



Planning Committee Agenda

For a meeting of the

Planning Committee

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

on

Tuesday, 26 July 2011

Commencing at 7:00pm

Chairperson: Cr Louise Cooper-Shaw

Councillors: Cr Felicity Frederico
Cr Alex del Porto (Mayor)
Cr. Clifford Hayes
Cr. James Long BM, JP
Cr. Michael Norris
Cr. Simon Russell JP



Members of the Gallery

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

Section 91 The Chair's Duties and Discretions

In addition to the duties and discretions provided in this Local Law, *the Chair* -

- (a) must not accept any motion, question or statement which is derogatory, or defamatory of any Councillor, member of *Council* staff, or member of the community;
- (b) may demand retraction of any inappropriate statement or unsubstantiated allegation;
- (c) must ensure silence is preserved in the public gallery during any meeting;
- (d) must call to order any member of the public gallery who approaches the Council or Committee table during the meeting, unless invited by the *Chair* to do so; and
- (e) must call to order any person who is disruptive or unruly during any meeting.

An Authorised Officer must, if directed to do so by the Chairperson, remove from a meeting any Councillor or other person who has committed such an offence.

In the absence of an Authorised Officer the Chairperson may cause to be removed from a meeting any Councillor or other person who has committed such an offence.

Your co-operation is appreciated

Chairperson of Committee

Planning Committee – Schedule of Meetings

Tuesday 16 August 2011
Tuesday 6 September 2011
Tuesday 4 October 2011
Tuesday 25 October 2011
Tuesday 22 November 2011
Tuesday 20 December 2011

Planning Committee Meeting

Planning Committee Charter

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

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

Membership of the Committee

All Councillors

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BAYSIDE CITY COUNCIL

PLANNING COMMITTEE MEETING

TUESDAY, 26 JULY 2011

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4.1 **3 Male Street, Brighton**
Secondary Consent - Amended Plans
Application No. 2008/310/1 Ward: Northern

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

APPLICATION DETAILS

Land/Address:	3 Male Street, Brighton
Application is for:	Secondary Consent – Amended Plan
Melway Reference:	67 E12
Ward:	Northern
Application Number:	2008/310/1
Applicant's/Owner's Name:	A Quinert
Date Received:	7 June 2011
Statutory Days Expiry:	7 July 2011
Zoning:	Business 2 Zone
Overlays:	None
Restrictive covenants on the title?	No
Current use and development:	Four (4) storey building comprising shops, offices and serviced apartments.
Objections:	N/A

PROPOSITION

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

PROPOSAL

On 7 April 2009, Planning Permit No. 2008/0310/1 was issued at the direction of Victorian Civil and Administrative Tribunal for the development of two (2) dwellings above an existing four (4) storey building.

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

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

The proposed amendments include:

- Relocation of the spa to unit 401 from the terrace on the western side to the south-west corner terrace, and construction of a dividing fence between the two terraces in accordance with the proposed title boundaries as part of the subdivision (PS 604749W Stage 2).
- Internal rearrangement of rooms to unit 401 to delete the study and expand the living area and to relocate the WIR of unit 402.
- Minor changes to the north-western terraces to units 401 and 402, removing a BBQ to unit 401 and removing the pergola over the terrace of unit 402.

SUBJECT SITE & LOCALITY

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

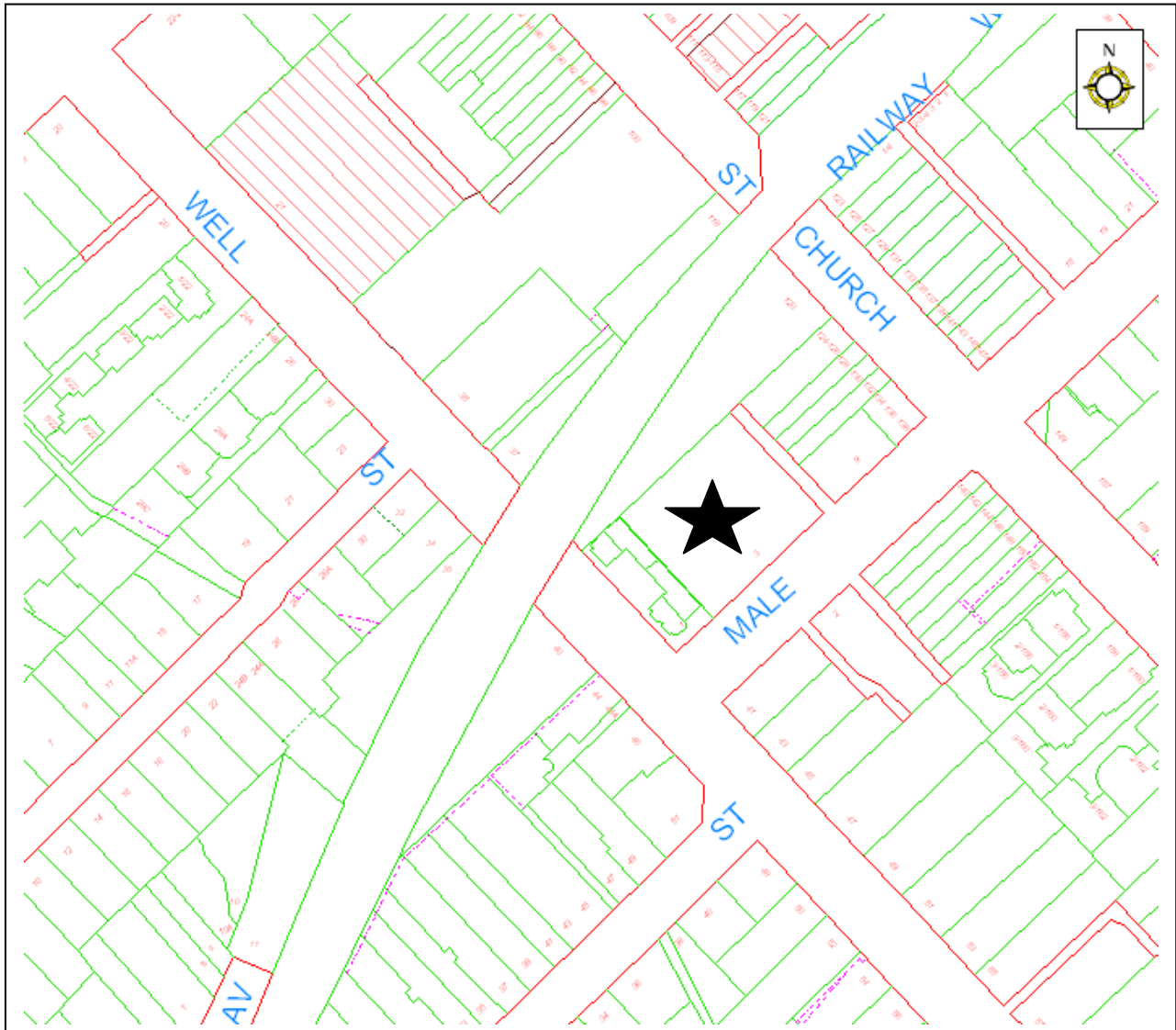
The subject site is located on the north-western side of Male Street, close to the Well and Male Street intersection.

The site has a total area of 1,801 square metres and currently contains a five (5) storey building comprising shops, offices and serviced apartments.

The main site/locality characteristics are:

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

LOCALITY MAP



Legend	
Subject site	★

PERMIT/SITE HISTORY

The history of the site includes:

- On the 18 August 2005, Planning Permit No. 2004/0804/1 was issued at the direction of the VCAT for the use and development of a four (4) storey building comprising offices and serviced apartments with basement parking.
- On 29 December 2006 Planning Permit No. 2004/0804/1 was amended to change the permit preamble to state *Use and development of a four (4) storey building for offices and serviced and/or residential apartments with basement parking.*
- On 9 July 2007, Planning Permit No. 2007/317/1 was issued under delegation for the use of part of the site (Lot 16) for a medical centre (cardiologist) for four (4) practitioners and car parking waiver.
- On 12 November 2007, Planning Permit No. 2007/3549/1 was issued under delegation to subdivide the site into 80 lots (staged) generally in accordance with the development approved under Planning Permit 2004/0804/1.
- On 7 April 2009, Planning Permit No. 2008/0310/1 was issued at the direction of Victorian Civil and Administrative Tribunal for the development of two (2) dwellings above an existing four (4) storey building.
- On 26 August 2009, Planning Permit 2009/244/1 was issued under delegation for the use of part of the site (Suite 1G) for a food and drink premise (café) and reduction in car parking.
- On 22 December 2009 Planning Permit No 2008/0310/1 was amended via secondary consent for the following changes to the plans:
 - Internal rearrangement of the two (2) dwellings.*
 - *Setback from the northeast boundary (north) reduced from 7.90 metres to 6.22 metres.*
 - *Setback from the northeast boundary (east) increased from 8.56 metres to 10.05 metres.*
 - *Installation of spa's and louvred screens to the southwest of dwelling 401 and north of dwelling 402.*
- On the 27 April 2010 Planning Permit No. 2008/310/1 was amended via secondary consent provisions (amended plans) for the following changes to the plans:
 - *The relocation of the spa pool of Unit 402 from the north-east corner of the property, further south-east, with the inclusion of a 1.7 metre high privacy screen. (TP03)*
 - *Rearrangement of the outdoor area to the north side of Unit 402 (TP03)*
 - *Modifications to the roof and elevation plans as a result of the above changes (TP04, TP05, TP06).*
- On 6 September 2010 Planning Permit 2010/0233/1 was issued for car parking waiver associated with medical centre use.

PUBLIC NOTIFICATION

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

REFERRALS

External Referrals/Notices by the Planning Scheme:

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

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

ASSESSMENT

Planning Permit No. 2008/310/1 was issued at the direction of VCAT on the 7 April 2009 for the development of two (2) dwellings above an existing four (4) storey building.

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

The applicant seeks Council approval for the following changes to the fifth floor apartments.

- Relocation of the spa to unit 401 from the terrace on the western side to the south-west corner terrace, and construction of a dividing fence between the two terraces in accordance with the proposed title boundaries as part of the subdivision (PS 604749W Stage 2).
- Internal rearrangement of rooms to unit 401 to delete the study and expand the living area and to relocate the WIR of unit 402.
- Minor changes to the north-western terraces to units 401 and 402, removing a BBQ to unit 401 and removing the pergola over the terrace of unit 402.

The principles or test of Secondary Consent

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

The tests include the following:

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

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

The primary consent for planning approval was for the construction two (2) additional dwellings above an existing four (4) storey building. These changes are minor reconfigurations to the layout of these dwellings. It is considered that the request for secondary consent to amend the endorsed plans does not authorise something for which primary consent is required under the Bayside Planning Scheme.

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

The purpose of the planning control under which the permit was granted aims to ensure that the development accords with the relevant provisions of the Bayside Planning in terms of built form, amenity impacts, car parking and overall design.

The proposed amendments do not change the purpose for which a permit was granted, as the modifications proposed are incorporated within the approved building.

The proposed relocation of the spa to unit 401 will not create overlooking opportunities from the subject site. The spa is located 8 metres from the south-west corner of the building and 12 metres from the Male Street frontage. The only neighbouring property in close proximity 1 Male Street which is a double storey commercial development. The internal rearrangements within units 401 and 402 will not create any amenity issues, or affect parking requirements. The proposed alterations to the terrace areas do not adversely affect any other parties.

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

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

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

The proposed amendments to the plans are not contrary to any specific requirement and considered appropriate for approval.

CONCLUSION

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

RECOMMENDATION

That the Amended Plans dated **7 June 2011** for the changes to the endorsed plans of **Planning Permit No. 2008/0310/1** be **approved** under the Secondary Consent provisions for **buildings and works (addition of a fifth floor)** at **3 Male Street, Brighton** and the following table be added to the permit:

Date	Change to permit
26 July 2011	Secondary Consent to Amend Plans: <ol style="list-style-type: none"> 1. Relocation of the spa to unit 401. 2. Internal rearrangements to rooms in units 401 and 402. 3. Minor alterations to the terrace areas on the north-west side of units 401 and 402.

4.2 **16 Plunket Street, Brighton East**
Notice of Decision to Grant a Permit
Application No: 2010/514/1 Ward: Central

City Strategy - Statutory Planning
 File No: 2010/514/1

APPLICATION DETAILS

Land/Address:	16 Plunket Street, Brighton East
Application is for:	Construction of two (2) double storey side by side dwellings with basement car parking
Melway Reference:	76 J1
Ward:	Central
Application Number:	2010/514/1
Applicant's/Owner's Name:	Keen Planning
Date Received:	6 September 2010
Statutory Days Expiry:	18 May 2011
Zoning:	Residential 1 Zone
Overlays:	Design and Development Overlay Schedule 2
Under what clause(s) is a permit required?	Clause 32.01-4 – Construction of two (2) or more dwellings on a lot
Restrictive covenants on the title?	No
Current use and development:	Single storey dwelling
Objections:	One (1) and a petition with the seven (7) signatures

PROPOSITION

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

PROPOSAL

It is proposed to construct two (2) double storey dwellings with basement car parking. Each dwelling will contain the following:

- A study, open plan kitchen/living area, powder room and laundry at ground floor.
- Three (3) bedrooms, an ensuite and walk in robe to the master bedroom and a bathroom at the first floor.
- Each dwelling will have two (2) car spaces.

SUBJECT SITE & LOCALITY

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

The site has a total area of approximately 588 square metres and currently contains a single storey dwelling.

The main site/locality characteristics are:

- The adjoining property to the north at 18 Plunket Street contains a single storey dwelling with a garage.
- The adjoining property to the south at 14 Plunket Street contains a single storey dwelling.
- The adjoining property to the east (rear) contains a double storey dwelling.
- Opposite the site to the west at 13 Plunket Street contains a double storey dwelling.

PERMIT/SITE HISTORY

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

The application was deferred at the Planning Committee Meeting on 17 May 2011 for two cycles to enable assessment of revised plans dated 12 May 2011. The application was further deferred at the meeting of 28 June 2011 for one cycle to enable the applicant to appear and address the committee.

PUBLIC NOTIFICATION

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

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

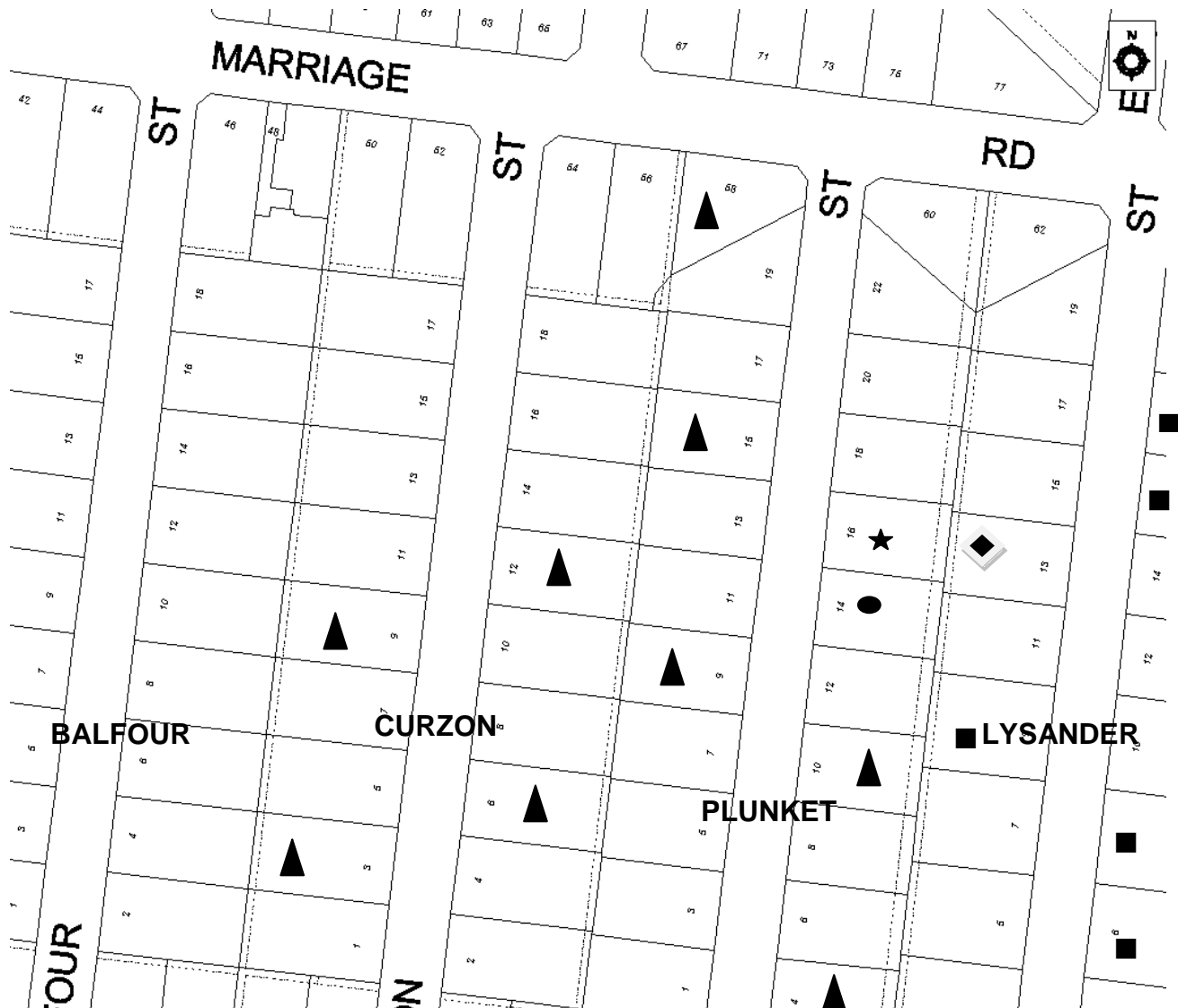
The notification has been carried out correctly.

Council initially received two (2) objections and a petition containing nineteen (19) signatures (excluding the petitioner who is the objector). It is relevant to note that one (1) of the objectors and twelve (12) petitioners having been withdrawn. One (1) objector and a petition with seven (7) petitioners remain.

The key issues that were raised in the objections are:

- Neighbourhood character
- Visual bulk
- Overdevelopment
- Basement
- Overlooking
- Overshadowing
- Devaluation of properties

Locality Plan – 16 Plunket Street, Brighton East



Legend	
Subject Site	★
Objector Withdrawal	◊
Objector (Petitioner)	●
Objectors (Petitioners)	■
Objector Withdrawal (Petitioner)	▲
Note: Not all objectors are shown on the locality map	

CONSULTATION

A consultation meeting was held and attended by the applicant, objectors and planning officer. Revised plans were submitted on 12 May 2011 to seek to address officers concerns. The changes included the following:

- The parapet at the front (excluding portals) has been reduced in height by 300mm.
- The rear parapet has been reduced in height by 200mm.
- The rear first floor setback has been increased to 5 metres.
- A component of the first floor side setbacks has been increased to 4.2 metres.
- The basement ramp has been altered to comply with Australian Standards.

The revised plans were circulated to the objectors. The applicant met separately with the remaining objectors resulting in one (1) objector and twelve (12) out of the nineteen (19) petitioners withdrawing.

REFERRALS

External Referrals/Notices by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	N/A
Internal Council Referrals	Advice/Response/Conditions
Urban Designer	No objection, subject to conditions.
Traffic Engineer	No objection, subject to conditions.
Arborist	No objection, subject to conditions.
Street Trees	No objection, subject to conditions.
Drainage Engineer	No objection, subject to conditions.
ESD	No objection, subject to conditions.

ASSESSMENT

Relevant Provisions of the Bayside Planning Scheme

State Planning Policies

- **Clause 11 Settlement** – The objective of planning is to anticipate and respond to the need, recreation, of existing and future communities through the provision of zoned and serviced land for housing, employment, open space, commercial and community facilities and infrastructure. Planning should recognise the need for and as far as practicable contribute towards, the health and safety, diversity of choice, adaption in response to changing technology, economic viability, a high standard of urban design and amenity, energy efficiency, prevention of pollution to land, water and air, protection of environmentally sensitive areas and natural resources, accessibility and land use and transport integration.
- **Clause 15 Built Environment and Heritage** – Ensures that all new land use and development appropriately responds to its landscape, valued built form and cultural context and protects places and sites with significant heritage, architectural, aesthetic, scientific and cultural value. To achieve high quality urban design and architecture that contributes to local urban character and sense of place, reflects the particular characteristics, aspirations and cultural identity of the community and minimises detrimental impact on neighbouring properties. To ensure the conservation of heritage places.
- **Clause 16 Housing** – The objectives of Clause 16 include the provision of housing diversity and supporting infrastructure. New housing should have access to services and be planned for long term sustainability including walking to activity centres, public transport, schools and open space. To promote a housing market that meets community needs. To locate new housing in or close to activity centre and employment corridors and at other strategic redevelopment sites that offer good access to services and transport. To identify strategic redevelopment sites for large residential development in Metropolitan Melbourne. To provide for a range of housing types to meet increasingly diverse needs. To encourage the establishment of crisis accommodation and community care units in residential areas and to ensure that their location is kept confidential. To facilitate the timely development of residential aged care facilities to meet existing and future needs.
- **Clause 19 Infrastructure** – The provision of social and physical infrastructure should be provided in a way that is efficient, equitable, accessible and timely. The recognition of social needs by providing land for a range of accessible community resources, such as education, cultural, health and community support. To promote the provision of renewable energy in a manner that ensures appropriate siting and design considerations are met. To plan for the provision of water supply, sewerage and drainage services that efficiently and effectively meet State and community needs and protect the environment. To reduce the impact of stormwater on bays and catchments. To avoid, minimise and generate less waste to reduce damage to the environment caused by waste, pollution, land degradation and unsustainable waste practices.

