



Planning Committee Agenda

For a meeting of the

Planning Committee

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

on

Tuesday, 24 August 2010

Commencing at 7:00pm

Chairperson: Cr Alex del Porto

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



Members of the Gallery

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

Section 91 The Chair's Duties and Discretions

In addition to 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 21 September 2010

Tuesday 19 October 2010

Tuesday 16 November 2010

Tuesday 7 December 2010

Tuesday 21 December 2010

Planning Committee Meeting

Planning Committee Charter

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

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

Membership of the Committee

All Councillors

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BAYSIDE CITY COUNCIL

PLANNING COMMITTEE MEETING

TUESDAY, 24 AUGUST 2010

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1.1 **452-456 New Street, Brighton**
Secondary Consent - Approve
Application No: 2006/0997/1 Ward: Northern

City Strategy/Statutory Planning
 File No: 2006/0997/1

APPLICATION DETAILS

| | |
|------------------------------|---|
| Land/Address: | 452-456 New Street, Brighton |
| Application is for: | Secondary Consent - Amended Plans |
| Melway Reference: | 67 E6 |
| Ward: | Northern |
| Application Number: | 2006/0997/1 |
| Applicant's/Owner's Name: | Nams Pty Ltd |
| Date Received: | 17 December 2009 |
| Statutory Days Expiry: | 16 January 2010 |
| Zoning: | Residential 1 Zone |
| Overlays: | Design and Development Overlay Schedule 2 |
| Current use and development: | Cafe and two (2) dwellings |

PROPOSITION

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

PROPOSAL

On 15 November 2007, Council issued Planning Permit 2007/0997/1 at the direction of the Victorian Civil and Administrative Tribunal for a takeaway food premises with reduced car parking and two dwellings, in accordance with the endorsed plans.

The applicant has now requested approval to amend the plans in accordance with Condition 2 under secondary consent of the above permit. The approval is sought for works already completed.

Condition 2 states that *"The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority."*

The retrospective amendments that are sought are outlined as follows:

- Relocate air conditioning units from roof terraces to eastern side of ground floor roof of the dwellings.
- Extend the rear deck areas to each dwelling by approximately 9 square metres.

SUBJECT SITE & LOCALITY

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

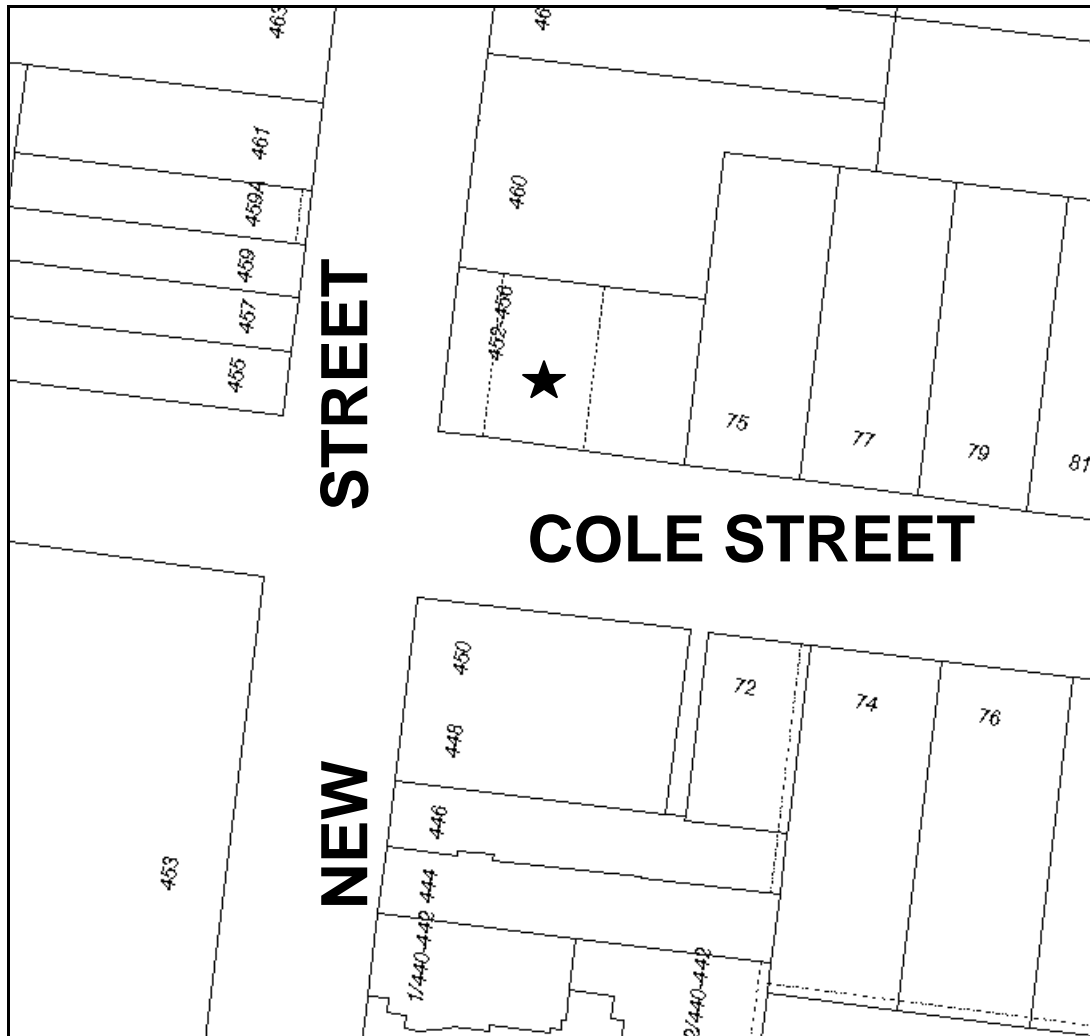
The site has a total area of 664 square metres and currently contains:

- A cafe and two (2) double storey dwellings with roof terraces.

The main site/locality characteristics are:

- To the **north** of the subject site, at 460 New Street, is a single storey mechanical workshop with customer and staff car parking located at the front of the site.
- To the **east** of the subject site, at 75 Cole Street, is a double storey weatherboard dwelling.
- To the **south** of the subject site, at 450 New Street, is a double storey render and weatherboard dwelling.
- To the **west** of the subject site at:
 - 455 New Street is a double storey rendered dwelling;
 - 457 New Street is a single storey rendered dwelling;
 - 459 New Street is a double storey rendered dwelling.

LOCALITY MAP



| Legend | |
|--------------|---|
| Subject land | ★ |

PERMIT/SITE HISTORY

Planning Permit 2007/0997/1 was issued at the direction of VCAT on 15 November 2007 for a takeaway food premises with reduced car parking and two dwellings, in accordance with the endorsed plans.

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

| App. No. | Proposal | Determination | Date |
|-------------|---|----------------------------------|-------------------|
| 2009/320/1 | Additions and alterations to existing building including increase in height of front fence and increase in size of access structure. | Permit approved under delegation | 29 September 2009 |
| 2009/183/1 | Buildings and works and change of use from take away food premises to food and drink premises (café) and associated reduction in car parking. | Permit approved by Council | 26 August 2009 |
| 2009/101/1 | On premises liquor licence. | Permit approved by Council | 27 August 2009 |
| 2009/3807/1 | Three (3) lot subdivision. | Permit approved under delegation | 22 April 2009 |

PUBLIC NOTIFICATION

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

REFERRALS

No 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.*

The request for changes to the endorsed plans includes relocation of air conditioning units and extension of rear deck areas to the dwellings. Given the minor nature of the changes, the proposal is not considered to 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 primary consent of the planning permit is for a takeaway food premises with reduced car parking and two dwellings. The relocation of air conditioning units and extension of rear deck areas

to the dwellings does not authorise something for which primary consent is required under the planning scheme.

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

The purpose of the planning controls under which the original Planning Permit was granted was to ensure that the development of two (2) dwellings and the use of a takeaway food premise accords with the requirements of the Bayside Planning Scheme. The proposed amendments to the endorsed plans relate to the relocation of air conditioning units and extension of rear deck areas. Their modification is not considered to create or exacerbate any detrimental amenity impact. The proposal is therefore considered satisfactory in the context of the provisions under which the original permit was granted.

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

Condition 1 states that “*All plant and equipment (including air conditioning units, heating units, hotwater systems) which is proposed to be located externally must be identified on the plans to be located away from bedrooms of adjoining properties*”.

The proposed amendments are considered minor in nature and meet the ‘tests’ of Secondary Consent. The air-conditioning units are not located near neighbouring windows to habitable rooms and are not visible from dwelling. The extension to the deck will not result in any overlooking. It is considered that the proposed amendments are appropriate and are suitable for support.

CONCLUSION

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

RECOMMENDATION

That the Amended Plans for the relocation of air conditioning units and extension of rear deck areas to the dwellings be **approved** by Council under the Secondary Consent provisions of **Planning Permit 2006/0997/1** issued for the use of land at **452-456 New Street, Brighton** for the purpose of a takeaway food premises with reduced car parking and two dwellings, and the following table be added to the permit:

| Date | Amendment |
|-----------------|--|
| 9 February 2010 | Secondary Consent to Amend Plans: <ul style="list-style-type: none"> • Relocate air conditioning units from roof terraces to eastern side of ground floor roof of the dwellings. • Extend rear deck areas to each dwelling by approximately 9 square metres. |

1.2 **29 Heathfield Road, Brighton East**
Secondary Consent - Approve
Application No. 2001/6753/1

City Strategy/Statutory Planning
 File No: 2001/6753/1

APPLICATION DETAILS

| | |
|------------------------------|---|
| Land/Address: | 29 Heathfield Road, Brighton East |
| Application is for: | Secondary Consent - Amend Plans |
| Melway Reference: | 73 H3 |
| Ward: | Northern |
| Application Number: | 2001/6753/1 |
| Applicant's/Owner's Name: | Bob Voegt |
| Date Received: | 11 June 2010 |
| Statutory Days Expiry: | 11 July 2010 |
| Zoning: | Residential 1 Zone |
| Overlays: | Design and Development Overlay Schedule 2 |
| Current use and development: | Aged Care Facility |

PROPOSITION

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

PROPOSAL

The applicant has applied pursuant to the Secondary Consent provisions afforded by Condition 3 of the Planning Permit No. 2001/6753/1 for the following amendment to the endorsed plans:

- Partial demolition of a brick fence.

On 29 July 2003, the Victorian Civil and Administrative Tribunal directed Council to issue a Planning Permit 2001/6753/1 for use and development of the land for aged care accommodation (Hostel and Serviced Apartments) including alterations to a heritage place (Hiawatha), alterations and additions to an existing three storey building and construction of a new three storey building with a basement car parking and associated landscaping at 29 Heathfield Road, Brighton East.

On 27 October 2008, Council issued an amendment to the endorsed plans under secondary consent to construct a gazebo in a communal open space area at the rear section of the subject site.

The applicant has now requested approval to amend the plans in accordance with Condition 3 under secondary consent of the above permit.

Condition 3 states that *"The use and/or development as shown on the endorsed plans must not be altered or modified (whether or not in order to comply with any statute, statutory rule or for any other reason) without the prior written consent of the Responsible Authority."*

The amendments include:

- Partial demolition of a brick fence

The reasons for the amendments include:

- The brick fence has become damaged because of vehicles hitting the fence.

SUBJECT SITE & LOCALITY

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

The site has a total area of 5,122 square metres and currently contains:

- A Victorian era double storey building
- A Chapel
- A three storey building with basement car parking

The main site/locality characteristics are:

- To the **north** of the subject site, are residential dwellings along Were Street.
- To the **east** of the subject site, is a grassed right of way called Mirrams Lane
- To the **south** of the subject site, is St Leonard's College
- To the **west** of the subject site, 25 Heathfield Road is a dwelling.

LOCALITY MAP



| Legend | |
|--------------|---|
| Subject land | ★ |

PUBLIC NOTIFICATION

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

REFERRALS

Council's Heritage Advisor had no objections to the application.

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.*

The request for changes to the endorsed plans includes partial demolition of a brick fence. Given the minor nature of the changes, the proposal is not considered to 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 primary consent of the planning permit is for alteration and additions to a heritage place. The proposed demolition is minor and does not impact on the heritage fabric or significance of the place nor does it does not authorise something for which primary consent is required under the planning scheme.

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

The purpose of the planning controls under which the original Planning Permit was granted was to ensure the protection of the heritage place. The proposed amendments to the endorsed plans relate to a partial demolition of a brick wall fence that is not of heritage significance. It is considered that the proposal will not any detrimental amenity impact. The proposal is therefore considered satisfactory in the context of the provisions under which the original permit was granted.

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

It is considered that there is no specific permit requirement with respect to the brick fence proposed for partial demolition.

The proposed amendments are considered minor in nature and will not affect the heritage significance of the place nor be detrimental to the amenity of the adjoining properties. The proposal meets the 'tests' of Secondary Consent. Therefore, it is considered that the proposed amendments are appropriate and are suitable for support.

CONCLUSION

The proposed amendments are considered minor in nature and will not adversely affect the heritage significance of the property nor would be detrimental to the amenity of the adjoining properties. The proposal meet the 'tests' of secondary consent and remains in accordance with the Bayside Planning Scheme. It is considered that the proposed amendments are appropriate and are recommended for support.

RECOMMENDATION

That the Amended Plans which show the partial demolition of a brick wall fence be **approved** by Council under the Secondary Consent provisions of **Planning Permit 2001/6753/1** issued for **29 Heathfield Road, Brighton East**, for the use and development of the land for aged care accommodation (Hostel and Serviced Apartments) including alterations to a heritage place (Hiawatha), alterations and additions to an existing three storey building, and construction of a new three storey building with a basement car parking and associated landscaping be approved, and the following table be added to the permit:

| Date | Amendment |
|----------------|--|
| 24 August 2010 | Secondary Consent to Amend Plans: <ul style="list-style-type: none"><li data-bbox="464 1077 1007 1113">• Partial demolition of a brick fence |

1.3 **34 Cole Street, Brighton**
Secondary Consent - Approve
Application No. 2007/0027/1 Ward: Northern

City Strategy/Statutory Planning
 File No: 2007/0027/1

APPLICATION DETAILS

| | |
|-------------------------------------|---|
| Land/Address: | 34 Cole Street, Brighton |
| Application is for: | Secondary Consent – Amended Plans |
| Melway Reference: | 67 D6 |
| Ward: | Northern |
| Application Number: | 2007/0027/1 |
| Applicant's/Owner's Name: | Millar Robertson Architects |
| Date Received: | 9 June 2010 |
| Statutory Days Expiry: | 9 July 2010 |
| Zoning: | Residential 1 Zone |
| Overlays: | Design and Development Overlay Schedule 1 |
| Restrictive covenants on the title? | No |
| Current use and development: | Vacant lot at No. 34 Cole Street, existing dwelling at No. 38 Cole Street (Both lots have been consolidated), with additional frontage to Birdwood Avenue |

PROPOSITION

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

PROPOSAL

The applicant has applied pursuant to the Secondary Consent provision afforded by Condition 2 of Planning Permit No. **2007/0027/1** for the following amendments to the endorsed plans:

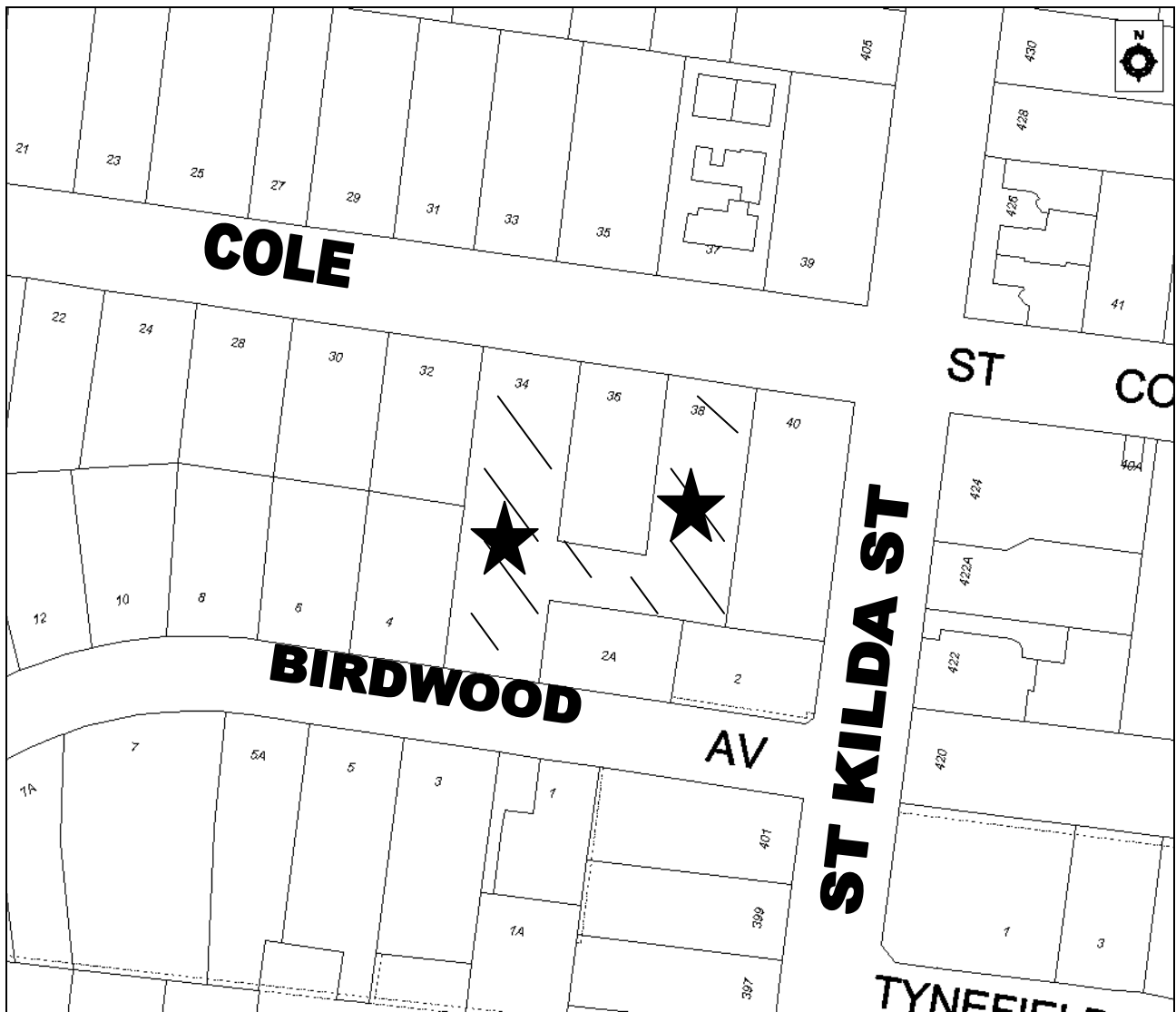
- To increase the length of the Recreation Room by 2m and the deck by 1m resulting in an increase of 3m to the northern wall of the Recreation Room.

SUBJECT SITE & LOCALITY

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

The site has a total area of 2,479.31 square metres and currently contains:

- A vacant lot at No. 34 Cole Street and an existing dwelling at No. 38 Cole Street (Both lots have been consolidated), with additional frontage to Birdwood Avenue.



Legend

| | |
|--------------|---|
| Subject site | ★ |
|--------------|---|

The main site/locality characteristics are:

- Across Cole Street to the north of the site is No. 33 Cole Street is a single storey brick dwelling with pitched tile roof.
- To the east of the site at No. 36 Cole Street is a double storey brick dwelling with basement car parking and pitched tile roof.
- To the south of the site at No. 2A Birdwood Avenue is a double storey rendered dwelling with flat roof profile.
- To the west of the site at No. 32 Cole Street is a double storey weatherboard dwelling with pitched tile roof.
- To the west of the site at No. 4 Birdwood Avenue is a single storey dwelling with pitched tile roof.

PERMIT/SITE HISTORY

The history of the site includes:

- On 9 May 2006, Planning Permit 2006/3301 was issued for the consolidation at No. 38 Cole Street. This resulted in No. 38 Cole Street becoming part of the title of No. 34 Cole Street.
- On 23 October 2007, Planning Permit 2007/27/1 was issued at the direction of the Victorian Civil and Administrative Tribunal VCAT Reference No. P1405/2007, for the construction of a double storey dwelling with basement parking, a roof deck in a DDO1, a tennis court and associated lighting on the same lot as an existing single storey dwelling.
- On 27 March 2008, an amendment to Permit 2007/27/1 was issued at the direction of the Victorian Civil and Administrative Tribunal for amendments to Conditions 1a, 1c, 1d, 1i, 1l, 14, 15 and 20. This included multiple variations to these permit conditions and deletion of some of the conditions.
- On 19 October 2009, a Section 69 Extension of Time was granted to allow the buildings and works to commence by 23 October 2010, to be completed within 2 years of the date of the commencement of works.
- On 18 May 2010 Council Refused an Application to Amend a Permit the permit and plans pursuant to Section 87A of the Planning & Environment Act 1987 to remove an existing Cyprus Tree.

PUBLIC NOTIFICATION

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

ASSESSMENT

Details of the proposed changes to the Landscape Plan made under the Secondary Consent provisions of Condition 2 of the Planning Permit are as follows:

- Increase the length of the Recreation Room by 2m and the deck by 1m.

This increase will result of 3m to the northern wall of the Recreation Room.

The increase in length will not alter the length of the wall abutting the boundary of No 36 Cole Street. The increase in wall length is towards the eastern boundary on the subject site. It is noted that the dwelling to the north east of the Recreation Room is on the subject site.

No changes are proposed to the heights or to the materials.

The principles, or tests, of Secondary Consent

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

The tests include the following:

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

The proposed changes to the plans do not transform the approved development.

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

The primary consent of the Planning Permit was for the construction of a double storey dwelling with basement car parking, a roof deck in a Design and Development Overlay Schedule 1, a tennis court and associated lighting on the same lot as an existing single storey dwelling. The proposed changes to the plans to increase the length of the Recreation Room wall and decking do 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 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 and that the proposed development does not result in unreasonable detriment to the character of the area or to the residential amenity of the neighbours.

The proposed amendments to the endorsed plans relate to minor changes that do not change the primary purpose of the permit and therefore considered satisfactory in the context of the provisions under which the original permit was granted.

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

There is no specific condition on the permit relating to the length of the Recreation Room wall or decking.

The permit issued allows the construction of the second dwelling on a consolidated site, the proposed wall is internal to the site and the 'length' of the wall is not assessed as a 'wall on the boundary'. The proposed increase to the Recreation Room wall (internally to the site) will not result in detriment to the character of the area or to the amenity of the neighbours and is therefore considered to be appropriate.

The plan submitted to Council for Secondary Consent consideration accords with the requirements of Condition 1 of the permit and will remain generally in accordance with the approved plans.

The proposed amendments are considered minor in nature and will not affect the amenity of the adjoining properties or character of the area. It is therefore considered that the proposed amendments are not contrary to any condition and are appropriate for support.

It is considered that the modifications proposed do not raise any other planning matters.

CONCLUSION

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

RECOMMENDATION

That the Amended Plans for the alterations to the plans be **approved** by Council under the Secondary Consent provisions of **Planning Permit No. 2007/0027/1** issued for the construction of a double storey dwelling with basement parking, a roof deck in a Design and Development Overlay 1, a tennis court and associated lighting on the same lot as an existing dwelling, generally in accordance with the endorsed plans and the following table be added to the permit.

| Date | Amendment |
|----------------|--|
| 24 August 2010 | Secondary Consent to Amend Plans: <ul style="list-style-type: none"><li data-bbox="539 465 1414 562">• Increase the length of the Recreation Room by 2m resulting in an increase of the northern wall of the Recreation Room by 3m.<li data-bbox="539 568 1414 591">• Increase in the deck adjacent to the Recreation Room by 1m. |

1.4 **1 George Street, Sandringham**
Secondary Consent - Approve
Application No. 2008/0368/1 Ward: Southern

City Strategy/Statutory Planning
 File No: 2008/0368/1

APPLICATION DETAILS

| | |
|-------------------------------------|---|
| Land Address: | 1 George Street, Sandringham |
| Application is for: | Secondary Consent – Amended Plans |
| Melway Reference: | 77 C11 |
| Ward: | Southern |
| Application Number: | 2008/0368/1 |
| Applicant's/Owner's Name: | CBF Town Planners Pty Ltd |
| Date Received: | 28 June 2010 |
| Statutory Days Expiry: | 28 July 2010 |
| Zoning: | Mixed Use Zone |
| Overlays: | Environmental Audit Overlay |
| Restrictive covenants on the title? | Yes, however the covenant will not be breached by the development |
| Current use and development: | Four storey mixed use development under construction |

PROPOSITION

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

PROPOSAL

The applicant has applied pursuant to the Secondary Consent provision afforded by Condition 3 of Planning Permit No. 2008/0368/1 for the following amendments to the endorsed plans:

- Alterations to numbering of the fourth storey units. The proposed amendment to the endorsed plans relate to the renumbering of units to match the plans submitted with Subdivision Application No. 2009/3915/1 in relation to parking allocation.

