



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 November 2011

Commencing at 7:00pm

Chairperson: Cr Louise Cooper-Shaw

Councillors: Cr Felicity Frederico
Cr Alex del Porto (Mayor)
Cr. Clifford Hayes
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 the 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 statement or unsubstantiated allegation;
- (c) must ensure silence is preserved in the public gallery during any meeting;
- (d) must call to order any member of the public gallery 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 any 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

Tuesday 20 December 2011

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

Index

1. Apologies
2. Declarations of Interest
3. Confirmation of the minutes of the Planning Committee held on 25 October 2011.
4. Matters for Decision
 - 4.1 38 ANITA STREET, BEAUMARIS 5
NOTICE OF DECISION TO GRANT A PERMIT
APPLICATION NO. 2011/0345/1 WARD: SOUTHERN
 - 4.2 453 NEW STREET, BRIGHTON 25
NOTICE OF DECISION TO GRANT A PERMIT
APPLICATION NO. 2011/0529/1 WARD: NORTHERN
 - 4.3 71 DALGETTY ROAD, BEAUMARIS 35
NOTICE OF DECISION TO GRANT A PERMIT
APPLICATION NO:2011/164/1 WARD: SOUTHERN
 - 4.4 173 BLUFF ROAD, BLACK ROCK 52
NOTICE OF DECISION TO GRANT AMENDED PLANS UNDER
SECTION 72
PERMIT NO. 2008/0046/2 WARD: CENTRAL

BAYSIDE CITY COUNCIL

PLANNING COMMITTEE MEETING

TUESDAY, 22 NOVEMBER 2011

- | | | |
|-----|---|----|
| 4.5 | 49 BURROWS STREET, BRIGHTON
SECONDARY CONSENT - APPROVE
APPLICATION NO. 2008/705/1 WARD: NORTHERN | 66 |
| 4.6 | 16 ROSLYN STREET, BRIGHTON
SECONDARY CONSENT - APPROVE
APPLICATION NO. 2010/0239/1 WARD: CENTRAL | 71 |
| 4.7 | 269-273 HAMPTON STREET HAMPTON
SECONDARY CONSENT - APPROVE
APPLICATION NO.2008/691/1 WARD: CENTRAL | 75 |
| 4.8 | 26 FERNHILL ROAD, SANDRINGHAM
SECONDARY CONSENT - APPROVE
APPLICATION NO. 2007/785/1 WARD: SOUTHERN | 80 |
| 4.9 | 30 GROSVENOR STREET, BRIGHTON
SECONDARY CONSENT - APPROVE
APPLICATION NO. 2003/184/1 WARD: NORTHERN | 88 |

4.1 **38 Anita Street, Beaumaris**
Notice of Decision to Grant a Permit
Application No. 2011/0345/1 Ward: Southern

City Strategy - Statutory Planning
 File No: 2011/0345/1

APPLICATION DETAILS

Land Address:	38 Anita Street, Beaumaris
Application is for:	Construction of two (2) double storey dwellings (one with basement) in a Design and Development Overlay and construction of a front fence over 1.2m in height.
Melway Reference:	86 D8
Ward:	Southern
Application Number:	2011/723/1
Applicant's Name:	Peter Wright and Associates P/L
Date Received:	9 November 2011
Statutory Days Expiry:	8 January 2012
Zoning:	Residential 1 Zone
Overlays:	Design Development Overlay Schedule 2 Vegetation Protection Overlay Schedule 3
Under what clause(s) is a permit required?	Clause 32.01-4 – Construction of two or more dwellings on a lot.
Restrictive covenants on the title?	No
Current use and development:	Single Storey Dwelling
Objections:	Eight (8)

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 dwellings (one with basement).

The proposed dwellings will comprise the following:

Dwelling 1

- Ground floor comprising kitchen, meals room, family room, living room, master bedroom (with ensuite) and laundry.
- Double garage to the rear of the dwelling, accessed via a common driveway.
- First floor comprising three bedrooms, shared bathroom and sitting room.
- Secluded private open space of 135m² is to be provided within the front setback and to the east side of the dwelling (behind a 1.8m horizontal jarrah batten fence).

- A water tank (of unspecified capacity) is to be located within the secluded private open space.

Dwelling 2

- A basement containing a double garage, work bench, cellar and store.
- Ground floor comprising open plan kitchen/meals/family room, master bedroom (with ensuite and walk in robe), study and laundry.
- First floor comprising two bedrooms, shared bathroom and sitting room.
- Secluded private open space is provided in two areas; a primary area of 78m² (including al fresco) and a service courtyard to the rear of 36.5m².
- Two underground water tanks (of unspecified capacity) are proposed under the primary secluded private open space area.

Access & Services

- Both dwellings will be accessed via a common driveway running along the west boundary. A turning area is provided at the entry to the garages, allowing all vehicles to enter and exit in a forward direction.
- Mail and service meters are to be provided at the front of the site within a 1.5m high structure to match the jarrah batten fence proposed across the frontage.

The application also proposes to remove vegetation from the site. This is not a permit trigger. The vegetation proposed to be removed is not native vegetation, consisting of mature and semi-mature shrubs of various sizes and states of health – mainly Variegated Pittosporum, Camellia and fruit trees. The vegetation provides low amenity in the streetscape.

SUBJECT SITE & LOCALITY

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

The site has a total area of 787 square metres and currently contains:

- A single storey dwelling.

The main site/locality characteristics are:

- The adjoining properties to the south, at 35 and 37 White Street, contain double storey dwellings.
- The adjoining property to the west, at 36 Anita Street, contains a double storey dwelling.
- The adjoining property to the east, at 40 Anita Street, contains a single storey dwelling.
- Across the road to the north, is a mix of single and double storey dwellings.

The site exhibits a significant slope running uphill by approximately 3.25m from front to back.

PERMIT/SITE HISTORY

Following a search of Council records, no planning determinations have been made for 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 one (1) sign on site facing Anita Street.

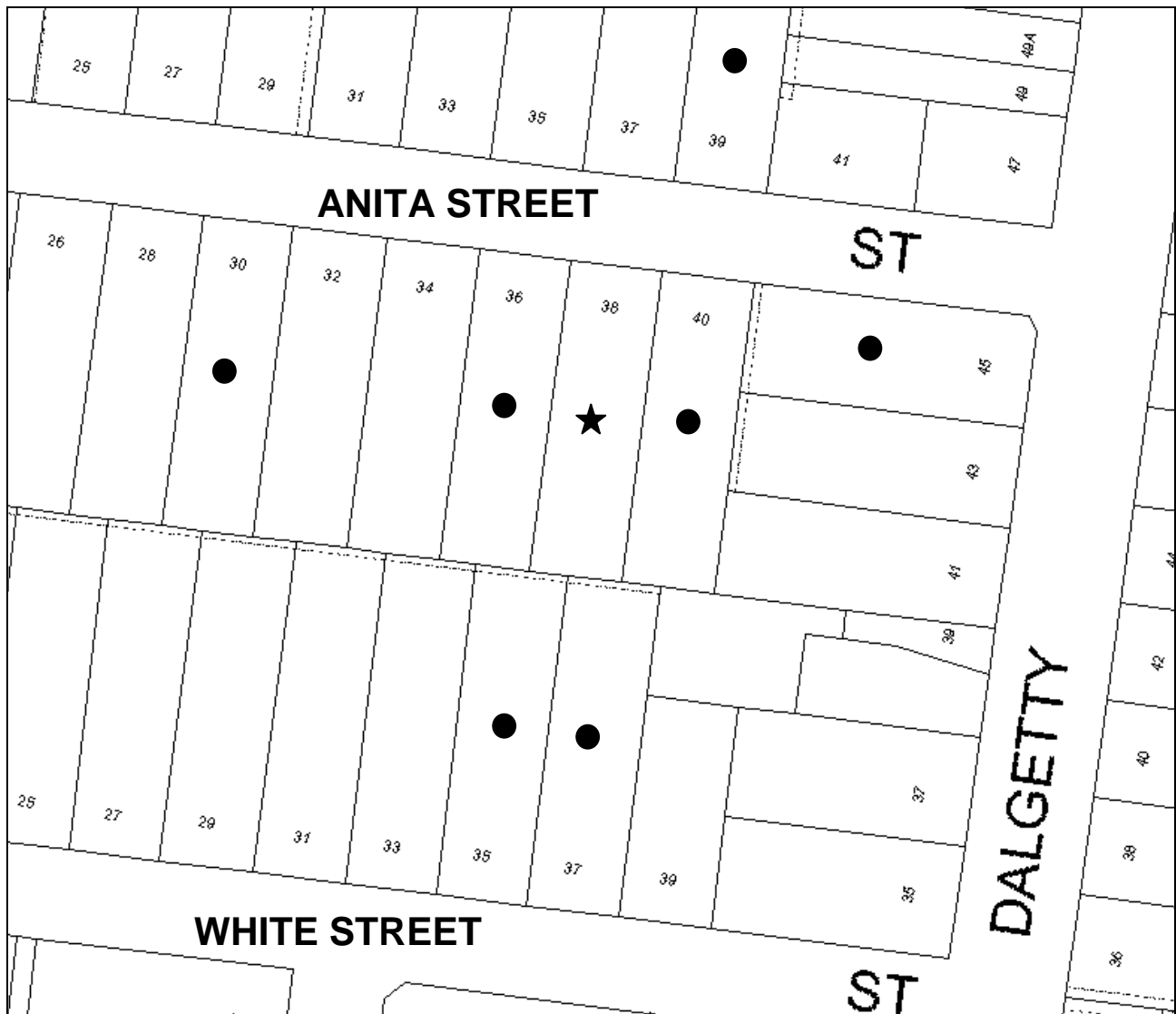
The notification has been carried out correctly.

Council has received eight (8) objections to date.

The key issues that were raised in the objections are:

- Lack of planting opportunities for vegetation
- Proposal includes large dwellings only, lacks diversity required for Bayside's projected household sizes
- Built form on the boundary
- Extent of Unit two's upper level
- Overlooking
- Construction on the boundary may damage neighbouring trees
- Front setback insufficient
- Precedent for future development
- Overshadowing
- Detriment to the existing open space vista of the backyards
- Excessive site coverage

Locality Plan – 38 Anita Street, Beaumaris



Legend			
Subject land	★	Location of Objectors	●

An objection was received from the Beaumaris Conservation Society, not indicated on the map.

CONSULTATION

A consultation meeting was held on 29 August 2011 and attended by a Council officer, the applicant, owner, objectors and a ward Councillor.

The applicant submitted revised plans on 12 September 2011 incorporating a number of changes in an attempt to respond to the concerns of the objectors. After review by Council officer, the applicant formally amended the application on 27 September 2011. The plans were circulated to objectors. None of the objectors withdrew their objections in response to this notification.

In summary these changes include:

- Front setback increased from between 7.5m and 9.0m, to 9.0m.
- Ground level side setback of dwelling one to number 40 Anita Street increased by 0.5m (to between 2m and 2.6m).
- Heating and cooling unit to dwelling one relocated (from beside the adjoining building at 40 Anita Street, to 6.5m further away).
- Upper level setback of dwelling one to number 40 Anita Street increased (from between 2.25m and 3.15m to between 2.75m and 3.65m).
- Ground level rear setback of dwelling two increased (from between 0m and 2m to between 0m and 3m).
- Retaining wall, screen planting and a canopy tree now shown at the rear of dwelling two.
- Screen planting provided along the west boundary of dwelling two beside the basement.
- Porch entry steps to dwelling two reconfigured clear of vehicle movements.
- Eaves to south elevation of dwelling two reduced.
- Balcony of dwelling two deleted.
- Increased upper level side setback of dwelling two to number 40 Anita Street (from 3.74m to between 3.8m and 4.9m).
- Increased upper level rear setback of dwelling two to numbers 35 and 37 White Street from between 2.25m and 3.15m to between 3.15m and 4.86m.

In response to further comments made by Council officers, the applicant substituted the plans on 9 November 2011. These plans were circulated to objectors on 11 November 2011, and at the time of finalising this report, no objectors had withdrawn.

In summary the additional changes made include:

- The rear dwelling has been cut into the site an additional 0.75m.
- The floor to ceiling heights and roof pitch have been decreased, resulting in a decrease in building height of 0.95m. The maximum height above natural ground level of dwelling 1 is now 7.9m and dwelling 2 is 8.0m.
- The overall height of the rear building above natural ground level has therefore decreased by 1.7m overall.
- The rear setback of the ground floor study of dwelling two increased from 2m to 3m.
- An additional canopy tree provided at the rear of dwelling two between the study and the rear boundary.
- The ground floor master bedroom of dwelling two moved 1m off the east boundary.

The assessment in this report is based on the revised plans formally substituted on 9 November 2011.

REFERRALS

Referrals	Advice/Response/Conditions
Section 55 Referrals	N/A

Internal Council Referrals	Advice/Response/Conditions
Urban Designer	No objections to the proposal.
ESD Officer	No objections to the proposal, subject to conditions.
Traffic Engineer	No objections to the proposal, subject to conditions.
Drainage	No objections to the proposal, subject to conditions.
Investigations Arborist	No objections to the proposal, subject to conditions.
Street Tree Arborist	No objections to the proposal, subject to conditions.

ASSESSMENT

Relevant Provisions of the Bayside Planning Scheme

State Planning Policies

Clause 10 - Operation of the State Planning Policy Framework

The purpose of State Planning Policy is to inform responsible authorities of the aspects to be considered and given effect in administering the Planning Scheme. The State Planning Policy Framework provides a context for decision making by responsible authorities.

The planning policies are directed to land use and development, as circumscribed by the *Planning and Environment Act 1987*, a primary objective of which is to provide for the fair, orderly, economic and sustainable use and development of land.

Clause 15 - Built Environment and Heritage

All new land use and development should appropriately respond to its landscape, valued built form and cultural context, and protect places and sites with significant heritage, architectural, aesthetic, scientific and cultural value. Quality built environments should be created that achieve high quality urban design and architecture that:

- Contributes positively to local urban character and sense of place.
- Reflects the particular characteristics, aspirations and cultural identity of the community.
- Enhances liveability, diversity, amenity and safety of the public realm.
- Promotes attractiveness of towns and cities within broader strategic contexts.
- Minimises detrimental impact on neighbouring properties.

Clause 15.01-1 - Urban design

Urban environments should be created that are safe, functional and provide good quality environments with a sense of place and cultural identity.

New development should respond to its context in terms of urban character, cultural heritage, natural features, surrounding landscape and climate and encourages the retention of existing vegetation or revegetation as part of subdivision and development proposals.

Clause 15.01-4 - Design for safety

The objective of this clause is to improve community safety and encourage neighbourhood design that makes people feel safe.

Clause 15.02-1 - Energy and resource efficiency

Land use and development is encouraged which is consistent with the efficient use of energy and the minimisation of greenhouse gas emissions by ensuring that building design improves efficiency in energy use, promotion of consolidation of urban development, integration of land use and transport, and use of low energy forms of transport such as walking and cycling.

Clause 16 - Housing

Planning should provide for housing diversity, including affordable housing, and ensure the efficient provision of supporting infrastructure. New housing should have access to services and be planned for long term sustainability, including walkability to activity centres, public transport, schools and open space.

Clause 16.01-2 - Location of residential development

New housing should be located in or close to activity centres, employment corridors and strategic redevelopment sites that offer good access to services and transport. An increasing proportion of housing in Metropolitan Melbourne should be developed within the established urban area, particularly sites well located to activity centres, employment corridors and public transport.

Clause 16.01-4 - Housing diversity

A range of housing types to meet increasingly diverse needs should be provided. The development of well-designed medium-density housing is encouraged, which should:

- Respect the neighbourhood character.
- Improve housing choice.
- Make better use of existing infrastructure.
- Improve energy efficiency of housing.
- Support opportunities for a wide range of income groups to choose housing in well serviced locations.
- Ensure planning for growth areas provides for a mix of housing types and higher housing densities in and around activity centres.

Municipal Strategic Statement**Clause 21.02 – Bayside Key Issues and Strategic Visions**

This policy outlines the key issues facing the municipality such as increasing development pressure and the impact of this on the urban environment, including ensuring housing is provided to meet the needs of the community.

Clause 21.03 – Settlement and Housing

Provides local content support to Clause 11 (Settlement) and Clause 16 (Housing) which includes accommodating population growth to respond to demographic changes of Bayside.

Clause 21.06 – Built Environment and Heritage

Seeks to achieve quality design outcomes which improve development in Bayside and contribute to a sense of place appropriate to Bayside character.

Local Planning Policies**Clause 22.06 – 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 and 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 22.08 – Water Sensitive Urban Design (Stormwater Management)

Promotes the use of water sensitive urban design including stormwater re-use, to reduce impacts to Port Phillip Bay and reduce peak stormwater flows and pollutants into stormwater run-off.

Zoning**Clause 32.01 - Residential 1 Zone**

Aims to provide for residential development at a range of densities with a variety of dwellings to meet the housing needs of all households. Also to encourage residential development that respects the neighbourhood character. The zone requires a planning permit for the proposed residential development. The Schedule to the zone incorporates requirements specific to Bayside.

Pursuant to Clause 32.01-3 of the Bayside Planning Scheme, a planning permit is required to construct two or more dwellings on a lot and front fence exceeding 1.2 metres.

Overlays

Clause 43.02 – Design and Development Overlay Schedule 2 – Aims to preserve the existing character and amenity of the areas as low rise suburban areas with a strong garden character.

The proposed development does not require a permit under the provisions of the DDO2. The dwellings are both classified as two storey buildings and are less than 9m in height above natural ground level at any point.

Clause 42.02 - Vegetation Protection Overlay Schedule 3 – Seeks to prevent the loss of native and particularly indigenous vegetation caused 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.

A planning permit is not required to remove vegetation on the site as Council's Investigations Arborist confirmed that there are no native species present on the site.

Particular Provisions

Clause 55 – Two or more dwellings on a lot and residential buildings - which includes specific objectives and standards for the proposed residential development to be assessed against.