Municipal Strategic Statement

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

- **Clause 21.05 Housing** - Encourages housing choice and quality design outcomes that make a positive contribution to the character of residential areas.

Local Planning Policies

- **Clause 22.07-1 – Neighbourhood Character Policy** - Aims to encourage development in the area that responds to the particular built form and natural environment elements that make up the neighbourhood character of Bayside.
- **Clause 22.07-2 – Neighbourhood Character Objectives** - Aims to ensure that development is responsive to the preferred future character of the area and to retain and enhance the identified elements that contribute to the character of the area. It is noted that the subject site is located within precinct D4.
- **Clause 22.10 – Water Sensitive Urban Design** - Aims to promote the use of water sensitive urban design, including stormwater re-use, to protect the surface water and ground waters in the Port Phillip Bay catchment from stormwater pollutants, to reduce the impacts of peak stormwater flows, to integrate stormwater treatment measures into the landscape, and to reduce the entry of pollutants into stormwater run-off.

Zoning

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

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

Overlays

- **Clause 43.02 Design and Development Overlay Schedule 2** – Aims to achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties, to preserve the existing character and amenity of the areas as low rise (up to two storeys) suburban areas with a strong garden character, to maintain the prevailing streetscape rhythm, building scale and height of neighbourhoods and to maintain a strong landscape character with buildings set within vegetated surrounds.

A planning permit is not required under the DDO2.

Particular Provisions

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

General Provisions

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

SUMMARY OF KEY ISSUES

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

Neighbourhood Character

The proposed development falls in Character Area D4 as identified in Clause 22.07 of the Bayside Planning Scheme.

The preferred future character and guidelines for this precinct states:

The wide variety of dwelling styles sit within established gardens, with occasional canopy trees, and do not dominate the streetscape. The buildings are consistently set back from the front and at least one side boundary, which, combined with the open style front fencing, creates a sense of spaciousness in the streetscape. Avenues of street trees assist in unifying streetscapes.

Objective	Design Response	Avoid
To maintain and enhance the garden settings of the dwellings and rhythm of front boundary setbacks.	<ul style="list-style-type: none"> Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. Retain large trees wherever possible. Buildings should be sited to allow space for the planting of trees and shrubs. 	<p><i>Lack of landscaping and substantial vegetation.</i></p> <p><i>Removal of large trees.</i></p>
To maintain the rhythm of visual separation between buildings.	<ul style="list-style-type: none"> Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. 	
To minimise the dominance of car parking structures in the streetscape.	<ul style="list-style-type: none"> Locate garages and carports behind the line of the dwelling. 	<p><i>Car parking structures that dominate the façade or view of the dwelling.</i></p>
To ensure that buildings and extensions do not dominate the streetscape.	<ul style="list-style-type: none"> Recess second storey elements from the front façade. Use simple building details. 	
To maintain the openness of the streetscape and the views into front gardens.	<ul style="list-style-type: none"> Front fences should be open style, other than along heavily trafficked roads. 	<p><i>High, solid front fences.</i></p>

The surrounding area contains a mix of traditional and contemporary housing on medium to large sized allotments. There is visual separation between dwellings with established gardens. The most valued attributes of the area relate to the detached building style, well-developed garden settings and the visual link between garden and the street. Car parking structures are generally located to the side or rear of dwellings and are not dominant to the streetscape.

It is considered that the proposal meets the neighbourhood character objectives. The proposal provides a transitional front setback between the adjoining properties at 14 and 18 Plunket Street respectively, which is appropriate and reflects the existing setback pattern in the streetscape. The front setback allows good opportunities for landscaping. A concept landscape plan has been submitted with the application that shows two (2) canopy trees located within the front setback of proposed development. The proposal is well articulated with the incorporation of a variety of materials and finishes.

When the application was submitted Council's Urban Designer expressed concern in relation to the proposal presenting as visually bulky to the street. The revised plans have addressed the Urban Designer's concerns by reducing the overall height by 300mm and by breaking up the front facade. Council's Urban Designer viewed the revised plans and commented that 'the greater differentiation between parapet heights helps provide more contrast and definition, and a more dynamic overall image to the street.'

It is considered that the proposal is compatible with the existing diverse neighbourhood character and is capable of making a positive contribution to the street. The design is site responsive and complies with the preferred neighbourhood character objectives.

Setbacks

The proposed setbacks are as follows:

	Ground Floor		First Floor	
	Requirement	Proposed	Requirement	Proposed
North	0 or 2m	2 to 2.9m	3.62 to 5.78m	<u>3.07 to 4.2m</u>
South	0 or 2m	2 to 3.59m	3.92 to 5.18m	<u>3.07 to 4.2m</u>
West (front)	9m	<u>7.8m</u>	9m	<u>7.8m</u>
East (rear)	0 or 3m	4.54 to 4.68m	5.78-6.18m	<u>5m</u>

The proposed street setback at 7.8 metres does not comply with the setback requirements of Clause 55, Standard B6 of the Bayside Planning Scheme – Schedule to the Residential 1 Zone, which requires a street setback of 9 metres. However, the average street setback in Plunket Street is approximately 7.3 metres. It is considered that the proposed setback is responsive to the setback pattern within the streetscape and will provide a transition between the adjoining properties. It is relevant to note that the front setback of the existing dwelling on the subject site is 7.5 metres. The proposed development will be set back further at 7.6-7.8 metres.

The first floor side setbacks of the proposed development partly comply with the requirements of Clause 55, Standard B17 of the Bayside Planning Scheme – Schedule to the Residential 1 Zone, which require the side setbacks from 3.62 to 5.18 metres. The side setbacks are considered appropriate given the high level of articulation, and variation in finishes to the side elevations. It is considered that there is sufficient separation between the proposed built form and the adjoining side properties.

The rear first floor setback is 5 metres in lieu of the required 5.78 to 6.18 metres. Officers have been concerned through the assessment process about the setback, as it was considered that the non-compliant setback may result in unreasonable visual bulk to the adjoining properties private open space area. To minimise potential unreasonable visual bulk a condition can be included on the permit requiring the first floor rear setback to comply with Clause 55 Standard B17 of the Bayside Planning Scheme. Whilst officers were at one point of the view that a setback less than the standard could be acceptable (ie. 5.6 metres), on reflection officers have now concluded that the standard setback requirements should be met.

Overlooking

The neighbour at the rear raised a concern in relation to overlooking. The applicant submitted revised plans to add trellis above the existing two (2) metre high paling fence and the louvres to the first floor windows to be angled downwards (to restrict viewing within the rear yard of the site) to prevent unreasonable overlooking. A condition can be included, should a permit be issued, requiring the rear fence to be screened a minimum height of 1.7 metres in height above the finished floor level of the deck.

The first floor windows are treated with either obscure glazing to 1.7 metres in height above the floor level or provided with appropriate external screening. A condition can be included should a permit issue to ensure that screening is provided in accordance with Clause 55, Standards B22 and B23 of the Bayside Planning Scheme. It is considered that subject to the inclusion of this condition there will be no unreasonable overlooking into the adjoining properties.

Overshadowing

The submitted shadow diagrams have been checked and found to be correct. Shadow diagrams indicate that the proposal will not unreasonably impact on the amenity of the neighbouring residential properties to the south and east of the site. The shadowing caused by the development complies with Clause 55 Standard B21 of the Bayside Planning Scheme.

Visual Bulk

Due to the non compliant rear setback and the height of the proposed development, it is considered that the proposal will result in unreasonable visual bulk to the adjoining properties. To minimise any potential for unreasonable visual bulk a condition can be included should any permit issue to increase the side and rear setbacks. This matter has been addressed previously in this report.

Site Coverage

The proposed site coverage is 45% which complies with Standard B8 of Clause 55 of the Bayside Planning Scheme.

Traffic and Car Parking

The proposed development provides basement car parks containing two (2) car spaces for each dwelling and a vehicle turn table to allow vehicle to exit the basement ramps in a forward direction. The parking provided is in accordance with the requirements of Clause 55, Standards B15 and B16 of the Bayside Planning Scheme.

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

Vegetation and Landscaping

The application was referred to Council's Arborist who commented that there is no vegetation on site worthy of retention. Conditions will be included should any permit issued requiring tree protection to the neighbours trees and the planting of canopy trees within the front setback of the proposed development.

Energy Efficiency and Water Sensitive Urban Design

Generous amounts of glazing are included in the design so as to maximise solar access to habitable rooms. It is considered that the proposal generally meets Clause 55, Standard B10 of the Bayside Planning Scheme. Due to the orientation of the site and the attached side by side development, dwelling 1 is provided with north facing habitable room windows and open space areas accessed from the living room. Dwelling 2 has been provided with sufficient open space areas with good access to maximise sunlight. Skylights have been included over the hallway areas at the first floor to improve solar access to the staircase and hallway areas to minimise the energy usage during the day.

Water Sensitive Urban Design treatments including water tanks have been provided within the basement car parks of the proposed dwellings. This will minimise stormwater runoff into Council's drains and watercourses. It is recommended that conditions be included on any permit issued requiring plans be submitted detailing the measures of Water Sensitive Urban Design to be implemented on-site.

Front Fence

The height of the proposed front fence varies from 1.5 metres to 2.083 metres of solid masonry with steel picket gates instead of the required height of 1.2 metres under Clause 55, Standard B32 of the Bayside Planning Scheme – Schedule to the Residential 1 Zone. The prevailing fences in the street are low in height, however there are examples of higher front fences that are visually permeable. The height of the proposed front fence is inconsistent with the street and will detract from the streetscape of the area. It is recommended that a permit condition require the height of the front fence to be reduced to a maximum of 1.2 metres and the gates over the ramp leading to the basement car parks to be deleted.

Matters Raised by Objectors

The neighbour at 14 Plunket Street raised a concern in relation the basement causing damage to his property and adversely affecting the value of his property. These concerns are not planning matters and the detailed construction of the basement is dealt with via the Building Permit process through protection works notices.

CONCLUSION

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

The proposal will be sympathetic to surrounding development and will respect the residential amenity of adjoining properties. It is therefore recommended the proposal be supported.

RECOMMENDATION

That Council having caused notice of Planning Application **No. 2010/0514/1** to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of the land known and described as **16 Plunket Street, Brighton East** for the **construction of two (2) double storey side by side dwellings with basement car parking** in accordance with the application received on **6 September 2010** and the revised plans received on **12 May 2011**, subject to the following conditions, including the specified conditions set out in the Council's "Town Planning Standard Conditions" adopted by the Council on 28 November 2006:-

1. Before the development starts three copies of revised plans drawn to scale and dimensioned, must be submitted to and approved by the Responsible Authority. When approved the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans received with the application received on 6 September 2010 and the revised plans received on 7 February 2011 but modified to show to the satisfaction of the Responsible Authority:
 - a) The height of the front fence reduced to a maximum of 1.2 metres and the gate over the ramp be deleted.
 - b) The first floor rear (eastern) setback of both dwellings to comply with Clause 55 Standard B17 of the Bayside Planning Scheme.
 - c) Deletion of that part of the rear decks proposed to be constructed over the easement located along the entire eastern property boundary.
 - d) The height of the rear fence or privacy screen be a minimum of 1.7 metres above the finished floor level of the deck.
 - e) The finished floor level of the decks to Australia Height Datum (AHD).
 - f) The width of the proposed vehicular ramp be increased to 4.8 metres where it intersects with the footpath and the width of the proposed crossover be increased to 4.8 metres.
 - g) The redundant crossing shown to be removed and the rear reinstated to nature strip and kerb and channel.
 - h) The width of car space 2 for both dwellings be increased to a minimum of 3 metres.
 - i) Car turntable specifications be provided to the satisfaction of the responsible authority.
 - j) A sightline splay be provided on each side of the proposed ramp in accordance with AS2890.1.
 - k) A schedule of all external materials and finishes to be provided to the buildings and works on the land, showing the materials, colour and finish of all external walls, roof, fascias, window frames and paving (including car park surfacing).
 - l) The location of plant and equipment be in accordance with Condition
 - m) The proposed landscape treatment for the site including the existing and replacement plant species including two (2) canopy trees be planted within the front setback of the proposed development capable of growing to a height of 9 metres at maturity in accordance with the requirements of Condition 5 of this permit.
 - n) The location of tree protection fence in accordance with Condition 8 of this permit.
 - o) Water Sensitive Urban Design stormwater treatment measures including a STORM report with a STORM rating of a minimum of 100% in accordance with Condition 10 of this permit.
 - p) Screening must be provided to all habitable rooms and terraces, in particular the window on the south elevation to bedroom 3, in accordance with Clause 55, Standards B22 and B23 of the Bayside Planning Scheme.

2. P4 Layout not altered
3. A19 Plant/equipment or features on roof
4. A18 Concealment of pipes
5. L1 Landscape plan required
6. L2 Completion of landscaping
7. L3 Landscaping maintenance
8. Before the development including demolition starts, a tree protection fence must be erected inside the property from the centre of the following trees.

Tree Name	Tree Protection Zone Distances
T1 <i>Brachychiton acerifolius</i> (Illawarra Flame tree) at 14 Plunket Street	Existing fence east, 3 metres north and west.
T2 <i>Pittosporum undulatum</i> (Sweet Pittosporum) at 14 Plunket Street	2.3 metres north, 3 metres east and west.

- The fence must be constructed of specify star pickets and chain mesh or similar to the satisfaction of the responsible authority.
 - The tree protection fence must remain in place until construction is completed.
 - The ground surface of the Tree Protection Zone must be covered by a 100 mm deep layer of mulch before the development starts.
 - Any excavation within the above distance must be done by hand to a minimum depth of 500mm below surface level and in the presence of a Qualified Arborist.
 - Any roots encountered must be cut cleanly with a sharp implement.
 - Excavations may continue with machinery below the 500mm minimum depth, once the 500mm minimum depth by hand has been achieved.
 - Excavations must be documented (photographs and notes) and documentation must be submitted to Council within 28 days of request for such documentation.
9. Tree protection fencing must be established around the street trees prior to commencement of any works and maintained until all works on site are complete. The fencing is to be constructed and secured so its position cannot be modified by site workers. The fencing is to encompass the entire nature strip adjacent the works site with the exception of the crossovers. The tree protection zone is to be established and maintained in accordance with Australian Standards 4970 Protection of trees on development sites. The tree protection fencing is only to be removed to construct the proposed crossover. All access on site during construction is to be via the existing crossover.

10. Before the commencement of works, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be in accordance with the guidelines outlined in Clause 22.10 of the Bayside Planning Scheme and must show:-

- a) The type of water sensitive urban design stormwater treatment measures to be used;
- b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaping areas;
- c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections;

These plans must be accompanied by a report from an industry accepted performance measurement tool, which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

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

11. Before the development begins, three sets of detailed plans indicating the method of stormwater discharge to the nominated Legal Point of Discharge (and Stormwater Detention Systems where applicable) must be lodged with Council's Engineering Services department for approval.

12. PT1 Time for starting and completion

Permit Notes

- N1 Crossover permit
- N2 Building approval
- N7 Retention of existing street trees
- N10 Asset Protection
- Stormwater discharge is to be retained on site to the pre-development level of peak stormwater discharge. The development is to have a Stormwater Detention System installed.
- Drainage associated with the basement during construction (seepage and agricultural waters are filtered to rain water clarity) must be pumped to the nearest Council Drain/Pit and not to be discharged to the kerb and channel unless otherwise directed.
- The driveway / Parking areas / paved courtyards / paths and 'pervious' pavements must be graded / drained to prevent stormwater discharge onto the front footpath and into adjacent properties.

STANDARD OF THE BAYSIDE PLANNING SCHEME
TWO OR MORE DWELLINGS ON A LOT AND RESIDENTIAL BUILDINGS (CLAUSE 55 AND SCHEDULE TO THE RESIDENTIAL 1 ZONE)

Title and Objective	Complies with Standard?	Requirement and Proposed
<p>B1 Neighbourhood Character</p> <p>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.</p> <p>Development responds to features of the site and surrounding area.</p>	Yes	See report.
<p>B2 Residential Policy</p> <p>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.</p> <p>Support medium densities in areas to take advantage of public transport and community infrastructure and services.</p>	Yes	See report.
<p>B3 Dwelling Diversity</p> <p>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</p>	N/A	N/A
<p>B4 Infrastructure</p> <p>Provides appropriate utility services and infrastructure without overloading the capacity.</p>	Yes	Can be addressed through a permit condition.
<p>B5 Integration with the Street</p> <p>Integrate the layout of development with the street</p>	Yes	See report
<p>B6 Street Setback</p> <p>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</p>	No	<p>Required: 9 metres</p> <p>Proposed: 7.8 metres</p> <p>See report</p>
<p>B7 Building Height</p> <p>Building height should respect the existing or preferred neighbourhood character.</p>	Yes	<p>Required: 9 metres</p> <p>Proposed: 7.17 to 7.8 metres</p>
<p>B8 Site Coverage</p> <p>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</p>	Yes	<p>Required: 50%</p> <p>Proposed: 45%</p>

B9 Permeability Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.	Yes	Required: 20% Proposed: 35%
B10 Energy Efficiency Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.	Yes	See report.
B11 Open Space Integrate layout of development with any public and communal open space provided in or adjacent to the development.	N/A	N/A
B12 Safety Layout to provide safety and security for residents and property.	Yes	N/A
B13 Landscaping To provide appropriate landscaping. To encourage: <ul style="list-style-type: none"> • Development that respects the landscape character of the neighbourhood. • Development that maintains and enhances habitat for plants and animals in locations of habitat importance. • The retention of mature vegetation on the site. 	Yes	See report. Can be addressed through a permit condition.
B14 Access Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.	Yes	N/A
B15 Parking Location Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.	Yes	N/A

<p>B16 Parking Provision</p> <p>Ensure car and bicycle parking meets the needs of residents and visitors.</p> <p>Accessways should be practical, attractive and easily maintainable.</p>	<p>Yes</p>	<p>Required: 2 car spaces</p> <p>Proposed: 2 car spaces</p>
<p>B17 Side and Rear Setbacks</p> <p>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</p>	<p>No</p>	<p>See table in report. Can be addressed through a permit condition.</p>
<p>B18 Walls on Boundaries</p> <p>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</p>	<p>N/A</p>	<p>No walls on boundaries.</p>
<p>B19 Daylight to Existing Windows</p> <p>Allow adequate daylight into existing habitable room windows.</p>	<p>Yes</p>	<p>N/A</p>
<p>B20 North Facing Windows</p> <p>Allow adequate solar access to existing north-facing habitable room windows.</p>	<p>Yes</p>	<p>N/A</p>
<p>B21 Overshadowing Open Space</p> <p>Ensure buildings do not significantly overshadow existing secluded private open space.</p>	<p>Yes</p>	<p>See report.</p>
<p>B22 Overlooking</p> <p>Limit views into existing secluded private open space and habitable room windows.</p>	<p>Yes</p>	<p>See report. Can be addressed through a permit condition.</p>
<p>B23 Internal Views</p> <p>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</p>	<p>Yes</p>	<p>See report. Can be addressed through a permit condition.</p>
<p>B24 Noise Impacts</p> <p>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</p>	<p>Yes</p>	<p>N/A</p>
<p>B25 Accessibility</p> <p>Consider people with limited mobility in the design of developments.</p>	<p>Yes</p>	<p>N/A</p>

B26 Dwelling Entry Provide a sense of identity to each dwelling/residential building.	Yes	N/A
B27 Daylight to New Windows Allow adequate daylight into new habitable room windows.	Yes	N/A
B28 Private Open Space Provide reasonable recreation and service needs of residents by adequate private open space.	Yes	Required: 40sqm Proposed: Dwelling 1: 69.9sqm Dwelling 2: 107.5sqm
B29 Solar Access to Open Space Allow solar access into the secluded private open space of new dwellings/buildings.	Yes	N/A
B30 Storage Provide adequate storage facilities for each dwelling.	Yes	Storage provided in basement car park.
B31 Design Detail Encourage design detail that respects the existing or preferred neighbourhood character.	Yes	See report.
B32 Front Fences Encourage front fence design that respects the existing or preferred neighbourhood character.	No	Required: 1.2m Proposed: 1.5 - 2.0m
B33 Common Property Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.	N/A	Ramp access to basement will be common property.
B34 Site Services Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. Avoid future management difficulties in common ownership areas.	No	See report. Can be addressed through a permit condition.