SUBJECT SITE & LOCALITY

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

The site has a total area of 1174 square metres and currently contains:

- A four (4) storey mixed use development which is currently under construction.

The main site/locality characteristics are:

- The subject site is regular is shape with frontages to both George Street to the east and Aberdeen Road to the west.
- The adjoining property to the south, at 3 George Street, contains a single storey dwelling with a frontage to George Street.
- The subject site abuts two (2) properties to the north, at 1/252 Bay Road which currently contains an automotive repair business and 2/252 Bay Road which contains a three (3) storey office development.

Locality Plan – 1 George Street, Sandringham


| Legend | |
|--------------|---|
| Subject land | ★ |

PERMIT/SITE HISTORY

Planning Permit 2008/0368/1 was issued for the construction of a four (4) storey building for use as dwellings and offices and a reduction in the Clause 52.06 car parking requirements, on 29 July 2009, by VCAT.

Condition 1 plans were endorsed on 8 October 2009.

On 24 November 2009, an amendment to the plans was granted by Council for the following:

- Additional 200mm in height to the first and second floors to accommodate services. The overall height of the development is proposed to increase 400mm and result in a maximum roof height of 12.02 metres.
- Lift shaft increased 600mm in height to accommodate lift over run.
- Openings in south elevation for car park ventilation.
- Increase in basement structure towards Aberdeen Road boundary to accommodate services.
- Increase of 250mm in height of southeast wall to conceal metal deck roofing and box gutter behind parapet.
- Services locations amended, including a fire booster cabinet to George Street.
- Revision to new ground level to south western side of site to reduce retaining/fill requirements and to enable return to natural ground level.
- Internal light-well introduced within the ground floor of office 2 to increase opportunity for natural light at the rear without additional windows in the south wall.
- Reduction in number of windows on the third floor passage south wall.
- Change from bifold doors to sliding doors to access private open space at third floor.
- Alterations to storage details within basement.
- Internal alterations to offices.
- Alterations to materials and finishes including:
 - Black/grey glass to George Street elevation.
 - Deletion of timber cladding from second and third floor of the George Street elevation and the use of render instead.
 - Provision of exposed aggregate concrete panels to second floor of George Street elevation.
 - Deletion of timber cladding from parts of the first, second and third floors of north elevation.
 - Refinement of materials and articulation to Aberdeen Road elevation.

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

| App. No. | Proposal | Determination | Date |
|-----------------|---------------------------------|----------------------|-------------|
| 2009/3915/1 | Twenty-two (22) lot subdivision | Approved | 3 May 2010 |

PUBLIC NOTIFICATION

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

REFERRALS

No 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.*

The Planning Permit was issued for the construction of a four (4) storey building containing dwellings and offices with a reduction in parking requirements. The proposed renumbering of the fourth storey units will not alter what was previously approved. Thus the building will still be four (4) storeys and contain the same number of dwellings and area of offices.

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

The primary consent of the Planning Permit is for the construction of a four (4) storey building for use as dwellings and offices and a reduction in the Clause 52.06 car parking requirements. Given that the proposal is for renumbering the units, it does not authorise something for which primary consent is required under the planning scheme.

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

The purpose of the planning controls under which the original Planning Permit was granted is to ensure that buildings and works accord with the standards and objectives of the Bayside Planning Scheme. The proposed amendments to the endorsed plans relate to the renumbering of units to match the plans submitted with Subdivision Application No. 2009/3915/1 in relation to parking allocation. It is considered the changes will not result in any detrimental amenity impact. The proposal is therefore considered satisfactory in the context of the provisions under which the original permit was granted.

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

There is no specific permit requirement that will be contravened in regard to the proposed amendments.

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

CONCLUSION

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

RECOMMENDATION

That the Amended Plans for the renumbering of the units at fourth floor level, be **approved** by Council under the Secondary Consent provisions of **Planning Permit No. 2008/0368/1** issued for the construction of a four (4) storey building for use as dwellings and offices and a reduction in the Clause 52.06 car parking requirements at 1 George Street, Sandringham, and the following table be added at the end of the permit.

| Date | Amendment |
|----------------|---|
| 24 August 2010 | Secondary Consent to Amend Plans: <ul style="list-style-type: none"><li data-bbox="464 1126 1193 1160">• Alterations to numbering of the fourth storey units. |

1.5 **299-305 New Street, Brighton**
Secondary Consent - Approve
Application No. 2007/0783/1 Ward: Northern

City Strategy/Statutory Planning
 File No: 2007/0783/1

APPLICATION DETAILS

| | |
|-------------------------------------|---|
| Land address: | 299-305 New Street, Brighton |
| Application is for: | Secondary Consent – Amended Plans |
| Melway Reference: | 67 D9 |
| Ward: | Northern |
| Application Number: | 2007/0783/1 |
| Applicant's/Owner's Name: | Shelton Finnis Pty Ltd |
| Date Received: | 16 June 2010 |
| Statutory Days Expiry: | 16 July 2010 |
| Zoning: | Residential 1 Zone |
| Overlays: | Design and Development Overlay Schedule 2 Heritage Overlay HO274 |
| Restrictive covenants on the title? | No |
| Current use and development: | Single storey 1850's attached dwellings, "Finchall" |

PROPOSITION

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

PROPOSAL

The applicant has applied pursuant to the Secondary Consent provision afforded by Condition 2 of Planning Permit No. 2007/0783/1 for the following amendments to the endorsed plans:

- Decrease in the area of the basement.
- Deletion of a low height dwarf wall outside Apartment G.04.
- Inclusion of metering cupboards along the laneway.
- Deletion of a planter box to the west of the bin entry.
- Alterations to the planters between the pedestrian entry and garden for G.02.
- The hipped roof to the south to be extended to the full length of the building.
- Alterations to the materials and finishes.

SUBJECT SITE & LOCALITY

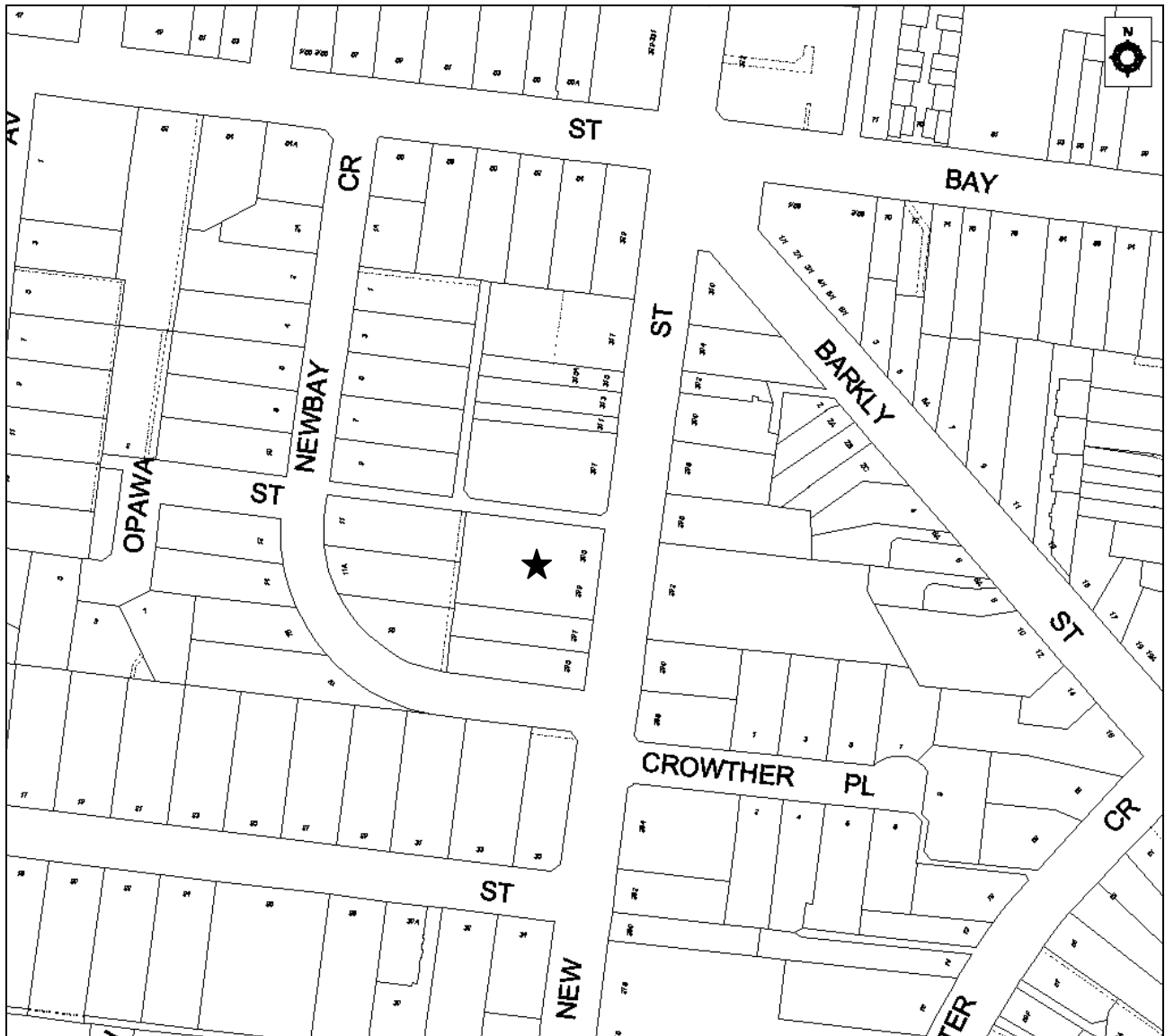
An inspection of the site and the surrounding area has been undertaken.

The site is relatively flat and rectangular in shape with a frontage to New Street of approximately 32 metres, a depth of approximately 49 metres, and a total area of 1595 square metres. The site currently contains:

- An attached set of single storey early 'Victorian' (1850's) brick cottages with a front verandah, slate hip roof, 1908 additions (and later) to the rear. The building form extends almost the entire width of the New Street frontage and is internally separated into two independent dwellings. A plaque on the footpath in front of 299 New Street identifies the dwelling as the birthplace of Percy Grainger.

The main site/locality characteristics are:

- To the north is a Right Of Way beyond which is a double storey multi unit development at 307-309 New Street with basement car parking. Beyond this is a commercial shopping strip culminating at the 'New Bay' Hotel at the New Street/Bay Street intersection.
- To the south of the site is 297 New Street, a double storey contemporary residence, and at 295 New Street is a single storey brick residence. Beyond this is Newbay Crescent.
- To the east of the site, (across New Street) are large residential dwellings including 'Lansdowne' at 292 New Street which is set in a deep, well established garden.
- To the north-east is a strip of commercial businesses
- To the west of the site are residential dwellings fronting onto Newbay Crescent which consist of single and double storey dwellings of various architectural styles on single lot allotments with well established gardens.

Locality Plan – 299-305 New Street, Brighton

Legend

Subject land


PERMIT/SITE HISTORY

Planning Permit 2007/0783/1 was issued for alterations and additions to existing heritage dwellings, partial demolition of the rear of a heritage building, and the construction of a double storey building comprising of five (5) apartments with basement car parking in a Heritage Overlay. The permit was issued at the direction of VCAT on 29 July 2008.

Condition 1 plans were endorsed on 14 October 2008.

PUBLIC NOTIFICATION

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

REFERRALS

No 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.*

The planning permit was issued for alterations and additions to existing heritage dwellings, partial demolition of the rear of a heritage building and the construction of a double storey building comprising of five (5) apartments with basement car parking in a Heritage Overlay. The proposed amendments to the basement layout, ramp, and minor alterations to the exterior of the development will not affect what was previously approved. The ground floor building footprint and number of dwellings will remain as approved.

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

The primary consent of the Planning Permit is for alterations and additions within a Heritage Overlay and the construction of two (2) or more dwellings on a lot. Given that the proposal is minor alterations to the basement layout and minor external alterations, it does not authorise something for which primary consent is required under the planning scheme.

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

The purpose of the planning controls under which the original Planning Permit was granted is to ensure that the alterations and additions accord with the standards and objectives of the Bayside Planning Scheme. The proposed amendments to the basement level are minor in nature and will not affect the amenity of the adjoining properties. The proposed ground floor alterations will provide convenient access for utilities for the future residents and are located on the laneway interface. It is considered the proposed amendments will not result in any detrimental amenity impact. The proposal is therefore considered satisfactory in the context of the provisions under which the original permit was granted.

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

There is no specific permit requirement that will be contravened with regards to the proposed amendments. The proposed alterations to the restoration of the roof of the Heritage building from slate tiles to corrugated iron is in accordance with condition 1(g) dot point 4 which reads *'Existing corrugated iron roofs are to be replaced in slate as above or Z600 grade corrugated galvanised iron'*. It is considered that the proposed amendments will comply with condition 1(g).

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

CONCLUSION

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

RECOMMENDATION

That the Amended Plans for the minor alterations, be **approved** by Council under the Secondary Consent provisions of **Planning Permit No. 2007/0783/1** issued for alterations and additions to existing heritage dwellings, partial demolition to the rear of a heritage building and the construction of a double storey building comprising of five (5) apartments with basement car parking in a Heritage Overlay at 299-305 New Street, Brighton, and the following table be added at the end of the permit.

| Date | Amendment |
|----------------|--|
| 24 August 2010 | Secondary Consent to Amend Plans: <ul style="list-style-type: none"> • Decrease in the area of the basement. • Deletion of a low height dwarf wall outside Apartment G.04 • Inclusion of metering cupboards along the laneway. • Deletion of a planter box to the west of the bin entry. • Alterations to the planters between the pedestrian entry and garden for G.02. • The hipped roof to the south to be extended to the full length of the building. • Alterations to the materials and finishes. |

1.6 **1-4/35 Willis Street, Hampton**
Secondary Consent - Approve
Application No. 2005/0060/1 Ward: Central

City Strategy/Statutory Planning
 File No: 2005/0060/1

APPLICATION DETAILS

| | |
|-------------------------------------|---|
| Land Address: | 1-4/35 Willis Street, Hampton |
| Application is for: | Secondary Consent – Amended Plans |
| Melway Reference: | 76 F5 |
| Ward: | Central |
| Application Number: | 2005/0060/1 |
| Applicant's/Owner's Name: | Greg Muller |
| Date Received: | 6 July 2010 |
| Statutory Days Expiry: | 6 August 2010 |
| Zoning: | Business 1 Zone |
| Overlays: | No |
| Restrictive covenants on the title? | No |
| Current use and development: | Four (4) storey building under construction |

PROPOSITION

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

PROPOSAL

The applicant has applied pursuant to the Secondary Consent provision afforded by Condition 2 of Planning Permit No. 2005/0060/1 for the following amendments to the endorsed plans:

- Deletion of the disabled space within the basement to be made available for general car parking.

SUBJECT SITE & LOCALITY

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

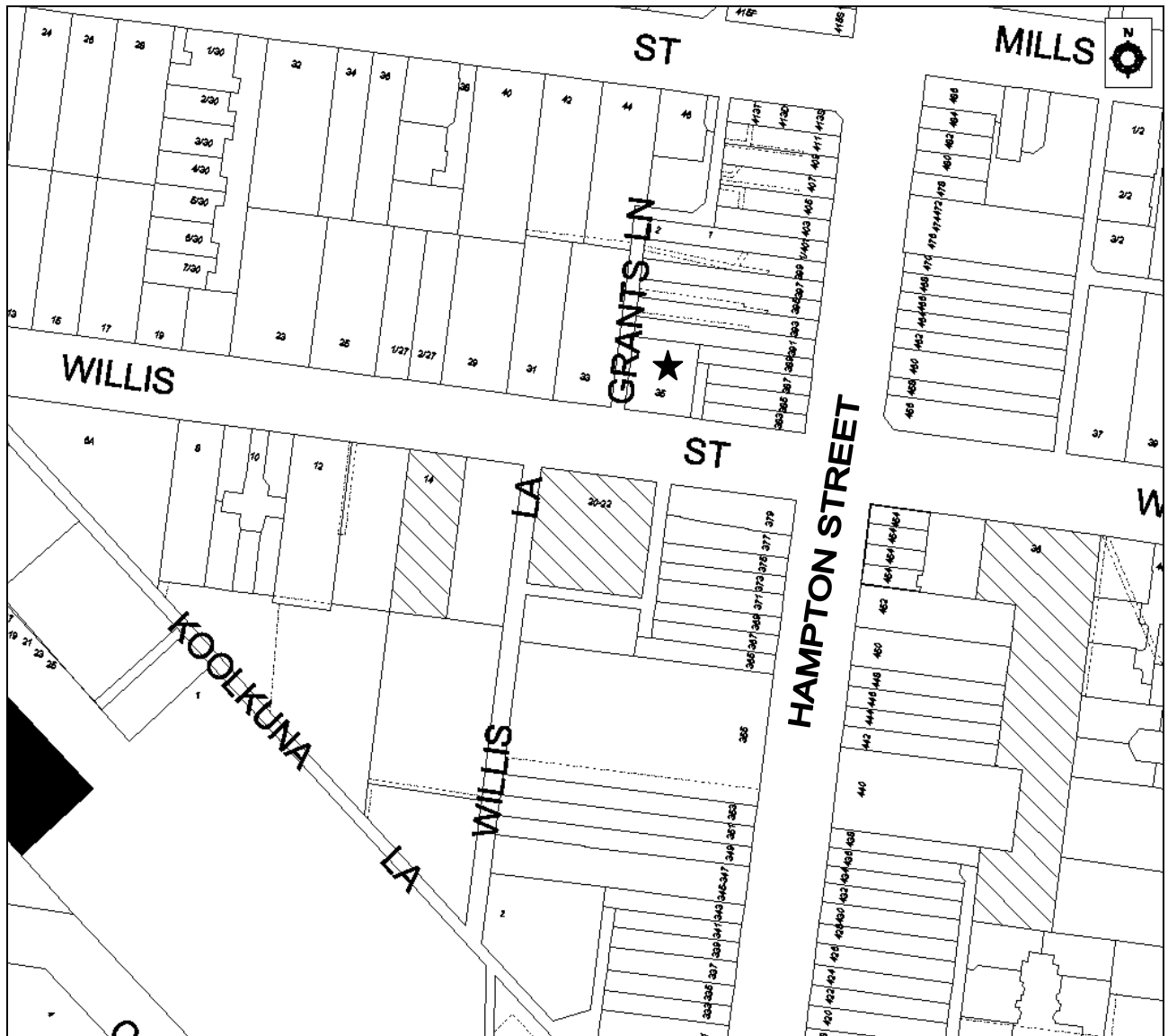
The site has a total area of 329.28 square metres and the approved office development is under construction.

The main site/locality characteristics are:

- To the north of the site are the rear open space areas, car parking areas and service yards of shops fronting onto Hampton Street.
- To the south of the site opposite Willis Street there is a Chemist, a clothing shop, and a public car park.

- To the west of the site is Grant's Lane and a single storey building that is used as a commercial premises.
- To the east of the site is the rear of the shops which front Hampton Street.

Locality Plan – 1-4/35 Willis Street, Hampton



| Legend | |
|--------------|---|
| Subject land | ★ |

PERMIT/SITE HISTORY

Planning Permit 2006/0060/1 was issued on 13 November 2006 at the direction of VCAT for the development of a four (4) storey building with single level basement car parking with stackers, and use of the land for offices and a reduction in car parking.

Condition 1 plans were endorsed on 30 May 2007.

The following amendments have been made to the permit and plans:

| | |
|-----------------|---|
| 10 January 2008 | <p>At the direction of VCAT the preamble has been changed to read: <i>Development of a four (4) storey building with single level basement car parking with stackers, and use of land for offices and a reduction in car parking</i></p> <p>The following changes have been made under section 71:</p> <ul style="list-style-type: none"> • Deletion of the text “Amended plans” preceding Condition 1. • Deletion of the text “to the satisfaction of the Responsible Authority” repeated at the end of conditions 1(i) and 3(e). |
| 11 August 2008 | <p>The following amendments have been approved under secondary consent provisions.</p> <ul style="list-style-type: none"> • Relocation of lift to boundary wall (through all levels). • Removal of stairwell within basement. • Inclusion of pedestrian walkway at the basement ramp location. • Increase in the size of the offices due to removal of stairwell and relocation of lift well. • Alterations to disabled ramp. • Alterations to entry doors. • Alterations to the elevations to reflect floor changes. • Internal alterations to first floor layout. • Removal of void to increase floor area. • Internal alterations of second floor apartments. • Increased the size of the terrace area for apartment 2. • Internal alterations of the third floor. • Alterations to windows at third floor level. • Reduction of glass balustrade from 1.8 to 1.7 metres at third level. |
| 27 April 2009 | <p>The following amendments have been approved under secondary consent provisions.</p> <ul style="list-style-type: none"> • Alterations to the lift access. • Creation of a bin room and bike store within the basement. • Deletion of one car space. • Creation of two (2) retail units at ground floor instead of one (1). • Creation of four (4) office units at first floor instead of one (1). • Alterations to external materials and finishes to be contrasting colours • Creation of plant platform on the roof. • Reallocation of car spaces in response to the change in units. |
| 12 October 2009 | <p>As directed by VCAT under Section 87A of the Planning and Environment Act 1987 to amend condition 1(d)</p> |
| 27 January 2010 | <p>Secondary Consent to Amend Plans:</p> <ul style="list-style-type: none"> • To rearrange the front entrance stair. |

PUBLIC NOTIFICATION

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

REFERRALS

No 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.*

The Planning Permit was issued for the construction of a four (4) storey building containing dwellings and offices. The proposed deletion of the disabled space within the basement (to be used for general car parking) will not alter what was previously approved. The building will still be four (4) storeys and contain the same number of dwellings and area of offices and the number of onsite car parks will not change.

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

The primary consent of the Planning Permit is for the construction of a four (4) storey building for use as dwellings and offices. Given that the proposal is for the deletion of the disabled space (to be used for general car parking) with no reduction in parking provided, it does not authorise something for which primary consent is required under the planning scheme.

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

The purpose of the planning controls under which the original Planning Permit was granted is to ensure that buildings and works accord with the standards and objectives of the Bayside Planning Scheme. The proposed amendments to the endorsed plans relate to the deletion of the disabled space within the basement and its conversion to a general parking space. It is considered the changes will not result in any detrimental amenity impact. The proposal is therefore considered satisfactory in the context of the provisions under which the original permit was granted.

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

There is no specific permit requirement that will be contravened in regard to the proposed amendments.

Disabled access to the public spaces (retail premises) at ground level is maintained from the street in accordance with the access requirements of Section 23 of the *Disability Discrimination Act 1992*. The disabled space within the basement (private parking only) does not provide ease of access to the retail premises and provides access to the private component (residential and office areas) of the development only. As such the applicant has applied for the removal of the disabled space within the basement while retaining the space for communal use within the development.

The applicant submitted a report from Blyth-Sanderson Group (an accredited member of the Association of Consultants in Access, Australia Inc Approved categories Advisory, Auditing & Design) confirming that the application to delete the disabled car space met all of the performance requirements. The proposal to negotiate the provision of a disabled access parking space to be located within the adjacent public carpark will provide appropriate and functional access for the ground floor retail tenancies. It is noted that a disabled space is already provided within the adjacent car park.

The proposed amendment is considered minor in nature and will not affect the amenity of the adjoining properties and meet the 'tests' of Secondary Consent. The deletion of the disabled space will allow the car space to be used by all users of the development site and will provide one extra car space within a site with a parking reduction. It is considered that the proposed amendment is appropriate and is suitable for support.