General Provisions

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

Neighbourhood Character

The proposed development is located within Neighbourhood Character Area H3. The valued characteristics for the area are:

“The bushy gardens surrounding the dwellings dominate the streetscapes. Where the topography is hilly, the buildings are set within the landscape, and are sometimes sited to take advantage of water views without dominating the streetscape. Adequate space is provided around dwellings for the retention and planting of vegetation, and indigenous canopy trees are common. Low or open style front fences are usually provided, in order to retain the openness of the front garden to the street.”

Precinct Guidelines

Objective	Design Response	Avoid
To strengthen the bushy garden character of the area through the planting of appropriate species.	Retain large established trees and understorey, and provide for the planting of new indigenous trees wherever possible (locate footings outside root zone).	<i>Lack of a landscape plan. Removal of large established trees.</i>
	Prepare a landscape plan to accompany all applications for new dwellings that utilises appropriate native, preferably indigenous, vegetation.	<i>Planting of environmental weeds.</i>
	Minimise impervious surfaces particularly in front garden spaces to ensure space for plantings.	
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.	Buildings should be sited to allow space for a garden, including trees and shrubs.	<i>Loss of front garden space.</i>
	Buildings should be sited to create the appearance of space between buildings and accommodate vegetation.	
To minimise the loss of front garden spaces and the dominance of car parking structures.	Locate garages and carports behind the line of the dwelling.	<i>Car parking structures that dominate the façade or view of the dwelling.</i>
	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.	

Objective	Design Response	Avoid
To minimise site disturbance and impact of the building on the landscape.	Buildings should be designed to follow the contours of the site on sloping sites.	<i>Major excavation works and site levelling.</i>
	Minimise the use of retaining walls and battering of slopes.	<i>Buildings that protrude above the tree canopy height.</i>
	Design new buildings and extensions so as not to exceed the predominant tree canopy height.	
To ensure that new buildings provide an articulated and interesting façade to the street.	Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.	<i>Large, bulky buildings Poorly articulated front and side wall surfaces.</i>
	Recess upper levels from the front façade.	
To use building materials and finishes that complement the natural setting.	Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick.	<i>Period reproduction styles and detailing.</i>
To maintain the openness of the front garden to the street.	Provide open style front fences, other than along heavily trafficked roads.	<i>High or solid front fences.</i>
	Use vegetation as an alternative where possible.	

The area surrounding Anita Street contains a mixture of architectural styles with a range of double and single storey weatherboard, brick and rendered dwellings.

It is considered that the proposal meets the objectives of Neighbourhood Character precinct H3 due to the following:

- There currently is no significant vegetation on the site which will be lost as a result of the development. Opportunities exist for new plantings of native species which will result in a more densely vegetated site. The proposed dwellings provide sufficient opportunity throughout the site for the planting of landscaping, including indigenous canopy trees, as demonstrated on the proposed landscape plan.
- The proposal to build one dwelling behind the other presents as a single dwelling to the street. A substantial front setback is proposed. Private open space areas are of sufficient dimensions to sustain canopy tree planting.
- The upper level of dwelling 2 (69m²) is approximately 1/3 the size of the ground level footprint, is significantly setback and meets the relevant overshadowing and overlooking provisions.
- Garages are located behind the front dwelling and will not dominate the streetscape.

- Minor site cut/contouring is required to efficiently utilise the site, whilst minimising off-site impacts and reducing potential visual bulk.
- Use of traditional design incorporating brick and render finishes beneath a pitched tiled roof with eaves responds to the prevailing character.
- The front fence, to be constructed from horizontal jarrah slats to 1.8m in height, responds to fence styles evident in the street. Numbers 1, 2, 3, 4, 6, 8, 10, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 25, 27, 28, 29, 38 Anita Street and 45 Dalgetty Road, all incorporate high and/or solid fencing.

Street Setback / Building Height / Visual Bulk

Dwelling 1 is proposed to be setback 9.0m from the street. This meets standard B6. The overall maximum height of dwelling 1 above natural ground level is 7.9m.

Adequate articulation is incorporated into the upper level forms, with all upper level walls recessed from lower level built form. The provision of hipped, pitched roof forms at ground level aids in obscuring the upper levels and moderating overall height.

Floor to ceiling levels are moderate (2700mm and 2550mm) which assists in keeping the overall height and bulk to an appropriate level.

Dwelling 2 has been cut into the site to ensure that the basement does not contribute to an unnecessarily tall building. The overall maximum height of dwelling 2 above natural ground level is 8.0m. As the site rises towards the rear, the cut results in the building presenting to the neighbours to the rear as only slightly taller than a single storey building.

Side and Rear Setbacks

The proposed setbacks are as follows:

Dwelling 1	Ground floor		First Floor	
	Requirement	Proposed	Requirement	Proposed
North (front)	9 metres	9 metres	9 metres	9.15 metres
East (side)	0 or 2 metres	0 & 2 metres	3.5 metres	2.75 & 3.65 metres
West (side)	0 or 2 metres	4.5 & 9 metres	3.5 metres	4.65 metres
South (rear)	n/a	n/a	n/a	n/a

Dwelling 2	Ground floor		First Floor	
	Requirement	Proposed	Requirement	Proposed
North (front)	n/a	n/a	n/a	n/a
East (side)	0 or 2 metres	1.0 & 6.5 metres	3.5 metres	3.86 metres
West (side)	0 or 2 metres	1.76 , 2 & 2.9 metres	3.5 metres	3.08 metres
South (rear)	0 or 3 metres	0 & 3 metres	4.5 metres	3.15 & 4.86 metres

There are a number of non-compliances with side and rear setbacks, including:

- Dwelling 1, first floor, setback from east boundary (2.75m).
- Dwelling 2, ground floor, setback from east boundary (1.0m).
- Dwelling 2, ground floor, setback from west boundary (1.76m).
- Dwelling 2, first floor, setback from west boundary (3.08m).
- Dwelling 2, first floor, setback from south (rear) boundary (3.15m).

The proposed first floor setback of dwelling 1 from the east boundary (2.75m) is considered appropriate because it adjoins a driveway on the adjacent lot and does not contribute to a reduction in amenity through overshadowing or encroachment on habitable windows.

The proposed ground floor setback of dwelling 2 from the east boundary (1.0m) is considered reasonable because it provides the opportunity for planting, and provides a graduated and articulated building form relative to the adjoining lot.

The ground floor setback of dwelling 2 from the west boundary (1.76m) is considered appropriate because this section of the building adjoins a garage on the neighbouring lot and is sited 39m from Anita Street and will not impact on the streetscape.

Although the reduced first floor setback of dwelling 2 from the west boundary (3.08m) is adjacent to a garage on the neighbouring lot, it contributes to additional overshadowing of 36 Anita Street in the morning. A permit condition should be included on any permit which may issue requiring the west wall of the sitting room to be set back an additional 0.42m, to accord with the setback required by the schedule to the Residential 1 Zone.

The proposed rear setback non-compliance, the staircase, is considered acceptable as it is a small built form element which adds articulation.

Walls on Boundaries

All walls on boundaries meet Standard B18 in relation to both height and length, and do not create any adverse amenity impacts based on their location relative to windows.

Overlooking

The proposed development does not present opportunities for unreasonable direct overlooking given that the balcony has now been deleted. Any habitable room windows which may have presented overlooking opportunities (for example, first floor bedrooms, living rooms and staircase) have been screened or provided with obscured glazing.

Overshadowing

The shadow diagrams submitted have been checked and found to be correct. The extent of overshadowing of the adjoining lots at numbers 36 and 40 Anita Street, and numbers 35 and 37 Street, is generally within the relevant standard (B21).

A minor non-compliance to the overshadowing standard was identified to the secluded private open space of number 36 Anita Street. A permit condition should be included on any permit which may issue which requires the west wall of the upper level sitting room of dwelling 2 to be setback an additional 0.42m.

In the morning, the driveway, garage and a small amount of secluded private open space at the rear of the garage of number 36 Anita Street will be affected by shadow from the proposed development. The shadow decreases throughout the morning, and has no affect by approximately 11am.

The adjoining properties at numbers 15 and 17 White Street (to the rear) are affected throughout the day, although the impact is small, representing less than 10% of the secluded private open space.

Between 1pm and 3pm, 40 Anita Street will be affected. Shadow from dwelling 1 will fall over the west facing courtyard, shadowing approximately half of the courtyard by 3pm. Dwelling 2 casts a shadow over part of the rear yard. This is acceptable, however, as it represents only approximately 25% of the private open space.

Landscaping

A landscape plan has been received. Council's Investigations Arborist also visited the site and confirmed that no native vegetation exists on the site and that sufficient opportunities exist for the planting of vegetation within the completed development. It would be possible to provide canopy trees in the front setback, the courtyard of dwelling 1, the open space to the east of dwelling 2, in the rear courtyard of dwelling 2, and opposite the garage of dwelling 1. A condition should be included on any permit which may issue to ensure canopy trees are provided within these areas.

Traffic and Car Parking

The proposed development provides two parking spaces to each dwelling. This meets the standard. All vehicles are able to enter and exit the site in a forward direction. Council's traffic engineer supports the proposal, subject to conditions.

Energy efficiency and Water Sensitive Urban Design

The internal layout of the dwellings is designed so as to maximise daylight to habitable rooms and secluded private open space. Ground floor living areas directly adjoin the private open space areas.

The proposal lodged with Council is subject to Clause 22.08 of the Bayside Planning Scheme, which requires Water Sensitive Urban Design measures for developments within Bayside. Both dwellings are provided with water tanks which can re-use storm water, and decrease storm water peak flows. 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 and that the development meets a minimum of 100% of best practice.

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 development, subject to permit conditions, is of a scale and design compatible with surrounding development within Anita Street and will sit comfortably in the streetscape.

The proposal will be sympathetic to surrounding development and will respect the residential amenity of adjoining properties. 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. 2011/345/1** 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 **38 Anita Street, Beaumaris** for the **Construction of a two (2) double storey dwellings and the construction of a front fence over 1.2m in height** in accordance with the application dated 9 November 2011, 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 with the application but modified to show:
 - a) The upper level setback of the sitting room to dwelling 2 to be setback a minimum of 3.5m from the west boundary.
 - b) Ground floor and basement plans must show garage door openings a minimum of 4.8m in width, minimum 2.2m headroom clearance.
 - c) A detailed schedule of colours, materials and finishes, including samples where appropriate.
 - d) Details of the placement and type of any external plant and equipment. Such equipment must be positioned so as to minimise amenity impacts.
 - e) Landscaping plan in accordance with the plan submitted with the application, but modified to comply with condition 10.
 - f) Tree protection zone of a minimum 3m diameter around the existing street trees in accordance with condition 13.
 - g) Water sensitive urban design features in accordance with the requirements of Clause 22.08 of the Bayside Planning Scheme.
2. The development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.
3. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the responsible authority.
4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building(s) without the written consent of the responsible authority.
5. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the responsible authority.
6. Provision must be made on the land for the storage and collection of garbage and other solid waste. This area must be graded and drained and screened from public view to the satisfaction of the responsible authority.

7. Before the occupation of the development starts, the area(s) set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
- a) Constructed;
 - b) Properly formed to such levels that they can be used in accordance with the plans;
 - c) Surfaced with an all-weather-seal coat;
 - d) Drained;

To the satisfaction of the responsible authority.

Car spaces, access lanes and driveways must be kept available for these purposes at all times.

8. Vehicular crossing(s) must be constructed to the road to suit the proposed driveways to the satisfaction of the responsible authority and any existing crossing or crossing opening must be removed and replaced with footpath, nature strip, and kerb and channel to the satisfaction of the responsible authority.
9. All disused or redundant vehicle crossings must be removed and the area reinstated to kerb and channel to the satisfaction of the responsible authority.
10. 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 plan must show:

- a) Details of surface finishes of pathways and driveways
- b) 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
- c) Landscaping and planting within all open areas of the site
- d) The provision of at least 2 indigenous canopy trees in the front setback of dwelling 1
- e) The provision of at least 1 indigenous canopy tree in the rear private open space of dwelling 1
- f) The provision of at least 1 indigenous canopy tree in the private open space to the east of dwelling 2
- g) The provision of at least 2 indigenous canopy tree in the rear private open space of dwelling 2
- h) The provision of at least 1 indigenous canopy tree in the garden bed on the west boundary directly opposite the garage to dwelling 1.

All species selected must be to the satisfaction of the responsible authority.

The landscape plan must also indicate that an in-ground irrigation system is to be provided to all landscaped areas.

11. Before the occupation of the development starts or by such later date as is approved by the responsible authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority.

12. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority, including that any dead, diseased or damaged plants are to be replaced.
13. Before the development starts, a tree protection fence must be erected around the street trees in front of 38 Anita Street and maintained until all works on site are completed.
 - a) The fencing is to be constructed and secured so its positioning cannot be modified by site workers.
 - b) The fencing is to encompass the entire nature strip under the drip line of the tree.
 - c) The Tree Protection Zone is to be established and maintained in accordance with Australian Standard 4970 Protection of trees on development sites.
14. No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Zone without the written consent of the responsible authority. No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Zone.
15. Any pruning that is required to be done to the canopy of any tree to be retained is to be done by a qualified arborist to Australian Standard – Pruning of Amenity Trees AS4373-1996. Any pruning of the root system of any tree to be retained is to be done by hand by a qualified arborist.
16. The existing street trees must not be removed or damaged.
17. 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, or carry out on site verification.
18. 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 to the satisfaction of the Responsible Authority.
19. Any seepage / agricultural drainage water must 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.
20. Before the development begins, three sets of detailed plans 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.
21. The driveway / parking areas / paved courtyards / paths and 'pervious' pavements must be graded / drained to prevent stormwater discharge onto the front footpath and into adjacent properties.
22. This permit will expire if one of the following circumstances applies:
 - a. The development is not started within two (2) years of the date of this permit.
 - b. The development is not completed within four (4) years of the date of this permit.

The responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.

Permit Notes

- N1 Crossover permit**
- N2 Building approval**
- N6 Vehicle crossing removal**
- N7 Retention of existing street trees**
- N8 Sewerage**
- N10 Asset Protection**

STANDARDS 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?	Outcome / Response
B1 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.
B2 Residential Policy Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.	Yes	The proposal provides for two new dwellings within an established residential area, which is within close proximity of public transport and community infrastructure and services.
B3 Dwelling Diversity Encourages a range of dwelling sizes and types in developments of ten or more dwellings.	N/A	N/A
B4 Infrastructure Provides appropriate utility services and infrastructure without overloading the capacity.	Yes	Can be addressed through a permit condition.
B5 Integration with the Street Integrate the layout of development with the street.	Yes	The proposal provides clear and safe entrances which are easily identified from the common driveway.
B6 Street Setback The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.	Yes	See report.
B7 Building Height Building height should respect the existing or preferred neighbourhood character.	Yes	Dwelling maximum 7.9m above natural ground level, dwelling 2 maximum 8.0m above natural ground level.
B8 Site Coverage Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.	Yes	Required: <50% Proposed: 44%
B9 Permeability Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.	Yes	Required: >20% Proposed: Approximately 37%
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	North facing living rooms, sufficient natural light.
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	The entrances to both dwellings are directly visible from the common drive way, and provide shelter.
B13 Landscaping To provide appropriate landscaping To encourage: 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	The development provides adequate areas for planting. A detailed landscaping plan has been submitted.
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. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.	Yes	The garages are immediately adjacent each of the dwellings and provide safe and convenient access. Internal access doors are also provided between the dwellings and garages, and the rear yard.
B16 Parking Provision Ensure car and bicycle parking meets the needs of residents and visitors. Accessways should be practical, attractive and easily maintainable.	Yes	Required: Four Proposed: Four
B17 Side and Rear Setbacks Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings. Varied.	Partial non-compliance	See report.
B18 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 amenity impacts on existing dwellings.	Yes	Allowable 20.41m on east boundary (12m proposed). Allowable 11.31m on south boundary (4m proposed). Allowable 20.41m on west boundary (0m proposed).
B19 Daylight to Existing Windows Allow adequate daylight into existing habitable room windows.	Yes	No neighbouring windows affected.
B20 North Facing Windows Allow adequate solar access to existing north-facing habitable room windows.	Yes	No neighbouring north facing windows affected.
B21 Overshadowing Open Space Ensure buildings do not significantly over shadow existing secluded private open space.	Yes	See report.

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.	N/A	N/A
B24 Noise Impacts Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.	Yes	Plant and equipment (compressor) details provided showing units located at ground level, away from sensitive areas of adjoining lots.
B25 Accessibility Consider people with limited mobility in the design of developments.	Yes	Both dwellings provide a bedroom and open plan living area on the ground floor, and could be easily occupied by a person with limited mobility. A stair climber or lift could be retrofitted to the rear dwelling to provide access.
B26 Dwelling Entry Provide a sense of identity to each dwelling/residential building.	Yes	The two entrances are easily identifiable and sheltered.
B27 Daylight to New Windows Allow adequate daylight into new habitable room windows.	Yes	All new habitable room windows are provided with adequate access to natural daylight.
B28 Private Open Space Provide reasonable recreation and service needs of residents by adequate private open space	Yes	Both dwellings provide in excess of 40m ² of secluded private open space.
B29 Solar Access to Open Space Allow solar access into the secluded private open space of new dwellings/buildings.	Yes	The secluded private open space areas of both dwellings satisfy the setback requirements.
B30 Storage Provide adequate storage facilities for each dwelling.	Yes	Adequate storage areas shown on submitted plans.
B31 Design Detail Encourage design detail that respects the existing or preferred neighbourhood character.	Yes	See report under neighbourhood character.
B32 Front Fences Encourage front fence design that respects the existing or preferred neighbourhood character. Varied.	Complies with objective	1.8m high fences are common in the streetscape.
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	The common property provided is functional for the provision of access and services.
B34 Site Services Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.	Yes	Sufficient area for meters, mailboxes and bin storage is provided.

