

**01 November 2011**

**To: The Principal Registrar  
Victorian Civil and Administrative Tribunal  
Ground Floor, 55 King Street  
Melbourne 3000**

**From: Beaumaris Conservation Society Inc.  
PO Box 7016  
BEAUMARIS 3193**

**Re: 29 Beach Road  
BEAUMARIS  
Application for Review No. P3048/2011  
Application for Planning Permit No. 2010/723/1**

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## **Background**

The following objection is made by Beaumaris Conservation Society Incorporated (BCS Inc.) to the proposal to construct six dwellings at [29 Beach Road, Beaumaris](#).

Beaumaris has a special character defined by its very distinctive and unusually varied natural coastal border to Port Phillip Bay, notable for its undulating topography and pronounced presence of indigenous coastal vegetation that ranges in size from tall Coastal Banksias to small bushes. Recognizing the need to both protect and promote this special character the Beaumaris Conservation Society Inc. was formed 58 years ago as the Beaumaris Tree Preservation Society. The name was changed to the Beaumaris Conservation Society (BCS) in 1970. BCS Inc. has a long and dedicated history of protecting and promoting the natural landscape character of Beaumaris.

From the 1950s, Beaumaris experienced substantial change as it became a major residential suburb. Despite pressure from development, Beaumaris retained a strong vegetation character, and many residents chose to build modest homes set amongst the trees and bush.

One of the finest examples of Beaumaris vegetation character can be observed in the southern end of the suburb at Point and Coral Avenues. Recognizing the character of these streets, the Bayside Planning Scheme Amendment C80 Panel Report May 2011 recommended these streets be protected by a Significant Landscape Overlay.

In recent years, the push for medium density development and large single dwellings has caused some of the most dramatic change with the distinctive vegetation character unable to withstand the overwhelming impact of site moonscaping and large dwellings that have compromised the available space for replacement vegetation.

In response to this threat a Vegetation Protection Overlay covering all of Beaumaris was introduced in 2003. This VPO3 has had some limited success in protecting Beaumaris vegetation character. More recently, Bayside City Council in March 2010<sup>1</sup> resolved that an amendment to the Bayside Planning Scheme be drafted to require residential development to set aside specific areas on properties for vegetation. Council is currently reviewing the strategic justification for this resolution<sup>2</sup>. The undertaking of this strategic work shows the commitment of Bayside City Council to ensuring the Bayside Planning Scheme gives clear direction to planners and developers on meeting the expectations for protecting vegetation character in Bayside.

### **Summary of BCS Inc. Objection**

BCS Inc's objection is based on non-compliance with side and rear setback requirements and a lack of provision for vegetation consistent with State and Local planning policies and the existing and preferred neighbourhood character.

This submission will address relevant State and Local Policy pertaining to Beaumaris neighbourhood character with particular reference to vegetation character.

### **State Planning Policy**

State Planning Policy requires:

*Planning authorities and responsible authorities should endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.*

State Planning Policy details a number of policies that must be taken into account when planning authorities and responsible authorities make decisions about planning. The proposal for medium density development at 29 Beach Road, Beaumaris, can be supported by several State Planning policies, and we refer to Part 16: Housing, which states:

*Planning should provide for housing diversity, and ensure the efficient provision of supporting infrastructure.*

To support this statement Part 16 contains the following objectives:

- To promote a housing market that meets community needs
- To locate new housing in or close to activity centres and employment corridors and at other strategic redevelopment sites that offer good access to services and transport.
- To provide for a range of housing types to meet increasingly diverse needs.

The objectives and strategies of State Planning Policy may support a proposal for medium density development at 29 Beach Road, Beaumaris. However, to be successful, the proposal

must survive conflict with critical objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. In this regard State Planning Policy includes a number of policies relevant for balancing these conflicting objectives

We refer to Part 15: Built Environment and Heritage:

*Planning should ensure all new land use and development appropriately responds to its landscape, valued built form and cultural context, and protect places and sites with significant heritage, architectural, aesthetic, scientific and cultural value. Creating quality built environments supports the social, cultural, economic and environmental wellbeing of our communities, cities and towns. Land use and development planning must support the development and maintenance of communities with adequate and safe physical and social environments for their residents, through the appropriate location of uses and development and quality of urban design.*

*Planning should achieve high quality urban design and architecture that:*

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

## **Beaumaris Vegetation Character and Sense of Place**

A critical element of Beaumaris urban character is the character defined by coastal vegetation. Today this vegetation character is protected and promoted by the Vegetation Protection Overlay VPO3.

Built environment and heritage State Planning Policy states that planning should achieve high quality urban design and architecture that reflects the particular characteristics, aspirations and cultural identity of the community. To gain an insight into the nature and importance of vegetation character in Beaumaris, and the contribution it makes to cultural identity, BCS Inc. refers you to the City of Bayside Vegetation Character Assessment report<sup>3</sup>, which recommended the introduction of a Vegetation Protection Overlay for Beaumaris and Black Rock and the Amendment C2 panel report<sup>4</sup>, which recommended implementing the VPO.

