

**STATUTORY PLANNING COMMITTEE**  
**14 APRIL 2008**

<b>B1</b>	<b>61-67 Alexandra Street, East St Kilda</b>
<b>ADDRESS:</b>	<b>61-67 Alexandra Street, East St Kilda</b>
<b>PROPOSAL:</b>	<b>Partial demolition, buildings and works (within a Heritage Overlay Area) to increase the capacity of an existing educational facility</b>
<b>WARD:</b>	<b>Alma</b>
<b>NEIGHBOURHOOD</b>	<b>East St Kilda</b>
<b>TRIGGER FOR DETERMINATION BY STANDING COMMITTEE:</b>	<b>Councillor request</b>
<b>APPLICATION NO:</b>	<b>829/2007</b>
<b>APPLICANT:</b>	<b>Fredman Malina Planning Pty Ltd</b>
<b>EXISTING USE:</b>	<b>Rabbinical College of Australia and New Zealand (Education Centre)</b>
<b>ABUTTING USES:</b>	<b>Residential dwellings</b>
<b>ZONING:</b>	<b>Residential 1 Zone</b>
<b>OVERLAYS:</b>	<b>Heritage Overlay No. 19 (Individual Citation No. 288 – ‘Holmwood’)</b>
<b>STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL:</b>	<b>Expired</b>
<b>RESPONSIBLE EXECUTIVE DIRECTOR:</b>	<b>Geoff Oulton, Executive Director City Development</b>
<b>AUTHOR:</b>	<b>Maggie Pridmore, Urban Planner</b>

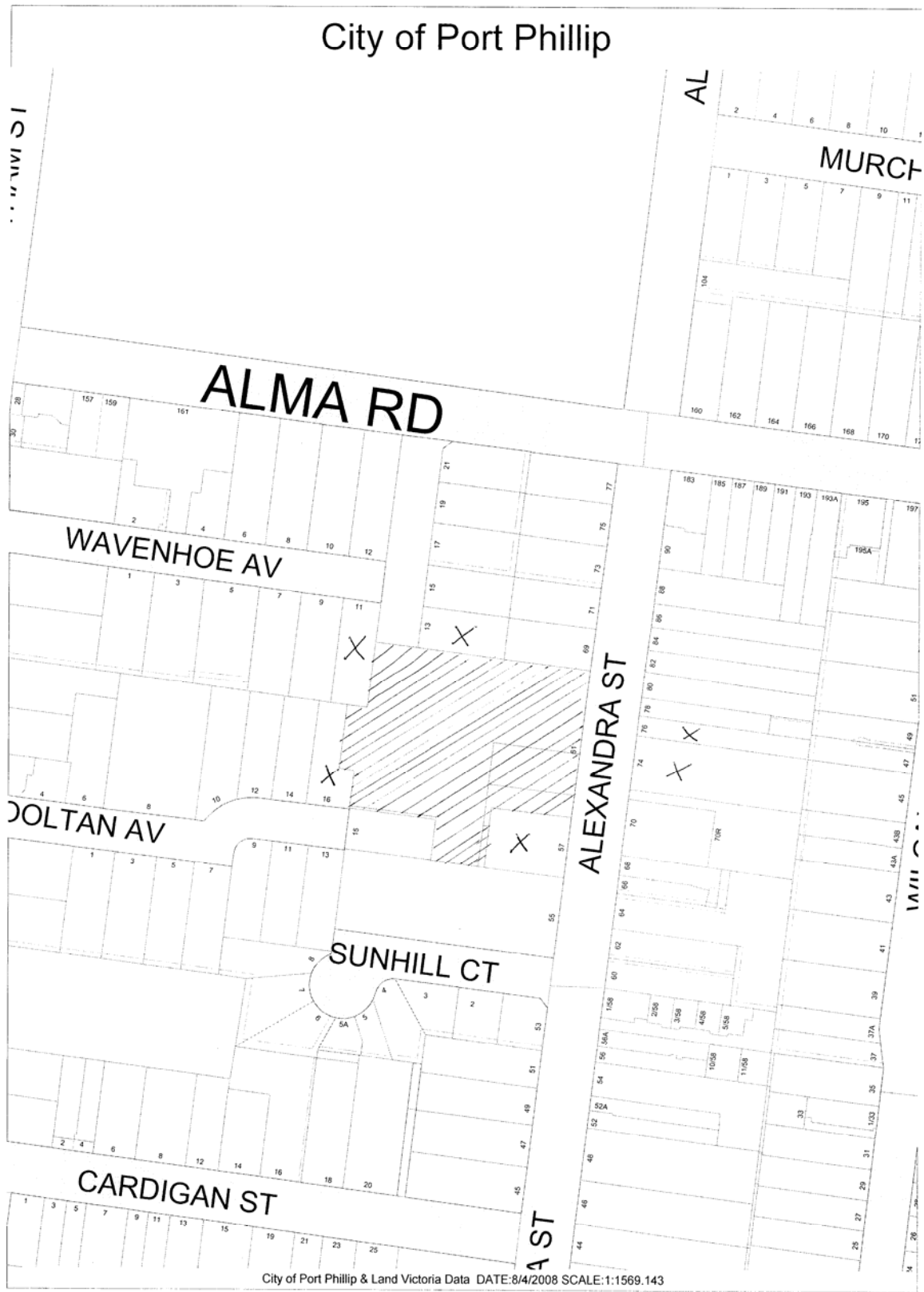
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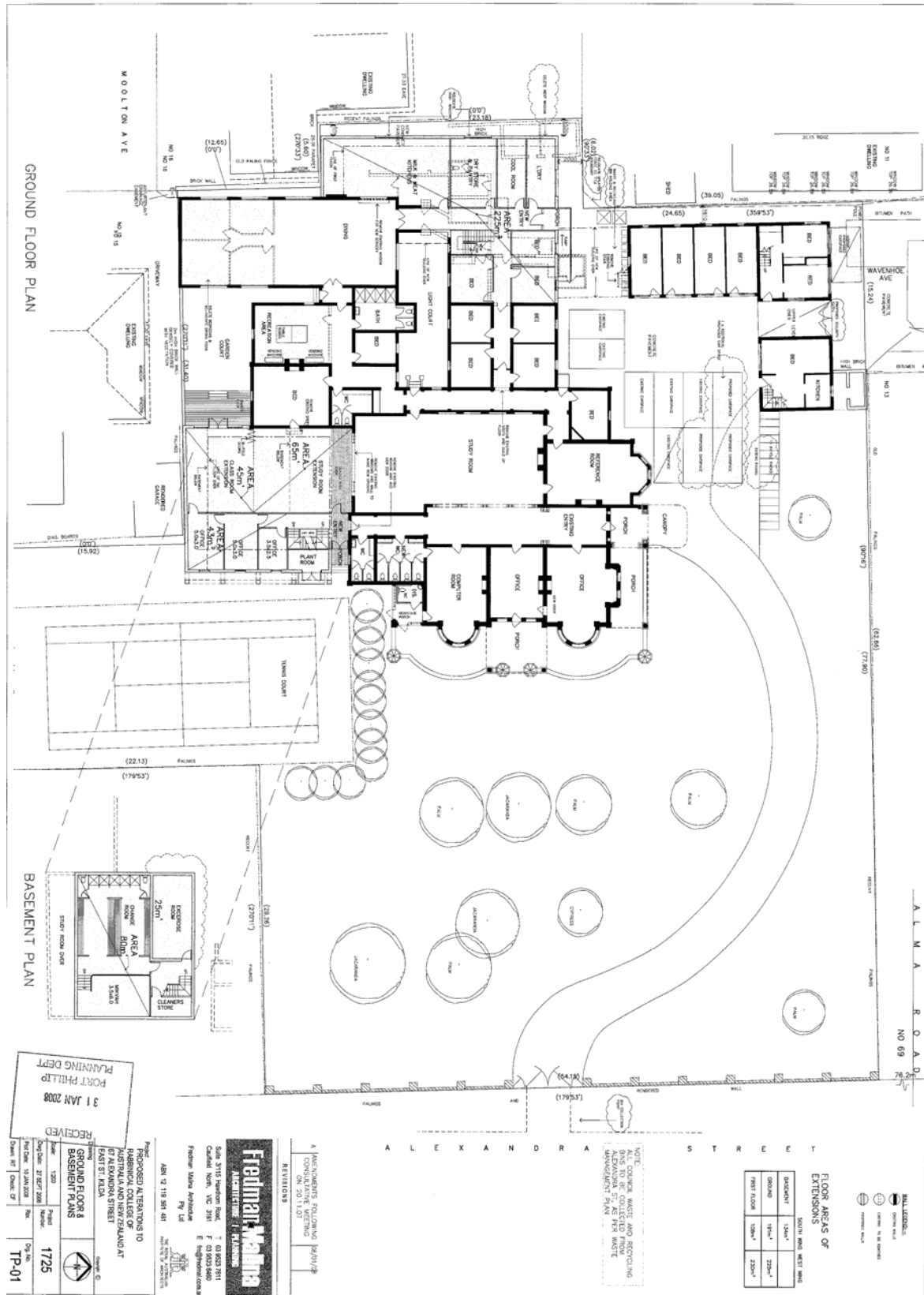
**1. EXECUTIVE SUMMARY**

