



Planning Committee Agenda

For a meeting of the

Planning Committee

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

on

Tuesday, 27 April 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

Wednesday 27 January 2010

Tuesday 9 February 2010

Tuesday 9 March 2010

Tuesday 30 March 2010

Tuesday 27 April 2010

Tuesday 18 May 2010

Tuesday 15 June 2010

Planning Committee Meeting

Planning Committee Charter

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

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

Membership of the Committee

All Councillors

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BAYSIDE CITY COUNCIL

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1.1 **3 Male Street, Brighton**
Secondary Consent - Amended Plans
Application No. 2008/310/1 Ward: Northern

City Strategy/Statutory Planning
 File No: 2008/310/1

APPLICATION DETAILS

Land/Address:	3 Male Street, Brighton
Application is for:	Secondary Consent – Amended Plan
Melway Reference:	67 E12
Ward:	Northern
Application Number:	2008/310/1
Applicant's/Owner's Name:	A Quinert
Date Received:	18 March 2010
Statutory Days Expiry:	17 April 2010
Zoning:	Business 2 Zone
Overlays:	None
Restrictive covenants on the title?	No
Current use and development:	Four (4) storey building comprising shops, offices and serviced apartments.
Objections:	N/A

PROPOSITION

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

PROPOSAL

The applicant has requested approval to amend the endorsed plans pursuant to the secondary consent provision of Condition 3 of the permit, which states:

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

The proposed amendments include:

- The relocation of the spa pool of Unit 402 from the north-east corner of the property further south-east, with the inclusion of a 1.7 metre high privacy screen. (TP03)
- Rearrangement of the outdoor area of the north side of Unit 402 (TP03)
- Modifications to the roof and elevation plans as a result of the above changes (TP04, TP05, TP06).

SUBJECT SITE & LOCALITY

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

The subject site is located on the north-western side of Male Street, close to the Well and Male Street intersection.

The site has a total area of 1,801 sqm and currently contains a four (4) storey building comprising shops, offices and serviced apartments. Planning Permit No. 2008/310/1 was issued at the direction of VCAT on the 7 April 2009 for the construction of two (2) additional apartments above the existing four (4) storey building (i.e. with one of these apartments (No. 402) of relevance to this application for secondary consent).

The main site/locality characteristics are:

- The north-east boundary of the site abuts the rear service areas of shops and commercial developments, which front Church Street. The site immediate abuttal (9 Male Street) contains a 'Tuscan' style double storey warehouse and beyond this the Church Street shops.
- To the south-east are single and double storey commercial buildings front Church Street.
- To the south-west is No. 1 Male Street a double storey commercial development with single and double storey dwellings further south west of this.
- To the north-west is No. 181 Church Street with the Sandringham Rail line further north west of this.

PERMIT/SITE HISTORY

The history of the site includes:

- On the 18 August 2005, Planning Permit No. 2004/0804/1 was issued at the direction of the VCAT for the use and development of a four (4) storey building comprising offices and serviced apartments with basement parking.
- On 9 July 2007, Planning Permit No. 2007/317/1 was issued under delegation for the use of part of the site (Lot 16) for a medical centre (cardiologist) for four (4) practitioners and car parking waiver.
- On 12 November 2007, Planning Permit No. 2007/3549/1 was issued under delegation to subdivide the site into 80 lots (staged) generally in accordance with the development approved under Planning Permit 2004/0804/1.
- On 7 April 2009, Planning Permit No. 2008/0310/1 was issued at the direction of Victorian Civil and Administrative Tribunal for the construction of two (2) additional apartments above an existing four (4) storey building.
- On 26 August 2009, Planning Permit 2009/244/1 was issued under delegation for the use of part of the site (Suite 1G) for a food and drink premise (café) and reduction in car parking.
- On the 7 April 2009 Planning Permit No. 2008/310/1 was amended via secondary consent provisions (amended plans).

PUBLIC NOTIFICATION

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

REFERRALS

External Referrals/Notices by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	N/A
Section 52 Notices	N/A

Internal Council Referrals	Advice/Response/Conditions
N/A	N/A

ASSESSMENT

The applicant has applied under Secondary Consent provision afforded by Condition 3 of Planning Permit No. 2008/310/1 to amend the endorsed plans.

The principles, or test of Secondary Consent

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

The tests include the following:

The request for changes to the approved plans include the relocation of the spa to Unit 402 and the rearrangement of the outdoor area to this unit. The proposed amendments are considered to be relatively minor and will not result in the overall transformation of the proposal.

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

The primary consent for planning approval was for the construction of two (2) additional dwellings above an existing four (4) storey building. It is considered that the request for secondary consent does not authorise something for which primary consent is required under the Bayside Planning Scheme.

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

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

The proposed amendments do not change the purpose for which a permit was granted, with the modifications incorporated within the existing building footprint.

The proposed relocation of the spa incorporates privacy screening (to 1.7 metre height) which will prevent overlooking from the subject site. The proposed rearrangement of the outdoor area to

Unit 402 is of no consequence for which primary consent of the application was granted, and is therefore considered acceptable.

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

It is considered that the proposed amendments to the endorsed plans will not contravene the conditions of the permit, which cannot be altered by consent.

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

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

CONCLUSION

It is considered that the proposed modifications to the endorsed plans are acceptable, and meet the tests that relate to secondary consent provisions. It is therefore recommended that the amended plans be approved.

RECOMMENDATION

That the **Amended Plans** be approved under the Secondary Consent Provision of **Planning Permit No. 2008/0310/1** for the **development of two dwellings above an existing four storey building at No. 3 Male Street, Brighton.**

Date	Amendment
27 April 2010	<p>Secondary consent to amend plans to include:</p> <ul style="list-style-type: none"> • The relocation of the spa pool of Unit 402 from the north-east corner of the property, further south-east, with the inclusion of a 1.7 metre high privacy screen. (TP03) • Rearrangement of the outdoor area to the north side of Unit 402 (TP03) • Modifications to the roof and elevation plans as a result of the above changes (TP04, TP05, TP06).

1.2 **121 Centre Road, Brighton East**
Secondary Consent - Approve
Application No. 2005/338/1 Ward: Northern

City Strategy/Statutory Planning
 File No: 2005/338/1

APPLICATION DETAILS

Land/Address:	121 Centre Road, Brighton East
Application is for:	Amended plans under Secondary Consent
Melway Reference:	68 A12
Ward:	Northern
Application Number:	2005/338/1
Applicant's/Owner's Name:	Arie Fooks
Date Received:	6 April 2010
Statutory Days Expiry:	5 June 2010
Zoning:	Residential 1 Zone
Overlays:	Design and Development Overlay Schedule 2
Under what clause(s) is a permit required?	Clause 32.01-4
Restrictive covenants on the title?	Yes, not applicable
Current use and development:	Two (2) dwellings under construction

PROPOSITION

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

PROPOSAL

As directed by VCAT on 24 May 2006 Permit No. 5.2005.338.1 was issued for the construction of two (2) double storey attached dwellings and access to a declared main road.

On April 6 201, the applicant applied pursuant to Secondary Consent provisions afforded by Condition 2 of Permit No. 5.2005.338.1, which states:

“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 prior written consent of the responsible authority.”

The proposed changes to the plans are as follows:

- Deleting the front fence for 121A Centre Road
- Changing the fence design for 121B Centre Road (fence height was 1600mm, changes increase the fence height to 1750mm for the brick piers and 1700mm for the mebau slat infill)

SUBJECT SITE & LOCALITY

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

The site has a total area of 889.33 square metres and currently contains:

- Two (2) dwellings under construction

The main site/locality characteristics are:

- To the west at No. 119 Centre Road is a single storey dwelling.
- To the north at No. 2 Clinton Street is a double storey dwelling.
- To the east at No. 123 Centre Road is a single storey dwelling.
- To the south across at No. 122 Centre Road are two (2) single storey dwellings.

PERMIT/SITE HISTORY

The history of the site includes:

Planning Permit 2005/338/1 was issued at the direction of VCAT for the construction of two (2) double storey attached dwellings and access to a declared main road on 24 May 2006.

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*.

LOCALITY MAP – 121 CENTRE ROAD, BRIGHTON EAST

Legend

Location of subject site	★
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REFERRALS

External Referrals/Notices by the Planning Scheme:

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

ASSESSMENT

The principles, or tests, of Secondary Consent

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

The tests include the following:

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

The planning permit was issued for the construction of two (2) double storey attached dwellings and access to a declared main road. The proposed alterations to the front fence are minor in nature and have not altered what was previously approved, and is not 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 the construction of two (2) dwellings on the site and access to a declared main road. Given that the proposal is for minor amendments to the previously approved front fence, it 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 controls under which the original Planning Permit was granted is to ensure that the construction of two (2) dwellings and the access to a declared main road accord with the standards and objectives of Clause 54 and the Schedule to the Residential 1 Zone of the Bayside Planning Scheme. Given that the proposed amendments to the endorsed plans relate to minor changes to the front fence, the proposed amendments do not change the purpose of the permit approval. It is considered they 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 additional height in the fence of 121B Centre Road (to 17500mm for the brick piers and 1700mm for the merbau slat infill) is considered to be appropriate as the subject site is located on a Road Zone Category 1 and therefore the maximum allowable fence height is 2 metres. It is considered that in the context of higher front fences in the immediate area, the proposed increase in fence height will be of no consequence to the neighbourhood character of the area. The changes will not alter the road access or have any traffic implications on or off site.

It is considered that the proposed amendments are appropriate and are suitable for support. 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.

- *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 with regards to the proposed amendments.

CONCLUSION

It is considered that the proposed changes to the front fences are appropriate, and meet the above tests of Secondary Consent. It is therefore recommended that the amended plans be approved.

RECOMMENDATION

That the amended plans for the changes to the endorsed plans, be approved by Council under the Secondary Consent provisions of Planning Permit 2005/338/1 issued for the construction of two (2) double storey attached dwellings and access to a declared main road and the following table be added to the permit.

Date	Amendment
27 April 2010	Secondary Consent to Amend Plans: <ul style="list-style-type: none"><li data-bbox="815 920 1449 981">• Deleting the front fence for 121A Centre Road<li data-bbox="815 1003 1449 1171">• Changing the fence design for 121B Centre Road (fence height was 1600mm, changes increases the fence height to 17500mm for the brick piers and 1700mm for the merbau slat infill)

1.3 **1/62 Beach Road, Hampton**
Secondary Consent - Approve
Application No. 2006/873/1 Ward: Central

City Strategy/Statutory Planning
 File No: 2006/873/1

APPLICATION DETAILS

Land/Address:	1/62 Beach Road, Hampton
Application is for:	Secondary Consent – amend plans
Melways Reference:	79 F7
Ward:	Central
Application Number:	2006/873/1
Applicant's/Owner's Name:	Peter Hendy Design and Drafting Services
Date Received:	24 March 2010
Statutory Days Expiry:	22 May 2010
Zoning:	Residential 1 Zone
Overlays:	None
Under what clause(s) is a permit required?	Clause 32.01-3
Restrictive covenants on the title?	No
Current use and development:	Existing double storey residential dwelling
Objections:	None

PROPOSITION

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

PROPOSAL

As directed by VCAT, Planning Permit 2006/873/1 was issued on 18 January 2008 for alterations and additions to the ground and first floor to a dwelling on a lot less than 500 square metres.

On 24 March 2010 the applicant applied pursuant to Secondary Consent Provision afforded by Condition 2 of Planning Permit 2006/873/1, which states:

“The use and/or development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.”

The proposed changes to the plans area as follows:

- Entry modified with roof over and gate to garden area
- Ground floor windows changed
- At the upper floor level bi-fold doors have been added to the balcony, window styles and sizes have been changed. Note, the balcony has not increased in area.
- Internal layout rearranged

- Balustrade style modified
- Roof pitch altered
- Infill removed between roof profiles
- Increase in overall height on the plan from 6.5 metres to 7.035 metres
- The north proposed setback changed from 2.2 metres to 1.95 metres

SUBJECT SITE & LOCALITY

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

The site has a total area of 149.76 square metres and currently contains:

- A double storey dwelling

The main site/locality characteristics are:

- To the north at No. 61 Beach Road is a double storey rendered dwelling with roof deck.
- To the south at No. 63 Beach Road is a double storey rendered dwelling with pitched tile roof.
- To the east at No. 2/62 Beach Road is a double storey dwelling which is attached to the dwelling on the subject site.
- To the west is the Hampton Foreshore Reserve.

PERMIT/SITE HISTORY

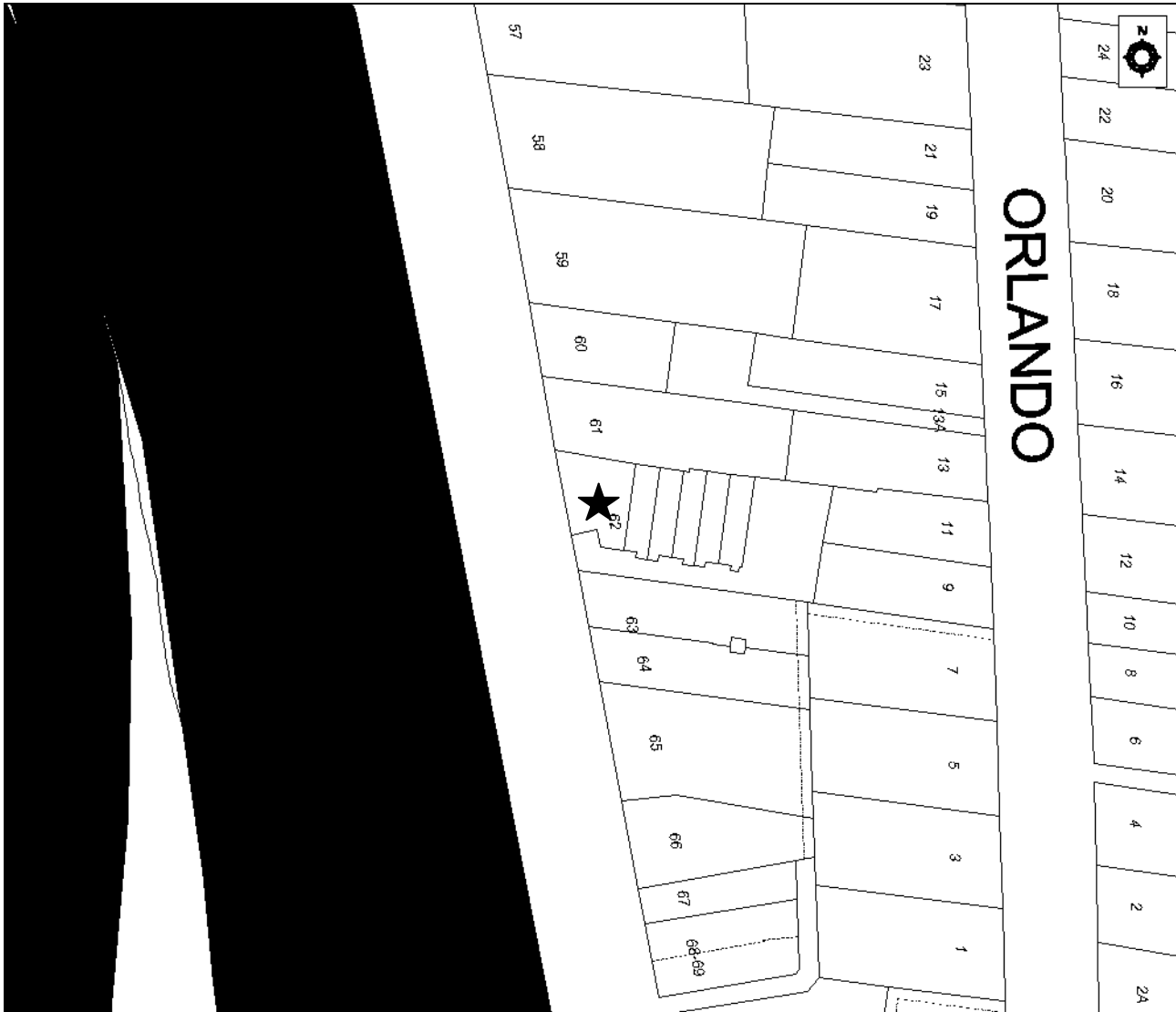
The history of the site includes:

- Planning Permit No. S-0140 was issued on 7 May 1970 for Flats.
- Planning Permit No. 2006/873/1 was issued on 18 January 2008 at the direction of VCAT for alterations and additions to the ground and first floor to a dwelling on a lot less than 500 square metres.
- An extension of time was granted for this permit on 26 October 2009 to allow development to commence by 18 January 2011 and be completed by 18 January 2013.