4.2 **453 New Street, Brighton**
Notice of Decision to Grant a Permit
Application No. 2011/0529/1 Ward: Northern

City Strategy - Statutory Planning
 File No: 2011/0529/1

APPLICATION DETAILS

Land/Address:	453 New Street, Brighton
Application is for:	Temporary use of part of the site (pre-school) as an education centre (junior primary school)
Melway Reference:	67 E6
Ward:	Northern
Application Number:	2011/0529/1
Applicant's/Owner's Name:	Beis Efraim College Ltd C/- Network Planning Consultants Pty Ltd
Date Received:	8 September 2011
Statutory Days Expiry:	6 November 2011
Zoning:	Residential 1 Zone
Overlays:	Design and Development Overlay Schedule 2 Heritage Overlay (HO 282)
Under what clause(s) is a permit required?	Clause 32.01-1 use of the site for a primary school
Restrictive covenants on the title?	No
Current use and development:	Pre-school and Aged Care Centre
Objections:	Four (4) objections

PROPOSITION

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

PROPOSAL

The permit applicant seeks approval for temporary use of part of the site (pre-school) as a junior primary school for two (2) years.

It is noted that the building currently operates under planning permit (P3717) enabling use of part of the site for a pre-school for a maximum of sixty (60) children.

As part of the temporary use, the pre-school enrolment would reduce to 38 children, with additional students attending the temporary junior primary school during the 2012 and 2013 school years. It is noted that the students attending the junior primary school will mostly be those already enrolled in the pre-school and will move-up after they finished with the pre-school. The number of students present on the site is intended to be as follows:

2012	Number of Children
Pre- school	38
Junior Primary School Prep to Year 2	16 moving up from pre-school 6 from home schooling
Total	60 (no changes to the number of children allowed under the current planning permit)

2013	Number of Children
Pre- school	38
Junior Primary School Prep to Year 2	12 moving up from pre-school 22 move up from junior primary school in 2012
Total	72 (an increase of 12 children allowed under the current planning permit)

Staff number	Current	Proposed
Pre- school	8 teachers	8 teachers
Junior Primary School		2 teachers
Administration	2 staff	2 staff
Total	10	12 (an increase of 2 staff)

Operation Hours	Current	Proposed
Pre- school and Junior Primary School	8.30am to 4.30pm Monday to Thursday	8.30am to 4.30pm Monday to Thursday
	8.30am to 2pm on Friday	8.30am to 2pm on Friday
Religious education		9.30am to 1pm on Sunday

SUBJECT SITE & LOCALITY

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

The site has a total area of approximately 6072 square metres and currently contains:

- A single storey pre-school centre in a historical building (to the rear of the site).
- A single storey aged care centre (to the front of the site).
- A car park containing twenty (20) car spaces shared between the pre-school and the aged care centre.

The main site/locality characteristics are:

- To the north, the subject site abuts Coles Street and three (3) adjoining properties: No. 66 Cole Street and No. 26 Foote Street each contains a double storey rendered dwelling. No. 68 Cole Street contains a single storey dwelling. No. 70 Cole Street contains a single storey rendered dwelling.
- To the south the subject site abuts four (4) adjoining properties: No. 2 Thule Court contains a double storey brick dwelling. No. 4 Thule Court contains a single storey dwelling. No. 6 Thule court contains a single storey dwelling. No. 22 Foote Street contains a double storey rendered dwelling.
- To the east, across New Street are single and double storey dwellings.
- To the west, across Foote Street are single and double storey dwellings.

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 August 2011. 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
P2870	Use of the site for a nursing home	Permit by Council	30 March 1988
P3717	Use of the site for a child care centre	Permit by Council	26 August 1991
99/4339	Alterations to existing child care centre	Permit by Council	20 April 1999

PUBLIC NOTIFICATION

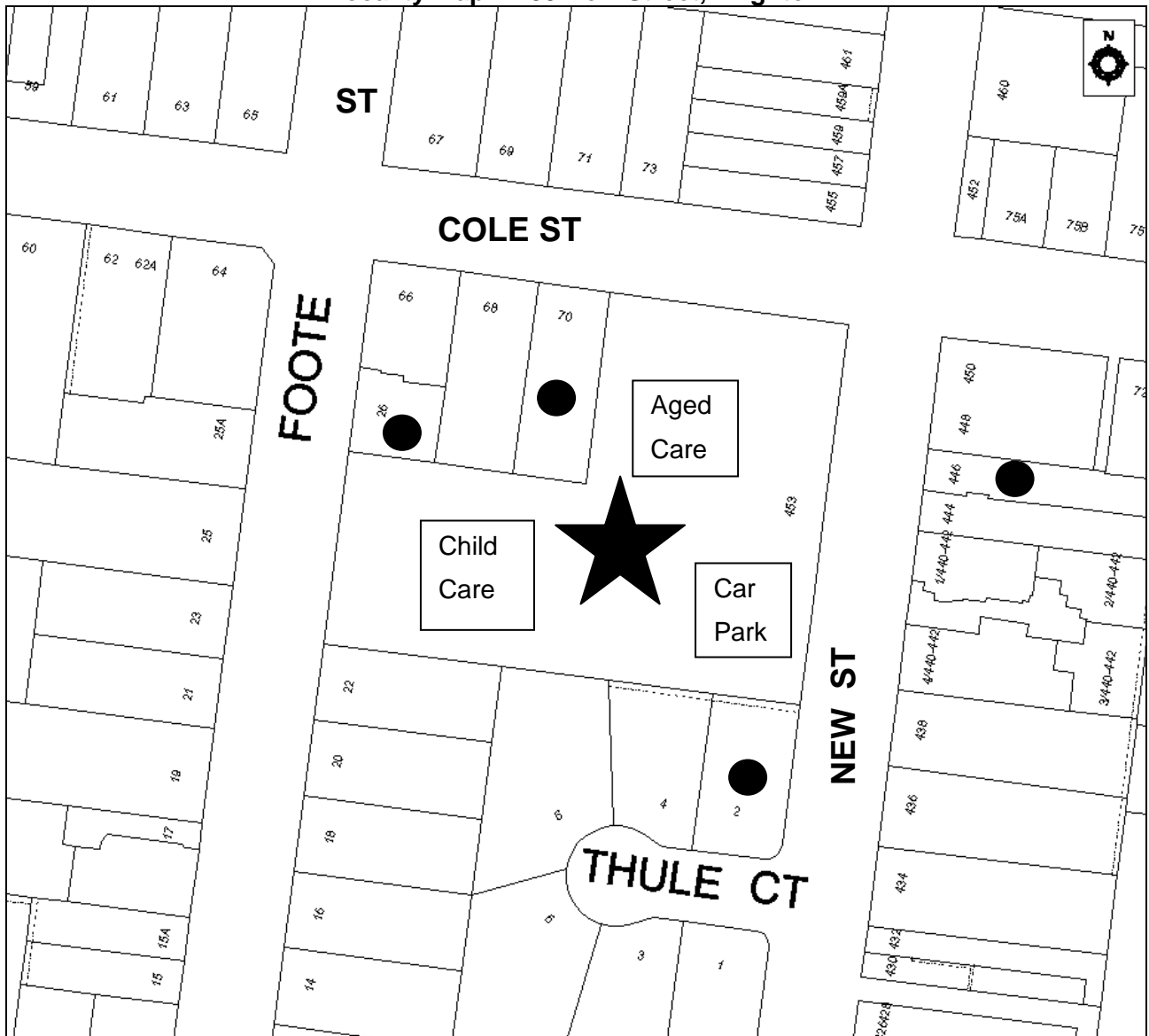
The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by:

- 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 four (4) objections to date.

The key issues that were raised in the objections are:

- The nature of the temporary use
- Use of a school in a residential area
- Noise associated with the school
- Hours of operation
- Traffic and parking

Locality Map – 453 New Street, Brighton


Legend	
Subject Site	★
Objector	●

CONSULTATION

A consultation meeting was not held, as the applicant has had discussions with the objectors after the notification process and has provided a response in writing to the concerns raised by the objectors. A copy of this response has been circulated to the objectors.

REFERRALS

No external referrals.

Internal Referral Agency	Response
Traffic Engineer	No objection to the proposal, subject to permit conditions, should one issue.

ASSESSMENT

Local Planning Policy Framework

- **Clause 22.09 – Discretionary Uses in Residential Areas** – Seeks to ensure that development respects the established neighbourhood character and responds to the preferred neighbourhood character, to ensure that discretionary uses in residential areas do not adversely affect residential amenity, to ensure that adequate access is available to the site, to ensure that adequate provision is made for on-site parking, to ensure that traffic generated by the discretionary use is appropriate to the street and the locality and will not adversely affect existing traffic patterns and safety, and to ensure that local community needs are served by the proposal.

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.

The proposed use triggers a planning permit under this zone.

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.

The proposed use does not trigger a planning permit under this overlay.

- **Clause 43.01 - Heritage Overlay** – Seeks to conserve and enhance heritage places of natural or cultural significance, to conserve and enhance those elements which contribute to the significance of heritage places, to ensure that development does not adversely affect the significance of heritage places and to conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.

The proposed use does not trigger a planning permit under this overlay as no external building works are being proposed.

Particular Provisions

- **Clause 56.02 – Car parking** – Includes specific objectives car parking requirements for the use.

General Provisions

- **Clause 65 – Decision Guidelines** – Details matters to be considered when determining a planning application.

SUMMARY OF KEY ISSUES

Use

The subject site currently has a Planning Permit No. P3717 to use part of the site for a child care centre (pre-school) for a maximum of sixty (60) children. The other part of the site is used for an aged care centre.

The proposal is for a temporary (2 years) mixed use of part of the site for a junior primary school in conjunction with the pre-school for 38 children.

The purpose of the Residential 1 Zone under Clause 32.01 of the Bayside Planning Scheme allows for the uses of educational, recreational, religious, community (in appropriate locations) and a limited range of other non-residential uses to serve local community needs.

The use of an education centre is a Section 2 use and triggers the need for a planning permit under Clause 32.01-1 (Residential 1 Zone) of the Bayside Planning Scheme.

Given that the proposed use as an education centre is of a similar use as a pre-school, it is considered that the proposal is acceptable for the area and will not result in any further detriment to the neighbourhood than the current use.

Discretionary Use in a Residential 1 Zone

The use of a school (an education centre) is a discretionary use in a Residential 1 Zone. The intent of Clause 22.07 (Discretionary Use in a Residential 1 Zone Policy) of the Bayside Planning Scheme is to ensure that applicants and residents have some clear guidelines and certainty in the development of these discretionary uses in residential areas.

Objectives

It is considered that the proposal will respect the established character, as it will only use part of the existing pre-school building. Subject to permit conditions, should one issue, the proposed use will not unreasonably affect the amenity of the adjoining residential properties. The proposal will provide adequate access and on-site parking. The traffic generated by the proposal will be acceptable and will not adversely affect existing traffic patterns and the safety in the surrounding area.

Preferred location for Discretionary Uses

The location of the proposed use will be next to a collector road (New Street). The proposed use will also be located next to another existing discretionary use - an aged care centre on the same site. The proposed use will abut a bus route along New Street in front of the subject site.

Siting, built form and design

The proposed discretionary use will not alter the existing heritage listed building in terms of height, built form and materials.

Streetscape

The existing pre-school is substantially setback from New and Foote Streets. The existing car park within the front setback of the existing building is well setback and is surrounded by landscaped vegetation and does not dominate the streetscape.

Traffic and car parking

The subject site is accessed via an existing single vehicular crossing for safe and convenient. Vehicles are able to enter and exit the existing car park in a forward direction to provide efficient movement of vehicles. Traffic and car parking is discussed in detail further in this report.

Fencing

No front fencing is proposed for the proposed discretionary use.

Landscaping

Existing trees and landscaping areas in the car park are retained and maintained.

Advertising signage

No advertising signage is proposed for the proposed discretionary use.

General amenity

Permit conditions, should one issue, will ensure that nearby residential properties will not be subjected to unreasonable levels of noise. The operation hours of the proposed junior primary school is the same as the existing pre-school (8.30am to 4.30pm Monday to Thursday, 8.30am to 2pm on Friday) except for religious class from 9.30am to 1pm on Sunday. It is considered that these hours of operation are reasonable and should not have an adverse impact on the existing residential area.

Temporary Use

The applicant wishes to keep the children who have gone through the pre-school on-site, so that they can continue their schooling over the next two (2) years. During the next two (2) years the applicant will look and establish a new school at another location.

The applicant is seeking only a temporary use of a junior primary school in conjunction with the existing pre-school for two (2) years and will accept a permit condition, should one issue, to limit the temporary use of a junior primary school to 31 December 2013. It is appropriate that the use be temporary to enable later assessment of the program and suitability of the use for the site.

Traffic & Car Parking

The existing on-site car park provides twenty (20) car spaces. It is understood that although the spaces are not specifically allocated, fourteen (14) car spaces are typically used by the existing pre-school and six (6) car spaces for the existing aged care centre.

The car parking requirement for the pre-school (child care) can be found in a table under Clause 22.07 of the Bayside Planning Scheme and the car parking demand for a primary school can be found in a table under Clause 52.06 of the Bayside Planning Scheme.

The table below shows the required and proposed car spaces for the proposed use.

	Car parking rate under Clause 22.07	Required car spaces	Provided car spaces
Existing pre-school centre (60 children and 10 staff)	0.1 car space per child enrolled 0.7 car spaces per staff	6 7	6 8
Total		13	14

2012	Car parking rate under Clauses 22.07 and 52.06	Required car spaces	Provided car spaces
Pre-school centre (38 children and 10 staff)	0.1 car space per child enrolled 0.7 car spaces per staff	3	4
Junior primary school (22 children and 2 teachers)	1 car space per employee	7	8
		2	2
Total		12	14

2013	Car parking rate under Clauses 22.07 and 52.06	Required car spaces	Provided car spaces
Pre-school centre (38 children and 10 staff)	0.1 car space per child enrolled 0.7 car spaces per staff	3	4
Junior primary school (34 children and 2 teachers)	1 car space per employee	7	8
		2	2
Total		12	14

Based on the above calculation, there would be adequate car parking for the use of the proposed junior primary school in conjunction with the existing use of the pre-school. Further, a survey of the use of the car park undertaken by the applicant over 3 days in August found a maximum occupancy of 13 vehicles, with there being typically between 9 and 12 vehicles in the car park.

Council's Traffic Engineer has no objection to the proposed temporary use subject to a permit condition, should one issue, requiring the pick-up and drop-off car spaces to be clearly signed and line-marked.

Heritage

It is noted that the existing building that housed the pre-school is a heritage listed building. It is considered that the proposed discretionary use does not trigger a planning permit under the Heritage Overlay.

Amenity

Concerns have been raised by objectors regarding unreasonable levels of noise emitted from the building in particular the religious education classes (sermons and chanting) on Sundays. The applicant has been made aware of the neighbour's concerns and has accepted permit conditions, should one issue, to locate the Sunday religious education classes to the classrooms at the south-east corner of the existing building and that all external windows and doors to these classrooms must be closed for the duration of the classes. The applicant also accepted a permit condition, should one issue, to restrict the use of the outdoor playground areas until the morning recess at 11.30am on Sundays for up to 45 minutes.

CONCLUSION

The applicant seeks a planning permit for a temporary use of part of the site for a junior primary school in conjunction with the pre-school for two (2) years. There will be no increase in the numbers of children on the first year, however, there will be an increase in the number of children by twelve (12) in the second year. There will be no changes to the height, built form and materials of the existing heritage listed building. There is adequate car parking provided for the proposed discretionary use and existing pre-school use. Amenity concerns in terms of noise can be addressed as a permit condition, should one issue.

RECOMMENDATION

That Council having caused notice of Planning Application No. **2011/0529/1** 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** for the application under the provisions of the Bayside Planning Scheme in respect of the land known and described as **453 New Street, Brighton** for the **temporary use of part of the site of a junior primary school** in accordance with the application dated 8 September 2011 and the revised plans dated 23 September 2011 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 use 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 with the application dated 6 August 2010 but modified to show:
 - a) The drop-off and pick-up car space must be clearly signed or line-marked.
2. The use as shown on the endorsed plans must not be altered without the written consent of the responsible authority.
3. The **use** must be managed so that the amenity of the area is not detrimentally affected, through the:
 - transport of materials, goods or commodities to or from the land
 - emission of noise, artificial light; odour.
4. In 2012 the maximum numbers of children for the junior primary school is twenty-two (22) in conjunction with the maximum of thirty (38) children for the pre-school.
5. In 2013 the maximum numbers of children for the junior primary school is thirty-four (34) in conjunction with the maximum of thirty (38) children for the pre-school.
6. The use may operate only between the hours of:
 - Monday to Thursday 8.30am to 4.30pm
 - Friday 8.30am to 2.0pm
 - Sunday 9.30am to 1pm
7. All Sunday religious education activities must be located to the classrooms at the south-east corner of the existing building and all external windows and doors to these classrooms must be closed for the duration of the classes.
8. The use of the outdoor playground areas on Sundays is prohibited except between 11.30am and 12.15pm.
9. This permit will expire on 31 December 2013.

A1 General amenity provision

4.3 **71 Dalgetty Road, Beaumaris**
Notice of Decision to Grant a Permit
Application No:2011/164/1 Ward: Southern

City Strategy - Statutory Planning
 File No: 2011/164/1

APPLICATION DETAILS

Land/Address:	71 Dalgetty Road, Beaumaris
Application is for:	Construction of two (2) double storey side by side dwellings with basement car parking and removal of vegetation in a Vegetation Protection Overlay Schedule 3.
Melway Reference:	86 D7
Ward:	Southern
Application Number:	2011/164/1
Applicant's/Owner's Name:	Patrick Miceli Architecture & Interiors
Date Received:	23 March 2011 Revised plans submitted 7 July 2011 & 31 August 2011
Statutory Days Expiry:	5 June 2011
Zoning:	Residential 1 Zone
Overlays:	Design and Development Overlay Schedule 2 Vegetation Protection Overlay – Schedule 3
Under what clause(s) is a permit required?	Clause 32.01-4 – Construction of two (2) or more dwellings on a lot Clause 42.02 – Schedule 3 to the Vegetation Protection Overlay.
Restrictive covenants on the title?	None
Current use and development:	Single storey dwelling
Objections:	2 Objections One joint letter with six (6) signatures
Application No:	2011/164/1

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) side by side dwellings on the site, with basement car parking.

