

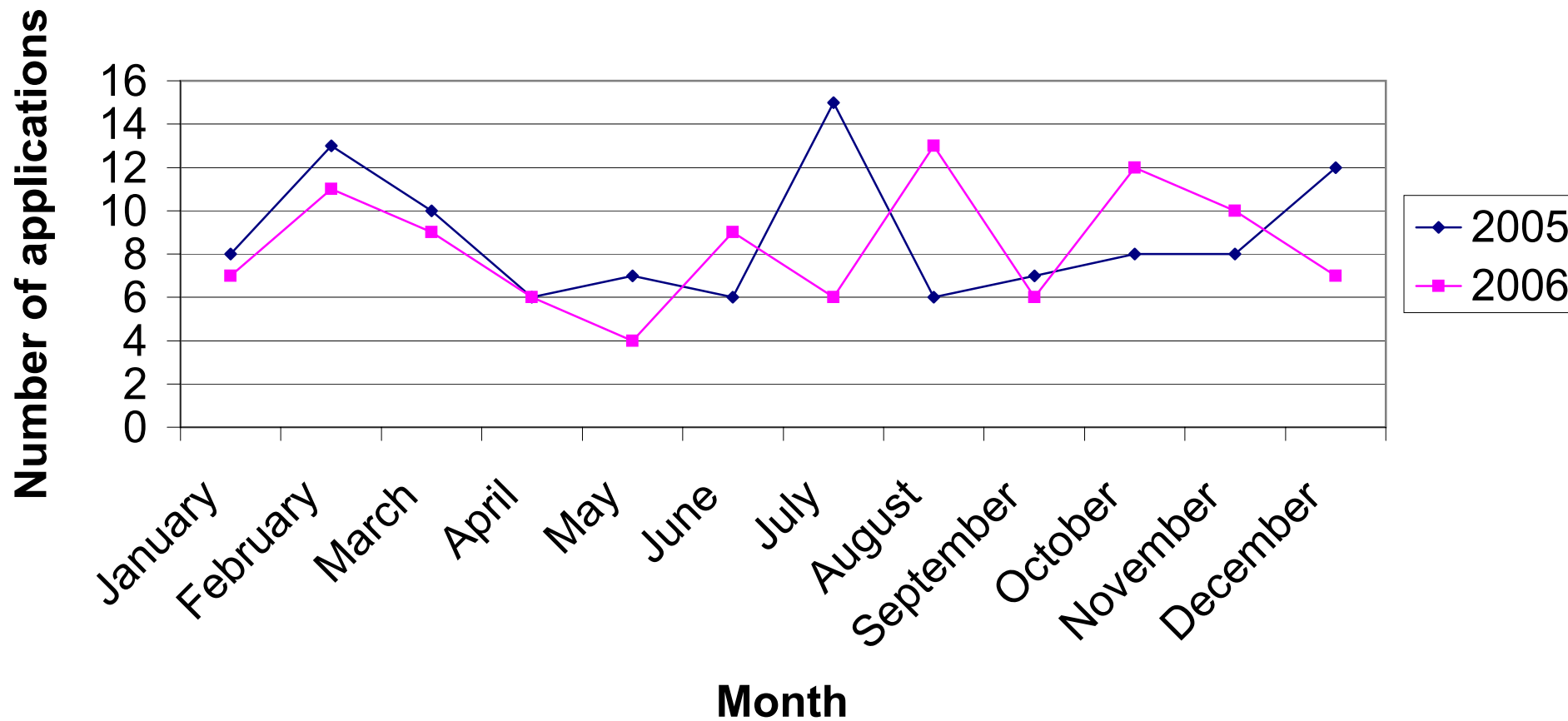
ATTACHMENT 1

Applications for review lodged by type for October, November & December 2006 (Total numbers & percentages)