- 1.1. The application seeks approval for partial demolition, ground and first floor construction at the rear and at the side of the existing buildings to increase capacity of the educational facility.
- 1.2. The application was advertised and attracted six (6) objections. Grounds were largely related to amenity, noise and parking. In addition, the objections expressed concerns with visual bulk and proximity to boundaries, potential overlooking, overshadowing and loss of daylight and noise.
- 1.3. It is recommended that the proposal be supported subject to conditions regarding waste management, noise, hours of operation (congregation and deliveries), traffic and parking.

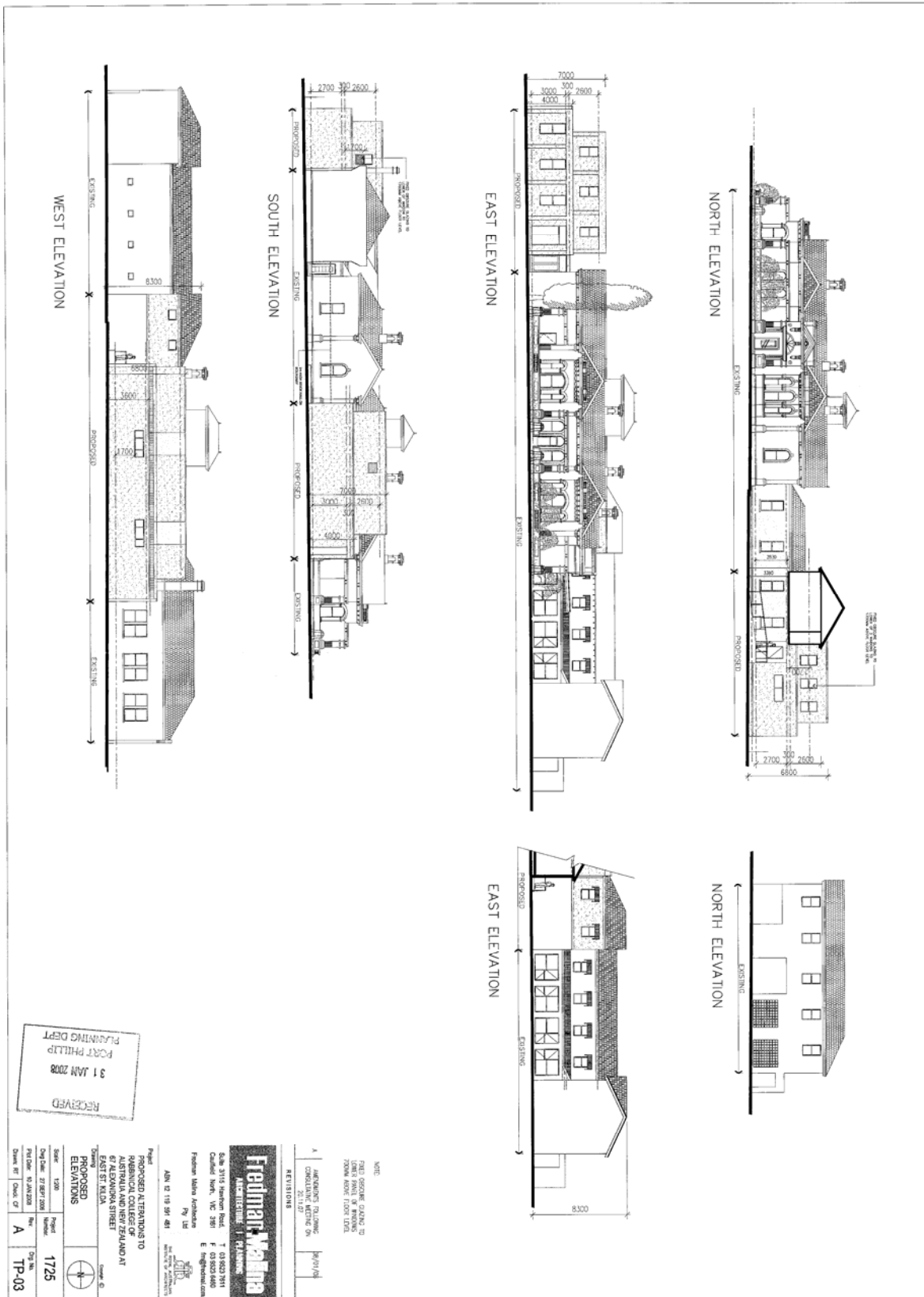
KEY ISSUES

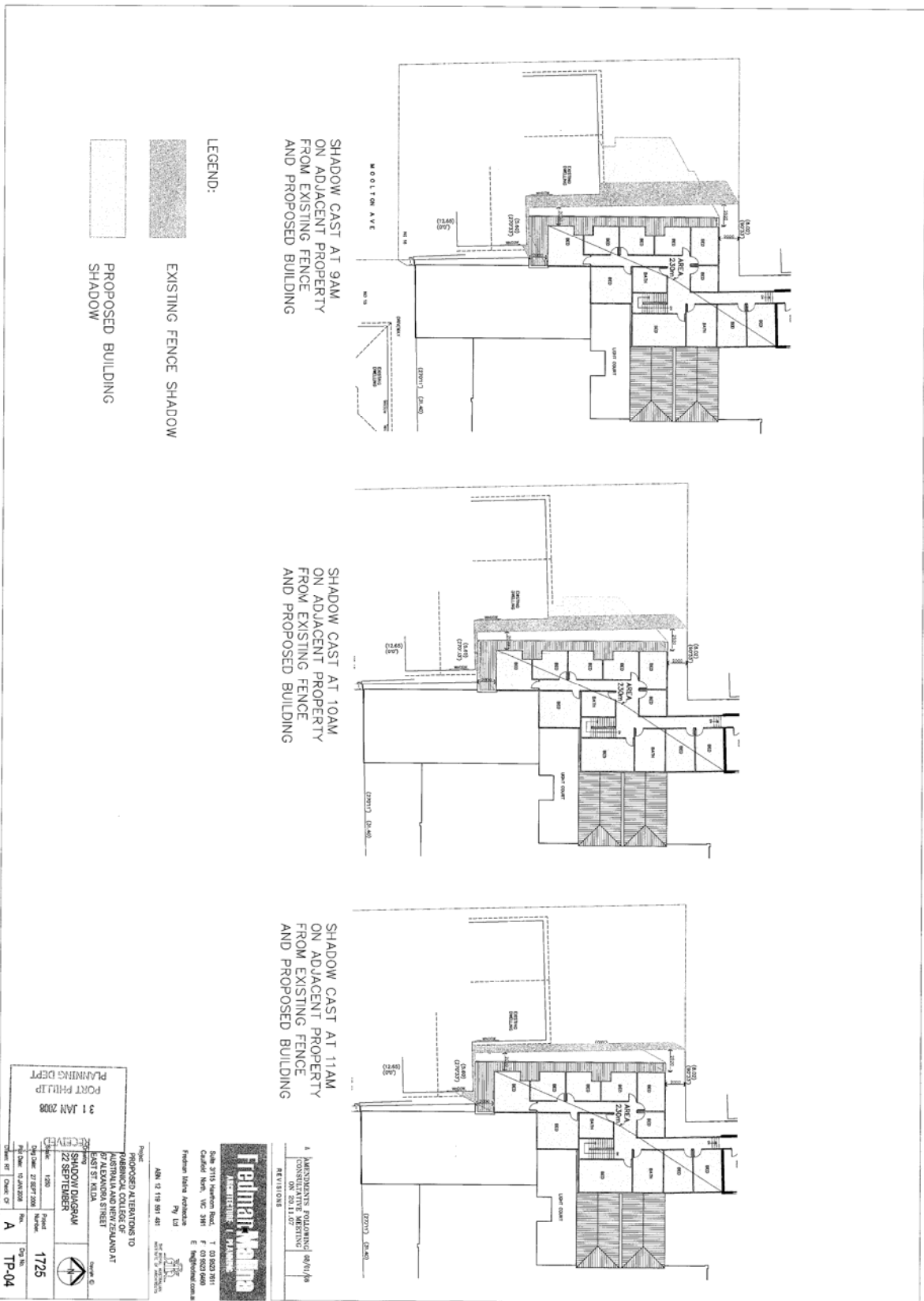
1. Abutting amenity impacts
2. Parking/Traffic impacts
3. Proposal's visual bulk and proximity to boundaries because the location of extensions is constrained by the existing heritage fabric and significance of the site.