CONCLUSION

It is considered that the proposed change is minor and is a reasonable request that meets the tests of Secondary Consent. It is therefore recommended that the amended plans be approved.

RECOMMENDATION

That the Amended Plans for the deletion of the disabled car space within the basement and its use as a general car space be **approved** by Council under the Secondary Consent provisions of **Planning Permit 2006/0060/1** issued for the development of a four (4) storey building with single level basement car parking with stackers, and use of the land for offices and a reduction in car parking, at the land known as 1-4/35 Willis Street, Hampton and the following table be added to the permit.

| Date | Amendment |
|----------------|--|
| 24 August 2010 | Secondary Consent to Amend Plans: <ul style="list-style-type: none">Deletion of the disabled space within the basement to be made available for general car parking. |

1.7 **31 Outer Crescent, Brighton**
Secondary Consent - Approve
Application No. 2007/0923/1 Ward: Northern

City Strategy/Statutory Planning
 File No: 2007/0923/1

APPLICATION DETAILS

| | |
|-------------------------------------|--|
| Land/Address: | 31 Outer Crescent, Brighton |
| Application is for: | Secondary Consent – Amended Plans |
| Melway Reference: | 67 E9 |
| Ward: | Northern |
| Application Number: | 2007/0923/1 |
| Applicant's/Owner's Name: | Firbank Grammar C/- Urbis Pty Ltd |
| Date Received: | 7 May 2010 |
| Statutory Days Expiry: | 7 June 2010 |
| Zoning: | Residential 1 Zone |
| Overlays: | Design and Development Overlay Schedule 2 Heritage Overlay (HO 558) |
| Restrictive covenants on the title? | No |
| Current use and development: | Firbank Grammar |

PROPOSITION

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

PROPOSAL

The applicant has applied pursuant to the Secondary Consent provision afforded by Condition **2** of Planning Permit No. **2007/0923/1** for the following amendments to the endorsed plans:

- Deletion of a section of the 1.645 metres high front wall by increasing the width of the gates from 3.5 metres to 6.01 metres.
- Increasing the height of the wall in front of the plant area from 1.645 metres to 2.61 metres (an increase of 0.965 metres) and addition of a 2.61 metres high brick wall and louver screen wall enclosing the plant area.
- Addition of a sign (school emblem – 600mm x 600mm approx.) to the façade of the wall screening the plant area, comprising of a school name and emblem.
- Addition of a timber lattice on top of the existing eastern boundary fence to a height level with the brick wall/louver screen enclosing the plant area.
- Addition of two (2) full height timber batten screens on the north side of the verandah of the VCE Centre.

SUBJECT SITE AND LOCALITY

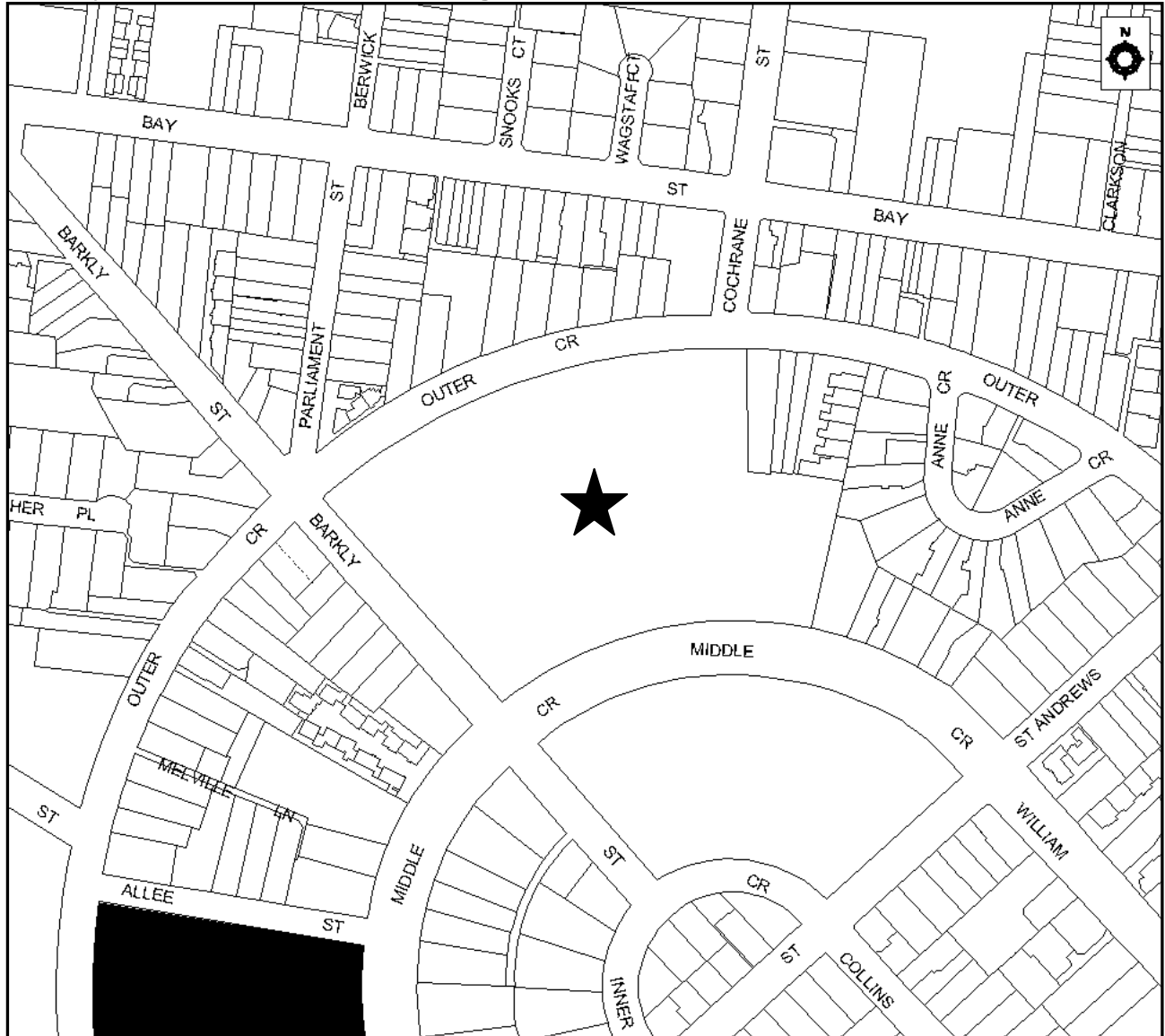
An inspection of the site and the surrounding area has been undertaken.

The site has a total area of approximately 33,264 square metres and is located within a parcel of land bounded by Outer Crescent, Middle Crescent and Barkly Street, Brighton. It contains Firbank School, which was established in 1908 upon land purchased by the Anglican Church containing two (2) existing dwellings, which are still in use today by the school. The site also contains a number of buildings and additions that reflect the history and development of the school since 1909. The subject site contains the senior school and the junior school is located to the south of the site, on Middle Crescent.

The main site/locality characteristics are:

- Land to the north, east and west of the subject site is zoned Residential 1 Zone and developed and used for residential purposes.
- Land to the south of the subject site is zoned Residential 1 Zone and is developed and used for the junior school of Firbank.

Locality Plan – 31 Outer Crescent, Brighton



| Legend | |
|--------------|---|
| Subject land | ★ |

PERMIT/SITE HISTORY

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

| Permit No. | Proposal | Date |
|------------|--|-------------------|
| 1884 | Storage shed | 21 September 1983 |
| 2710 | School games court | 10 July 1987 |
| 2838 | Use of a residence for school facilities | 17 December 1987 |
| 3151 | Advertising signage | 11 July 1989 |
| 3289 | Locker room | 28 July 1989 |
| 3343 | Residential extension | 22 September 1989 |
| 3958 | Residence | 18 September 1992 |
| 4339 | Signage | 10 March 1994 |
| 4372 | Additions to detached dwelling | 30 May 1994 |
| 4387 | Indoor pool and gymnasium | 27 June 1994 |
| 99/4959 | Refurbishment of the Cameron Wing | 1 November 1999 |
| 99/5054 | Demolition of existing buildings and the construction of new science buildings including signage, landscaping and associated fencing | 17 April 2000 |
| 2002/7629 | Alterations and additions | 3 September 2002 |
| 2007/923/1 | Alterations and additions to buildings in a Heritage Overlay | 7 October 2008 |
| 2009/577/1 | Alterations and additions to a Building in a Heritage Overlay | 18 December 2009 |
| 2009/619/1 | Alterations and additions to Cameron Wing Firbank Grammar School in a Heritage Overlay | 18 December 2009 |
| 2009/639/1 | School identification signage | 1 March 2010 |

PUBLIC NOTIFICATION

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

REFERRALS

No referrals were required.

ASSESSMENT

The applicant made the following comment with their request for Council consideration:

“The changes relate to the screening of the VCE Centre plant area. The area required for plant equipment has been reviewed and a smaller compound is considered appropriate. It is sought to remove part of the existing wall (which is currently at a height of 1.645 metres). The proposal also seeks to alter the screening treatment to wrap the brick wall around as a part of the plant screen. The plant area will remain fully screened from the streetscape. It is also noted that the previously endorsed plans expanded the gate width from 3.5 metres to 4 metres. The width of the gate as a result of this change will be 6 metres.”

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.*

Planning Permit 2007/0923/1 allows for part demolition, alterations and additions to the existing school buildings (Firbank) in a Residential 1 Zone and Heritage Overlay. The proposed amendments are of a minor nature and do not result in a transformation of the proposal, noting the building works are approaching completion and have been constructed in accordance with the approved plans.

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

The changes proposed do not authorise works that would require primary consent under the planning scheme.

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

The modifications will not compromise the objectives of the zone and are of a very minor nature.

- *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 changes are the result of further detailed design consideration particularly in regard to the appropriateness of proposed vegetation with respect to minimising water use and hardiness of plants.

The proposed changes are not contrary to any specific requirement of Bayside Planning Scheme or the decision of the Tribunal with respect to this application.

CONCLUSION

It is considered that the proposed changes meet the above tests for Secondary Consent, and do not result in a significant change to the permit granted. It is recommended that the request be granted.

RECOMMENDATION

That the Amended Plans be **approved** by Council under the Secondary Consent provisions of **Planning Permit No. 2007/0923/1** issued for part demolition, alterations and additions to the existing school buildings (Firbank) at 31 Outer Crescent, Brighton and the following table be added at the end of the permit.

| Date | Amendment |
|----------------|--|
| 24 August 2010 | Secondary Consent to Amend Plans: <ul style="list-style-type: none"> • Deletion of a section of the 1.645 metres high front wall by increasing the width of the gates from 3.5 metres to 6.01 metres. • Increasing the height of the wall in front of the plant area from 1.645 metres to 2.61 metres (an increase of 0.965 metres) and addition of a 2.61 metres high brick wall and louver screen wall enclosing the plant area. • Addition of a sign (school emblem – 600mm x 600mm approx.) to the façade of the wall screening the plant area, comprising of a school name and emblem. • Addition of a timber lattice on top of the existing eastern boundary fence to a height level with the brick wall/louver screen enclosing the plant area. • Addition of two (2) full height timber batten screens on the north side of the verandah of the VCE Centre. |

1.8 **16 Small Street, Hampton**
Secondary Consent - Approve
Application No. 2008/0747/1 Ward: Central

City Strategy/Statutory Planning
 File No: 2008/0747/1

APPLICATION DETAILS

| | |
|-------------------------------------|--|
| Land Address: | 16 Small Street, Hampton |
| Application is for: | Secondary Consent – Amended Plans |
| Melway Reference: | 76 G6 |
| Ward: | Central |
| Application Number: | 2008/0747/1 |
| Applicant's/Owner's Name: | JDA Architects |
| Date Received: | 3 August 2010 |
| Statutory Days Expiry: | 3 September 2010 |
| Zoning: | Residential 1 Zone |
| Overlays: | None |
| Restrictive covenants on the title? | No |
| Current use and development: | Vacant site |

PROPOSITION

It is recommended that Council:

- **Refuse** to consent to the amendment to decrease the first floor south setback of the living rooms for dwellings 8 & 9 from 4 metres to 3.87 metres.
- **Approve** the remaining proposed changes under secondary consent.

PROPOSAL

The applicant has applied pursuant to the Secondary Consent provision afforded by Condition 2 of Planning Permit No. **2008/0747/1** for the following amendments to the endorsed plans:

Basement Level

- Increase the size of the basement area towards the Council Carpark to the west.
- Decrease the basement setbacks from the south boundary from 3.245 metres to 3 metres and decrease the basement setback from the east boundary from 2.02 metres to 1.82 metres.
- Amend the basement ramp to include a curved wall.
- Internally rearrange the storage and bicycle parking area.

Ground floor

- The front of the basement ramp changed to permeable paving.
- Inclusion of a planter box adjacent to bedroom 1 of both dwelling 2 and 3.
- Construction of a 1 metre split block fence on the western property boundary.
- Construction of a water meter enclosure.
- Decrease the ground floor east side setback of bedroom 1 and 2 of dwelling 4 from 2.18 metres to 2.17 metres.
- Increase the ground floor east side setback of the living room of dwelling 4 from 3.615 metres to 3.66 metres.
- Minor alterations to window/door locations and types.
- Internal rearrangement of the dwellings.

First floor

- Minor alterations to window/door locations and types.
- Internal rearrangement of the dwellings.
- Decrease the north setback from the terrace of dwelling 7 from 5.9 metres to 5.87 metres.
- Decrease the setback of the floor on the west side from bedroom 2 of dwelling 7 from 1.73 metres to 1.6 metres.
- Decrease the setback of the floor on the west side from the living room of dwelling 8 from 2.7 metres to 2.68 metres.
- Increase the first floor west side setback from bedroom 2 of dwelling 8 from 1 metre to 1.1 metres.
- Decrease the first floor south setback of the living rooms for dwellings 8 and 9 from 4 metres to 3.87 metres.
- Decrease the first floor east side setback of bedroom 2 of dwelling 10 from 2.1 metres to 1.98 metres.
- Decrease the first floor east side setback of bedroom the meals area of dwelling 11 from 4.075 metres to 4.025 metres.
- Decrease in the first floor east side setback of the living area of dwelling 11 from 5.505 metres to 5.35 metres.
- Increase the first floor east side setback of the study of dwelling 11 from 3.975 metres to 4.075 metres.

Roof Level

- Inclusion of six (6) skylights.
- Inclusion of a 2° pitched hip roof (behind the approved parapet).

Elevations

- Alterations to the materials and finishes.
- Alterations to the location and styles of windows and doors.

SUBJECT SITE & LOCALITY

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

The site is located in close proximity to the Hampton Street Major Activity Centre and within walking distance from the Hampton Railway Station.

The site has a frontage of 8.72 metres, a depth of 56.39 metres and a total area of 1001 square metres and is currently vacant.

The main site/locality characteristics are:

- The subject site is relatively flat.
- There is a street tree at the front of the site.
- To the north of the site is the Brown Cow restaurant and the Hampton Railway reserve
- The adjoining properties to the south at Nos 3 and 5 Crisp Street contain attic style dwellings with the rear private open space areas abutting the subject site. The dwellings are located approximately 28 metres from the rear boundary of the subject site.
- The adjoining property to the east of the site contains six (6) brick dwellings at 18 Small Street.
- The adjoining property to the west contains a Council public car park accessed via Small and Crisp Streets, located to the rear of the commercial precinct fronting Hampton Street.

Locality Plan – 16 Small Street, Hampton


| | |
|---------------|---|
| Legend | |
| Subject land | ★ |

PERMIT/SITE HISTORY

Planning Permit 2008/0747/1 was issued at the direction of VCAT on 12 April 2010 for construction of a two-storey building (plus basement) accommodating dwellings and associated car parking.

Condition 1 plans were endorsed on 30 July 2010.

PUBLIC NOTIFICATION

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

REFERRALS

No 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.*

The Planning Permit was issued for the construction of a double storey apartment building with basement parking. The proposed alterations and additions will not alter what was previously approved. Thus the building will still be a double storey apartment building and contain the same number of dwellings.

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

The primary consent of the Planning Permit is for the construction of two (2) or more dwellings on a lot. Given that the proposal is for minor alterations and additions to the built form it does not authorise something for which primary consent is required under the planning scheme.

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

The purpose of the planning controls under which the original Planning Permit was granted is to ensure that the construction of the dwellings accords with the standards and objectives of the Bayside Planning Scheme.

The proposed alterations to the basement level and access ramp are minor in nature and will not affect the amenity of the adjoining property. The internal rearrangement of the basement will create a more usable area.

The proposed amendments to the ground floor setbacks are minor and will not significantly affect the amenity of the adjoining properties. The alterations to the basement ramp to allow for a curved wall will increase safety for future residents and the permeable paving will further reduce stormwater runoff. The proposed alterations to the door and window locations and types are minor and will not affect the adjoining properties.

The proposed first floor amendments to the north and west will not affect the amenity of the adjoining properties as the subject site faces Small Street to the north and a Council carpark

to the west. The proposed alterations to the door and window locations and types are minor and will not affect the adjoining properties and are screened in accordance with the requirements of the Bayside Planning Scheme. The alterations to the first floor south setback from 4 metres to 3.87 metres is contrary to the specific requirements of VCAT's Interim Order dated 18 December 2009 which required the development to be setback a minimum of 4 metres from the south at first floor level to reduce amenity impacts to the adjoining properties. It is considered that the proposed reduction in the setback is inappropriate, will affect the amenity of the adjoining property to the south, and is contrary to a specific direction of VCAT and thus cannot be approved by Council.

It is considered the proposed amendments, with the exception of the decrease in the first floor south setback, will not result in any detrimental amenity impact. The proposal is therefore considered satisfactory in the context of the provisions under which the original permit was granted.

- *The 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.*

Apart from the reduction in the southern first floor setback, there is no other specific permit requirement that will be contravened in regard to the proposed amendments.

The proposed amendments, (with the exception of the decrease in the first floor south setback), are considered minor in nature and will not affect the amenity of the adjoining properties and meet the 'tests' of Secondary Consent. It is considered that the proposed amendments are appropriate and are suitable for support.

CONCLUSION

It is considered that the proposed modifications, except for the reduction in the first floor south setback, are acceptable and meet the above tests of Secondary Consent, and are therefore recommended that the amended plans be supported. It is considered that the proposed reduction in the first floor setback is contrary to the specific direction of VCAT and will have an unreasonable amenity impact upon the adjoining property to the south. Accordingly, this modification cannot be dealt with under Secondary Consent provisions.

RECOMMENDATION

That Council in regard to the application for Secondary Consent to amend the plans endorsed under Planning Permit 2008/0747/1 for the land at 16 Small Street, Hampton for the construction of a two-storey building (plus basement) accommodating dwellings and associated car parking resolve to:

- Refuse** to consent to the amendment to decrease the first floor south setback of the living rooms for dwellings 8 & 9 from 4 metres to 3.87 metres
- Approve** the proposed changes listed below under secondary consent and that the permit be updated to record the list of changes considered under secondary consent (refer to table below) and that the relevant plans be endorsed.

| Date | Amendment |
|----------------|---|
| 24 August 2010 | <p data-bbox="464 465 943 499"><u>Secondary Consent Approved for:</u></p> <p data-bbox="464 517 676 551"><u>Basement Level</u></p> <ul data-bbox="464 568 1374 853" style="list-style-type: none"> <li data-bbox="464 568 1318 629">• Increase the size of the basement area towards the Council Carpark to the west. <li data-bbox="464 651 1374 752">• Decrease the basement setbacks from the south boundary from 3.245 metres to 3 metres and decrease the basement setback from the east boundary from 2.02 metres to 1.82 metres. <li data-bbox="464 775 1219 808">• Amend the basement ramp to include a curved wall. <li data-bbox="464 831 1286 864">• Internally rearrange the storage and bicycle parking area. <p data-bbox="464 909 632 943"><u>Ground floor</u></p> <ul data-bbox="464 960 1414 1480" style="list-style-type: none"> <li data-bbox="464 960 1358 994">• The front of the basement ramp changed to permeable paving. <li data-bbox="464 1016 1414 1077">• Inclusion of a planter box adjacent to bedroom 1 of both dwelling 2 and 3. <li data-bbox="464 1099 1414 1160">• Construction of a 1 metre split block fence on the western property boundary. <li data-bbox="464 1182 1070 1216">• Construction of a water meter enclosure. <li data-bbox="464 1238 1414 1299">• Decrease the ground floor east side setback of bedroom 1 and 2 of dwelling 4 from 2.18 metres to 2.17 metres. <li data-bbox="464 1321 1414 1382">• Increase the ground floor east side setback of the living room of dwelling 4 from 3.615 metres to 3.66 metres. <li data-bbox="464 1404 1230 1438">• Minor alterations to window/door locations and types. <li data-bbox="464 1460 1054 1494">• Internal rearrangement of the dwellings. <p data-bbox="464 1516 584 1550"><u>First floor</u></p> <ul data-bbox="464 1568 1414 2105" style="list-style-type: none"> <li data-bbox="464 1568 1230 1601">• Minor alterations to window/door locations and types. <li data-bbox="464 1624 1054 1657">• Internal rearrangement of the dwellings. <li data-bbox="464 1680 1414 1740">• Decrease the north setback from the terrace of dwelling 7 from 5.9 metres to 5.87 metres. <li data-bbox="464 1762 1414 1823">• Decrease the setback of the floor on the west side from bedroom 2 of dwelling 7 from 1.73 metres to 1.6 metres. <li data-bbox="464 1845 1414 1906">• Decrease the setback of the floor on the west side from the living room of dwelling 8 from 2.7 metres to 2.68 metres. <li data-bbox="464 1928 1414 1989">• Increase the first floor west side setback from bedroom 2 of dwelling 8 from 1 metre to 1.1 metres. <li data-bbox="464 2011 1414 2072">• Decrease the first floor east side setback of bedroom 2 of dwelling 10 from 2.1 metres to 1.98 metres. <li data-bbox="464 2094 1414 2128">• Decrease the first floor east side setback of bedroom the meals |

| | |
|----------------|--|
| | <p>area of dwelling 11 from 4.075 metres to 4.025 metres.</p> <ul style="list-style-type: none"> • Decrease in the first floor east side setback of the living area of dwelling 11 from 5.505 metres to 5.35 metres. • Increase the first floor east side setback of the study of dwelling 11 from 3.975 metres to 4.075 metres. <p><u>Roof Level</u></p> <ul style="list-style-type: none"> • Inclusion of six (6) skylights. • Inclusion of a 2° pitched hip roof (behind the approved parapet). <p><u>Elevations</u></p> <ul style="list-style-type: none"> • Alterations to the materials and finishes. • Alterations to the location and styles of windows and doors. |
| 24 August 2010 | <p><u>Secondary Consent Refused for:</u></p> <p>Amendment to decrease the first floor south setback of the living rooms for dwellings 8 & 9 from 4 metres to 3.87 metres</p> |

1.9 **10 McKay Avenue, Black Rock**
Secondary Consent - Amended Plans
Application No. 2006/343/1 Ward: Southern

City Strategy/Statutory Planning
 File No: 2006/343/1

| | |
|-------------------------------------|---|
| Land/Address: | 10 McKay Avenue, Black Rock |
| Application is for: | Secondary Consent – Amended Plans |
| Melway Reference: | 85 K2 |
| Ward: | Southern |
| Application Number: | 2006/343/1 |
| Applicant's/Owner's Name: | Louvre House |
| Date Received: | 11 August 2010 |
| Statutory Days Expiry: | 11 September 2010 |
| Zoning: | Residential 1 Zone |
| Overlays: | Design and Development Overlay – Schedule 2 Vegetation Protection Overlay – Schedule 3 |
| Restrictive covenants on the title? | No |
| Current use and development: | Residential |

PROPOSITION

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

PROPOSAL

The applicant has applied pursuant to the Secondary Consent provision afforded by Condition 2 of Planning Permit No. 2006/343/1 for the following amendments to the endorsed plans:

- Addition of a 23.1 sqm louvered verandah within the front setback of the property. (Drawing No. A01- A02)
- The proposed verandah reaches a height of 2.82 metres. (Drawing No. A01- A02)

