICATION

Applications made under the provision of Secondary Consent are exempt from the notice requirements of Section 52(1)(a), (b) and (d) of the *Planning and Environment Act 1987*.

SUMMARY OF KEY ISSUES

The applicant has applied under the Secondary Consent provisions afforded by Condition 2 of Planning Permit 2008/0310/1 to amend the endorsed plans.

The principles, or tests, of Secondary Consent

The Victorian Civil and Administrative Tribunal have set out, on a number of occasions, the principles, or tests, of Secondary Consent (eg. *Westpoint Corporation PL v Moreland CC [2005]*).

The proposed amendment does not result in a transformation of the proposal.

The request for changes to the endorsed plans includes primarily internal rearrangement of the approved dwellings with some minor alterations to the setback from the north-eastern boundary, and the undertaking of works that do not require a Planning Permit (installation of spa's and screening). The proposal will maintain the scale of the approved fifth floor addition above the existing building that is for the most part not visible from the street. On this basis, the proposed amendments are not considered to constitute a transformation of the original proposal.

The proposed amendment does not authorise something for which primary consent is required under the planning scheme.

The primary consent of the Planning Permit is for the construction two (2) additional dwellings above an existing four (4) storey building, in accordance with the endorsed plans. This does not change as a result of the proposal. Further, the amendments do not propose any additional buildings and works for which primary consent is required under the Bayside Planning Scheme.

The proposed amendment is of no consequence having regard to the purpose of the planning control under which the permit was granted.

The purpose of the planning controls under which the original Planning Permit was granted is to ensure that the construction of two (2) additional dwellings above an existing four (4) storey building accords with the standards and objectives of the Bayside Planning Scheme. Given that the proposed amendment relates to the internal rearrangement of the dwellings (including minor alterations to the setbacks) and the undertaking of works not requiring a Planning Permit, the proposal is considered to be of no consequence with regard to the provisions of the Business 1 Zone in which the Permit was granted. The scale of the approved fifth storey will be maintained with no discernible change to the height and mass of the approved built form and it is considered that no detriment will result from the proposed amendments.

The proposed amendment is not contrary to a specific requirement (or condition of the permit) as distinct from an authorisation within the permit, which itself cannot be altered by consent.

Condition 1(d) of the Planning Permit states that the plans must show *modifications to proposed Unit 2 in accordance with the plan called "Alternative Floor Plan" and marked with the letter "A" attached to these conditions [VCAT Order]*. The proposed amended plans are consistent with the modifications outlined in the VCAT Order. There are no further conditions within the Planning Permit that prohibit the proposed amendments.

CONCLUSION

It is considered that the proposed amendments to the internal layout, alterations to the setbacks from the north-eastern boundary, and the undertaking of buildings and works (such as the inclusion of spas) which are normally exempt from requiring a planning permit under the Bayside Planning Scheme, are appropriate, and meet the above tests of Secondary Consent. It is therefore recommended that the amended plans be supported.

RECOMMENDATION

That the Amended Plans for the internal rearrangement of the two (2) approved dwellings, and the undertaking of buildings and works to construct a spa, screening and the like, be **approved** by Council under the Secondary Consent provisions of **Planning Permit 2008/0310/1** issued for the use of land at **3 Male Street, Brighton**, for the purpose of the construction of two (2) dwellings above an existing four (4) storey building.

Date	Notes
22 December 2009	Amendment under Secondary Consent: <ul style="list-style-type: none">• Internal rearrangement of the two (2) dwellings.• Setback from the northeast boundary (north) reduced from 7.90 metres to 6.22 metres.• Setback from the northeast boundary (east) increased from 8.56 metres to 10.05 metres.• Installation of spa's and louvred screens to the southwest of dwelling 401 and north of dwelling 402.