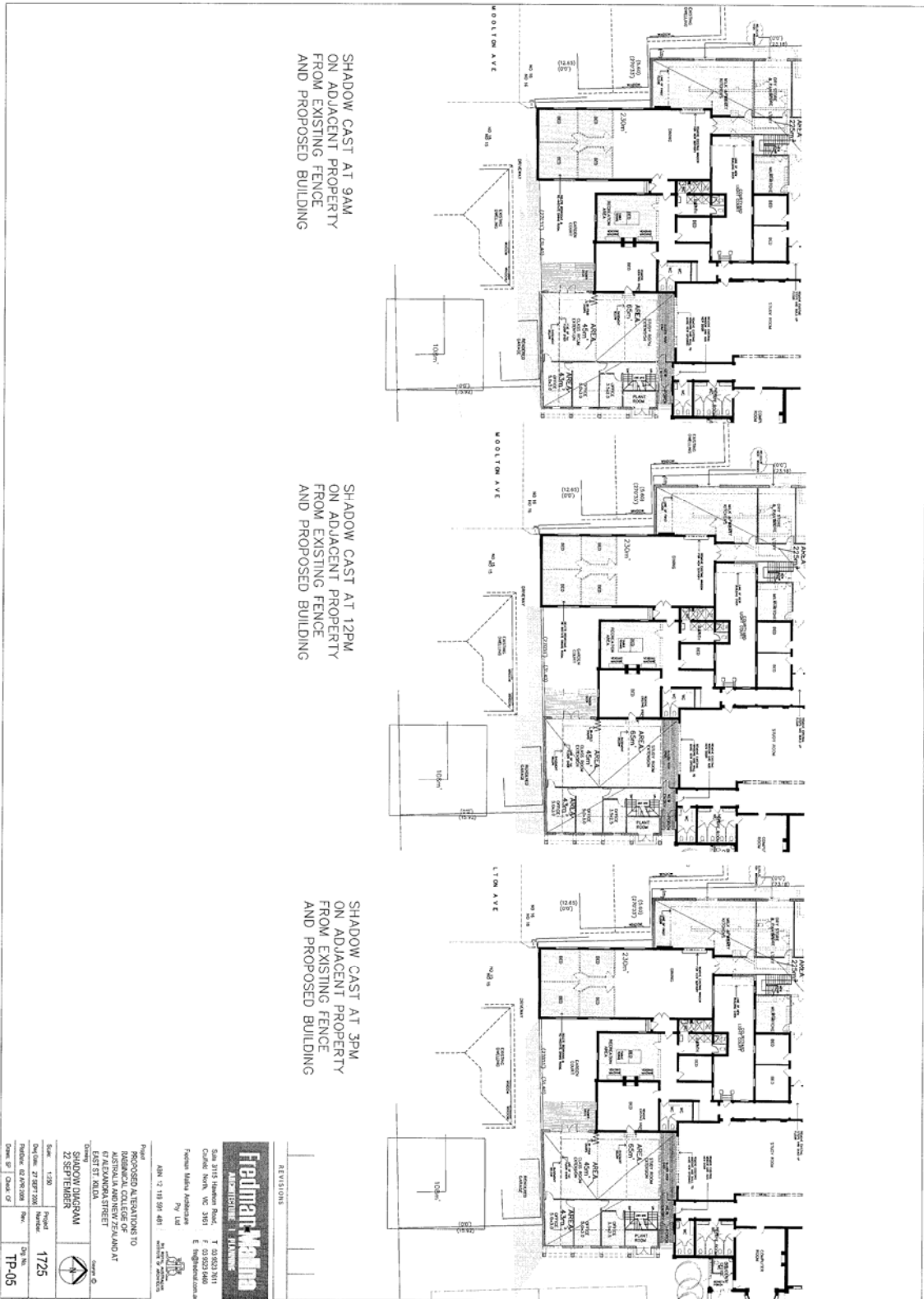












SHADOW CAST AT 9AM  
ON ADJACENT PROPERTY  
FROM EXISTING FENCE  
AND PROPOSED BUILDING

SHADOW CAST AT 12PM  
ON ADJACENT PROPERTY  
FROM EXISTING FENCE  
AND PROPOSED BUILDING

SHADOW CAST AT 3PM  
ON ADJACENT PROPERTY  
FROM EXISTING FENCE  
AND PROPOSED BUILDING

REVISIONS

**Fredman Makina**  
ARCHITECTURE PLANNING

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Camden NSW, VIC 3181 F 03-9232 3460  
Foster, Mulla, Melbourne E. Regeneration  
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ASB 12 181 591 481

Project: PROPOSED ALTERATIONS TO  
BANKING COLLEGE OF  
AUSTRIAN WORKERS' ZEPHYRUS AT  
47-51 WOOTTON STREET  
EAST ST. MELB.  
Client: BUNDOORA DISTRICT COUNCIL  
27 SEPTEMBER 2008

Scale: 1:250  
Date: 27/09/08  
Project: 1725  
Author: [Signature]  
Checked by: [Signature]  
Drawn by: [Signature]

TP-05

**2. PROPOSAL**

- 2.1. The original application plans received by Council in August 2007, proposed partial demolition and building and works to increase the physical size of the educational facility. It is understood that the number of students to be accommodated would increase from 70 to 100 but no approval is required for the increase in student numbers as no limit was placed on the use by any previous planning permit.
- 2.2. The buildings and works form two parts, a south extension and a west extension to the existing building. Following advertising and the consultation meeting held on 20 November 2007 the applicant prepared revised plans dated 10 January 2008 and formally lodged these with Council on 31 January 2008 pursuant to Section 57A of the Planning and Environment Act 1987. These plans form the basis of this assessment. They show the following:
- 2.3. Demolition
- Part of the rear secondary component of the existing building, including kitchens, laundry, store, pantry and external store.
  - Internal demolition of bedroom walls at the south end of the existing dining room to reinstate the original dining room.
  - Internal demolition of the northern wall at the southern end of the building, to create an internal recreation area for students.
  - Windows and wall of study hall (south elevation).
  - Removal of the existing stair to the south of the existing two storey north-west accommodation wing.
- 2.4. Alterations and additions - Southern extension
- Construction of a basement under the south addition comprising a Mikvah for ritual bathing with a change area, exercise room and cleaner's store equating to an area of 124.76 sq.m. The previously shown showers and toilets would be deleted from the new proposal.
  - At ground level the east wall (Alexandra Street elevation) would extend 14.4m with a 13m long south wall partially constructed to the south boundary adjoining an existing brick wall and paling fence to 15 Mooltan Avenue. This ground level area would equate to approximately 167 sq.m.
  - Height of walls at ground level would be 4m with an overall height to the first level parapet wall of 7m with internal ceiling heights of 2.7m at ground level and 2.6m at first level.
  - A new entry door to the east elevation would access a plant room and three (3) new administrative offices.