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*.

LOCALITY MAP – 1/62 BEACH ROAD, HAMPTON



Legend

Location of subject site	★
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REFERRALS

External Referrals/Notices by the Planning Scheme:

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

ASSESSMENT

The 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 the ground and first floor to a dwelling on a lot less than 500 square metres. The proposed alterations are minor in nature and have not altered what was previously approved. The changes will not increase the building envelope or the balcony area and are not a transformation of 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 is for alterations and additions to the existing dwelling. Given that the proposal is for minor amendments to the plans, it does not authorise something for which primary consent is required under the 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 alterations and additions to the ground and first floor to the dwelling on a lot less than 500 square metres accord with the standards and objectives of Clause 54 and the Schedule to the Residential 1 Zone of the Bayside Planning Scheme. Given that the proposed amendments to the endorsed plans relate to minor changes, the proposed amendments do not change the purpose of the permit.

The increase to the overall height (from 6.5 metres to 7.035 metres) and the reduction of the northern setback (from 2.2 metres to 1.95 metres) is due to a correct site survey reflecting accurate site measurements. As shown by the plans, there is no increase in the height of the building above the existing roof pitch (as was shown in the original plans) and the north side setback was incorrectly calculated on the original plans. The floor area of the dwelling has not increased as a result of the changes.

The changes to the window treatment largely result in a replacement of the existing windows (south elevation) and in some cases the window openings enlarged and replaced with new windows (west elevation). The changes to the windows are considered to be minor and will not result in overlooking occurring to any adjoining property.

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.*

Although a condition of the permit (1(b)) relates to the balcony balustrade and its design, stating: *'The glass rail of the balcony replaced by metal railing with intervening thin wires that maintain a see-through appearance'*, the proposed change is considered to remain in compliance with the permit condition. No other permit condition relates to the proposed changes.

It is considered that the proposed amendments are appropriate and are suitable for support. 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.

CONCLUSION

It is considered that the proposed amendments to the plans are appropriate, and meets the above test of Secondary Consent. It is therefore recommended that the amended plans be approved.

RECOMMENDATION

That the amended plans for the changes to the plans be approved by Council under the Secondary Consent provisions of Planning Permit 2006/873/1 issued for the alterations and additions to the ground and first floor to a dwelling on a lot less than 500 square metres, and the following table be added to the permit.

Date	Amendment
27 April 2010	Secondary Consent to Amend Plans: <ul style="list-style-type: none"> • Entry modified with roof over and gate to garden area • Ground floor windows changed • At the upper floor level bi-fold doors have been added to the balcony, window styles and sizes have been changed. Note, the balcony has not increased in area • Internal layout rearranged • Balustrade style modified • Roof pitch altered • Infill removed between roof profiles • Increase in overall height on the plan increased from 6.5 metres to 7.035 metres • The north proposed setback changed from 2.2 metres to 1.95 metres

1.4 **18 Dumaresq Street, Brighton East**
Secondary Consent - Approve
Application No.2007/0863/1 Ward: Central

City Strategy/Statutory Planning
 File No: 2007/0863/1

APPLICATION DETAILS

Land/Address:	18 Dumaresq Street, Brighton East
Application is for:	Secondary Consent – Amended Plans
Melway Reference:	77B4
Ward:	Central
Application Number:	2007/863/1
Applicant's/Owner's Name:	Frederick Nudel
Date Received:	26 February 2010
Statutory Days Expiry:	26 March 2010
Zoning:	Residential 1
Overlays:	Design and Development Overlay Schedule 2 Special Building Overlay
Restrictive covenants on the title?	No
Current use and development:	A double storey dwelling and a single storey to the rear.

PROPOSITION

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

PROPOSAL

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

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

The amendments proposed are as follows:

- Timber deck to the rear private open space area for Dwelling 2.
- The deck has replaced areas of paving as shown on the approved permit plans. The deck is raised 790mm above natural ground level to match the finished floor level of the dwelling.

The deck has already been constructed.

PERMIT/SITE HISTORY

On 23 September 2008 Council issued Planning Permit 2007/0863/1 for the construction of a double storey dwelling and a single storey dwelling.

On 17 November 2008 Condition 1 plans were endorsed by Council.

SUBJECT SITE & LOCALITY

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

The site has a total area of 613 square metres and currently contains:

- A double storey dwelling at the front of the site with a single storey dwelling to the rear.

The main site/locality characteristics are:

- The site has a 15.5 metre frontage and a depth of 39.4 metres.
- To the north of the site at 20 Dumaresq Street is a single storey brick dwelling.
- To the south of the site at 16 Dumaresq Street is an attic style dwelling.
- Opposite the site to the west are single and double storey dwellings.
- To the rear of the site to the east are single storey units.

LOCALITY MAP



Subject land	★
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PUBLIC NOTIFICATION

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

REFERRALS

External Referrals/Notices by the Planning Scheme:

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

ASSESSMENT

The principles, or tests, of Secondary Consent

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

The tests include the following:

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

The proposed change is considered minor in nature and will not affect the amenity of the adjoining properties, and meet the 'tests' of Secondary Consent. The proposed deck will replace the existing paving and will not result in any unreasonable overlooking to the adjoining properties given that the rear boundary fence is 1.7 metres above the finished floor level of the deck. It is considered that the proposed amendments are appropriate and are suitable for support.

CONCLUSION

It is considered that the proposed change via Secondary Consent of Planning Permit No. 2007/863/1 is appropriate and meets the tests of Secondary Consent. It is therefore recommended that the amended plans be approved.

RECOMMENDATION

That the amended plans for the alterations to the plans to include a deck for dwelling 2, be **approved** by Council under the Secondary Consent provisions of **Planning Permit 2007/863/1** issued for the construction of a double storey dwelling and a single storey dwelling to the rear, at the land known as 18 Dumaresq Street, Brighton East, and the following table be added to the permit.

Date	Amendment
27 April 2010	Secondary Consent to Amend Plans: <ul style="list-style-type: none"><li data-bbox="512 927 1380 1025">➤ Timber deck within the private open space area for Dwelling 2. The deck is proposed to be 790mm above natural ground level to match the finished floor level of the dwelling.

1.5 **22 Exon Street & 14 Butler Street, Brighton**
Secondary Consent - Approve
Application No. 2005/0241/2 Ward: Central

City Strategy/Statutory Planning
 File No: 2005/0241/2

APPLICATION DETAILS

Land Address:	22 Exon Street & 14 Butler Street, Brighton
Application is for:	Secondary Consent – Amended plans
Melway Reference:	76 E1
Ward:	Central
Application Number:	2005/0241/2
Applicant's/Owner's Name:	Garry McDavitt
Date Received:	26 February 2010
Statutory Days Expiry:	26 March 2010
Zoning:	Residential 1 Zone
Overlays:	Design and Development Overlay Schedule 2
Restrictive covenants on the title?	No
Current use and development:	Two (2) double storey dwellings

PROPOSITION

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

PROPOSAL

On 8 September 2005, at the direction of the Victorian Civil and Administrative Tribunal Council issued Planning Permit No. 2005/0241/1 for the construction of two (2) double storey dwellings.

The applicant has applied for approval to amend the approved plans pursuant to the Secondary Consent provision afforded by Condition 2 of Planning Permit No. 2005/0241/2, which states:

- *The development as shown on the endorsed plans must not be altered or modified (whether or not in order to comply with an statute, statutory rule or for any other reason) without the prior written consent of the Responsible Authority.*

The amendments proposed are as follows:

- Replacement of the existing 2 metre high timber slat fence along the Butler Street frontage with a 2 metre high rendered concrete wall.
- Construction of a swimming pool.

SUBJECT SITE & LOCALITY

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

The site has a total area of 722.08 square metres over which has been formally subdivided into two (2) lots of 346.52 square metres (22 Exon Street) and 375.56 (14 Butler Street) square metres which contain:

- Two (2) double storey dwellings, which have been formally subdivided. The proposed amendments are to the lot known as 22 Exon Street.

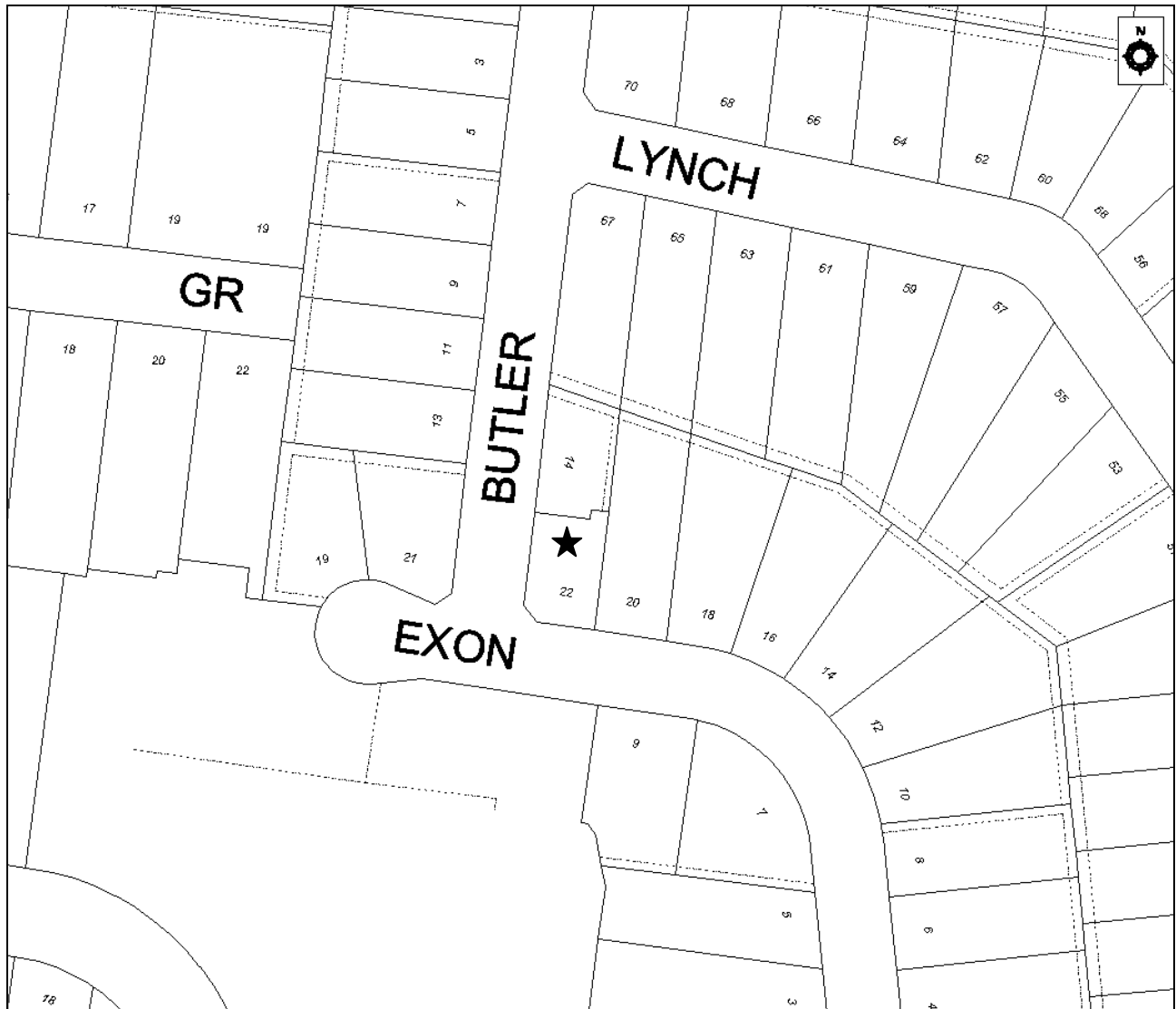
The main site/locality characteristics are:

- The adjoining property to the east, at 20 Exon Street, contains a double storey dwelling fronting Exon Street.
- The adjoining property to the north, at 14 Butler Street, (part of the original property) contains a double storey dwelling. The adjoining property further north, at 6 Lynch Street, contains a double storey dwelling.
- The subject site faces a school across Exon Street to the south.
- The subject site faces a double storey dwelling across Butler Street to the west at 21 Exon Street.

PERMIT/SITE HISTORY

The history of the site includes:

- The dwelling on site was a result of Planning Permit No. 2005/0241/1 for the construction of two (2) double storey dwellings with one (1) dwelling having a basement car park, issued on 8 September 2005.
- The site was formally subdivided via Planning Permit No. 2006/0246/1 issued on 10 May 2006 for a two (2) lot subdivision.
- Application No. 2006/3291 for the Certification and Statement of Compliance for the subdivision was issued on 21 February 2007.
- An appeal against Council's decision to amend Planning Permit 2005/0241/1 to construct a vergola at the Lot known as 14 Butler Street was withdrawn on 2 March 2009, with an amended Planning Permit No. 2005/241/2 issued on 19 January 2009.

Locality Plan - 22 Exon Street & 14 Butler Street, Brighton


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

External Referrals/Notices by the Planning Scheme:

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

Internal Council Referrals	Advice/Response/Conditions
Urban Designer	No objections

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 initially issued for the construction of two (2) double storey dwellings with one (1) dwelling having a basement car park. The proposed alterations are minor in nature and have not transformed the original proposal.
- *The proposed amendment does not authorise something for which primary consent is required under the planning scheme.*
 The primary consent of the Planning Permit was for the construction of more than one (1) dwelling on a lot within a Residential 1 Zone. Given that the proposal is for minor amendments for the construction of a side fence and pool, a planning permit is not triggered and therefore primary consent is not 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 relevant planning controls of Clause 55 of the Bayside Planning Scheme under which the original Planning Permit was granted is to ensure that the buildings and works for the two (2) double storey dwellings respect the existing neighbourhood character and contribute to the preferred neighbourhood character, and provides a reasonable standard of amenity for existing and new residents. Given that the proposed amendments to the endorsed plans relate to the construction materials for the Butler Street side fence for 22 Exon Street, the proposed amendments do not change the purpose of the permit approved. It is considered they will not result in any detrimental amenity impact to the adjoining property or streetscape. 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.*

The proposed amendments will not alter the permit preamble or contravene and permit conditions. There is no specific permit requirement with regards to the proposed amendments.

The application to amend the side fence has been viewed by Council's Urban Designer who has no objection to the change in material. It is considered that the proposed amendments are appropriate and are suitable for support. The proposed fence materials are typical within the streetscape and will respect the existing character of the area. The location of the pool is appropriate as it maintains appropriate areas of private open space.

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.

CONCLUSION

It is considered that the proposed modifications 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 existing boundary fence and construction of a pool, be **approved** by Council under the Secondary Consent provisions of **Planning Permit 2005/0241/2** issued for the construction of two (2) double storey dwellings with one (1) dwelling having a basement car park and the following table be added to the permit.