On Page 91 of their report the panel stated:

*An in-centre survey of 200 Bayside residents identified that the important physical qualities in the Bayside environment are the amenity of the area (42% of the responses), which includes elements such as streetscape, housing style and quality, and the beach (26%) which was*

also identified as a valued element of the Bayside environment. Vegetation management in both the public and private realms was identified as an extremely significant element of the amenity of Bayside. Trees were clearly defined as an extremely important element of the streetscapes throughout the City, with 72% of the residents placing primary importance on vegetation. Issues of concern included the use of native and exotic species, tree replacement, tree clearing and maintenance of Crown land and weed control.

The overview of vegetation character in Bayside in the City of Bayside Vegetation Character Assessment report states:

*The dominant vegetation contribution is generally located in the public space in the form of street tree planting. The exception is in the Black Rock and Beaumaris area where there is a high frequency of both private and public spaces contributing equally to vegetation character with similar or complementary species. The condition of trees is generally good.*

On Page 15, the report makes the following observations about vegetation character in Beaumaris:

#### 8.9 Beaumaris

Overall a high density of vegetation cover in both the streetscape and private space, making vegetation the dominant element of streetscape character. In comparison with other areas, Beaumaris has a higher density of both canopy and shrub layers, the majority of which is native or indigenous species.

*Private gardens tend to have a high proportion of canopy trees, particularly eucalypts, which relate well with the street tree character. Dwellings tend to be screened from the road.*

#### **Vegetation Protection Overlay VPO**

The **VPO3** makes the following statement of nature and significance of vegetation to be protected:

*The Vegetation Character Assessment (March 2000) report identifies significant vegetation characteristics that form a major element of a distinctive urban character in the municipality, particularly in Beaumaris and Black Rock. Remnant indigenous vegetation, complemented by plantings of Australian native species, contribute to the visual amenity and interest of the area, particularly where this vegetation is contiguous between private lands and adjoining public lands.*

The panel comments, statements in the Bayside Vegetation Character Assessment report and the VPO provide a consistent assessment that vegetation is a major determinant of the neighbourhood character in Beaumaris. As the Vegetation Character Assessment report states, vegetation in both the private and streetscape for Beaumaris makes vegetation the dominant element of streetscape character.

The Bayside Vegetation Character Assessment was also referenced in the development of the Bayside neighbourhood character review<sup>5</sup> and policy to provide an understanding of the links between the vegetation character and neighbourhood character objectives.

### **Neighbourhood Character Policy**

The Neighbourhood Character Policy defines the preferred future character for **Area H4** where 29 Beach Road, Beaumaris, is located.

The preferred future character for that Area H4 is described as follows:

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

#### **The preferred character will be achieved by:**

- Strengthening the bayside character of the area through the planting of indigenous coastal species;
- Ensuring buildings are set back from both side boundaries;
- Ensuring car parking structures and vehicular access do not dominate the streetscape;
- Encouraging innovative architecture that reflects the coastal setting;
- Using building materials and finishes that complement the coastal location;
- Ensuring development adjacent to the foreshore is designed to provide an interesting and attractive built form interface;
- Encouraging the use of no or low, open style front fencing; and
- Encouraging building design along Beach Road that is responsive to the coastal edge.

#### **Issues / Threats**

- Buildings, including car parking facilities, that dominate the streetscape.
- Buildings that do not reflect the coastal setting.
- Heavy design detailing.
- Loss of coastal species and exclusive use of exotic species.
- Boundary to boundary development.
- Formal street treatments where informal treatments exist.

## The Proposal at 29 Beach Road, Beaumaris

The proposal for 29 Beach Road, Beaumaris, ignores the attributes listed above for achievement of the preferred character, and presents many of the issues and threats listed there.

The proposal defies those attributes by comprising a very large structure of six dwellings that

- leaves inadequate setback for shade-free area for planting of indigenous species large enough to “strengthen the bayside character of the area” and - according to Bayside City Council’s officers’ report - for the protection and long term health of the impressively large **Coast Banksia (*Banksia integrifolia*)** tree on the site.
- does not meet - according to Bayside City Council’s officers’ report - the standards for side and rear setbacks of the Bayside Planning Scheme.
- creates vehicular access by a ramp that can disgorge up to twelve vehicles at a time into a section of adjacent street at a straight section of Cliff Grove that is only 50 metres long between a major arterial road that is difficult to access because of its heavy traffic and poor sight lines (Beach Road), and a rather blind bend at the intersection of a small court, and
- fails to adopt a style that reflects, complements or is responsive to the coastal setting, location or edge.

It is recognized that the applicant’s scope is restricted by the limitation that necessarily applies to the positioning of structures by the presence of the significant indigenous landmark tree on the lot. Nevertheless the tree predates any planning scheme for the area, and has been clearly evident for many years as an aspect of redevelopment of the land that must be taken into serious consideration when assessing a proposal for this lot, including its obvious effect on the economics of any transfer of land ownership and subsequent proposed development

The present lot includes a consolidation of one lot from the original subdivision and half of what had been an adjoining lot of the same size. A bare lot of that 50 x 150 foot original lot size elsewhere in Beaumaris is now able in certain cases to be developed with a maximum of 3 dwellings, with a corresponding number of car parking spaces. If 29 Beach Road, Beaumaris, did not have the large protected tree, its lot size could, *pro rata*, appear to be allowed to be developed with 4 dwellings, but not 5 dwellings, which would be a higher density than the normal maximum of 3 dwellings for a 50 x 150 foot lot. Six dwellings, with associated car parking is in excess of that density that Beaumaris is currently experiencing elsewhere, and would be an undesirable precedent for a massive increase in housing density and traffic congestion.