- The windows and wall of the study hall to the south elevation would be removed to extend the existing main study room. A glazed link would provide a transition between the existing and proposed built forms.
- Beyond to the south of the study area and separated by bi folding doors would be an additional classroom.
- An external timber deck would be constructed within the existing south garden court to the west of the new classroom and accessed by double doors.
- The first floor would equate to approximately 108sqm and would be setback 2m from the boundary with 15 Mooltan Avenue and 2m from the proposed ground level east elevation (facing Alexandra Street).
- The first floor would comprise five (5) bedrooms, one (1) bathroom and one (1) toilet.

2.5. Alterations and additions - Western extension

- The existing two storey building in the north-west corner of the site would be extended to the south to abut the north boundary of 16 Mooltan Avenue. It would be of two storey built form.
- At ground level a 1m setback to the west wall (21m long) would widen to 1.52m at its north point where it meets the north elevation wall which has a setback of 2m.
- The first floor setback would increase to 2m from the two boundaries with 16 Mooltan Avenue and increase to 2.5m to the north. This is due to the offset alignment of the west title boundary. The two storey north elevation would have a setback of 2m from 11 Wavenhoe Avenue.
- Height of walls at ground level would be 4m with an overall height to the parapet wall reduced from 7m to 6.8m with revised plans. Internal ceiling heights would be 2.7m at ground level and 2.6m at first level.
- A new ramp along the north elevation would provide access to the new entry of the proposed west extension.
- The ground level would equate to approximately 225 sq.m. and would include three new bedrooms, laundry, cool room, dry store and kitchens.
- The first floor would equate to 230 sq.m. and ten (10) bedrooms and two (2) bathrooms would be provided.
- The first floor would be altered from the original plans with the deletion of the five double hung windows to the west elevation. At a distance of 6m and 12m from the north elevation the west wall would be recessed by 1m forming two light wells. Four double hung windows would be inserted within the four side walls to each of the north and south walls of each the light well to limit overlooking and noise. These windows

would be obscured to a height of 1.7m above FFL with the lower portion non openable.

- West elevation kitchen windows have been relocated and would be 1.7m above FFL.
- The west elevation laundry window to ground floor would be deleted.
- Annotated waste and a recycling bin holding area are proposed to the north of the new kitchens and western accommodation wing.
- A new bin collection point located at the front of the property in Alexandra Street with the plan notation; All council waste and recycling bins to be collected from Alexandra Street as per Waste Management Plan.
- New security gates to Wavenhoe Avenue entrance.
- Three additional car parking spaces are proposed at the internal forecourt area. The 'existing car space' immediately north of the Reference Room shown on the proposed layout is not displayed on the existing plan. This car space will be treated as a new car space.
- Fifteen bicycle parking racks are proposed to be located north of the car parking area.

Following the consultation meeting, No.11 Wavenhoe Avenue and the Rabbinical College entered into negotiation to re-locate the splayed fence to the accurate property boundaries between 61-67 Alexandra Street and 11 Wavenhoe Avenue with the new alignment shown on revised plans.

### **3. SUBJECT SITE AND SURROUNDS**

- 3.1. The subject site is located on the west side of Alexandra Street, East St Kilda between Alma Road to the north, Wilgah Street and Orrong Road beyond to the east, Sunhill Court and Inkerman Street to the south and Wavenhoe Avenue to the north-west, Mooltan Avenue to the south-west and Hotham Street beyond to the west.
- 3.2. The irregular shaped site has a frontage to Alexandra Street of 54.15m and equate to an overall site area of 5072 sq.m. The land is relatively flat.
- 3.3. The land is developed with a substantial white rendered, single storey Victorian era dwelling constructed in the 1880s which is well set back from Alexandra Street. To the north-west is a two storey accommodation wing. This area was previously used as stables to the residence and was then converted to a garage.
- 3.4. The heritage landscape includes six (6) mature Canary Island date palms (*Phoenix canariensis*), two (2) (*Jacaranda minosifolia*) a large Bhutan cypress (*Cupressus torulosa*), distinctive front gate posts, fencing and a curving concrete driveway which leads to the residence 'Holmwood', all of which are of significance to the locality of St Kilda and the Port Phillip region.

- 3.5. The building occupies the centre of the site and extends to the south-west and includes offices, study areas, a main dining room and kitchens, cool room stores and laundry areas. Accommodation is located within the single storey section of the building and also within a two storey component located to the north-west corner of the site.
- 3.6. Vehicular access to the site is via an accessway (archway) from Wavenhoe Avenue. Five informal car parking spaces are provided to the north-west of this courtyard and adjacent to the side entrance to the building. Pedestrian and bicycle access is from Alexandra Street and Wavenhoe Avenue. Random bicycle parking is located within the car parking area to the west and north-west of the site.
- 3.7. There are no formalised storage areas for the existing waste facilities and garbage and hopper storage is generally located near the archway and adjacent the kitchen areas or on the concrete pavement to Wavenhoe Avenue external to the site.
- 3.8. The subject site is located within a residential area. To the north boundary are two dwellings, Nos.13 Wavenhoe Avenue and 69 Alexandra Street, both detached and of single storey form from the Interwar era.
- 3.9. To the west boundary are two dwellings, Nos.11 Wavenhoe Avenue and 16 Mooltan Avenue also detached and of single storey form from the Interwar era.
- 3.10. Nos. 55 and 57 Alexandra Street and 15 Mooltan Avenue abut the south boundaries of the subject site. Generally, Nos. 13 Wavenhoe Avenue and 69 Alexandra Street abut the main north boundary of the site. Most of the interface with No. 11 Wavenhoe Avenue is to the west boundary of the subject site. Aside from No. 55 Alexandra Street (occupied by a three storey block of flats), most nearby buildings are single storey dwellings.
- 3.11. **Background of Existing Use**
- The expansive building has been used by the Rabbinical College of Australia and New Zealand since 1970. The Rabbinical College provides tertiary level Jewish Talmudic studies. The college has a residential component and operates at full capacity most times. The student timetable generally operates from 7.00 a.m. to 9.30 p.m. The course is conducted 42 weeks of the year.
- Students at the college are sourced from Melbourne, Australia and from overseas. Currently there are 70 students on site with seven full time and three part time staff. It is understood that the buildings and works would increase the capacity to 100 students. It should be noted however, that the use is established and no previous permit limits student capacity and no permit is required specifically to increase student numbers.
- The Rabbinical College has a "Driving Policy" which prohibits students at the college from driving to the school during the semester. Any authorisation by the college for students living in Melbourne to drive vehicles requires the vehicles to be parked off site at parent's homes.

The following permits have been granted for the site:

- Planning permit 139 dated 15 February 1971 allows the land at 67 Alexandra Street, St Kilda to be used for the purpose of Jewish theological and religious studies with a condition stating, “*One car space to each 200 square feet of floor area of all buildings must be provided.*” There were no other conditions on the permit.
- Planning permit D3599 dated 9 December 1987 to allow for the renovation of garages to provide additional student accommodation.
- Planning permit number 018/067/P3 (344/1992) issued on 8 December 1992 for “The conversion of the common room into two bedrooms in accordance with the endorsed plans”.
- An amendment to this above permit was issued on 17 November 1993 to install three windows on the western side of the building to allow for better ventilation to the student dormitory.

The new proposal seeks to increase the physical capacity of the educational facility to facilitate an increase from 70 students to 100 and an increase of two full time staff with a subsequent reduction in the car parking requirement. It should be noted that none of the permits issued place a restriction on the number of students or staff using or employed at this college and therefore the increased number of students does not need a planning permit (or dispensation of car parking) and assessment of this application relates only to the impact to the proposed buildings and works.