Date	Amendment
27 April 2010	Secondary Consent to Amend Plans: <ul style="list-style-type: none">• Change in materials for the Butler Street side fence for 22 Exon Street to rendered concrete block.• Construction of a swimming pool

1.6 **33-35 Melrose Street, Sandringham**
Secondary Consent - Approve
Application No. 2007/0820/1 Ward: Southern

City Strategy/Statutory Planning
 File No: 2007/0820/1

APPLICATION DETAILS

Land Address:	33-35 Melrose Street, Sandringham
Application is for:	Secondary Consent - Amended Plans
Melway Reference:	76 G9
Ward:	Southern
Application Number:	2007/0820/1
Applicant's/Owner's Name:	Alister Shenfield
Date Received:	12 February 2010
Statutory Days Expiry:	12 March 2010
Zoning:	Business 1 Zone
Overlays:	None
Restrictive covenants on the title?	No
Current use and development:	Four (4) storey building under construction

PROPOSITION

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

PROPOSAL

On 13 January 2009, at the direction of the Victoria Civil and Administrative Tribunal, Council issued Planning Permit No. 2007/0820/1 for the use and development of the site for a four (4) storey building comprising one (1) shop and four (4) residential apartments in a DDO6 and waiver of car parking and bicycle storage in accordance with the endorsed plans.

The applicant has applied for retrospective approval to amend the approved plans pursuant to the Secondary Consent provision afforded by Condition 2 of Planning Permit No. 2007/0820/1, which states:

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

The amendment proposed is as follows:

- Increase in the height of the side walls by 120mm.

SUBJECT SITE & LOCALITY

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

The site has a total area of 386.93 square metres and currently contains:

- Four (4) storey building currently under construction.

The main site/locality characteristics are:

- To the south, No 29-31 Melrose Street has a period facade (approximately 2 storeys high at the street frontage) and has been developed recently as a four storey 'mixed use' building.
- To the north No 37 Melrose Street (old bank building) has a historic double storey facade with a recent four storey 'mixed use' development setback from the street frontage.
- Immediately abutting the west (rear boundary) is a Council car park.
- To the east, (across Melrose Street) is a row of single storey commercial buildings.

PERMIT/SITE HISTORY

The history of the site includes:

- Planning Permit 2000/5818 was issued on 2 August 2000 for two (2) apartments.
- Planning Permit 2001/7212 was issued on 22 April 2002 for the construction of a four (4) storey building with three (3) apartments to the rear of the existing double storey commercial building.
- Planning Permit 2002/7938 was issued on 20 September 2002 for the construction of a three (3) level apartment above a shop.
- Planning Permit 2007/0820 was issued on 13 January 2009, at the direction of the Victorian Civil and Administrative Tribunal for the use and development of the site for a four (4) storey building comprising one (1) shop and four (4) residential apartments in a DDO6 and waiver of car parking and bicycle storage.

Locality Plan – 33-35 Melrose Street, Sandringham



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

External Referrals/Notices by the Planning Scheme:

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

Internal Council Referrals	Advice/Response/Conditions
Urban Designer	No objections

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 use and development of the site for a four (4) storey building comprising one (1) shop and four (4) residential apartments in a DDO6 and waiver of car parking and bicycle storage. The proposed alterations are minor in nature and have not altered what was previously approved.
- *The proposed amendment does not authorise something for which primary consent is required under the planning scheme.*
 The primary consent of the Planning Permit is for the use of the site and associated buildings and works within a Business 1 Zone. Given that the proposal is for minor amendments to the overall height by 120mm, it 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 controls under which the original Planning Permit was granted is to ensure that the buildings and works for the four (4) storey building accords with the standards and objectives of the Bayside Planning Scheme. Given that the proposed amendments to the endorsed plans relate to minor changes to the overall height of the side walls by 120mm to 14.418mm, the proposed amendments do not change the purpose of the permit approved. It is considered they 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 with regards to the proposed amendments.

The application to amend the height of the walls has been viewed by Council's Urban Designer who has no objection to the minor increase in height. It is considered that the proposed

amendments are appropriate and are suitable for support. The applicant advised that that the increase in wall height is due to the requirements of the Building Code to have 2.4 m high internal ceilings.

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.

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 plan, be **approved** by Council under the Secondary Consent provisions of **Planning Permit 2007/0820/1** issued for use and development of the site for a four (4) storey building comprising one (1) shop and four (4) residential apartments in a DDO6 and waiver of car parking and bicycle storage, and the following table be added to the permit.

Date	Amendment
27 April 2010	Secondary Consent to Amend Plans: <ul style="list-style-type: none"><li data-bbox="507 1160 1126 1193">• Increase to the side wall heights by 120mm

1.7 **1-4/43 Warleigh Grove, Brighton**
Secondary Consent - Approve
Application No. 2007/0716/1 Ward: Northern

City Strategy/Statutory Planning
 File No: 2007/0716/1

APPLICATION DETAILS

Land Address:	1- 4 / 43 Warleigh Grove, Brighton
Application is for:	Secondary Consent – Amended Plans
Melway Reference:	67 G9
Ward:	Northern
Application Number:	2007/0716/1
Applicant's/Owner's Name:	Alistair Hill c/o Nahill Investments Pty Ltd
Date Received:	22 January 2010
Statutory Days Expiry:	22 February 2010
Zoning:	Residential 1 Zone
Overlays:	None
Restrictive covenants on the title?	Yes, however this request will not breach the covenant
Current use and development:	Apartment building with four (4) dwellings

PROPOSITION

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

PROPOSAL

On 19 June 2008, at the direction of the Victorian Civil and Administrative Tribunal Council issued Planning Permit No. 2007/0716/1 for the alterations and additions to an existing unit development and the construction of an additional two (2) double storey units in accordance with the endorsed plans.

The applicant has applied for retrospective approval to amend the approved plans pursuant to the Secondary Consent provision afforded by Condition 2 of Planning Permit No. 2007/0716/1, which states:

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

The amendments proposed are as follows:

- Alterations to the Landscape Plan - deletion of one (1) *Ligustrum sp.* (Privet tree) and its replacement with one (1) *Magnolia Stellata* (Star Magnolia).

SUBJECT SITE & LOCALITY

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

The site has a total area of 1143 square metres and currently contains:

- An apartment building containing four (4) dwellings.

The main site/locality characteristics are:

- The adjoining property to the northwest, at 41 Warleigh Grove, contains a single storey attached dwelling fronting Warleigh Grove.
- The adjoining property to the north, at 25 Oakwood Avenue, contains a single storey dwelling fronting Oakwood Avenue.
- The adjoining properties to the east, at 11 & 13 Hillcrest Avenue, contain double storey dwellings fronting Hillcrest Avenue.
- The adjoining property to the south, at 45 Warleigh Grove, contains a single storey attached dwelling fronting Warleigh Grove.
- The subject site fronts a vacant site, at 30-42 Warleigh Grove, across Warleigh Grove to the west. It is noted that an application for Construction of a four (4) storey residential development with basement car parking in a Design and Development Overlay Schedule 2.

PERMIT/SITE HISTORY

The history of the site includes:

- Planning Permit 2007/0716/1 for the alterations and additions to an existing unit development and the construction of an additional two (2) double storey units was approved on 19 June 2008 by the Victorian Civil and Administrative Tribunal.

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*.

Locality Plan – 1-4 Warleigh Grove, Brighton


Legend	
Subject land	★

REFERRALS

No external referral Authorities.

Internal Council Referrals	Advice/Response/Conditions
Arborist	No objection.

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 an existing unit development and the construction of an additional two (2) double storey units. The proposed alterations are minor in nature and does not transform what was previously approved.

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

The primary consent of the Planning Permit is for the construction of more than one (1) dwelling within a Residential 1 Zone. Given that the proposal is for minor amendments to the landscaping plan, it 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 controls under which the original Planning Permit was granted is to ensure that the alterations and additions and construction of two (2) additional dwellings accords with the standards and objectives of the Bayside Planning Scheme. Given that the proposed amendments to the endorsed plans relate to minor changes to the landscape plan, the proposed amendments do not change the purpose of the permit approved. It is considered they 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 with regards to the proposed amendments.

The application to amend the landscape plan was referred to Council's Arborist who has viewed the proposed amendments and does not object. The applicant has applied for this amendment as the tree is inappropriately leaning over the driveway. It is considered that the proposed amendments are appropriate and are suitable for support.

The proposed amendments are considered minor in nature and will not affect the amenity of the adjoining properties, and satisfactorily meets the 'tests' of Secondary Consent.

CONCLUSION

It is considered that the proposed modifications to the landscape plan 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 landscape plan, be **approved** by Council under the Secondary Consent provisions of **Planning Permit No. 2007/0716/1** issued for alterations and additions to an existing unit development and the construction of an additional two (2) double storey units and the following table be added to the permit.

Date	Amendment
27 April 2010	Secondary Consent to Amend Plans: <ul style="list-style-type: none"><li data-bbox="512 680 1414 786">• Alterations to the Landscape Plan - deletion of one (1) <i>Ligustrum</i> sp. (Privet tree) and its replacement with one (1) <i>Magnolia Stellata</i> (Star Magnolia)

1.8 **25 Drake Street, Brighton**
Secondary Consent - Approve
Application No. 2006/629/1 Ward: Northern

City Strategy/Statutory Planning
 File No: 2006/629/1

APPLICATION DETAILS

Land/Address:	25 Drake Street, Brighton
Application is for:	Secondary Consent – Amended Plans
Melways Reference:	67 D7
Ward:	Northern
Application Number:	2006/629/1
Applicant's/Owner's Name:	Bosco Johnson Pty Ltd
Date Received:	19 March 2010
Statutory Days Expiry:	18 April 2010
Zoning:	Residential 1 Zone
Overlays:	Design and Development Overlay – Schedule 1
Restrictive covenants on the title?	No
Current use and development:	Residential
Objections:	N/A

PROPOSITION

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

PROPOSAL

The applicant has requested approval to amend the endorsed plans pursuant to the secondary consent provision of Condition 2 and Condition 4 of the permit, which states:

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

“Plant, equipment, services or architectural features other than those shown on the endorsed plans must not be located above the roof levels of the buildings without the consent of the Responsible Authority.”

The proposed amendments include the inclusion of two air conditioning units on the roof of the existing development above the bedroom and main bedroom of Dwelling One and Dwelling Two. Each air conditioning unit is to be screened with horizontal timber slats at a height of 1.2 metres and setback 3 metres from the property frontage.

The proposed air conditioning units are to be located in excess of 9 metres from adjoining properties.

SUBJECT SITE & LOCALITY

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

The subject site is located on the west side of Drake Street and has a total site area of 747 squares. It currently contains a double storey dwelling.

The main site/locality characteristics are:

- To the north is No. 27 Drake Street, a double storey dwelling with basement car park.
- To the south is a No. 31 Martin Street a double storey dwelling.
- To the east (across the subject site) No. 28 Drake Street, is a double storey dwelling and a single storey dwelling.
- To the west is a double storey dwelling at No. 8 Tynefield Court.

PERMIT/SITE HISTORY

On the 22 June 2007 Planning Permit No. 2006/629 was issued at the direction of VCAT for the “*construction of two (2) dwellings.*”

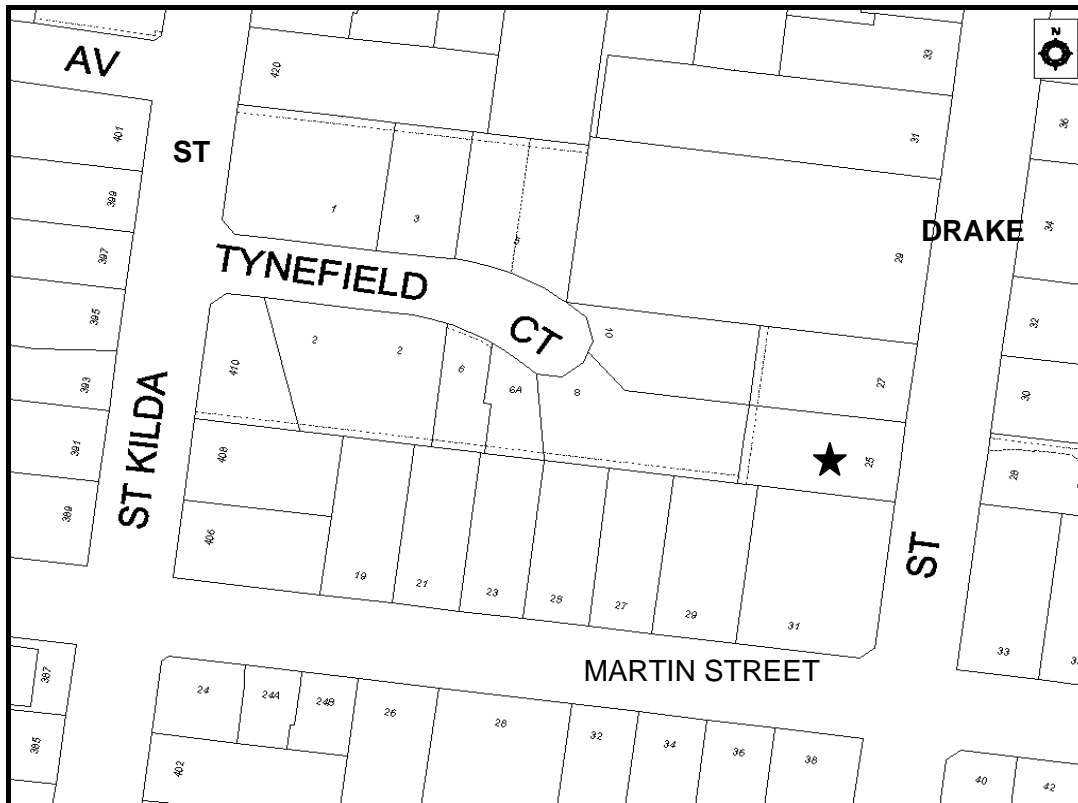
A previous Section 87A (amendment) of the *Planning and Environment Act 1987* was approved on 19 September 2008 for Planning Permit No. 2006/629/1. The amendments to the endorsed plans allowed:

- Replacement of the southern boundary wall with a timber paling fence of matching height.
- Relocation of the swimming pool for Dwelling 2 from the northern boundary to the southern boundary of the site.

These plans were endorsed by Council on the 15 September 2008.

PUBLIC NOTIFICATION

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

Locality Map – 25 Drake Street, Brighton


Legend	
Subject land	★

REFERRALS

No external or internal referrals were required.

ASSESSMENT
The principles, or test of Secondary Consent

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

The tests include the following:

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

The request for changes to the approved plans include the inclusion of air conditioning units upon the roof of the existing dwellings. It is considered that this will not result in the overall transformation of the proposal.
- The proposed amendment does not authorise something for which primary consent is required under the planning scheme.*

The primary consent for planning approval was for the construction of two dwellings on a lot.

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

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

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

The proposed amendments do not change the purpose for which a permit was granted, with the modifications proposed considered to be relatively minor in nature. The proposed air conditioning units are to be located in excess of 9 metres from adjoining properties and screened to minimise noise and visual impact. It is considered that the proposed siting of the air conditioning units is appropriate.

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

The proposed amendment is not contrary to specific conditions, which relate to the planning permit, in particular Condition 3 and Condition 4 which state:

- *All pipes, fixtures, fittings and vents, with the exception of sprouting and storm water down pipes, servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.*
- *Plant, equipment, services or architectural other than those shown on the endorsed plans must not be located above the roof level of the buildings without the written consent of the Responsible Authority.*

It is considered that the proposed amendments to the endorsed plans will not contravene the conditions of the permit, which cannot be altered by consent.