4.3 **10A Railway Avenue, Brighton**
Notice of Decision to Grant Permit
Application No: 2010/754/1 Ward: Northern

City Strategy - Statutory Planning
 File No: 2010/754/1

APPLICATION DETAILS

Land Address:	10A Railway Avenue, Brighton
Application is for:	Additions and Alterations to an existing dwelling (first floor) on a lot less than 500sqm.
Melway Reference:	67 E12
Ward:	Northern
Application Number:	2010/754/1
Applicant's/Owner's Name:	Andrew Ramage
Date Received:	13 December 2011 Application to amend plans submitted on 2 June 2011
Statutory Days Expiry:	10 August 2011
Zoning:	Residential 1 Zone
Overlays:	None
Under what clause(s) is a permit required?	Clause 32.01-3 – Extension to an existing dwelling on a lot less than 500 square metres
Restrictive covenants on the title?	No
Current use and development:	Single Dwelling
Objections:	Two (2)

PROPOSITION

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

PROPOSAL

It is proposed to undertake alterations and additions to extend an existing single storey dwelling by constructing a first floor on a lot less than 500 square metres.

The first floor will comprise of a retreat with balcony and master bedroom with ensuite and walk in robe. It is noted that no changes to the existing ground floor are proposed apart from the inclusion of an internal stair.

SUBJECT SITE & LOCALITY

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

The site has a total area of 306 square metres and currently contains:

- A single storey brick dwelling.

The main site/locality characteristics are:

- The adjoining property to the north, at 16 Munro Street, contains a double storey rendered dwelling.
- The adjoining property to the west, at 9 Railway Avenue, contains single storey dwelling.
- The adjoining property to the east, at 10 Railway Avenue, contains a single storey brick dwelling.
- The subject site is to the north of the Sandringham Railway Line.

PERMIT/SITE HISTORY

Planning Permit SP 27620 for subdivision was issued on the 27th August 2007.

A search of Council's records has not located a planning permit for the original unit development.

PUBLIC NOTIFICATION

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

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

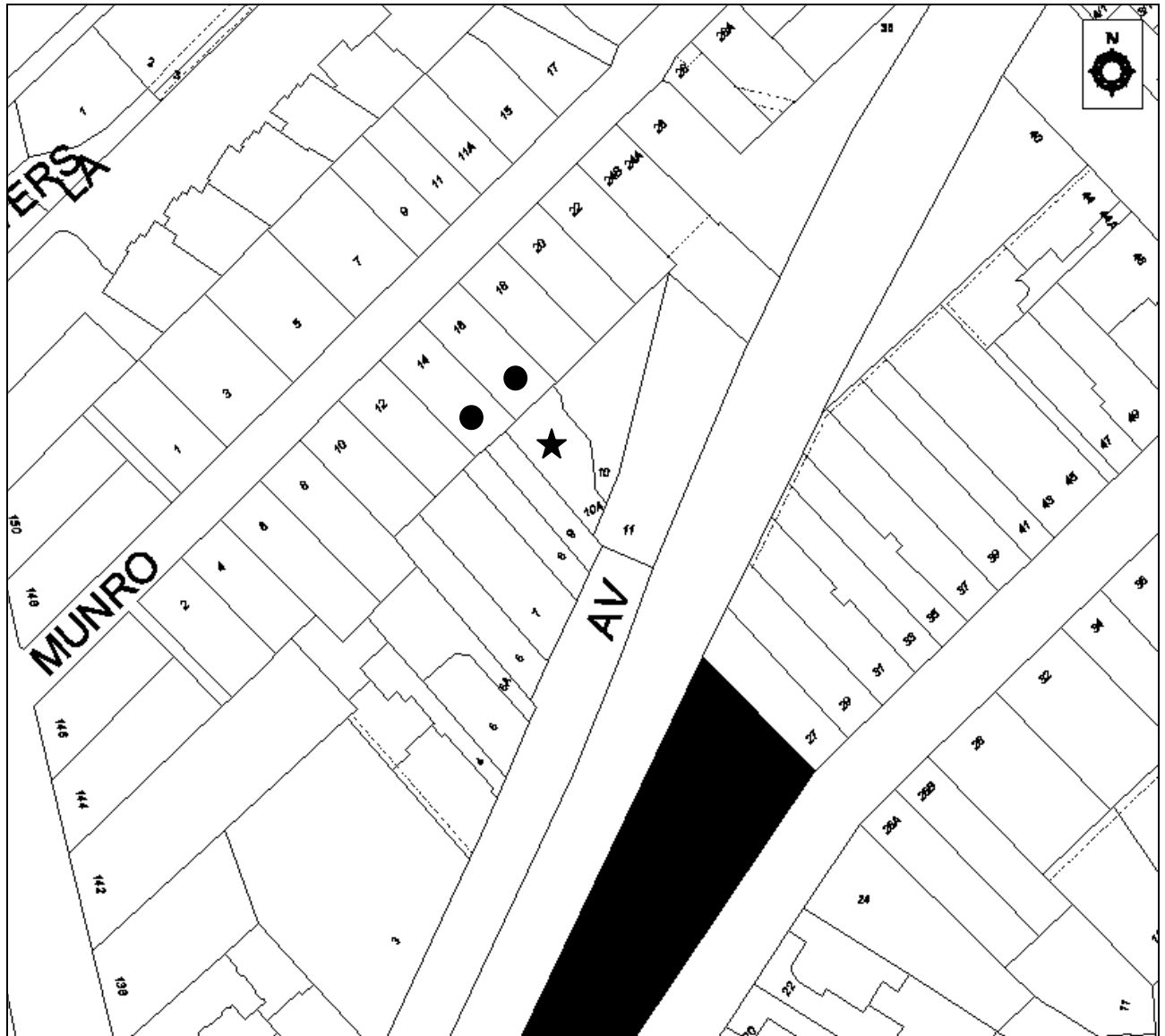
The notification has been carried out correctly.

Council has received two (2) objections to date.

The key issues that were raised in the objections are:

- Visual bulk.
- Overshadowing.
- Overlooking and associated loss of privacy.
- Setbacks.

Locality Plan – 10A Railway Avenue, Brighton



Legend	
Subject land	★
Location of Objector	●

CONSULTATION

A consultation meeting was held on the 26th May 2011.

As a result of the consultation meeting revised plans were submitted to the Council on 2 June 2011.

The plans were circulated to the objectors.

No objections have been withdrawn.

The revised plans incorporate the following changes to the first floor;

- Increase side south west setback from 3.32 meters to 4.32 meters.
- Removal of a window on the first floor north east elevation.

REFERRALS

Referrals	Advice/Response/Conditions
Section 55 Referrals	N/A

Internal Council Referrals	Advice/Response/Conditions
Urban Designer	No objections to the proposal.
ESD Officer	No objections to the proposal.

ASSESSMENT

Relevant Provisions of the Bayside Planning Scheme

State Planning Policies

Clause 10 - Operation of the State Planning Policy Framework

The purpose of State Planning Policy is to inform responsible authorities of the aspects to be considered and given effect in administering the planning scheme. The State Planning Policy Framework provides a context for decision making by responsible authorities.

The planning policies are directed to land use and development, as circumscribed by the *Planning and Environment Act 1987*, a primary objective of which is to provide for the fair, orderly, economic and sustainable use and development of land.

Clause 15 - Built Environment and Heritage

All new land use and development should appropriately respond to its landscape, valued built form and cultural context, and protect places and sites with significant heritage, architectural, aesthetic, scientific and cultural value. Quality built environments should be created that 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.
- Minimises detrimental impact on neighbouring properties.

Clause 15.01-1 - Urban design

Urban environments should be created that are safe, functional and provide good quality environments with a sense of place and cultural identity.

New development should respond to its context in terms of urban character, cultural heritage, natural features, surrounding landscape and climate and encourages the retention of existing vegetation or revegetation as part of subdivision and development proposals.

Clause 15.01-4 - Design for safety

The objective of this clause is to improve community safety and encourage neighbourhood design that makes people feel safe.

Clause 15.01-5 - Cultural identity and neighbourhood character

This clause seeks to recognise and protect cultural identity, neighbourhood character and sense of place by ensuring that development responds and contributes to existing sense of place and cultural identity, distinctive urban forms and layout, landscape and vegetation, and reinforces the special characteristics of local environment and place by emphasising:

- The underlying natural landscape character.
- The heritage values and built form that reflect community identity.
- The values, needs and aspirations of the community.

Clause 15.02-1 - Energy and resource efficiency

Land use and development is encouraged which is consistent with the efficient use of energy and the minimisation of greenhouse gas emissions by ensuring that building design improves efficiency in energy use, promotion of consolidation of urban development, integration of land use and transport, and use of low energy forms of transport such as walking and cycling.

Clause 16 - Housing

Planning should provide for housing diversity, including affordable housing, and ensure the efficient provision of supporting infrastructure. New housing should have access to services and be planned for long term sustainability, including walkability to activity centres, public transport, schools and open space.

Clause 16.01-2 - Location of residential development

New housing should be located in or close to activity centres, employment corridors and strategic redevelopment sites that offer good access to services and transport. An increasing proportion of housing in Metropolitan Melbourne should be developed within the established urban area, particularly sites well located to activity centres, employment corridors and public transport.

Clause 16.01-4 - Housing diversity

A range of housing types to meet increasingly diverse needs should be provided. The development of well-designed medium-density housing is encouraged, which should:

- Respect the neighbourhood character.
- Improve housing choice.
- Make better use of existing infrastructure.
- Improve energy efficiency of housing.

- Support opportunities for a wide range of income groups to choose housing in well serviced locations.
- Ensure planning for growth areas provides for a mix of housing types and higher housing densities in and around activity centres.

Municipal Strategic Statement

Clause 21.02 – Bayside Key Issues and Strategic Visions

This policy outlines the key issues facing the municipality such as increasing development pressure and the impact of this on the urban environment, including ensuring housing is provided to meet the needs of the community.

Clause 21.03 – Settlement and Housing

Provides local content support to Clause 11 (Settlement) and Clause 16 (Housing) which includes accommodating population growth to respond to demographic changes of Bayside.

Clause 21.06 – Built Environment and Heritage

Provides local content support to Clause 15 (Built Environment and Heritage) which includes to achieve quality design outcomes which improve development in Bayside and contribute to a sense of place appropriate to Bayside character.

Local Planning Policies

Clause 22.06 – Neighbourhood Character Policy

Aims to encourage development in the area that responds to the particular built form and natural environment elements that make up the neighbourhood character of Bayside and to ensure that development is responsive to the preferred future character of the area and to retain and enhance the identified elements that contribute to the character of the area.

Clause 22.08 – Water Sensitive Urban Design (Stormwater Management)

Promotes the use of water sensitive urban design including stormwater re use, to reduce impacts to Port Phillip Bay and reduce peak stormwater flows and pollutants into stormwater runoff.

Pursuant to Clause 22.8 of the Bayside Planning Scheme an extension of over 50sqm triggers the requirement for Water Sensitive Urban Design. The proposed extension is 50.88sqm however within this report it is recommended that subject to permit conditions, should one issue, the size of the extension must be reduced, and as such the proposal will no longer trigger requirements for Water Sensitive Urban Design under this clause.

Zoning

Clause 32.01 - Residential 1 Zone

Aims to provide for residential development at a range of densities with a variety of dwellings to meet the housing needs of all households. Also to encourage residential development that respects the neighbourhood character. The zone requires a planning permit for the proposed residential development. The Schedule to the zone incorporates requirements specific to Bayside.

Pursuant to Clause 32.01-3 of the Bayside Planning Scheme, a planning permit is required to extend a dwelling on a lot less than 500 square metres.

Particular Provisions

Clause 54 - Lots under 500 square metres - which includes specific objectives and standards for the proposed residential development to be assessed against.

General Provisions

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

SUMMARY OF KEY ISSUES

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

Neighbourhood Character

The subject site is located in Precinct B2 within Clause 22.06 Neighbourhood Character Policy of the Bayside Planning Scheme. The preferred future character statement reads:

The diverse dwelling styles, with a continued presence of pre WW2 dwellings, sit within established gardens with occasional tall canopy trees. Side setbacks on both sides, and the setting back of car ports/garages from the dwelling, allows for vegetation to flow around the dwellings. New buildings blend with the existing, through using a variety of materials or colours within front façades, and by respecting the older building styles and scales without replicating them. Open style front fencing improves the visual connection between the dwelling and the street. Street tree planting consistency is improved to provide a unifying element to the area.

The precinct guidelines are as follows:

Objective	Design Response	Avoid
To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.	<ul style="list-style-type: none"> Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development. Alterations and extensions should retain the front of these dwellings. 	<i>Demolition of dwellings that contribute to the valued character of the Precinct.</i>
To maintain and enhance the garden settings of the dwellings.	<ul style="list-style-type: none"> Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. 	<i>Lack of landscaping and substantial vegetation.</i>
To maintain the rhythm of spacious visual separation between buildings and provide space for front gardens.	<ul style="list-style-type: none"> Buildings should be sited to allow space for the planting of trees and shrubs. Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. 	<i>Loss of front garden space.</i>
To minimise the loss of front garden space and the dominance of car parking facilities.	<ul style="list-style-type: none"> Locate garages and carports behind the line of the dwelling. Provide only one vehicular crossover per typical site frontage. Underground car parking accessed from the front of the site should only 	<i>Car parking facilities that dominate the façade or view of the dwelling.</i>

Objective	Design Response	Avoid
	<p>be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.</p>	
<p>To ensure new development respects the dominant buildings forms and scale of buildings in the Precinct, through the use of innovative architectural responses.</p>	<ul style="list-style-type: none"> • Articulate the form of buildings and elevations, particularly front facades. • Recess upper storey elements from the front façade. 	<p><i>Large buildings with poorly articulated facades.</i></p>
<p>To respect the identified heritage qualities of adjoining buildings.</p>	<ul style="list-style-type: none"> • Where adjoining an identified heritage building, respect the height, building forms, siting and materials of the heritage building/s, in the new building design. 	<p><i>Buildings that dominate heritage buildings by height, siting or massing.</i></p> <p><i>Imitation or reproduction of historic building styles and detailing.</i></p>
<p>To use a variety of building materials and finishes that provide visual interest in the streetscape.</p>	<ul style="list-style-type: none"> • Incorporate a variety of building materials such as brick, render, timber and non-masonry into the building design. • Use simple building details. 	<p><i>Exclusive use of one material on external wall facades.</i></p>
<p>To improve the visual connection between the dwellings and the streetscape and encourage views to front gardens.</p>	<ul style="list-style-type: none"> • Provide open style front fences, other than along heavily trafficked roads. • Front fence style should be appropriate to the building era. 	<p><i>High, solid fences</i></p>

The area surrounding Railway Avenue contains varied architectural styles of double and single storey weatherboard, brick and rendered dwellings. Railway Avenue includes established canopy trees within the front setbacks of many properties. Given the narrow shape of the site at its interface with the street there is limited vegetation as a result of the driveway access. In addition the site is located within 150m of the Church Street Activity Centre and as such the established pattern of development within this area is characterised by reduced setbacks.

The proposed first floor extension to the existing dwelling meets the objectives of the Neighbourhood Character precinct B2 guidelines. The proposed first floor extension is well set back from the street at approximately 13 metres and is stepped back from the ground floor of the existing dwelling. The proposed side and rear setbacks allow visual separation between buildings to be maintained.

Council's Urban Designer has no objection to the proposal and advises that the proposed extension represents a typical upper level extension of a conventional 1960's – 1970's style dwelling. The proposed extension uses render on the upper floor to add visual interest to the existing brick dwelling. Given the location of the dwelling along Railway Avenue, which is a single sided secluded cul de sac, there is limited impact on the appearance of the dwelling to the public realm as a result of the proposal.

It is considered that the proposed development is appropriate in its context. The proposal respects the existing character of the area and will not disrupt or detrimentally affect the amenity of the surrounding area.

Setbacks and Visual Bulk

The following table shows the required and proposed side and rear setbacks which apply to the proposed first floor extension:

	Ground Floor	First Floor Required	First Floor Proposed
South East (front)	No change	9m	13.8m
North West (rear)	No change	4.2m - 4.38m	4.32m -4.47m
North East (side)	No change	3.32m - 3.38m	<u>2.22m</u> - 4.25m
South West (side)	No change	3.23m	3.45m – 5.54m

The proposed setbacks for first floor extension to the dwelling generally comply with the Schedule to the Residential 1 Zone, however part of the north eastern side setback is 2.22m from the north eastern boundary where a 3.32m setback is required. It is considered that the failure to comply with this setback will significantly increase the visual bulk of the property when viewed from the neighbouring property 10 Railway Avenue. Subject to permit condition, should one issue, the proposed first floor north eastern side setback should be increased to comply with the required setback contained within the Schedule to the Residential 1 Zone of the Bayside Planning Scheme.

Concern has been raised from the neighbouring properties to the north west at 14 and 16 Munro Street about the increase to visual bulk when viewed from their private open space. The proposed first floor rear setback of the extension meets the requirements contained within the schedule to the Residential 1 Zone. It is considered that the proposal provides a sufficient setback to the neighbouring properties at 14 and 16 Munro Street, and given that the length of the wall on this elevation is only 4 metres long, and the upper floor is substantially recessed from the ground floor. Therefore, it is not considered that the proposal will result in unreasonable impact on the amenities of these properties.

Overlooking

Concerns have been raised in regard to the potential for overlooking into adjoining properties from the proposed first floor extension, in particular to the rear private open space of the properties at 16 Munro Street and 10 Railway Avenue.

There is concern that the proposed north east facing first floor master bedroom window will result in overlooking to the private open space and habitable window of the adjacent dwelling at 10 Railway Avenue. It is recommended that a permit condition, should one issue, require the first floor north east facing master bedroom window to have a permanently fixed external screen to 1.7 metres above floor level and be no more than 25% transparent so as to meet Clause 54, Standard A15 of the Bayside Planning Scheme.

As no upper floor windows are to face 16 Munro Street, with the exception of a small window to the retreat well removed from the boundary no unreasonable overlooking will be possible.

Overshadowing

The shadow diagrams submitted have been checked and found to be correct. It is considered that the adjacent properties to the site are not unreasonably overshadowed by the development as the proposed development and consequent overshadowing meets the objectives of Clause 54, Standard A14 of the Bayside Planning Scheme.

Energy Efficiency

The applicant has incorporated generous amounts of glazing to the north east and south east elevations to maximise solar access. It is considered that the proposal generally meets Clause 54, Standard A7 of the Bayside Planning Scheme.

CONCLUSION

The proposed development is considered to be appropriate for the site and will not detract from the existing streetscape and neighbourhood character. The proposed first floor extension will sit comfortably in the street and responds to the existing development pattern.

Subject to conditions the proposal will respect the residential amenity of adjoining properties through the incorporation of sufficient setbacks, and appropriately screened first floor windows. It is therefore recommended that a permit should be issued, subject to conditions.

RECOMMENDATION

That Council having caused notice of **Planning Application No. 2010/754/1** to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of the land known and described as **10A Railway Avenue, Brighton** for **additions and alterations to an existing dwelling (first floor) on a lot less than 500sqm**, with the application dated **15 December 2010, and revised plans dated 2 June 2011** subject to the following conditions, including the specified conditions set out in the Council's "Town Planning Standard Conditions" adopted by the Council on 28 November 2006:-

1. Before the development starts three copies of revised plans drawn to scale and dimensioned, must be submitted to and approved by the Responsible Authority. When approved the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a. The side (north east) first floor setback increased as so to comply with the required setback contained with the Schedule to the Residential 1 Zone of the Bayside Planning Scheme.
 - b. Screening must be provided to the first floor north east facing master bedroom window to comply with Clause 55.04-6 Standard B22 of the Bayside Planning Scheme.
2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. Stormwater discharge is to be retained on site to the pre development level of peak stormwater discharge. The development is to have a 'Stormwater Detention System' installed, the design capacity to be approved to the satisfaction of the Responsible Authority.

4. This permit will expire if one of the following circumstances applies:
- the development is not started within two years of the date of this permit.
 - the development is not completed within four years of the date of this permit.