Month 2006	Application by Objector/s About Decision of Council to Grant a Planning Permit		Application by Permit Applicant About Decision of Council to Refuse to Grant a Planning Permit		Application by Applicant About Decision to impose Conditions on a Planning Permit		Application by Permit Applicant About failure of Council to Decide On a Planning Permit Application		Other including s149 appeals		Total	
	Total No	Percentage	Total No	Percentage	Total No	Percentage	Total No	Percentage	Total No	Percentage	Total No	Percentage
October	1	8%	4	33%	2	18%	4	33%	1	8%	12	100%
November	5	50%	2	20%	1	10%	2	20%	0	0%	10	100%
December	2	29%	2	29%	2	29%	1	13%	0	0%	7	100%
Total	8	28%	8	28%	5	17%	7	24%	1	3%	29	100%

ATTACHMENT 2

**Number of applications to VCAT lodged 2005
compared with 2006 to date**



ATTACHMENT 3

Matters determined by VCAT according to type of review for October, November & December 2006 (Total numbers & percentages)

Decision of the Tribunal	Application by Objector/s About Decision of Council to Grant a Planning Permit		Application by Permit Applicant About Decision of Council to Refuse to Grant a Planning Permit		Application by Applicant About Decision to impose Conditions on a Planning Permit		Application by Permit Applicant About failure of Council to Decide On a Planning Permit Application	
	Total No	Percentage	Total No	%	Total No	%	Total No	%
Decision of Council set aside	0	0%	5	63%	3	50%	0	0%
Decision of Council varied	2	50%	0	0%	3	50%	0	0%
Decision of Council fully affirmed	2	50%	3	37%	0	0%	1	100%
Application withdrawn	0	0%	0	0%	0	0%	0	0%
Total	4	100%	8	100	6	100%	1	100%

ATTACHMENT 4

Summary of Determinations and Orders made by the Victorian and Administrative Appeals Tribunal (Planning List).

Langridge Ward

Address	48 Yarra Street, Abbotsford
Ward	Langridge
Decision of Council	Notice of Decision to Grant a Permit with conditions
Type of Hearing	Application about conditions on a permit
Outcome of hearing	Decision of Council varied
Planning Application Number	PL06/0082
Date of Hearing	8 November 2006
Date of Order	14 November 2006
Before	Member, Christina Fong
Comments	
<p>As a condition of a permit Council required the deletion of a garage which was proposed to be located within the front setback of an existing residence. The deletion was justified on the grounds that the site had rear access suitable for car parking.</p> <p>In support of their case, the applicant for the review emphasised the diversity of the streetscape, including examples of similar garage development.</p> <p>The Tribunal agreed with Council in considering that the garage was contrary to the neighbourhood character and to ResCode. However, it did concede to allow an open carport instead.</p>	

Address	27 Russell Street, Abbotsford
Ward	Langridge
Decision of Council	Refuse to grant a permit
Type of Hearing	Failure to determine the application within the prescribed time
Outcome of hearing	Decision of Council fully affirmed
Planning Application Number	PL05/1009
Date of Hearing	27 November 2006
Date of Order	22 December 2006
Before	Senior Member, Anthony Liston
Comments	
<p>The proposal was for an eleven storey commercial building located on a very small site, on a narrow street, in a light industrial precinct. Council's case against the development centred upon urban design and car parking matters and was supported by expert evidence.</p> <p>The Tribunal ultimately agreed that a planning permit should not be granted for the development because there was sufficient uncertainty about the merits of the proposal.</p>	