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

CONCLUSION

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

RECOMMENDATION

That the Amended Plans be **approved** under the Secondary Consent Provisions of **Planning Permit No. 2006/629/1** for the **construction of two (2) dwellings** at **25 Drake Street, Brighton** and the following table, be added to the permit:

Date	Amendment
27 April 2010	<p>Secondary consent to amend plans:</p> <p>First Floor Plan:</p> <ul style="list-style-type: none"> The inclusion of two air conditioning units above the bedroom and main bedroom of Dwellings One and Dwelling Two. Each air conditioning unit is to be screened with horizontal timber. (HuB – D4.3 Rev C) <p>Elevations:</p> <ul style="list-style-type: none"> The inclusion of two air conditioning units which are setback 3 metres from the property frontage and screened at a height of 1.2 metres. (HuB – E Rev E)

1.9 **5 Mavis Avenue Brighton East**
Notice of Decision to Grant a Planning Permit
Application number: 2009/0624/1-- Ward: Northern

City Strategy/Statutory Planning
 File No: 2009.0624-1

APPLICATION DETAILS

Land/Address:	5 Mavis Avenue, Brighton East
Application is for:	Use of the site for a café and associated reduction in car parking, and part demolition, buildings and works in a Heritage Overlay
Melway Reference:	67 J9
Ward:	Northern
Application Number:	2009/0624/1
Applicant's/Owner's Name:	Norbulinka
Date Received:	18 November 2009
Statutory Days Expiry:	17 January 2010
Zoning:	Residential 1 Zone
Overlays:	Design and Development Overlay Schedule 2 Heritage Overlay Schedule 231
Under what clause(s) is a permit required?	Clause 32.01-1 – Use as a food and drinks premise (Section 2 use) Clause 32.01-6 - carry out works for a use in Section 2 Clause 43.01-1 – Buildings and works (including demolition) Clause 52.06-1 – Car parking
Restrictive covenants on the title?	No
Current use and development:	Tara Institute - Buddhist education centre with multiple, (rooming house style) occupancy.
Objections:	Nine (9)

PROPOSITION

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

PROPOSAL

It is proposed to use part of the existing institute for an eighteen (18) seat café, with an associated waiver of car parking requirements. It is also proposed to carry out partial demolition, buildings and works associated with the use. These works are listed as follows:

- Demolition of the boundary fence directly in front of the room and for a further 5m eastward.
- New timber decking between the building and the boundary with a disabled ramp on the side and timber pergola over with clear plastic roof sheeting (all visible timbers to be clear-coated spotted gum).

- Increasing of three windows overall height from 1000mm AFFL to 2500mm (2 x full height windows and 1 x door).
- New entry patio space with fencing to match existing and new native Australian 'water wise' garden to tie-in and work with the existing botanical range at the adjacent Landcox Park.
- Four (4) new planter boxes.

SUBJECT SITE & LOCALITY

The subject site has a total site area of approximately 5300m² and forms part of a larger complex known as Tara Institute. This proposal relates to a small area of the subject site measuring approximately 187m², and fronting Mavis Avenue to the South.

The building now proposed for use as a café is currently used as a bedroom and workshop.

The main site/locality characteristics are:

- Immediately to the **south** of the subject site (across Mavis Avenue) is Landcox Park.
- To the **north, east and west** of the subject site (beyond the grounds of the Tara Institute) are a number of single and double storey residential dwellings, fronting Milroy Street to the north-west and Wairoa Avenue to the north-east.
- To the **south-west** of the subject site (beyond the grounds of the Tara Institute) are three (3) residential buildings, fronting Mavis Avenue.

The proposed development falls in Character Area B5 as noted in the city of Bayside Neighbourhood Character Local Policy 22.10

PERMIT/SITE HISTORY

- There is no planning history of relevance to this application.

PUBLIC NOTIFICATION

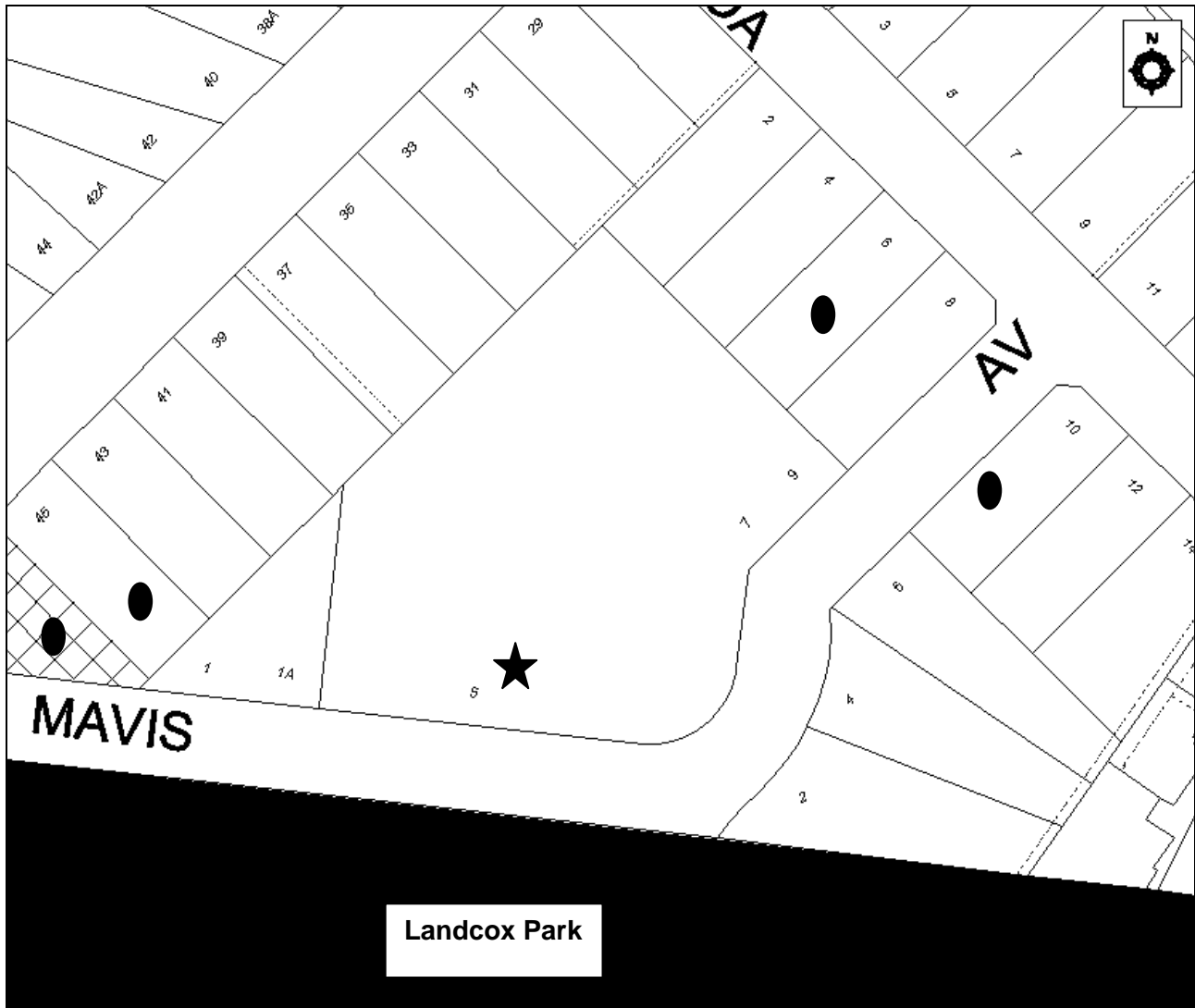
The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by:

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

The proposed buildings and works were not advertised as they are specifically exempted from the notice requirements of Section 52(1) (a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act, under clause 43.01-3 of the Bayside Planning Scheme. The notification has therefore been carried out correctly.

Council has received nine (9) objections to date.

LOCALITY MAP



Legend

Subject land	★
Location of Objectors	●

Note: not all objectors are shown on the above plan.

The key issues that were raised in the objections are:

- Lack of car parking
- Impact on children's playground
- Need for a café in the area
- Impact on parkland environment
- Increased traffic

- Impact on access to Landcox Park
- Noise and other pollution (kitchen odours, waste, overloaded drainage system)
- Inadequate staff numbers for proposed use
- Increased staff numbers will result in more pressure on parking
- Decreased land and house vale
- Inappropriate use in Residential area
- Refuse and litter
- Loading and unloading inadequate
- Relaxation of residential zoning of the area
- Impact on access to private driveways

CONSULTATION

The applicant declined the invitation for a consultation meeting.

REFERRALS

External Referrals/Notices by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	N/A
Section 52 Notices	All adjoining property owners and occupiers and one (1) sign on the site.

Internal Council Referrals	Advice/Response/Conditions
Traffic Engineer	The application can be supported with 18 seats, however any further applications to increase the number of seats may not be supported.
Heritage	The proposal is supported in heritage terms.

ASSESSMENT

Relevant Provisions of the Bayside Planning Scheme

State Planning Policies

- Clause 12 Metropolitan Development - Includes objectives and strategies for Metropolitan Melbourne.
- 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 17.02 Business – Encourages developments, which meet community's needs for retail, entertainment, office and other commercial services and provide net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.
- Clause 19.03 Design and Built Form - Encourages architectural and Urban Design outcomes that contribute positively to local Urban Character.

Municipal Strategic Statement

- Clause 21.04 Vision and Overarching goals – Aims to enrich a 'locality' or 'village' focus whilst encouraging new economic development that adds value to the economy of Bayside and builds on a collaborative approach to achieving the goals in the planning scheme. The design and image objectives aim to achieve high quality design and continually improve the image of land use and development in Bayside, which contributes to a sense of place appropriate to Bayside's character and maintains, strengthens and enhances local character.
- Clause 21.09 – 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

- Clause 22.06 – Heritage Policy - seeks to maintain the integrity of heritage places whilst accommodating the needs of current inhabitants.
- Clause 22.07 – Neighbourhood Character Policy – Aims to ensure that development is responsive to the preferred future character of the area, to retain and enhance the identified elements that contribute to the character of the area, to implement the recommendations of the Bayside Neighbourhood Character Review 2004, to recognise the need for change around activity centres while respecting the desired future character of the area, and to recognise the need for new or additional Design Objectives and Design Responses for areas affected by structure planning outcomes and Melbourne 2030 housing objectives.
- Clause 22.09 – 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 - Encourages residential development at a range of densities, with a variety of dwellings to meet housing needs. Clause 32.01-4 requires a permit for the construction of two or more dwellings on a lot. Clause 32.01-5 requires the application of the schedule to the Residential 1 Zone, which incorporates requirements specific to Bayside. **A planning permit is required pursuant to Clause 32.01-1 for use of the site as a café (Section 2 use). Pursuant to Clause 32.01-6 a planning permit is also required to construct a building or construct or carry out works for a Section 2 use.**

Overlays

- 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.
- 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. **The proposal does not require a planning permit under this overlay, as the buildings and works do not exceed two (2) storey or 9 metres in height, measured above natural ground level.**

Particular Provisions

- Clause 52.06 Car Parking – details assessment criteria for car parking provision. A new use must not commence or the floor area of an existing use must not be increased until the required car spaces have been provided on the land. The table at Clause 52.06-5 sets out the number of car spaces required for uses not covered by a parking precinct plan or another clause. **As the specified use (café) is not listed in the table at Clause 52.06-5 an adequate number of car spaces must be provided to the satisfaction of the responsible authority.**
- Clause 65 Decision Guidelines - Provides guidelines that the responsible authority must consider in assessing the application including the Planning Policy Framework, the purpose and objectives of the Zone to encourage the orderly planning of the area and the effect on the amenity of the area.

SUMMARY OF KEY ISSUES

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

Neighbourhood Character

The subject site is located within Neighbourhood Character Precinct B5 pursuant to clause 22.07 of the Bayside Planning Scheme. The policy outlines a series of aims and objectives to preserve and enhance the character of Bayside's municipality. The preferred character statement for Precinct B5 states:

“The area retains a predominance of pre WW2 dwellings, and in Meyer Court, 1950s brick dwellings. The new, pitched roof dwellings sit within established, largely exotic gardens and respect the older dwellings while not replicating these styles. Dwellings are well articulated in plan and elevation, use simple detailing and contain a variety of materials within the front façade. They are also low in scale and do not dominate the streetscape. Space for the planting of vegetation is provided in front yards by the provision of generous front and side setbacks and locating car ports and garages behind the line of the dwelling. Fences are open in style and appropriate to the era of the dwelling. In Meyer Court front fences are not provided”.

Precinct Guidelines

Objective	Design Response	Avoid
To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.	<ul style="list-style-type: none"> Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development. Alterations and extensions should retain the front of these dwellings and be appropriate to the building era. 	<i>Demolition of dwellings that contribute to the valued character of the Precinct.</i>
To maintain and enhance the garden settings of the dwellings.	<ul style="list-style-type: none"> Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. 	<i>Lack of landscaping and substantial vegetation.</i>
To provide adequate space for front gardens.	<ul style="list-style-type: none"> Buildings should be sited to allow space for the planting of trees and shrubs. 	<i>Loss of front garden space.</i>
To maintain the rhythm of spacious 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 minimise the loss of front garden spaces and the dominance of car parking structures.	<ul style="list-style-type: none"> Locate garages and carports behind the line of the dwelling. Provide only one single width driveway crossover per typical site frontage. Minimise paving in front garden areas including driveways. 	<i>Car parking structures that dominate the façade or view of the dwelling.</i> <i>Front setbacks dominated by impervious surfaces.</i>
To ensure that buildings and extensions do not visually dominate the streetscape.	<ul style="list-style-type: none"> Recess upper level elements from the front façade. 	
To encourage modern and contemporary architectural responses to surrounding dominant building forms.	<ul style="list-style-type: none"> Adopt, adapt or re-interpret existing building forms (eg. Façade proportions and articulation, roof forms and plan forms) without copying period design details. 	<i>Reproduction of historic building styles.</i>
To respect the identified heritage qualities of adjoining buildings.	<ul style="list-style-type: none"> Where adjoining an identified heritage building, respect the height, building forms, siting and materials of the heritage building/s in the new building design. 	<i>Buildings that dominate heritage buildings by height, siting or building massing.</i>
To use a variety of building materials and finishes that reflect those in the streetscape.	<ul style="list-style-type: none"> Incorporate a variety of building materials such as brick, render, timber and non-masonry into the building design. Roof materials should generally be terracotta, red black or subdued coloured tiles or similar. Use simple building details. 	<i>Exclusive use of one material on external wall surfaces.</i> <i>Period reproduction 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. Front fence style should be appropriate to the building era. 	<i>High, solid front fencing.</i>

The surrounding area is predominantly residential, with numerous single and double storey dwellings, of various types, scale and form evident. It is therefore important that the proposed buildings and works to the existing building do not appear as an incongruous element. The subject site is developed by an anomaly in the streetscape. The Tara Institute (as it is commonly known) is made up of a number of buildings, some with heritage significance. The proposed works relate solely to a small portion of those buildings fronting Mavis Avenue. The application proposes to use an existing bedroom and workshop, and convert this for a café and kitchen. External works comprise an outdoor deck with pergola constructed from the building to the street, together with a side entry and landscaping / hardscaping works.

The proposed deck and pergola structure is unenclosed with a maximum height of 3.35 metres from natural ground level, and a maximum width of (approximately) 4.4 metres. Its impact on the existing neighbourhood character is therefore minimal, given the low overall scale and lightweight appearance.

The submitted south elevation drawing also shows a proposed sign, 1 metre wide and 300mm high, with a height above natural ground level of approximately 500mm. The applicant has advised that precise design details of the sign have yet to be decided, thus no details of the signage construction, method of attachment, colour, or details of its content have been submitted. As there is insufficient information to consider the signage, and bearing in mind the residential zoning and heritage overlay applicable to the site, a condition will require the signage to be deleted.

Discretionary Use in a Residential 1 Zone

Clause 22.09-2 of the Bayside Planning Scheme provides objectives relating to discretionary uses in a Residential 1 Zone. These are listed as follows:

- *Furthers objectives in Clause 21.04 Vision and Overarching Goals*
- *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.*
- *To ensure that local community needs are served by the proposal.*

Clause 22.09-3 of the Bayside Planning Scheme relates to preferred location; siting, built form and design; streetscape; traffic and car parking; fencing; landscaping; advertising signage; and general amenity.

Whilst it is acknowledged that the site is located within a Residential 1 Zone and that the main purpose of the Residential 1 Zone is to provide for residential development, it is relevant to note that the zone also allows educational, recreational, religious, community and a limited range of other non-residential discretionary uses to serve local community needs, in appropriate locations.