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

.Permit Notes

N2 Building approval

N10 Asset Protection

STANDARD OF THE BAYSIDE PLANNING SCHEME

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

Title and Objective	Complies with Standard?	Requirement and Proposed
<p>A1 Neighbourhood Character</p> <p>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.</p> <p>Development responds to features of the site and surrounding area.</p>	Yes	The proposal will have little impact upon the neighbourhood character of the area as the alterations and additions are focussed towards the rear of the dwelling.
<p>A2 Integration with Street</p> <p>Integrate the layout of development with the street.</p>	Yes	No change
<p>A3 Street Setback</p> <p>Setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site</p>	Yes	No change
<p>A4 Building Height</p> <p>Building height respects the existing or preferred neighbourhood character.</p>	Yes	<p>Maximum: 9 metres</p> <p>Proposed: 7 metres</p>
<p>A5 Site Coverage</p> <p>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</p>	Yes	<p>Maximum: 50%</p> <p>Proposed: No change</p>
<p>A6 Permeability</p> <p>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</p>	Yes	<p>Minimum: 20%</p> <p>Proposed: No change</p>
<p>A7 Energy Efficiency</p> <p>Achieve and protect energy efficient dwellings.</p> <p>Ensure the development's orientation and layout reduce fossil fuel energy use and makes appropriate use of daylight and solar energy.</p>	Yes	The dwelling has a number of windows which allows for appropriate use of natural solar energy.
<p>A8 Significant Trees</p> <p>Development respects the landscape character of the neighbourhood and retains significant trees on site.</p>	N/A	No impact on any tree on the site
<p>A9 Parking</p> <p>Ensure car parking is adequate for the needs of residents.</p>	N/A	There are no proposed changes to the car parking on site

A10 Side and Rear Setbacks Ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.	No	<i>First floor</i>	Required	Proposed
		North West (rear)	4.2 - 4.38	4.32 -4.47
North East (side)	3.32 - 3.38	<u>2.22</u> - 4.25		
South West (side)	3.23	3.45 – 5.54		
A11 Walls on Boundaries Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.	N/A	There are no proposed walls on boundary		
A13 North Facing Windows Allow adequate solar access to existing north-facing habitable room windows.	N/A	The proposal will allow for adequate north facing solar access.		
A14 Overshadowing Open Space Ensure buildings do not unreasonably overshadow existing secluded private open space.	Yes	See report		
A15 Overlooking Limit views into existing secluded private open space and habitable room windows	No	See report		
A16 Daylight to New Windows Allows adequate daylight into new habitable room windows.	Yes	The proposed first floor windows allow adequate daylight to new habitable rooms.		
A17 Private Open Space Provide adequate private open space for the recreation and service needs of residents.	Yes	Minimum: 40 square metres Proposed: No change		
A18 Solar Access to Open Space Allow solar access into secluded private open space of a new dwelling.	Yes	N/A		
A19 Design Detail Encourage design detail that respects the existing or preferred neighbourhood character.	Yes	See report.		
A20 Front Fences Encourage front fence design that respects the exiting or preferred neighbourhood character.	Yes	No change		

4.4 **8/75-79 Bay Street, Brighton**
Notice of Decision to Grant a Permit
Application No. 2011/222/1 Ward: Northern

City Strategy - Statutory Planning
 File No: 2011/222/1

Application Details

Land/Address:	8/75-79 Bay Street, Brighton
Application is for:	Reduction in car parking associated with use of site for medical practice (Feldenkrais)
Melway Reference:	67 E9
Ward:	Northern
Application Number:	2011/222/1
Applicant's/Owner's Name:	Lisa Campbell
Date Received:	13 April 2011
Statutory Days Expiry:	26 June 2011
Zoning:	Business 5 Zone
Overlays:	Design and Development Overlay Schedule 2 Special Building Overlay
Under what clause(s) is a permit required?	Clause 52.06 – Car Parking
Restrictive covenants on the title?	No
Current use and development:	Double storey mixed use development with 34 tenancies (No 8 is used as an office)
Objections:	Two (2) objections

Proposition

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

Proposal

It is proposed to change the use of the ground floor Unit 8 tenancy from an office (wine distributor) to an office (medical centre). A reduction in the required parking rate for the use is proposed.

The medical centre will comprise:

- Operation of the site as a Feldenkrais practice.
- Two (2) part-time practitioners.
- No reception or 'other' staff
- Two (2) on-site car parks provided for the use.

Subject Site & Locality

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

The site has a total area of 49 square metres and currently contains:

- A double storey building with 34 tenancies.
- No 8 is located on the ground floor and currently used as an office /wine distributor with a floor area of 108 square metres.

The main site/locality characteristics are:

- A single storey residential dwelling to the south of the subject site at 70 Bay Street.
- 'Gas Log Fires' retail outlet is located to the west of the subject site at 71 Bay Street.
- 'The International of Brighton' is located to the east of the subject site at 81 Bay Street.
- A single storey residential dwelling is located to the north of the subject site at 4 Vaucluse Street.

Permit/Site History

The following previous planning permits have been granted for the subject property (including other tenancies):

- 2006/656 – Extend the existing use to include other natural therapy services including naturopathy, hypnotherapy, counselling, reiki and acupuncture (*4/75-59 Bay Street*).
- 2004/54 – Alterations and additions to the front of an existing office building (*1/75-70 Bay Street*).

Public Notification

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

- Placing a sign on site.

The notification has been carried out correctly.

Council has received two (2) objections to date.

LOCALITY PLAN


Legend	
Subject land	★
Location of objectors	●

The key issues that were raised in the objections are:

- Lack of car parking.
- Additional pressure on the existing on-street parking.

Consultation

Consultation was not undertaken at the request of the applicant.

Referrals

External Referrals/Notices by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	N/A
Section 52 Notices	Displaying a sign to the front of the site.

Internal Council Referrals	Advice/Response/Conditions
Traffic Engineer	No objection subject to conditions.

Assessment

Relevant Provisions of the Bayside Planning Scheme

State Planning Policies

- 18.02-5 Car Parking- To ensure an adequate supply of car parking that is appropriately designed and located.
- Clause 19.02 Health Facilities - To assist the integration of health facilities with local and regional communities.

Municipal Strategic Statement

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

Local Planning Policies

- Clause 22.06 – Neighbourhood Character Policy - Aims to ensure that development is responsive to the preferred future character of the area and to retain and enhance the identified elements that contribute to the character of the area.

Zoning

- Clause 34.05 – Business 5 Zone – Aims to encourage the development of offices or multi-dwelling units with common access from the street

The proposal does not trigger the need for a planning permit under this zone

Overlays

- Clause 43.02 Design and Development Overlay Schedule 2 – Aims to ensure architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighboring properties. To preserve the existing character and amenity of the areas as low rise (up to two storeys) suburban areas with a strong garden character. To maintain the prevailing streetscape rhythm, building scale and height of neighborhoods and also to maintain a strong landscape character with buildings set within vegetated surrounds.

The proposal does not trigger the need for a planning permit under this overlay

Particular Provisions

- Clause 52.06 Car Parking – To ensure the provision of an appropriate number of car spaces having regard to the activities on the land and the nature of the locality.

A planning permit is required for the provision of car parking for less than the standard rate in the planning scheme.

- Clause 65 which includes matters to be considered when determining a planning permit application.

Summary of Key Issues

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

Details of the proposal

It is proposed to use the premises as a Feldenkrais practice. The Feldenkrais Method is a somatic educational system designed by Moshé Feldenkrais (1904–1984). The Feldenkrais method is designed to improve movement repertoire, aiming to expand and refine the use of the self through awareness, in order to reduce pain or limitations in movement, and promote general well-being.

The site is located on the ground floor of the double storey mixed use development (No 8 is located towards the middle of the site and along the east side of the building). A central entry foyer and walkway provides pedestrian access from Bay Street to the communal car park area located at the rear of the site. The car park area (secure) is accessed from a ROW that runs along the east and north side of 71 Bay Street (Australian Log Fires).

Two practitioners will both work part-time, only one practitioner will be operating at any one time. There will be no other staff, such as a receptionist. The practice will operate by appointment only with each appointment for 1 hour.

One of the practitioners has a practice which currently operates elsewhere, conducting on average 15 appointments per week. It is proposed to relocate this practice to the subject site. It is not proposed to increase the number of appointments clients/visits for this practitioner.

The second practitioner will be starting to practice from this site and anticipates to build a new client base of up to 15-20 appointments per week. The maximum number of anticipated (combined) clients/appointments is anticipated to be between 30 -35 per week.

Proposed hours of operation

The practice will principally operate:

- between the hours of 9.00am and 5.00pm on Monday to Friday.
- extended hours 2 evenings per week to 8.00pm. These extended evenings will be off-set by a later start time on 2 days.

The staggered hours will reduce the demand for client car parking during 'peak' office hours.

Traffic & Car Parking

The decision guidelines of Clause 52.06 state the following:

Before a requirement for car spaces is reduced or waived, the applicant must satisfy the responsible authority that the reduced provision is justified due to:

- *The availability of car parking in the locality.*
- *The availability of public transport in the locality.*
- *Any credit which should be allowed for a car parking demand deemed to have been provided in association with a use which existed before the change of parking requirement.*
- *An empirical assessment of car parking demand.*
- *Local amenity*

The applicant provided the following survey and empirical assessment of the parking availability within the immediate vicinity of the site (supported by photographic evidence taken throughout the day):

- On 5 occasions during weekday business hours and at varying times of the day, there were between three (3) and seven (7) vacant spaces on Bay Street within 50 metres of the site and in excess of 10 vacant spaces in Barkly Street which is within easy walking distance (100 metres) from the site.

The site is located within walking distance to public transport including a bus route in Bay Street and additional bus routes 100 metres from the site in New Street and the North Brighton Train station (700 metres).

The existing office use has 2 on-site car spaces and a car parking 'credit' of 1.5 spaces. This amount represents the difference between parking that was provided on site for the office use and the parking requirement for office under the planning scheme. In effect this is the theoretical amount of parking demand beyond the land which is already generated.

On the basis of one practitioner only operating at any one time (which is proposed to be reinforced by permit condition), the planning scheme would require the provision of 5 on-site spaces for the use. As only 2 are provided, the shortfall on the planning scheme's standard rate is 3 spaces. On the basis that 1.5 spaces of existing parking demand beyond the site was created by the office use, the effective 'planning scheme' waiver is 1.5 spaces.

However, as the use will operate with only one practitioner at a time, in practical effect the likely parking demand created beyond the site will only be for one car space on the basis of one customer attending at any one time.

This shortfall can be absorbed into Bay Street and the surrounding area. Due to the low customer numbers, with approximately 30 hours of appointments spread over the week, it is considered that the proposed use is appropriate and will not result detriment to the amenity of the area or result in traffic/parking conflicts along Bay Street and within the surrounding area.

Council's Traffic Engineer has reviewed the proposal and has stated that the customer car parking demand associated with the proposed use is insignificant and can be readily accommodated within surrounding road network.

There is sufficient on street car parking in Bay Street for the proposed use. The two (2) hour parking limits in Bay Street create a constant turnover of vehicles which ensures that the provision of available parking spaces is consistent. Furthermore, the site is within close proximity to a train station (North Brighton) and is serviced by two (2) bus routes operating along New Street and Bay Street.

The shortfall of 1.5 car spaces will have no material impact upon the amenity currently enjoyed by residents in the area. The deficit is minimal and can be comfortably absorbed into the surrounding road network.

Conclusion

The application is for the reduction in car parking associated with the use of the site as a medical centre. Two (2) objections to the application have been received. Having regard to the nature of the use, the proposal will not unreasonably impact upon the amenity of the area and will not impact upon existing parking in the area. Subject to appropriate conditions being included on any permit, it is recommended that the application be approved.

Recommendation

That Council having caused notice of Planning Application No. **2011/0222/1** to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of the land known and described as **8/75-79 Bay Street, Brighton** for the **reduction in car parking associated with use of site for a medical practice (Feldenkrais)** in accordance with the application dated 14 April 2011, subject to the following conditions, including the specified conditions set out in the Council's "Town Planning Standard Conditions" adopted by the Council on 28 November 2006:-

1. Not more than one (1) practitioner is permitted to practice at any one time unless with the prior written consent of the Responsible Authority.
2. The **use** must not be altered without the written consent of the Responsible Authority.
3. Unless with the prior written consent of the Responsible Authority, the **use** must only operate between the hours of 9.00am and 5.00pm, Monday to Friday.
4. PT1 Time for starting and completion

4.5 **762 Hawthorn Road, Brighton East**
Notice of Decision to Grant a Permit
Application No. 2010/726/1 Ward: Northern

City Strategy - Statutory Planning
 File No: 2010/726/1

APPLICATION DETAILS

Land/Address:	762 Hawthorn Road, Brighton East
Application is for:	Alterations and additions to existing double storey building to construct a three (3) storey development with one (1) shop and four (4) dwellings and car parking waiver.
Melway Reference:	67 K11
Ward:	Northern
Application Number:	2010/726/1
Applicant's/Owner's Name:	Kate Peel The Town Hall Consulting Group P/L
Date Received:	30 November 2010 Revised plans submitted to Council on 2 June 2011.
Statutory Days Expiry:	1 February 2011
Zoning:	Business 1 Zone
Overlays:	Design and Development Overlay Schedule 2
Under what clause(s) is a permit required?	34.05-1 – Use of dwelling 34.05-4 – Buildings and works
Restrictive covenants on the title?	No
Current use and development:	Double storey building with shop and caretakers dwelling
Objections:	Four (4)

PROPOSITION

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

PROPOSAL

It is proposed to construct additions and alterations to the existing shop and shop-top caretaker's dwelling and to construct an additional level (third storey).

Details of the application are as follows:

- The ground floor is proposed to contain a shop and dwelling 1 which will have one (1) bedroom. A car stacker with the provision of four (4) car spaces for the development, using a remote controlled stacker and pit system is proposed to be located at the rear of the site at ground level.

- The first floor (second level) is proposed to contain two (2) x two (2) bedroom apartments. Dwelling 2 is provided with a balcony fronting onto Hawthorn Road and dwelling 3 is provided with a balcony facing the rear Right of Way. A light court is proposed mid-way along the northern boundary of the site to provide solar access to the internally located bedrooms.
- The second floor (third level) is proposed to contain dwelling 4 which will have (2) bedrooms. Dwelling 4 is provided with a balcony fronting on to Hawthorn Road and an additional balcony facing the rear Right of Way. A light court is proposed mid-way along the northern boundary of the site to provide solar access to the internally located bedrooms.

SUBJECT SITE & LOCALITY

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

A double storey building is constructed over six attached lots which share a common roofline between 758 and 768 Hawthorn Road.

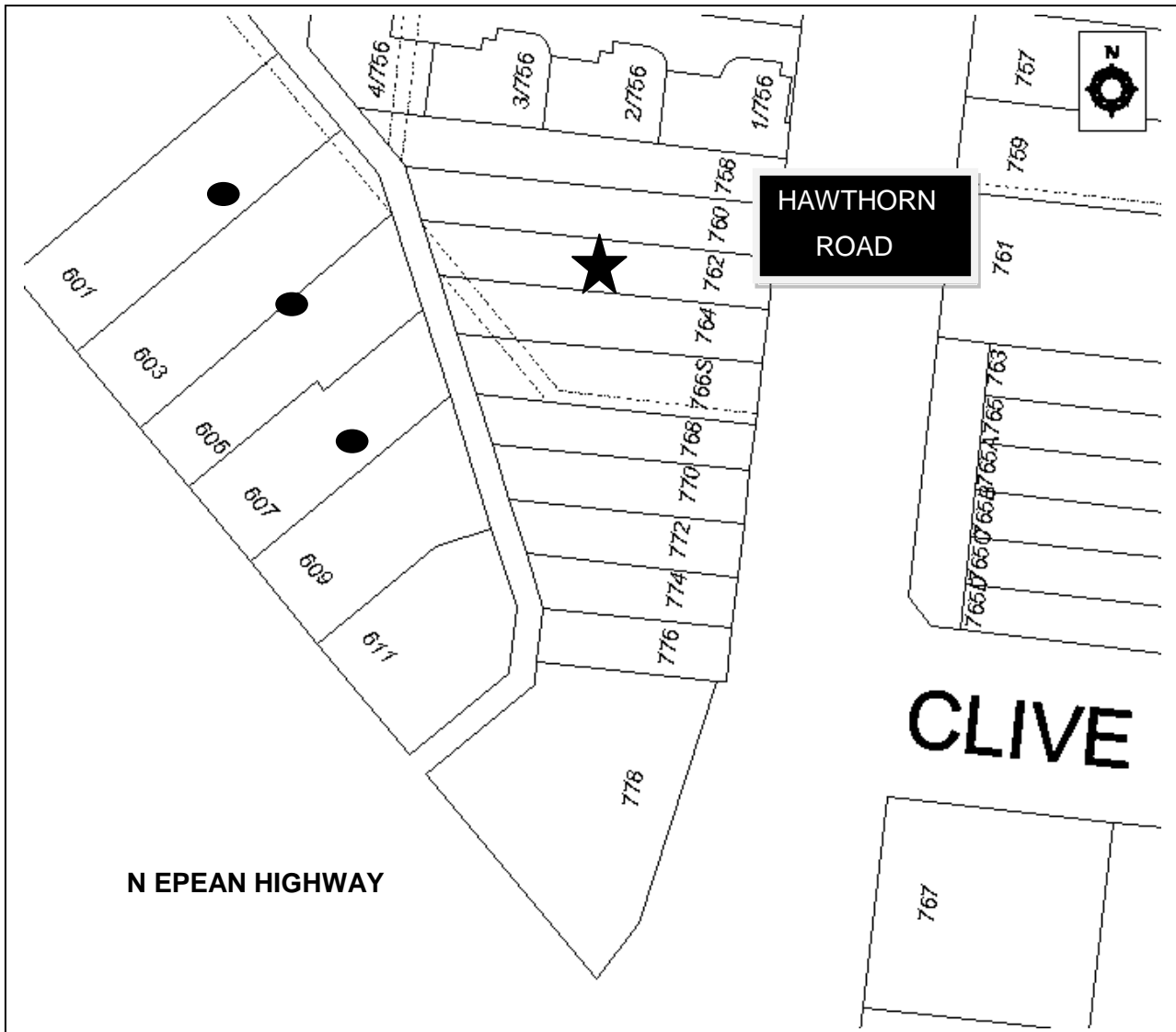
The subject site at 762 Hawthorn Road forms part of this attached building is rectangular in shape and has a total area of 287.70 square metres. It contains:

- a shop on the ground floor (fronting onto Hawthorn Road) and a caretaker's dwelling located at the rear portion of the ground floor and with bedrooms on the first floor. The shop and caretaker's residence share a common entry from Hawthorn Road.
- a single garage at the rear of the site accessed via a Right of Way. The Right of Way also provides access for other shops located in the double storey building on separate lots, fronting onto Hawthorn Road.

The main site/locality characteristics are:

- Immediately to the north and south of the site are shops (attached to the subject site) forming a continuous row of double storey shop and shop-top residences in the neighbourhood shopping strip.
- To the east of the site (across Hawthorn Road) is a similar row of shops and a dwelling located at 761 Hawthorn Road.
- Abutting the west of the site is a Right of Way which provides pedestrian and vehicular access to the shops and the backyards of dwellings fronting onto the service road adjacent to Nepean Highway.

LOCALITY MAP



Legend	
Subject site	★
Objectors -	●

Note: Not all objectors are shown on the locality plan

PERMIT/SITE HISTORY

The history of the site includes:

- Planning Permit Application No. 2008/0061/1 for the construction of a three (3) storey development comprising of a shop and a 1 bedroom caretakers dwelling on ground floor and two, and 2 bedroom apartments at the first and a new second level was Refused by Council on 10 March 2009 and subsequently refused by VCAT on 23 February 2010.
- Planning Permit No. 2006/0947/1 for additions and alterations to the existing shop and residence and advertising signage was approved by Council on 27 April 2007.

PUBLIC NOTIFICATION

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

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

The notification has been carried out correctly.

Council has received four (4) objections to date.

The key issues that were raised in the objections are:

- A repeat application to that which was previously refused by VCAT.
- Overdevelopment of the site.
- Inadequate site permeability.
- Loss of privacy.
- Loss of on-street car parking.
- Proposal will exacerbate existing traffic conflicts and car parking shortage.
- The proposed car lift system will be noisy and dangerous.
- The use of the Right of Way will create safety issues for pedestrian users (including children).
- The proposed development has not considered the circulation pattern of the Right of Way or the capability of the Right of Way to facilitate exiting the site and loading and unloading.
- Proposed development will result in unreasonable overlooking.
- Proposed development will result in unreasonable overshadowing.
- The proposed development for residential habitation will result in an increased fire risk and create security problems.
- Noise generated from the apartments will perpetually pose noise issues to shop owners during business operation.
- The proposed development will result in unreasonable visual bulk to the neighbouring properties and to the streetscape.
- Noise associated with the construction process will result in detriment to the neighbours adversely affecting the businesses.