A proposal for a four-dwelling single structure with more modest external dimensions, aspects and footprint could balance the State policy requirement to increase the supply and diversity of housing while also more positively contributing to the local urban character and sense of place. The excavation proposed could be reduced in volume by some 30% with its edge moved significantly further from the vital soil habitat needed to sustain the Coast Banksia, leaving it far less at risk of losing too much soil moisture storage volume near it.

There are numerous examples of emerging medium density and single development in Beaumaris - which some may argue are representative criteria for preferred neighbourhood character. Unfortunately these developments are inappropriate to Beaumaris due to visual bulk, inadequate provision for vegetation (including canopy vegetation) and the planting of exotics.

Applying examples of *inappropriate* emerging character is an entirely improper criterion. BCS Inc. urges the Tribunal not to apply that particular criterion.

The existing residents of Cliff Grove are entitled to receive the same respect for their amenity as the rest of Beaumaris. This position was affirmed in the VCAT decision [Bardoel Building Company Pty Ltd v Bayside CC \[2009\] VCAT 1362 \(22 July 2009\)](#)<sup>6</sup> for a proposal at 66 Reserve Road, Beaumaris. The VCAT member affirmed the Bayside City Council decision that no permit be granted stating:

*Whilst there is strong policy support for the redevelopment of this property with an increased density of housing, the number of dwellings (ie two or three dwellings or more) needs to be determined in the context of the proposed building forms and landscaping. It is important that the buildings on this site and associated pools, spas, patios, decks, driveways and pedestrian walkways are all balanced to ensure that the buildings fit into the neighbourhood which has a strong presence of native vegetation and a planning control and associated policies that seek to maintain and enhance the landscape characteristics of this area. I am not persuaded that this design has achieved that balance and so I have affirmed the Council's decision to refuse to grant a permit for this proposal.*

A subsequent less intensive development was later permitted, and has now been built by that company.

## Summary

The proposal at 29 Beach Road, Beaumaris, with its non-complying side and rear setbacks, will lead to an outcome that will dominate the site and crowd out the opportunity for substantial vegetation. It does not fit in, and falls short of the preferred character where bushy gardens, not the structure, dominate the streetscapes.

The Beach Road streetscape here is a well-defined coastal boundary to the Melbourne Metropolitan Area that is remarkable because of its position on one of the highest coastal roads close to Melbourne. Furthermore, that road is bordered on its seaward side by the longest stretch of intact foreshore bushland without any concrete, vehicle intrusion, or structures, in any of the three coastal municipalities closest to Melbourne east of the Yarra River as far as Seaford.

In August 2011, the Victorian Environment Assessment Council, in its report on its Investigation into Public Land in the Melbourne Metropolitan Area, made its [Recommendation E4](#) for the creation of the three hectares of foreshore land between Charman Road and Hutchison Avenue, Beaumaris, which is directly opposite 29 Beach Road, Beaumaris, as a Nature Reserve.

The striking coastal landscape along Beach Road here has motivated calls by Councils for Beach Road to be proclaimed a Scenic Boulevard. Its scenic qualities are valued because of its growing contrast with the more regimented increasingly built-up area it borders. Those scenic qualities derive mostly from the coastal reserve, but they are greatly enhanced when the development opposite is consistent with its treed and bushy character.

Excessively large structures, such as the 6-dwelling ambit claim involved in the proposal for 29 Beach Road, where setbacks are inadequate and car storage more resembles an industrial or commercial style than a residential one, impair this distinctive stretch of the coastal border of the Melbourne metropolis.

While State Planning Policy involves growth and change, it also recognizes the importance of local urban character and sense of place. Over recent years, Bayside City Council (and others including residents and ratepayers) have devoted considerable effort and expense undertaking studies and detailed articulation of the preferred character objectives. Unfortunately we still have medium and single developments in Beaumaris that fail these objectives.

In Beaumaris the most dominant preferred character is vegetation, and Beaumaris Conservation Society Inc. submits that this proposal does not adequately respond to this fundamental requirement. It does not comply and it does not fit in.

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<sup>1</sup>Ordinary Meeting of Bayside City Council 16 March 2010

<sup>2</sup> Ordinary Meeting of Bayside City Council 13 December 2010

<sup>3</sup> City of Bayside Vegetation Character Assessment Final March 2000, John Patrick Pty. Ltd Landscape Architects

<sup>4</sup> Amendment C2, Bayside Planning Scheme, Report of a Panel, August 2001

<sup>5</sup> Bayside Neighbourhood Character Review August 2004 Page 110 – 111