#### **4. ADVERTISING/OBJECTIONS**

- 4.1. Notice of the original application was given by the placement of two signs on the site and by way of 19 mailed notices to the owners and occupiers of 14 adjoining sites.
- 4.2. Six objections were received to the proposal. The grounds of objection are summarised with an officer response in *italics* below.
  - Potential student noise increases.

*This ground asserts that noise has been a constant concern and would be made worse by the proposal. The emission of noise appears to be from celebrations on the Sabbath in the main dining area and student activity within the property and its environs during late hours when most residents are trying to sleep.*

*There is a criticism from objectors that the school management does not seem to adequately control its students with noise impacts continuing to occur after repeated complaints from the surrounding residents directly to the College and Council. Council’s records indicate that noise complaints have been received and investigated. Any increase in student numbers is seen by objectors to represent an increase in the intensity of noise levels.*

*Council's ability to control the use is limited given that the use is established and this application is only for buildings and works. The ability to place conditions on the current application is confined to matters which relate directly to the proposed buildings and works for which approval is being sought.*

*As previous permits did not impose any conditions with regard to the emission of noise and the ongoing complaints by residents regarding noise coming from the college, it is considered desirable that noise control conditions be imposed on this permit if possible. See Section 8.4. (Refer Conditions 6, 7, 22 and 36). The ability to impose such conditions will be discussed later in this report.*

- Parking.

*The potential impact of the expanded buildings has been considered by Council's traffic engineers. They would require the submission of a Traffic Engineering Assessment to address the proposed increase in traffic to the site and to implement appropriate measures in accordance with that Assessment to minimise car parking pressure within and surrounding the site. The traffic problems generated by student drop off and collection points in Wavenhoe Avenue blocking access to driveways would also be ideally addressed by conditions on permit. See Section 6.3 within this report.*

- Rubbish storage and collection - Uncollected garbage bins and hoppers are left out in the street with animals and birds breaking bags with resultant litter, odour and effluent concerns.

*The existing practices of the college are raising concerns. With the proposed increased capacity, the college would be required to carry out proper management and disposal of waste and pay adequate regard to the amenity of the surrounding area.*

*A waste and recycling bin holding area adjacent to 11 Wavenhoe Avenue eastern boundary is shown on the plans (no elevations). However, its area is minimal and does not show where the hoppers would be stored and how they would be transported to the hopper collection point in Wavenhoe Avenue. The rubbish and recycling bins would be collected from the Alexandra Street frontage and a bin collection point is shown on the plans on the footpath.*

*Therefore, before the commencement of the development, a Waste Management Plan based on the draft "Best Practice Guidelines for Kerbside Recycling at Multi-Occupancy Residential Developments (Sustainability Victoria June 2006)" should be prepared by a Waste Management Engineer or Waste Management Planner to the satisfaction of the Responsible Authority and endorsed as part of this permit (refer condition 8.8). This condition would cover matters of location and storage of bins and hoppers, hours of collection, and the responsibility of the college for the regular collection of rubbish and retrieval of bins within the college after collection.*

*Such a condition may be considered directly linked to the buildings and works for which approval is being sought.*

*Once the details required by the Waste Management Plan have been endorsed, it is considered that disturbance to the area should be reduced to acceptable levels.*

- Overshadowing, overlooking, loss of privacy and amenity.

*See Clause 22.06 assessment in Section 7 below.*

- Impact upon residential amenity.

*See Clause 22.06 assessment in Section 7 below.*

- Increased infrastructure (sewer) stress.

*This concern would be dealt with at the Building Permit application stage.*

- Detrimental effect on property value.

*The loss of property value is not considered to be a valid planning ground.*

Following the objections and a consultation meeting, revised plans were submitted by the applicant on 31 January 2008. Given the plans would result in less *material detriment* these revised plans were not re advertised.

## **5. PLANNING CONTROLS PORT PHILLIP PLANNING SCHEME PROVISIONS:**

- 5.1. The subject land is zoned Residential 1 under the Port Phillip Planning Scheme and is within Heritage Overlay No.19 and individual citation No. 288 "Holmwood" which includes external and internal controls to the building and the external landscape including demolition. The site is graded as "significant" under the City of Port Phillip Heritage Review 2006.
- 5.2. Under Clause 32.01-1 – Residential 1 Zone, a permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 32.01-1.
- 5.3. Under Clause 43.01-1 – Heritage Overlay a planning permit is required to demolish or remove a building, construct a building or construct or carry out works. Additional external and internal paint controls and tree controls are applicable to HO19.
- 5.4. Clause 52.34 Bicycle Facilities: 15 bicycle spaces are to be provided as required.
- 5.5. The existing use has established use rights. There is no limit on the number of students permitted at the school and therefore car parking dispensation is not required to be sought for the increased capacity made possible by the proposed buildings and works. Nevertheless, the applicant has included the provision of car parking in the application for buildings and works.

## 6. INTERNAL CONSULTATION

### 6.1. Heritage Advisor and Urban Designer

The application was referred to Council's Heritage Advisor and Urban Designer who made the following comments.

- The proposed alterations reflect previous advice and are supported;
- The new wing to the south of the site creates a satisfactory glazed transition between existing fabric and new works.
- The new additions reflect a simple utilitarian aesthetic that will neither compete nor detract from the heritage significance of 'Holmwood';
- The heritage report from David Bick is also a fair reflection of the heritage issues that have been addressed.

Planning Officer's Response:

Subject to conditions, it is considered that the proposal would be consistent with Council's objectives of maintaining the significance of the heritage site and the surrounding heritage area.

### 6.2. Parking and Traffic

The applicant has offered to provide car parking in association with the proposed buildings and works. The buildings and works therefore include a car parking component.

The application was referred to the sustainable traffic engineers to consider the potential impact of the increased building capacity of the centre and the car parking proposed by the applicant as part of the proposed buildings and works. The following comments were provided:

*Existing Conditions: Rabbinical College consists of 27 bedrooms, dining room, study rooms, staff room and other educational facilities. There are 5 existing on site parking spaces and no visitor parking available.*

*Proposed: Additional 18 new bedrooms with the loss of 5 existing bedrooms, which allows for a net increase of 13 bedrooms and increase the size of the existing dining room. A total of 40 bedrooms will be provided through this development and allow for an increase of student occupancy from existing 60-75 to 100 during the annual 42 week semesters of the tertiary institution. Off-street parking is increased from 5 to 10, inclusion of 1 visitor car parking space.*

*Public Transport Facilities: Tram service is provided on Carlisle Street and is available within 700 metres from site and on Dandenong Road within 510 metres. There is train service provided in 1km distance, which is an indication that it is all further than the usual 250-300 metres walking distance.*

*Rate of utilisation of on street parking: Currently, there is no parking restriction on Wavenhoe Avenue and Alexandra Street. On-street parking in these two streets are not heavily utilised as most residents have off-street parking. Utilisations of parking on these sections of streets are generally by parents dropping off/ picking up students or by staff and visitors during school periods.*

*Parking Comments: There is no comprehensive Traffic Engineering Assessment (TEA) included with the planning report. This referral is only commenting in reference to details outlined on the (applicant's) Planning Report dated July 2007. It is necessary for the applicant to provide a proper TEA before any approval be made.*

*As it is an existing development and one with religious restrictions, car parking rate will be taken in reference with existing conditions. The rate will be calculated by the expected minimum number of occupancy (students and staff) with the existing number of parking spaces.*

*(60 students +10 staff) = 85  
Rate = 5 existing car space / 85  
≈ 0.08*

	<b>No of Occupants</b>	<b>Rate</b>	<b>No of parking space</b>
<b>Parking Requirement from existing condition</b>	<b>112</b>	<b>0.08</b>	<b>≈ 9</b>
<b>Proposed Parking (+ Visitor Parking)</b>			<b>10</b>

*There is the need to note on the current planning scheme requirement, that the applicant must address the potential increase of parking pressure because of the increased future occupancy and derive appropriate measures to minimise the effects in the TEA.*