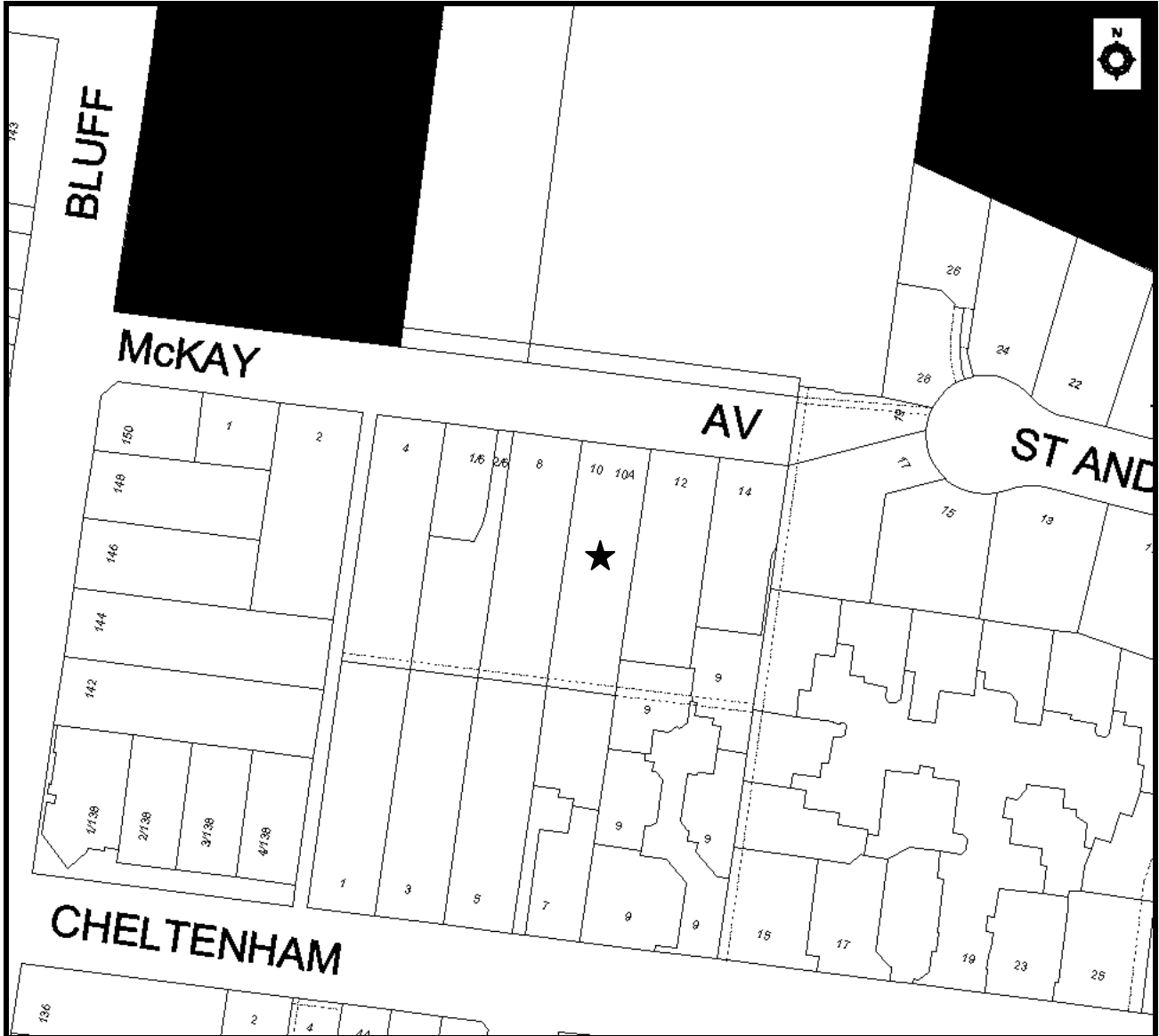
SUBJECT SITE AND LOCALITY

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

The subject site is located on the south side of McKay Street and is regular in shape and comprises a 15.09 metre frontage to McKay Street, a depth of 54.41 metres and an overall area of approximately 821 sqm.

The subject site is located within an established residential area.

LOCALITY PLAN



PERMIT/SITE HISTORY

Planning Permit 2006/343/1 was issued at the direction of VCAT on the 26 September 2006 for the construction of a double storey dwelling to the front of the site and a single storey to the rear, with basement car parking.

Condition 1 plans were endorsed on 23 October 2008.

On 19 July 2007 at the direction of VCAT, an amendment to the permit was granted to:

- Delete condition 1 (a).
- Renumber the remainder of Condition 1.
- Rewording of Condition 14.
- Deletion of Condition 22 and renumbering of the remaining conditions.
- Deletion of Condition 24

On 7 May 2008 at the direction of VCAT, an amendment to the permit was granted to:

- Reword Condition 1 (f)
- Include a new condition 1 (k)
- Include a new Permit Note

PUBLIC NOTIFICATION

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

REFERRALS

No 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.*
The request for changes to the plans will alter the front façade of the dwelling in the form of a new verandah. It is considered that the proposed 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 consent of the planning permit is for the construction for two dwellings on a lot within a Residential 1 Zone. 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 the planning control under which the permit was granted.*

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

The amendments to the plans include the provision of a 23.1 sqm louvred verandah which is to reach a height of 2.82 metres above existing timber deck level.

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 verandah will not contravene a condition of the permit which cannot be altered by consent.

The proposed amendments to the plans are considered acceptable and will not result in additional amenity impacts to adjoining properties. The applicant has advised that the proposed verandah will improve internal amenity for residents by provided a covered outdoor space and is therefore considered acceptable.

It is therefore considered that the proposed amendments are acceptable and worthy of support.

CONCLUSION

It is considered that the proposed modifications of the plans via secondary consent of Planning Permit No. 2006/0343/1 are acceptable and meet the above tests for Secondary Consent. It is therefore recommended that the amended plans be approved.

RECOMMENDATION

That the Amended Plans for the proposed verandah, be **approved** by Council under the Secondary Consent provisions of **Planning Permit No. 2006/0343/2** issued for the **construction of a double storey dwelling to the front and a single storey dwelling to the rear and basement car parking at 10 McKay Avenue, Brighton**, and the following table be added at the end of the permit.

| Date | Amendment |
|----------------|--|
| 23 August 2010 | Secondary Consent to Amend Plans: <ul style="list-style-type: none"> • A 23.1 sqm louvred verandah within the front setback of the property. (Drawing No. A01- A02) |

1.10 **33 Fifth Street, Black Rock**
Notice of Decision to Grant a Permit
Application No. 2009/0392/1 Ward: Southern

City Strategy/Statutory Planning
 File No: 2009/0392/1

APPLICATION DETAILS

| | |
|--|--|
| Land Address: | 33 Fifth Street, Black Rock |
| Application is for: | Construction of two (2) double storey dwellings on Lot 2 of PS635124Q and removal of vegetation in a Vegetation Protection Overlay Schedule 3 |
| Melway Reference: | 86 A6 |
| Ward: | Southern |
| Application Number: | 2009/0392/1 |
| Applicant's/Owner's Name: | Keen Planning |
| Date Received: | 13 August 2009 |
| Statutory Days Expiry: | 11 July 2010 |
| Zoning: | Residential 1 Zone |
| Overlays: | Design and Development Overlay Schedule 1 Vegetation Protection Overlay Schedule 3 |
| Under what clause(s) is a permit required? | Clause 32.01-4 – Construction of two (2) or more dwellings on a lot Clause 42.02 – Removal of native vegetation. |
| Restrictive covenants on the title? | No |
| Current use and development: | Double storey dwelling |
| Objections: | Two (2) objections |

PREAMBLE

Since this application has been lodged Council has issued a two (2) lot subdivision for the subject site. Construction is underway for a double storey dwelling on Lot 1. This application is for the construction of two (2) double storey dwellings on Lot 2.

PROPOSITION

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

PROPOSAL

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

- Construction of two (2) attached double storey dwellings each containing three (3) bedrooms and double garages.
- Removal of two (2) native street trees.

SUBJECT SITE & LOCALITY

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

The site has a total area of 947 square metres and currently contains:

- A double storey dwelling under construction.

The main site/locality characteristics are:

- The subject site is located on the north-western corner of Fifth Street and Keating Street, Black Rock. Construction of a double storey dwelling is currently underway on Lot 1.
- The adjoining property to the north, 15 Keating Street, contains a single storey dwelling fronting Keating Street.
- The adjoining property to the west, at 31 Fifth Street, contains a single storey dwelling fronting onto Fifth Street.
- The subject site faces Donald McDonald Reserve across Keating Street to the east.
- The subject site faces a double storey dwelling on an elevated block, at 1 McGregor Avenue, across Fifth Street to the south.

PERMIT/SITE HISTORY

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

- Planning Permit 2009/0588/1 – two (2) lot subdivision granted under delegation on 22 March 2010. The proposed development is on Lot 2 of PS635124Q, which was created by this vacant lot subdivision.

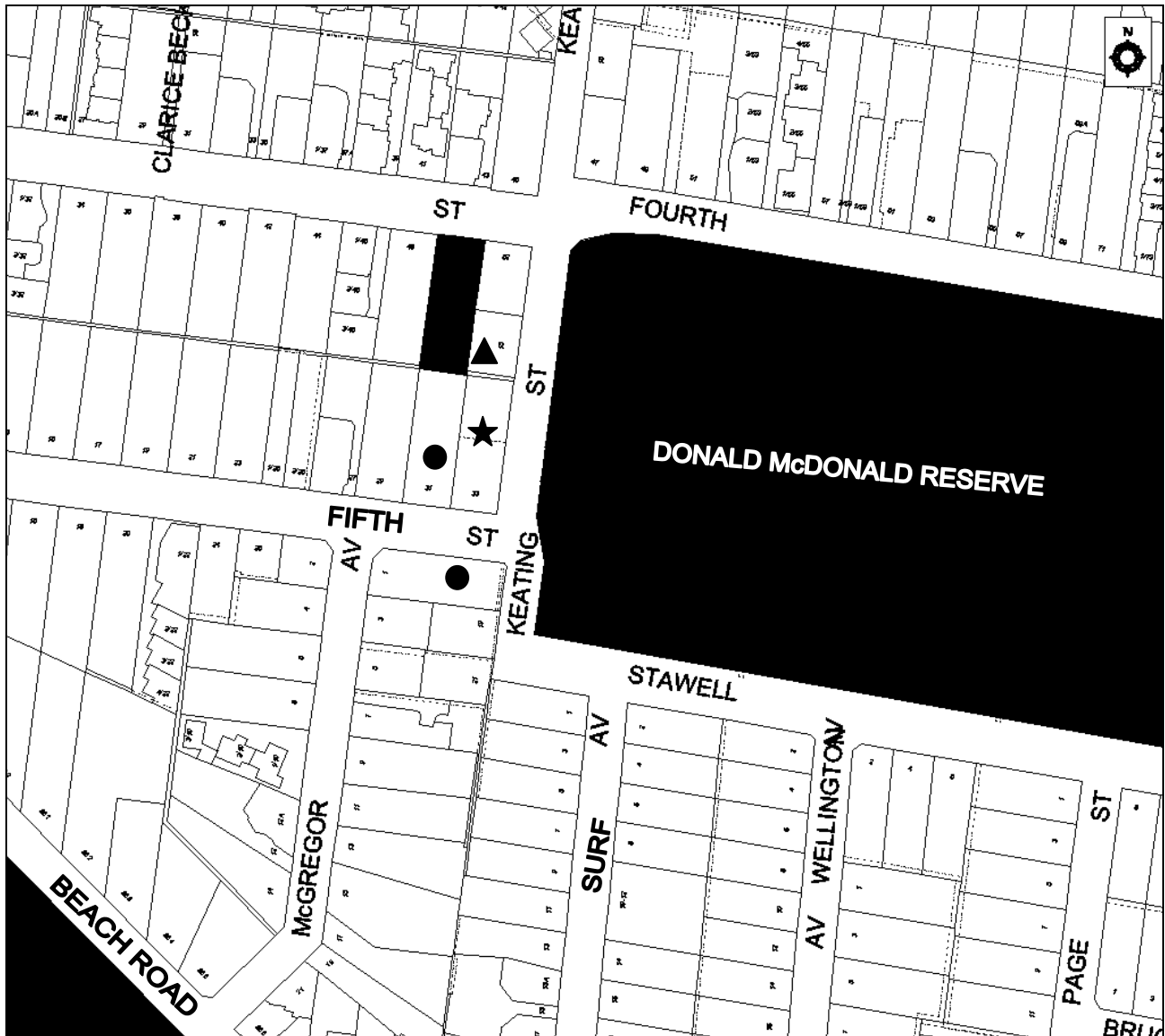
PUBLIC NOTIFICATION

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 signs on site

The notification has been carried out correctly.

Council initially received three (3) objections. One (1) objection was withdrawn, leaving two (2) objections.

Locality Plan – 33 Fifth Street, Black Rock


| Legend | |
|-----------------------|---|
| Subject land | ★ |
| Location of Objectors | ● |
| Withdrawn | ▲ |

The key issues that were raised in the objections are:

- Overlooking
- Visual bulk
- Neighbourhood character
- Vegetation removal
- Car parking concerns and traffic generation

CONSULTATION

A consultation meeting was held on 14 July 2010. At the meeting the objectors raised issues concerning neighbourhood character, overlooking, overshadowing and traffic generation and parking.

REFERRALS

External Referrals/Notices by the Planning Scheme:

| Referrals/Notice | Advice/Response/Conditions |
|----------------------|--|
| Section 55 Referrals | N/A |
| Section 52 Notices | Letters to all adjoining property owners and occupiers and one (1) notice on-site fronting Keating Street, and one (1) sign fronting Fifth Street. |

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

ASSESSMENT

Relevant Provisions of the Bayside Planning Scheme

State Planning Policies

- Clause 12 Metropolitan Development - Includes objectives and strategies for Metropolitan Melbourne.
- Clause 14 Settlement - Encourages consolidation of residential activities, with development being respectful of neighbourhood character.
- Clause 16.02 Housing - Encourages well-designed medium density housing that respects the character of the neighbourhood and improves housing choice, use of infrastructure and energy efficiency.

Municipal Strategic Statement

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

Local Planning Policies

- Clause 22.07-1 – Neighbourhood Character Policy - Aims to encourage development in the area that responds to the particular built form and natural environment elements that make up the neighbourhood character of Bayside.
- Clause 22.07-2 – Neighbourhood Character Objectives - Aims to ensure that development is responsive to the preferred future character of the area and to retain and enhance the identified elements that contribute to the character of the area. It is noted that the subject site is located within precinct H6.

Zoning

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

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

Overlays

- Clause 42.02 Vegetation Protection Overlay, Schedule 3 - Aims to prevent the loss of native and particularly indigenous vegetation, to retain the amenity, aesthetic character and habitat value of Australian native vegetation and indigenous vegetation and to promote the regeneration and replanting of indigenous species.

The overlay requires a planning permit to remove native vegetation.

- Clause 43.02 – Design and Development Overlay Schedule 1 – Seeks to protect and enhance the foreshore environment and views of Bayside from Port Phillip Bay, to relate the scale and form of any new development to the landform of the coast, to maintain a pedestrian scale along Beach Road, to maintain consistency with urban design and development objectives in the Bayside Coastal Strategy 1997 and the Victorian Coastal Strategy 2002, to protect the foreshore from overshadowing, to manage the increased pressure for higher buildings along the coast and to protect the amenity and privacy of residential properties.

This overlay does not trigger the requirement for a planning permit as the development does not exceed 2 storeys in height.

Particular Provisions

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

SUMMARY OF KEY ISSUES

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

The subject site is located in Precinct H6 within Clause 22.07 Neighbourhood Character Policy of the Bayside Planning Scheme. The preferred future character statement reads:

The dwellings of diverse styles sit within gardens of indigenous coastal species with occasional tall trees. Buildings are occasionally built to the side boundary and sited to gain views to the bay and coast, however they do not dominate the streetscape and have regard to the view corridors from nearby properties. The impression of the streetscape is of openness due to the low or open style fencing complemented by the wide grassy verges and long straight roads. The coastal character is enhanced by street trees of native coastal species throughout the area.

The precinct guidelines are as follows:

| Objective | Design Response | Avoid |
|--|--|---|
| To maintain and enhance the garden settings of the dwellings. | <ul style="list-style-type: none"> • Prepare a landscape plan to accompany all applications for new dwellings that utilises appropriate coastal species. | <i>Lack of landscaping and substantial vegetation.</i> |
| To enhance the bayside vegetation character of the area through the retention and planting of appropriate coastal species. | <ul style="list-style-type: none"> • Retain established native and traditional coastal vegetation and provide for the planting of new native coastal trees and shrubs where possible (locate footings outside root zone). | <i>Removal of large, native trees.</i> <i>Planting of environmental weeds.</i> |
| To 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 the planting of trees and shrubs. • Buildings should be sited to create the appearance of space between buildings and accommodate vegetation. • Minimise impervious surfaces particularly in front garden spaces. | <i>Loss of front garden space.</i> |
| To minimise the dominance of car parking facilities. | <ul style="list-style-type: none"> • Locate garages and car ports behind the line of the dwelling. • Underground car parking accessed from the front of the site should only be provided | <i>Car parking facilities that dominate the façade or view of the dwelling.</i> |

| Objective | Design Response | Avoid |
|---|---|---|
| | 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. | |
| To provide for reasonable sharing of views to the bay and coast. | <ul style="list-style-type: none"> Buildings should be sited to take into account the view corridors to the bay and coast from nearby properties and public viewing areas. | <i>Buildings that completely obscure views from public viewing areas.</i> |
| To ensure that buildings and extensions do not dominate the streetscape. | | |
| To encourage innovative architecture that reflects the coastal setting. | <ul style="list-style-type: none"> New buildings should be individually designed to respond to the characteristics of the coastal location and the site. Incorporate building elements, materials and details that contribute to a lightness of structure including balconies, verandahs, glazing and light transparent balustrading. | <i>Large bulky buildings. Flat, poorly articulated front wall 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 streetscape. | <ul style="list-style-type: none"> Provide open style front fences, other than along heavily trafficked roads. | <i>High, solid fences.</i> |

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

It is considered that the proposal complies with the objectives of the preferred future character, as the front setback of the development is 4 metres. The existing dwelling on site (Lot 1 which is under construction) is setback 2 – 4.4 metres from the Keating Street frontage and the adjoining property at 15 Keating Street is setback 5.4 – 6.7 metres. It is considered that the proposed setback is appropriate and will provide a transitional setback within Keating Street.

Car parking is located at ground level and the crossovers have been designed so as to minimise the loss of street tree planting and lessen the dominance of car parking structures on the streetscape. The first floor component is well-articulated and provides an interesting façade to the street. The proposal incorporates the use of a variety of building materials, finishes and design

details that complements the area. The proposed front fence is 2.7 metres in length, located in front of the dwelling entry's only, and 1.8 metres in height which is not excessive in height and is setback 1 metre from the front setback with planting to ensure the visual relationship between the private dwellings and the public streetscape is maintained.

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

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

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

Setbacks

The proposed setbacks are as follows:

| | Ground floor | | First Floor | |
|--------------|---------------|-----------------------|--------------------|-----------------------|
| | Requirement | Proposed | Requirement | Proposed |
| North | 0 or 2 metres | 0 – 6.5 metres | 3.14 metres | <u>3 – 5.9 metres</u> |
| South | 0 or 2 metres | 0 – 3.5 metres | 3.74 metres | <u>3 – 3.5 metres</u> |
| West | 0 or 3 metres | <u>1 – 6.8 metres</u> | 4.38 – 4.62 metres | <u>3 metres</u> |

The proposed ground floor rear setback of 1 – 6.8 metres does not comply with the 3 metre setback requirement of the Bayside Planning Scheme. It is considered that while the setback is not compliant the wall is minimal in length and at 3 metres in height is acceptable. The proposed setback will not affect the amenity of the adjoining property to the west and will not present as a visually dominant element at ground level.

The proposed first floor north side setback of 3 – 5.9 metres does not comply with the 3.14 metre setback requirement of the Bayside Planning Scheme. The area of noncompliance is minimal in size (0.14m) and length (4m), and adjacent to an adjoining garage wall. It is considered that the proposed setback is appropriate for the site and will not affect the amenity of the adjoining property.

The proposed first floor south side setback of 3 – 3.6 metres does not comply with the 3.74 metre setback requirement of the Bayside Planning Scheme. The area of noncompliance is located adjacent to the single storey portion of the dwelling currently under construction on Lot 1 of PS635124Q. It is considered that the proposed setback is appropriate for the site and will not affect the amenity of the adjoining property.

The proposed first floor west (rear) setback of 3 metres does not comply with the 4.38 – 4.62 metre setback requirement of the Bayside Planning Scheme. It is considered that the proposed wall is well articulated through the mix of materials and finishes and will not detrimentally impact upon the amenity of the adjoining properties.

It is considered that the proposed setbacks of the development are site responsive and will respect the amenity of the adjoining properties.

Visual Bulk

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

The overall height of the building at 6.7 – 7.7 metres is consistent with the height and scale of other double storey buildings within the streetscape and area. The streetscape elevation indicates that from a streetscape perspective, the scale and height of the development fits comfortably within this area.

Overlooking

It is considered that there will be potential overlooking opportunities into the property to the west from the bedroom 3 and rumpus room windows. A condition has been included on any permit that may issue to provide screening in accordance to Standard B22 of the Bayside Planning Scheme. It is considered that subject to the inclusion of this condition there will be no unreasonable overlooking opportunities into the adjoining properties to the west.

Overshadowing

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

Traffic and Car Parking

Each dwelling is provided with two (2) car spaces within separate garages. The parking provided is in accordance with the requirements of the Bayside Planning Scheme. The proposed crossovers are to be constructed and maintained at grade with minimal 'cut' to ensure the retention of the street trees within Keating Street.

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

Landscaping/Vegetation

The proposal includes the removal of three (3) native street trees from the Keating Street road reserve. Council's Arborist has viewed the landscape plan and comments that the proposed landscape plan is appropriate for the site and that the development will not affect planting on adjoining properties. It is noted that there is no removal of vegetation on the subject site.

Council's Street Tree Arborist has viewed the plans and comments that the proposed removal of the three (3) street trees is acceptable subject to the construction of the proposed crossovers being 'at grade' with minimal ground disturbance and appropriate tree protection zone, and subject to the removal and replacement of the trees at the applicant/owners expense.

Front Fence

It is proposed to construct a 1.8 metre high masonry front fence located in front of the dwelling entry's which is 2.7 metres in length and setback 1 metre from the front boundary. The bulk of the front setback will be open. There are similar height front fences within the streetscape in a mix of designs. The proposed front fence allows for greater planting to the street frontage and integrates the landscaped gardens with the heavily vegetated streetscape. It is considered that the proposed front fence is appropriate for the site and will not affect the amenity of the adjoining properties or the existing neighbourhood character of the area.

Energy Efficiency and Water Sensitive Urban Design

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

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

CONCLUSION

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

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

RECOMMENDATION

That Council having caused notice of Planning Application **No. 2009/0392/1** 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 **33 Fifth Street, Black Rock** for the **Construction of two (2) double storey dwellings on Lot 2 of PS635124Q** in accordance with the application dated 13 August 2009, subject to the following conditions, including the specified conditions set out in the Council's "Town Planning Standard Conditions" adopted by the Council on 28 November 2006:-

1. Before the development starts three copies of revised plans drawn to scale and dimensioned, must be submitted to and approved by the Responsible Authority. When approved the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the application but modified to show to the satisfaction of the Responsible Authority:
 - a. All paving (except driveways) to be permeable including details of the permeability.
 - b. A schedule of all external materials and finishes to be provided to the buildings and works on the land, showing the materials, colour and finish of all external walls, roof, fascias, window frames and paving (including car park surfacing).
 - c. The proposed landscape treatment for the site including the existing and proposed species in accordance with the requirements of condition 9 of this permit. Proposed planting must comprise of at least 60% native or indigenous planting.
 - d. All plant and equipment (including air conditioning units, heating units, hotwater systems, etc.) which is proposed to be located externally identified on the plans.