It is considered that as the site has an existing mixed use, which encompasses residential, commercial (book shop) and educational, and which regularly hosts a number of community events, the proposed changes will not result in unreasonable detriment to the character of the area or the amenity of the neighbour. This is particularly apparent when taking into account the scale of the proposed café being limited to a maximum of 18 patrons, and the hours of operation being

limited to 7:30am to 4:30pm, seven days per week. Having said that, the proposed hours are considered to be somewhat excessive and should be reduced so that a better balance and integration with nearby residential uses is achieved. It is noted that the early mornings are appropriate to reflect the expectations that the majority of patrons will be park users. A condition will therefore limit the hours of operation to 8:30am to 4:30pm Monday to Saturday and 9am to 4:30pm Sundays.

The setting of Landcox Park immediately beyond Mavis Avenue to the south is also not detrimentally impacted by virtue of the proposed café use being mostly contained within an existing building, rather than a new building.

On balance, it is considered that the degree of change from that which currently exists to that which is proposed is not substantial when compared to a situation where the site has been used for 'other' less intensive use. It is further considered that the proposal complies with the stated objectives of Clause 22.09 (Discretionary uses in a Residential 1 Zone) of the Bayside Planning Scheme, in that the buildings and works are limited, access arrangements are as existing, and minimal nuisance will arise as a result of the proposed patron numbers and hours of operation.

An objector raised a concern relating to the apparent relaxation of the zoning of the land. Whilst the application does propose a commercial use in an established residential area, each case is treated on its own merits, and should this proposal prove to be acceptable, it does not in any way set a precedent for the intensification of commercial uses in the immediate vicinity, or the "relaxation" of the purpose of the Residential 1 Zone.

Buildings and works in a Heritage Overlay

The subject site is located within Heritage Overlay Schedule 231 (1-7 Mavis Avenue, E Brighton - "Landcox"), where external paint controls apply. Accordingly, the application has been referred to a Heritage Advisor, who notes that *"the application relates to a non-significant element of the heritage place and has no impact on heritage aspects of the site, and consequently there are no heritage concerns with it. The classroom block to the east is of some heritage interest and a Modernist addition, but the proposal does not impact on this building in any serious way. Therefore, the proposal is supported in heritage terms"*.

It is also important to note that no significant heritage features of the site are proposed for demolition, which is limited to fencing and some windows on the non-heritage buildings. It is therefore clear that the proposal complies with the decision guidelines at clause 43.01 of the Bayside Planning Scheme, and the objectives of Clauses 21.09 and 22.06 of the Bayside Planning Scheme.

Traffic & Car Parking

A reduction in car parking requirements is governed by considerations contained in Clause 52.06 of the Bayside Planning Scheme.

The proposed use is not specified in the car-parking table at Clause 52.06-5 of the Bayside Planning Scheme. Off-street parking must therefore be provided to the satisfaction of the Responsible Authority. The application was referred to Council's Engineer who advised that the car parking demand will be in the range of 4-8 car spaces, at a rate of 0.2 – 0.4 spaces per seat. The submitted plans indicate that no off-street parking is proposed.

A waiver of four (4) to eight (8) car parking spaces is required and it is considered that this number of vehicles can be absorbed by the availability of parking in the surrounding area, particularly as it is expected that most users of the café will be locals or people already in the area for shared or multi-purpose trips (for example to visit family or friends, or the nearby Landcox Park) who have

arrived either by car or by foot, as the use is not large enough to attract people from outside the immediately surrounding area, and holds no regional importance.

Short-term parking is readily available in the surrounding streets, including Mavis Avenue itself and along the perimeter of Landcox Park. It is noted that Council's Traffic Engineers supports the proposed waiver of car parking.

The proposed waiver of the car parking requirement is considered reasonable in this instance, and is therefore supported.

Objector Concerns

The following concerns raised by objectors are not planning related, and have therefore not been taken into consideration:

- Impact on children's playground
- Need for a café in the area
- Impact on access to Landcox Park
- Inadequate staff numbers for proposed use
- Decreased land and house values

General amenity concerns submitted by objectors relating to refuse and litter, noise and other pollution have been taken into consideration, and conditions will be attached to any permit issued requesting a waste management plan, and controlling any noise generated together with the general amenity levels.

CONCLUSION

It is considered the proposal is appropriate for the site and subject to permit conditions, should one issue, the proposal will not have a detrimental impact upon the streetscape, neighbourhood character or the amenity of adjoining properties. It is therefore considered appropriate that the application be approved subject to conditions.

RECOMMENDATION

That Council having caused notice of Planning Application No. P09/0624-1 to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of the land known and described as **5 Mavis Avenue Brighton East** for the **Use of the site for a café and associated reduction in car parking, and part demolition, buildings and works in a Heritage Overlay** in accordance with the **application plans received 18 November 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 use and 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 plans received 18 November 2009 but modified to show, to the satisfaction of the Responsible Authority:

- a) A clear demolition plan, showing all fences, walls, windows and any other structures to be demolished.
 - b) Clear dimensions on all floor plans and elevations, showing lengths, widths and heights as appropriate.
 - c) Correct labelling of elevations.
 - d) Deletion of advertising signage.
2. P4 Layout not altered
 3. A1 General Amenity
 4. A2 Hours of operation (8:30am to 4:30pm Monday to Saturday and 9am to 4:30pm Sundays).
 5. A4 Limit on number of patrons (eighteen (18)).
 6. A10 Noise control (N-1)
 7. Before the development and use commences a waste management plan is to be submitted to the satisfaction of the responsible authority detailing garbage and recycling storage areas, types of bins/vehicles, frequency of collection, times of collection, location of collection point for vehicles etc. Waste collection is not to affect the amenity of the area or traffic flow and must be managed in accordance with the approved waste management plan.
 8. PT1 Time for starting and completion.

Permit Notes

- N2 Building approval
- N3 Health approval
- N4 No signs

1.10 **13 Worthing Road, Highett**
Notice of Decision to Grant a Permit
Application No: 2009/604/1 Ward: Central

City Strategy/Statutory Planning
 File No: 2009/0604/1

APPLICATION DETAILS

Land/Address:	13 Worthing Road, Highett
Application is for:	Alterations and additions to an existing dwelling (including a second storey) on a lot less than 500 square metres
Ward:	Central
Application Number:	2009/0604/1
Applicant's/Owner's Name:	Maria Papas C/- Concept Studio
Date Received:	13 November 2009
Statutory Days Expiry:	29 April 2010
Zoning:	Residential 1 Zone
Overlays:	Design and Development Overlay Schedule 2
Under what clause(s) is a permit required?	Clause 32.01-3 – Extension of one dwelling on a lot less than 500 square metres
Restrictive covenants on the title?	No
Current use and development:	Single storey dwelling
Objections:	Three (3)

PROPOSITION

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

PROPOSAL

It is proposed to undertake alterations and additions to an existing dwelling (including a second storey) on a lot less than 500 square metres.

Details of the proposal include:

- Second storey addition comprising a retreat and a bedroom (with walk in robe, ensuite and balcony).

SUBJECT SITE & LOCALITY

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

The site has a total area of 373 square metres. It is the front unit of a previous dual occupancy development and currently contains:

- A single-storey, red brick dwelling with an attached garage on the southern side.

The main site/locality characteristics are:

- Across Wolseley Street to the **north**, at 15 Worthing Road, contains four, attached, single-storey dwellings.
- The adjoining property to the **south**, at 11 Worthing Road, contains a single-storey dwelling.
- The adjoining property to the **west**, at 10 Wolseley Street, contains a single-storey dwelling.
- Across Worthing Road to the **east**, at 14 and 16 Worthing Road, contain a single storey dwelling and a double-storey dwelling.

PERMIT/SITE HISTORY

- Planning Permit No. 99/4434 was issued on 30 August 1999 for the development of one single-storey dwelling at the rear of the property (plans subsequently amended and permit expired on 30 August 2001).
- Planning Permit No. 2000/5861 was issued on 28 September 2000 for a two (2) lot (vacant) subdivision.
- Planning Permit No. 2002/7764 was issued on 24 December 2002 for the construction of a single storey dwelling on a lot less than 500m² in a Special Building Overlay (the rear lot now known as 10 Wolseley Street).

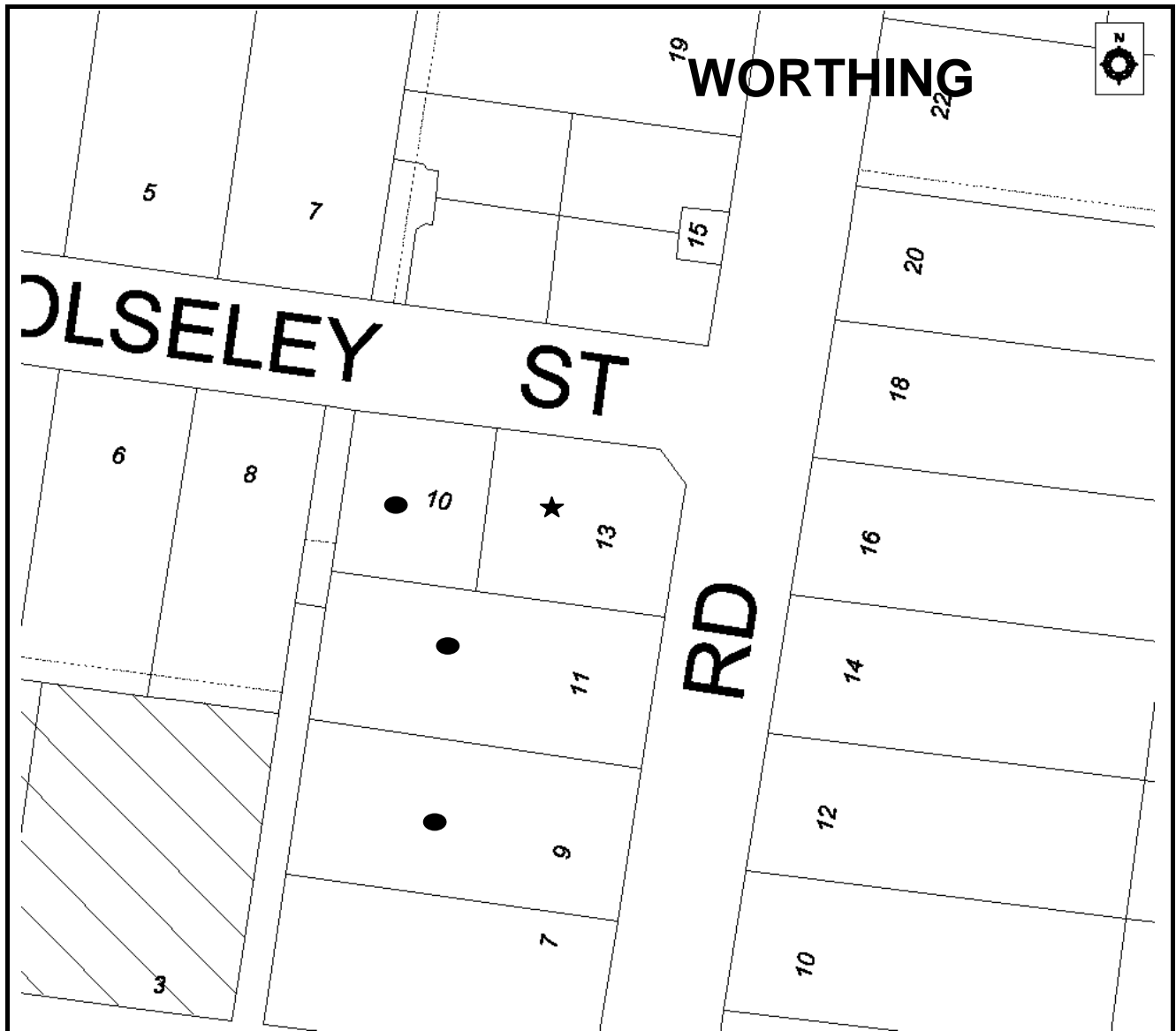
PUBLIC NOTIFICATION

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 three (3) objections to date.

LOCALITY MAP – 13 WORTHING ROAD, HIGHTT


Legend	
Subject Site	★
Objectors	●

The key issues that were raised in the objections are:

- Overlooking
- Overshadowing
- Verandah shown on existing floor plans does not have a permit
- Overloading the common drain line
- Potential asbestos removal

CONSULTATION

The applicant was offered a consultation meeting and chose not to have one.

REFERRALS

External Referrals/Notices by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	N/A
Section 52 Notices	Notices to all the owners and occupiers of the adjoining properties and two (2) signs erected on the site.

Internal Council Referrals	Advice/Response/Conditions
Urban Designer	No objection subject to permit conditions should one issue (see discussion in neighbourhood character assessment)
WSUD	No objection. Applicant should consider rainwater collection from the upper floor, for re-use in existing dwelling or garden.
SDAPP	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 16.02 Housing - Encourages well-designed medium density housing that respects the character of the neighbourhood and improves housing choice, use of infrastructure and energy efficiency.
- Clause 19.03 Design and Built Form - Encourages architectural and Urban Design outcomes that contribute positively to local Urban Character.

Municipal Strategic Statement

- Clause 21.04 -2 Overarching Goals – outlines the overarching goals for land use and development within the municipality to encourage design outcomes that contribute to the sense of place and respect and enrich the local environment.

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

Zoning

- Clause 32.01 - Residential 1 Zone - Encourages residential development at a range of densities, with a variety of dwellings to meet the housing needs of all households and to encourage residential development that respects neighbourhood character. **The zone requires a planning permit for the proposed residential development. The Schedule to the zone incorporates requirements specific to Bayside.**

Overlays

- Clause 43.02 - Design and Development Overlay Schedule 2 - Aims to achieve architectural and urban design outcomes that contribute positively to urban character and enhance the public realm whilst minimising detrimental impact on neighbouring properties. It seeks to preserve the existing character and amenity of the areas as low-rise suburban areas with a strong garden character; to maintain the prevailing streetscape rhythm, building scale and height of neighbourhood; and to maintain a strong landscape character with buildings set within vegetated surrounds. **The proposal does not require a planning permit in this overlay, as the dwelling does not exceed two (2) storey or 9 metres in height measured above the natural ground level.**

Particular Provisions

- Clause 54 Alterations and additions to an existing dwelling on a lot less than 500 square metres - Includes specific objectives and standards for residential development.

General Provisions

- Clause 65 - Decision Guidelines - Sets out decision guidelines for the Responsible Authority to consider so as ensuring 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, with a consideration of planning principles and issues raised by the objectors.

Neighbourhood Character

The subject site is located within Neighbourhood Character Precinct G1 pursuant to Clause 22.07 of the Bayside Planning Scheme. The policy outlines a series of aims and objectives to preserve and enhance the character of the Bayside's municipality. The preferred character statement for Precinct G1 states:

“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.”

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

It is considered that the proposed upper floor addition meets the objectives of the Neighbourhood Character Precinct G1 Guidelines. The existing site coverage is not increased by the proposal, and the garden setting of the dwelling is therefore maintained in its current form. In addition, no trees are proposed for removal, and no high and/or solid fencing is proposed, thus ensuring that the impact of the extension is limited to the visual appearance of the upper floor addition. In this respect, the overall maximum height of the dwelling including the second storey addition will not exceed 6.86m. The proposed upper floor walls are well articulated through the use of horizontal and timber cladding, windows are well proportioned, and the roof form is contemporary and appropriate in terms of neighbourhood character. The proposed east-facing balcony does not project any further into the front setback than the ground floor of the existing dwelling, and is sufficiently setback from the western side to ensure that it will not appear incongruous.

Council's Urban Designer does not object to the proposal. It was clear from an inspection of the various house types and roof forms found in the surrounding area that ridged and gable roof forms are evident, and that there is also evidence of newer, contemporary designs. The low-profile pitched roof form does not dominate the building, and will not appear incongruous in the streetscape, particularly as it helps to limit the overall height of the proposed additions. On balance it is therefore considered that the overall design is suitable and appropriate in the context, without detriment to the neighbourhood character of the surrounding area.