Each dwelling will comprise of a double garage within the basement, a bedroom with ensuite, and an open plan kitchen, living and dining space on the ground floor. Private open space is provided to the rear of the dwellings off the living area. The first floor of each dwelling will comprise of a bedroom with ensuite, two (2) further bedrooms, a bathroom and living area.

SUBJECT SITE & LOCALITY

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

The site has a total area of 704 square metres and currently contains a single storey dwelling.

The main site/locality characteristics are:

- To the north of the subject site is a single storey dwelling at No. 73 Dalgetty Road.
- To the south of the subject site is No. 69 Dalgetty Road, a single storey brick dwelling.
- To the east of the subject site are a number of single storey buildings across Dalgetty Road, including dwellings at number 82 and 84 Dalgetty Road and St Martin's Church that is located on the corner of Dalgetty Road and Gibbs Street.
- To the west of the subject site is No. 20 John Street a single storey dwelling.

PERMIT/SITE HISTORY

No previous planning applications have been determined for this land.

The plans accompanying the application have been amended twice.

The first amendment was received on 7 July 2011 after a meeting with Council's Urban Designer and included:

- Alterations to the design of the front feature canopy.
- Alterations to the front facade including a feature timber box to the first floor to increase articulation.
- An increased to setback of the front entrance doors by 1 metre.

The second amendment was received on 31 August 2011, in response to feedback from Council officers and included:

- A reduction of the ground floor off the side boundaries to allow for landscaping in a planter box above the garage along the side of the dwellings.
- The feature box on the first floor has been reduced in depth.
- The amended plans included the submission of a comprehensive landscaping plan to satisfy the concerns of Councils Arborist.

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 and
- Placing a sign on site

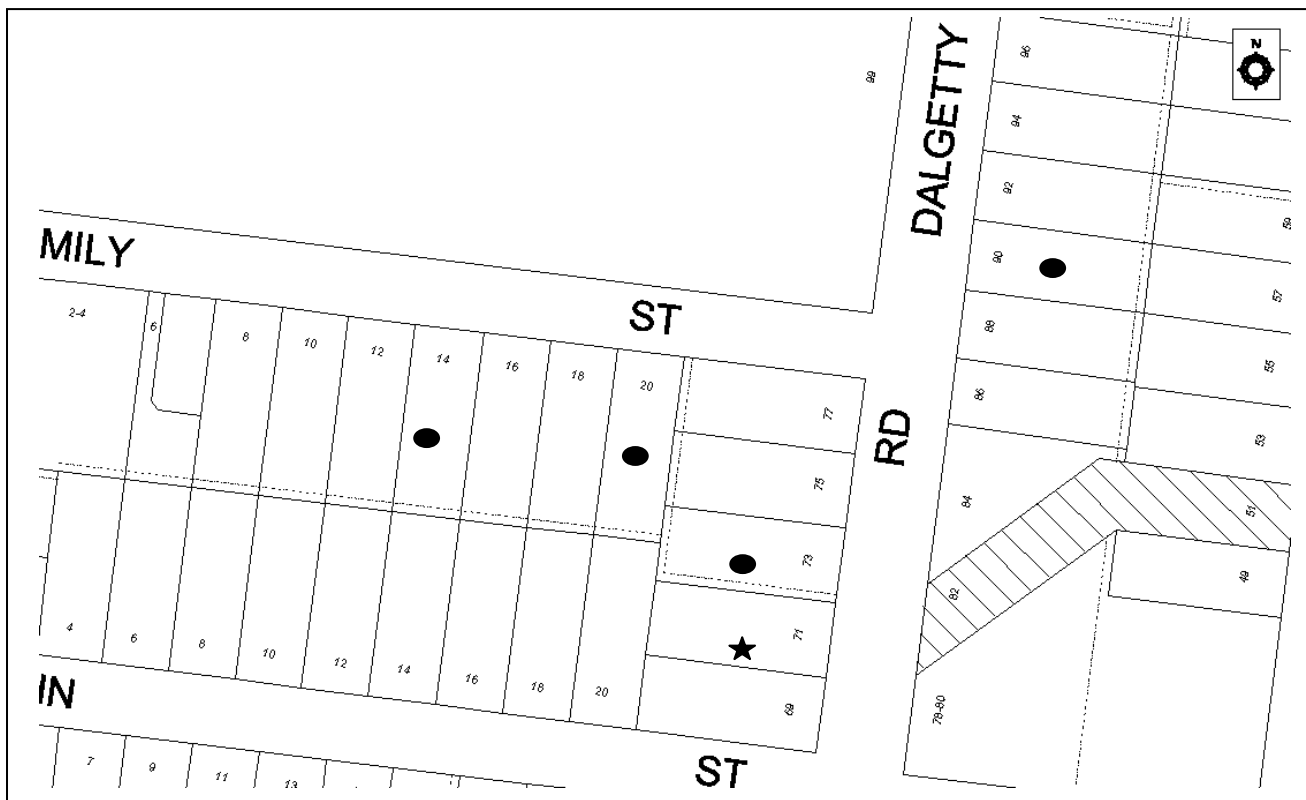
The notification has been carried out correctly and Council has received two (2) objections to date. One objection was a joint letter with six (6) signatories.

The key issues that were raised in the objections were:

- Neighbourhood Character
- Lack of proposed vegetation and canopy trees
- Dominance of the proposed driveways

The objectors concerns have been addressed in the body of this report.

Locality Plan – 71 Dalgetty Road, Beaumaris



Legend	
Subject Site	★
Objector (Petitioner)	●
Note: Not all objectors are shown on the locality map	

REFERRALS

External Referrals/Notices by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	N/A
Internal Council Referrals	Advice/Response/Conditions
Urban Design	No objections
Engineer	No objections subject to conditions
Street Trees Arborist	No objections subject to conditions
Arborist	No objection
Traffic Engineer	No objection, subject to conditions

ASSESSMENT

Relevant provisions of the Bayside Planning Scheme

State Planning Policy Framework

Clause 10 - Operation of the State Planning Policy Framework

The purpose of State planning policy is to inform responsible authorities of the aspects to be considered and given effect in administering the planning scheme. The State Planning Policy Framework provides a context for decision making by responsible authorities.

The planning policies are directed to land use and development, as circumscribed by the Planning and Environment Act 1987, a primary objective of which is to provide for the fair, orderly, economic and sustainable use and development of land.

Clause 15 Built Environment and Heritage

All new land use and development should appropriately respond to its landscape, valued built form and cultural context, and protect places and sites with significant heritage, architectural, aesthetic, scientific and cultural value. Quality built environments should be created that achieve high quality urban design and architecture that:

- Contributes positively to local urban character and sense of place.
- Reflects the particular characteristics, aspirations and cultural identity of the community.
- Enhances liveability, diversity, amenity and safety of the public realm.
- Promotes attractiveness of towns and cities within broader strategic contexts.
- Minimises detrimental impact on neighbouring properties.

Clause 16 - Housing

Planning should provide for housing diversity, including affordable housing, and ensure the efficient provision of supporting infrastructure. New housing should have access to services and be planned for long term sustainability, including walkability to activity centres, public transport, schools and open space.

Clause 16.01-2 - Location of residential development

New housing should be located in or close to activity centres, employment corridors and strategic redevelopment sites that offer good access to services and transport. An increasing proportion of housing in Metropolitan Melbourne should be developed within the established urban area, particularly sites well located to activity centres, employment corridors and public transport.

Clause 16.01-4 - Housing diversity

A range of housing types to meet increasingly diverse needs should be provided. The development of well-designed medium-density housing is encouraged, which should:

- Respect the neighbourhood character.
- Improve housing choice.
- Make better use of existing infrastructure.
- Improve energy efficiency of housing.
- Support opportunities for a wide range of income groups to choose housing in well serviced locations.
- Ensure planning for growth areas provides for a mix of housing types and higher housing densities in and around activity centres.

Municipal Strategic Statement**Clause 21.02 – Bayside Key Issues and Strategic Visions**

This policy outlines the key issues facing the municipality such as increasing development pressure and the impact of this on the urban environment, including ensuring housing is provided to meet the needs of the community.

Clause 21.03 – Settlement and Housing

Provides local content support to Clause 11 (Settlement) and Clause 16 (Housing) which includes accommodating for population growth to respond to demographic changes of Bayside.

Clause 21.06 – Built Environment and Heritage

Provides local content support to Clause 15 (Built Environment and Heritage) which includes the achievement of quality design outcomes that improve development in Bayside and contribute to a sense of place appropriate to Bayside character.

Local Planning Policy Framework**Clause 22.06-1 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.

The subject site is located in Neighbourhood Character Precinct H3.

Clause 22.06-2 Neighbourhood Character 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 22.08 – Water Sensitive Urban Design - Aims 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, and to reduce the entry of pollutants into stormwater run-off.

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 planning permit is required to construct two (2) or more dwellings on a lot.

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.

The proposed development does not trigger the need for a planning permit, as the proposal does not exceed 2 storeys and the overall building height does not exceed 9 metres.

- **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.

A planning permit is required to remove native vegetation on the site.

Particular Provisions

- **Clause 55 - Construction of Two or More Dwellings on a Lot** - Includes specific objectives and standards for residential development.
- **Clause 65 – General provisions – Decision Guidelines** - *details matters to be considered when determining a planning application.*

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 proposed development is located within Neighbourhood Character Area H3. The valued characteristics for the area are:

“The bushy gardens surrounding the dwellings dominate the streetscapes. Where the topography is hilly, the buildings are set within the landscape, and are sometimes sited to take advantage of water views without dominating the streetscape. Adequate space is provided around dwellings for the retention and planting of vegetation, and indigenous canopy trees are common. Low or open

style front fences are usually provided, in order to retain the openness of the front garden to the street.”

Precinct Guidelines

Objective	Design Response	Avoid
To strengthen the bushy garden character of the area through the planting of appropriate species.	<ul style="list-style-type: none"> Retain large established trees and understorey, and provide for the planting of new indigenous trees wherever possible (locate footings outside root zone). Prepare a landscape plan to accompany all applications for new dwellings that utilises appropriate native, preferably indigenous, vegetation. Minimise impervious surfaces particularly in front garden spaces to ensure space for plantings. 	<p><i>Lack of landscaping and substantial vegetation.</i></p> <p><i>Removal of large established trees.</i></p> <p><i>Planting of environmental weeds.</i></p>
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.	<ul style="list-style-type: none"> Buildings should be sited to allow space for a garden, including trees and shrubs. Buildings should be sited to create the appearance of space between buildings and accommodate vegetation. 	<i>Loss of front garden space.</i>
To minimise the loss of front garden spaces and the dominance of car parking structures.	<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 structures that dominate the façade or view of the dwelling.</i>
To minimise site disturbance and impact of the building on the landscape.	<ul style="list-style-type: none"> Buildings should be designed to follow the contours of the site on sloping sites. Minimise the use of retaining walls and battering of slopes. Design new buildings and extensions so as not to exceed the predominant tree canopy height. 	<p><i>Major excavation works and site levelling.</i></p> <p><i>Buildings that protrude above the tree canopy height.</i></p>
To ensure that new buildings provide an articulated and interesting façade to the street.	<ul style="list-style-type: none"> Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, 	<p><i>Large, bulky buildings</i></p> <p><i>Poorly articulated front and side wall</i></p>

Objective	Design Response	Avoid
	combinations of materials, textures or colours or other elements providing appropriate articulation. <ul style="list-style-type: none"> • Recess upper levels from the front façade. 	<i>surfaces.</i>
To use building materials and finishes that complement the natural setting.	<ul style="list-style-type: none"> • Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick. 	<i>Period reproduction styles and detailing.</i>
To maintain the openness of the front garden to the street.	<ul style="list-style-type: none"> • Provide open style front fences, other than along heavily trafficked roads. • Use vegetation as an alternative where possible. 	<i>High or solid front fences.</i>

The area surrounding the site contains a mixture of architectural styles with mainly single storey brick dwellings, with vegetated front setbacks and low fencing.

The proposal presents a more contemporary architectural form than is evident in the immediate area. However, although it is markedly different in form to existing development, it does meet the objectives of the Neighbourhood Character precinct H3 guidelines. The proposed front setback respects the prevailing pattern of setbacks in the street and will allow some front garden to be maintained with landscaping and canopy trees, as shown on the landscaping plan. The proposed planting along with side boundaries within the front setback also will create a perception of visual separation between buildings. The application proposes a low front fence to the development, which helps to maintain the openness of the site and visual connection to the street.

The landscape plan proposes parts of the side setbacks to be planted with Hop Wattle, Correa and Acema. To enhance this planting within the side setbacks and to ensure adequate space is provided around buildings for the planting of vegetation a permit condition is recommended to delete the decking within the northern and south setbacks of both dwellings so as to provide increase areas for landscaping. As the laundry access is located where the decking is to be removed, it is reasonable for the decking to be replaced with minimal porous paving.

It is considered that the proposed development is appropriate in its context. The proposal respects the existing character of the area and will not disrupt or detrimentally affect the amenity of the surrounding area.

Setbacks

The proposed front setback of the development of 8.5 - 9.64 metre does not comply with the 9m setback requirement of the Bayside Planning Scheme. Given however that setback of the neighbouring property at 69 Dalgetty Road is only 7.2 metres, it is considered that the proposed setback will create a suitable transition to the larger setback at 73 Dalgetty Road.

The proposal does not comply with the following rear and side setback requirements of the schedule to the Residential 1 Zone at ground and first floor:

	Ground Floor		First Floor	
	Required	Proposed	Required	Proposed
North (side)	0 or 2m	0 and 2m	3.92-4.98	<u>3m – 3.5m</u>
South(side)	0 or 2m	0 and 2m	3.74-4.74	<u>3m-3.5m</u>
East(front)	9m	<u>8.5-9.64m</u>	9m	<u>8.5-9.64m</u>
West (rear)	0 or 3m	8.54m Dwelling 1 8.59m Dwelling 2	0or 3m	8.16m Dwelling 2 8.21m Dwelling 1

The proposed first floor north side setback for dwelling 1 of 3.0m to 3.5m does not comply with the 3.92 to 4.98m setback requirements of the Bayside Planning Scheme. While the proposed set back fails to comply with the requirements of the scheme, given the orientation of the property and the articulation to the first floor elevation, it is considered that the proposal will not result in a detrimental impact to the neighbouring property with regards to visual bulk, overshadowing or overlooking.

The proposed first floor south side setback for dwelling 2 of 3 to 3.5metres also does not comply with the 3.74 to 4.74m setback requirements of the Bayside Planning Scheme. While the proposed set back fails to comply with the requirements of the scheme, the articulation to the first floor combined with the set back of the neighbouring dwelling from the boundary with the subject site means that it will not result in a detrimental impact to the neighbouring property with regards to visual bulk. Further, although the upper floor setbacks are non-compliant, the amount of shadow cast to the neighbouring property is modest and does not cover existing north facing windows.

Although the non compliant second storey setbacks will not result in detriment to the neighbouring properties, in order to maintain the rhythm of spacious visual separation between buildings, particularly to the streetscape where the building is at its highest point, at 7.260 and 7.445 metres and only setback 3 metres, it is recommended a permit condition be included requiring that at the second storey setback of Bedroom 2 and Bathroom 2 of both dwellings be increased to a minimum of 4 metres. This 4 metre side setback although not meeting the required setback of 4.78 to 4.89 metres, replicates the side setbacks of existing dwellings in Dalgetty Road. The adjoining dwellings at 69 and 73 Dalgetty Road are setback 4.18 and 4.38 metres respectively.

Overlooking

It is considered that the proposal will not result in overlooking into adjoining properties from the proposed dwellings given that all first floor windows are highset and appear to be 1.7 metres above the finished floor level. As there is no notation of the height of these windows on the elevations from the finished floor level it is recommended a condition addressing overlooking be included.

Overshadowing

It is considered that the proposal will not result in overshadowing to adjoining properties. The overshadowing complies with the provisions of Clause 55 Standard B21 of the Bayside Planning Scheme and will not have any detrimental impact on the amenity of the adjoining properties.

Traffic and car parking

Each dwelling has been provided with two (2) car spaces in the form of double garages contained within the basement, accessed via separate driveways off Dalgetty Road. The parking provision is in accordance with the requirements of the Bayside Planning Scheme. The Council's Traffic Engineer has no objections to the proposal subject to conditions.

Site Coverage

The proposed site coverage is 46.16% which complies with the Schedule to the Residential 1 Zone that alters Standard B8 of Clause 55 of the Bayside Planning Scheme. At 28.05% the proposed level of permeability exceeds the 20% requirement of Standard B9.

Vegetation and landscaping

Council's Arborist has visited the site and notes that while there is some vegetation on the existing site it is of relatively low quality and not worthy of retention.

The proposed landscaping plan that accompanied the application prior to the amendment lodged on 31 August 2011 was considered unacceptable by Council's Arborist. The arborist considered that the replacement species proposed, particularly within the front side setbacks of the site, were unacceptable. The applicant has since submitted revised plans including a more detailed landscaping plan. The revised plans provide for increased vegetation to assist in maintaining the well landscaped character of the surrounding area. Council's Arborist has reviewed the amended plans and has declared the proposed landscaping to be appropriate and as such has no objection to the proposal.

Overall it is considered that the proposed landscaping plan is acceptable and corresponds satisfactorily to the neighbourhood character of the area. The inclusion of significant landscaping along the side setbacks and within the front and rear setback helps soften the proposed buildings visual bulk. In addition a tree protection zone has been applied to protect two (2) large canopy trees in adjoining yards. The proposed landscaping addresses the concerns of objectors surrounding the lack of vegetation. The provision of two (2) canopy trees in the front setback will soften the appearance of the proposed driveways and integrate the design well with the existing streetscape.

Street tree

The Council's Street Tree Arborist has reviewed the proposal and is satisfied that the development will not unduly impact on the existing street tree at the front of the property subject to permit conditions requiring a tree protection zone. The amended landscaping plan provides a tree protection zone around the street tree.