- Noise detriment associated with more people residing and using balconies and operations of air conditioning units.
- The proposed development has the potential to cause serious damage to the adjoining buildings.
- The proposed development has not considered waste disposal which will result in further detriment to the existing conditions.

CONSULTATION

The applicant was invited to participate in a consultation meeting but elected to respond to the concerns raised by the objectors and officers by letter.

The applicant provided the following response to the issues raised:

In terms of the previous VCAT decision , this application stands alone and can be assessed in its own merit - as it has been redesigned to allow for greater articulation and setbacks (than previously applied and refused). In terms of access, a 3.0m proposed driveway is acceptable and a standard sized width given the amount of traffic and flow generated.

REFERRALS

External Referrals/Notices by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	Not required

Internal Council Referrals	Advice/Response/Conditions
Traffic Engineer	Expressed concerns relating to the efficiency of the car stacker system, the condition and width of the Right of Way and traffic conflicts.
Technical Services- Drainage	Objected to any proposed building over the easement which is located at the rear of the site.
Urban Designer	Did not object to the development from a streetscape perspective as the building is largely unchanged.

ASSESSMENT

Relevant Provisions of the Bayside Planning Scheme

State Planning Policies

- Clause 11 - Settlement - Encourages planning to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure. Planning is to facilitate sustainable development that takes full advantage of existing settlement patterns, and investment in transport and communication, water and sewerage and social facilities.
- Clause 11.04 Metropolitan Melbourne - Activity Centre Hierarchy
Identifies a network of activity centres comprising the Central Activities Districts, Principal Activity Centres, Major Activity Centres, Specialised Activity Centres and Neighbourhood Activity Centres. Encourage higher density housing in and around Neighbourhood Activity Centres that is designed to fit the context and enhances the character of the area while providing a variety of housing options for different types of households.
- Clause 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.
- Clause 15.01 - Urban Design - Aims to create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.
- Clause 16 - Housing - Planning should provide for housing diversity, and ensure the efficient provision of supporting infrastructure.

Municipal Strategic Statement

- Clause 21.02 - Bayside Key Issues and Strategic Vision relating to settlement and housing recognises the need to manage growth associated with population growth and its impacts, to direct population growth into appropriate locations and to ensure the provision of housing to meet the changing needs of the community.

Local Planning Policies

- Clause 22.08 – Water Sensitive Urban Design - Aims to promote the use of water sensitive urban design, including stormwater re-use, to protect the surface water and ground waters in the Port Phillip Bay catchment from stormwater pollutants, to reduce the impacts of peak stormwater flows, to integrate stormwater treatment measures into the landscape, and to reduce the entry of pollutants into stormwater run-off.

The Neighbourhood Character Policy is not applicable as it applies to Residential 1 Zone and Mixed use Zone land only.

Zoning

- Clause 34.01 Business 1 Zone - Encourages the intensive development of business centres for retailing and other complementary commercial, entertainment and community uses.

A permit is required pursuant to the Business 1 Zone for this development as it is proposed to construct a building or carry out works.

Overlays

- Clause 43.02 Design and Development Overlay Schedule 2 – Aims to achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties; to preserve the existing character and amenity of the areas as low rise (up to two storeys) suburban areas with a strong garden character; to maintain the prevailing streetscape rhythm, building scale and height of neighbourhoods and to maintain a strong landscape character with buildings set within vegetated surrounds. The overlay requires a planning permit to construct a building with a height that exceed 9.0 metres and exceeds two storeys.

A permit is required pursuant to the Design and Development Overlay – Schedule 2 as it is proposed to construct a 3rd level with a height greater than 9 metres.

Particular Provisions

- Clause 56.02 Car Parking – Aims to promote the efficient use of car spaces through the consolidation of car parking facilities and ensure the provision of an appropriate number of car spaces having regard to the activities on the land and the nature of the locality.

A permit is required pursuant to Clause 52.06 to provide car parking at the less than the standard rates specified.

- Clause 52.07 - Loading And Unloading Of Vehicles - To set aside land for loading and unloading commercial vehicles to prevent loss of amenity and adverse effect on traffic flow and road safety.
- Clause 52.34 - Bicycle facilities - encourages cycling as a mode of transport and aims to provide secure, accessible and convenient parking spaces.

General Provisions

- Clause 65 Decision Guidelines - Provides guidelines that the responsible authority must consider in assessing an application including the Planning Policy Framework, the purpose and objectives of the Zone to encourage the orderly planning of the area and the effect on the amenity of the area.

SUMMARY OF KEY ISSUES

Recent VCAT Decision relating to the previous application for the site

On 27 January 2010 VCAT upheld Council's decision to Refuse to Grant a permit for application No. 2008/0061/1 for a three storey development comprising a shop, a one bedroom caretakers dwelling at ground level and two , 2 bedroom apartments at first and second levels.

Council's grounds of refusal were:

1. *the proposed use will create an unreasonable car parking demand in Hawthorn Road.*
2. *the proposed development does not provide adequate on-site car parking for the proposed uses.*
3. *the proposed car parking arrangements, utilising stackers is constrained and does not create ease of access to and from the site.*
4. *the proposed use of the right of way will result in unreasonable traffic conflicts, detriment to the safety of pedestrians using the right of way and detriment to the residential amenity of the neighbours.*
5. *the proposed development will result in unreasonable overlooking to secluded private open space areas of neighbouring properties.*
6. *the extent and bulk of the development will result in a loss of amenity when viewed from the rear of adjoining residential properties.*
7. *the proposed development does not accord with the objectives of the design and development overlay schedule 2 (ddo2).*
8. *the proposed light well does not provide sufficient light to provide satisfactory residential amenity and energy efficiency for future residents.*

With regard to Council's grounds of refusal numbered 1 to 4 inclusively, the tribunal did not agree that the development should not rely on use of the Right of Way and noted the following:

'the evidence as provided is of the view that the ROW is capable of accommodating the additional traffic without any negative impact on the amenity of adjoining residents or any risk to pedestrians in the ROW given that this is a low traffic, environment. I am further of the view on the basis of the evidence that the parking arrangement proposed is sufficiently convenient to ensure that the owners of each of the car spaces will make use of them and not be tempted to park in nearby streets.

With regard to council's grounds of refusal numbered 5 to 8 inclusively the tribunal noted the following:

'the proposed development will be very imposing when viewed from the rear yards of the properties to the west of the site with a height well over the DDO2 trigger of 9.0 metres In particular, the proposed development extends the high built form presentation to Hawthorn Road down the site to more than 20 metres. This will be very intrusive and will tower above the open space of residential properties. These properties are already compromised by their proximity to Nepean Highway which makes the secluded private open spaces more precious to them. The proposed development will overwhelm these open spaces.

There is a tension between encouragement within the planning scheme for higher density development in neighbourhood activity centres and the DDO. In this regard the higher density development on this site is justified. However, if a permit were to be granted there would need to be a significant reduction in the setback of the third level and some reduction in the second level as well.

The proposal as developed by the applicant has responded to the Tribunal's criticisms by increasing the setback of the upper levels of the development from the western boundary. Given the Tribunal's observations about rear access from the Right of Way being appropriate, the new application continues to rely on vehicular access from the rear, notwithstanding Council's previous concerns about this arrangement.

State and Local Planning Policy relating to housing location

It is considered that the proposed development accords with the purpose and objectives of the State and Local Planning Policies which encourage the location of housing close to services and in particular shopping precincts. Increasing the number of dwellings within this shopping precinct will make a positive contribution towards the economic viability of the strip shopping centre and will maintain, strengthen and enhance the local character.

As the proposed use and development is supported in general terms by planning policy, the key considerations by Council become the specific merits of the design. These are discussed in the following sections.

Height

The Design and Development Overlay Schedule 2 provides that applications which propose buildings higher than two storeys require planning consideration to determine whether they are appropriate within the context of the site and whether a development higher than 9.0 metres will result in detriment to an area or to the neighbourhoods valued characteristics.

The height of the existing row of shops currently rises to 10.5 metres to the top of the ridgeline (which extends continuously across the six attached shops). The proposed development matches this height and in doing so does not introduce a discordant element into the streetscape.

It is therefore considered that although the proposed additions to the existing building exceed 9.0 metres in height and contain more than two storeys, the proposed development is appropriate within the context of the site in terms of overall height. The proposed development will retain the height of the existing roofline at the front of the site and will develop the remainder of the site with an appropriately recessed upper level. By maintaining the existing roofline and building height at the front of the site the proposal will not significantly alter the context or character of the existing strip shopping centre.

Built Form and Character

It is noted that this section of Hawthorn Road is predominantly occupied by commercial development (shops with shop-top dwellings). Commercial buildings within the shopping strip are single or double storey and 'built to the boundary'. The strip shopping centre demonstrates a consistency in height, scale, massing and materials, (predominantly cream brick two storey shops adjacent to the subject site and single storey shops on the opposite (south) side of Hawthorn Road). The surrounding residential area contains a variety of architectural styles dating from the Edwardian era through to recent infill and medium density developments interspersed with low-scaled dwellings set within large landscaped gardens. Dwellings are generally well articulated with space around buildings for garden plantings. Materials are often orange brick or roughcast/rendered light colours. Newer developments have smaller setbacks and often use contemporary building materials.

The overarching objectives of planning and urban design are to encourage good urban design outcomes that respond to, and are respectful of the local context. That does not mean that a proposed development should mimic or replicate what already exists, nor does it prohibit the construction of three storey buildings in neighbourhoods that contain only single and double storey buildings.

It is considered that the proposed development will fit comfortably within the context of the site and responds appropriately to the commercial character of its immediate abutments as well as respecting the residential amenity of its residential neighbours. The development is sufficiently removed from residential developments (with upper levels appropriately distanced) to minimise the potential for unreasonable detriment to its residential neighbours.

The site shares common party walls with other commercial buildings along both side (north and south) boundaries and is separated by a Right of Way from the residential developments to the rear (west) of the site. The current application has increased the rear setbacks to minimise potential visual bulk detriment to the neighbours. It is noted that the immediate neighbours (BZ1) along the north and south have sheds and car parking facilities in their rear yards whilst the residences west of the site (beyond the Right of Way) have secluded private open space areas and car parking structures (accessed from the Right of Way) in their backyards.

It is considered that the current proposal presents a notable improvement to the scale and bulk of the previously proposed and refused form of development. Increased rear setbacks reduce the potential for visual bulk detriment upon the residential amenity of the residents to the rear. In determining to refuse the earlier application, the Tribunal member was mindful of the fact that these residences (which front on to Nepean Highway) relied heavily upon their rear open space areas for secluded recreation.

The application was referred to Council's Urban Designer who did not object to the development and provided the following comments:

From a purely visual viewpoint, the design does not unreasonably alter the appearance of the existing building i.e. its urban design (visual) impact is low, depending of course on how well the new deck in the roof is detailed and constructed. The colour and materials of the new wall and windows flanking this balcony are critical to the outcome. Probably of more impact would be the removal of the first floor window to create the balcony behind. The eastern walls at both first and second floor levels should be all glass. A solid section of wall as proposed would intensify the prominence of this new modification.

It is considered that the proposed development responds appropriately to the valued characteristics of the shopping strip streetscape and will maintain the streetscape rhythm characterised by single width frontages and the 'fine grained' pattern which is expressed by the small 'terrace style' lots flanking the subject site.

Although the side and rear elevations incorporate little or no articulation, the solid forms and hard edge architecture are 'typical' of constraints placed upon commercial developments on small sites.

Setbacks

The rear setbacks are proposed to be 2.89 - 5.593 metres in lieu of the previous 2.0 metres at the ground floor level, 2.827 to 7.18 metres at the first floor level (second storey) in lieu of the previous 500mm to 6.5 metres and 12.0 - 14.6 metres on the second storey (third level) in lieu of the previous application which proposed 1.5 to 4.0 metres.

It is considered that the increased setbacks, particularly with regard to the upper (third) level rear setback provide an appropriate and respectful response that will ensure the residential amenity of the residences to the rear is not unreasonably compromised.

Visual Bulk

The overall height of the development is proposed to be 10.5 metres and will maintain the same overall height of the existing building. The upper level is set back from the front and rear elevations. The flat roof form of the proposed rear additions and 'contemporary' style upper level will not be visible from the streetscape and will read as being no higher than the pitched roof of the existing building.

It is considered that from a streetscape perspective the proposed development will 'sit comfortably' with the existing built form character, minimise disruption to the existing roofline (which currently houses the six attached shops) and minimise the potential for visual bulk detriment to the streetscape. The indented light court along the north side elevation will improve internal amenity for future residents and will provide natural light to the living and bedrooms of the new dwellings.

In response to the potential for the upper level to result in unreasonable visual bulk detriment to the neighbours located at the rear of the site, the upper level has been reduced in length to provide greater setbacks from the rear boundary. The proposed 12.0-14.6 metre setback for the upper level in addition to the separation provided by the ROW will ensure that the amenity of the neighbours is not compromised.

Sight lines submitted by the applicant show that the upper (third) level will not be visible from the backyards of the properties to the rear of the site.

Overlooking

The development has been designed to prevent unreasonable overlooking to open space areas of adjoining properties by incorporating fixed screening to the balconies to the height of 1700mm above the finished floor level.

Overshadowing

The shadow diagrams submitted with the application have been checked and found to be correct. There will be no unreasonable overshadowing to open space areas of adjoining properties attributed by the proposed development.

Traffic & Car Parking

The application proposes car spaces for each dwelling using a remote controlled vertical and horizontal shifting platform and pit stacker system accessed from the rear ROW.

The site currently provides two (2) on-site car spaces, one (1) undercover for the caretaker's dwelling and one (1) on-site car space for the shop.

The four (4) new apartments will be provided with one (1) car space each. No car space is provided for the shop.

It is noted that the Planning Scheme requirement for dwellings in a Business 1 Zone is for two (2) on-site car spaces per dwelling (regardless of the number of bedrooms), whereas the Residential 1 Zone requires only one (1) car space for dwellings with less than three (3) bedrooms.

Considering the site's location within a neighbourhood shopping centre with a tram stop directly opposite, the provision of one (1) car space for each new apartment is acceptable for the proposed development. Similarly it is not considered that car parking should be specifically set aside for the shop use, given customer access to parking in Hawthorn Road the good access available to public transport. It is relevant to note that the Tribunal previously did not express any concerns relating to car parking provision.

Council's Traffic Engineer initially raised concerns relating to the number of manoeuvres required for vehicles to exit the Right of Way, the proposed ramp grade, potential for traffic and pedestrian conflicts and the lack of on-site car parking for the shop. The applicant has provided more recently provided updated plans to demonstrate that vehicles can enter and exit the site from the proposed car stacker system.

It is considered that as the ROW provides car (and loading access) for the shops and many of the dwellings (fronting Nepean Highway and Hawthorn Road) and the subject site currently accommodates two (2) vehicles which manage to make the necessary manoeuvres to enter and exit the site from the Right of Way. The proposal for a further two (2) vehicles using the Right of Way will not result in unreasonable detriment or traffic and safety conflicts.

Drainage

The application was referred to Council's Drainage Engineer who raised concerns relating to the proposed building over the easement which is located at the rear of the site. The plans have been amended to address this concern. There is no longer any building proposed to be built over the easement.

Concern was raised with regard to the gradient of the proposed ramp (which is at the same grade as the Right of Way). It is recommended that a condition of any permit, should one issue, require the ramp gradient and surface of the Right of Way to be designed to Council's specification to ensure potential for drainage issues are appropriately addressed from the outset.

Energy Efficiency

The existing building is built to the boundary and presents limited opportunity to provide the optimum energy efficient design. The 8 square metre north facing light court spanning the three levels will ensure that all habitable rooms (particularly for the ground floor apartment) are provided with natural light. In addition to the light court, the upper level apartments are provided with east and west facing balconies (along the front and rear elevations).

It is considered that the light courts and balconies will reduce dependency on artificial lighting and maximise energy efficiency.

Water Sensitive Urban Design

The proposed development does not incorporate any water sensitive urban design initiatives. A condition of any permit that may issue will require the inclusion of water sensitive urban design features such as tanks/water saving/water reuse/water filtration systems in accordance with the requirements of Clause 22.08 of the planning scheme.

Additional concerns raised by the objectors:

A range of additional concerns were raised by objectors, relating to noise generated by plant and equipment and from occupants of the apartments, disruption during construction, potential for damage to neighbouring buildings, and increased fire and security risks.

Noise generated by the occupants of the proposed dwellings will be related to residential occupancy and is not regulated by the planning system. Similarly, noise from related plant such as the car stacker is not regulated by the planning system, and has potential to be remedied by separate legislation in the unlikely event that it does. Management of the construction process in respect of protection of neighbouring buildings is addressed through the building permit process. Finally, the proposed development should not, in itself, increase fire risk or create security problems.

CONCLUSION

The Bayside Planning Scheme identifies the need for additional dwellings and households to be accommodated within the municipality. Council's approach to the provision of additional dwellings is to primarily direct new medium density housing to residential opportunity areas in and around activity centres.

It is considered that the proposal to construct additional dwellings on the subject site, within the midst of a Neighbourhood strip shopping centre and opposite Public Transport responds appropriately to the urban consolidation objectives expressed in the State and Local Planning Policies.

The applicant has sought to address the concerns raised in respect of the earlier application by increasing the rear setbacks. The increased rear setback will ensure the third storey is not visible from the rear yards of the residential properties to the west of the site and addressed the potential for unreasonable visual bulk detriment to these properties. This response effectively addresses the main ground of refusal to the previous application.

It is therefore considered that the proposed development, subject to permit conditions, is worthy of support.

RECOMMENDATION

That Council having caused notice of Planning Application No. **20010/0726/1** to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of the land known and described as **762 Hawthorn Road, Brighton East**, for the **Alterations and additions to existing building to construct a three (3) storey development with one shop and four (4) dwellings and car parking waiver** in accordance with the application dated 30 November 2010 and revised plans dated 2 June 2011, subject to the following conditions, including the specified conditions set out in the Council's "Town Planning Standard Conditions" adopted by the Council on 28 November 2006:-

1. Before the development starts three copies of revised plans drawn to scale and dimensioned, must be submitted to and approved by the Responsible Authority. When approved the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the application but modified to show to the satisfaction of the Responsible Authority:
 - a. The ramp and Right of Way gradients to be designed in accordance with Bayside Council's requirements.
 - b. All wall heights above ground level to be nominated on the plans
 - d. A schedule of all external materials and finishes to be provided to the buildings and works on the land. The schedule shall show the materials, colour (including two colour samples) and finish of all external walls, roof, fascias, window frames and paving (including car park surfacing).
 - e. The eastern walls (street frontage) must maintain the existing window openings along the façade of the building and the internal walls beyond the façade must be all glass.
 - f. The entry door to the apartments (ground floor) must be relocated closer to the front entry to the building to achieve an improved 'sense of address' for the dwellings.
 - g. Water sensitive urban Design initiatives and energy efficient design elements that reduce greenhouse gas emissions and maximise energy efficiency (such as solar panels and water tanks) must be included in accordance with the requirements of Clause 22.08 of the Bayside Planning Scheme.
 - f. All plant and equipment (including air conditioning units, heating units, hotwater systems, etc) which is proposed to be located externally shall be identified on the plans and located to the satisfaction of the Responsible Authority.
 - g. Full details (specifications) of the car pit/stacker system must be provided showing remote controlled, independently accessed car spaces.
 - h. Water sensitive urban design stormwater treatment measures providing a rating of a minimum of 100% in accordance with Condition 10 of this permit.
2. One (1) car space must be allocated to each residential tenancy.
3. P4 Layout not altered
4. Before the occupation of the site commences or by such later date as is approved in writing by the responsible authority, all buildings and works and the conditions of this permit must be carried out and completed to the satisfaction of the responsible authority.

5. S15 Basic Services
6. A18 Concealment of pipes
7. A20 Boundary walls
8. A19 Plant and Equipment Location
9. CP1 Car park
10. Before the commencement of works, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be in accordance with the guidelines outlined in Clause 22.08 of the Bayside Planning Scheme and must show:-
 - The type of water sensitive urban design stormwater treatment measures to be used;
 - The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaping areas;
 - Design details of the water sensitive urban design stormwater treatment measures, including cross sections;
 - These plans must be accompanied by a report from an industry accepted performance measurement tool, which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

The water sensitive urban design stormwater treatment system as shown on the endorsed plan must be retained and maintained at all times in accordance with the Urban Stormwater - Best Practice Environmental Management Guidelines, CSIRO 1999, to the satisfaction of the Responsible Authority.
11. The Legal point of Discharge for this development is to be the Council drain located at the rear of the property. The Developer should be satisfied that levels permit the adoption of the above discharge point.
12. Plans for the construction of the outfall drain must receive Bayside City Council approval prior to the commencement of the development.
13. A Construction Management Plan

Prior to the commencement of any works, a construction management plan must be submitted to and approved by the Responsible Authority. The construction management plan must address, but is not limited to:

 - Hours of construction, control of noise and airborne matter, deliveries, vehicle access, worker car parking, damage to public assets, and contact numbers for complaints.
 - The covering and maintenance of all roads/storage areas/external stockpiles/or vacant areas to avoid dust nuisance to any residential and commercial premises.
 - The prohibition of delivery/tradesmen's vehicles from obstructing Hawthorn Road and /or the Right of Way.
 - All works must accord with the approved construction management plan to the satisfaction of the Responsible Authority.