ATTACHMENT 4

Melba Ward

Address	397 Church Street, Richmond
Ward	Melba
Decision of Council	Refuse to Grant a permit
Type of Hearing	Application about a decision to refuse to grant a permit
Outcome of hearing	Decision of Council set aside
Planning Application Number	PL05/0646
Date of Hearing	22 September 2006
Date of Order	2 October 2006
Before	Member, John Quirk
Comments	
<p>This was a proposal for the demolition of an existing dwelling and its replacement with four dwellings within a three storey building. The proposal was refused a permit because it was considered to be inappropriate in respect to neighbourhood character, heritage, insufficient car parking and amenity impact to the adjoining and surrounding area.</p> <p>In this matter the existing building was a 1930's single storey dwelling which was not included in Council's heritage study as having significance within the precinct. On this basis the Tribunal determined that it was appropriate to allow the demolition of the building and made the following comment.</p> <p style="padding-left: 40px;"><i>"It is interesting to note that the present 1930's building replaced a much older building. This probably meant that at the time the people wishing to live on the site decided that they wanted a more modern building which better suited their lifestyle. That is the very nature of the present application. This is part of the process of evolution, as not only does the natural world evolve, but also the built environment. People seek accommodation that suits their present and future needs and often old housing stock does not meet those needs. This does not mean that buildings of heritage value should not be retained, but it also does not mean that all buildings that are old should necessarily be adjudged as worthy of retention."</i></p> <p>In respect to the remaining issues the Tribunal agreed that while there was an issue with building bulk and height this was not fatal to the proposal. The dwarfing of the adjoining single storey dwelling was considered "a reality of change in an activity centre". Similarly the car parking provided for the development was determined to be appropriate within the context of the site. The Tribunal ultimately required only minor changes to the plans to address overlooking.</p>	

Address	15- 21 Buckingham Street, Richmond
Ward	Melba
Decision of Council	Refuse to Grant a permit
Type of Hearing	Application about a decision to refuse to grant a permit
Outcome of hearing	Decision of Council set aside
Planning Application Number	PL04/1177
Date of Hearing	15 March 2006
Date of Order	10 October 2006
Before	Member, Nicholas Hadjigeorgiou
Comments	
<p>This application was for the development of six attached dwellings in a two and three storey built form. In an interim decision the Tribunal allowed for the plans to be amended in order to address its concerns about the development. The resulting amended plans had the effect of reducing the visual impact of the development when viewed from the street.</p> <p>The Tribunal supported the amended proposal subject to there be a greater setback from the street and part of the upper floor being made non-trafficable to preserve privacy for the adjoining property.</p>	

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Address	424 - 430 Church Street, Richmond
Ward	Melba
Decision of Council	Refuse to Grant a permit
Type of Hearing	Application about a decision to refuse to grant a permit
Outcome of hearing	Decision of Council set aside
Planning Application Number	PL05/0563
Date of Hearing	5 & 6 October 2006
Date of Order	17 October 2006
Before	Senior Member, Anthony Liston
Comments	
<p>This planning application sought permission to allow the demolition of existing buildings and the construction of a building containing shops and dwellings within a four storey building envelope.</p> <p>For heritage reasons Council was opposed to the demolition of the existing buildings on the land but had no objection the replacement building.</p> <p>The surrounding residents argued against the proposal on the grounds of the demolition of the existing buildings, the height of the proposed building, the potential to overshadow and daylight in impacts of the proposed building, car parking provision and the provision for loading and unloading.</p> <p>The Tribunal decision outlined that it considered the height to be appropriate and that shadows cast by the development would not be excessive. It was also of the opinion that the car parking and loading bay facilities provided were satisfactory.</p> <p>The Tribunal stated the following in respect to the question of the demolition of the existing buildings:</p> <p style="padding-left: 40px;"><i>"The existing shop buildings are attractive buildings in the sense that a farm shed in a rural landscape is attractive. The building form is familiar and comfortable to the observer. Nevertheless, these particular buildings are very poor quality buildings both in an architectural and a physical sense. The buildings have some heritage significance simply because they belong to the Victorian and Edwardian period which is the subject of the heritage precinct. The buildings however contribute very little to the significance of the heritage precinct because they bear no relationship to the significance of the precinct as defined by the statement of significance."</i></p> <p>On the basis of these comments the conclusion of the Tribunal was to allow the development..</p>	