*It is only under the existing parking rate that the proposed parking spaces are considered adequate. The Visitor parking space located at the north of the property must provide pedestrian provision to prevent vehicle from protruding past the footpath. This can be achieved by the installation of high and low kerb as referred in the Australian Standard AS/NZS 2890.1:2004 Parking Facilities Part 1: Off-Street Car Parking.*

*However, the proposed visitor car parking space could be used for the collection of garbage bins. The garbage truck should approach the garbage bins in a reverse direction. Exiting of the site must only be in a forward direction onto Wavenhoe Avenue.*

*The proposed plans attached suggested the off-street parking spaces are 2.6 metres width and 4.9 metres length required by City of Port Phillip planning scheme. The 'existing car space' immediately north of the existing Reference Room shown on the proposed plan is not displayed on the existing plan, thus it will be considered as proposed car spaces. The three proposed car spaces immediately north of the existing Reference Room are positioned such that if the car parking spaces immediately west were occupied, the vehicles in these spaces cannot exit onto Wavenhoe Avenue.*

*On the proposed plan, 15 bicycle spaces with a dimension of 1.7 metres in length and 0.7 metres wide as required by City of Port Phillip parking scheme. Following the rates for bicycle space for Education centre other than specified under Clause 52.34-3, 1 bicycle space must be provided for every 20 full time students and 1 bicycle space for every 20 employee.*

	<b>Expected numbers</b>	<b>Rates</b>	<b>Spaces required</b>
<b>Staff</b>	<b>12</b>	<b>1 per 20</b>	<b>0.6</b>
<b>Student</b>	<b>100</b>	<b>1 per 20</b>	<b>5</b>
		<b>Total Required</b>	<b>5.6 ≈ 6</b>
		<b>Total Provided</b>	<b>15</b>

*Considering students cannot use motor vehicles for travel, the usage of bicycle as a form of transport is expected to be higher than the rate required.*

*In summary:*

- *A comprehensive TEA must be provided to show all traffic related matter about the subject site.*
- *Require pedestrian protection on proposed visitor parking space.*
- *Three (3) of the proposed car parking spaces immediately north of the Reference Room does not have effective accessibility.”*

Planning Officer's Response:

The revised plans dated 10 January 2008 are annotated showing ten car spaces, a visitor space and fifteen bicycle parking spaces.

The unique religious nature of the existing Rabbinical College which prohibits students from driving to and from the land during the school semester would limit the number of cars parked on site.

Therefore, it is considered that the car parking and bicycle facilities provision in this instance is satisfactory.

The key issue of concern is the use of the Wavenhoe Avenue entrance to the college as a collection and drop off point for students. Given the proximate residential interface in this location and the vehicle movements required to enter and exit the street it must be noted in the Student Handbook and on information provided to parents/guardians that all private vehicles accessing the site for student visitation and collection must use the Alexandra Street entrance. This requirement could be conditioned on the permit under the Management Plan. (Refer condition 36).

**7. URBAN PLANNERS ANALYSIS OF KEY ISSUES**

7.1. Local Planning Policy Framework

The proposal has been assessed against Local Planning Policies (copy of assessment matrix is held on file). There are no significant matters of policy variation in this case.

7.2. Visual Bulk and Height

Given the proximity of the south and west boundaries to adjoining residences and the heritage constraints of the significant site, the potential locations for any two storey extensions would generally be limited. In response to these limitations, the proposal shows the west elevation wall as extending for 21m in length parallel to the west boundary of the subject site and be at an overall height of 6.8m.

It is considered that the proposed western extension in the vicinity of 16 Mooltan Avenue would require re-design to provide a reasonable level of amenity to the existing dwelling occupying that site. It is considered that in its original design the south-west and west wall would create a sense of encroachment and enclosure on the nearby dwelling.

Therefore it is recommended that the setbacks of the western extension south elevation be 1.2m at ground level and 2.1m at first level (refer condition 1a). As well, the ground level setback of the south portion of the west wall is recommended to be increased to 1.2m along with a first floor setback of 2.1m. (Refer condition 1b.) The setback of the north wall (6.8m high) to the south of 11 Wavenhoe Avenue is also recommended to be 2.1m. (Refer condition 1c).

The southern extension facing the boundary of 15 Mooltan Avenue is recommended to have a ground level setback of 1.2m along with a first floor setback of 2.1m. These would achieve both a reasonable and acceptable design outcome whilst ensuring an improved amenity outcome. (refer condition 1d).

In addition, the internal ceiling heights of the development and hence overall height of the new buildings should be reduced to further limit amenity impacts to the adjoining dwellings. It is therefore recommended that the internal ceiling heights to the western and southern extensions be reduced to 2.6m at ground level and 2.4m at first floor level. (refer condition 1e). This would reduce the impact of visual bulk, height and overshadowing to abutting properties and further ensure that the existing heritage fabric remains as the dominant built form.

7.3. Overlooking

Potential for overlooking would exist from the western extension's west, north and south windows at first floor level. It is therefore recommended that these windows be screened to 1.7m above finished floor level. (refer condition 1f).

By way of information, the southern extension's high light window is to a toilet. The west facing windows to the southern extension would face the subject site and the enlarged ground level study area and would not be required to be screened. The windows of the east elevation (front facing Alexandra Street) would be approximately 17m at the closest point to 57 Alexandra Street. Screening or obscure glazing would not be needed at this distance as they fall beyond the 9m radius recommended by the A15 ResCode benchmark which is used in this instance as a general guide to limit unreasonable overlooking.

7.4. Heritage/Demolition Issues

The site had been subject to extensive discussion with Council's Heritage Advisor and the applicant. See Section 6.1 of this report.

Policy direction is primarily focused on the conservation of all significant heritage places, the encouragement of new development to be respectfully and harmoniously integrated with the surrounding character and that the significance of the heritage place, where publicly visible, is maintained.

The proposed development would retain the principal building, which includes the front 15 rooms, principal roof form and chimneys with the new additions occurring to the rear and side. This is considered a desirable design response to maintain streetscape appearance and character of the heritage site.

The upper floor additions would be visible from the street, most notably from oblique angles. However, being visible does not necessarily imply detriment, particularly noting the addition would be sited some 9m back from the façade of the existing building and 46m from the street. Moreover, the southern addition would be sited so that the first floor would remain respectful to and recessive from the host heritage building. This has been achieved by a contemporary and well integrated design, by the provision of a glazed single storey link setback from the original building and by respecting the existing single storey height of the existing built form, thereby not impacting on the streetscape character of the place.

The local planning policies seek to have the scale and massing of additions not dominating heritage buildings and all additions should be sited to respect the character of a heritage building to minimise the visual impact of change. The proposal meets the local policy objectives through retention of the significant heritage form, siting the addition at the rear and south side and employing respectful roof forms. Additionally, the works to the south would provide a glazed transition between the old and the new works for improved legibility of the overall structure.

The proposal would remove some of the later inappropriate additions and provide for an overall upgrading of the building along with the reinstatement of the porch to the Alexandra Street façade and thereby would improve the relationship between the façade of the significantly graded heritage building and the streetscape. This outcome is supported.

7.5. Noise

The issue of noise has been discussed with the applicant and the owners of the College by the surrounding residents and Council's Health and Amenity Department because of on going concerns with the use of the subject site.

Discussions between the owners and the applicants, at a site visit on 2 November 2007, with the Council's Planning Officer recognised that noise, waste, car parking and traffic issues caused by the College were ongoing resident concerns with the existing use. Both the owners and the applicants wished to rectify these on going issues. Further, comments by the officers representing the Rabbinical College of Australia and New Zealand at the consultative meeting held on 20 November 2007 also suggested that additional amenity conditions would assist to ensure a good neighbourhood relationship with the residents, the College and with Council.

The control of occupant (human) noise could be addressed by the College establishing a management plan to limit student noise and nuisance within and around the site. Such a control would ideally detail hours of noise control, areas of congregation adjacent to residential premises, student drop off and collection points (this often occurs late at night), along with a full time attendant responsible for monitoring the number of students and their behaviour, the keeping of a complaints register and the measures that would be taken by management and staff to ensure students enter/depart the premises and the surrounding area in an orderly manner and respect the residential context.