Setbacks

Ground floor setbacks are not altered by the proposed additions. All setbacks referred to in this assessment therefore relate to the first floor.

The front setback of the proposed addition to the eastern property boundary (facing Worthing Road) will vary from 8.43 to 9.81 metres. This setback will be in excess of the requirements of the Schedule 1 pursuant to the Residential 1 Zone of the Bayside Planning Scheme, which requires 7 metres.

The side setback of the proposed addition to the northern property boundary (facing Wolseley Street) will be setback 6.08 metres. This setback will be in excess of the requirements of the Schedule 1 pursuant to the Residential 1 Zone of the Bayside Planning Scheme, which requires 2 metres.

The side setback of the proposed addition to the southern property boundary will be 3 metres. This setback will be short of the requirements of Schedule 1 attached to the Residential 1 Zone of the Bayside Planning Scheme by 0.44 metres, which requires 3.44 metres. Despite this non-compliance, due to the height of the wall on the south side being limited to approximately 6 metres, amenity impacts to the adjoining dwelling to the south are limited, in that the proposed addition does not result in the loss of daylight to north-facing windows, nor will it result in unacceptable visual bulk as it is located adjacent to a built form rather than any area of private open space. The lack of compliance on the south is therefore considered acceptable in this instance.

The rear setback of the proposed addition to the western property boundary will vary from 3.72m to 4.8m. These setbacks will be partly short of the requirements of Schedule 1 attached to the Residential 1 Zone of the Bayside Planning Scheme by 1.08 metres, which requires 4.8 metres. The reduced rear setback of 3.72 metres to a 2.77 metres length of wall to the ensuite, is considered reasonable in this instance, as the overshadow cast by the proposed addition will be over the roof area of the adjoining dwelling to the west during the morning only.

Overlooking

The proposed development fully complies with the requirements of the Bayside Planning Scheme in that the sill heights of the south and west facing windows at first floor have a minimum 1.7 metres sill height above finished floor level.

Overshadowing

The shadow diagrams submitted with this application have been checked and found to be correct.

Due to the orientation of the subject site, and the pattern of built form immediately to the north and west, any additional shadows fall within existing shadows, over existing built form, or over the side garden and driveway of the dwelling to the south. No north-facing windows of the adjoining dwelling to the south will suffer a loss of daylight as a result of this proposal. No areas of private open space to the adjoining property will be unreasonably overshadowed by the proposed development.

The objector's concern relating to the loss of daylight to windows in the adjoining dwelling to the west are noted, however, shadows over windows to the west are limited to the early part of the day, due to the orientation of the subject site. In any case additional shadows to the west mostly fall over existing built form, thus ensuring that the proposal complies with the requirements of the standard.

Energy Efficiency

The proposed development is considered to be reasonably energy efficient. Good access to daylight and natural ventilation is provided by reasonably sized fenestration, with west-facing windows provided with solar screening by virtue of the overhanging eaves, assisting with reducing harsh solar access during warmer months. The proposal does not demonstrate any methods for the provision of water sensitive urban design, although there are adequate storage areas within the development to allow for water tanks and/or other measures, and this can be facilitated via a permit condition, should one issue.

Objector Concerns

Concerns relating to asbestos removal and any overload of the drainage system are not a planning consideration. Comments submitted by the objectors relating to the existing verandah shown on the ground floor plan are noted. This verandah has been referred to Council's Building Inspector, who advises that no building permit exists for the structure and a Building Notice has been sent to the owner. A planning permit is not required for this structure as the structure is less than 3 metres in height, with a finished floor level less than 800mm above natural ground level. The plans lodged with the application show existing conditions and consideration of the verandah cannot be made in determining this application.

CONCLUSION

It is considered the proposal is appropriate for the site and subject to permit conditions, should one issue, the proposal will not have a detrimental impact upon the streetscape, neighbourhood character or the amenity of adjoining properties. It is therefore considered appropriate that the application be approved subject to conditions.

RECOMMENDATION

That Council having caused notice of Planning Application **No.2009/0604/1** 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 **13 Worthing Road Highett for alterations and additions to an existing dwelling (including a second storey) on a lot less than 500 square metres** in accordance with the application dated **13 November 2009** and revised plans dated **21 January 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, 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 generally in accordance with the revised plans lodged with Council on 21 January 2010 but modified to show:
 - a) Water sensitive Urban Design - stormwater treatment measures in accordance with Condition 5 of this permit.
 - b) Sill height of 1.7m above finished floor level for all first floor west and south facing windows.
2. P4 Layout not altered
3. Before the occupation of the second storey addition 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 to the satisfaction of the responsible authority.
4. A18 Concealment of pipes
5. Before the commencement of works, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be in accordance with the guidelines outlined in Clause 22.10 of the Bayside Planning Scheme and must show:-
 - (a) The type of water sensitive urban design stormwater treatment measures to be used;
 - (b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaping areas;
 - (c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections;

- (d) 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.

6. PT1 Time for starting and completion

Permit Notes

- N2 Building Approval
N7 Retention of existing street trees
N10 Asset Protection

STANDARD OF THE BAYSIDE PLANNING SCHEME

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

Title and Objective	Complies with Standard?	Requirement and Proposed
A1 Neighbourhood Character Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.	Yes	See report.
A2 Integration with Street Integrate the layout of development with the street.	N/A	No change
A3 Street Setback Setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site	N/A	No change
A4 Building Height Building height respects the existing or preferred neighbourhood character.	Yes	Maximum: 9m Proposed: 6.86m
A5 Site Coverage Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.	N/A	No change
A6 Permeability Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.	N/A	No change
A7 Energy Efficiency Achieve and protect energy efficient dwellings. Ensure the development's orientation and layout reduce fossil fuel energy use and makes appropriate use of daylight and solar energy.	Yes	See report
A8 Significant Trees Development respects the landscape character of the neighbourhood and retains significant trees on site.	N/A	N/A
A9 Parking Ensure car parking is adequate for the needs of residents.	N/A	N/A
A10 Side and Rear Setbacks Ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on	No	Required Setbacks: North: 3.44m South: 3.44m

the amenity of existing dwellings.		West: 3.8m Proposed Setbacks: North: 6.08m South: 3.0m West: 3.72m to 4.8m
A11 Walls on Boundaries Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.	N/A	N/A
A12 Daylight to Existing Windows To allow adequate daylight into existing habitable room windows.	Yes	N/A
A13 North Facing Windows Allow adequate solar access to existing north-facing habitable room windows.	Yes	See report.
A14 Overshadowing Open Space Ensure buildings do not unreasonably overshadow existing secluded private open space.	Yes	See report.
A15 Overlooking Limit views into existing secluded private open space and habitable room windows	Yes	See report.
A16 Daylight to New Windows Allows adequate daylight into new habitable room windows.	Yes	See report.
A17 Private Open Space Provide adequate private open space for the recreation and service needs of residents.	N/A	No change
A18 Solar Access to Open Space Allow solar access into secluded private open space of a new dwelling.	N/A	N/A
A19 Design Detail Encourage design detail that respects the existing or preferred neighbourhood character.	Yes	See report.
A20 Front Fences Encourage front fence design that respects the exiting or preferred neighbourhood character.	N/A	No change

1.11 **1 Regent Street, Brighton East**
Notice of Decision to Grant a Permit
Application No. 2009/687/1 Ward: Central

City Strategy/Statutory Planning
 File No: 2009/687/1

APPLICATION DETAILS

Land/Address:	1 Regent Street, Brighton East
Application is for:	Two (2) double storey side by side dwellings
Melway Reference:	76 G2
Ward:	Central
Application Number:	2009/687/1
Applicant's/Owner's Name:	CH Architects Pty Ltd
Date Received:	24 December 2009
Statutory Days Expiry:	5 April 2010
Zoning:	Residential 1 Zone
Overlays:	Design and Development Overlay – Schedule 2
Under what clause(s) is a permit required?	Clause 32.01 – 4: Construction of two or more dwellings on a lot.
Restrictive covenants on the title?	No
Current use and development:	Residential
Objections:	Three (3) objections

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 side-by-side dwellings of an asymmetric layout.

At ground floor each dwelling is provided with a double garage with storage area, entry, study, powder room, bedroom with ensuite and B.I.R., formal living with direct connectivity to a courtyard, open plan kitchen, dining and informal living area, butler's kitchen and laundry. Each dwelling is provided with 100 sqm of private open space to the rear, including pool, with a northern orientation.

At first floor both dwellings each contain three (3) bedrooms with ensuite and W.I.R.

SUBJECT SITE & LOCALITY

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

The subject site is located on the north side of Regent Street, approximately 50 metres to the east of Hampton Street, Brighton East.

The site is regular in shape with a 21.34 metre frontage to Regent Street, a depth of 43.28 metres and a site area of 923.6 sqm.

A double storey Californian Bungalow exists on site, which is constructed of weatherboard with gabled roof. Large pillars support the dwelling's front verandah, which is a characteristic of this architectural style.

The dwelling is setback approximately seven (7) metres from the property frontage.

The natural ground level has a fall of 0.44 metres from the west to east side of the site.

The site is currently provided with two vehicle crossovers located towards the property's eastern and western sides, with the western crossover leading to a double garage.

The site's private open space is located to the rear of this dwelling and includes an in ground pool.

A number of trees are located along the property frontage and to the rear of the subject site.

The main site/locality characteristics are:

- To the north is the rear boundary wall to No. 2 Lucas Street comprising a single storey brick veneer dwelling and the private open space to No. 4 Lucas Street, Brighton East.
- To the east is No. 3 Regent Street a double storey brick dwelling with terracotta tiled roof, setback 7.4 metres from Regent Street.
- To the west is No. 1B Regent Street, a single storey brick dwelling which is partially screened from Regent Street by way of a 1.7 metre high sleeper wall fence.
- To the south is Regent Street with single and double storey dwellings located further south on this street.

PERMIT/SITE HISTORY

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

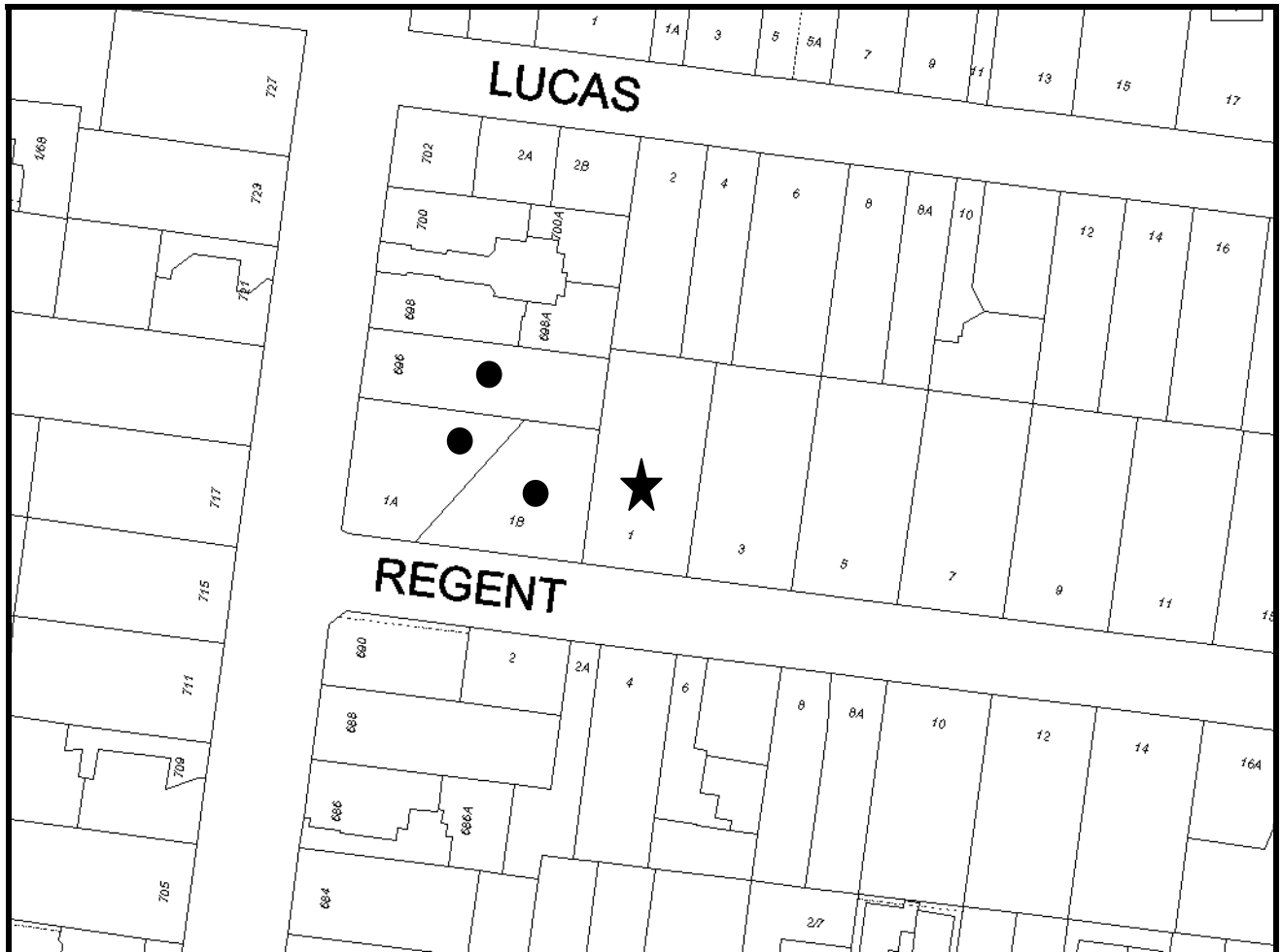
PUBLIC NOTIFICATION

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 (1) sign on site (facing Regent Street).

The notification has been carried out correctly.

Council has received three (3) objections to date.

Locality Map – 1 Regent Street, Brighton East


Legend	
Subject land	★
Location of objectors	●

The key issues that were raised in the objections are:

- Visual bulk
- Overlooking
- Overshadowing
- Length of wall on boundary
- Landscaping
- Design
- Car parking
- Loss of existing house

CONSULTATION

Consultation was not undertaken at the request of the applicant.

REFERRALS

External Referrals/Notices by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	N/A
Section 52 Notices	Letters sent to adjoining property owners and occupiers and one (1) notice placed on site (facing Regent Street).

Internal Council Referrals	Advice/Response/Conditions
Urban Designer	No objection, subject to conditions.
Traffic Engineer	No objection.
Aboricultural 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.
- **Clause 19.03 Design and Built Form** - Encourages architectural and Urban Design outcomes that contribute positively to local Urban Character.

Municipal Strategic Statement

- **Clause 21.04 – Vision and Overarching Goals** – 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 E1.

- **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 run off.

Zoning

- **Clause 32.01 – Residential 1 Zone** – Provides for residential development at a range of densities with a variety of dwellings to meet the housing needs of all households, 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 E1.

The preferred future character statement reads:

"The well articulated dwellings with roof eaves are set within spacious landscaped grounds. In some streetscapes, there is a continued presence of pre WW2 era dwellings, with complementary new development. Dwellings do not dominate the streetscape and vegetation appears to wrap around the buildings. The sense of spaciousness is retained by the dwellings being set back from front and side boundaries, which also provides space for garden planting. Buildings incorporate a variety of materials or design details providing visual interest within the streetscape."