1.10 **11 – 13 Well Street, Brighton**
Secondary Consent - Approve
Application No. 2007/0006/1 Ward: Northern

City Strategy/Statutory Planning
 File No: 2007/0006/1

APPLICATION DETAILS

Land/Address:	11 – 13 Well Street Brighton
Application is for:	Secondary Consent – Amendment to plans
Melway Reference:	67 D11
Ward:	North
Application Number:	2007/0006/1
Applicant's/Owner's Name:	Keen Planning
Date Application Received:	28 August 2009 and revised 10 December 2009
Statutory Days Expiry:	9 January 2010
Zoning:	Residential 1 Zone
Overlays:	None
Restrictive covenants on the title?	No
Current use and development:	Multi-unit development of 15 dwellings under construction

PROPOSITION

It is recommended that Council approve the proposed changes under secondary consent.

PROPOSAL

As directed by VCAT, Council issued Planning Permit No. 2007/0006/1 on 11 September 2007 for the construction of a three storey building containing 15 dwellings with basement car parking.

On 28 August 2009, the applicant applied to amend the plans pursuant to the secondary consent provision afforded by Condition 2 of Planning Permit No. 2007/0006/1 which states:

'The development on the endorsed plans must not be altered without the written consent of the Responsible Authority.'

The amended plans received 10 December 2009 form the basis for consideration. The following changes are proposed:

Basement:

- Rearrangement of the bin storage area, dwelling storage facilities and two car spaces.
- Minor changes to the location of services and utilities including inclusion of utilities meters with protective balustrade, deletion of basement toilet, and changes to air ducts and stairwell widths.
- The basement changes are retrospective.

Second floor:

Dwelling 14:

- Existing first floor roofed area to be utilised as a balcony for Apartment 14 which is located on the second floor facing northeast.

The proposed balcony is to measure 1.5 metres deep by 9.8 metres in length is at the rear of the site and oriented towards the car park which is located at the rear of the commercial properties fronting Church Street.

SUBJECT SITE & LOCALITY

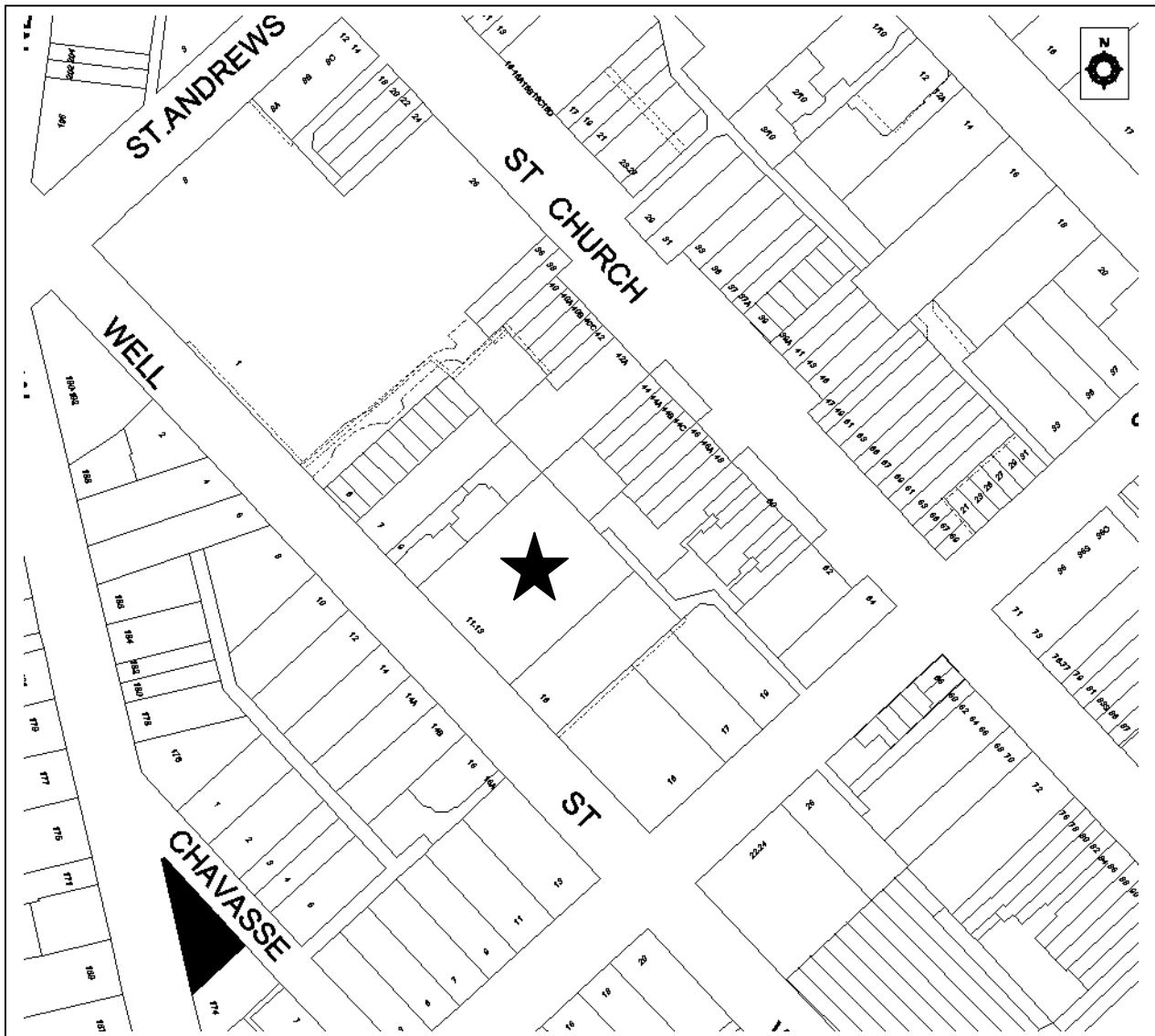
An inspection of the site and the surrounding area has been undertaken.