Similarly, an appropriate acoustic engineering report, assessing and quantifying mechanical noise levels would ideally be provided to the Responsible Authority by the owner to show compliance with the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) SEPP N1.

Whilst the use is established, it is considered that conditions requiring a management plan and acoustic controls can be legitimately imposed. This approach is consistent with that taken by the Tribunal in *Arcaro v Moonee Valley CC* [2008] VCAT 174(1) (11 Feb 2008) which stated:

*"I do not agree with Mr Soding that because this is a buildings and works application rather than a use application that amenity considerations should not necessarily be taken into account. Rather what should be taken into account is the actuality of the connection between the proposal for buildings and works and amenity impacts if any. Likewise I do not agree with Mr Soding that a buildings and works proposal should not contain conditions regulating use, such as hours of operation and noise limitations."*

It is considered that there will be direct amenity impacts arising from the increased capacity and intensity of the use afforded by the buildings and works if approved. It is therefore recommended that these conditions, with regard to the use and development of the college be imposed on the permission sought which would result in acceptable amenity outcomes to the expanded use and new development.

7.6. Other controls

It is considered reasonable that a cap of 100 students, nine full time staff and three part time staff be placed on the school as this is the number that the buildings and works facilitate. This will ensure that future increases in these numbers would need to be subject to further planning approval.

**8. COVENANT**

8.1. The Title for the property was checked and there were no covenants or other restrictions on the title.

**9. OPTIONS**

- Approve as recommended
- Approve with changed conditions
- Refuse - on key issues:
  1. Abutting amenity impacts.
  2. Parking/Traffic impacts.
  3. Proposal's visual bulk and proximity to boundaries because the location of extensions is constrained by the existing heritage fabric and significance of the site.

**10. CONCLUSION**

- 10.1. The proposed buildings and works have been assessed against relevant planning provisions and are considered to be generally compliant subject to conditions.
- 10.2. However, it is recommended that certain setbacks be increased, especially those of the southern portion of the west wall, the setback of the wall to the south of 11 Wavenhoe Avenue and the south walls facing 15 Mooltan Avenue. These changes in setback would achieve greater separation to the residential interface of abutting properties and reduce the amenity concerns relating to visual bulk and overshadowing.
- 10.3. It is recommended that the internal ceiling heights to both the western and southern extensions be reduced to limit the impact of visual bulk and overshadowing to abutting properties.
- 10.4. In addition a landscaping plan would require planting of trees or a stainless steel cabling system to allow selected creepers to climb up the mesh and screen and soften the built form to the property boundaries to Nos. 15 and 16 Mooltan Avenue and 11 Wavenhoe Avenue.
- 10.5. Management plans relating to occupant noise and waste management are also recommended, along with acoustic details being required in relation to plant and equipment. These are considered conditions which may be illegitimately and directly linked to the proposed buildings and works.
- 10.6. It is therefore recommended that the application be approved subject to conditions.

**11. RECOMMENDATION**

- 11.1. That the Responsible Authority having caused the application to be advertised and having received and noted six objections, is of the opinion that the proposed partial demolition, buildings and works (within a Heritage Overlay) to increase the student capacity to 100 students with an increase of two (2) full time staff to the existing educational facility with a subsequent reduction in the car parking requirement to the land at 61-67 Alexandra Street, East St Kilda will not cause material detriment to any person other than the applicant.
- 11.2. That a Notice of Decision to Grant a Permit be issued for the purposes of partial demolition and buildings and works at 61-67 Alexandra Street, East St Kilda in accordance with the endorsed plans and subject to the following conditions.
- 11.3. That a Notice of Decision to Grant a Permit be issued subject to the following conditions.
1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans dated 10 January 2008 and referenced Project No. 1725, but modified to show:
    - a) The setbacks of the western extension south elevation be a minimum of 1.2m at ground level and 2.1m at first level from the site southern boundary;
    - b) A minimum of 1.2m setback at ground level to the south portion of the west wall with a first floor setback of 2.1m from the site's west boundary.
    - c) A minimum setback of 2.1m to the north wall from the south boundary of 11 Wavenhoe Avenue;
    - d) The southern extension facing the common boundary with 15 Mooltan Avenue to have a minimum ground level setback of 1.2m with a minimum first floor setback of 2.1m;
    - e) Internal ceiling heights to the western and southern extensions reduced to 2.6m at ground level and 2.4m at first floor level to produce a total building height of 6.1m above natural ground level;
    - f) The western extension's west, north and south windows at first floor level to contain fixed obscure glazing to a minimum of 1.7m above finished floor level.
    - g) A roof plan showing the relevant roof pitch angles of the proposed development.

- h) A full schedule of both internal and external materials, finishes and paint colours, including colour samples (colour samples in a form that is able to be endorsed and held on file).
- (i) The extent of the walls and roofs to be demolished clearly marked on existing elevation, layout and roof plans in red hatching.
- (j) The location(s) of the areas to be used for the storage of garbage and recycling bins and disposal of garbage to be screened from public view.
- (k) Any proposed sustainable design initiative/works which would be required by the Sustainable Design Statement required at condition 10.
- (l) The visitor parking space located to the north of the site to be installed with a high and low kerb as referred in the Australian Standard AS/NZS 2890.1:2004 Parking Facilities Part 1: Off-Street Car Parking to ensure pedestrian safety.
- (m) Tree protection zones.

All of the details required above are to be to the satisfaction of the Responsible Authority.

2. Prior to the commencement of the works allowed by this permit including any demolition works, a fully detailed 'demolition method statement' must be submitted to and approved by the responsible authority. When approved, the statement will be endorsed and will then form part of the permit. The 'demolition method statement' must fully describe and clearly demonstrate that the construction methods to be used on site will ensure that the building fabric required to be retained on the plan approved under Condition 1 of the permit will be safeguarded during and after the demolition process has occurred. The demolition method statement may need to include reference to staging of demolitions on site in some instances. The statement must detail the necessary protection works required to retain individual walls, chimneys, roofs, etc during demolition.
3. Prior to the commencement of the works a construction management plan must be prepared, submitted and approved by the Responsible authority. The plan must include a works program, with the objective of minimising the impact of construction works on the nearby residential properties to the satisfaction of the responsible authority. The plan must specify the means of reducing the construction impact (at the cost of the applicant) of dust and noise on the nearby properties, and must provide that hours of work be in accordance with any relevant Local Law.
4. Prior to the commencement of the development hereby permitted, a landscape plan and schedule must be submitted to and approved by the responsible authority. When approved the plan will be endorsed and will then form part of the permit. Landscaping in accordance with such approved plan and schedule must be completed before the commencement of the occupation of the building hereby permitted.

5. Prior to the commencement of and throughout the construction process of the development trees or shrubs as noted with the Heritage Overlay No.19 must be protected by a Tree Protection Zone and be annotated on the revised plans of 10 January 2008.
6. Prior to the commencement of the use of the proposed student accommodation, noise attenuation works to the external façade of the building designed to achieve a maximum noise level of NR 25 in bedrooms or such higher level which will avoid sleep disturbance to the satisfaction of the Responsible Authority and the NR in bedrooms plus 5 in living areas within the college must be completed to the satisfaction of the Responsible Authority.
7. Prior to the commencement of the development, a report from an appropriately qualified acoustic engineer assessing and quantifying the noise levels must be provided to the Responsible Authority by the owner to show compliance with the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) SEPP N1. The report must also quantify the noise levels of the cooling, refrigeration, ventilation, exhaust flue and associated kitchen exhaust systems.
8. Prior to the commencement of the development, a Waste Management Plan based on the draft "Best Practice Guidelines for Kerbside Recycling at Multi-Occupancy Residential Developments (Sustainability Victoria June 2006) must be prepared by a Waste Management Engineer or Waste Management Planner to the satisfaction of the Responsible Authority and endorsed as part of this permit. The Plan must include reference to the following:
  - a) The estimated garbage and recycling generation volumes for the whole development.
  - b) The garbage and recycling equipment to be used and the collection service requirements, including the frequency of collection and collection times.
  - c) The location of, proximity, screening of and space allocated both to the garbage and recycling storage areas and collection points.
  - d) The path of access for both users and collection vehicles.
  - e) How noise, odour and litter will be managed and minimised.
  - f) Approved facilities for washing bins and storage areas.
  - g) Who is responsible for each stage of the waste management process.
  - h) How the owners and students will be regularly informed of the waste management arrangements.
  - i) Hours of collection contained within 7am to 10pm Monday to Saturday and 9am to 8pm Sunday and public holidays.

j) Compliance with Council's Community Amenity Local Laws No.3.