- e. Details of all screening to the first floor North and West windows to ensure compliance with Clause 55.04-6 Standard B22 Overlooking of the Bayside Planning Scheme.
 - f. Water sensitive urban design stormwater treatment measures in accordance with Condition 16.
 - g. The proposed crossovers for both Dwelling 1 and Dwelling 2 are to be located as noted in the plans dated 13 August 2009 and must be constructed at grade with no strip or sheet excavation greater than 100mm.
2. The two (2) new crossovers hereby permitted must be constructed prior to works on site commencing and all entry into and out off the site restricted to the crossovers. In the event it is not feasible to construct the crossovers in their entirety some other temporary construction must be laid down to disperse the weight of construction vehicles and reduce compaction to the nature strip. If a temporary solution is utilised this must be approved by Council's Arborist prior to works commencing.
 3. Prior to any excavation in the nature strip for underground services must be approved by Council's Arborist.
 4. The removal of the street trees must be done to the satisfaction of the Responsible Authority and all costs associated are to be borne by the Applicant/owner including the replacement planting.
 5. P4 Layout not altered
 6. A18 Concealment of pipes.
 7. A19 Plant and equipment or features on roof.
 8. A20 Boundary Walls
 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) 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. At least 60% of all planting must consist of either native or indigenous species.
 - e) landscaping and planting within all open areas of the site
 10. L2 Completion of landscaping
 11. L3 Landscaping maintenance.
 12. Tree protection fencing must be established around the street trees being retained prior to commencement of any works and maintained until all works on site are complete. The fencing is to be constructed and secured so its position cannot be modified by site workers. The fencing is to encompass the entire nature strip adjacent the works site with the exception of the crossovers. The tree protection zone is to be established and maintained in accordance with Australian Standards 4970 Protection of trees on development sites.

13. Stormwater discharge is to be retained on site to the pre development level of peak stormwater discharge. The development is to have a '**Stormwater Detention System**' installed, the design capacity to be Council approved.
14. Before the development begins, detailed plans (3 sets) indicating the method of stormwater discharge to the nominated '*Legal Point of Discharge*' (and Stormwater Detention Systems where applicable), must be lodged with Council's Engineering Services department for approval.
15. The driveway / Parking areas / paved courtyards / paths and 'pervious' pavements must be graded / drained to prevent stormwater discharge neither onto front footpath nor into adjacent properties.
16. Before the commencement of works, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be in accordance with the guidelines outlined in Clause 22.10 of the Bayside Planning Scheme and must show:-
 - o The type of water sensitive urban design stormwater treatment measures to be used;
 - o The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaping areas;
 - o Design details of the water sensitive urban design stormwater treatment measures, including cross sections;
 - o These plans must be accompanied by a report from an industry accepted performance measurement tool, which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

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

Permit Notes

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

- N1 Vehicle Crossing Permit
- N2 Building approval
- N6 Vehicle crossing removal
- N7 Retention of existing street trees/protection during construction

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

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

STANDARD OF THE BAYSIDE PLANNING SCHEME

Two or more dwellings on a lot and residential buildings (Clause 55 and Schedule to the Residential 1 Zone)

| Title and Objective | Complies with Standard? | Requirement and Proposed |
|---|--------------------------------|---|
| <p>B1 Neighbourhood Character</p> <p>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.</p> <p>Development responds to features of the site and surrounding area.</p> | Yes | See report |
| <p>B2 Residential Policy</p> <p>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.</p> <p>Support medium densities in areas to take advantage of public transport and community infrastructure and services.</p> | Yes | N/A |
| <p>B3 Dwelling Diversity</p> <p>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</p> | Yes | N/A |
| <p>B4 Infrastructure</p> <p>Provides appropriate utility services and infrastructure without overloading the capacity.</p> | Yes | Can be addressed through a permit condition |
| <p>B5 Integration with the Street</p> <p>Integrate the layout of development with the street</p> | Yes | N/A |
| <p>B6 Street Setback</p> <p>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</p> | Yes | <p>Minimum: 3 metres</p> <p>Proposed: 4 – 5 metres</p> |
| <p>B7 Building Height</p> <p>Building height should respect the existing or preferred neighbourhood character.</p> | Yes | <p>Maximum: 9 metres</p> <p>Proposed: 6.7 – 7.7 metres (due to slope of the land)</p> |

| | | |
|--|------------|--|
| <p>B8 Site Coverage</p> <p>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</p> | <p>Yes</p> | <p>Maximum: 50%</p> <p>Proposed: 46%</p> |
| <p>B9 Permeability</p> <p>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</p> | <p>Yes</p> | <p>Minimum: 20%</p> <p>Proposed: 39.9%</p> |
| <p>B10 Energy Efficiency</p> <p>Achieve and protect energy efficient dwellings and residential buildings.</p> <p>Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</p> | <p>Yes</p> | <p>See report</p> |
| <p>B11 Open Space</p> <p>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</p> | <p>Yes</p> | <p>N/A</p> |
| <p>B12 Safety</p> <p>Layout to provide safety and security for residents and property.</p> | <p>Yes</p> | <p>N/A</p> |
| <p>B13 Landscaping</p> <p>To provide appropriate landscaping.</p> <p>To encourage:</p> <ul style="list-style-type: none"> • Development that respects the landscape character of the neighbourhood. • Development that maintains and enhances habitat for plants and animals in locations of habitat importance. • The retention of mature vegetation on the site. | <p>Yes</p> | <p>Can be addressed through a permit condition.</p> |

| | | | |
|---|------------|---|---|
| <p>B14 Access</p> <p>Ensure the safe, manageable and convenient vehicle access to and from the development.</p> <p>Ensure the number and design of vehicle crossovers respects neighbourhood character.</p> | <p>Yes</p> | <p>N/A</p> | |
| <p>B15 Parking Location</p> <p>Provide resident and visitor vehicles with convenient parking.</p> <p>Avoid parking and traffic difficulties in the development and the neighbourhood.</p> <p>Protect residents from vehicular noise within developments.</p> | <p>Yes</p> | <p>N/A</p> | |
| <p>B16 Parking Provision</p> <p>Ensure car and bicycle parking meets the needs of residents and visitors.</p> <p>Accessways should be practical, attractive and easily maintainable.</p> | <p>Yes</p> | <p>Minimum: Two (2) spaces each</p> <p>Proposed: Two (2) spaces each</p> | |
| <p>B17 Side and Rear Setbacks</p> <p>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</p> | <p>No</p> | <p>Required:</p> <p><u>Ground Floor</u></p> <p>North: 0 or 2 m</p> <p>East: N/A</p> <p>South: 0 or 2 m</p> <p>West: 0 or 3 m</p> <p><u>First Floor</u></p> <p>North: 3.14 m</p> <p>East: N/A</p> <p>South: 3.74 m</p> <p>West: 4.38 – 4.62 m</p> | <p>Proposed:</p> <p><u>Ground Floor</u></p> <p>North: 0 – 6.5 m</p> <p>East: N/A</p> <p>South: 0 – 3.5 m</p> <p><u>West:</u> 1 – 6.8 m</p> <p><u>First Floor</u></p> <p>North: <u>3 – 5.9 m</u></p> <p>East: N/A</p> <p>South: 3 – 3.6 m</p> <p>West: <u>3 m</u></p> |

| | | |
|--|------------|--|
| <p>B18 Walls on Boundaries</p> <p>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</p> | <p>Yes</p> | <p>Maximum: 20.45 metres to the west and 12.07 metres to the north and an average height of 3 metres with no part greater than 3.6 metres in height.</p> <p>Proposed:</p> <p>West: 0 metres</p> <p>North: 4 metres with an average height of 2.6 metres.</p> |
| <p>B19 Daylight to Existing Windows</p> <p>Allow adequate daylight into existing habitable room windows.</p> | <p>Yes</p> | <p>N/A</p> |
| <p>B20 North Facing Windows</p> <p>Allow adequate solar access to existing north-facing habitable room windows.</p> | <p>Yes</p> | <p>N/A</p> |
| <p>B21 Overshadowing Open Space</p> <p>Ensure buildings do not significantly overshadow existing secluded private open space.</p> | <p>Yes</p> | <p>See report</p> |
| <p>B22 Overlooking</p> <p>Limit views into existing secluded private open space and habitable room windows.</p> | <p>Yes</p> | <p>See report</p> |
| <p>B23 Internal Views</p> <p>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</p> | <p>Yes</p> | <p>N/A</p> |
| <p>B24 Noise Impacts</p> <p>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</p> | <p>Yes</p> | <p>N/A</p> |
| <p>B25 Accessibility</p> <p>Consider people with limited mobility in the design of developments.</p> | <p>Yes</p> | <p>N/A</p> |

| | | |
|---|-----|--|
| B26 Dwelling Entry Provide a sense of identity to each dwelling/residential building. | Yes | N/A |
| B27 Daylight to New Windows Allow adequate daylight into new habitable room windows. | Yes | N/A |
| B28 Private Open Space Provide reasonable recreation and service needs of residents by adequate private open space. | Yes | Minimum: 40 square metres with a minimum of 25 square metres of secluded open space Proposed: Unit 1: 82.76m ² including 40 m ² of secluded open space. Unit 2: 79.4m ² including 40m ² of secluded open space. |
| 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 | A minimum of 6m ³ of space for each dwelling is provided within the garages. |
| B31 Design Detail Encourage design detail that respects the existing or preferred neighbourhood character. | Yes | See report. |
| B32 Front Fences Encourage front fence design that respects the existing or preferred neighbourhood character. | No | Maximum: 1.2 metres in height Proposed: 1.8 meters in height See report |
| B33 Common Property Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas. | Yes | N/A |

| | | |
|--|-----|-----|
| B34 Site Services Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. Avoid future management difficulties in common ownership areas. | Yes | N/A |
|--|-----|-----|

1.11 **18 George Street, Highett**
Notice of Decision to Grant a Permit
Application No. 2009/0615/1 Ward: Central

City Strategy/Statutory Planning
 File No: 2009/0615/1

APPLICATION DETAILS

| | |
|--|--|
| Land/Address: | 18 George Street, Highett |
| Application is for: | Alterations and additions to an existing dwelling (including a carport) and construction of a double storey dwelling to the side of the existing dwelling. |
| Melway Reference: | 77 C9 |
| Ward: | Central |
| Application Number: | 2009/0615/1 |
| Applicant's/Owner's Name: | DCA Design |
| Date Received: | 16 November 2009 Revised plans under Section 57(A) were submitted on 23 July 2010 |
| Statutory Days Expiry: | 28 September 2010 |
| Zoning: | Residential 1 Zone |
| Overlays: | Design and Development Overlay – Schedule 2 |
| Under what clause(s) is a permit required? | Clause 32.01 Construction of two or more dwellings on a lot. |
| Restrictive covenants on the title? | Yes but does not restrict this application |
| Current use and development: | Residential |
| Objections: | Two (2) objections |

PROPOSITION

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

PROPOSAL

It is proposed to undertake alterations and additions to an existing dwelling (including a carport) and construction of a double storey dwelling to the side of the existing dwelling. Details of the proposal are summaries as follows:

Existing double storey dwelling

- Demolition of the existing carport and outbuilding
- Construction of a new double carport
- Realignment of the existing driveway and crossover (George Street)

New Dwelling

- Construction of a double storey dwelling to the west of the existing dwelling
- Construction of a double carport west of the new dwelling
- Construction of a new crossover in George Street

SUBJECT SITE & LOCALITY

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

The subject site is located on the south west corner of George and Rose Streets.

The site is regular in shape with a 21.89 metre frontage to Rose Street, a depth of 32.92 metres along George Street and a site area of 892.23 square metres.

The site is occupied by a double storey dwelling fronting Rose Street.

Vehicle access is currently provided via a crossover located in George Street.

The secluded private open space area for the proposed dwelling is located to the rear. The secluded private open space area for the existing dwelling is located within the front setback including an in ground swimming pool at the Rose Street frontage.

A number of trees are located at the west side of the dwelling (along the George Street interface).

The main site/locality characteristics are:

- To the **north** of the site is George Street and beyond the road there are single storey dwellings.
- To the **east** is Rose Street and beyond single storey dwellings.
- To the **west** is No. 16 George Street which is a single storey dwelling.
- To the **south** is a single storey unit development.

PERMIT/SITE HISTORY

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

PUBLIC NOTIFICATION

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

- Sending notices to the owners and occupiers of adjoining land
- Placing one (2) signs on site (one facing Rose Street and one facing George Street).

The notification has been carried out correctly.

Council has received two (2) objections to date.

CONSULTATION

A Consultation Meeting was held on 14 July 2010 and was attended by the Applicant, Council's Planning Coordinator and one of the objectors.

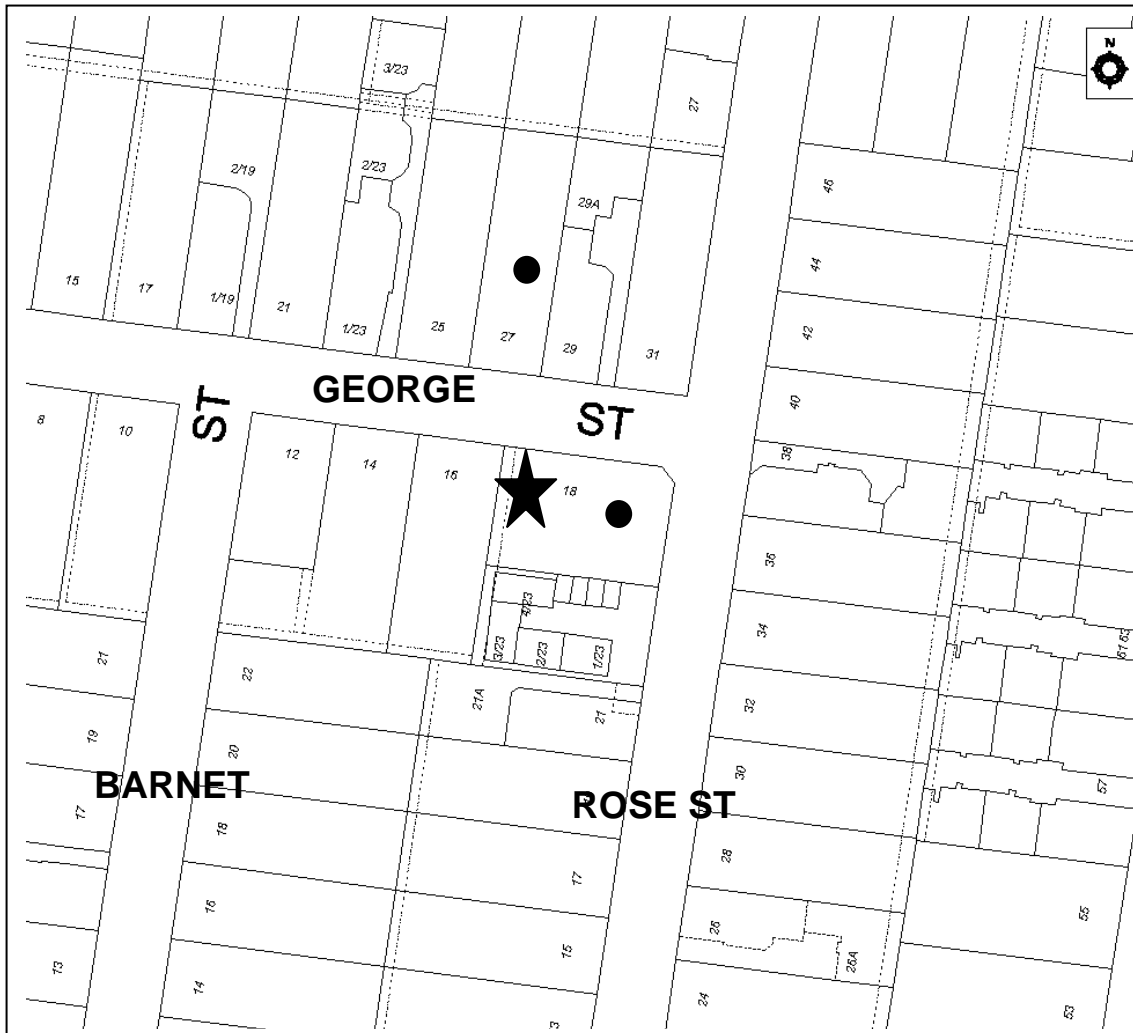
The applicant responded to the matters discussed at the consultation meeting by submitting revised plans on 23 July 2010.

The revised plans show:

- Garage for the new dwelling proposed to be built over the easement now a carport
- The driveway to the proposed new dwelling altered to allow a 3m distance between it and the existing street tree
- The proposed carport for the existing dwelling will have a setback of 5m
- Bedroom 2 on the first floor of the new dwelling has been altered to minimise visual bulk
- The first floor (front) setback of the new dwelling increased to 4.4m to minimise visual bulk detriment to the streetscape.

The revised plans were not circulated to the objectors, as they would not result in any additional material detriment and minor in nature.

LOCALITY PLAN – 18 GEORGE STREET, HIGHETT



| Legend | |
|-----------------------|---|
| Subject land | ★ |
| Location of objectors | ● |

One of the objectors is the tenant currently residing at the existing dwelling (which is the subject site of this application).

The key issues that were raised in the objections are:

- Assurance of continuation of current lease to occupy existing residence
- Neighbourhood character
- Visual bulk
- Landscaping and loss of large tree

REFERRALS

External Referrals/Notices by the Planning Scheme:

| Referrals/Notice | Advice/Response/Conditions |
|----------------------|---|
| Section 55 Referrals | N/A |
| Section 52 Notices | Letters sent to adjoining property owners and occupiers and two (2) notices placed on site (one facing Rose Street and one (1) facing George Street). |

| Internal Council Referrals | Advice/Response/Conditions |
|--|--------------------------------------|
| Urban Designer | No objection, subject to conditions. |
| Traffic Engineer | No objection. |
| Arboricultural Officer (Street Trees) | No objection, subject to conditions. |
| Arborist | No objection, subject to conditions. |
| Drainage Engineer | No objection. |
| WSUD Officer | No objection, subject to conditions. |

ASSESSMENT

Relevant Provisions of the Bayside Planning Scheme

State Planning Policies

- **Clause 12 Metropolitan Development** - Includes objectives and strategies for Metropolitan Melbourne.
- **Clause 14 Settlement** - Encourages consolidation of residential activities, with development being respectful of neighbourhood character.
- **Clause 16.02 Housing** - Encourages well-designed medium density housing that respects the character of the neighbourhood and improves housing choice, use of infrastructure and energy efficiency.

Municipal Strategic Statement

- **Clause 21.04 – Vision and Overarching Goals** – This policy provides a summary of the vision and overarching principles of the Bayside Corporate Plan including a strategic framework plan which provides a schematic overview of the major strategic land use and development features proposed for the municipality. The strategic framework plan outlines that the subject site is not located in a designated residential opportunity area.
- **Clause 21.05 – Housing** – Encourages housing choice and quality design outcomes that make a positive contribution to the character of residential areas.

Local Planning Policy Framework

- **Clause 22.07 – 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.

The subject site is located within Neighbourhood Character Precinct G1.

- **Clause 22.10 – 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 runoff.

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, and encourages residential development that respects neighbourhood character.

A planning permit is required to construct two or more dwellings on a lot within a Residential 1 Zone. The proposal is assessed against the requirements of the Schedule to the Residential 1 Zone and Clause 55 of the Bayside Planning Scheme.

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 permit is not required to construct a building with a height of not more than two storeys (excluding basement) and not more than 9 metres.

Particular Provisions

- **Clause 55 – Two or More dwellings on a lot** - Includes specific objectives and standards for residential development.

General Provision

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

SUMMARY OF KEY ISSUES

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

Neighbourhood Character

The Neighbourhood Character Policy at Clause 22.07 includes ‘objectives’ and ‘design guidelines’ for “ensuing that development is responsive to key characteristics that make up the preferred character of the area.”

The subject site is located within Neighbourhood Character Precinct G1.

The preferred future character statement reads:

“The well-articulated dwellings sit within landscaped gardens, some with established trees. New buildings are frequent and are designed to respond to the site, and include a pitched roof form to reflect the dominant forms in the area. Buildings are occasionally built to the side boundary, however the overall impression of the streetscape is of buildings within garden settings due to the regular front setbacks, well vegetated front yards and additional street tree planting in the area.”

Precinct Guidelines

| Objective | Design Response | Avoid |
|---|--|--|
| To maintain and enhance the garden settings of the dwellings. | <ul style="list-style-type: none"> Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation. Retain large, established trees and provide for the planting of new trees wherever possible. Buildings should be sited to allow space for the planting of trees and shrubs. | <p><i>Lack of landscaping and substantial vegetation.</i></p> <p><i>Removal of large trees.</i></p> <p><i>Planting of environmental weeds.</i></p> |
| To maintain the rhythm of visual separation between buildings. | <ul style="list-style-type: none"> Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | |
| 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, combinations of materials, textures or colours or other elements providing appropriate articulation. Use pitched roof forms with eaves. | <p><i>Large, bulky buildings with poorly articulated front and side wall surfaces.</i></p> |
| To maintain the openness of the streetscape. | | <p><i>High, solid front fencing.</i></p> |

Although the site is not located within a Vegetation Protection Overlay, the area exhibits a ‘garden’ character enhanced by the established garden street tree plantings.

The proposal to construct a second dwelling on the corner site will require the removal of a large Elm tree, however it is considered that the garden character of the area will be maintained through the retention of the existing street tree in front of the proposed new dwelling and the requirement through the inclusion of a permit condition, should a permit issue, to plant a new canopy tree within the front setback.

The proposal accords with the neighbourhood character objectives which aim to ensure that visual separation between the dwellings is maintained and that new buildings provide an articulated and interesting façade to the street. The two dwellings will be sufficiently separated to minimise the potential for unreasonable visual bulk to the streetscape.

The proposal was referred to Council’s Urban Designer who considered that this is a reasonably sound proposal in planning. The new house and its narrow form will not present bulk, however an

increased front setback will ensure that the dwelling does not dominate or detract from the streetscape.

It is noted that the applicant has responded to this concern by increasing the front setback (first floor component) in excess of the Bayside Planning Scheme front setback (for corner sites) requirement.

Setbacks

Front Setback

The front setback of the proposed new dwelling is 3.0 to 3.5 metres which complies with the front setback (for corner sites) requirements of the Bayside Planning Scheme.

Side and Rear Setbacks

The ground floor setback (west elevation) is 0 and 3.3 metres and the first floor side setbacks are 6.0 metres from the western boundary and in excess of 6.0 metres from the first floor component of the existing dwelling.

The rear setback is 6.0 metres for both ground floor and first floor components.

The side and rear setbacks comply with the side and rear setback requirements of Schedule to the Residential 1 Zone of the Bayside Planning Scheme.

Site Coverage

The site area covered by buildings should not exceed 50% as stipulated in the schedule to the Residential 1 Zone.

The proposed site coverage is 42% and in accordance with the schedule.

Permeability

The proposal results in a permeability of 32% which meets the standard requirements of B9 to the Bayside Planning Scheme in which at least 20% of the property is required to be permeable.

Overlooking

Potential for overlooking of adjoining properties has been addressed. The proposed development incorporates first floor highlight windows with sill heights greater than 1.7 metres above floor level along the west elevation and a timber privacy screen to the south facing window of Bedroom 3. The remaining first floor windows along the west elevation are the stairwell and the bathroom windows which do not require screening.

Overshadowing

The overshadowing resulting from this application complies with the requirements of Standard B21 of Clause 55 to the Bayside Planning Scheme. The proposal will not result in unreasonable overshadowing detriment to the neighbouring properties.

Private Open Space

The proposal meets the secluded private open space requirements of Standard B28 of Clause 55 of the Bayside Planning Scheme. The existing dwelling will maintain 105 square metres of north-east secluded open space (existing with pool and directly accessed from the living rooms) and the proposed new dwelling will be provided with 105 square metres located at the rear (south and south-west) of the dwelling.

Water Sensitive Urban Design

The application was referred to Council's Environmental Sustainability Officer who commented that a STORM report and appropriate stormwater retention is required.

A permit condition should one issue, will require the appropriate water sensitive design techniques to be met in accordance with Clause 22.10 Water Sensitive Urban Design of Local Planning Policy to the Bayside Planning Scheme.