The site has a total area of 2,025 square metres. The site is currently under construction for 15 dwellings acting on Planning Permit No. 2007/0006/1.

The main site/locality characteristics are:

- The adjoining property to the west at 9 Well Street contains a three unit development, comprising of a double storey dwelling to the front and two (2) single storey dwellings to the rear.
- The adjoining property to the east at 15 Well Street contains a single storey dwelling and an outbuilding located along the common boundary at the rear of the site.
- To the north along the rear boundary is a Right of Way, an open car park and the rear of commercial tenancies fronting Church Street.
- To the south of the site across Well Street are dwellings of varying styles and scale.

LOCALITY MAP

**PERMIT/SITE HISTORY**

As directed by VCAT, Council issued Planning Permit No. 2007/0006/1 on 11 September 2007 for a three storey building containing 15 dwellings with basement car parking.

On 1 September 2008, Council approved a request for an amendment under secondary consent for internal reconfiguration of Dwelling 15 and associated relocation of the dwelling windows.

PUBLIC NOTIFICATION

Applications made under the provision of Secondary Consent are exempt from the notice requirements of Section 52(1)(a), (b) and (d) of the *Planning and Environment Act 1987*.

REFERRALS

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	Not applicable.
Section 52 Notices	This application is exempt from the notice requirements of Section 52(1)(a), (b) and (d) of the <i>Planning and Environment Act 1987</i> .
Traffic	No objection to the proposed changes to the basement.

ASSESSMENT
The principles, or tests, of Secondary Consent

The Victorian Civil and Administrative Tribunal have set out, on a number of occasions, the principles, or tests, of Secondary Consent (eg. *Westpoint Corporation PL v Moreland CC [2005]*).

The tests include the following:

- *The proposed amendment does not result in a transformation of the proposal.*
 The proposed changes do not significantly change the appearance of the development or result in an overall increase to the building envelope. The proposed changes are minor and do not alter the layout of the development, therefore the proposed amendment does not result in a transformation of the proposal.
- *The proposed amendment does not authorise something for which primary consent is required under the planning scheme.*

The proposed changes do not alter the primary consent of the planning permit. The permit will remain as approved for the construction of a 15 dwelling multi-unit development with basement carparking. The proposed amendment to use the existing roofed area for a small balcony does not increase the building envelope and therefore is not considered to be an extension to the dwelling. The minor changes to the basement to rearrange two storage areas and two car spaces are intended to make more efficient and logical use of this area. The proposed changes are like for like rearrangements that do not alter the car parking provision, the number of storage facilities, or the access to and within the car park.