Energy Efficiency and Water Sensitive Urban Design

The internal layout of each dwelling is designed so as to maximise daylight to habitable rooms and access to secluded private open space. Ground floor living areas directly abut the private open space located to the west of the dwellings. The design response is considered to adequately comply with the energy efficiency objectives of Standard B10 of the Bayside Planning Scheme.

The applicant has demonstrated on the plans provided the provision of water tanks to satisfy the requirements of Clause 22.08 of the Bayside Planning Scheme - Water Sensitive Urban Design. Furthermore the application includes a STORM rating report which indicates the proposal includes a STORM rating of 101%, which meets the requirements of Clause 22.08 of the Bayside Planning Scheme.

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 in the street. It is therefore recommended that a permit should be issued, subject to conditions.

RECOMMENDATION

That Council having caused notice of Planning Application No. **2011/164/1** 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 **71 Dalgetty Road, Beaumaris**, for the **construction of two (2) double storey side-by-side dwellings and removal of vegetation in a Vegetation Protection Overlay schedule 3** in accordance with the amended plans dated **31 August 2011** and the application dated 6 September 2010 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 amended plans submitted on 7th July 2011 but modified to show:
 - a) The side setbacks of the second storey to bedroom 2 and bathroom 2 of both dwellings be increased to a minimum of 4 metres.
 - b) The decking within the northern and southern setbacks of both dwellings to be deleted so as to provide increase areas for landscaping. Access from the laundry access may be replaced with a small area of porous paving.
 - c) The location of any service facilities (such as an air conditioner, hot water system and the like)
 - d) A minimum 5.4 metre dimension of each double garage is to be indicated on the plan.
 - e) First floor plans that display vegetation consistent to the landscaping plan.
 - f) Landscaping plan in accordance with condition 9 and showing two (2) canopy trees in the front setback.
 - g) Screening to all habitable room windows and decking must be in accordance with Standard B22 Overlooking of the Bayside Planning Scheme.
2. The development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.
3. Before the development (including demolition) starts tree protection as per Australian Standard 4970 is to be provided to the street tree (encompassing the entire nature strip under the dripline of the tree) prior to any works on site commencing and maintained until all works are complete.

4. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the responsible authority.
5. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building(s) without the written consent of the responsible authority.
6. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the responsible authority.
7. Vehicular crossing(s) must be constructed to the road to suit the proposed driveway(s) to the satisfaction of the responsible authority and any existing crossing or crossing opening must be removed and replaced with footpath, nature strip, and kerb and channel to the satisfaction of the responsible authority.
8. All disused or redundant vehicle crossings must be removed and the area reinstated to kerb and channel to the satisfaction of the responsible authority.
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) provision of an in-ground irrigation system to all landscaped areas.

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

10. Before the occupation of the development starts or by such later date as is approved by the responsible authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority.
11. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority, including that any dead, diseased or damaged plants are to be replaced.
12. The existing street tree(s) must not be removed or damaged.

13. All existing vegetation shown on the endorsed plans to be retained must not be removed, destroyed, pruned or lopped without the written consent of the responsible authority, all tree pruning must be carried out by a qualified Arborist to AS 4373, Pruning of Amenity Trees.
14. 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, or carry out on site verification.
15. 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 to the satisfaction of the Responsible Authority.
16. Any seepage / agricultural drainage water must 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.
17. Before the development begins, three sets of detailed plans 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.
18. The driveway / Parking areas / paved courtyards / paths and 'pervious' pavements must be graded / drained to prevent stormwater discharge onto the front footpath and into adjacent properties.
19. The developer is to bear the cost to remove and reinstate any street furniture or infrastructure items to provide the required access to the proposed development.
20. The water sensitive urban design stormwater treatment system as shown on the plans 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.
21. This permit will expire if one of the following circumstances applies:
 - a. The development is not started within *two* years of the date of this permit.
 - b. The development is not completed within *four* years of the date of this permit.

The responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.

Permit Notes

- N1 Crossover permit**
- N2 Building approval**
- N6 Vehicle crossing removal**
- N7 Retention of existing street trees**
- N8 Sewerage**
- N10 Asset Protection**

STANDARDS 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>	N/A	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	Each dwelling has a visible entrance to help integrate the development to the street.
<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>	No	See setback table.
<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: 6.9 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>	Yes	<p>Required: 50%</p> <p>Proposed: 46.16%</p>

B9 Permeability Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.	Yes	Required: 20% Proposed: 28.05%
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.	Yes	N/A
B12 Safety Layout to provide safety and security for residents and property.	Yes	All buildings and entrances are visible from the street frontage.
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. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.	Yes	Car parking has been conveniently located for each dwelling. Both dwellings are provided with two secure car parks within a basement garage.

<p>B16 Parking Provision</p> <p>Ensure car and bicycle parking meets the needs of residents and visitors.</p> <p>Access ways should be practical, attractive and easily maintainable.</p>	<p>Yes</p>	<p>Required: 2 spaces per dwelling</p> <p>Proposed: 2 spaces per dwelling</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>See setback table in report.</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>Length allowed: 17.81m</p> <p>Proposed: 10.46m</p> <p>Height allowed: 3 m no part higher than 3.6 m</p> <p>Proposed: 3 m</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>The proposed development will result in no internal overlooking into the proposed dwellings.</p> <p>See report.</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>See report</p>

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	See report
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: 40sqm Proposed: Dwelling 1: 85.18sqm Dwelling 2: 85.18sqm
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	Each dwelling has secure external storage greater than 6 cubic metres.
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.	Yes	1.2m high fence
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.	N/A	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	Sufficient area provided for site services

173 Bluff Road, Black Rock
Notice of Decision to Grant Amended Plans under Section 72
Permit No. 2008/0046/2 Ward: Central

4.4

City Strategy - Statutory Planning
 File No: 2008/0046/2

APPLICATION DETAILS

Land Address:	173 Bluff Road, Black Rock
Application is for:	Section 72 Amended Plan
Melway Reference:	85K1
Ward:	Central
Application Number:	2008/0046/2
Applicant's/Owner's Name:	N Ploumis
Date Received:	24 May 2010
Zoning:	Residential 1 Zone
Overlays:	Design and Development Overlay Schedule 2 Vegetation Protection Overlay Schedule 3
Under what section is a permit required?	Section 72 of the <i>Planning and Environment Act 1987</i>
Restrictive covenants on the title?	No
Current use and development:	Child care centre under construction
Objections:	Two (2)

PROPOSITION

It is recommended that Council **approve** a Notice of Decision to Grant Amended plans under Section 72 of the *Planning and Environment Act 1987*.

PROPOSAL

On 24 May 2011 the applicant applied to Council under Section 72 of the *Planning & Environment Act 1987*, seeking to amend the endorsed plans issued under Planning Permit No. 2008/0046/1 issued 16 December 2008 for the construction of a double storey building for the use of a child care centre for sixty (60) children.

The Section 72 Application to Amend plan seeks the following amendments:

- The building has been constructed on different levels (stepped) to accommodate the slope in the land.
- The ground floor wall heights at the front, middle and rear sections of the building have been increased by 0.3 to 0.6 metres (from 3.5 and 3.8 metres to 4.1 metres).

- The front and rear (ground floor) parapet walls have been increased in height by 0.6 metres (from 3.5 metres to 4.1 metres).
- The section of the ground floor roof which was shown as flat on the endorsed plans has been changed to a hipped roof.
- The rear of the building has been extended by 0.53 metres which has resulted in the rear setback of the building to be reduced from 12.548 (approved) to 12.031 metres(amended).
- One of the ground floor windows on the northern elevation has been removed and replaced with a door/window combination and shade sail.
- Materials and finishes (external walls) changed from face brickwork to render.

SUBJECT SITE & LOCALITY

The site has a total area of approximately 512 square metres and currently contains:

- A double storey building under construction for use as a child care centre.

The main site/locality characteristics are:

- There are no street trees located on the nature strip in front of the site.
- There is a bus stop sign and seat located on the nature strip in front of the site.
- The adjoining properties to the **north**, at 1-5/175 Bluff Road, contain two (2) double storey dwellings and three (3) single storey brick dwellings. The two (2) front dwellings have front setbacks between approximately 6.5 to approximately 8 metres from the street frontage. There is a 1.8 metre high brick pier and picket infill front fence. Immediately north of these properties are a small group of shops in a Business 1 Zone.
- The adjoining properties to the **south**, at 1-5/171 Bluff Road, contain five (5) single storey attached dwellings. The front dwelling has a front setback to the street of approximately 8 metres. At 2/69 Red Bluff Street is a single storey brick dwelling also backing onto the side boundary of the subject site.
- The properties to the **east**, across Bluff Road, contain double and single storey dwellings.
- The adjoining property to the **north**, at 72 Edward Street, contains double storey dwelling with a tennis court located behind the dwelling.

PERMIT/SITE HISTORY

The following previous planning permits have been determined for the subject site:

- The Planning Committee at its meeting on Tuesday 11 November 2008 resolved to issue a Notice of Decision for planning application 2008/0046/1. No appeals were lodged at VCAT and a planning permit No. 2008/0046/1 was issued on 16 December 2008 for the construction of a double storey building to be used as a child care centre for sixty (60) children.

PUBLIC NOTIFICATION

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

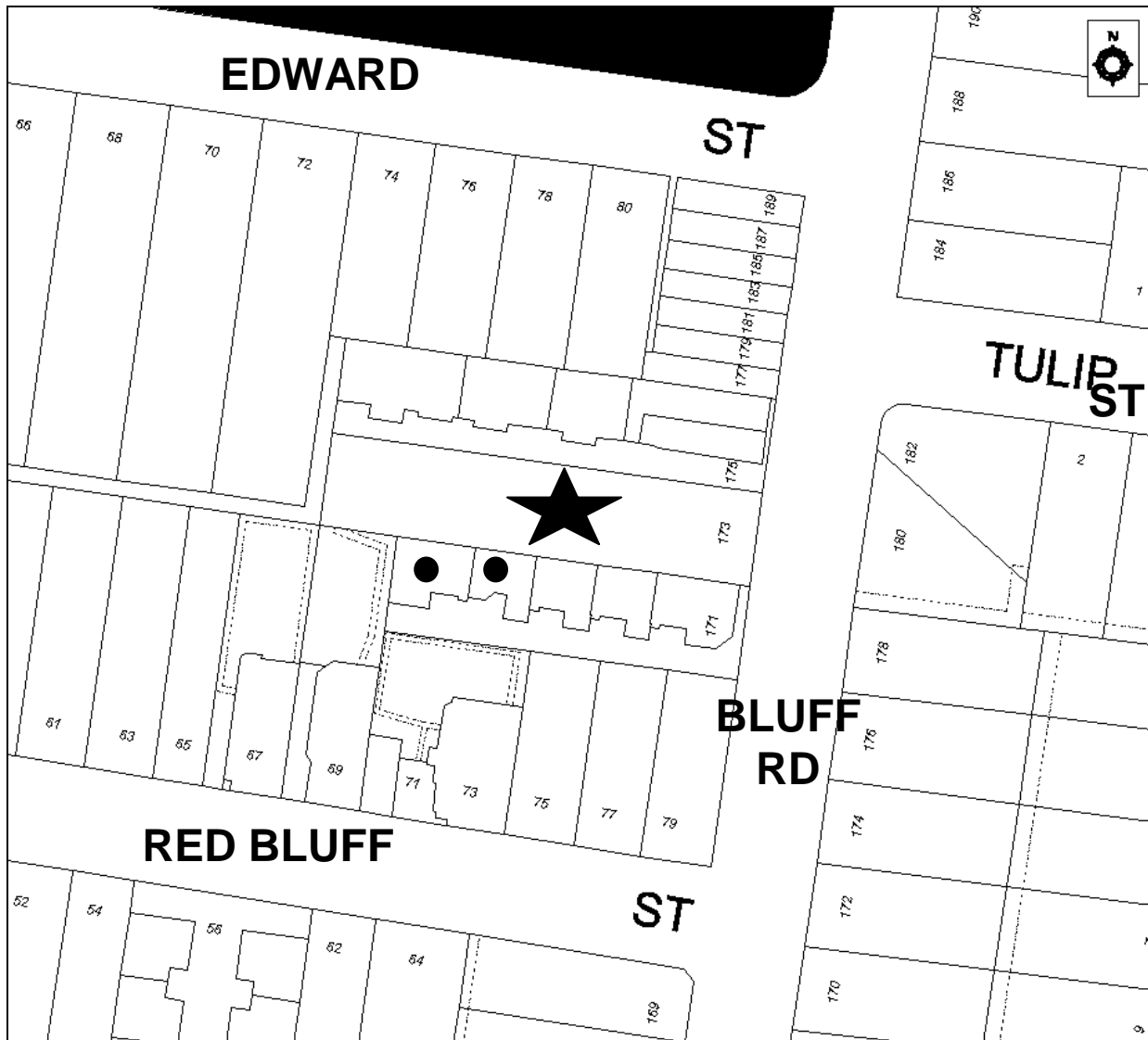
- Sending notices to the owners and occupiers of adjoining land

The notification has been carried out correctly. Council has received two (2) objections to date.

The key issues that were raised in the objections are:

- Height of building
- Visual bulk
- Overshadowing
- Overlooking
- Noise
- Side and Rear setback
- Plant and equipment
- Acoustics fences
- Face brickwork

Locality Plan – 173 Bluff Road, Black Rock



Legend	
Subject land	★
Location of Objectors	●

REFERRALS

External Referrals by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	N/A
Internal Council Referrals	Advice/Response/Conditions
N/A	N/A

ASSESSMENT**Relevant Provisions of the Planning and Environment Act 1987**

Section 73(1) of the Planning and Environment Act 1987 states that Sections 47 to 62 apply to an application to amend a permit as if the application were an application for a permit and any reference to a permit were a reference to the amendment to the permit.

Therefore, the amendments to the permit and plans are to be assessed against the relevant planning controls affecting the proposal.

Note: Only the changes to the approved proposal are considered as part of this application for amendment.

Relevant Provisions of the Bayside Planning Scheme**State Planning Policy Framework**

Clause 10 Operation of the State Planning Policy Framework – The purpose of State Policy in planning schemes is to inform planning authorities and responsible authorities of those aspects of State Policy which they are to take into account and give effect to in planning and administering their respective areas. The State Planning Policy Framework provides a context for spatial planning and decision making by planning and responsible authorities. The planning policies are directed to land use and development, as circumscribed by the Planning and Environment Act 1987, a primary objective of which is to provide for the fair orderly, economic and sustainable use and development of land.

Clause 17 Economic Development – Clause 17 is designed to provide for a strong and innovative economy where all sectors of the economy are critical to economic prosperity. To encourage development which meets the community's needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to the accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.

Local Planning Policy Framework

Clause 21.06 Built Environment and Heritage – Seeks to achieve quality design outcomes which improve the image of land use and development in Bayside and contribute to a sense of place appropriate to Bayside's character and maintains, strengthens and enhances local character. To facilitate quality design outcomes which make a positive contribution to the character of residential

areas. To provide greater certainty to both residents and developers in relation to the preferred character of residential areas and areas that require special treatment or greater protection. To facilitate attractive well designed Activity Centres in keeping with neighbourhood character.

Clause 21.07 Economic Development – Seeks to promote sustainable development of shopping centres within a regional context. To encourage new economic development which maintains and enhances the supply of and access to a range of employment and training opportunities. To maximise the economic, social and cultural benefits of tourism for Bayside. To ensure the proper integration of appropriate discretionary uses into residential areas.

Local Planning Policies

Clause 22.06 – 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 22.07 – Discretionary Uses in Residential Areas – Seeks to ensure that development respects the established neighbourhood character and responds to the preferred neighbourhood character, to ensure that discretionary uses in residential areas do not adversely affect residential amenity, to ensure that adequate access is available to the site, to ensure that adequate provision is made for on-site parking, to ensure that traffic generated by the discretionary use is appropriate to the street and the locality and will not adversely affect existing traffic patterns and safety, and to ensure that local community needs are served by the proposal.

Clause 22.08 – 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.

Zoning

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 under this clause (32.01-6) for buildings and works for a use in Section 2 of Clause 32.01-1.

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 under this overlay.

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.

A planning permit is not required under this overlay.

General Provisions

Clause 65 Decision Guidelines – Details matters to be considered when determining a planning application.

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.

Height of Building

The proposed amendments include an increase to the wall height of the building at ground floor by 0.6 metres (from 3.5 to 4.1 metres).

It is considered that the increase in height of the walls at the ground floor level do not exceed the height requirements of the above standard.

It is relevant to note that the overall height of the building approved at 7.23 metres has not changed.

Setback

The rear of the building has been extended by 0.53 metres which has resulted in the rear setback of the building (as approved on the endorsed plans reduced from 12.548 (approved) to 12.031 metres).

The rear of the building is single storey and the reduced setback exceeds the 3.0 metres rear setback requirements of the Bayside Planning Scheme.

It is therefore considered that the reduced setback will not result in unreasonable detriment.

The increased wall heights along the north and south side setbacks will result in changes to the setback requirements.

The Bayside Planning Scheme requires 2.0 metres side setbacks for wall heights up to 3.6 metres. this requirement increases to 2.3 metres for 4.1 metres high walls.

As the building is setback 2.0 metres for the entire length of the southern boundary the raised wall heights will result in non-compliant setbacks in the vicinity of 100mm-300mm.

Although the area of non-compliance is marginal, it is considered that the reduced setbacks will exacerbate the continuous built form that has minimal articulation and does not propose a variety of materials and finishes.

Visual Bulk

It is considered that the 600mm increase to the approved wall heights of the ground floor of the building will increase its visual presence to the adjoining properties. The additional height will exacerbate the continuous built form (with no breaks and no changes to the materials and finishes) and will result in visual bulk detriment to the adjoining neighbours. An additional permit condition should an amended permit issue will require the length of the north and south external walls to be broken up with different finishes and materials.

