PLANNING COMMITTEE REPORT

APPLICATION FOR PLANNING PERMIT: TP-2007-1003, 78-80 SIMPSON STREET, EAST MELBOURNE

Division: Sustainability and Regulatory Services

Presenter: Martin Williams, Acting Executive Officer Planning

Purpose

1. To advise the Planning Committee of an application for partial demolition, alterations and two storey addition to the existing dwelling and an upper floor studio over the existing garage to the rear of 78-80 Simpson Street, East Melbourne.

2. This application is presented to the Planning Committee at the request of Cr Ng and Cr Wilson.

Summary

Application Number: TP-2007-1003

Proposal: Alterations and two storey addition to the existing dwelling and an upper floor studio over the existing garage to the rear of the site.

Applicant: Geoffrey Charles Borrack

Zoning: Residential 1

Overlay: Heritage Overlay- Schedule 2 (East Melbourne Precinct)

Existing Use: Single storey dwelling

Number of Objections: 35

Recommendation from Management

3. That the Planning Committee resolve to issue a Notice of Decision to Grant a Planning Permit subject to the conditions at Attachment 1.

Proposal

4. The subject site is located on the south-east corner of Simpson and Hotham Streets, East Melbourne. (Refer to Attachment 2).

5. The site is rectangular in shape with a frontage of to Simpson Street of 9.94 metres, and a frontage of 30.64 metres to Hotham Street, with a total site area of approximately 310m². The site also adjoins a laneway to the rear.
6. The site is occupied by a single-storey dwelling, which through Council’s Heritage Places Inventory (2002), an Incorporated Document of the Scheme, is graded ‘C’ and lies within a Level 2 Streetscape (both street frontages). The Building Identification Sheet describes its constructed date as 1863 and its notable features as ‘a simple coursed rubble bluestone facade, with ashlar quoins to corners and openings to Simpson Street and ruled render facade to Hotham Street. Hipped slate roof may not be original’. The recommended alterations, as identified on the Building Identification Sheet include to repoint the bluestone, replace terracotta ridging and to replace the fence with timber pickets.

7. The layout of the subject site includes a large garden setback at the street frontage, where the building envelope is predominantly single-storey and built to both the northern and southern boundaries, with the exception of a small courtyard adjacent to the southern boundary (measuring at 6m²). At the rear is a small garden area and a rear garage/laundry structure adjacent to the right of way which is single storey with a first floor deck. The modifications to the rear of the existing dwelling, including the garage/deck structure to the rear were approved under Permit CM11554 on 22 July 1987.

8. To the south of the subject land at 76 Simpson Street is a single storey ‘D’ graded dwelling. To the east of the site, beyond the right of way, is 53 Hotham Street which is a two-storey ungraded building which is occupied by the East Melbourne General Store. To the north of the site, on the opposite side of Hotham Street, is 52 and 54 Hotham Street which are occupied by ‘Queen Anne style’ residences that are graded ‘B’ and ‘C’ respectively. To the west of the site, on the opposite side of Simpson Street (fronting Hotham Street), is a ‘B’ graded single-storey dwelling.

9. The subject site is highly viable as both Simpson and Hotham Streets are 30 metres wide.

10. The application seeks approval for the partial demolition, alterations and two storey addition to the existing dwelling and an upper floor studio over the existing garage to the rear of the site. Details of the application (plans dated 25 October 2007) are as follows:

10.1. partial demolition of the external walls adjacent to the existing courtyard (southern boundary) and to the rear kitchen windows (eastern aspect), including the rear portion of the roof; and a portion of the western elevation of the rear garage/laundry structure;

10.2. construction of a ground floor extension (which extends the building envelope by 2 metres out towards the eastern boundary), in line with the length of the existing southern boundary wall;

10.3. first floor addition to the existing dwelling for a bedroom with deck is offset 2.5 metres from the southern boundary, approximately 4.5 metres from the northern boundary (Hotham Street), and includes stair access, which is located within and above the roof space towards Simpson Street. The first floor bedroom measures at 3.58 metres x 7 metres. The first floor deck measures at 3.58 metres x 1.8 metres, with an area of 6.44m². The addition measures at a total height of approximately 5.6 metres;

10.4. works to the rear garage/studio structure include the reconstruction of the external stairs adjacent to the southern boundary up to the proposed first floor studio, where the studio is to measure at 3.84 metres x 3.6 metres. The height of the overall structure is 5 metres; and

10.5. the materials and finishes as specified on plan include: slate roofing, painted weatherboard, render, and timber.
Key Issues

11. Impact of the addition to the existing heritage building and surrounding heritage precinct.

12. Other concerns include amenity impact of the addition (overlooking, overshadowing, visual bulk); loss of views; devaluation of property; use of the studio at the rear of the house as a second dwelling; and an undesirable precedent for development on corner sites within the area.