These are considered to be minor change to the approved plan only and do not require primary consent under the provision of the planning scheme.

- *The proposed amendment is of no consequence having regard to the purpose of the planning control under which the permit was granted.*

The purposes of the relevant planning control, Clause 55 of the Bayside Planning Scheme which the original permit was granted, is to achieve residential development that respects the existing neighbourhood character or which contributes to a preferred neighbourhood character, and to encourage residential development that provides reasonable standards of amenity for existing and new residents.

It is considered that the proposed amendment complies with the Clause 55 of the Scheme. The changes to accommodate a balcony will not result in any increase to the building envelope, and will slightly increase the parapet to form a balustrade. This is a minor change that will not be a perceptible change to the built form when viewed from surrounding properties. The additional balcony will improve the amount of private open space for Dwelling 14 and thereby improve the internal amenity of the two bedroom plus study dwelling. The design of the balcony incorporates wider planter boxes at each end to reflect

the design of the existing west-facing balcony, thereby preventing direct views to the adjoining dwelling and its habitable room windows to the west and complies with Standard B22 of Clause 55 of the Scheme. The applicant has further presented photographs from this vantage point to confirm that there will be no unreasonable overlooking to adjoining properties. The new balcony is to be located above an existing balcony on the first floor. Views from the proposed balcony into the balcony and private open space below are minimal and not inconsistent with those expected in apartment style developments and complies with Standard B23 of Clause 55 of the Scheme.

The rearrangement of the basement does not alter the car parking provision, the number of storage facilities, or the access to and within the basement car park. Council's Traffic Engineer considers the changes to be an improvement over the original approval and supports the proposed amendment. The changes to the basement comply with Standard 15 and Standard B16 of Clause 55 to achieve efficient use and management of car parking arrangements.

- o *The proposed amendment is not contrary to a specific requirement (or condition of the permit) as distinct from an authorisation within the permit, which itself cannot be altered by consent.*

The proposed amendment does not contravene any specific requirement/condition of the permit or alter the preamble to the permit.

CONCLUSION

The proposed amendments to the approved plans are considered minor in nature and will not adversely affect the amenity of the adjoining properties, meet the 'tests' of secondary consent and remain in accordance with the requirements of the Bayside Planning Scheme. It is considered that the proposed amendments are appropriate and are recommended for support.

RECOMMENDATION

That the amended plans for the changes to the basement and second floor be **approved** by Council under the Secondary Consent provisions of **Planning Permit 2007/0006/1** issued for a three storey building containing 15 dwellings with basement car parking at **11 - 13 Well Street Brighton** and the following table be added to the permit.

Date	Amendment
22 December 2009	Secondary Consent to Amend Plans: <u>Basement:</u> <ul style="list-style-type: none"> • Rearrangement of the bin storage area, dwelling storage facilities and two car spaces. • Minor changes to services and utilities including protective balustrades to utilities meters. <u>Second floor:</u> Dwelling 14: <ul style="list-style-type: none"> • Existing first floor roofed area to be utilised as a northeast facing balcony to second floor.

1.11 **144 Weatherall Road, Cheltenham**
Secondary Consent - Approve
Application No: 2006/584/1 Ward: Southern

City Strategy/Statutory Planning
 File No: 2006/584/1

APPLICATION DETAILS

Land/Address:	144 Weatherall Road, Cheltenham
Application is for:	Secondary Consent – Amended Plans
Melway Reference:	86 G3
Ward:	Southern
Application Number:	2006/584/1
Applicant's/Owner's Name:	Jim Baltas
Date Received:	26 October 2009
Statutory Days Expiry:	26 November 2009
Zoning:	Residential 1
Overlays:	Design and Development Overlay Schedule 2 Vegetation Protection Overlay Schedule 3
Restrictive covenants on the title?	No
Current use and development:	Two (2) double storey attached dwellings

PROPOSITION

It is recommended that the applicant's request to amend the endorsed plans under the provision of Secondary Consent be **approved**.