Overshadowing

The shadow diagrams submitted with the amended plans have been checked and found to be correct. The increased height at the ground floor of the building does not generate unreasonable overshadowing to the adjoining properties to the south of the site. It is noted that the shadow cast by the amended plans is within the shadow cast by the south boundary fence on to the adjoining properties to the south. The shadow cast by the building (as amended) complies with Clause 54, Standard A14 of the Bayside Planning Scheme.

Overlooking

A site inspection confirmed that there is overlooking from the north and south facing windows of the building to the adjoining properties. Permit conditions can be included requiring screening to be incorporated to achieve compliance with the requirements of Clause 54, Standard A15 of the Bayside Planning Scheme.

Noise/Acoustic Fence

As there have been changes to the height and finished floor levels of the building, a permit condition, on any permit that may issue will require the previously approved acoustic report produced by Audiometric and Acoustic Service to be reviewed with regard to the changes to the built form.

Side and Rear setback

The table below shows the required and proposed (amended plans) side and rear setbacks

Ground Floor	Required (Schedule)	Revised Proposed
North (side)	0 or 2 to 2.3m	3.83 to 4.79m
South (side)	0 or 2 to 2.12m	2m
West (rear)	0 or 3m	12.031m

Given the increased height of the building (as amended), it is considered that the side and rear setbacks at the ground floor generally comply with Clause 54, Standard A10, except for a small section of wall at the southern elevation, which requires a side setback of 2.12 metre for a wall height of 3.8 metres. It is considered that this reduced side setback is marginal and would not cause unreasonable detriment to the adjoining properties to the south in terms of visual bulk and overshadowing.

Plant and Equipment

Objections have been raised in relation to the location of hot water units and heating/cooling units. It is noted that the locations of hot water units along the southern elevation of the building have not changed from those shown on the endorsed plans. It is also noted that the locations of heating/cooling units at the first floor on the western elevation of the building have not changed from those shown on the endorsed plans.

It is considered that the locations are suitable and will not result in unreasonable detriment to surrounding neighbours.

Change of Materials and Finishes

Objections have been raised in relation to the use of multi-colour bricks in the construction of external walls to the building. The amended plan shows that the external walls are rendered but the notations indicate that the external walls are of selected face brickwork. The applicant has confirmed that the external walls will be rendered. A permit condition on any amended permit that may issue can require the external walls to include a variety of materials and finishes to create visual interest and minimise visual bulk detriment to adjoining neighbours

CONCLUSION

The permit applicant seeks retrospective amendments to the endorsed plans under Section 72 of the *Planning and Environment Act 1987*. The amendments were advertised and Council received two (2) objections to the proposal. Representative of the objectors, the applicant and Council's Planning Officer had met on site however the issues raised by the objector were not resolved.

It is considered that the proposed amendments generally comply with the requirements of the Bayside Planning Scheme, subject to additional permit conditions.

RECOMMENDATION

It is recommended that Council Issue a Notice of Decision to Amend Planning Permit 2008/0046/2 issued for the construction of a double storey building for the use of a child care centre for sixty (60) children for the following amendments.

A

1. Before the use and development starts three copies of revised plans drawn to scale and dimension, 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 revised plans dated 2 October 2008 but modified to show to the satisfaction of the Responsible Authority:
 - a. The fire escape staircase is to be deleted.
 - b. Provision of an acoustic fence at the cost to the Applicant/Owner long the entire northern, southern and western boundaries of the subject site in accordance with the recommendations of a qualified acoustic engineer as set out in the report required by condition 11 to the satisfaction of the Responsible Authority.
 - c. Eight (8) car spaces are to be allocated for staff (car space nos. 1, 2, 4, 9, 10, 11 and 12), six (6) car spaces are to be allocated as drop off and pick up (car space nos. 6, 7, 8, 13, 14 and 15) and the disabled car space changed from car space no. 3 to car space no. 5.
 - d. The bus stop sign, Council's bench seat and rubbish bin to be relocated to outside the sideage of 79 Red Bluff Street to the satisfaction of the Responsible Authority.

- e. All paving (except driveways) to be permeable. Details of the permeability of the paving must be supplied to the satisfaction of the Responsible Authority.
 - f. 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).
 - g. The proposed landscape treatment for the site including the existing and proposed species.
 - h. All plant and equipment (including air conditioning units, heating units, hotwater systems, etc.) which is proposed to be located externally shall be identified on the plans and located to the satisfaction of the Responsible Authority. Such equipment should be located away from bedrooms of adjoining properties.
 - i. The provision of a fence or barrier of at least 1.5m in height to preclude access by children of the area to the south side of the building which has a width of less than 3m. This open space is not to be used as an outdoor recreation space for children attending the premises.
 - j. The provision of gates to the car park entry located on the Bluff Road frontage, which are to be closed at all times when the premises is not operating.
 - k. A change of materials and finishes to be incorporated to the south and north elevations to break up the continuous built forms.**
 - l. The height of the northern boundary fence (from the rear of the storage shed to the front of the carport of 5/175 Bluff Road) must be increased to a minimum of 1.7 metres measured above the finished floor level of the building.**
 - m. Privacy screens or other suitable measures must be added to all south-facing and north facing windows to ensure compliance with Clause 54, Standard A of the Bayside Planning Scheme.**
 - n. Amend the notations of 'selected face brick' on all elevations to 'selected render finish'.**
2. The use and/or development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:
- a) transport of materials, goods or commodities to or from the land
 - b) appearance of any building, works or materials
 - c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil
 - d) presence of vermin
 - e) others as appropriate.
4. The use may operate only between the hours of 7am to 7.30pm Monday to Friday.
5. No more than sixty (60) children and twelve (12) full-time staff members may be present on the premises at any one time without the written consent of the Responsible Authority.

6. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
7. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.
8. Any infectious or potentially infectious wastes (as defined by the EPA) shall be properly segregated in containers colour coded yellow for infectious wastes and orange for potentially infectious wastes. Any prescribed waste that leaves the premises of generation must be disposed of in accordance with Environmental Protection Authority (EPA) requirements.
9. All noise emanating from any mechanical plant (air conditioners etc) on the site must be kept at a level satisfactory to the EPA and the Responsible Authority.
10. Noise associated with the delivery or collection of goods from the premises or staff activity on the site must be kept at a level satisfactory to the EPA and the Responsible Authority.
11. Before the development commences, a report prepared by a suitably qualified acoustic consultant must be submitted to the satisfaction of the Responsible Authority. The report must detail recommendations with respect to the provision of glazing and acoustic seals to windows and glass doors, insulation to north, south and west external walls, and acoustic fencing of the north, west and south boundaries of the property to mitigate the emission of noise from the site. The measures must be documented on the endorsed plans, to the satisfaction of the Responsible Authority. **The report must be revised to respond to the 22 November 2011 changes to the plans.**
12. Provision must be made on the land for the storage and collection of garbage and other solid waste. This area must be graded and drained and screened from public view to the satisfaction of the Responsible Authority.
13. A commercial waste collector must carry out waste collection service for the proposed use in accordance with the Waste Management Plan prepared to the satisfaction of the Responsible Authority. The waste collection service should be carried out on site within the property boundaries. Garbage receptacles are not to be stored in the road reserve at any time. The use of commercial waste and recycling bins is subject to compliance with the guidelines in Schedule 1 of the relevant local laws of Bayside City Council. The collection of commercial waste and recycling bins is subject to compliance with EPA Noise Control Guidelines, Industrial Waste Collection, Section 6.
14. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.
15. Before the use or occupation of the development starts, the area/s set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
 - a) constructed
 - b) properly formed to such levels that they can be used in accordance with the plans
 - c) surfaced with an all-weather-seal coat
 - d) drained
 - e) line marked to indicate each car space and all access lanes
 - f) clearly marked to show the direction of traffic along access lanes and driveways to the satisfaction of the Responsible Authority.Car spaces, access lanes and driveways must be kept available for these purposes at all times.

16. All car parking spaces must be designed to allow all vehicles to drive forwards both when entering and leaving the property.
17. Vehicular crossing/s must be constructed to the road to suit the proposed driveway/s to the satisfaction of the Responsible Authority and any existing crossing or crossing opening must be removed and replaced with footpath, nature strip, and kerb and channel to the satisfaction of the Responsible Authority.
18. Landscape plan required to be in general accordance with the Advertised Plans Drawing No.1013-TP Sheet 6 of 6 Revision B with the relocation of two canopy trees from the rear to the south side of the site where the building is located. 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) 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
 - e) landscaping and planting within all open areas of the site

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

The landscape plan must also indicate that an in-ground irrigation system is to be provided to all landscaped areas.

19. Before the use/occupation of the development starts or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
20. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.
21. All existing vegetation shown on the endorsed plans to be retained must not be removed, destroyed, pruned or lopped without the written consent of the Responsible Authority, all tree pruning must be carried out by a qualified Arborist to AS 4373, Pruning of Amenity Trees.
22. Replacement planting shall take place prior to the commencement of the operation of the childcare centre.
23. Prior to the commencement of any development or demolition works a Tree Protection Zone Fence of Cyclone wire or similar construction must be erected to a height of at least 1.8 metres at a minimum distance (metres) in radius from the centre of the following trees

Tree Particulars	Tree Protection Zone (Metres)
Tree 1: <i>Liquidambar styraciflua</i> - Liquidambar	To edge of proposed parking bays, to east boundary and 4 metres west of trunk centre.

24. 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 Street Services department for approval.
25. Plans for the construction of the outfall drain must receive Bayside City Council approval prior to the commencement of the development.
26. Any paved courtyards / paths must be graded/ drained to prevent stormwater discharge into adjacent properties.
27. Stormwater Detention System is to be provided to the satisfaction of Bayside City Council.
28. Any seepage/agricultural drainage water must not be discharged directly to the kerb/ channel.
29. The applicant must arrange for and pay the full costs of all roadworks, pavement markings, public lighting alterations, service relocations, signage and other costs associated with these works, i.e. all works are to be undertaken to no cost to VicRoads or the Responsible Authority.
30. Conditions required by VicRoads
 - a) A two-way vehicular crossover, at least 6.4 metres wide, as measured at the property boundary, shall be constructed to the satisfaction of the Responsible Authority.
 - b) The edges of the vehicular crossover shall be angled at 60 degrees to the road reserve boundary to improve entry and exit conditions.
 - c) All car parking spaces shall be designed to allow all vehicles to drive forwards when both entering and leaving the subject property.
 - d) Any redundant existing vehicle crossovers shall be removed and the footpath, nature strip and kerbing reinstated to the satisfaction of the Responsible Authority.
 - e) Adequate signs, pavement markings and traffic island shall be provided to direct and control the flow of traffic within the site.
 - f) The applicant must arrange for and pay the full costs of all roadworks, pavement markings, public lighting alterations, service relocations, signage and other costs associated with these works, i.e. all works are to be undertaken to no cost to VicRoads or the Responsible Authority.
 - g) The applicant shall arrange for the contractor to notify the Department of Infrastructure (on telephone number 9655 8942) of the proposed works affecting the bus stop, seven days before construction is planned to commence.
31. The total number of children accommodated on the premises must meet the requirements of Section 43 of the Children's Services Regulations (1998).
32. No external sound amplification equipment or loudspeakers are to be used for the purpose of announcements, broadcasts or playing of music.
33. Any alarm must be directly connected to a security service and must not produce noise beyond the premises.

34. This permit will expire if one of the following circumstances applies:
- the development and use are not started within two years of the date of this permit.
 - the development is not completed within four years of the date of this permit.
- The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.

Permit Notes

- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council's supervision for which 24 hours notice is required.
- Building approval must be obtained prior to the commencement of the above-approved works.
- Two copies of plans showing all details of internal works to be submitted to environmental health unit for approval prior to works commencing.
- All works to be completed in compliance with Environmental Health requirements. Should food be provided as part of the childcare operations then registration under the Food Act 1984 is required. All food preparation and storage areas are to comply with the FSANZ Food Standards Code and Environmental Health requirements.
- Reticulated sewerage must be provided to the requirements of the Sewerage Authority.
- Prior to commencement of any building works, an Asset protection Application must be taken out. This can be arranged by calling Asset Protection Administrator, Mon-Fri 9:00am to 1:00pm on 9599 4638.

B That the following table be added as a record on the permit.

Date	Amendments
22 November 2011	Amendments under Section 72 <ol style="list-style-type: none"> 1. Add Condition 1k 2. Add Condition 1l 3. Add Condition 1m 4. Add Condition 1n 5. Amend Condition 11.

4.5 **49 Burrows Street, Brighton**
Secondary Consent - Approve
Application No. 2008/705/1 Ward: Northern

City Strategy - Statutory Planning
 File No: 2008/705/1

APPLICATION DETAILS

Land/Address:	49 Burrows Street, Brighton
Application is for:	Secondary Consent – Amended Plans
Melway Reference:	67 E12
Ward:	Northern
Application Number:	2008/705/1
Applicant's/Owner's Name:	D O'Donnell
Date Received:	6 October 2011
Statutory Days Expiry:	6 November 2011
Zoning:	Residential 1 Zone (R1Z)
Overlays:	Special Building Overlay (SBO)
Restrictive covenants on the title?	No
Current use and development:	Double storey semi-detached dwelling

PROPOSITION

It is recommended that the **amendments to the plans be approved** by Council under the provisions of Secondary Consent.

PROPOSAL

Planning Permit No. 2008/705/1 was issued by VCAT on 28 October 2009 for the construction of a double storey dwelling on a lot less than 500 square metres in a Design and Development Overlay and a Special Building Overlay.

The applicant has applied to amend the plans pursuant to the secondary consent provisions found at condition two (2) of the above planning permit, which states:

'The use and/or development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.'

The Secondary Consent application was received by Council on 6 October 2011, and seeks approval to:

- Remove the roof over the first floor rear balcony.
- Reduce rear first floor balcony screening and wall height from 2700mm to 1700mm (to comply with standard A15).
- Add two (2) 2000mm x 600mm north-east facing windows to the first floor living area (to be obscured to 1700mm in height, in accordance with the requirements of standard A15).

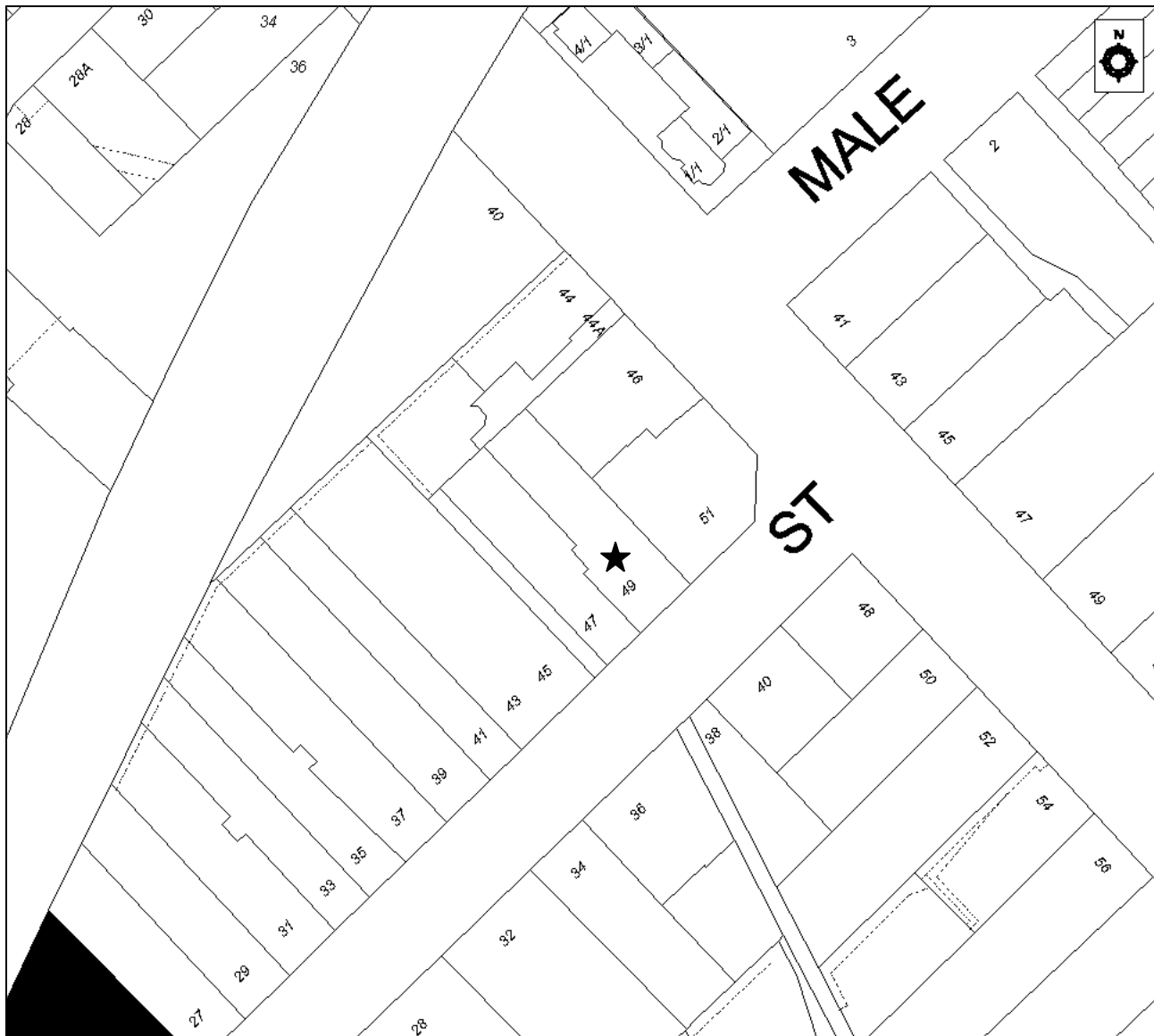
- Add one (1) 2000mm x 600mm south-east facing window to first floor bedroom 3 (to be obscured to 1700mm in height, in accordance with the requirements of standard A15).
- Add one (1) 2000mm x 600mm south-east facing window to the ground floor laundry.
- Increase dimensions and change the configuration of the south-east facing window to first floor bedroom 2.
- Minor internal reconfiguration of the staircase, laundry, ground floor ensuite and walk-in-wardrobe, and first floor bedrooms 2 and 3.
- Minor changes to finishes and materials.