14. Waste Management Plan

Before the use or occupation of the development starts, a waste management plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. Three copies of the plan must be submitted. The plan must include but is not limited to:

- Provision on the land for the storage and collection of garbage and other solid waste. This area must be graded and drained and screened from public view to the satisfaction of the Responsible Authority.
- The Right of Way must be kept clear at all time with no vehicles or construction materials to be placed/stored within the entire length of the Right of Way and no works to disrupt or obstruct the use of the Right of Way.

15. PT1 Time for starting and completion.**Permit Notes****N1 Vehicle Crossing Permit****N2 Building approval****N8 Sewerage****N10 Asset Protection**

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

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

4.6 **884 Hampton Street, Brighton**
Notice of Decision to Grant a Permit
Application No. 2011/37/1 Ward Northern

City Strategy - Statutory Planning
 File No: 2011/37/1

APPLICATION DETAILS

Land Address:	884 Hampton Street, Brighton
Application is for:	Construction of two (2) double storey dwellings
Melway Reference:	67 H10
Ward:	Northern
Application Number:	2011/37/1
Applicant's/Owner's Name:	Elana Uisten
Date Received:	27 January 2011 Application to amend plans submitted on 13 May 2011 and further amendments were submitted on 22 June 2011
Statutory Days Expiry:	12 July 2011
Zoning:	Residential 1 Zone
Overlays:	Design and Development Overlay Schedule 2
Under what clause(s) is a permit required?	Clause 32.01-4 – Two (2) dwellings on a lot
Restrictive covenants on the title?	No
Current use and development:	Single Dwelling
Objections:	Four (4)

PROPOSITION

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

PROPOSAL

It is proposed to construct two (2) double storey attached dwellings.

Dwelling 1 comprises of;

Ground Floor:

- A double garage.
- A bedroom, ensuite, kitchen, living, dining, study and laundry

First Floor:

- Three bedrooms, ensuite, bathroom, study and rumpus room.

Dwelling 2 comprises of;

Ground Floor:

- A double garage.
- A bedroom, ensuite, kitchen, living, dining and laundry.

First Floor:

- Three bedrooms, ensuite, bathroom and rumpus room.

Open Space

- Dwelling 1 – 77m²
- Dwelling 2 – 61m²

SUBJECT SITE & LOCALITY

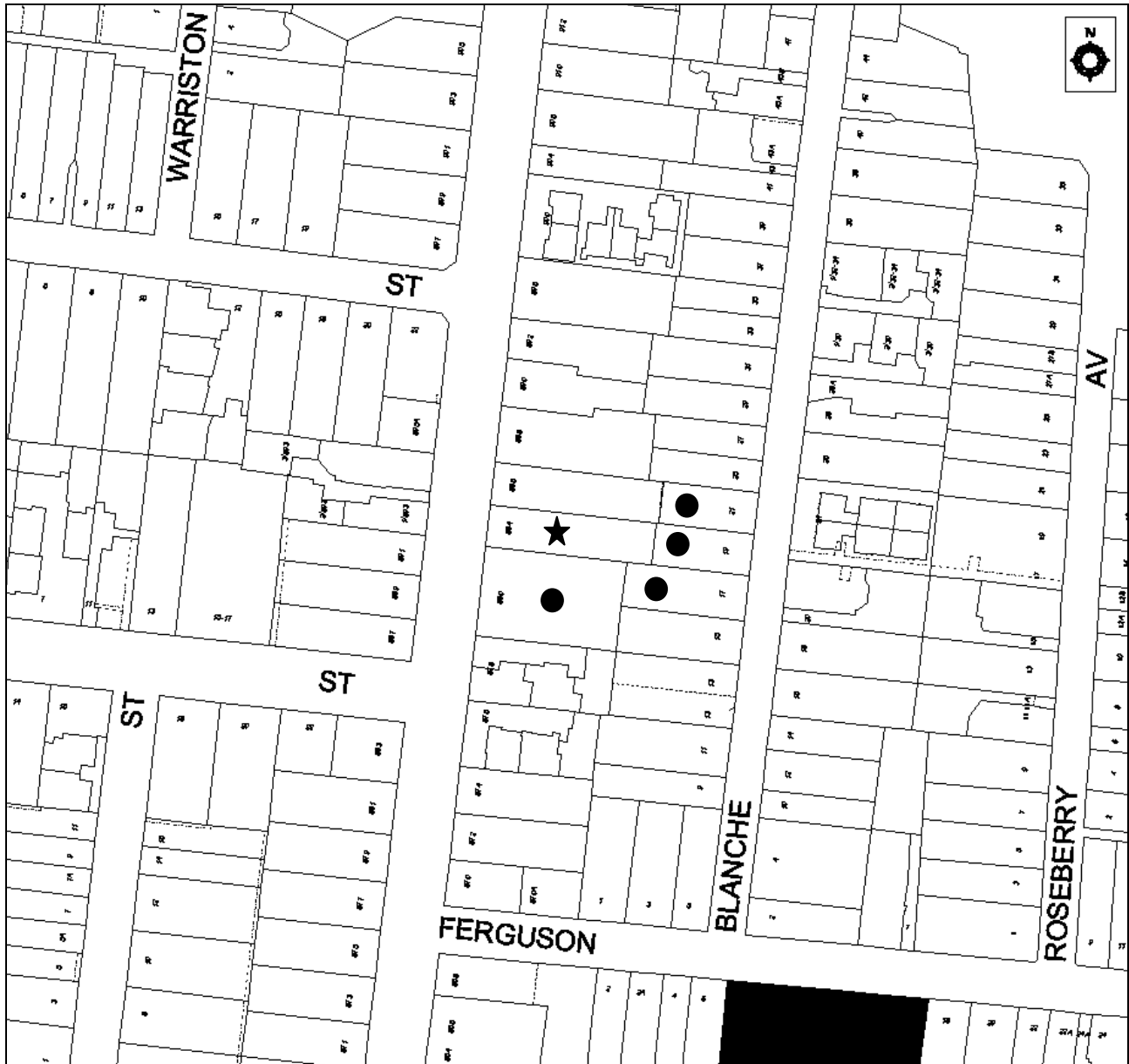
An inspection of the site and the surrounding area has been undertaken.

The site has a total area of approximately 754 square metres and currently contains:

- A single storey dwelling.
- Vehicular access via Hampton Street.
- A number of large trees on the property.

The main site/locality characteristics are:

- To the **north** of the site, 886 Hampton Street contains a vacant site with a large concrete slab positioned in the middle of the site.
- To the **south** of the site, 880 Hampton Street contains a double storey rendered dwelling.
- To the **east** of the site, 19 Blanche Street contains a single storey weatherboard dwelling with a carport and shed located to the rear of the dwelling.
- To the **west** of the site, across Hampton Street, there are single and double storey dwellings of varying styles and densities.

Locality Map – 884 Hampton Street, Brighton


Legend	
Subject land	★
Location of Objectors	●

PERMIT/SITE HISTORY

No previous planning permits have been determined for the subject site

PUBLIC NOTIFICATION

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

- Sending notices to the owners and occupiers of adjoining land
- Placing one (1) sign on site

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

The key issues that were raised in the objections are:

- Non compliant setbacks
- Overlooking
- Removal of existing vegetation and lack of area for replanting
- Visual Bulk
- Privacy
- Overshadowing
- Noise (Location of Plant Equipment)
- Removal of Vegetation (Impact on Fauna)

CONSULTATION

A consultation meeting was held on the 12th May 2011.

As a result of the consultation meeting revised plans were submitted to the Council on the 13th May 2011.

The plans were circulated to the objectors.

No objections have been withdrawn.

The changes included within the amended plans were;

- The redesign of dwelling 2 to increase first floor side south setback from 2.15 meters to 3 meters.
- The eaves on dwelling 2 reduced to 450mm
- The location of the vehicle crossing altered to be setback 500mm from the southern boundary
- The garden sheds relocated

Further amended plans were submitted to the Council on the 22nd June 2011.

- The first floor rear setback increased to 5.5 metres
- Increased articulation to the rear elevation incorporating a variety of materials and finishes to minimise potential visual bulk detriment
- A plan showing the proposed landscaping of the site which includes canopy tree planting (along the rear of the site) capable of growing to at least 6 metres

The plans were circulated to objectors.

No objections have been withdrawn.

REFERRALS

External Referrals by the Planning Scheme:

Referrals	Advice/Response/Conditions
Section 55 Referrals	N/A

Internal Council Referrals	Advice/Response/Conditions
Urban Designer	No objections to the proposal subject to permit conditions.
ESD Officer	No objections to the proposal subject to permit conditions.
Traffic Engineer	No objections to the proposal subject to permit conditions.
Engineering	No objections to the proposal subject to permit conditions.
Arborist	No objections to the proposal subject to permit conditions.
Arboricultural Officer (street street)	No objections to the proposal subject to permit conditions.

ASSESSMENT

Relevant Provisions of the Bayside Planning Scheme

State Planning Policies

- **Clause 10 - Operation of the State Planning Policy Framework**

The purpose of State planning policy is to inform responsible authorities of the aspects to be considered and given effect in administering the planning scheme. The State Planning Policy Framework provides a context for decision making by responsible authorities.

The planning policies are directed to land use and development, as circumscribed by the *Planning and Environment Act 1987*, a primary objective of which is to provide for the fair, orderly, economic and sustainable use and development of land.

- **Clause 11 Settlement**

The objective of planning is to anticipate and respond to the need, recreation, of existing and future communities. Planning should recognise the need for and as far as practicable contribute towards, the health and safety, diversity of choice, adaption in response to changing technology, economic viability, a high standard of urban design and amenity, energy efficiency, prevention of pollution to land, water and air, protection of environmentally sensitive areas and natural resources, accessibility and land use and transport integration.

- **Clause 15 Built Environment and Heritage**

All new land use and development should appropriately respond to its landscape, valued built form and cultural context, and protect places and sites with significant heritage, architectural, aesthetic, scientific and cultural value. Quality built environments should be created that 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.
- Minimises detrimental impact on neighbouring properties.

Clause 16 Housing

Planning should provide for housing diversity, including affordable housing, and ensure the efficient provision of supporting infrastructure. New housing should have access to services and be planned for long term sustainability, including walkability to activity centres, public transport, schools and open space.

- **Clause 16.01-2 Location of residential development**

New housing should be located in or close to activity centres, employment corridors and strategic redevelopment sites that offer good access to services and transport. An increasing proportion of housing in Metropolitan Melbourne should be developed within the established urban area, particularly sites well located to activity centres, employment corridors and public transport.

- **Clause 16.01-4 - Housing diversity**

A range of housing types to meet increasingly diverse needs should be provided. The development of well-designed medium-density housing is encouraged, which should:

- Respect the neighbourhood character.
- Improve housing choice.
- Make better use of existing infrastructure.
- Improve energy efficiency of housing.
- Support opportunities for a wide range of income groups to choose housing in well serviced locations.
- Ensure planning for growth areas provides for a mix of housing types and higher housing densities in and around activity centres.

Municipal Strategic Statement

- **Clause 21.02 Bayside Key Issues and Strategic Vision** - Aims to encourage development that responds to the vision, key issues and overarching goals of Bayside City Council.
- **Clause 21.03 – Settlement and Housing** – Aims to accommodate population increases and to ensure that a range of accommodation options are provided to meet the needs of the existing and future populations throughout the various life stages, and to direct new medium density housing to Major Activity Centres, large Neighbourhood Activity Centres and residential opportunity areas, particularly those with good access to public transport routes as identified in the Strategic Land Use Framework Plan.
- **Clause 21.06 Built Environment and Heritage** - Aims to achieve quality design outcomes which improve the image of land use and development in Bayside and contribute to a sense of place appropriate to Bayside's character and maintains, strengthens and enhances local character.

Local Planning Policies

- **Clause 22.06-1 Neighbourhood Character Policy** - Aims to encourage development in the area that responds to the particular built form and natural environment elements that make up the neighbourhood character of Bayside.
- **Clause 22.06-2 Neighbourhood Character Objectives** - Aim to ensure that development is responsive to the preferred future character of the area and to retain and enhance the identified elements that contribute to the character of the area.
- **Clause 22.08 – Water Sensitive Urban Design** – Seeks to promote the use of water sensitive urban design, including stormwater re-use, to protect the surface water and ground waters in the Port Phillip Bay catchment from stormwater pollutants, and to reduce the impacts of peak stormwater flows to integrate stormwater treatment measures into the landscape to reduce the entry of pollutants into stormwater run-off.

Zoning

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

A planning permit is required to construct two (2) or more dwellings on a lot.

Overlays

- **Clause 43.02 – Design and Development Overlay Schedule 2** – Aims to achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties. This overlay does not trigger a permit requirement.

The proposed development does not trigger the need for a planning permit, as the proposal does not exceed 2 storeys and the overall building height does not exceed 9 metres.

Particular Provisions

- **Clause 55 Construction of Two or More Dwellings on a Lot** - Which includes specific objectives and standards for residential development.

General Provisions

- **Clause 65 Decision Guidelines** – Provides guidelines that the responsible authority must consider in assessing the application including the Planning Policy Framework, the purpose and objectives of the Zone to encourage the orderly planning of the area and the effect on the amenity of the area.

SUMMARY OF KEY ISSUES
Neighbourhood Character

The proposed development is located within Neighbourhood Character Area D3. The valued characteristics for the area are:

“The dwellings sit within established gardens with occasional canopy trees. The area retains a proportion of pre WW2 dwellings, along with new complementary development. Buildings do not dominate the streetscape, with second storeys recessed from the front, simple detailing and articulated front wall facades. The frequent use of weatherboard creates a sense of lightness in the streetscapes and this is strengthened by the use of low to medium front fences of open styles.”

Precinct Guidelines

Objective	Design Response	Avoid
To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.	<ul style="list-style-type: none"> • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development. • Alterations and extensions should retain the front of these dwellings. 	<i>Demolition of dwellings that contribute to the valued character of the Precinct.</i>
To maintain and enhance the garden settings of the dwellings.	<ul style="list-style-type: none"> • Prepare a landscape plan to accompany applications for new dwellings that includes substantial trees and shrubs. • Buildings should be sited to allow space for the planting of trees and shrubs. 	<i>Lack of landscaping and substantial vegetation.</i>
To maintain the rhythm of visual separation between buildings.	<ul style="list-style-type: none"> • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. 	
To minimise the loss of front garden space and the dominance of car parking structures.	<ul style="list-style-type: none"> • Locate garages and carports behind the line of the dwelling. • Minimise paving in front garden areas including driveways and 	<i>Car parking structures that dominate the façade or view of the dwelling.</i>

Objective	Design Response	Avoid
	crossovers.	<i>Front setbacks dominated by impervious surfaces.</i>
To ensure that buildings and extensions do not dominate the streetscape.	<ul style="list-style-type: none"> • Recess second storey elements from front façade. • Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation. 	<i>Large bulky buildings with poorly articulated front wall facades.</i> <i>Period reproduction detailing.</i>
To reflect the lightness of the streetscape through the use of appropriate building materials and finishes.	<ul style="list-style-type: none"> • Incorporate weatherboard or a combination of masonry and non-masonry wall materials where possible, or render or paint large brick surfaces. 	<i>Heavy design detailing. (eg. Large brick piers or columns)</i> <i>Excessive use of render on external wall surfaces.</i>
To maintain the openness of the streetscape.	<ul style="list-style-type: none"> • Front fences should be open, other than along heavily trafficked roads. 	<i>High and solid front fences.</i>

The area surrounding Hampton Street contains a mixture of architectural styles and densities with a range of double and single storey weatherboard, brick and rendered dwellings. The proposal presents a contemporary architectural form able to fit comfortably within its surrounds.

The proposed dwellings meet the objectives of the Neighbourhood Character precinct D3 guidelines. The proposed front setback is site responsive, will respect the prevailing pattern of setbacks in the street and will allow a large front garden to be maintained for appropriate landscaping and canopy trees.

The proposed side and rear setbacks are appropriate in that they will maintain the rhythm of visual separation between buildings and provide sufficient space for the planting of appropriate landscaping including canopy trees.

Council's Urban Designer has no objection to the proposal and advises that it is a reasonable quality designed proposal.

It is considered that the proposed development is appropriate in its context. The proposal respects the existing character of the area and will not disrupt or detrimentally affect the amenity of the surrounding area.

Setbacks

The proposal generally complies with the setback requirements of the schedule to the Residential 1 Zone at ground and first floor:

Dwelling 1:

Dwelling 1	Ground Floor		First Floor	
	Required	Proposed	Required	Proposed
North (side)	0 or 2m	0; <u>1.0</u> -4.0m	3.68m	<u>2.11m – 2.810m</u>
South(side)	0 or 2m	4.0 - 6.5m	3.68m	4.0m- 6.5m
East(rear)	0 or 3m	N/A	4.68m	N/A
West (front)	9m	9m	9m	10.5m

Dwelling 2	Ground Floor		First Floor	
	Required	Proposed	Required	Proposed
North (side)	0 or 2m	0; <u>1.0</u> ; 3.73m	3.68m	<u>2.75m – 3.9m</u>
South(side)	0 or 2m	0	3.68m	<u>3m – 6.3m</u>
East(rear)	0 or 3m	3	4.68m	5.5m – 10.8m
West (front)	9m	N/A	9m	N/A

The proposed first floor north side setbacks for both dwellings 1 and 2 are considered appropriate as these areas are located to the south of a development at 886 Hampton Street which has largely turned its back on the subject site and as such will not result in loss of sunlight or overshadowing to this property.

The proposed first floor south side setback of dwelling 2 that is proposed to be 3.0 - 6.3 metres does not comply with the required 3.68 metre setback within the Bayside Planning Scheme. It is considered that the area of non-compliance (a length of 8.0 metres) will not result in adverse impacts to the amenity of neighbouring properties as it is located adjacent to the sheds situated in the rear yards of the properties to the south.

The dwellings located at 880 Hampton Road and 17 Blanche Street are well set back from the common boundaries with the subject site and have established vegetation, in addition to the planting proposed for the rear of the subject site that will mitigate potential visual bulk detriment to these properties.

Walls on boundaries

The development proposes 9.5 metres of wall (at 3.0 metres in height) to be built on the southern boundary. The length of the wall is less than the allowable 22.25 metres and complies with Standard B18 of the Bayside Planning Scheme. It is noted that the wall proposed to be built on the south east corner of the site abuts rear garden sheds and visual bulk detriment will be minimised by the established vegetation planted along the common boundary.

It is therefore considered that the length of wall proposed to be built on the boundary will not result in detrimental impact upon the amenity of the neighbours.

Visual Bulk / Building Height

The proposed development is setback well within the site, 9m from the front boundary of the property, providing sufficient area to retain some of the existing trees on site to soften the built form streetscape presentation.

The generous front setback exceeds the 7.5 metre prevailing street setback and will ensure that the development respects the valued garden character of the area and does not dominate or detract from the streetscape.

The overall height of the building at 7.8 metres for dwellings 1 and 2 is consistent with the DDO2, 9 metre height provisions of the Bayside Planning Scheme.

Concerns have been raised that the first floor rear setback of dwelling 2 will appear visually obtrusive to the neighbouring properties at 17 and 19 Blanche Street when viewed from their private open space areas.

In response to these concerns the applicant submitted amended plans to Council on the 22 June 2011 which show the rear setback of dwelling 2 increased from 4.5 metres to 5.5 metres. The amended plans also show improved visual interest and relief by incorporating a change of materials (a band of sandstone cladding) to break up the double storey form and the planting of canopy trees along the rear boundary.

It is considered that the amended plans have responded appropriately to the concerns raised by the objectors and show a reduced first floor that will not result in unreasonable visual bulk detriment to the residential amenity of the neighbours.

Overlooking

Concerns have been raised with regard to the potential for overlooking into adjoining properties from the proposed dwellings, in particular to the private open space of the properties at 880 Hampton Road and 17, 19 and 21 Blanche Street. It is considered that there will be no unreasonable overlooking into the adjoining properties as all first floor windows with the potential to overlook are appropriately obscured or screened to 1.7 metres above the finished floor level in accordance with the requirements of Standard B22 of the Bayside Planning Scheme.

Overshadowing

The shadow diagrams submitted have been checked and found to be correct. Taking into account the orientation of the site and the height of the proposed dwellings, it is considered that the adjacent properties to the site are not unreasonably overshadowed by the development. The proposed development and overshadowing meet the objectives of Standard B21 of the Bayside Planning Scheme.