The precinct guidelines for this area are as follows:

Objective	Design Response	Avoid
To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.	<ul style="list-style-type: none"> Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in the design of new development. Alterations and extensions should retain the front of these dwellings. 	<i>Demolition of dwellings that contribute to the valued character of the Precinct.</i>
To maintain and enhance the garden settings of the dwellings.	<ul style="list-style-type: none"> Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. Retain large trees and provide for additional trees wherever possible. 	<i>Lack of landscaping and substantial vegetation.</i> <i>Removal of large trees.</i>
To provide space for front gardens.	<ul style="list-style-type: none"> Buildings should be sited to allow space for the planting of trees and shrubs. 	<i>Loss of front garden space.</i>
To maintain the rhythm of spacious 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 minimise the loss of front garden spaces and the dominance of car parking structures.	<ul style="list-style-type: none"> Locate garages and carports behind the line of the dwelling. Minimise paving in front garden areas including driveways and crossovers. 	<i>Car parking structures that dominate the façade or view of the dwelling.</i> <i>Front setbacks dominated by impervious surfaces.</i>
To ensure new development respects the dominant building form and scale of buildings in the Precinct.	<ul style="list-style-type: none"> Recess second storey elements from the front façade. Articulate front facades, and provide roofs with eaves. 	<i>Reproduction of historic building styles.</i>
To respect the identified heritage qualities of adjoining	<ul style="list-style-type: none"> Where adjoining an identified heritage building, respect the height, building 	<i>Buildings that dominate heritage buildings by height,</i>

Objective	Design Response	Avoid
buildings.	forms, siting and materials, of the heritage building/s in the new building design.	<i>siting or massing.</i> <i>Period reproduction detailing.</i>
To encourage building facades to add visual interest to the streetscape.	<ul style="list-style-type: none"> Use a mix of materials, colours and finishes in building facades, drawn from the palette commonly found in the area. 	<i>Excessive use of render or one material on external wall surfaces.</i>

The precinct guidelines for this area encourage the retention of established trees on site and the enhancement of garden settings, the minimisation of car parking structures within the front setback of properties, and visual separation between dwellings through the use of setbacks. A mixture of building materials and finishes is encouraged to create a visually interesting façade to the streetscape.

A total of four (4) trees are proposed for removal to make way for the development. Additionally the application proposes the retention of canopy trees within the front and rear setback of the property. The application was accompanied by a concept landscape plan, which allows for the meaningful provision of vegetation on site including canopy trees, small to medium shrubs, screen plantings and other ground cover. It is considered that the proposed landscaping on site is acceptable and will provide appropriate on and off site amenity. The application was internally referred to Council's Arborist who raised no objection to the proposal.

Each dwelling is provided with a double garage, setback 8.3 metres for Dwelling 2 and 8.4 metres for Dwelling 1, constructed boundary to boundary at the front. Boundary to boundary development is discouraged in Precinct E1 of Clause 22.07 of the Bayside Planning Scheme, with the relevant objective *'to maintain the rhythm of spacious visual separation between buildings'*. It is recommended that a condition on permit, should one issue, require the garage to Dwelling 1 to be setback 1.5 metres from the western side boundary, to improve the visual separation of the dwellings and reduce the perception of boundary-to boundary development in a manner that is consistent with the prevailing streetscape character.

Council's Urban Designer considered that the architectural feature next to the garage and study of Dwelling 1 (i.e. tall pier shown on the southern elevation of TP05) is lacking effect and should be more pronounced, for it to be a feature. It is recommended that a condition on permit, should one issue, require that the proposed feature pier be extended 500mm forward to the street or alternatively by increasing the vertical pier by 500 mm. This minor alteration will improve the overall design integrity of the building in terms of articulation and visual interest to the street. As such, it is therefore considered that subject to the above condition the proposal is considered acceptable in urban design terms.

Setbacks

Front Setback

The proposed development has a staggered front setback of 7.6 metres to the front study of each dwelling, which increases to a setback of 8.4 metres to each garage.

Standard B6 of the Schedule to the Residential 1 Zone requires a front setback of 9 metres to match the greater of the two adjoining properties. The proposal is not compliant with this requirement by 1.4 metres.

The adjoining property to the west has a front setback of 7.6 metres, and is typical of front setbacks in the streetscape. The proposed front setback to the dwelling walls matches this

setback, and increases the setback to 8.4 metres to each garage. It is also of note that the proposed front setback is greater than the current setback for the existing property on site.

As such, it is considered that the proposed staggered setback is consistent with the prevailing streetscape character, and results in an adequate depth for good planting opportunities and a with staggered façade profile that assists with reducing any apparent visual dominance to the street.

Side and Rear Setbacks

The ground floors of both dwellings comply with the side and rear setback requirements of Schedule to the Residential 1 Zone of the Bayside Planning Scheme.

The first floor of the proposed development partially complies with the side and rear setback requirements of Standards B17 in the Schedule to the Residential 1 Zone of the Scheme, as tabled below:

Standard B17 Side and Rear Setbacks	
Required:	Proposed:
<u>Ground Floor</u>	<u>Ground Floor</u>
<i>North (rear) : 3 m</i>	<i>North: 5.5 m</i>
<i>East: 0 - 2 m</i>	<i>East: 0-2 m</i>
<i>West: 0 - 2m</i>	<i>West: 0 – 2m</i>
<u>First Floor</u>	<u>First Floor</u>
<i>North: 4.86 m – 6.18 m</i>	<i>North: 11.7 m</i>
<i>East: 3.92 m – 4.38 m</i>	<i>East: 3.8 m – 5.2 m</i>
<i>South: N/A</i>	<i>South: N/A</i>
<i>West: 3.74 m – 4.18 m</i>	<i>West: 3.8 – 5.1 m</i>

Dwelling 2 does not fully comply with the Schedule to the Residential 1 Zone requirements, by 100mm. It is considered that the extent of non-compliance is acceptable and will not result in unreasonable visual bulk or overshadowing impacts to the adjoining properties.

Rear Setback

At first floor both dwellings are to have a rear minimum setback of 11.7 metres, with a setback of ranging between 4.86 – 6.18 metres required. The proposal comfortably complies with the requirements of the Schedule to the Residential 1 Zone.

Walls on the boundary

The garage wall of both dwellings is to be built along both the eastern and western property boundary for a length of 9.3 metres, with a wall height of 3.6 metres.

The length of wall on the boundary complies with requirements of Standard B18 in which a total of 20.82 metres can be built to the boundary.

The height of the proposed wall at 3.6 metres on the boundary does not comply with Standard B18 requirements, in which an average height of three (3) metres is required, with no part greater than 3.6 metres.

A condition to the permit should a permit issue, would require that all walls are to have average wall height of no greater than three (3) metres to meet the requirements of Standard B18 of Clause 55 to the Bayside Planning Scheme. As outlined within the neighbourhood character section of

this report, a condition of a 1.5 metre setback is required to the garage of Dwelling 1 in accordance with the preferred neighbourhood character of the area.

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 50% in accordance with the schedule.

Permeability

The proposal results in a permeability of 35% 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. Remaining first floor windows have obscure glazing to a height of 1.7 metres above floor level, however this is not clearly nominated on the plans.

A condition to the permit, should a permit issue will require that these first floor windows are obscurely glazed to a height of 1.7 metres above floor level to prevent overlooking to adjoining properties and comply with Standard B22 of the Bayside Planning Scheme.

Overshadowing

The shadow diagrams submitted with this application indicate that the adjoining property at No. 1B Regent Street (to the west) will have its front garden and part rear garden partially overshadowed during the morning hours as a result of the proposal. During the afternoon the adjoining property at No. 3 Regent Street will have additional shadow cast towards the property's front setback as a result of the proposal. The proposed additional shadow cast is considered acceptable and will not result in unreasonable amenity impacts to adjoining properties and complies with the requirements of Standard B21 of Clause 55 to the Bayside Planning Scheme.

Private Open Space

The subject site is orientated in a north-south direction, with both dwellings provided with 100 sqm of secluded private open space to the rear of the property, including pool. The north facing private open space has direct connectivity to the dwellings living areas and will ensure appropriate sunlight access.

The proposal meets the requirements of Standard B28 of Clause 55 of the Bayside Planning Scheme.

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 site allows for good solar penetration, with the use of north facing private open space areas for both dwellings. These private open space areas 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 the dwellings.

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. Each dwelling has five (5) bedrooms and is provided with two (2) car spaces in a double car garages accessible by separate crossovers.

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

Landscaping/Vegetation

Two canopy trees within the front setback and two to the rear of the property are proposed for removal to make way for the development.

The application was internally referred to Council's Arborist who commented that there is no vegetation on site that is suitable for retention. A *Melaleuca lanceolata* located at No. 4 Lucas Street, approximately 1 metre from the southern boundary. A condition to the permit should a permit issue would require that the appropriate measures are undertaken to enable protection of this tree during construction.

Street Trees

Two (2) street trees are located within the nature strip of the subject site.

The application was internally referred to Councils Aboricultural Officer who has no objection to the proposal, subject to conditions for adequate tree protection.

Objections

A total of two (2) objections have been received for this application. In summary, the concerns raised related to visual bulk, overlooking, extent of wall on boundary and overshadowing, landscaping, traffic, design, and loss of the existing house.

It is considered that the majority of the concerns raised have been taken into consideration in the above assessment and are addressed by the previously recommended permit conditions.

The existing house is not considered to be significant and its demolition does not require a planning permit as the site is not subject to heritage controls. Further, there is no objective under Clause 22.07 of the Bayside Planning Scheme to retain existing housing stock.

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. 2009/687/1** 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 **1 Regent Street, Brighton** for the construction of **Two (2) double storey side-by-side dwellings** in accordance with the **advertised plans dated 24 December 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 advertised plans dated 24 December 2009 but modified to show to the satisfaction of the Responsible Authority:
 - a) The garage to Dwelling 1 be setback 1.5 metres from the western side boundary.
 - b) The feature pier of Dwelling 1 be extended 500mm forward to the street or alternatively by increasing the vertical height of the pier by 500 mm to appear more pronounced as an architectural feature.
 - c) First floor windows of Dwelling 1 and 2 which have the potential for overlooking to adjoining properties must be obscurely glazed in accordance with Standard B21 (overlooking) of Clause 55 of the Bayside Planning Scheme.
 - d) The location of garbage and recycling bin shown on the plans.
 - e) Water sensitive urban design stormwater treatment measures to be provided in accordance with Condition 19 of this permit.
 - f) The proposed landscape treatment for the site including the existing and proposed species in accordance with Condition 10 of this permit, including the indication of the tree protection zone for the *Melaleuca lanceolata* located at No. 4 Lucas Street further north of the subject site as outlined within Condition 12.
3. P4 Layout not altered
4. 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.
5. A18 Concealment of pipes
6. A19 Plant / Equipment or features on roof
7. A20 Boundary walls
9. CP7 Vehicular crossing
10. L1 Landscape plan required
11. L2 Completion of landscaping.

12. 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
Melaleuca lanceolata (further north at No.4 Lucas Street, Brighton).	1 metre from south boundary and 5 m from the west boundary
Streets Trees	Tree protection fence to encompass the entire nature and to be erected prior to demolition and to be maintained until all works are complete.

13. T9 Retention of existing street trees
14. T10 Retention of existing trees.
15. 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.
16. 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.
16. Any seepage / agricultural drainage water must be filtered to rain water clarity and must be pumped to the nearest Council Drain /Pit and not be discharged to the kerb and channel unless directed otherwise.
17. E4 Stormwater plans
18. E5 Graded and drained discharge.
19. 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.
- These plans must be accompanied by a report from an industry accepted performance measurement tool, which details the treatment performance achieved and demonstrate 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.
20. 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
- N8 Sewerage

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

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

STANDARD OF THE BAYSIDE PLANNING SCHEME

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

Title and Objective	Complies with Standard?	Requirement and Proposed
<p>B1 Neighbourhood Character</p> <p>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.</p> <p>Development responds to features of the site and surrounding area.</p>	Yes	See report.
<p>B2 Residential Policy</p> <p>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.</p> <p>Support medium densities in areas to take advantage of public transport and community infrastructure and services.</p>	Yes	See report.
<p>B3 Dwelling Diversity</p> <p>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</p>	N/A	N/A
<p>B4 Infrastructure</p> <p>Provides appropriate utility services and infrastructure without overloading the capacity.</p>	Yes	Can be addressed through a permit condition.
<p>B5 Integration with the Street</p> <p>Integrate the layout of development with the street</p>	Yes	Both dwellings are oriented to face Regent Street and provide adequate and pedestrian access, which enhances local accessibility
<p>B6 Street Setback</p> <p>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</p>	No	<p>Required: 9 metres</p> <p>Proposed: 7.6 metres</p> <p>It is considered that the non compliant front setback proposed is acceptable and respects the preferred neighbourhood character of the area.</p>
<p>B7 Building Height</p> <p>Building height should respect the existing or preferred neighbourhood character.</p>	Yes	<p>Required: 9 metres</p> <p>Proposed: 7.1 metres</p>
<p>B8 Site Coverage</p> <p>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</p>	Yes	<p>Required: 50%</p> <p>Proposed: 50%</p>

B9 Permeability Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.	Yes	Required: 20% Proposed: 35%
B10 Energy Efficiency Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.	Yes	Both dwellings are provided with north facing private open space with living areas to the north of the development at ground floor.
B11 Open Space Integrate layout of development with any public and communal open space provided in or adjacent to the development.	N/A	N/A
B12 Safety Layout to provide safety and security for residents and property.	Yes	Both dwellings are provided with dwellings entries which are easily identifiable from the streetscape and surveillance to the street.
B13 Landscaping To provide appropriate landscaping. To encourage: <ul style="list-style-type: none"> • Development that respects the landscape character of the neighbourhood. • Development that maintains and enhances habitat for plants and animals in locations of habitat importance. • The retention of mature vegetation on the site. 	No	Can be addressed through a permit condition.
B14 Access Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.	Yes	Existing crossovers to be incorporated into the proposal.
B15 Parking Location Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.	Yes	Both dwellings are provided with double garages, which are secure and conveniently located for future residences.

<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>No.</p>	<table border="1"> <tr> <td data-bbox="924 595 1141 1200"> <p>Required:</p> <p><u>Ground Floor</u></p> <p>North: 3 m</p> <p>East: 0 - 2 m</p> <p>South: N/A</p> <p>West: 0 - 2m</p> <p><u>First Floor</u></p> <p>North: 4.86 m – 6.18 m</p> <p>East: 3.92 m – 4.38 m</p> <p>South: N/A</p> <p>West: 3.74 m – 4.18 m</p> </td> <td data-bbox="1141 595 1358 1200"> <p>Proposed:</p> <p><u>Ground Floor</u></p> <p>North: 5.5 m</p> <p>East: 0-2 m</p> <p>South: N/A</p> <p>West: 0 – 2m</p> <p><u>First Floor</u></p> <p>North: 11.7 m</p> <p>East: 3.8 m – 5.2 m</p> <p>South: N/A</p> <p>West: 3.8 – 5.1 m</p> </td> </tr> </table>	<p>Required:</p> <p><u>Ground Floor</u></p> <p>North: 3 m</p> <p>East: 0 - 2 m</p> <p>South: N/A</p> <p>West: 0 - 2m</p> <p><u>First Floor</u></p> <p>North: 4.86 m – 6.18 m</p> <p>East: 3.92 m – 4.38 m</p> <p>South: N/A</p> <p>West: 3.74 m – 4.18 m</p>	<p>Proposed:</p> <p><u>Ground Floor</u></p> <p>North: 5.5 m</p> <p>East: 0-2 m</p> <p>South: N/A</p> <p>West: 0 – 2m</p> <p><u>First Floor</u></p> <p>North: 11.7 m</p> <p>East: 3.8 m – 5.2 m</p> <p>South: N/A</p> <p>West: 3.8 – 5.1 m</p>
<p>Required:</p> <p><u>Ground Floor</u></p> <p>North: 3 m</p> <p>East: 0 - 2 m</p> <p>South: N/A</p> <p>West: 0 - 2m</p> <p><u>First Floor</u></p> <p>North: 4.86 m – 6.18 m</p> <p>East: 3.92 m – 4.38 m</p> <p>South: N/A</p> <p>West: 3.74 m – 4.18 m</p>	<p>Proposed:</p> <p><u>Ground Floor</u></p> <p>North: 5.5 m</p> <p>East: 0-2 m</p> <p>South: N/A</p> <p>West: 0 – 2m</p> <p><u>First Floor</u></p> <p>North: 11.7 m</p> <p>East: 3.8 m – 5.2 m</p> <p>South: N/A</p> <p>West: 3.8 – 5.1 m</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>No – to height of wall proposed.</p>	<p>Maximum length permitted: 20.82 metres</p> <p>Proposed: 9.3 metres</p> <p>The height of the proposed wall on the boundary does not comply with Standard B18 requirements, in which an average height of three (3) metres is required with a maximum height of 3.6 metres proposed.</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>		

B22 Overlooking Limit views into existing secluded private open space and habitable room windows.	Yes	See report, addressed via permit condition.
B23 Internal Views Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.	Yes	See report.
B24 Noise Impacts Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.	Yes	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: 40 sqm of private open space, 25 sqm of secluded private open space. Proposed: 100 sqm
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.	Yes	Storage space is proposed within the garage of each dwelling
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	No fence is proposed.