Energy Efficiency

The north south orientation of the new dwelling allows for good solar penetration. The private open space areas for both dwellings are provided with direct connectivity to living areas, which is encouraged within Standard B10 – Energy Efficiency of Clause 55 to the Bayside Planning Scheme. The proposal also utilises north facing windows to allow for passive solar heating and cross ventilation throughout.

Traffic & Car Parking

The number of car spaces provided complies with Standard B16 of the Bayside Planning Scheme that requires two (2) car spaces per dwelling with three or more bedrooms. is provided with two (2) car spaces in a double car carports accessible by separate crossovers.

The application was internally referred to Council's Traffic Engineer who raised no objection to the proposal.

Landscaping/Vegetation

There is a large Wynch Elm located within the north setback of the subject site. The tree is infested with Elm Leaf Beetle and is likely to decline over a short to medium term Council's Arborist does not object to the removal of this tree. No other vegetation on the site is considered by Council's Arborist to be worthy of retention.

A permit condition should a permit issue will require the front setback of the proposed new dwelling to be increased to a minimum of 5 metres in order to provide sufficient area to support the planting of at least one (1) canopy tree capable to grow to a maximum eight (8) metres at maturity.

Street Trees

One (1) street tree is located within the nature strip of the subject site. Council's Aboricultural Officer who has no objection to the proposal, subject to conditions for appropriate tree protection.

Objections

The issues raised by objectors have been discussed above except for the leasing agreement. An objection raised by the tenants of the existing dwelling relates to the lease agreement of the property. This is a civil matter and cannot be considered under this application.

CONCLUSION

It is considered that the proposal is appropriate to the context of the area and is of a scale and design which is compatible with the neighbourhood. It is also considered that the proposal responds appropriately to surrounding development in relation to amenity and landscape character and recommended for support.

RECOMMENDATION

That Council having caused notice of **Planning Application No. 2009/0615/1** 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 **18 George Street, Highett** for the additions and alterations to an existing dwelling (including a carport) and the construction of a new double storey dwelling to the side of the existing dwelling in accordance with the **revised plans dated 23 July 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 three copies of revised plans drawn to scale and dimensioned, must be submitted to and approved by the Responsible Authority. When approved the plans will be endorsed and will then form part of the permit.
The plans must be generally in accordance with the advertised plans dated 24 December 2009 and the revised plans dated 23 July 2010 but modified to show to the satisfaction of the Responsible Authority:
 - a) A notation that all screening must comply with Standard B22 of the Bayside Planning Scheme.
 - b) The location of garbage and recycling bin shown on the plans.
 - c) Water sensitive urban design stormwater treatment measures to be provided in accordance with Condition 16 of this permit.
 - d) The ground floor setback of the proposed dwelling (from George Street) must be increased to a minimum of 5 metres to provide sufficient area to support the planting of at least one (1) canopy tree capable to grow to a maximum height of eight (8) metres at maturity.
 - e) The proposed landscape treatment for the site including the existing and proposed species in accordance with Condition 8 of this permit.
 - f) The provision of 6 cubic metres of storage for each dwelling.
2. P4 Layout not altered
3. Before the occupation of the site commences or by such a later date as approved in writing by the responsible authority, all buildings and works and the conditions of this permit must be carried out and completed to the satisfaction of the responsible authority.
4. A18 Concealment of pipes
5. A19 Plant / Equipment or features on roof
6. A20 Boundary walls
7. CP7 Vehicular crossing
8. L1 Landscape plan required

9. L2 Completion of landscaping.

Before the development starts a tree protection fence must be erected around the centre of the following trees:

| Tree Name / Approximate Location | Tree Protection Zone Requirements |
|----------------------------------|---|
| Streets Trees | Tree protection fence to encompass the entire nature strip must be erected to the satisfaction of the Responsible Authority prior to any demolition works and must be maintained until all works are completed. |

10. T9 Retention of existing street trees

11. The proposed internal drainage should be connected to the existing legal point of discharge. The applicant may apply point of discharge and local drain information, if available, otherwise on site verification should be undertaken by the applicant.
12. Stormwater discharge is to be retained on site to the pre development level of peak stormwater discharge. The development is to have a Stormwater Detention System installed, the design capacity to be Council approved.
13. 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.
14. E4 Stormwater plans
15. E5 Graded and drained discharge.
16. Before the commencement of works, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must in accordance with the guidelines outlined in Clause 22.10 of the Bayside Planning Scheme and must show: -
 - a) The type of water sensitive urban design stormwater treatment measures to be used;
 - b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaping areas;
 - c) Design details of the water sensitive urban design stormwater treatments, including cross sections.

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

17. PT1 Time for starting and completion.

Permit Notes

Prior to commencement of any building works, an Asset Protection Application must be taken out. This can be arranged by calling Council's Asset Protection Administrator, Mon-Fri 9.00am-1.00pm on 9599 4638.

- N1 Vehicle Crossing Permit
- N2 Building approval
- N6 Vehicle crossing removal
- N7 Retention of existing street trees/protection during construction

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

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

STANDARD OF THE BAYSIDE PLANNING SCHEME

Two or more dwellings on a lot and residential buildings (Clause 55 and schedule to the residential 1 zone)

| Title and Objective | Complies with Standard? | Requirement and Proposed |
|--|--------------------------------|--|
| 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 | See report. |
| 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 | See report |
| 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 | Required: 3 metres Proposed: 3 and 3.5 metres |
| B7 Building Height Building height should respect the existing or preferred neighbourhood character. | Yes | Required: 9 metres Proposed: 6.95 metres |
| 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: 42% |
| B9 Permeability Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. | Yes | Required: 20% Proposed: 32% |

| | | |
|--|---------------------|--|
| <p>B10 Energy Efficiency</p> <p>Achieve and protect energy efficient dwellings and residential buildings.</p> <p>Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</p> | <p>Yes</p> | <p>See report.</p> |
| <p>B11 Open Space</p> <p>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</p> | <p>N/A</p> | <p>N/A</p> |
| <p>B12 Safety</p> <p>Layout to provide safety and security for residents and property.</p> | <p>Yes</p> | <p>Both dwellings are provided with dwellings entries which are easily identifiable from the streetscape and surveillance to the street.</p> |
| <p>B13 Landscaping</p> <p>To provide appropriate landscaping.</p> <p>To encourage:</p> <ul style="list-style-type: none"> • Development that respects the landscape character of the neighbourhood. • Development that maintains and enhances habitat for plants and animals in locations of habitat importance. • The retention of mature vegetation on the site. | <p>Not provided</p> | <p>Can be addressed through a permit condition.</p> |
| <p>B14 Access</p> <p>Ensure the safe, manageable and convenient vehicle access to and from the development.</p> <p>Ensure the number and design of vehicle crossovers respects neighbourhood character.</p> | <p>Yes</p> | <p>Existing crossover to be incorporated into the proposal.</p> <p>One new crossover to be introduced in George Street.</p> |
| <p>B15 Parking Location</p> <p>Provide resident and visitor vehicles with convenient parking.</p> <p>Avoid parking and traffic difficulties in the development and the neighbourhood.</p> <p>Protect residents from vehicular noise within developments.</p> | <p>Yes</p> | <p>Both dwellings are provided with double carports, which are conveniently located for future residences.</p> |
| <p>B16 Parking Provision</p> <p>Ensure car and bicycle parking meets the needs of residents and visitors.</p> <p>Accessways should be practical, attractive and easily maintainable.</p> | <p>Yes</p> | <p>Required: 2 spaces</p> <p>Proposed: 2 spaces</p> |

| | | | |
|--|--------------|--|---|
| <p>B17 Side and Rear Setbacks</p> <p>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</p> | <p>Yes .</p> | <p>Required:</p> <p><u>Ground Floor</u></p> <p>North: 3 m</p> <p>East: N/A</p> <p>South: 3.0</p> <p>West: 0-2M</p> <p><u>First Floor</u></p> <p>North:3-6.18 m</p> <p>East: N/A</p> <p>South: 4.2m</p> <p>West: 3.2 m</p> | <p>Proposed:</p> <p><u>Ground Floor</u></p> <p>North:3 - 3.5 m</p> <p>East: N/A</p> <p>South: 6.0</p> <p>West: 3-3.9m</p> <p><u>First Floor</u></p> <p>North: 5.0m</p> <p>East: N/A</p> <p>South: 6.8m</p> <p>West: 6m</p> |
| <p>B18 Walls on Boundaries</p> <p>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</p> | <p>Yes.</p> | <p>Maximum length permitted:</p> <p>14 metres</p> <p>Proposed:</p> <p>6.0 metres</p> <p>Maximum Height permitted</p> <p>3.0 metres</p> <p>Proposed</p> <p>3.0 metres</p> | |
| <p>B19 Daylight to Existing Windows</p> <p>Allow adequate daylight into existing habitable room windows.</p> | <p>Yes</p> | <p>All habitable room windows proximate to the subject site are setback the appropriate distance to ensure adequate daylight to existing windows</p> | |
| <p>B20 North Facing Windows</p> <p>Allow adequate solar access to existing north-facing habitable room windows.</p> | <p>N/A</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, addressed via permit condition.</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>See report.</p> | |

| | | |
|--|-----------|--|
| B24 Noise Impacts Protect residents from external noise and contain noise sources in developments that may affect existing dwellings. | Yes | It is considered that the noise associated with the development will be relative to other residential noise within the area and is considerable acceptable in this regard. |
| B25 Accessibility Consider people with limited mobility in the design of developments. | Yes | Ground floor entries to both dwellings is at grade and will facilitate ease of access to those persons with limited mobility |
| B26 Dwelling Entry Provide a sense of identity to each dwelling/residential building. | Yes | Each dwelling is provided with a clear sense of address and front entry which easily identifiable from the streetscape. |
| B27 Daylight to New Windows Allow adequate daylight into new habitable room windows. | Yes | All proposed windows are setback from side and rear boundaries or adjacent to private open space to ensure adequate daylight. |
| B28 Private Open Space Provide reasonable recreation and service needs of residents by adequate private open space. | Yes | Required: 40sqm of private open space, 25sqm of secluded private open space. Proposed: 105sqm |
| B29 Solar Access to Open Space Allow solar access into the secluded private open space of new dwellings/buildings. | Yes | Both dwellings are provided with north facing private open space. |
| B30 Storage Provide adequate storage facilities for each dwelling. | Not shown | Permit condition |
| B31 Design Detail Encourage design detail that respects the existing or preferred neighbourhood character. | Yes | See report. |
| B32 Front Fences Encourage front fence design that respects the existing or preferred neighbourhood character. | N/A | Existing 1.8 m high fence to be retained. |
| 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 | There is no common property. |
| 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 | Site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. |

1.12 **362 Balcombe Road, Beaumaris**
Notice of Decision to Grant a Permit
Application No.: 2009/0148/1 Ward: Southern

City Strategy/Statutory Planning
 File No: 2009/0148/1

APPLICATION DETAILS

| | |
|--|--|
| Land Address: | 362 Balcombe Road, Beaumaris |
| Application is for: | Construction of three (3) double storey dwellings with basement car parking, 1.8 metre high fence, access to a road in a Road Zone Category 1 and three (3) lot subdivision |
| Melway Reference: | 86 F5 |
| Ward: | Southern |
| Application Number: | 2009/0148/1 |
| Applicant's/Owner's Name: | Michael Paine |
| Date Received: | 23 March 2010 Revised plans under Section 57(A) were submitted on 4 June 2010 |
| Statutory Days Expiry: | 3 August 2010 |
| 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 32.01-2 - Three (3) lot subdivision Clause 52.29 – Create access to a road in a Road Zone Category 1 |
| Restrictive covenants on the title? | No |
| Current use and development: | Single storey dwelling |
| Objections: | Four (4) |

PROPOSITION

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

PROPOSAL

It is proposed to construct three (3) double storey attached dwellings with basement car parking and construction of a 1.8 metre high front fence.

A permit is also required to create access to a road in a Road Zone Category 1, and to subdivide the land into three (3) lots in accordance with the development plans.

The proposal includes:

- The basement level is to contain parking for six (6) vehicles, three (3) 5000 litre water tanks, three (3) storage areas and access stairways to facilitate access to the respective dwellings above. Vehicular access to the basement is via a ramp directly from a proposed new vehicle crossing to Balcombe Road.
- Dwelling 1 contains an open plan kitchen/dining/family room, laundry and bedroom with ensuite located at the ground floor. The second storey level includes two (2) bedrooms, a bathroom and retreat area. Approximately 80 square metres of secluded private open space (SPOS) is located within the front setback of the proposed building with direct access from the family room, 7.9 square metres of POS is located in a form of a balcony at the second storey level off the bedrooms and 18.2 square metres of POS is located in a form of a roof deck with direct access from the retreat area at the second storey level.
- Dwelling 2 contains three (3) bedrooms, ensuite, bathroom, laundry and a retreat area located at the ground level. The second storey level includes an open plan kitchen/dining/family room, study and powder room. 18.4 square metres of private open space (POS) is located within the side setback of the proposed building with access from the laundry, 8.7 square metres of POS is located in a form of a balcony at the second storey level with direct access from a living area and 18.2 square metres of POS is located in a form of a roof deck with direct access from the living area at the second storey level.
- Dwelling 3 contains an open plan kitchen/dining/family room, laundry and bedroom with ensuite are located at the ground floor. The second storey level includes two (2) bedrooms, and ensuite. Approximately 70 square metres of private open space (POS) is located within the side and rear setback of the proposed building with direct access from the family room at the ground level, 7.4 square metres of POS is located in a form of a balcony at the second storey level off a staircase landing area and 18.2 square metres of POS is located in a form of a roof deck with direct access from the landing area at the second storey level.
- Construction of a 1.8 metre high fence with brick piers and vertical merbau slats to the Balcombe Road frontage, with the same style fence ranging from 1.8 metres to 1.2 metres in height to the Haywood Street frontage.

SUBJECT SITE & LOCALITY

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

The site has a total area of 611.3 square metres and currently contains:

- A single storey brick dwelling
- An attached carport
- A in-ground swimming pool within the front setback of the dwelling
- A 1.8 metre high front fence

The main site/locality characteristics are:

- The adjoining property to the **north**, at 1 Haywood Street contains a double storey brick dwelling fronting Haywood Street with a front setback of approximately 9 metres. A 1.65 metre high brick fence is located along the frontage of the site.
- The properties to the **south**, across Balcombe Road, contain single and double storey dwellings.

- The properties to the **east**, across Haywood Street, contain single storey brick and weatherboard dwellings.
- The adjoining property to the **west**, at 364 Balcombe Road, contains a single storey brick dwelling with a front setback of 9 metres. A 1.8 metre high brick fence is located along the frontage of the site.

PERMIT/SITE HISTORY

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

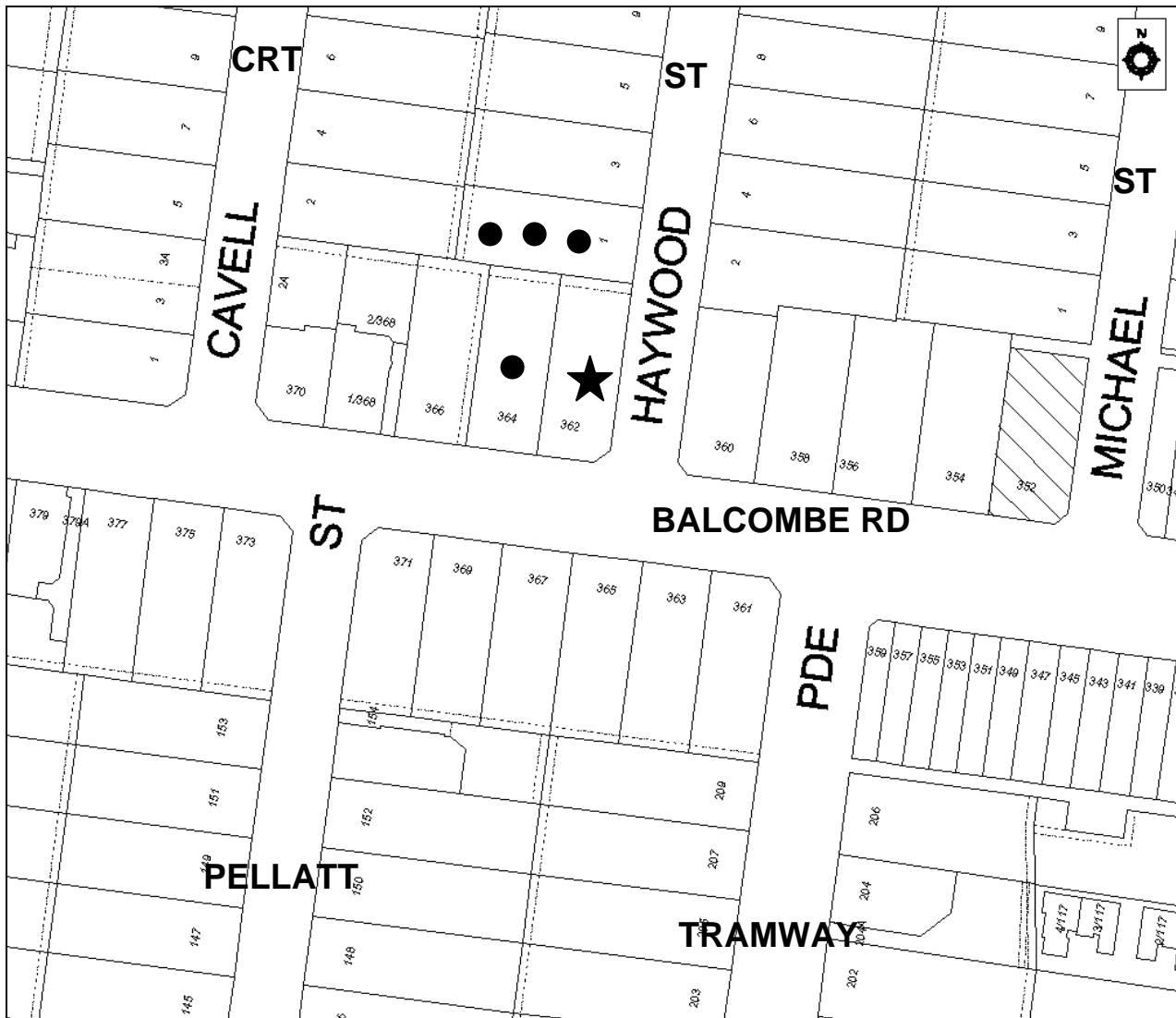
PUBLIC NOTIFICATION

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

- Sending notices to the owners and occupiers of adjoining land
- Placing two (2) signs on site

The notification has been carried out correctly. Council has received four (4) objections to date.

Revised plans were submitted on 4 June 2010 to address the concerns raised by Council's officer and some of the concerns raised by the objectors. The plans were circulated to the objectors and subsequently Council received further objections to the revised plans from the same objectors.

LOCALITY PLAN- 362 Balcombe Road, Beaumaris


| Legend | |
|--|---|
| Subject land | ★ |
| Location of objectors | ● |
| Note: Three (3) objections were received from the owners and occupiers of 1 Haywood Street | |

The key issues that were raised in the objections are:

- Excavation of the basement parking
- Overdevelopment
- Threatening of the root system of existing trees on adjoining blocks (364 Balcombe Road)
- Neighbourhood character
- Overlooking from the roof decks

- Overshadowing
- Insufficient private open space to Dwelling 2
- Visual bulk

CONSULTATION

The permit applicant declined an invitation to attend a consultation meeting in response to the objection received. The permit applicant provided a written response and the revised plans.

REFERRALS

External Referrals/Notices by the Planning Scheme:

| Referrals/Notice | Advice/Response/Conditions |
|----------------------|---|
| Section 55 Referrals | |
| VicRoads | No objection to the proposal subject to permit conditions should one issue |
| Melbourne Water | No objection to the proposal |
| South East Water | No objection to the proposal |
| United Energy | No objection to the proposal |
| Multinet Gas | No objection to the proposal |
| Telstra | No objection to the proposal |
| Section 52 Notices | Letters to all adjoining property owners and occupiers and two (2) notices on-site fronting Balcombe Road and Haywood Street. |

| Internal Council Referrals | Advice/Response/Conditions |
|----------------------------|--|
| Urban Designer | No objection to the proposal |
| Traffic Engineer | No objection to the proposal |
| Arborist | No objection to the proposal |
| Drainage Engineer | No objection, subject to permit conditions, should one issue |
| ESD Officer | No objection, subject to permit conditions, should one issue |

ASSESSMENT

Relevant Provisions of the Bayside Planning Scheme

State Planning Policies

- Clause 12 Metropolitan Development - Includes objectives and strategies for Metropolitan Melbourne.
- Clause 14 Settlement - Encourages consolidation of residential activities, with development being respectful of neighbourhood character.

- Clause 16.02 Housing - Encourages well-designed medium density housing that respects the character of the neighbourhood and improves housing choice, use of infrastructure and energy efficiency.

Municipal Strategic Statement

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

Local Planning Policies

- Clause 22.07-1 – Neighbourhood Character Policy - Aims to encourage development in the area that responds to the particular built form and natural environment elements that make up the neighbourhood character of Bayside.
- Clause 22.07-2 – Neighbourhood Character Objectives - Aims to ensure that development is responsive to the preferred future character of the area and to retain and enhance the identified elements that contribute to the character of the area. It is noted that the subject site is located within Precinct H2.
- Clause 22.10 – Water Sensitive Urban Design – Seeks to promote the use of water sensitive urban design, including stormwater re-use, to protect the surface water and ground waters in the Port Phillip Bay catchment from stormwater pollutants, and to reduce the impacts of peak stormwater flows to integrate stormwater treatment measures into the landscape to reduce the entry of pollutants into stormwater run-off.

Zoning

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

A planning permit is not required to construct three (3) double storey attached dwellings. The Schedule to the zone incorporates requirements specific to Bayside.

Overlays

- Clause 42.02 Vegetation Protection Overlay, Schedule 3 - Aims to prevent the loss of native and particularly indigenous vegetation, to retain the amenity, aesthetic character and habitat value of Australian native vegetation and indigenous vegetation and to promote the regeneration and replanting of indigenous species. **A planning permit is not required to remove native vegetation, as two (2) trees located at the rear of the site have been blown down during a storm and have been removed.**
- Clause 43.02 Design and Development Overlay Schedule 2 – Aims to ensure architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighboring 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 neighborhoods and also to maintain a strong landscape character with buildings set within vegetated surrounds. **The overlay does not trigger a planning permit, as the proposal does not exceed two (2) storeys or 9 metres in height above natural ground level.**

Particular Provisions

- Clause 55 Two (2) or More Dwelling on a Lot - Includes specific objectives and standards for the proposed residential development to be assessed against.

General Provisions

- Clause 65 Decision Guidelines - Sets out decision guidelines for the responsible authority to consider in order to ensure acceptable outcomes in terms of State Planning Policies and Local Planning Policies.

SUMMARY OF KEY ISSUES

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

Neighbourhood Character

The subject site is located in Precinct H2 within Clause 22.07 Neighbourhood Character Policy of the Bayside Planning Scheme. The preferred future character statement reads:

“The low scale dwelling styles sit within established gardens that contain some substantial vegetation including trees. Front setbacks are large, and sometimes variable, and dwellings usually include a pitched roof form of some type. The streetscapes have an open feel due to buildings being offset from at least one side boundary and a lack of intrusive front fencing, complemented by wide roads and nature strips. Linkages with the remainder of the Beaumaris area are strengthened through the use of more indigenous planting in the private and public domains.”