PROPOSAL

The applicant has applied pursuant to the Secondary Consent provision afforded by Condition 2 of Planning Permit No. 2008/0584/1 to amend the plans by including the following change to the endorsed plans:

- Construct a pool to the rear of Dwelling 1.

PERMIT/SITE HISTORY

Planning Permit 2006/0584/1 was issued on 14 June 2007 at the direction of VCAT for the construction of two (2) double storey attached dwellings.

Condition 1 plans were endorsed on 6 September 2007.

SUBJECT SITE & LOCALITY

An inspection of the site and the surrounding area has been undertaken.

The site has a total area of 310 square metres and currently contains:

- A single storey dwelling.

The main site/locality characteristics are:

- The property to the north is the Cheltenham Golf Course.
- The adjoining property to the east at 146 Weatherall Road contains a single storey dwelling.
- The adjoining property to west at 142 Weatherall Road contains a single storey dwelling.
- The adjoining property to the north at 15 Parkside Street contains a single storey dwelling on a dual occupancy site.

LOCALITY MAP



Legend	
Subject Site	★

PUBLIC NOTIFICATION

Applications made under the provision of Secondary Consent are exempt from the notice requirements of Section 52(1)(a), (b) and (d) of the *Planning and Environment Act 1987*.

REFERRALS

External Referrals/Notices by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	N/A
Section 52 Notices	This application is exempt from the notice requirements of Section 52(1)(a), (b) and (d) of the <i>Planning and Environment Act 1987</i> .

ASSESSMENT

Condition 2 of Planning Permit 2006/0584/1 states:

The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

The principles, or tests, of Secondary Consent

The Victorian Civil and Administrative Tribunal have set out, on a number of occasions, the principles, or tests, of Secondary Consent (eg. *Westpoint Corporation PL v Moreland CC [2005]*).

The tests include the following:

- *The proposed amendment does not result in a transformation of the proposal.*
 The planning permit was issued for the construction of two (2) double storey attached dwellings. The proposed alterations are minor in nature and will not transform the previously approved development.
- *The proposed amendment does not authorise something for which primary consent is required under the planning scheme.*
 The primary consent of the Planning Permit is for the construction of two (2) double storey attached dwellings. The amendment sought is minor and is not something for which primary consent is required under the planning scheme.
- *The proposed amendment is of no consequence having regard to the purpose of the planning control under which the permit was granted.*
 The purpose of the planning controls under which the original Planning Permit was granted is to ensure that the development accords with the standards and objectives of the Bayside Planning Scheme. The proposed amendment to the endorsed plans relates to a minor change and does not change the purpose of the permit. It is considered that the change is minor and will not result in any detrimental amenity impact, and is therefore considered satisfactory in the context of the provisions under which the original permit was granted.
- *The proposed amendment is not contrary to a specific requirement (or condition of the permit) as distinct from an authorisation within the permit, which itself cannot be altered by consent.*
 There is no specific permit requirement or condition that the proposed amendment contravenes.

The proposed amendment is considered minor in nature, will not affect the amenity of the adjoining properties and meets the 'tests' of Secondary Consent. It is considered that the proposed amendment is appropriate and is suitable for support.

CONCLUSION

It is considered that the proposed change to install a swimming pool within the rear garden of Dwelling 1 is a reasonable request that meets the above tests of Secondary Consent. It is therefore recommended that the amended plans be supported.

RECOMMENDATION

That the Amended Plans be **approved** by Council under the Secondary Consent provisions of **Planning Permit 2006/0584/1** issued for the construction of two (2) double storey dwellings, at the land known as 144 Weatherall Road, Cheltenham and the following table be added to the permit.

Date	Amendment
22 December 2009	Secondary Consent to Amend Plans: ➤ Construct a pool to the rear of Dwelling 1.