SUBJECT SITE & LOCALITY

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

The site has a total area of 398.95 square metres. The main site/locality characteristics are:

- There is a mix of architectural styles in the street, including Georgian, Post-War and Modern.
- The subject site is located within the Church Street Major Activity Centre.
- To the northeast of the site, at 51 Burrows Street and 46 Well Street, is a single storey dual occupancy development.
- To the southeast of the site, at 40 Burrows Street, is a double storey unit development.
- To the southwest of the site, at 47 Burrows Street, is a single storey attached brick dwelling.
- To the north-west of the site, at 44 and 44A Well Street is a single storey dual occupancy development.

Locality Plan – 49 Burrows Street, Brighton


Subject land	★
--------------	---

PERMIT/SITE HISTORY

The history of the site includes:

- Planning permit No. 2008/705 was refused by Council on 26 May 2009 and later issued at the direction of VCAT on 28 October 2009. Council endorsed Condition 1 plans on 5 March 2010.
- Subdivision permit 960 was granted for 47 and 49 Burrows Street on 8 December 1980.

PUBLIC NOTIFICATION

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

CONSULTATION

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

REFERRALS

No external or internal referrals were required.

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.*
It is considered the changes to the plans are minor and will 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 include any additional construction beyond that allowed in the existing permit. The proposal does not require primary planning consent.
- *The proposed amendment is of no consequence having regard to the purpose of the planning control under which the permit was granted.*
The proposal is in accordance with the requirements of the Residential 1 Zone and Special Building Overlay of the Bayside Planning Scheme, under which the planning permit was originally granted.
The proposed changes and all additional first floor windows are to be constructed or obscured to 1700mm in height, in accordance with the requirements of standard A15. It is considered that no overlooking to neighbouring properties habitable room windows or secluded private open space will occur as a result of the proposed changes.
The proposed changes will not have a detrimental impact upon the adjoining properties.
- *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 is not in contravention of any requirement or condition of the planning permit as granted.

The proposed modifications of the endorsed plans comply with the requirements of the Bayside Planning Scheme.

CONCLUSION

It is considered that the proposed changes to the permit are satisfactory and meet the above tests of secondary consent. The proposed changes will improve the amenity of both dwellings without creating detriment to any other person.

RECOMMENDATION

That the amended plans lodged on 6 October 2011 be **approved** under the Secondary Consent Provisions of **Planning Permit No. 2008/0705/1** for the **construction of a double storey dwelling on a lot less than 500 square metres in a Design and Development Overlay and a Special Building Overlay at 49 Burrows Street, Brighton** and the following table be added to the permit:

Date	Amendment
	<p>Secondary consent to amend plans:</p> <ul style="list-style-type: none"> • Remove the roof over the rear balcony. • Reduce rear first floor terrace screening and wall height to 1700mm (to comply with standard A15). • Add two (2) 2000mm x 600mm north-east facing windows to the first floor living area (to be obscured to 1700mm in height, in accordance with the requirements of standard A15). • Add one (1) 2000mm x 600mm south-east facing window to first floor bedroom 3 (to be obscured to 1700mm in height, in accordance with the requirements of standard A15). • Add one (1) 2000mm x 600mm south-east facing window to the ground floor laundry. • Increase dimensions and change the configuration of the south-east facing window to first floor bedroom 2. • Minor internal reconfiguration of the staircase, laundry, ground floor ensuite and walk-in-wardrobe, and first floor bedrooms 2 and 3. • Minor changes to finishes and materials.

4.6 **16 Roslyn Street, Brighton**
Secondary Consent - Approve
Application No. 2010/0239/1 Ward: Central

City Strategy - Statutory Planning
 File No: 2010/0239/1

APPLICATION DETAILS

Land/Address:	16 Roslyn Street, Brighton
Application is for:	Secondary Consent – Amended Plans
Melway Reference:	76 F3
Ward:	Central
Application Number:	2010/0239/1
Applicant's/Owner's Name:	Mrs. Marianne Goglia
Date Received:	18 October 2011
Statutory Days Expiry:	18 November 2011
Zoning:	Residential 1 Zone
Overlays:	Design and Development Overlay – Schedule 2
Restrictive covenants on the title?	No
Current use and development:	Dwelling

PROPOSITION

It is recommended that the **amendments to the plans be approved** by Council under the provisions of Secondary Consent.

PROPOSAL

Planning permit No. 2010/0239/1 was issued on 4 January 2011 at the direction of the *Victorian Civil and Administrative Tribunal*. The applicant now proposes to amend the endorsed plans pursuant to the Secondary Consent provisions afforded by Condition 2 of the Planning Permit. Condition 2 provides:-

The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority, unless the changes are exempt under the Bayside Planning Scheme.

The proposed changes are to Dwelling 1 and include:-

- Decrease the size of the basement garage provided to Dwelling 1 and provide a 2.0 metre setback from northern boundary.
- Relocate underground water tanks provided to Dwelling 1 from rear yard to garage.
- Deletion of underground rear store room provided to Dwelling 1.
- Reduce size of Dwelling 1 dining area.
- Change dining area windows of Dwelling 1 to match Dwelling 2.

SUBJECT SITE & LOCALITY

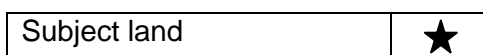
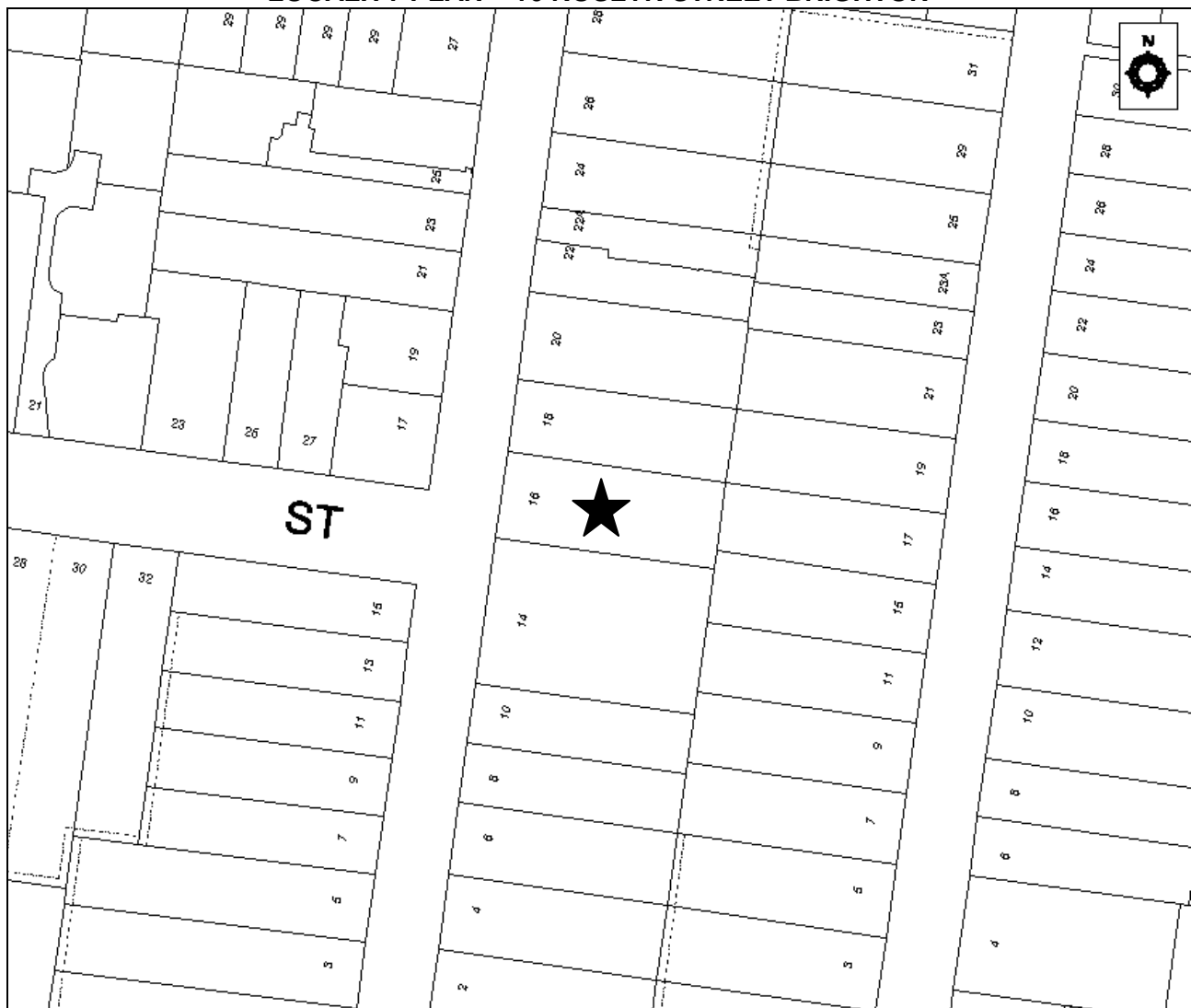
An inspection of the site and the surrounding area has been undertaken.

The subject site is located on the eastern side of Roslyn Street and has a total site area of approximately 823 square metres.

The main site/locality characteristics are:

- To the north of the subject site at 18 Roslyn Street is a double storey dwelling.
- To the south of the subject site at 14 Roslyn Street is a double storey dwelling, with associated tennis court abutting the common boundary.
- To the east of the subject site at 17 Champion Street is a single storey dwelling.
- To the west of the subject site at 17 Roslyn Street is a double storey dwelling.

LOCALITY PLAN – 16 ROSLYN STREET BRIGHTON



PERMIT/SITE HISTORY

The following Planning Permit history has been determined for the subject site:

- On 8 December 2010, Council issued a Notice of Decision to Grant a Permit for the construction of two (2) double storey dwellings on the subject site. Planning Permit 2010/0239/1 was subsequently issued on 4 January 2011.
- On 14 February 2011, the applicant appealed to the *Victorian Civil and Administrative Tribunal* ('VCAT') pursuant to Section 80 of the *Planning and Environment Act 1987* against conditions of the Planning Permit (Conditions 1(a), (g) and (h)).
- On 26 May 2011, Conditions 1(a), (g), and (h) of the Planning Permit relating to permeability of paving and the basement ramp details were amended by order of VCAT.

PUBLIC NOTIFICATION

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

ASSESSMENT

The principles, or tests, of Secondary Consent

The *Victorian Civil and Administrative Tribunal* has 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.*
It is considered the changes to the plans are minor and will 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 include any additional construction beyond that allowed in the existing permit. The proposal does not require primary planning consent.
- *The proposed amendment is of no consequence having regard to the purpose of the planning control under which the permit was granted.*
The proposal is in accordance with the Residential 1 Zone requirements, under which the planning permit was originally granted. The proposed changes are in accordance with the requirements of the Schedule to the Residential 1 Zone. As the proposed changes are either located within the basement area, increase the setbacks from the boundaries, or are generally minor aesthetic changes, they are not considered to result in any detriment to the adjoining properties or streetscape.
- *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 is not in contravention of any requirement or condition of the Planning Permit as granted.

The proposed changes to the endorsed plans are considered to meet the above tests of Secondary Consent afforded by Condition 2 of the Planning Permit.

CONCLUSION

It is considered that the proposed changes to the endorsed plans of Planning Permit 2010/0239/1 are satisfactory and meet the above tests of secondary consent. The proposed changes are generally minor and will not result in any detriment to the neighbouring properties or streetscape.

RECOMMENDATION

That the amended plans lodged on 18 October 2011 be **approved** under the Secondary Consent Provisions of **Planning Permit No. 2010/0239/1** for **construction of two (2) double storey dwellings** at **16 Roslyn Street, Brighton** and the following table be added to the permit:

Date	Change to permit
22 November 2011	Secondary Consent to Amend Plans: <ul style="list-style-type: none"><li data-bbox="499 1081 1401 1149">• Decrease the size of the garage provided to Dwelling 1 - 2.0 metre setback from northern boundary.<li data-bbox="499 1171 1401 1238">• Relocate underground water tanks provided to Dwelling 1 from rear yard to garage.<li data-bbox="499 1261 1401 1294">• Deletion of underground rear store room provided to Dwelling 1.<li data-bbox="499 1305 1401 1339">• Reduce size of Dwelling 1 dining area.<li data-bbox="499 1350 1401 1397">• Change dining area windows of Dwelling 1 to match Dwelling 2.

4.7 **269-273 Hampton Street Hampton**
Secondary Consent - Approve
Application No.2008/691/1 Ward: Central

City Strategy - Statutory Planning
 File No: 2008/691/1

APPLICATION DETAILS

Land/Address:	269-273 Hampton Street, Hampton
Application is for:	Secondary Consent – Amended Plans
Melway Reference:	76 F6
Ward:	Central
Application Number:	2008/0691/1
Applicant's/Owner's Name:	CBG Architects Pty Ltd
Date Received:	28 September 2011
Statutory Days Expiry:	27 November 2011
Zoning:	Business 1 Zone
Overlays:	None
Restrictive covenants on the title?	No
Current use and development:	Single storey shops

PROPOSITION

It is recommended that the **amended plans be approved** by Council under the provisions of Secondary Consent.

PROPOSAL

The applicant has requested approval to amend the endorsed plans pursuant to the secondary consent provision of Condition 2 of the permit, which states:

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

Planning permit 2008/691/1 was issued on 6 October 2009 at the direction of the Victorian Civil and Administrative Tribunal (VCAT) for the development of a four storey building above a basement car park comprising shops and apartments, partial waiver of car parking and loading facilities.

The amendments include:

- Replace the approved rendered finish on the east elevation (street façade) with a polished tile finish.

The proposed change constitutes a minor variation to the materials and finishes schedule.

SUBJECT SITE & LOCALITY

The site has a total area of 870 square metres and currently contains:

- Three (3) single storey shops.

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

Hampton Street runs north/south and culminates at Beach Road to the south and Nepean Highway to the north. The subject land is located on the south side of the Sandringham railway line and is located in a business district characterised by single and double storey shops containing various retail and commercial uses.

The site is located within walking distance from the Hampton Railway Station and Bus Interchange.

The site is rectangular with a frontage of 19.55 metres, a depth of 44.74 metres and a total area of 870 square metres and currently contains:

- Three (3) single storey shops.

The main site/locality characteristics are:

- To the east of the site at 372, 374 and 376 Hampton Street are single storey shops comprising varying retail uses.
- To the north of the site is a single storey shop.
- To the south of the site (265 Hampton Street) is a single storey shop and dwelling.
- To the west of the site (rear of the subject land) are residential allotments and a constructed ROW, which runs into Small Street.

PERMIT/SITE HISTORY

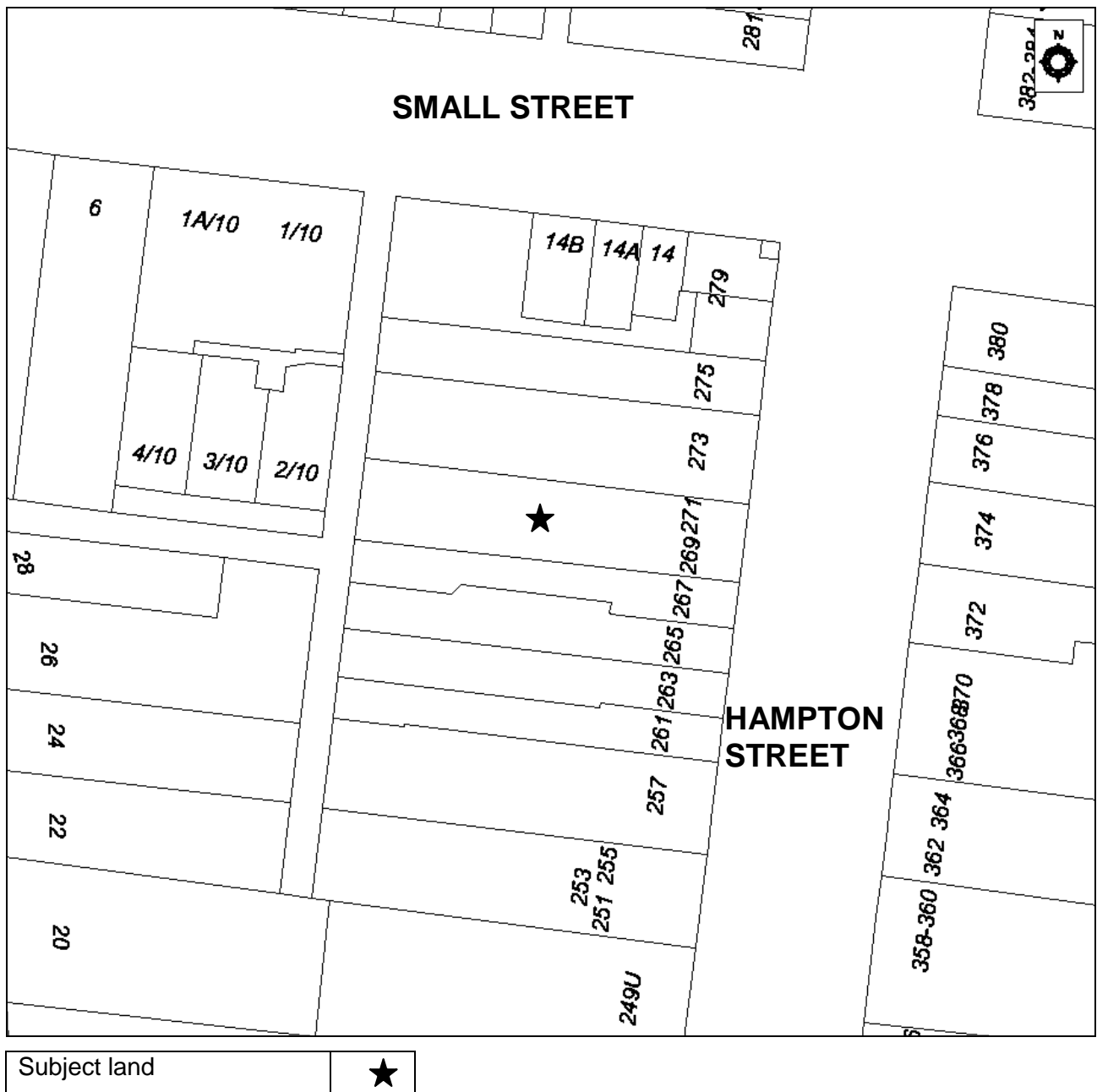
On the 6 October 2009 Planning Permit No. 2008/691/1 was issued at the direction of VCAT for the *“development of a four storey building above a basement car park comprising shops and apartments, partial waiver of car parking and loading facilities.”*

Council endorsed Condition 1 plans, on 25 January 2010.