It is noted that there is appropriate solar access to the private open space of the proposed dwellings.

Traffic and Car Parking

Each dwelling has been provided with two (2) car spaces in the form of double garages located in the centre of the site accessed via a driveway off Hampton Street. The parking provision accords with the requirements of the Bayside Planning Scheme.

Council's Traffic Engineer has no objections to the proposal subject to permit conditions, should one issue. Permit conditions on any permit that may issue will require the curved edges beside the garages to have a radius of 4m, the internal dimensions of the garages and widths of the garage doors to be shown on the plans.

Landscaping/Vegetation

Council's Arborist has visited the site and notes that while there is significant vegetation on the existing site that provides moderate streetscape amenity it is of relatively low quality due to lack of management, lopping by neighbours and invasion by morning glory and ivy.

There are two trees (Tree 2 Eucalyptus Botroidis - Southern Mahogany and Tree 4 - Phoenix Canariensis - Canary Island Date Palm) worthy of retention within the front garden. These trees are proposed to be retained. Permit conditions requiring tree protection zones to be erected around these trees will ensure their protection.

In addition to retaining the two trees at the front of the site, it is proposed to provide replacement planting within the rear private open space areas and along the borders of the driveway.

No trees on adjoining properties will be impacted upon by the proposed development.

Concerns have been raised that the proposal will result in a significant loss of established vegetation along the eastern (rear) boundary of the site.

Council received amended plans on the 22nd June 2011 that show that the increase to the rear setback of dwelling 2 will allow more space for the planting of canopy trees to the rear of the site.

The proposed landscaping plan shows the retention of two (2) large canopy trees - Eucalyptus Botroidis at the rear and the planting of an additional two (2) canopy trees to help to soften the visual appearance of the building.

Councils Street Tree Arborist reviewed the proposal and is satisfied that the development will not impact on the existing street tree located at the front of the property

Energy Efficiency and Water Sensitive Urban Design

The internal layout of each dwelling is designed to maximise daylight to habitable rooms and solar access to secluded private open space areas. Ground floor living areas directly abut the private open spaces located to the north, east and west of the dwellings. The design response is considered to adequately comply with the energy efficiency objectives of Standard B10 of the Bayside Planning Scheme.

The applicant has not provided Water Sensitive Urban Design features to demonstrate that stormwater quality requirements are met for the development. A condition of any permit issued will require plans detailing water sensitive urban design stormwater treatment measures to be used to be submitted to Council.

CONCLUSION

The proposed development is considered to be appropriate for the site and will not detract from the existing streetscape and neighbourhood character. The proposed dwellings are of a design that is compatible with and complementary to surrounding development and will sit comfortably within the streetscape.

The amended proposal respects the residential amenity of adjoining properties through the incorporation of sufficient setbacks, appropriately screened first floor windows and landscaping.

It is therefore recommended that a permit should be issued, subject to conditions.

RECOMMENDATION

That Council having caused notice of **Planning Application No. 2011/0037/1** to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of the land known and described as **884 Hampton Street, Brighton for the construction of two (2) double storey dwellings**, with the application dated **27 January 2011, and revised plans dated 22 June 2011** subject to the following conditions, including the specified conditions set out in the Council's "Town Planning Standard Conditions" adopted by the Council on 28 November 2006:-

1. Before the development starts three copies of revised plans drawn to scale and dimensioned, must be submitted to and approved by the Responsible Authority. When approved the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a. The rear (east) first floor setback of dwelling 2 must be increased to a minimum 5.5 metres from the rear boundary.
 - b. The rear elevation (east) of dwelling 2 must include a variety of materials and finishes / architectural detailing to add visual relief and interest.
 - c. Each garage to be provided with minimum internal dimensions of 5.5 metres wide by 6 metres long.
 - d. The width of the garage door opening for each dwelling to be a minimum of 4.8 metres.
 - e. The curved edges beside the garages must have a minimum of a 4m radius.
 - f. Notation on the plans stating that tree protection for **Tree 2 (Eucalyptus Botroidis - Southern Mahogany) and Tree 4 (Phoenix Canariensis - Canary Island Date Palm)** as per Australian Standard 4970 to be provided to existing trees (to be retained on the site). Tree protection must be erected prior to any works on site commencing and maintained until all works are complete.
 - g. Notation on the plans that tree protection as per Australian Standard 4970 to be provided to the street tree (encompassing the entire nature strip under the dripline of the tree). Tree protection must be erected prior to any works on site commencing and maintained until all works are complete.
 - h. Screening to be provided to the first floor north and south facing windows of dwelling 2 to comply with Clause 55.04-6 Standard B22 of the Bayside Planning Scheme.
 - i. The proposed landscape treatment for the site including the existing and proposed species in accordance with Condition 6 of this permit.
 - j. Water Sensitive Urban Design features in accordance with requirements of Clause 22.08 of the Bayside Planning Scheme.
 - k. A schedule of materials and finishes
 - l. Location of plant and equipment must be shown on the plans
2. P4 Layout not altered
3. A20 Boundary walls
4. CP7 Vehicular crossings
5. CP8 Vehicle crossing removal

6. L1 Landscape plan required

Before the development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The landscaping plan must show:

- a. a survey (including botanical names) of all existing vegetation to be retained and/or removed.
- b. buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary.
- c. details of surface finishes of pathways and driveways.
- d. Details of water sensitive urban design elements to be incorporated and the plant species to be used.
- e. a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
- f. landscaping and planting within all open areas of the site.
- g. provision of an inground irrigation system to all landscaped areas.
- h. the planting of two canopy trees within the eastern rear setback of dwelling 2 capable of growing to a height of 6 metres at maturity.

All species selected must be to the satisfaction of the Responsible Authority.

7. L3 Landscaping maintenance
8. T9 Retention of existing street trees
9. T10 Retention of existing trees
10. E2 Stormwater Discharge
11. E3 Kerb & Channel
12. E4 Stormwater Plans
13. E5 Graded & Drained Discharge
14. E6 Water Sensitive Urban Design

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

15. Stormwater discharge is to be retained on site to the pre development level of peak stormwater discharge. The development is to have a 'Stormwater Detention System' installed, the design capacity to be approved to the satisfaction of the Responsible Authority.
16. PT1 Time for starting and completion

Permit Notes

- N1 Crossover Permit
- N2 Building approval
- N7 Retention of existing street trees/protection during construction
- N10 Asset Protection

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

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

STANDARD OF THE BAYSIDE PLANNING SCHEME

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

Title and Objective	Complies with Standard?	Requirement and Proposed
<p>B1 Neighbourhood Character</p> <p>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.</p> <p>Development responds to features of the site and surrounding area.</p>	Yes	See report.
<p>B2 Residential Policy</p> <p>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.</p> <p>Support medium densities in areas to take advantage of public transport and community infrastructure and services.</p>	Yes	See report.
<p>B3 Dwelling Diversity</p> <p>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</p>	N/A	N/A
<p>B4 Infrastructure</p> <p>Provides appropriate utility services and infrastructure without overloading the capacity.</p>	Yes	Can be addressed through a permit condition.
<p>B5 Integration with the Street</p> <p>Integrate the layout of development with the street</p>	Yes	Each dwelling has a visible entrance to help integrate the development to the street.
<p>B6 Street Setback</p> <p>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</p>	Yes	See setback table.
<p>B7 Building Height</p> <p>Building height should respect the existing or preferred neighbourhood character.</p>	Yes	<p>Required: 9 metres</p> <p>Proposed: 7.8 metres</p>
<p>B8 Site Coverage</p> <p>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</p>	Yes	<p>Required: 50%</p> <p>Proposed: 47%</p>

B9 Permeability Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.	Yes	Required: 20% Proposed: 31%
B10 Energy Efficiency Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.	Yes	See report.
B11 Open Space Integrate layout of development with any public and communal open space provided in or adjacent to the development.	Yes	N/A
B12 Safety Layout to provide safety and security for residents and property.	Yes	All buildings and entrances are visible from the street frontage.
B13 Landscaping To provide appropriate landscaping. To encourage: <ul style="list-style-type: none"> • Development that respects the landscape character of the neighbourhood. • Development that maintains and enhances habitat for plants and animals in locations of habitat importance. • The retention of mature vegetation on the site. 	Yes	See report.
B14 Access Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.	Yes	See Report
B15 Parking Location Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.	Yes	Car parking has been conveniently located for each dwelling. Both dwellings are provided with two secure car parks within a garage.

<p>B16 Parking Provision</p> <p>Ensure car and bicycle parking meets the needs of residents and visitors.</p> <p>Access ways should be practical, attractive and easily maintainable.</p>	<p>Yes</p>	<p>Required: 2 spaces per dwelling</p> <p>Proposed: 2 spaces per dwelling</p>
<p>B17 Side and Rear Setbacks</p> <p>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</p>	<p>No</p>	<p>See setback table in report.</p>
<p>B18 Walls on Boundaries</p> <p>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</p>	<p>Yes</p>	<p>Length allowed:</p> <p>South: 22.25m</p> <p>Proposed:</p> <p>South: 9.5m</p> <p>Height allowed: 3 m no part higher than 3.6 m</p> <p>Proposed: 3 m</p>
<p>B19 Daylight to Existing Windows</p> <p>Allow adequate daylight into existing habitable room windows.</p>	<p>Yes</p>	<p>N/A</p>
<p>B20 North Facing Windows</p> <p>Allow adequate solar access to existing north-facing habitable room windows.</p>	<p>Yes</p>	<p>N/A</p>
<p>B21 Overshadowing Open Space</p> <p>Ensure buildings do not significantly overshadow existing secluded private open space.</p>	<p>Yes</p>	<p>See report.</p>
<p>B22 Overlooking</p> <p>Limit views into existing secluded private open space and habitable room windows.</p>	<p>Yes</p>	<p>See report.</p>
<p>B23 Internal Views</p> <p>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</p>	<p>Yes</p>	<p>The proposed development will result in no internal overlooking into the proposed dwellings.</p>
<p>B24 Noise Impacts</p> <p>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</p>	<p>Yes</p>	<p>N/A</p>

B25 Accessibility Consider people with limited mobility in the design of developments.	Yes	N/A
B26 Dwelling Entry Provide a sense of identity to each dwelling/residential building.	Yes	N/A
B27 Daylight to New Windows Allow adequate daylight into new habitable room windows.	Yes	N/A
B28 Private Open Space Provide reasonable recreation and service needs of residents by adequate private open space.	Yes	Required: 40sqm Proposed: Dwelling 1: 77sqm Dwelling 2: 61sqm
B29 Solar Access to Open Space Allow solar access into the secluded private open space of new dwellings/buildings.	Yes	N/A
B30 Storage Provide adequate storage facilities for each dwelling.	Yes	Each dwelling has secure external storage greater than 6 cubic metres.
B31 Design Detail Encourage design detail that respects the existing or preferred neighbourhood character.	Yes	See report.
B32 Front Fences Encourage front fence design that respects the existing or preferred neighbourhood character.	No	No details provided Can be addressed through a permit condition.
B33 Common Property Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.	N/A	N/A
B34 Site Services Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. Avoid future management difficulties in common ownership areas.	Yes	Sufficient area provided for site services

4.7 **111 Bay Road, Sandringham**
Notice of Decision to Grant a Permit
Application No. 2011/157/1 Ward: Southern

City Strategy - Statutory Planning
 File No: 2011/157/1

APPLICATION DETAILS

Land Address:	111 Bay Road, Sandringham
Application is for:	Construction of a double storey apartment building with basement car parking and access to a Road Zone Category 1
Melway Reference:	76 J10
Ward:	Southern
Application Number:	2011/0157/1
Applicant's/Owner's Name:	Finley Roberts Design
Date Received:	2 March 2011
Statutory Days Expiry:	8 May 2011
Zoning:	Residential 1 Zone
Overlays:	Design and Development Overlay Schedule 2
Under what clause(s) is a permit required?	Clause 32.01-4 – Construction of two (2) or more dwellings Clause 52.29 – Land Adjacent to a Road Zone category 1
Restrictive covenants on the title?	No
Current use and development:	Single storey dwelling
Objections:	Five (5)

PROPOSITION

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

PROPOSAL

It is proposed to construct a two (2) storey apartment building containing four (4) apartments with basement carparking comprising the following:

- Construction of four (4) apartments, two (2) at ground and two (2) at first floor level, containing three bedrooms, study and open plan living areas.
- Construction of a basement level containing four (4) separate double garages and associated storage, plant and equipment.
- Access to a Road Zone Category 1.

SUBJECT SITE & LOCALITY

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

The site has a total area of 1260 square metres and currently contains a single storey dwelling.

The main site/locality characteristics are:

- The eastern boundary of the site (side) abuts a five (5) unit development on the corner of Bay Road and Codrington Street, at 113 Bay Road.
- The western boundary of the site (side) abuts a single storey dwelling at 109 Bay Road.
- The northern boundary of the site (rear) abuts the rear garden of a single storey dwelling at 38 Codrington Street and a double storey dwelling at 21 Pellew Street.
- The subject site is located on Bay Road which is a Category 1 Road.

PERMIT/SITE HISTORY

No previous planning applications have been determined.

PUBLIC NOTIFICATION

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

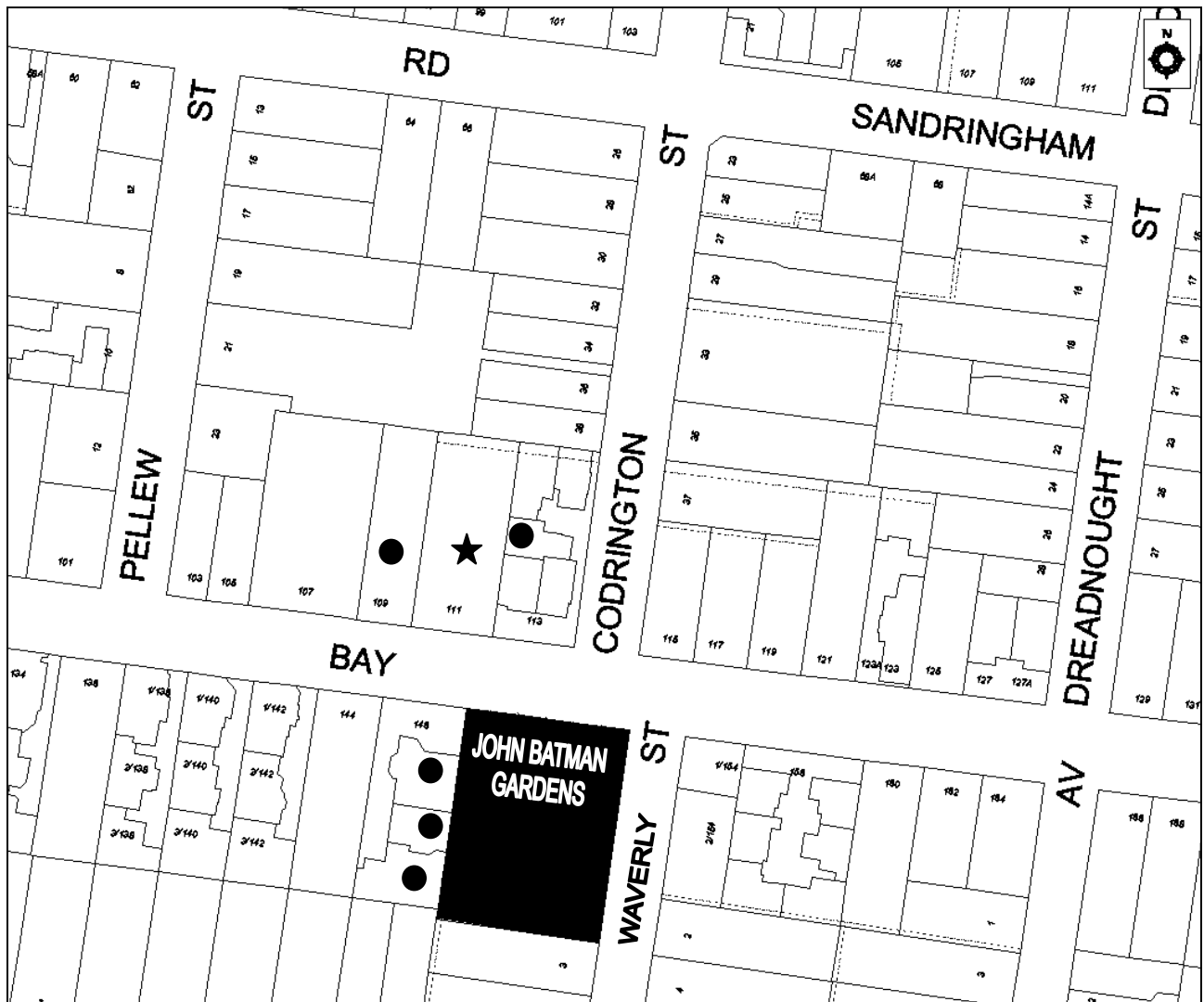
- Sending notices to the owners and occupiers of adjoining land
- Placing a sign on site

The notification has been carried out correctly.

Council has received five (5) objections to date.

The key issues that were raised in the objections are:

- Overdevelopment of the site
- Height of the development
- Non-compliant front setbacks
- Visual bulk of the development
- Increase in noise from the site
- Carparking issues
- Loss of vegetation from the site and significant impact to local bird life
- Overshadowing
- Overlooking and loss of privacy

Locality Plan – 111 Bay Road, Sandringham


Legend	
Subject land	★
Location of Objectors	●

CONSULTATION

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

REFERRALS

External Referrals/Notices by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	VicRoads has no objection subject to conditions.
Internal Council Referrals	Advice/Response/Conditions
Urban Designer	No objection.
Traffic Engineer	No objection, subject to conditions.
Arborist	No objection, subject to conditions.
Drainage Engineer	No objection, subject to conditions.
ESD	No objection, subject to conditions.

ASSESSMENT

Relevant Provisions of the Bayside Planning Scheme

State Planning Policies

Clause 11 Settlement – The objective of planning is to anticipate and respond to the needs of existing and future communities through the provision of zoned and serviced land for housing, employment and open space commercial and community facilities and infrastructure. Planning should recognise the need for and as far as practicable contribute towards, the health and safety, diversity of choice, adaption in response to changing technology, economic viability, a high standard of urban design and amenity, energy efficiency, prevention of pollution to land, water and air, protection of environmentally sensitive areas and natural resources, accessibility and land use and transport integration.

Clause 15 Built Environment and Heritage – ensures that all new land use and development appropriately responds to its landscape, valued built form and cultural context and protects places and sites with significant heritage, architectural, aesthetic, scientific and cultural value. To achieve high quality urban design and architecture that contributes to local urban character and sense of place, reflects the particular characteristics, aspirations and cultural identity of the community and minimises detrimental impact on neighbouring properties. To ensure the conservation of heritage places.

Clause 16 Housing – The objectives of Clause 16 include the provision of housing diversity and supporting infrastructure. New housing should have access to services and be planned for long term sustainability including walking to activity centres, public transport, schools and open space. To promote a housing market that meets community needs. To locate new housing in or close to activity centre and employment corridors and at other strategic redevelopment sites that offer good access to services and transport. To identify strategic redevelopment sites for large residential development in Metropolitan Melbourne. To provide for a range of housing types to meet increasingly diverse needs. To encourage the establishment of crisis accommodation and community care units in residential areas and to ensure that their location is kept confidential. To facilitate the timely development of residential aged care facilities to meet existing and future needs.

Clause 19 Infrastructure – Social and physical infrastructure should be provided in a way that is efficient, equitable, accessible and timely. The recognition of social needs by providing land for a range of accessible community resources, such as education, cultural, health and community support. To promote the provision of renewable energy in a manner that ensures appropriate siting and design considerations are met. To plan for the provision of water supply, sewerage and drainage services that efficiently and effectively meet State and community needs and protect the environment. To reduce the impact of stormwater on bays and catchments. To avoid, minimise and generate less waste to reduce damage to the environment caused by waste, pollution, land degradation and unsustainable waste practices.

Municipal Strategic Statement

Clause 21.03 Settlement and Housing – seeks to accommodate population increases and respond to changing demographic profiles. To direct new medium density housing to Major Activity Centres, large Neighbourhood Activity Centres and residential opportunity areas, particularly those with good access to public transport routes as identified in the Strategic Land Use Framework Plan.

Clause 21.05 Environmental Risks – seeks to protect the surface waters and ground waters in the Port Phillip catchment from stormwater pollutants and the impacts of peak stormwater flows.

Clause 21.06 Built Environment and Heritage – Seeks to achieve quality design outcomes which improve the image of land use and development in Bayside and contribute to a sense of place appropriate to Bayside's character and maintains, strengthens and enhances local character. To facilitate quality design outcomes which make a positive contribution to the character of residential areas. To provide greater certainty to both residents and developers in relation to the preferred character of residential areas and areas that require special treatment or greater protection. To achieve quality design, which incorporates energy efficiency and environmental sustainability principles.