The precinct guidelines are as follows:

| Objective | Design Response | Avoid |
|--|--|--|
| To maintain and enhance the garden settings of the dwellings. | <ul style="list-style-type: none"> • Prepare a landscape plan to accompany all applications that includes substantial trees and shrubs, preferably indigenous species. • Retain large, established trees and provide for the planting of new trees and shrubs wherever possible (locate footings outside root zone). | <p><i>Lack of landscaping and substantial vegetation.</i></p> <p><i>Removal of large trees.</i></p> <p><i>Planting of environmental weeds.</i></p> |
| To maintain the rhythm of spacious visual separation between buildings and allow space for trees and other planting. | <ul style="list-style-type: none"> • Buildings should be sited to create the appearance of space between buildings and accommodate vegetation. • Buildings should be sited to allow space | |

| Objective | Design Response | Avoid |
|--|--|--|
| | <ul style="list-style-type: none"> for a garden including trees and shrubs. Minimise impervious surfaces, particularly in the front garden. | |
| 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 at or behind the line of the dwelling. | <i>Car parking structures that dominate the façade or view of the dwelling.</i> |
| To ensure that new buildings reflect the low scale forms of the area, and 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, pitched roof forms, combinations of materials, textures or colours or other elements providing appropriate articulation. Recess upper levels from the front façade. | <p><i>Large, bulky buildings</i></p> <p><i>Poorly articulated roof, front and side wall surfaces</i></p> |
| 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 enhance the openness and informality of the streetscape and maintain views into front gardens. | <ul style="list-style-type: none"> Provide open style front fencing, other than along heavily trafficked roads. Use vegetation as an alternative where possible. | <i>High or solid front fencing.</i> |

The proposed development will be setback 9 metres from the front of the site to enable the planting of canopy trees. Whilst the majority of the proposed development is offset from side and rear property boundaries, the ensuite and walk-in-robe of Bedroom 1 of Dwelling 1 at the ground floor has been proposed on the boundary. A permit condition should one issue, will require the ensuite and walk-in-robe to be deleted to allow landscaping opportunities along the side property boundaries. The proposed basement car parking is not considered to dominate the façade or view of the dwellings.

The ground and second storey levels are appropriately setback from the property boundaries and provide a graduated transition between the proposed double storey dwellings and the adjoining single storey dwelling to the west. The proposed materials and finishes and roof form are consistent with those found in the street and the surrounding areas. Front fencing along Haywood Street will mainly be low, except for private open space areas, which have higher fences. The revised plans have addressed the concerns of Council's Urban Designer, who recommends approval in terms of urban design.

Setbacks

The proposed setbacks are as follows:

| Ground Level | Dwelling 1 | | Dwelling 2 | | Dwelling 3 | |
|--------------|------------|----------|------------|----------|------------|----------|
| | Required | Proposed | Required | Proposed | Required | Proposed |
| North | - | - | - | - | 0-3m | 3.004-6m |
| South | 9m | 9-13.5m | - | - | - | - |
| East | 2m | 2m | 3m | 3-3.495m | 3m | 3-3.495m |
| West | 0-2m | 0-6.3m | 0-2m | 2m | 0-2m | 2-4.1m |

| Second Storey | Dwelling 1 | | Dwelling 2 | | Dwelling 3 | |
|---------------|------------|---------------|------------|--------------|------------|----------|
| | Required | Proposed | Required | Proposed | Required | Proposed |
| North | - | - | - | - | 4.5m | 4.56m |
| South | 9m | 9m | - | - | - | - |
| East | 2m | 3.555m | 3m | 3.555-3.955m | 3m | 3.555m |
| West | 3.62m | <u>3.555m</u> | 3.62m | 3.955m | 3.5m | 3.555m |

Note: The underlined figure is the non-compliant setback.

The proposal is generally compliant with regard to the setbacks proposed, with the exception of the west second storey setback to Dwelling 1. It is considered that the proposed non-compliant setback is marginal (0.07 metre) and will not unreasonably impact upon the amenity of the adjoining property to the west in terms of overshadowing and overlooking.

Visual Bulk

Revised plans have been submitted to address previous concerns raised by Council's Urban Designer. The revised proposal increases side setbacks at the ground floor and second storey levels, provides articulation to Dwelling 2 including the use of varying materials and finishes to improve the proposed development's presentation and reduce the perception of visual bulk to Haywood Street. Therefore the proposal does not present any unreasonable bulk to the adjoining properties and the streets.

Overlooking

It is considered the proposal will not result in unreasonable overlooking, as all windows to the west are either highlight windows or fixed obscure windows with a sill height of 1.7 metres above the finished floor level. A north facing window to Bedroom 1 of Dwelling 3 will overlook the front yard and driveway of the adjoining property at 1 Haywood Street. The overlooking that will occur from the north facing windows complies with the requirements of Standard B22 of the Bayside Planning Scheme, as the front yard is not considered to be the secluded private open space for the adjoining property. It is considered that there will be no unreasonable overlooking opportunities into adjoining properties.

The roof decks are setback 2.965 metres from the edge of the roof of the storey below. The downward sightline view from the roof deck is blocked by the roof eaves in all directions. It is considered that the roof decks are setback appropriately and do not cause any unreasonable impact to the amenity of the adjoining properties in terms of overlooking.

However, there is internal overlooking between the roof decks. A permit condition, should one issue, can require a 1.7 metre high privacy screen to be erected between the roof decks of Dwellings 1 and 2 and the southern side of the roof deck of Dwelling 3.

Overshadowing

The shadow diagrams submitted have been checked and found to be correct. Taking into account the orientation of the site, the level of overshadowing cast by the proposed development complies with the provisions of Standard B21 of the Bayside Planning Scheme. It is noted that the adjoining dwelling to the north will not be overshadowed by the proposed development and the adjoining properties to the west will only be overshadowed in the morning period between 9am to 11am and will receive adequate solar access between 12noon and 3pm.

Traffic & Car Parking

Each dwelling has three (3) bedrooms and is provided with two (2) car spaces within the proposed basement, in accordance with Standard B16 of the Bayside Planning Scheme.

It is proposed to construct a new vehicle crossing and access to a road in a Road Zone Category 1 (RDZ1). VicRoads, being the referral authority for a RDZ1, has no objection to the proposed access to Balcombe Road, subject to permit conditions should one issue.

Council's Traffic Engineer is satisfied with the basement layout, which allows vehicles to enter and exit the basement in a forward direction.

Council's Traffic Engineer has also advised that the additional vehicle trips per day can be absorbed into the road networks.

Landscaping/Vegetation

The subject site is located within a Vegetation Protection Overlay Schedule 3, which requires a planning permit to remove native trees. There were two (2) trees located within the easement at the rear of the site. The applicant stated that these trees were blown down during a storm and had been removed. A permit condition, should one issue, will require one (1) native canopy tree to be planted within the front setback of the Dwelling 1 and one (1) native canopy tree to be planted within the rear setback of Dwelling 2. These trees must be able to grow to a maximum height of eight (8) metres at maturity.

Private Open Space

The proposal provides adequate amount of private open space in the form of ground level courtyards, second storey balconies and roof decks. The combination of private open spaces complies with Standard B28 of the Bayside Planning Scheme.

Front Fence

It is proposed to construct a 1.8 metre high brick pier with vertical merbau slat infills to the Balcombe Road frontage. This fence wraps around the corner of the site for approximately 13 metres of the Haywood Street frontage, and then becomes a 1.2 metre high fence for approximately 15 metres, increased to 1.8 metres in height for 3 metres of the Haywood Street frontage.

As Balcombe Road is a Road Zone Category 1 a fence of up to 2 metres can be constructed. The proposed 1.8 metre high fence in this frontage does not exceed the front fence height requirements and it is considered suitable.

Haywood Street is a local street and front fences should be no greater than 1.2 metres in height. It is considered the sections of fence in Haywood Street which are 1.8 metres in height are acceptable, as the site abuts a main road carrying a high volume to traffic. It is relevant to note that the infills of the front fence are vertical merbau slats to provide openness to the street.

Walls on Boundaries

Although the height and length of wall (ensuite and walk-in-robe Bedroom 1 of Dwelling 1) on the western property boundary comply with Standard B18 of the Bayside Planning Scheme, a permit condition has previously been recommended, should one issue to delete or relocate a minimum of 2 metres the ensuite and walk-in-robe of Bedroom 1 of Dwelling 1 to maintain the rhythm of spacious visual separation between the proposed and adjoining dwellings and to allow garden spaces to accommodate vegetation.

Energy Efficiency and Water Sensitive Urban Design

The internal layout of the dwelling is designed so as to maximise daylight to habitable rooms. Balconies which are provided to the dwellings are all able to receive eastern sunlight. The roof decks provided to each dwelling will also allow for north facing secluded private open space.

The design response is considered to adequately comply with the energy efficiency objectives of Standard B10 of the Bayside Planning Scheme.

The application was referred to Council's Environmental Sustainability Officer who commented that a STORM report and appropriate stormwater retention is required.

A permit condition should one issue, will require the appropriate water sensitive design techniques to be met in accordance with Clause 22.10 Water Sensitive Urban Design of Local Planning Policy to the Bayside Planning Scheme.

Subdivision

The proposed subdivision is in accordance with the development proposed and all the referral authorities have no objections to the proposal.

Issues Raised by Objectors

Excavation of Basement

It is considered that this is not a relevant planning matter, as any issue related to the exaction of the basement will be considered by the relevant building surveyor when issuing a building permit.

Overdevelopment

The proposal has a site coverage of 46%, which complies with Standard B8 of the Bayside Planning Scheme, which requires 50%. The bulk of the development will be broken up with materials, setbacks, and balconies. The proposal provides adequate amount of private open space and car parking.

Threatening of the root system of existing trees on adjoining blocks (364 Balcombe Road)

A permit condition, should one issue, will require the basement car park to be redesigned to ensure the protection of the root system of the neighbouring trees, in particular the Lilly Pilly located approximately 0.9 metres from the western property boundary and approximately 13 metres from the Balcombe Road frontage to address this matter.

CONCLUSION

It is considered that the proposed development accords with many of the standards and objectives of the Bayside Planning Scheme and will be acceptable to the adjoining properties and Haywood Street frontage in terms of mass, scale and form. It is considered the proposal will sit comfortably within the context of the neighbourhood character and streetscape. The proposal has been designed to take into account of impact to neighbouring properties in terms of overlooking and overshadowing and landscape character and is recommended for support.

RECOMMENDATION

That Council having caused notice of **Planning Application No. 2009/0148/1** 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 **362 Balcombe Road, Beaumaris** for the **construction of three (3) double storey attached dwellings with basement car parking, 1.8 metre high fence access to a road in a Road Zone Category 1 and three (3) lot subdivision** in accordance with the advertised plans dated **23 March 2009** and the revised plans dated **4 June 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 three copies of revised plans drawn to scale and dimensioned, must be submitted to and approved by the Responsible Authority. When approved the plans will be endorsed and will then form part of the permit.
The plans must be generally in accordance with the advertised plans dated 23 March 2009 and the revised plans dated 4 June 2010 but modified to show to the satisfaction of the Responsible Authority:
 - a) The ensuite and walk-in-robe of Bedroom 1 of Dwelling 1 must be deleted or relocated a minimum of 2 metres and replaced with open space containing native landscaping.
 - b) A 1.7 metre high privacy screen to be erected between the roof decks of Dwellings 1 and 2 and the southern side of the roof deck of Dwelling 3 to comply with Standard B22 of the Bayside Planning Scheme.
 - c) The proposed landscape treatment for the site including the existing and proposed species in accordance with Condition 7 of this permit including one (1) native canopy tree to be planted within the front setback of Dwelling 1 and one (1) native canopy tree to be planted within the rear setback of Dwelling 2. Both native trees must be able to grow to a maximum of eight (8) metres in height at maturity.
 - d) Water sensitive urban design stormwater treatment measures to be provided in accordance with Condition 14 of this permit.
 - e) The basement car park must be redesigned to ensure the protection of the root system of the neighbouring trees, in particular the Lilly Pilly located approximately 0.9 metres from the western property boundary and approximately 13 metres from the Balcombe Road frontage to address this matter.
 - f) Compliance with the requirements of VicRoads in accordance with Condition 16 of this permit.
2. P4 Layout not altered

3. Before the occupation of the site commences or by such a later date as approved in writing by the responsible authority, all buildings and works and the conditions of this permit must be carried out and completed to the satisfaction of the responsible authority.
4. A18 Concealment of pipes
5. A19 Plant / Equipment or features on roof
6. CP7 Vehicular crossing
7. L1 Landscape plan required
8. L2 Completion of landscaping.
9. T9 Retention of existing street trees
10. Stormwater discharge is to be retained on site to the pre development level of peak stormwater discharge. The development is to have a Stormwater Detention System installed - the design capacity to be Council approved.
11. Drainage associate with the basement during construction (seepage and agricultural 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.
12. E4 Stormwater plans
13. E5 Graded and drained discharge.
14. Before the commencement of works, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be appropriate 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 in accordance with the guidelines outlined in Clause 22.10 of the Bayside Planning Scheme and must show: -
 - a) The type of water sensitive urban design stormwater treatment measures to be used;
 - b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaping areas;
 - c) Design details of the water sensitive urban design stormwater treatments, including cross sections.

The water sensitive urban design stormwater treatment system as shown on the endorsed plan must be retained and maintained at all times in accordance with the Urban Stormwater – Best Practice Environmental Management Guidelines, CSIRO 1999, to the satisfaction of the Responsible Authority.
15. PT1 Time for starting and completion
16. Condition required by VicRoads
 - a) The width of the vehicle crossing at Balcombe Road to be a minimum of 5.5 metres.
 - b) Edge of the crossing to be angled at 60 degrees.
 - c) A basement slope not greater than 1:20 for the first 6 metres inside the property and the provision of adequate sightlines for vehicles exiting from the property.

17. Subdivision Conditions required by Melbourne Water

- a) Prior to the Statement of Compliance, the Owner shall enter into and comply with an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the subject site directly or indirectly into Melbourne Water's drainage system and waterways, the provision of drainage works and other matters in accordance with the statutory powers of Melbourne Water Corporation.
- b) No polluted and/or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or watercourses.
- c) Prior to Certification, the Plan of Subdivision must be referred to Melbourne Water, in accordance with Section 8 of the Subdivision Act 1988.

18. Subdivision Conditions required by South East Water

- a) The owner of the subject land must enter into an agreement with South East Water for the provision of water supply and fulfil all requirements to its satisfaction.
- b) The owner of the subject land must enter into an agreement with South East Water for the provision of sewerage and fulfil all requirements to its satisfaction.
- c) Prior to Certification, the Plan of Subdivision must be referred to South East Water, in accordance with Section 8 of the Subdivision Act 1988.
- d) The Plan of Subdivision must be accompanied by an Owner Corporation Schedule. All lots shown on the Plan of Subdivision must be included in the Owners Corporation Schedule.

19. Subdivision Conditions required by Multinet Gas

- a) The plan of subdivision submitted for certification must be referred to Multinet Gas in accordance with Section 8 of the Subdivision Act 1988.

20. Subdivision Conditions required by Telstra

- a) That the plan of subdivision submitted for certification be referred to Telstra in accordance with Section 8 of the Subdivision Act 1988.

21. Subdivision Conditions required by United Energy

- a) The applicant shall enter into an agreement with UEL for extension, upgrading or re-arrangement of the electricity supply to lots on the plan as required. (A payment to cover the cost of such work will be required).

22. This permit will expire if:

- a) The plan of subdivision is not certified within 5 years of the date of this permit or
- b) The registration of the subdivision is not completed within five (5) 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

Prior to commencement of any building works, an Asset Protection Application must be taken out. This can be arranged by calling Council's Asset Protection Administrator, Mon-Fri 9.00am-1.00pm on 9599 4638.

- N1 Vehicle Crossing Permit
- N2 Building approval
- N6 Vehicle crossing removal
- N7 Retention of existing street trees/protection during construction

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

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

STANDARD OF THE BAYSIDE PLANNING SCHEME

Two or more dwellings on a lot and residential buildings (Clause 55 and schedule to the residential 1 zone)

| Title and Objective | Complies with Standard? | Requirement and Proposed |
|--|--------------------------------|--|
| 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 | See report. |
| 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 | See report |
| 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 | Required (Balcombe Road): 9 metres Proposed (Balcombe Road): 9 metres Required (Haywood Street): 3 metres Proposed (Balcombe Road): 3 to 3.495 metres |
| B7 Building Height Building height should respect the existing or preferred neighbourhood character. | Yes | Required: 9 metres Proposed: 8.8 metres |
| 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: 46% |
| B9 Permeability Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. | Yes | Required: 20% Proposed: 26% |

| | | |
|--|------------|--|
| <p>B10 Energy Efficiency</p> <p>Achieve and protect energy efficient dwellings and residential buildings.</p> <p>Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</p> | <p>Yes</p> | <p>See report.</p> |
| <p>B11 Open Space</p> <p>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</p> | <p>N/A</p> | <p>N/A</p> |
| <p>B12 Safety</p> <p>Layout to provide safety and security for residents and property.</p> | <p>Yes</p> | <p>See report.</p> |
| <p>B13 Landscaping</p> <p>To provide appropriate landscaping.</p> <p>To encourage:</p> <ul style="list-style-type: none"> • Development that respects the landscape character of the neighbourhood. • Development that maintains and enhances habitat for plants and animals in locations of habitat importance. • The retention of mature vegetation on the site. | <p>No</p> | <p>Can be addressed through a permit condition.</p> |
| <p>B14 Access</p> <p>Ensure the safe, manageable and convenient vehicle access to and from the development.</p> <p>Ensure the number and design of vehicle crossovers respects neighbourhood character.</p> | <p>Yes</p> | <p>See report.</p> |
| <p>B15 Parking Location</p> <p>Provide resident and visitor vehicles with convenient parking.</p> <p>Avoid parking and traffic difficulties in the development and the neighbourhood.</p> <p>Protect residents from vehicular noise within developments.</p> | <p>Yes</p> | <p>All parking spaces are located within a communal basement car park.</p> |
| <p>B16 Parking Provision</p> <p>Ensure car and bicycle parking meets the needs of residents and visitors.</p> <p>Accessways should be practical, attractive and easily maintainable.</p> | <p>Yes</p> | <p>Required: 6 spaces Proposed: 6 spaces</p> |

| | | |
|---|------|--|
| 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. | Yes | See table in 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. | Maximum length permitted: 17.406metres Proposed: 4.705 metres |
| B19 Daylight to Existing Windows Allow adequate daylight into existing habitable room windows. | Yes | All habitable room windows proximate to the subject site are setback the appropriate distance to ensure adequate daylight to existing windows |
| B20 North Facing Windows Allow adequate solar access to existing north-facing habitable room windows. | N/A | N/A |
| B21 Overshadowing Open Space Ensure buildings do not significantly overshadow 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. | No | See report. Can be addressed via permit condition to roof decks. |
| B24 Noise Impacts Protect residents from external noise and contain noise sources in developments that may affect existing dwellings. | Yes | It is considered that the noise associated with the development will be relative to other residential noise within the area and is considerable acceptable in this regard. |
| B25 Accessibility Consider people with limited mobility in the design of developments. | Yes | Ground floor entries to both dwellings is at grade and will facilitate ease of access to those persons with limited mobility |
| B26 Dwelling Entry Provide a sense of identity to each dwelling/residential building. | Yes | Each dwelling is provided with a clear sense of address and front entry which easily identifiable from the streetscape. |
| B27 Daylight to New Windows Allow adequate daylight into new habitable room windows. | Yes | All proposed windows are setback from side and rear boundaries or adjacent to private open space to ensure adequate daylight. |

| | | |
|---|------------|--|
| <p>B28 Private Open Space</p> <p>Provide reasonable recreation and service needs of residents by adequate private open space.</p> | <p>Yes</p> | <p>Required: 40 sqm of private open space, 25 sqm of secluded private open space. 8sqm to balcony with a minimum width of 1.6m. 10sqm to roof deck with a width of a minimum width of 2m.</p> <p>Proposed: Dwelling 1 = 80sqm courtyard, 7.9sqm to balcony and 18.2sqm to roof deck.</p> <p>Dwelling 2 = 18.4sqm courtyard, 8.7sqm to balcony and 18.2sqm to roof deck.</p> <p>Dwelling 3 = 70sqm courtyard, 7.4sqm to balcony and 18.2sqm to roof deck.</p> |
| <p>B29 Solar Access to Open Space</p> <p>Allow solar access into the secluded private open space of new dwellings/buildings.</p> | <p>Yes</p> | <p>Both dwellings are provided with north facing private open space.</p> |
| <p>B30 Storage</p> <p>Provide adequate storage facilities for each dwelling.</p> | <p>Yes</p> | <p>Storage of each dwelling is located within the basement level.</p> |
| <p>B31 Design Detail</p> <p>Encourage design detail that respects the existing or preferred neighbourhood character.</p> | <p>Yes</p> | <p>See report.</p> |
| <p>B32 Front Fences</p> <p>Encourage front fence design that respects the existing or preferred neighbourhood character.</p> | <p>Yes</p> | <p>Required: 1.2m high along Haywood Street.</p> <p>Proposed: 1.2 to 1.8m high fence along Haywood Street.</p> |
| <p>B33 Common Property</p> <p>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained.</p> <p>Avoid future management difficulties in common ownership areas.</p> | <p>Yes</p> | <p>Common property to vehicular access and basement.</p> |
| <p>B34 Site Services</p> <p>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</p> <p>Avoid future management difficulties in common ownership areas.</p> | <p>Yes</p> | <p>Site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</p> |

1.13 **339 New Street, Brighton**
Notice of Decision to Grant a Permit
Application No. 2009/487/1 Ward: Northern

City Strategy/Statutory Planning
 File No: 2009/487/1

APPLICATION DETAILS

| | |
|--|--|
| Land/Address: | 339 New Street, Brighton |
| Application is for: | Use of the site for a medical centre and associated reduction in car parking, partial demolition and buildings and works including to construct a front fence in a Heritage Overlay and Special Building Overlay, including and the erection of advertising signage. |
| Melway Reference: | 67 D8 |
| Ward: | Northern |
| Application Number: | 2009/0487/1 |
| Applicant's/Owner's Name: | Daniel Surkitt C/ - Keen Planning |
| Date Received: | 3 May 2010 |
| Statutory Days Expiry: | 3 July 2010 |
| Zoning: | Residential 1 Zone |
| Overlays: | Heritage Overlay – HO756 Design and Development Overlay – Schedule 2 Special Building Overlay |
| Under what clause(s) is a permit required? | Clause 32.01 – 1 - To use the site for the purpose of a medical centre within a Residential 1 Zone. Clause 43.01-1 – Partial demolition and building and works including the construction of a front fence and to erect advertising signage within a Heritage Overlay. Clause 44.05 – 1 – To construct or carry out works within a Special Building Overlay. Clause 52.06 – 1 Reduction in car parking requirements for a medical centre. |
| Restrictive covenants on the title? | No |
| Current use and development: | Residential |
| Objections: | Seven (7) objections plus one (1) joint submission. |

PROPOSITION

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

PROPOSAL

It is proposed to use the existing dwelling as a medical centre (specialist osteopathic medical clinic) with (2) two medical practitioners. The proposed floor plan comprises three (3) treatment rooms, reception / waiting area, storage, laundry, kitchen / staff room, bathroom and toilet.

A letter from the applicant proposed three tandem spaces to the southern side of the existing dwelling. To make way for the proposed tandem spaces the existing garage is proposed to be demolished. The site is to be accessed via an existing crossover located towards the southern boundary of the site from New Street.

The existing gates located along the site's periphery are also proposed to be demolished and replaced with a one metre high picket fence and picket gates.

A total of three (3) business identification signs are proposed to identify the proposed use.

A car parking dispensation of seven (7) spaces is also being sought for the proposed use with (2) two medical practitioners. There are no buildings and works proposed to the building.

SUBJECT SITE & LOCALITY

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

The subject site is located on the south-west corner of New Street and Hayball Court, Brighton.

The site comprises a single storey inter-war semi attached dwelling constructed of brick and render with terracotta hipped tiled roof. This dwelling forms a collection of inter-war dwellings within Hayball Court Heritage Precinct which contains dwellings that are of heritage significance for their intactness, symmetrical layout and distinctive planning and cohesion.

Vehicular access to the site is provided to the southern side of the existing dwelling leading to a single garage.

The majority of the front fence has already been removed, except for a woven wire and metal pedestrian gate located at the corner splay of Hayball and New Streets and over the existing crossover.

The site is located within an established residential area, which is on the periphery of the Bay and New Street neighbourhood activity centre (further south of the subject site).

More particularly the site is surrounded by the following land uses:

- To the north is Hayball Court with No. 341 Hayball Court an inter war dwelling forming part of the Hayball Heritage Precinct.
- To the south is a gravel private car park for the New Bay Hotel, with this hotel located at the corner of New and Bay Streets (further south of the site).
- To the east on the opposite side of New Street is a Chrysler, Jeep and Dodge car service centre.
- To the west is No. 1 Hayball Court, a semi attached inter-war dwelling constructed of brick and render with terra cotta hipped tiled roof, forming part of the Hayball Heritage Precinct. Further west of this site are other inter-war dwellings within this cul de sac.