Once approved, the Waste Management Plan will form part of this permit.

9. Before the development commences a Sustainable Design Statement that outlines proposed sustainable design initiatives must be submitted to and approved by the Responsible Authority. Upon approval the statement will be endorsed as part of the planning permit and the project must incorporate the sustainable design initiatives listed.
10. Prior to completion any new walls on or facing the boundary of adjoining properties shall be cleaned and finished in a manner to the satisfaction of the Responsible Authority.
11. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
12. All internal and external finishes and paint colours must not be altered without the written consent of the Responsible Authority.
13. The garden areas shown on the endorsed plan and schedule must only be used as gardens and must be maintained in a proper, tidy and healthy condition to the satisfaction of the responsible authority. Trees or shrubs as noted in the Heritage Overlay No.19 must be not be removed or destroyed.
14. No vehicular or pedestrian access, trenching, storage of materials or equipment or soil excavation is to occur within the Tree Protection Zone without the written consent of the responsible authority.
15. The obscure and fixed glazing to the lower portion of the double hung windows in accordance with the endorsed plans must be installed prior to occupation of the building to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority thereafter.
16. All piping and ducting (excluding down pipes, guttering and rainwater heads) must be concealed to the satisfaction of the Responsible Authority.
17. No equipment, services, exhausts and architectural features other than those shown on the endorsed plan must be permitted above the roof level of the building unless otherwise agreed to in writing by the Responsible Authority.
18. No form of public address system or sound amplification equipment must be installed in the buildings and works hereby permitted so as to be audible outside the premises without the further consent of the Responsible Authority.
19. All lighting of external areas associated with the permitted buildings and works must be suitably baffled so as not to cause nuisance or annoyance to nearby residential properties.

20. All air conditioning and refrigeration plant must be screened and baffled and/or insulated to minimize noise and vibration to other residences to ensure compliance with noise limits determined in accordance with State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1.
21. The kitchen(s) mechanical exhaust system must be constructed in accordance with the Australian Standard number 1668 and/or to the satisfaction of the Regulatory Authority.
22. The kitchen(s) exhaust system must provide for a vertical discharge to the atmosphere at a point and velocity which allows for effective dispersal of fumes so as to not create a nuisance (as defined under the Health Act 1958) to the surrounding amenity.
23. No goods are permitted to be stored or left exposed outside the building so as to be visible from any public area.
24. Before the use or occupation of the development starts, the area(s) set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
  - (a) Constructed;
  - (b) Properly formed to such levels that may be used in accordance with the plans;
  - (c) Surfaced with an all weather surface or seal coat (as appropriate);
  - (d) Drained and maintained;
  - (e) Line marked to indicate each car space, loading bay and/or access lane;
  - (f) Clearly marked to show the direction of traffic along access land and driveways.

all to the satisfaction of the Responsible Authority.
25. Parking areas and access lanes must be kept available for those purposes at all times and must not be used for any other purpose such as storage.
26. During the construction of the buildings and works allowed by this permit, the roadways(s) adjacent to the subject land must be kept free of parked or standing vehicles or any other obstruction, including building materials, equipment etc. so as to maintain free vehicular passage to abutting benefiting properties at all times, unless with the written consent of the Responsible Authority.

27. Within three months of the date of the issue of this permit, a Management Plan must be prepared and submitted for approval to the Responsible Authority which must provide for the following to the satisfaction of the Responsible Authority:
- (i) A full time attendant responsible for monitoring the adherence to the maximum number of students allowed under this permit and the behaviour of students on the premises after 10.00 p.m. Monday to Thursday and Sunday and after 11.00 p.m. on Friday and Saturday.
  - (ii) The keeping of a register recording the number of students and their visitors on the premises and any noise created after 10.00 p.m. Monday to Thursday and Sunday and after 11.00 p.m. on Friday and Saturday.
  - (iii) The measures to be taken by management and staff to ensure students enter/depart the premises and the surrounding area in an orderly manner.
  - (iv) The measures to be taken by management and staff to ensure students do not congregate in the car parking area, in the vicinity of the bicycle racks or under the archway at the Wavenhoe Avenue entrance to the Rabbinical College after 10.00 p.m. Monday to Thursday and Sunday and after 11.00 p.m. on Friday and Saturday.
  - (v) The drop off and collection time for students not to be after 10.00 p.m. Monday to Thursday and Sunday or after 11.00 p.m. on Friday and Saturday and to be only on the Alexandra Street frontage at all times the use is operating.
  - (vi) Parents/guardians must be informed that all private vehicles accessing the site for student visitation and collection must use the Alexandra Street entrance.
  - (vii) The measures to be taken by management and staff to ensure that students do not cause nuisance or annoyance to persons beyond the land.
  - (viii) A telephone number provided for nearby residents external to the site to contact the premises and linked to the complaints register;
  - (ix) The maintenance of a complaints register.

Once approved the Management Plan will form part of the permit.

28. Without the further written consent of the Responsible Authority no more than one hundred (100) students and nine (9) full time and three (3) part time staff must occupy the premises at any one time.

29. This permit will expire if one of the following circumstances applies:

- a) The development is not started within two (2) years of the date of this permit.
- b) The development is not completed within two (2) years of the date of commencement of works.

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

### **Footnotes**

#### **Building Approval Required**

This permit does not authorise the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain the appropriate building approval under the Building Code Australia.

#### **Building Works to Accord With Planning Permit**

The applicant/owner will provide a copy of this planning permit to any appointed Building Surveyor. It is the responsibility of the applicant/owner and Building Surveyor to ensure that all building development works approved by any building permit is consistent with this planning permit.

#### **Days and Hours of Construction Works**

Except in the case of an emergency, a builder must not carry out building works outside the following times, without first obtaining a permit from Council's Local Laws Section:

- Monday to Friday: 7.00am to 6.00pm; or
- Saturdays: 9.00am to 3.00pm.

An after hours building works permit cannot be granted for an appointed public holiday under the Public Holidays Act, 1993.

#### **Drainage Point and Method of Discharge**

The legal point of stormwater discharge for the proposal must be to the satisfaction of the responsible authority. Engineering construction plans for the satisfactory drainage and discharge of stormwater from the site must be submitted to and approved by the responsible authority prior to the commencement of any buildings or works.

#### **Waste Collection**

The applicant must consult with Council's Waste Management Department regarding the location of waste bins and collection options.

**Parking Infringements**

Any parking infringement relating to the proposed development may be reported to Council's Parking Enforcement Section on 9209 6751 (B.H.) or 9209 666 (A.H.).

**Environmental Health**

The premises must comply with the Food Act 1984 and the Food Standards Code and must be registered with Council's Health Department prior to use.

**No resident or visitor parking permits**

The owners and occupiers of the development allowed by this permit will not be eligible for Council resident or visitor parking permits.

**Sewerage**

Prior to the development commencing liaison by the developer with Council's Urban Services and South East Water to address:

- (a) The increased student capacity and perceived potential failure of the existing sewerage infrastructure and
- (b) The time frame for the potential extension to the Mooltan Avenue sewer to ensure adequate service of the sewerage infrastructure on a permanent basis and in accordance with the Health Act 1958.

**Due Care**

The developer must show due care in the development of the proposed extensions so as to ensure that no damage is incurred to any dwelling on the adjoining properties.