PUBLIC NOTIFICATION

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

Locality Map – 269-273 Hampton Street, Hampton



REFERRALS

No external or internal referrals were required.

ASSESSMENT

The principles or test of Secondary Consent

The Victorian Civil and Administrative Tribunal have set out, on a number of occasions, the principles, or tests, of Secondary Consent (e.g. 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 amendments to the approved plan requested are considered to be minor in scope, using a change to the materials and finishes schedule. It is considered that these changes 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 planning permission was for the development of a four storey building above a basement car park comprising shops and apartments, partial waiver of car parking and loading facilities.

It is considered that the request for secondary consent does not authorise something for which primary consent is required under the Bayside Planning Scheme.

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

The purpose of the planning control under which the permit was granted aims to ensure that the built form of the building, amenity impacts, car parking arrangement and overall design of the site, accords with the relevant provisions of the Bayside Planning Scheme.

The amendment does not change the purpose for which the permit was granted, with the proposed change to the finishes schedule considered to be relatively minor in nature and will not result in visual detriment to the adjoining properties or the streetscape.

- *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 amendment is not contrary to specific conditions, which relate to the planning permit.

CONCLUSION

It is considered that the proposed amendment is appropriate, and meets the above tests that relate to secondary consent. It is therefore recommended that the amended plans be approved.

RECOMMENDATION

That the Amended Plans dated 28 September 2011 be **approved** under the Secondary Consent Provisions of **Planning Permit No. 2008/0691/1** for the development of a four storey building above a basement car park comprising shops and apartments, partial waiver of car parking and loading facilities at **269-273 Hampton Street, Hampton** and the following table be added to the permit:

Date	Amendment
22 November 2011	Secondary consent to amend plans : <ul style="list-style-type: none">• Replace the approved rendered finish on the east elevation (street façade) to a polished tile finish.

4.8 **26 Fernhill Road, Sandringham**
Secondary Consent - Approve
Application No. 2007/785/1 Ward: Southern

City Strategy - Statutory Planning
 File No: 2007/785/1

APPLICATION DETAILS

Land/Address:	26 Fernhill Road, Sandringham
Application is for:	Secondary Consent – Amended Plans
Melway Reference:	76 H10
Ward:	Southern
Permit Number:	2007/785/1
Applicant's/Owner's Name:	Black Rock Enterprises Pty Ltd
Date Received:	7 September 2011
Statutory Days Expiry:	7 October 2011
Zoning:	Residential 1 Zone
Overlays:	Design and Development Overlay Schedule 2
Restrictive covenants on the title?	No
Current use and development:	Single storey brick building

PROPOSITION

It is recommended that the **amended plans be approved** by Council under the provisions of Secondary Consent.

PROPOSAL

The applicant has requested approval to amend the endorsed plans pursuant to the secondary consent provision of Condition 2 of the permit.

Planning Permit No. 2007/785/1 was issued on 22 September 2008 by VCAT for the construction of six large townhouses with underground carparking.

On 11 April 2011 as directed by the Victorian Civil and Administrative Tribunal (VCAT) pursuant to Section 87A of the Planning and Environment Act 1987 an amended permit was issued with the following changes.

- Amendment to the permit preamble to allow an increase of the number of dwellings from 6 to 12.
- Increase in the number of car parking spaces from 16 to 26.
- Amendments to the approved plans to accommodate and facilitate the additional dwellings.

It is now proposed to amend the plans pursuant to the secondary consent provisions found at Condition 2 "*The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.*" The changes are:

TP01 - Lower Ground Floor & Basement

1. The basement ramp has been widened by approximately 1 metre, with modified grade transitions.
2. Minor modifications to the car parking layout and aisle positions have been introduced to resulting in 10 tandem spaces in lieu of the approved 7. In addition there are now 6 single spaces where there were previously 12. There are no changes to the number of car parking spaces available.
3. There is a proposed increase in the size of the approved slot windows (frosted glass) to bathroom of apartment 1. These windows are north and south facing (lower ground floor and basement) and do not overlook the adjacent property to the west.
4. The depth of basement has been raised 600mm to reduce the amount of excavation (there is no change to the overall height of the building). The change in level is from RL22.60 to RL23.20. No changes to the size or extent of the basement are proposed.
5. The lift for apartment No. 5 is proposed to be removed. Apartments 5 & 6 would share a lift (and stair arrangement) to access the ground floor. There are minor changes to the internal layout to allow the shared access to occur.
6. The lift and stair core have been realigned for apartment 1 to allow direct access to the apartment from the basement. The previous design only allowed access via the lift or stairs into an internal lobby area.
7. Provision of pergolas to marginally increase terrace areas for apartments 5 & 6.
8. Minor change to the master bedroom window of apartment 5 to correspond to the adjusted bedroom layout. This window faces onto the apartment's private open space terrace area.

TP02 - Ground Floor

1. Entry stairs to Apartment 1 have been increased to match with existing ground level. The previous design did not include enough stairs to allow for an appropriate transition from street level to the lobby.
2. The pedestrian entry adjacent to the vehicular ramp has been redesigned to be 'at grade' to allow for improved accessibility for future residents, and to eliminate the descending ramp and step access to Apartments 11, 12 and 14.
3. A conservatory has been shown to allow for weather protection and a transition area for apartments 11, 12 and 14.
4. A west facing window has been provided to Apartment 11 to increase the solar access to the main living area of the apartment. The window proposed looks out onto the rear laneway which abuts the site to the west, and will provide views of the bay. No overlooking into any neighbouring properties will occur as a result a sectional diagram has been provided by the applicant showing compliance.

5. Changes to the plans to resolve the discrepancy on the endorsed plans between the ground floor plans and the elevations for apartment 1. The western edge of apartment 1 will now align with the balcony above to eliminate 'perceived' undercroft alignment as endorsed on the approved plan.

The proposed change will comply with the ResCode requirements and will not result in any increased overshadowing or overlooking to the adjoining property. The windows proposed on the western elevation (frosted/screened to 1700mm above FFL) will accommodate the adjusted internal layout and will improve cross ventilation and amenity

6. Apartment 2 has been redesigned to locate the master bedroom towards the Fernhill Road side of the site. A new window has also been proposed to allow for views onto Fernhill Road. The ensuite has been relocated behind the bedroom for improved privacy.
7. Minor changes to the entry of apartment 4 to accommodate the revised lift and stair arrangements of the design.
8. Minor internal rearrangement of apartment 11 to accommodate the removal of lift no. 5. Access to the roof area via internal stairs has been maintained.
9. Internal redesign of apartment 12 to accommodate the removal of lift no. 5. Access to the roof area via internal stairs has been maintained.
10. Minor changes in RL level to allow for the changes in grade works improving the accessibility of the site. The overall approved building height has not changed as a result of these changes.
11. The basement ramp has been widened by approximately 1 metre, with modified graded transitions to comply with BCA regulations. The additional metre does not encroach into the required '4m' setback from the southern boundary (as per Condition 1f of the permit).
12. An additional small slot window has been provided to the dining room of apartment 1, which will look out onto Fernhill Road.

TP03 - Upper Floor

1. The external pergola (heavy profile) has been removed and replaced with a smaller glazed and ventilated conservatory that will improve security into the building, and overall amenity.
2. Internal access within apartment 7 relocated from winding stairs, with some minor amendments to internal layout.
3. Inclusion of north facing window to master bedroom apartment 8 to improve internal amenity.
4. Minor amendments to internal layout of apartment 9. Adjusted master bedroom corner window to create consistency for the appearance of the Fernhill Road façade.
5. Minor amendments to internal layout of apartment 10 including increase to lift lobby to RL29.50 to gain clearance for level below.
6. Skylight provided above apartment 11 stairwell to allow for increase in natural light and ventilation.

7. Floor levels have been marginally adjusted to allow for the reconfigured grade works to the site. No changes to overall approved height are proposed.

TP04 - Roof Plan

1. Canopy over apartment 9 has been increased to better address the corner and the southern side of the building.
2. The box gutters have been relocated to central positions, to improve the appearance of the roof pitch. The overall parapet design and roof heights are maintained.

TP05.1 - Elevations

1. All visible external changes (as noted above) shown on the plans.
2. Window heights increased for apartment 9 (to Fernhill Road) to improve internal amenity.

TP06.1 - Elevations

All visible external changes (as noted above) shown on the plans.

TP06.2 - Elevations

All visible external changes (as noted above) shown on the plans.

TP06.3 - Elevations

.All visible external changes (as noted above) shown on the plans.

TP07.1 - Sections

All visible external changes (as noted above) shown on the plans.

TP07.2 - Sections

All visible external changes (as noted above) shown on the plans.

SUBJECT SITE & LOCALITY

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

The site has a total area of 1,916 square metres and currently contains:

- A single storey brick building.
- A shed is located at the west corner of the site.

The main site/locality characteristics are:

- The site is irregular in shape and has a frontage to Fernhill Road of 67.88 metres.
- The land slopes approximately 3 metres from north to south.
- The land slopes approximately 4 metres east to west.
- There are three (3) trees located at the front of the site and two (2) street trees located the Fernhill Road nature strip.
- The adjoining property to the north west, 42A Sims Street, contains a two storey brick dwelling.
- The adjoining property to the south, 28 Fernhill Road, contains a two storey weatherboard dwelling. This property is located in a Heritage Overlay
- The southern boundary of the site abuts six (6) properties which contain single and double storey dwellings.
- To the east and north (opposite) the site are predominantly large double storey dwellings on large lots.

Permit/Site History

The history of the site includes:

- Planning Application No.2000/5597, for the construction of a sixty (60) bed residential aged care facility was refused by Council on 18 September 2000.
- Planning Permit No. 2007/0785/1 issued by VCAT for the construction of six two storey townhouses with underground car parking. Council refused this application.
- Section 87A approved by VCAT 11 April 2011 allowing for:
 - Amendment to the permit preamble to allow an increase of the number of dwellings from 6 to 12.
 - Increase in the number of car parking spaces from 16 to 26.
 - Amendments to the approved plans to accommodate and facilitate the additional dwellings.

PUBLIC NOTIFICATION

Applications 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*.

LOCALITY MAP



Legend	
Subject Site	★

REFERRALS

Internal referrals	
Traffic Engineer	No objection, subject to conditions
Urban Designer	No objection

ASSESSMENT

The principles or test of Secondary Consent

The Victorian Civil and Administrative Tribunal has 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 requests for changes to the approved plans are generally minor and are a result of a design rationalisation. It is considered that these changes will not result in the transformation of the proposal. Most of the changes proposed are internal; externally there is no increase to the bulk and scale or to the overall height. The proposed changes do not create any further amenity detriment to the surrounding properties.

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

The primary consent for planning approval was for the construction of twelve dwellings with basement carparking.

It is considered that the request for secondary consent does not authorise something for which primary consent is required under the Bayside Planning Scheme.

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

The purpose of the planning control under which the permit was granted aims to ensure that the built form of the building, amenity impacts, car parking arrangement and overall design of the site for the purpose of the proposal, accords with the relevant provisions of the Bayside Planning Scheme. Although the proposed carparking layout has changed it still accords with the relevant provisions of the Bayside Planning Scheme. The increase in tandem spaces may not be considered as ideal in regard to convenience as single spaces, but they none the less meet the requirement of the Planning Scheme and make more efficient use of space.

Council's Traffic Engineer has requested that the tandem spaces be increased to 11m in length.

The proposed amendment does not change the purpose for which a permit was granted. The alterations proposed are considered to be relatively minor in nature and will not result in detriment to the properties surrounding the site.

- *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.*

It is considered that the proposed amendments to the endorsed plans will not contravene any specific requirement or any condition of the permit.

The proposed amendments to the plans are considered appropriate and are therefore recommended for approval.

CONCLUSION

The proposed changes will not result in additional detriment to the residential amenity of the neighbours and will not translate into a discernible difference to the streetscape presentation of the approved development.

It is considered that the proposed alterations and additions are appropriate and meet the above tests that relate to secondary consent. It is therefore recommended that the amended plans be approved.

RECOMMENDATION

That the Amended Plans for the changes to the endorsed plans of **Planning Permit No. 2007/785/1** be **approved** under the Secondary Consent provisions for a Construction of twelve dwelling with basement car parking at 26 Fernhill Road, Sandringham and the following table be added to the permit:

Date	Amendment
30 November 2011	<p>Secondary consent to amend plans:</p> <ul style="list-style-type: none"> • Removal of two internal lifts to improve energy efficiency of development and apartment layouts, and to simplify the access arrangements for older residents; • Introduction of a glazed conservatory to improve access and security; • Widening of driveway entrance ramp to comply with Building Code of Australia requirements; • Minor changes to the basement car park layout to improve mobility and accessibility, all tandem spaces are to be 11m deep; • Changes to levels and gradients of site to improve accessibility to apartments from Fernhill Road entry; • Minor internal rearrangements of apartments to improve amenity; and • Floor plans and elevation design changes to Apartment 1 to correct discrepancies in approved plans.

4.9 **30 Grosvenor Street, Brighton**
Secondary Consent - Approve
Application No. 2003/184/1 Ward: Northern

City Strategy - Statutory Planning
 File No: 2003/184/1

APPLICATION DETAILS

Land/Address:	30 Grosvenor Street, Brighton
Application is for:	Secondary consent: Amendment to remove vegetation.
Melway Reference:	67 D10
Ward:	Northern
Application Number:	2003/184/1
Applicant's/Owner's Name:	Christine Field
Date Received:	24 th August 2011
Statutory Days Expiry:	23 rd September 2011
Zoning:	Residential 1 Zone
Overlays:	Design and Development Overlay Schedule 2 Heritage Overlay 656 (HO 656)
Restrictive covenants on the title?	No
Current use and development:	Four (4) double storey dwellings

PROPOSITION

It is recommended that **amended plans be approved under secondary consent.**

PROPOSAL

It is proposed to remove one (1) Ilex aquifolium (Holly) tree located to the front of the site (northern boundary) at No. 2/30 Grosvenor Street, Brighton. The application is made under the provisions of condition 31 of planning permit 2003/184/1 issued on 6th April 2004 and as amended in 11th March 2011 which states:

- All existing vegetation shown on the endorsed plans must not be removed, destroyed pruned or lopped without the written consent of the Responsible Authority.

SUBJECT SITE & LOCALITY

The site has a total area of approximately 387 square metres and currently contains:

- A double storey dwelling, which is the front dwelling of a four (4) dwelling development.

Locality Plan – 2/30 Grosvenor Street, Brighton


Legend	
Subject land	★

- To the north lies Grosvenor Street, beyond at 25 Grosvenor Street is a unit development.
- The adjoining property to the east at 1/33 Grosvenor Street, contains a double storey dwelling.
- The adjoining property to the south, at 3/30 Grosvenor Street, contains a double storey dwelling in front of Grosvenor Street.
- The adjoining property to the west, at 28 Grosvenor Street, contains a double storey dwelling with a tennis court directly adjoining the subject site.

PERMIT/SITE HISTORY

The history of the site includes:

- On 6 April 2004, Planning Permit 2003/0184/1 was issued at the direction of the Victorian Civil and Administration Tribunal for the construction of four (4) double storey dwellings.

REFERRALS

The following advice has been received from referral authorities:

Arborist	No objection, subject to conditions.
----------	--------------------------------------

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:

- *It does not result in a transformation of the proposal.*
The proposed amendment is the removal of a tree identified on the endorsed plans. The proposed variation is minor in nature and will not cause any detrimental to amenity impacts upon the adjoining neighbour and will not result in the transformation of the scheme which is already built and occupied.
- *It does not authorise something for which primary consent is required under the planning scheme.*
The primary consent for planning approval was for the construction four (4) double storey dwellings. It is considered that the request for secondary consent for the change to the plans is consistent with what the permit allows and does not authorise something for which primary consent is required under the Bayside Planning Scheme.
- *It 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.
- *It 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 change does not contravene any conditions on the permit.

The application was referred to the Council's Arborist who noted that following in relation to this tree:

- The tree is in poor health and provides low amenity in the streetscape, is not worthy of retention; and
- There are no concerns with removal provided the applicant replaces this tree with another that is capable of growing to 5 metres at maturity.

Before deciding on an application and in addition to the decision guidelines in Clause 65, the impact of the tree removal has been assessed by the responsible authority and as noted by the arborist, the tree is in poor health and does not contribute significantly to the streetscape. It therefore considered that the tree has low retention value and the removal of this tree is considered to be acceptable. The applicant is proposing replacement planting consisting of one (1) Manchurian Pear capable of growing to 5m at maturity. Council's arborist has advised that Manchurian Pear is a suitable replacement.

CONCLUSION

It is proposed to removed one (1) Ilex aquifolium (Holly) tree located to the front (northern boundary) of the site at No. 2/30 Grosvenor Street, Brighton. The Council's Arborist supports the removal of this tree and its replacement planting with another that is capable of growing to 5 metres at maturity.

RECOMMENDATION

It is recommended that amended plans be approved under secondary consent and a revised planning permit be issued with the following tables added to the permit.

Date	Change to permit
22 nd November 2011	Secondary Consent – Amended Plans: <ul style="list-style-type: none">• Removal of one (1) Ilex aquifolium (Holly) tree located to the front of the site (northern boundary) and replacement planting with another tree that is capable of growing to 5 metres at maturity.