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Address	32 Lesney Street, Richmond
Ward	Melba
Decision of Council	Notice of Decision to Grant a Planning permit with Conditions
Type of Hearing	Application about Conditions on a Permit
Outcome of hearing	Decision of Council set aside
Planning Application Number	PL05/0247
Date of Hearing	21 September 2006
Date of Order	17 October 2006
Before	Member, Christina Fong
Comments	
<p>Two double storey dwellings were constructed pursuant to a permit issued at the direction of the Tribunal in 1999 on this site. The proposal before the Tribunal was for additions to these two dwellings, with the construction of a roof over the rear first floor decks. The proposed works were nearly complete, at the time of the hearing except for the roofing over the verandah. The permit application was lodged to obtain retrospective permission.</p> <p>A glass screen was the dividing barrier between the two dwellings. This appeared to contradict the original approval which envisaged a masonry parapet wall.</p> <p>Council sought the retention of the existing glass barrier because the proposed brick parapet wall dividing the two dwellings, together with the addition of the roof, would potentially impose an unacceptable visual bulk on the street. Council argued that its initial approval of the brick parapet wall did not anticipate any other additional structure such as the proposed roof.</p> <p>The applicant stated that the roof was required to provide weather protection because the property had suffered water damage in the first floor rooms that open onto the deck.</p> <p>The Tribunal rejected the requirement for the glass barrier to be retained. However, it did insist that the parapet wall be no higher than the proposed roof to minimise the effect of visual bulk.</p>	

Address	12 Thomas Street, Richmond
Ward	Melba
Decision of Council	Notice of Decision to Grant a Planning permit with Conditions
Type of Hearing	Application by objector/s about decision to grant a permit
Outcome of hearing	Decision of Council fully affirmed
Planning Application Number	PL05/0725
Date of Hearing	12 October 2006
Date of Order	24 October 2006
Before	Senior Member, Gerard Sharkey
Comments	
<p>Council approved a development for two double-storey dwellings. One of the dwellings was proposed to front the main street of the site and the other to front a rear laneway. The Tribunal considered that the proposal satisfied the relevant policies in all respects and that the Council decision was appropriate.</p>	

ATTACHMENT 4

Address	47 Docker Street, Richmond
Ward	Melba
Decision of Council	Refuse to grant a permit
Type of Hearing	Application about a decision to refuse to grant a permit
Outcome of hearing	Decision of Council fully affirmed
Planning Application Number	PL05/0346
Date of Hearing	16 & 25 October 2006
Date of Order	8 November 2006
Before	Member, Peter O'Leary
Comments	
<p>This permit application was for the demolition of an existing dwelling and construction of two dwellings with basement car parking.</p> <p>Council was concerned with the demolition of the existing building on the site, which was considered contrary to heritage policy, and with the quality of the replacement building from a neighbourhood character perspective. Council considered that many of the design flaws stemmed from an ill-conceived semi-basement car park which did not integrate properly with the street.</p>	

Address	134 – 136 Brighton Street, Richmond
Ward	Melba
Decision of Council	Refuse to grant a permit
Type of Hearing	Failure to determine the application within the prescribed time
Outcome of hearing	Decision of Council fully affirmed
Planning Application Number	PL05/1034
Date of Hearing	15 November 2006
Date of Order	27 November 2006
Before	Senior Member, Margaret Baird
Comments	
<p>The review concerned an application to construct two additional dwellings to the rear of an existing dwelling on a corner site in Richmond.</p> <p>Council argued that impacts of the proposed dwellings in terms of heritage, neighbourhood character and amenity, together with a lack of adequate car parking was a sound basis to refuse to grant a permit.</p> <p>The Tribunal agreed. In particular, it considered that the new development was sited too close to the existing dwelling. The Tribunal was also concerned about the overall loss of car parking associated with the development.</p>	

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Address	3 Thomas Street, Richmond
Ward	Melba
Decision of Council	Refuse to grant a permit
Type of Hearing	Application about a decision to refuse to grant a permit
Outcome of hearing	Decision of Council fully affirmed
Planning Application Number	PL05/0987
Date of Hearing	20 September 2006 & 24 November 2006
Date of Order	18 December 2006
Before	Senior Member, Gerard Sharkey
Comments	
<p>A permit for four dwellings, consisting of three new dwellings and the refurbishment of an existing dwelling, was granted by the Tribunal in 2002.</p> <p>The dwelling to be refurbished is the dwelling proposed to be removed in this planning application. The dwelling was to be replaced with two double storey dwellings and car parking. One dwelling would be located at ground floor level and one dwelling at the first floor level.</p> <p>In the case to justify refusing the planning application Council submitted that the dwellings which had been approved by the Tribunal were already inappropriate within the context of the existing neighbourhood character and that the retention of the existing dwelling assisted in integrating the newly constructed development within the streetscape. In addition the plans displayed some inaccuracies in respect to ceiling heights for the garage and gradient of the land was not notated.</p> <p>The Tribunal did not agree with the Council assessment of the existing development but did ultimately decide that the granting of a planning permit was not appropriate on the basis that two dwellings, one above the other, would not be respectful of the character of the neighbourhood and was an overdevelopment of the site.</p>	