<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>N/A</p>	<p>There is no common property.</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>

1.12 **3/430 Balcombe Road, Beaumaris**
Notice of Decision to Grant a Permit
Application No. 2009/575/1 Ward: Southern

City Strategy/Statutory Planning
 File No: 2009/575/1

APPLICATION DETAILS

Land/Address:	3/430 Balcombe Road, Beaumaris
Application is for:	Alterations and addition to an existing dwelling on a lot less than 500 square metres
Melway Reference:	86 D5
Ward:	Southern
Application Number:	2009/575/1
Applicant's/Owner's Name:	Mrs K N Sutton
Date Received:	6 November 2009
Statutory Days Expiry:	1 March 2010
Zoning:	Residential 1
Overlays:	Design and Development Overlay Schedule 2 Vegetation Protection Overlay Schedule 3
Under what clause(s) is a permit required?	Clause 34.01-3 Extension to a dwelling on a lot less than 500 square metres
Restrictive covenants on the title?	No
Current use and development:	Double storey dwelling
Objections:	Two (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 a ground floor extension to the existing dining area with a balcony above. The ground floor extension has an area of approximately 6 square metres and the balcony has an area of 6 square metres.

SUBJECT SITE & LOCALITY

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

The site has a total area of 191 square metres and currently contains:

- A double storey attached dwelling, originally part of a multi unit development.

The main site/locality characteristics are:

- The adjoining property to north at 4/430 Balcombe Road contains a double storey attached dwelling that shares a common wall with the subject site.
- The adjoining property to the west at 3/434-436 Balcombe Road contains a double storey dwelling.
- To the south are two properties at 4/434 Balcombe Road which contains a single storey dwelling and 3/430 Balcombe Road which contains a single storey dwelling.
- To the east (opposite) is a double storey dwelling.

PERMIT/SITE HISTORY

On 29 November 1972, Planning Permit No. M0597 was issued for the construction of 12 two storey flats at 430-432 Balcombe Road Beaumaris.

PUBLIC NOTIFICATION

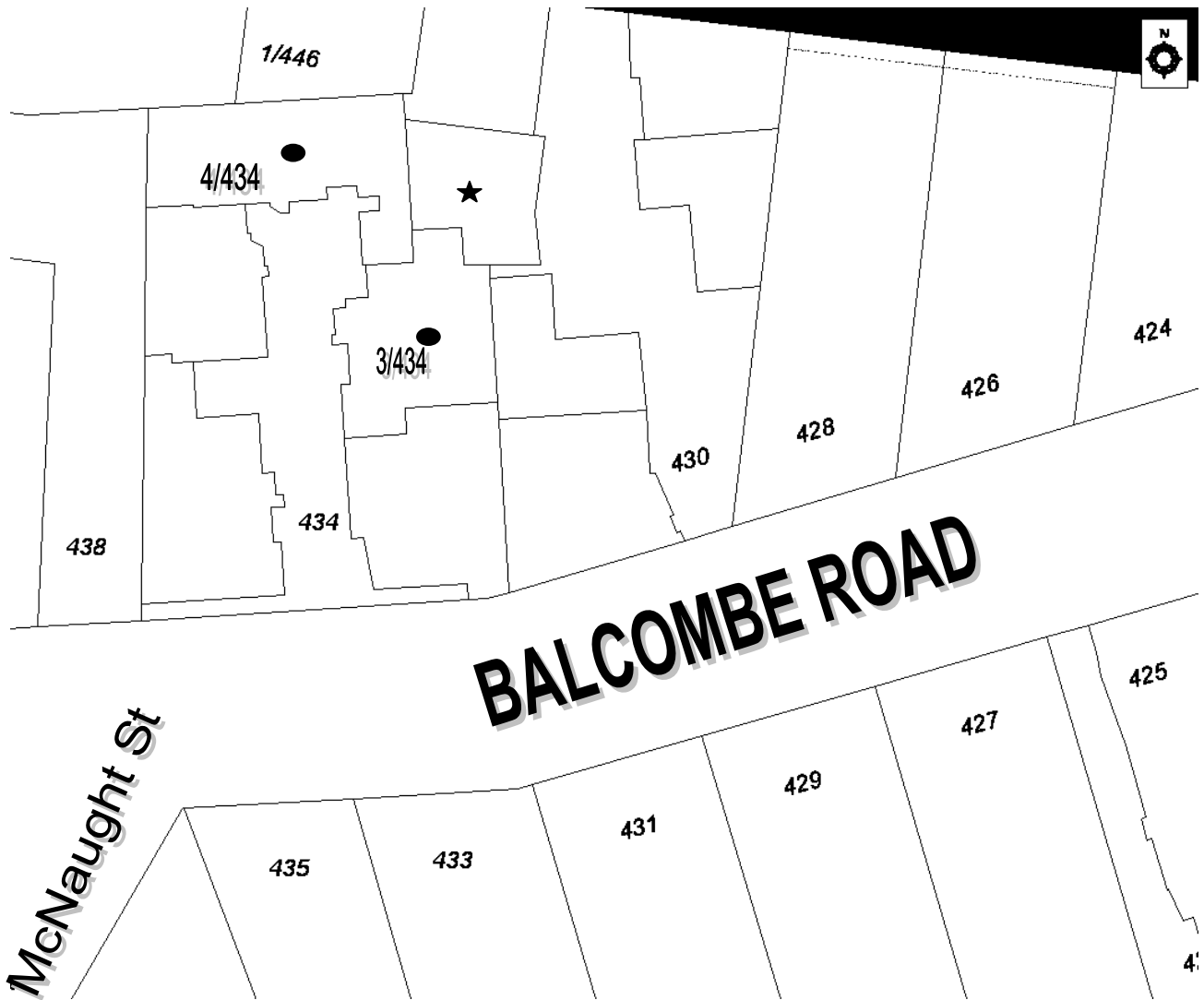
The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by:

- Sending notices to the owners and occupiers of adjoining land

The notification has been carried out correctly.

Council has received two (2) objections to date.

Locality Map



Legend	
Subject Site	★
Objectors	●

The key issues that were raised in the objections are:

- Inappropriate setback
- Overlooking
- Noise

CONSULTATION

A Consultation was not undertaken. The applicant did not respond to an invitation to attend a consultation meeting.

REFERRALS

External Referrals/Notices by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	N/A
Section 52 Notices	Notice to all the owners and occupiers of the adjoining properties and a sign erected on the site.

Internal Council Referrals	Advice/Response/Conditions
N/A	Internal referrals were not required due to the nature of the application and that no trees will be impacted upon.

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 21.04-2 Vision and Overarching Goals – outlines the overarching goals for land use and development within the municipality to encourage design outcomes that contribute to the sense of place and respect and enrich the local.
- Clause 21.05 – Housing – Details the objectives, strategies and implementation guidelines to facilitate quality design outcomes that make a positive contribution to the character and amenity of the area.

Local Planning Policies

- Clause 22.07-1 - 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 - 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.

Zoning

- Clause 32.01 - Residential 1 Zone - Encourages residential development at a range of densities, with a variety of dwellings to meet the housing needs of all households and to encourage residential development that respects neighbourhood character. The zone requires a planning permit for the proposed residential development. The Schedule to the zone incorporates requirements specific to Bayside.

A planning permit is required under Clause 32.01-3 for alterations and additions on a lot less than 500 square metres.

Overlays

- Clause 43.02 - Design and Development Overlay Schedule 2 - Aims to achieve architectural and urban design outcomes that contribute positively to urban character and enhance the public realm whilst minimising detrimental impact on neighbouring properties. It seeks to preserve the existing character and amenity of the areas as low-rise suburban areas with a strong garden character; to maintain the prevailing streetscape rhythm, building scale and height of neighbourhood; and to maintain a strong landscape character with buildings set within vegetated surrounds.

The overlay does not trigger the requirement for a planning permit, as the proposal does not exceed 9 metres or two (2) storeys in building height.

- Clause 42.02 Vegetation Protection Overlay Schedule 3 - Seeks to prevent the loss of native and particularly indigenous vegetation incurred by development, to retain the amenity, aesthetic character and habitat value of Australian native vegetation and indigenous vegetation in particular within the Beaumaris and Black Rock area and to promote the regeneration and replanting of indigenous species in the Beaumaris and Black Rock area.

The overlay does not trigger the requirement for a planning permit, as no native trees will be removed.

Particular Provisions

- Clause 54 which includes specific objectives and standards for alterations and additions on a lot less than 500 square metres.

General Provisions

- Clause 65 – Decision Guidelines - 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 an assessment of the relevant planning issues and areas of non-compliance, considering planning principles and issues raised by the objectors.

Neighbourhood Character

The subject site is located within Character Area H3 as identified in Clause 22.07 of the Bayside Planning Scheme. The Preferred Future Character Statement states that:

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

The relevant provisions include:

Objective	Design Response	Avoid
To strengthen the bushy garden character of the area through the planting of appropriate species.	<ul style="list-style-type: none"> Retain large established trees and understorey, and provide for the planting of new indigenous trees wherever possible (locate footings outside root zone). Prepare a landscape plan to accompany all applications for new dwellings that utilises appropriate native, preferably indigenous, vegetation. Minimise impervious surfaces particularly in front garden spaces to ensure space for plantings. 	<p><i>Lack of landscaping and substantial vegetation.</i></p> <p><i>Removal of large established trees.</i></p> <p><i>Planting of environmental weeds</i></p>
To maintain the rhythm of spacious visual separation between buildings and ensure adequate space is provided around buildings for the retention and planting of vegetation.	<ul style="list-style-type: none"> Buildings should be sited to allow space for a garden, including trees and shrubs. Buildings should be sited to create the appearance of space between buildings and accommodate vegetation. 	<p><i>Loss of front garden space.</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. 	<p><i>Period reproduction styles and detailing.</i></p>

It is considered that the proposal meets the neighbourhood character objectives. The proposed addition will not impact on the neighbourhood character of the area as it is not visible from the street, is setback from the side and rear boundaries and proposes a low overall scale that will not impact on the existing backyardscapes. The proposed development is consistent with the character of the existing dwellings in the immediate area. It is therefore considered that the proposed development complies with Clause 22.07 of the Bayside Planning Scheme.

Overlooking

The proposed balcony will result in unreasonable overlooking of the adjoining properties private open space areas to the north, south and west. The balcony is to be setback only 3 metres from the western boundary and 2 metres from the northern boundary and has a balustrade to height of 1 metre. To minimise any unreasonable overlooking a condition will be included on any permit issued requiring the balcony to be screened to a height of 1.7 metres above its floor level on all sides to comply with Standard A15 (Overlooking) Clause 54 of the Bayside Planning Scheme.

Setbacks

The rear setback proposed at 3 metres and side setback from the north elevation at 2 metres fully complies with the Bayside Planning Scheme – Schedule to the Residential Zone. The proposed setbacks are considered appropriate and will not impact on the adjoining properties.

Private Open Space

The secluded private open space is proposed to be reduced by 6 square metres, leaving 41 square metres. An additional 6 square metres of private open space will be provided by the proposed balcony. The private open space area complies with Standard A17 Clause 54 of the Bayside Planning Scheme and is considered appropriate.

Site Coverage

The proposed 6 square metre extension will increase site coverage from 61% to 64% which does not comply with Standard A5 of Clause 54 of the Bayside Planning Scheme. The proposed site coverage is considered appropriate given that the proposal is adequately setback from the boundaries, the increase to the building footprint is negligible, and is considered to be consistent with the prevailing character of development.

Objector issues

A neighbour raised a concern in relation to noise. It is considered that any noise generated will be typical of a residential area.

CONCLUSION

The proposal is consistent with the neighbourhood character of the area and will not cause unreasonable impacts to the amenity of the adjoining properties in terms of overlooking with the inclusion of a condition on any permit issued. It is therefore recommended that a permit be issued.

RECOMMENDATION

That Council having caused notice of Planning Application **No. 2009/0575/1** 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 **3/430 Balcombe Road, Beaumaris** for **alterations and additions to an existing dwelling on a lot less than 500 square metres** in accordance with the

endorsed plans, with the advertised plans dated 22 October 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 plans dated 22 December 2009 but modified to show to the satisfaction of the Responsible Authority:
 - a. The balcony must be screened to a height of 1.7 metres above the floor level on all sides to comply with Standard A15 of Clause 54 of the Bayside Planning Scheme. Details of screening to be shown on the elevation plans.
2. P4 Layout not altered
3. PT1 Time for starting and completion

Permit Notes

N2 Building approval

STANDARD OF THE BAYSIDE PLANNING SCHEME

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

Title and Objective	Complies with Standard?	Requirement and Proposed
<p>A1 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>A2 Integration with Street</p> <p>Integrate the layout of development with the street.</p>	N/A	N/A
<p>A3 Street Setback</p> <p>Setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site</p>	N/A	N/A
<p>A4 Building Height</p> <p>Building height respects the existing or preferred neighbourhood character.</p>	N/A	N/A
<p>A5 Site Coverage</p> <p>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</p>	No	<p>Maximum: 50%</p> <p>Proposed: 64%</p>
<p>A6 Permeability</p> <p>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</p>	Yes	<p>At least: 20%</p> <p>Proposed: exceeds 20%</p>
<p>A7 Energy Efficiency</p> <p>Achieve and protect energy efficient dwellings.</p> <p>Ensure the development's orientation and layout reduce fossil fuel energy use and makes appropriate use of daylight and solar energy.</p>	N/A	N/A

A8 Significant Trees Development respects the landscape character of the neighbourhood and retains significant trees on site.	N/A	N/A	
A9 Parking Ensure car parking is adequate for the needs of residents.	N/A	N/A	
A10 Side and Rear Setbacks Ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.	Yes	Required: West: 3 metres North: 2 metres	Proposed: West: 3 metres North: 2 metres
A11 Walls on Boundaries Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.	N/A	N/A	
A12 Daylight to Existing Windows To allow adequate daylight into existing habitable room windows.	Yes	N/A	
A13 North Facing Windows Allow adequate solar access to existing north-facing habitable room windows.	N/A	N/A	
A14 Overshadowing Open Space Ensure buildings do not unreasonably overshadow existing secluded private open space.	N/A	N/A	
A15 Overlooking Limit views into existing secluded private open space and habitable room windows	Yes	See report.	
A16 Daylight to New Windows Allows adequate daylight into new habitable room windows.	Yes	N/A	
A17 Private Open Space Provide adequate private open space for the recreation and service needs of residents.	Yes	Required: 80sqm or 20% of the area of the lot, whichever is the lesser, but not less than 40sqm Proposed: 47sqm	

A18 Solar Access to Open Space Allow solar access into secluded private open space of a new dwelling.	Yes	N/A
A19 Design Detail Encourage design detail that respects the existing or preferred neighbourhood character.	Yes	N/A
A20 Front Fences Encourage front fence design that respects the existing or preferred neighbourhood character.	N/A	N/A