Clause 21.09 Transport and Access – Seeks to take an integrated approach to transport in order to reduce carbon emissions/air pollution from transport vehicles and improve energy efficiency and public health.

Local Planning Policies

Clause 22.06-1 – Neighbourhood Character Policy - Aims to encourage development in the area that responds to the particular built form and natural environment elements that make up the neighbourhood character of Bayside.

Clause 22.06-2 – Neighbourhood Character Objectives - Aims to ensure that development is responsive to the preferred future character of the area and to retain and enhance the identified elements that contribute to the character of the area. It is noted that the subject site is located within precinct E3.

Clause 22.08 – Water Sensitive Urban Design - Aims to promote the use of water sensitive urban design, including stormwater re-use, to protect the surface water and ground waters in the Port Phillip Bay catchment from stormwater pollutants, to reduce the impacts of peak stormwater flows, to integrate stormwater treatment measures into the landscape, and to reduce the entry of pollutants into stormwater run-off.

Zoning

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

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

Overlays

Clause 43.02 Design and Development Overlay Schedule 2 – Aims to achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties, to preserve the existing character and amenity of the areas as low rise (up to two storeys) suburban areas with a strong garden character, to maintain the prevailing streetscape rhythm, building scale and height of neighbourhoods and to maintain a strong landscape character with buildings set within vegetated surrounds.

A planning permit is not required under the DDO2.

Particular Provisions

Clause 52.29 Land Adjacent to a Road Zone, Category 1 – **A planning permit is required for altering access to a Road Zone Category 1.**

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

General Provisions

Clause 65, which sets out decision guidelines for the responsible authority to consider in order to ensure acceptable outcomes in terms of State Planning Policies and Local Planning Policies.

SUMMARY OF KEY ISSUES

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

Neighbourhood Character

The subject site is located in Precinct E3 within Clause 22.06 Neighbourhood Character Policy of the Bayside Planning Scheme. The preferred future character statement reads:

The low lying dwellings with pitched roof forms and articulated front wall surfaces sit within established garden settings. There is a continued frequent presence of California Bungalow style dwellings, however, new buildings respect, without replicating, this style. The lightness in the streetscapes is maintained by the use of lighter building materials in building facades, particularly in the streets dominated by timber materials. Medium height, open style front fences assist in retaining an open streetscape.

The precinct guidelines are as follows:

Objective	Design Response	Avoid
To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.	<ul style="list-style-type: none"> Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development. Alterations and extensions should retain the front of these dwellings and be appropriate to the building era. 	<i>Demolition of dwellings that contribute to the valued character of the Precinct.</i>
To maintain and enhance the garden settings of the dwellings.	<ul style="list-style-type: none"> Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. 	<i>Lack of landscaping and substantial vegetation.</i>
To provide space for front gardens.	<ul style="list-style-type: none"> Buildings should be sited to allow space for the planting of trees and shrubs. 	<i>Loss of front garden space.</i>
To maintain the rhythm of spacious visual separation between buildings.	<ul style="list-style-type: none"> Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. 	
To minimise the loss of front garden spaces and the dominance of car parking structures.	<ul style="list-style-type: none"> Locate garages and carports behind the line of the dwelling. Minimise paving in front garden areas including driveways and crossovers. 	<i>Car parking structures that dominate the façade or view of the dwelling.</i> <i>Front setbacks dominated by impervious surfaces.</i>
To ensure new development respects the dominant building scale and forms within the streetscape.	<ul style="list-style-type: none"> Recess upper storey elements from the front façade. Incorporate pitched roof forms with eaves. 	
To use lighter looking building materials and finishes that complement weatherboard where it predominates in the streetscape.	<ul style="list-style-type: none"> Incorporate timber or other non-masonry wall materials where possible. 	<i>Heavy materials and design detailing where weatherboard predominates (eg. Large masonry columns and piers)</i>
To maintain the openness of the streetscape.	<ul style="list-style-type: none"> Provide open style front fences, other than along heavily trafficked roads. Front fence style should be appropriate to the building era. 	<i>High, solid front fencing</i>

Bay Road contains a mixture of traditional and contemporary housing styles on medium to large allotments with several unit developments. Garden and street planting are important elements in establishing dwelling settings and the overall landscape character of the area. The most valued

attributes of the area relate to the detached building style, well-developed garden settings and the visual link between garden and the street coupled with solid front fencing given the Bay Road frontage.

The proposed front setback reflects the existing setback pattern within the streetscape and allows for landscaping. The side and rear setbacks are appropriate for the site and provide a visual separation between the subject site and adjoining properties.

A mix of materials and finishes coupled with indentations to the built form to the streetscapes ensures that the buildings presentation is visually interesting and complementary to similar designed developments within the surrounding residential area.

Council's Urban Designer has viewed the plans and comments that the appearance of the building, is sufficient in architectural expression, neighbourhood character and streetscape rhythm. The proposed development includes recessive elements at the first floor levels. The design is contemporary with a mix of materials and finishes. Whilst screening the side elevation upper windows and terraces is required this protects the existing amenity of the adjoining properties and lower units. The screening adds a visual softening of the built form and adds to the mix of finishes and textures.

Whilst Council's Urban Designer had expressed reservations about the appearance of the front facade and roof form of the proposed development as shown on the advertised plans, revised plans have been recently provided to Council as a means of addressing this concern, which have further broken up the front façade. Council's Urban Designer advises that the development, as revised, will not present bulk to the street and adjoining properties due to the architectural expression of the development.

The proposed composition of the development responds appropriately to the site, and will create a building form that is of an appropriate scale to integrate with and complement the existing streetscape. In short, the proposed development presents a site responsive design that respects the valued neighbourhood characteristics, maintains the amenity of its residential neighbours and will make a positive contribution to the area.

Setbacks

The proposed setbacks are as follows:

	Ground floor		First Floor	
	Requirement	Proposed	Requirement	Proposed
North (rear)	0 or 3 metres	7.6 – 8.7 metres	5.18 metres	10.1 – 11.3 metres
West (side)	0 or 2 metres	2 – 4.03 – 8.9 metres	3.92 – 4.18 metres	<u>3.6 – 5.6 metres</u>
East (side)	0 or 2 metres	2 – 4.09 – 8.9 metres	3.86 – 3.98 metres	<u>3.6 – 6.1 metres</u>
South (front)	9 metres	7.2 – 10.1 metres	9 metres	7.2 – 9.2 metres

The proposed ground floor front setback of 7.2 – 10.1 metres partly complies with the 9 metre setback requirement of the Bayside Planning Scheme. The proposed front setback reflects the overall setback pattern within the streetscape which averages between 7.5 – 9 metres. The front of the building is split into two (2) distinct built forms with a central section set 10.1 metres from the frontage. It is noted that the 7.2 metre setback is to two (2) architectural features with the

remainder of the frontage being setback 7.7 metres. It is considered that the proposed setback is appropriate for the site and will not affect the existing streetscape character.

The proposed ground side and rear setbacks for the development comply with the requirements of the Schedule to the Residential 1 Zone of the Bayside Planning Scheme.

The proposed first floor west setback of 3.6 – 5.6 metres partly complies with the 3.92 – 4.18 metre setback requirement of the Bayside Planning Scheme. It is considered that the proposed wall is well articulated through the mix of materials and finishes and will not detrimentally impact upon the amenity of the adjoining properties due to the articulation and visual interest. It is noted that the subject site has a slope down from the rear to the street and faces a service yard of the adjoining property. There is also opportunity for landscaping opposite the adjoining dwelling to further soften the built form.

The proposed first floor east setback of 3.6 – 6.1 metres partly complies with the 3.86 – 3.98 metre setback requirement of the Bayside Planning Scheme. It is considered that the proposed wall is well articulated through the mix of materials and finishes and will not detrimentally impact upon the amenity of the adjoining properties. The proposed setback is site responsive and matches the slope of the land. Again, there is opportunity for landscaping.

It is considered that the proposed setbacks of the development are appropriate for the site and will not unreasonably affect the amenity of the adjoining properties.

Visual Bulk/ Building Height

The overall height of the building at 8.2 metres complies with the 9 metre height threshold requirements of the Design and Development Overlay Schedule 2. The streetscape elevation indicates that from a streetscape perspective, the scale and height of the development will fit comfortably within the area.

The front façade of the development is provided with a mix of materials and finishes with indentations to present a built form which blends and complements the residential characteristics of the area and is unobtrusive.

Site Coverage

A 48.78% site coverage is proposed that complies with the 50% site coverage requirement of the Bayside Planning Scheme. It is considered that the proposed development does not present as an overdevelopment of the site and includes suitable areas for landscaping and off street parking and maintains the character of the surrounding area.

Traffic and Car Parking

The proposed development proposes the construction of a basement containing eight (8) car spaces within separate double garages. It is noted that within garages 1, 2, and 4 there is extra space for further vehicles. The proposed development requires eight (8) car spaces for the dwellings. The on-site car parking provided complies with the requirements of the Bayside Planning Scheme.

Council's Traffic Engineer has viewed the plans and does not have any objection subject to conditions relating to the crossover and driveway and the dimensions of the internal layout of the basement.

The application has been referred to VicRoads who has indicated that they do not object to the proposed alterations to the crossover subject to conditions.

Landscaping/Vegetation

Council's Arborist has viewed the plans and comments that while the vegetation within the site is a significant visual feature within the streetscape there is no vegetation onsite that is worthy of retention. It is noted that a local laws permit was approved 27 May 2010 to remove a tree within the front setback subject to the replacement planting of a tree which could grow to 15 metres in height which has not yet occurred. It is considered appropriate that a permit condition, should a permit issue, require a landscape plan be submitted for Council approval before any works can commence which includes the planting of a canopy tree capable of growing to 15 metres within the front setback of the development.

Council's Street Tree Arborist has viewed the plans and does not object subject to conditions requiring tree protection zones around the existing street tree to Australian Standards.

Overlooking

All windows to the east and west of the property are either obscure glazed to 1.7 metres in height or provided with appropriate external screening. A condition has been included on any permit that may issue to ensure that screening is provided in accordance with Clause Standard B22 (Overlooking) and B23 (Internal views) of the Bayside Planning Scheme. It is considered that subject to the inclusion of this condition there will be no unreasonable overlooking opportunities into the adjoining properties to the west and the development will comply with the Bayside Planning Scheme.

Overshadowing

The shadow diagrams submitted have been checked and found to be correct. Taking into account the orientation of the site the level of shadow cast by the development complies with the provisions of Clause 55 Standard B21 (Overshadowing Open Space) of the Bayside Planning Scheme. It is noted that the shadow cast by the proposal will be minimal and will not cause further overshadowing than the existing boundary fencing.

Energy Efficiency and Water Sensitive Urban Design

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

The proposal lodged with Council is subject to Clause 22.08 of the Bayside Planning Scheme, which requires Water Sensitive Urban Design measures for developments within Bayside. It is recommended that, in the event that a planning permit issues, conditions be included requiring plans be submitted detailing the measures of Water Sensitive Urban Design to be implemented on-site and that the development meets a minimum of 100% of best practice.

Issues raised by objectors

The following comments are in relation to objections raised but not discussed elsewhere within the report.

Noise – It is considered that noise levels generated by the development will be typical of normal urban residential noise levels.

CONCLUSION

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

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

RECOMMENDATION

That Council having caused notice of Planning Application **No. 2011/0157/1** to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of the land known and described as **111 Bay Road, Sandringham** for the **construction of a double storey apartment building with basement car parking and access to a Road Zone Category 1** in accordance with the application dated 2 March 2011, subject to the following conditions, including the specified conditions set out in the Council's "Town Planning Standard Conditions" adopted by the Council on 28 November 2006:-

1. Before the development starts three copies of revised plans drawn to scale and dimensioned, must be submitted to and approved by the Responsible Authority. When approved the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans received with the application but modified to show to the satisfaction of the Responsible Authority:
 - a) Alterations as shown in the revised plans marked revision 'A' and date stamped as received on 6 July 2011.
 - b) All paving (except driveways) to be permeable including details of the permeability.
 - c) A schedule of all external materials and finishes to be provided to the buildings and works on the land, showing the materials, colour and finish of all external walls, roof, fascias, window frames and paving.
 - d) The proposed landscape treatment for the site including the existing and replacement plant species in accordance with the requirements of condition 5 of this permit. The landscape plan is to include a canopy tree capable of growing to 15 metres in height within the front setback.
 - e) All plant and equipment (including air conditioning units, heating units, hotwater systems, etc.) which is proposed to be located externally identified on the plans.
 - f) Details of screening to the first floor west, east and south balcony in the form of a 0.5 metre blade on a 45 degree angle on the outer edge of the wraparound balcony to ensure compliance with Clause 55.04-6 Standard B22 (Overlooking) and Standard B23 (Internal Overlooking) of the Bayside Planning Scheme.
 - g) Water sensitive urban design stormwater treatment measures providing a rating of a minimum of 100% in accordance with Condition 12 of this permit.
 - h) Alterations to the development in accordance with VicRoads requirements of condition 13 of this permit.

- i) Each separate garage within the basement must be a minimum of 5.5 metre wide and 6 metres long with a garage opening a minimum of 4.8 metres. These dimensions must be shown on the plan.
 - j) The minimum accessway width is 6.4 metres and must be indicated on the plan.
 - k) The basement and access ramp must comply with the requirements of Australian Standard AS 2890.1.
2. P4 Layout not altered
 3. Before the occupation of the site commences or by such later date as is approved in writing by the responsible authority, all buildings and works and the conditions of this permit must be carried out and completed to the satisfaction of the responsible authority.
 4. A18 Concealment of pipes
 5. A19 Plant and equipment or features on roof
 6. Before the development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The landscaping plan must show:
 - a) a survey (including botanical names) of all existing vegetation to be retained and/or removed
 - b) buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary
 - c) details of surface finishes of pathways and driveways
 - d) a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
 - e) landscaping and planting within all open areas of the site
 7. L2 Completion of landscaping
 8. L3 Landscaping maintenance
 9. Before the development (including demolition) starts, the applicant must submit a report detailing tree protection in accordance with Australian Standard 4970: Protection of Trees on Development Sites, including trees on adjacent properties (within 3 metres of any common property boundary. This must be adhered to before, during and after construction.
 10. Tree protection fencing must be established around the street trees prior to commencement of any works and maintained until all works on site are complete. The fencing is to be constructed and secured so its position cannot be modified by site workers. The fencing is to encompass the entire nature strip adjacent the works site with the exception of the crossovers. The tree protection zone is to be established and maintained in accordance with Australian Standards 4970 Protection of trees on development sites.
 11. Before the development begins, detailed plans (3 sets) indicating the method of stormwater discharge to the nominated 'Legal Point of Discharge' (and Stormwater Detention Systems where applicable), must be lodged with Council's Engineering Services department for approval.

12. Before the commencement of works, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be in accordance with the guidelines outlined in Clause 22.08 of the Bayside Planning Scheme and must show:-
- The type of water sensitive urban design stormwater treatment measures to be used;
 - The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaping areas;
 - Design details of the water sensitive urban design stormwater treatment measures, including cross sections;
 - These plans must be accompanied by a report from an industry accepted performance measurement tool, which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

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

13. VicRoads conditions

- a. The proposed new vehicular crossover on Bay Road must be constructed in accordance with the submitted plans to the satisfaction of the Responsible Authority.
- b. The edges of the vehicular crossover shall be angled at 60 degrees to the road reserve boundary, to improve entry and exit conditions.
- c. Car parking spaces must be designed to allow vehicles to drive in a forward direction when both entering and existing the property, to the satisfaction of the Responsible Authority.
- d. The developer must pay the full cost of all road works, drainage, service relocation and any other associated costs.

14. PT1 Time for starting and completion

Permit Notes

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

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

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

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

STANDARD OF THE BAYSIDE PLANNING SCHEME

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

Title and Objective	Complies with Standard?	Requirement and Proposed
<p>B1 Neighbourhood Character</p> <p>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.</p> <p>Development responds to features of the site and surrounding area.</p>	Yes	See report
<p>B2 Residential Policy</p> <p>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.</p> <p>Support medium densities in areas to take advantage of public transport and community infrastructure and services.</p>	Yes	N/A
<p>B3 Dwelling Diversity</p> <p>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</p>	Yes	N/A
<p>B4 Infrastructure</p> <p>Provides appropriate utility services and infrastructure without overloading the capacity.</p>	Yes	Can be addressed through a permit condition
<p>B5 Integration with the Street</p> <p>Integrate the layout of development with the street</p>	Yes	N/A
<p>B6 Street Setback</p> <p>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</p>	No	<p>Minimum: 9 metres</p> <p>Proposed: 7.2 – 10.1 metres</p>
<p>B7 Building Height</p> <p>Building height should respect the existing or preferred neighbourhood character.</p>	Yes	<p>Maximum: 9 metres</p> <p>Proposed: 8.2 metres</p>
<p>B8 Site Coverage</p> <p>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</p>	Yes	<p>Maximum: 50%</p> <p>Proposed: 48.78%</p>

<p>B9 Permeability</p> <p>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</p>	<p>Yes</p>	<p>Minimum: 20%</p> <p>Proposed: 35.52%</p>
<p>B10 Energy Efficiency</p> <p>Achieve and protect energy efficient dwellings and residential buildings.</p> <p>Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</p>	<p>Yes</p>	<p>See report</p>
<p>B11 Open Space</p> <p>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</p>	<p>Yes</p>	<p>N/A</p>
<p>B12 Safety</p> <p>Layout to provide safety and security for residents and property.</p>	<p>Yes</p>	<p>N/A</p>
<p>B13 Landscaping</p> <p>To provide appropriate landscaping.</p> <p>To encourage:</p> <ul style="list-style-type: none"> • Development that respects the landscape character of the neighbourhood. • Development that maintains and enhances habitat for plants and animals in locations of habitat importance. • The retention of mature vegetation on the site. 	<p>Yes</p>	<p>Can be addressed through a permit condition.</p>
<p>B14 Access</p> <p>Ensure the safe, manageable and convenient vehicle access to and from the development.</p> <p>Ensure the number and design of vehicle crossovers respects neighbourhood character.</p>	<p>Yes</p>	<p>N/A</p>

<p>B15 Parking Location</p> <p>Provide resident and visitor vehicles with convenient parking.</p> <p>Avoid parking and traffic difficulties in the development and the neighbourhood.</p> <p>Protect residents from vehicular noise within developments.</p>	Yes	N/A
<p>B16 Parking Provision</p> <p>Ensure car and bicycle parking meets the needs of residents and visitors.</p> <p>Accessways should be practical, attractive and easily maintainable.</p>	Yes	<p>Minimum: Two (2) spaces each</p> <p>Proposed: Two (2) spaces each</p>
<p>B17 Side and Rear Setbacks</p> <p>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</p>	No	Refer to table within the report
<p>B18 Walls on Boundaries</p> <p>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</p>	N/A	No walls are proposed on the boundary
<p>B19 Daylight to Existing Windows</p> <p>Allow adequate daylight into existing habitable room windows.</p>	Yes	N/A
<p>B20 North Facing Windows</p> <p>Allow adequate solar access to existing north-facing habitable room windows.</p>	Yes	N/A
<p>B21 Overshadowing Open Space</p> <p>Ensure buildings do not significantly overshadow existing secluded private open space.</p>	Yes	See report
<p>B22 Overlooking</p> <p>Limit views into existing secluded private open space and habitable room windows.</p>	Yes	<p>See report</p> <p>Can be addressed though a permit condition</p>

B23 Internal Views Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.	Yes	N/A
B24 Noise Impacts Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.	Yes	N/A
B25 Accessibility Consider people with limited mobility in the design of developments.	Yes	N/A
B26 Dwelling Entry Provide a sense of identity to each dwelling/residential building.	Yes	Can be addressed though a permit condition
B27 Daylight to New Windows Allow adequate daylight into new habitable room windows.	Yes	N/A
B28 Private Open Space Provide reasonable recreation and service needs of residents by adequate private open space.	Yes	Minimum: 40 square metres with a minimum of 25 square metres of secluded open space Proposed: Unit 1: 158.73 m ² Unit 2: 183.15 m ² Unit 3: 42.92 m ² Unit 4: 44 m ²
B29 Solar Access to Open Space Allow solar access into the secluded private open space of new dwellings/buildings.	Yes	See report.
B30 Storage Provide adequate storage facilities for each dwelling.	Yes	Storage is located within the basement garages
B31 Design Detail Encourage design detail that respects the existing or preferred neighbourhood character.	Yes	See report.
B32 Front Fences Encourage front fence design that respects the existing or preferred neighbourhood character.	Yes	Maximum: 2 metres in height Proposed: 1.9 metres

B33 Common Property Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.	Yes	N/A
B34 Site Services Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. Avoid future management difficulties in common ownership areas.	Yes	N/A