Address	11 Elm Grove, Richmond
Ward	Melba
Decision of Council	Notice of Decision to Grant a Permit with conditions
Type of Hearing	Application about conditions on a permit
Outcome of hearing	Decision of Council varied
Planning Application Number	PL05/0285
Date of Hearing	31 October 2006
Date of Order	21 December 2006
Before	Member, Philip Martin
Comments	
<p>Council granted a permit for the construction of a two storey dwelling and outbuilding. The applicant sought a review of a condition of the permit that required the outbuilding to be reduced in height to single storey.</p> <p>While not allowing a two storey outbuilding, the Tribunal did allow the condition to be amended to provide for an attic style upper level with "velux" roof windows (plus some other minor modifications).</p>	

ATTACHMENT 4

Nicholls Ward

Address	67 Taplin Street, North Fitzroy
Ward	Nicholls
Decision of Council	Refuse to Grant a permit
Type of Hearing	Application about a decision to refuse to grant a permit
Outcome of hearing	Decision of Council set aside
Planning Application Number	PL05/1202
Date of Hearing	25 September 2006
Date of Order	2 October 2006
Before	Member, Tracey Bilston-McGillen
Comments	
<p>Council refused to grant a permit to erect screens on the existing balcony of a three storey dwelling. The dwelling was one in a row of seven, each with identical balconies fronting Taplin Street. In Council's view, the proposed screen would interrupt the symmetry of the matching facades and would take away the opportunity for passive surveillance of the street from the balcony.</p> <p>The Tribunal disagreed, stating that the screens would not adversely affect the streetscape character and that surveillance would be available to the street because the screens were capable of being opened or closed.</p>	

Address	493 Station Street, Carlton North
Ward	Nicholls
Decision of Council	Notice of Decision to Grant a Planning permit with Conditions
Type of Hearing	Application about Conditions on a Permit
Outcome of hearing	Decision of Council set aside
Planning Application Number	PL05/1005
Date of Hearing	19 September 2006
Date of Order	9 October 2006
Before	Member, Tracey Bilston-McGillen
Comments	
<p>The proposal consisted of a contemporary style addition to a period house. The applicant sought to remove some of the permit conditions concerning design detailing. The conditions were imposed by Council in order to ensure the addition respected the heritage values of the period home and of the area.</p> <p>The Tribunal varied some of the Council's conditions but agreed that the height of the building should be reduced and that the requirement for an additional setback remain.</p>	

ATTACHMENT 4

Address	245 Scotchmer Street, North Fitzroy
Ward	Nicholls
Decision of Council	Refuse to Grant a permit
Type of Hearing	Application about a decision to refuse to grant a permit
Outcome of hearing	Decision of Council set aside
Planning Application Number	PL05/1251
Date of Hearing	21 & 22 August 2006
Date of Order	2 October 2006
Before	Presiding Member, Philip Martin Member, Michael Read
Comments	
<p>This matter was an appeal against Council's decision regarding a proposed double storey dwelling. The subject land was formerly the back yard of No 2 Bennett Street which was subdivided by a permit granted in 1999 with approval for a two storey dwelling. The development did not commence and the permit subsequently lapsed. There have been other previous proposals since then for a new dwelling on the subject land, including a three dwelling that was rejected by the Tribunal.</p> <p>The critical issue in this appeal was how the proposal responded to the sensitive heritage features of the locality. Council argued that the response was a poor one owing to the size of the dwelling. It was also considered that the dwelling lacked good internal amenity. The Tribunal took a different view, believing the proposal to be thoughtful and well designed drawing upon "rear stables & lofts" which are relatively common in the inner city.</p>	