PERMIT/SITE HISTORY

- No previous planning applications have been determined for this land.

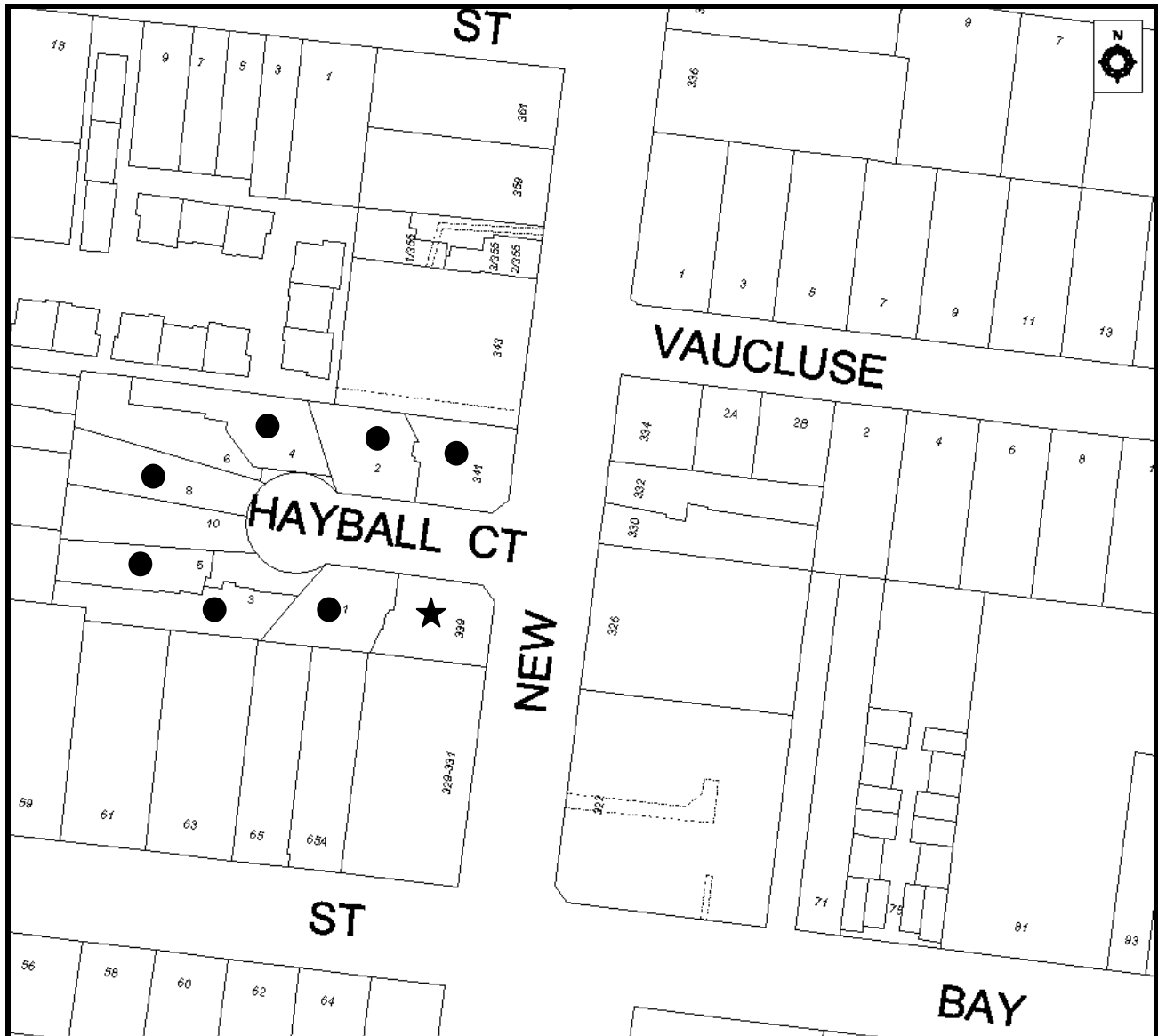
PUBLIC NOTIFICATION

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 two (2) signs on site (one facing New Street and one facing Hayball Court).

The notification has been carried out correctly.

Council has received seven (7) objections to date (with one in the form of a joint submission). The submission includes seven (7) signatures.

Locality Map - 339 New Street, Brighton


| Legend | |
|-----------------------|---|
| Subject land | ★ |
| Location of Objectors | ● |

The key issues that were raised in the objections are:

- Traffic and parking impacts.
- Impacts on the heritage significance of the site and precinct.

CONSULTATION

The permit applicant declined an invitation to hold a consultation meeting.

REFERRALS

External Referrals/Notices by the Planning Scheme:

| Referrals/Notice | Advice/Response/Conditions |
|---|---|
| Section 55 Referrals Melbourne Water | No objection, subject to conditions. |
| Section 52 Notices | Letters sent to adjoining property owners and occupiers and two (2) notices placed on site (one facing New Street and one Hayball Court). |

| Internal Council Referrals | Advice/Response/Conditions |
|----------------------------|--|
| Traffic Engineer | Objects |
| Heritage Advisor | No objection to garage and fence demolition, objects to extent of signage. |
| Urban Designer | No objection. |

ASSESSMENT

Relevant Provisions of the Bayside Planning Scheme

State Planning Policies

- **Clause 12 Metropolitan Development** - Includes objectives and strategies for Metropolitan Melbourne.
- **Clause 14 Settlement** - Encourages consolidation of residential activities, with development being respectful of neighbourhood character.
- **Clause 15.11 – Heritage** –To assist the conservation of places that have natural, environmental, aesthetic, historic, cultural, scientific or social significance or other special value important for scientific and research purposes, as a means of understanding our past, as well as maintaining and enhancing Victoria's image and making a contribution to the economic and cultural growth of the State.
- **Clause 16.02 Housing** - Encourages well-designed medium density housing that respects the character of the neighbourhood and improves housing choice, use of infrastructure and energy efficiency.
- **Clause 18.02 – Car parking and public transport access to development** – To ensure access is provided to developments in accordance with forecast demand taking advantage of all available modes of transport and to minimise impact on existing transport networks and the amenity of surrounding areas.
- **Clause 18.06 – Health facilities** – To assist the integration of health facilities with local and regional communities.

Municipal Strategic Statement

- **Clause 21.05 – Housing** – Encourages housing choice and quality design outcomes that make a positive contribution to the character of residential areas.
- **Clause 21.09 – Heritage Policy** – Seeks to protect and enhance the City's buildings, trees and structures of cultural significance for present and future generations, and to facilitate a use that would otherwise be prohibited where the nature and built form of the heritage place requires a greater range of options.

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.

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 to use the subject site for the purpose of a medical centre within a Residential 1 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 proposal does not trigger the need for a planning permit within 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.

A planning permit is required to demolish and construct or carry out works within this Overlay including the construction of a fence and erection of advertising signage.

- **Clause 44.05 - Special Building Overlay** – Identifies land in urban areas liable to inundation by overland flows from the urban drainage system as determined by, or in consultation with, the floodplain management authority, ensures that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity and protects water quality in accordance with the provisions of relevant State Environment Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).

A planning permit is required to construct or carry out works within this Overlay.

Particular Provisions

- **Clause 52.05 Advertising signs** – Contains assessment criteria for advertising signage. The subject site is located within a Category 3 - Advertising Area.
- **Clause 52.06 Car Parking** – details assessment criteria for car parking provision.
- **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 policies within the Bayside Planning Scheme in relation to this application.

Discretionary uses within a Residential 1 Zone – Proposed Medical Centre Use

Pursuant to Clause 32.01 –1 of the Residential 1 Zone a “medical centre” is classified as Section 2, permit required use. A permit is also required to construct or carry out works to a building associated with a Section 2 use.

The purpose of the Residential 1 Zone includes amongst other things to allow in appropriate locations:

“educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs.”

In addition to this, Council’s Municipal Strategic Statement outlines that non-residential uses within residential areas can be appropriate to serve the local needs of the community in certain locations.

Clause 22.09 – 2 – Discretionary Uses in Residential Areas contains the following policy objectives:

- *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 appropriate 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.*
- *To ensure that local community needs are served by the proposal.*

The proposed location of the medical centre is acceptable given its corner site orientation and abuttal to New Street (collector road). In addition, the proposal accords with the preferred location policy by being within close proximity (walking distance) to the Bay Street Neighbourhood Activity Centre, which comprises other nearby community and commercial uses.

The proposal incorporates the use of the existing dwelling, with works comprising the removal of the existing garage towards the southern side of the property (to make way for tandem car parking) and the construction of a one metre high picket fence along the site's periphery.

The conversion of the existing dwelling is supported, as it will not impact upon the established neighbourhood character and heritage significance of the dwelling or further impede on the existing amenity enjoyed by adjoining residential properties in terms of setbacks, building height, and shadow impacts.

The proposed hours of operation of the medical centre are from 8 am – 6 pm Monday to Friday and Saturday 8 am – 6pm. The weekday hours of operation accord with the preferred opening times of Clause 22.09 – Discretionary Uses in Residential Areas, however the Saturday opening hours should be reduced to closing at 1 pm to accord with the preferred hour requirements of this policy and to ensure that any amenity impacts to adjoining residential properties are reduced.

A one (1) metre high picket fence is proposed along the sites periphery. Clause 22.09 – Discretionary Uses in Residential Areas contains policy guidance in relation to front fencing. The proposed fence complies with policy requirements.

Clause 22.09 – Discretionary Uses in Residential Areas outlines “*where car parking abuts a residential property boundary, a minimum landscape buffer of 2 metres form the side and rear boundaries is provided.*” A tandem car parking arrangement is proposed along the sites southern boundary. A condition to the permit will require that a 2 metre landscape buffer is provided along the southern and rear boundary in accordance with this policy with provision for one (1) patient car space within the front setback of the property subject to Council approval.

Traffic and Car Parking Policy within Clause 22.09 – Discretionary Uses within a Residential 1 Zone outlines the following:

- *The number of vehicle access points is restricted to one unless two access points are required for the safe, convenient and efficient movement of vehicles.*
- *Off street parking is designed to allow for entry and exit to the site in a forward direction.*
- *One disabled car space is provided on site, with a minimum width of at least 3.2 metres.*
- *The discretionary use satisfies the traffic and car parking requirements in the table below.*

In response to the above planning policy the existing vehicular access is to be utilised with only one point of access provided. The off street parking of the proposal is not designed to allow exit of the site in a forwards direction, however the proposed car parking conditions are similar to that of existing conditions with consideration given to the sites proximity to the intersection of New and Bay Streets, which enables significance gaps in through traffic to allow vehicles to safely reverse out of the subject site. A condition to the permit to require one (1) staff space within the front setback to have a minimum width of at least 3.2 metres to comply with disabled car space requirements is required. The table to discretionary uses within Clause 22.09 outlines that a medical centre is required to provide 5 car parking spaces per practitioner. The applicant has requested a reduction in car parking required based on the availability of on street parking, public transport convenience and the nature of the use being subject to ‘by appointment’ only. Further discussion in relation to the proposed car parking waiver is discussed later in this report.

Council policy direction in relation to advertising signage is also provided within Clause 22.09 – Discretionary Uses in Residential Areas, which outlines that “*signage is limited to what is required for identification purposes.*” A total of three (3) types of signage are proposed on site including a sign proposed on the wall of the existing dwelling and five signs in total on the proposed front boundary fence. Whilst the proposed signage provides identification of the proposed use on site, the extent of signage is excessive and will disrupt both the heritage significance of the existing dwelling and the residential character of the area. A condition to the permit should a permit issue will require that signage as shown as advertising sign 2 on the application plans be located on the proposed fence with the remaining signage proposed to be deleted.

The conversion of the existing dwelling for the purpose of a medical centre is acceptable given its corner site location, abuttal to New Street and proximity to the neighbourhood activity centre of Bay Street in accordance with the preferred location guidelines of Clause 22.09 – Discretionary Uses in Residential Areas.

Heritage

The subject site is identified within the City of Bayside is Inter – War and Post War Heritage Study – May 2008, as being a “significant” building within the Hayball Court Heritage Precinct.

The Hayball Court Heritage Precinct is identified as being of significance as a “rare surviving example of an inter war cul de sac development” within Bayside. Aesthetically, the precinct is significant for its distinctive planning and cohesion, “most notably in terms of its symmetrical layout.”

Clause 22.06 – 3 of the Local Planning Policy contains policy and decision guidelines when considering applications for demolition, these guidelines are detailed below:

Demolition

It is policy to (as applicable):

- *Retain significant and contributory heritage buildings.*
- *Allow the partial demolition of significant and contributory heritage buildings where the fabric to be demolished is of no significance, or where the demolition helps to reveal the original fabric of the building.*

The single garage to the southern side of the dwelling is proposed for removal to make way for tandem car parking proposed on site.

The pedestrian gates located at the corner of New and Hayball Court and over the existing crossover are also proposed for removal.

Council's Heritage Advisor raised no objection to the removal of the existing garage or the replacement of the fence. Council's Heritage Advisor noted that the replacement fence should reflect the original character of the precinct, this can be a condition to the permit, should a permit issue.

The extent of signage proposed on site is excessive and will disrupt the heritage significance of the existing building. The application was referred to Council's Heritage Advisor who noted that signs would be visually intrusive given the intactness of the heritage precinct. A condition to the permit

should a permit issue, will require that signage as shown as No. 2 on the application plans be placed on the proposed front fence with the remaining signage to be deleted.

Traffic

Car Parking Assessment

The proposed development falls under the land use category of 'medical centre' under the Bayside Planning Scheme.

Clause 52.06 – Car Parking outlines the car parking rate requirements for a range of different land uses, with a medical centre having a car parking rate of five (5) car parking spaces per practitioner.

Applying this rate, the proposed two (2) practitioner medical centre, equates to a total parking requirement of ten (10) car spaces.

| Proposed Use Car Parking Calculations pursuant to Clause 52.06 of the Bayside Planning Scheme: | |
|---|---------------------------|
| Proposed Use | Medical practice |
| Car Parking calculation | 5 spaces per practitioner |
| Proposed number of practitioners | 2 |
| Parking requirement | 10 spaces |
| Minus parking provided on – site | - 3 |
| Total Reduction Required | 7 spaces |

Clause 52.06 – 1 of the Bayside Planning scheme allows Council (the Responsible Authority) to reduce or waiver the parking provision having regard to the following (inter alia):

- *The availability of car parking in the locality.*
- *The availability of public transport in the locality.*
- *Any reduction in car parking demand due to the sharing of car spaces by multiple uses, either because of variation of car parking demand over time or because of efficiencies gained from the consolidation of shared car parking spaces.*
- *An empirical assessment of car parking demand.*

The applicant submitted amendments to the planning application on the 3 May 2010, including:

- A reduction of the previously proposed three (3) practitioners on site to two (2) practitioners.
- The removal of the existing garage to provide three (3) tandem car spaces.
- A professional traffic engineering report in support of the proposed car parking waiver.

The application was referred to Council's Traffic Engineer who raised concerns with the proposed car parking arrangement based on the grounds that the proposal provides inadequate and inappropriate on site parking. Council's Traffic Engineer raised no objection to operating a medical centre with one practitioner on site provided that there are at least three on site car parking spaces provided.

The applicant submitted a traffic report which outlined that the shortfall of spaces on site "*will be comfortably met by the existing supply of off site available parking in the immediate area*" (including New Street, Bay Street and Hayball Court). A survey was undertaken on the Thursday 11 March 2010 and Saturday 13 March 2010 which found that ample parking was available along

New and Bay Streets with spaces also available within Hayball Court. A bus service (located directly opposite the subject site) provides transport services between Caroline Springs and Brighton Beach via the City, with a stop located opposite the subject site. There are also four (4) other bus services within walking distance of the subject site which service both New and Bay Streets, Brighton. The North Brighton Railway Station is located approximately 900 metres to the east of the subject site.

Hayball Court car parking conditions have short term parking restrictions seven days a week from 8:30 – 6:30 pm for 1 hour parking. The frontage of the property is affected by 'no standing' parking restrictions along the New Street frontage towards Bay Street.

The extent of car parking spaces available within close proximity to the subject site is acceptable and will be able to accommodate the proposed use. The proposed medical centre will operate by appointment only - generally of a minimum 30 minute duration. The level of car parking turnover and intensity of use is considered to be much lower than a general practitioner. Given the specialist nature of the clinic, with all patients required to book by appointment, it is expected that each practitioner would typically see one patient at a time, this equates to a maximum of seven (7) people on site at one time (3 staff and 4 patients). Accordingly, assuming that everyone drives to the site, a total of seven (7) spaces are required with three spaces (3) provided which equate to a shortfall of up to four (4) car spaces. Should a permit issue, a condition of the permit will require that one (1) patient space is provided within the front setback of the property subject to Council approval to provide appropriate on site parking for patients.

Based on the car parking survey and analysis information provided by the applicant, the remaining shortfall of car spaces on site has the ability to be absorbed within the adjoining streets. The extent of public transport provided within walking distance of the site is also able to meet the future demands of visitors / patients of the clinic, who do not use private transport.

Parking Layout and Access Arrangement

A total of three (3) spaces are proposed to be provided on site (all in tandem) for staff (i.e. two practitioners and one receptionist) and one (1) for patient parking (as per proposed permit condition). It is recommended that conditions be placed on the permit requiring one (1) additional car space be provided for patient parking and for the dimensions of all car parking spaces to be shown on the plans.

Clause 52.06 – 3 of the Bayside Planning Scheme outlines:

“Accessway should provide a turning space so that cars can exit the site in a forward direction if the accessway serves four or more car spaces or connects to a road in Road Zone.”

The proposed access arrangement will be similar to the arrangement which currently occurs on site. Given the majority of proposed spaces are to accommodate staff members, the number of vehicle movements on site will be minimal. The proposed access is located within 40 metres north of a signalised intersection of Bay and New streets, Brighton. This site's proximity to this intersection will ensure significant gaps in through traffic along New Street is provided to allow vehicles to safely and conveniently reverse out of the site.

Should a permit issue, a condition of the permit would require that appropriate landscaping is provided on site within the proposed staff car parking to soften the impact of hard surfaces on site in this location.

Melbourne Water

The application was referred to Melbourne Water pursuant to Section 55 of the *Planning and Environment Act 1987*. Melbourne Water does not object to the proposal subject to conditions. The proposed conditions include the requirement that the proposed fencing is to be of an open style to the satisfaction of Melbourne Water. The open style fencing is required to allow the passage of floodwaters and overland flow during flooding.

The applicable flood level for this property is 6.93 metres to Australian Height Datum (AHD).

Objectors

A total of seven (7) objections (one in the form of a joint submission) have been received for this application.

In summary, the objectors raised concerns in relation to the extent of the car parking waiver being sought, the traffic generation impacts as a result of the proposed use, and the proposed impacts of the development and use on the heritage precinct.

The extent of car parking waiver being sought is acceptable, subject to conditions, with ample provision for car parking within the vicinity of the site to accommodate for the proposed use. The application was internally referred to Councils Heritage Advisor who commented that the proposed demolition of the existing garage and fence gates is acceptable subject to the condition that the proposed replacement fence is reflective of era of the dwelling. The extent of signage proposed is not appropriate to the context of the heritage dwelling. A permit condition will ensure that signage is limited to being located along the fence (fronting New Street) subject to Council approval.

All issues and concerns raised by objectors have been taken into consideration in the assessment of this application.

CONCLUSION

It is proposed to convert the existing dwelling on site for the purpose of a medical centre (specialist osteopathic medical centre) with two (2) practitioners. The location of the proposed medical centre is considered appropriate to the context of the area, with the extent of the car parking waiver being sought also considered acceptable and able to be absorbed by the available off street parking, subject to conditions in relation to landscaping on site and the provision of one (1) patient space within the front setback of the property. The proposed demolition of the existing garage and gates is acceptable, subject to the condition that the replacement fence on site is reflective of the original character of the precinct subject to Council approval.

RECOMMENDATION

That Council having caused notice of **Planning Application No. 2009/0487/1** 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 **339 New Street, Brighton** for the **use of the site for a medical centre and associated reduction for car parking and partial demolition and buildings and works in a Heritage Overlay and Special Building Overlay including the erection of advertising signage in a Residential 1 Zone** with the application dated **3 May 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 three copies of revised plans drawn to scale and dimensioned, must be submitted to and approved by the Responsible Authority. When approved the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the application but modified to show to the satisfaction of the Responsible Authority:
 - a. A replacement front fence to reflect the original heritage character of the precinct subject to Council approval and subject to Melbourne Water consent as outlined within Condition 2 of this permit.
 - b. signage as nominated as number two on the application plans and located on the fence frontage to New Street, and all other signage deleted.
 - c. The provision for three (3) tandem spaces to the south of the subject dwelling with a minimum width of 3.5 metres and length of 5 metres and to be setback from the New Street frontage as practicable.
 - d. The provision of one (1) patient car space within the front setback of the property with a minimum width of 3.5 metres and length of 5 metres and to be setback as far back from the New Street frontage as practicable and surfaced with a permeable surface.
 - e. The proposed landscape treatment to include a minimum two (2) metre buffer to the side and rear boundaries in accordance with Condition 9.
2. **Melbourne Water Conditions**
 - a. Any new fences within the Special Building Overlay must be of an open style of construction to allow for the passage of floodwaters/overland flow.
 - b. Any new or modified stormwater connection to Melbourne Water's drainage system must obtain separate approval from Melbourne Water. Detailed terms and conditions will be forwarded for works to be undertaken upon receipt of a formal application.
 - c. No polluted and / or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or watercourses.
3. The development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.
4. The use may only operate between the hours of Monday to Friday 8 am – 6 pm and Saturday 8 am – 1 pm unless with the prior written consent of the Responsible Authority. .
5. Not more than two (2) practitioners may operate on the premises at any one time without the written consent of the responsible authority and consultations must be by appointment only.
6. Noise levels emanating from the premises must not exceed those required to be met under State Environment Protection Policy (Control of Noise from Commerce Industry and Trade), No. N – 1.
7. Any infectious waste or potentially infectious waste (as defined by the EPA) shall be properly segregated in container colour coded yellow for infectious wastes and orange potentially infectious wastes. Any prescribed waste which lease the premises of generation must be disposed of in accordance with Environmental Protection Authority (EPA) requirements/
8. Before the development of the site commences or by such a later date as is approved in writing by the responsible authority, all buildings and works and the conditions of this permit must be carried out and completed to the satisfaction of the responsible authority.

9. Before the occupation of the development starts, the areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
- i. Constructed;
 - ii. Properly formed to such levels that they can be used in accordance with the plans;
 - iii. Surfaced with an all-weather-seal coat (with the exception of the car space to be located within the new Street frontage);
 - iv. Drained;
 - v. Line marked to indicate each car space and all access lanes;
 - vi. Clearly marked to show the direction of traffic along access lanes and driveways;
- And must be to the satisfaction of the Responsible Authority.
- Car spaces, access lanes and driveways must be kept available for these purposes at all times.
10. Before the development starts, a landscape plan in relation to the proposed car parking area of the site is to be provided to the satisfaction of 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:
- i. A survey (including botanical names) of all existing vegetation in excess of two metres in height to be retained and or removed.
 - ii. Details of surface finishes of pathways and driveways. Details should show porosity of surface finish and any footings or sub surfaces.
 - iii. A planting schedule of all proposed trees including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
 - iv. All species selected must not be environmental or noxious weeds.
 - v. The landscape plan must also indicate that an in ground irrigation system is to be provided to all landscaped areas.
11. No fewer than three (3) car parking spaces must be provided on site for staff use and one (1) space for patient parking.
12. The location and details of the sign, including those of the supporting structure, as shown on the endorsed plans, must not be altered without the written consent of the Responsible Authority.
13. The sign must be constructed and maintained thereafter to the satisfaction of the Responsible Authority.
14. 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.
15. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority.
16. 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.

17. This permit will expire if one of the following circumstances applies:
- a. The development and use 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.

18. This permit for signage will expire in 15 years from date of this permit.

Permit Notes

- N2 Building approval
N10 Asset Protection