Address	260 MacPherson Street, Princes Hill
Ward	Nicholls
Decision of Council	Notice of Decision to Grant a Planning permit with Conditions
Type of Hearing	Application about Conditions on a Permit
Outcome of hearing	Decision of Council set aside
Planning Application Number	PL05/0346
Date of Hearing	11 October 2006
Date of Order	23 October 2006
Before	Member, J.M. Osborne
Comments	
<p>In granting a permit for a two storey house extension, Council required the extension to be set back from the property boundary further than was being proposed. This was in accordance with the ResCode standard. A neighbour also advocated for a set back of this distance.</p> <p>The Tribunal was of the opinion that the set back being proposed by the applicant was acceptable in an inner-city context where most other dwellings did not comply with the ResCode standard.</p>	

ATTACHMENT 4

Address	74 Patterson Street, Carlton North
Ward	Nicholls
Decision of Council	Notice of Decision to Grant a Planning permit with Conditions
Type of Hearing	Application about conditions on a permit
Outcome of hearing	Decision of Council varied
Planning Application Number	PL06/0111
Date of Hearing	27 October 2006
Date of Order	31 October 2006
Before	Senior Member, Richard Horsfall
Comments	
<p>A proposed house extension envisaged the retention of an existing window that faced onto a neighbouring property. The neighbour was concerned that the window would allow overlooking of their property. By agreement between the parties the Tribunal varied the conditions of the permit to remove the window.</p>	

Address	11 Falconer Street, Fitzroy North
Ward	Nicholls
Decision of Council	Notice of Decision to Grant a Planning permit with Conditions
Type of Hearing	Application by objector/s about decision to grant a permit
Outcome of hearing	Decision of Council varied
Planning Application Number	PL06/0099
Date of Hearing	26 October 2006
Date of Order	2 November 2006
Before	Senior Member, Margaret Baird
Comments	
<p>A proposal to make alterations and additions to an existing dwelling was opposed by a neighbouring resident on amenity and heritage grounds. The neighbour also disputed the right to access land to the rear of the dwelling.</p> <p>Following two inspections of the site the Tribunal determined that the grant of a planning permit was appropriate subject to two minor changes to the conditions.</p>	

Address	123 Barkly Street, Fitzroy North
Ward	Nicholls
Decision of Council	Notice of Decision to Grant a Permit with conditions
Type of Hearing	Application by objector/s about decision to grant a permit
Outcome of hearing	Decision of Council fully affirmed
Planning Application Number	PL06/0065
Date of Hearing	22 November 2006
Date of Order	23 November 2006
Before	Member, Peter O'Leary
Comments	
<p>The adjoining neighbour of this property sought a review Council's decision to grant approval for a single storey extension to an Edwardian era house. It was argued by the neighbour that the proposal would cause overshadowing of their habitable rooms and outdoor deck area.</p> <p>Following a site visit carried out by the Tribunal it was determined that the degree of overshadowing caused by the extension would not be unreasonable.</p>	

ATTACHMENT 4

Address	61 Condell Street, Fitzroy
Ward	Nicholls
Decision of Council	Notice of Decision to grant a permit with conditions
Type of Hearing	Application by objector/s about decision to grant a permit & Application about conditions on a permit
Outcome of hearing	Decision of Council varied
Planning Application Number	PL05/1270
Date of Hearing	23 November 2006
Date of Order	28 November 2006
Before	Member, Des Eccles
Comments	<p>The proposal was to make alterations to an existing dwelling, including an upper level deck at the rear. In seeking a review of Council's decision, a neighbour argued that the proposal would overshadow their property and would detrimentally affect the heritage values of the area. They sought a reduction in the height of the proposed development. None of these grounds of review were supported by the Tribunal.</p> <p>Concurrent with this review, the permit applicant sought to remove a condition imposed by Council which required the external staircase leading to the deck to be enclosed (to minimise overlooking opportunities). The deletion of the condition was allowed by the Tribunal.</p>