Heritage Impact

13. The Heritage Adviser provided the following comments on the application:

13.1. this is a C graded building and that both Hotham and Simpson Streets are graded level 2. Any higher rear additions should be partially concealed and should not dominate the graded building;

13.2. in relation to the structure above the garage, this is unlikely to be dominant if it is set behind the setback for the first floor of the adjoining building in Hotham Street. This position is not shown on the drawings; and

13.3. in relation to the proposed addition to the house, while the applicant has not provided a view from across Simpson Street, I believe that little if any of the addition would be visible from directly in front. It may be visible from oblique angles to the south but given the setback proposed, this is unlikely to be intrusive. From Simpson Street the proposed addition would be perceived to be approximately 20 per cent taller than the existing in the main section, but 50 per cent taller in the stair section which rises from the skillion. The latter would be intrusive. My recommendation is that the stair access section is deleted on visibility grounds. The proposed stair addition would also alter original fabric within the front 2 rooms and would be inappropriate on fabric retention grounds.

14. The amended plans were changed to address the Heritage Adviser’s concerns. Please refer to Attachment 3 for a copy of these. It is noted that the plans highlight the changes made from those originally submitted.

15. The proposed dwelling additions as detailed raise no significant planning policy issues. The visible appearance of the existing building from the public realm will not be appreciably altered and for the reasons given the extent and presentation of works is appropriate in a heritage context.

16. The portions of fabric that are to be demolished remove altered fabric. The addition itself is considered to comply with the requirements of Clause 22.05, Heritage Places outside the Capital City Zone, and were considered to be appropriate by Council’s Heritage Consultant.

17. The proposal is considered to be acceptable in the neighbourhood context and satisfies all relevant assessment criteria. In this context therefore, and on balance, the proposed development meets the requirements of the State Planning Policy Framework, Local Planning Policy Framework and all the objectives, requirements and assessment guidelines as contained at Clause 43.01 and 65 of the Melbourne Planning Scheme.

Amenity Impact, Devaluation of Property Values, Loss of Views & Undesirable Precedent

18. The concerns raised by the objectors are considered to be addressed through the amended plans. The concerns regarding loss of views, devaluation of property values are not considered to be significant as the relevant assessment of the application is based on heritage matters. The consideration of amenity impact (Clause 54- ResCode) has not been given as the size of the lot exceeds 300 square metres and a planning permit is only required under the Heritage Overlay. A ResCode assessment is undertaken during the building approval process.
19. Additionally, concerns were expressed that the garage structure being used as a second dwelling, where it is noted that pursuant to Clause 32.04-1 a permit is not required to construct one dependent persons unit on a lot. This should be noted on any approval given.

20. The consideration of devaluation of property values, loss of views and undesirable precedent are not considered relevant objections in the planning context. It is noted that development on corner sites requires assessment of each site on its merits.

Local Policy

21. Consideration of Clause 22.05 (Heritage Places outside the Capital City Zone) and Clause 22.17 (Urban Design outside the Capital City Zone).

Time Frame

22. Section 79 of the Planning and Environment Act 1987 (“the Act”) provides that an applicant for permit may appeal to the VCAT against failure of the Responsible Authority to grant a planning permit within 60 days, excluding the notification period. The application has already exceeds the 60 day time and therefore, may be subject to an appeal at the Tribunal.

Relation to Council Policy (including Municipal Strategic Statement)

23. The land is located within the East Melbourne Precinct is defined at Clause 21.08.

24. At the local strategic level, the MSS provides direction along 4 main themes (Land Use, Built Form, Transport and Environment). The nature of this application calls up 2 of these themes being Land Use (Clause 21.04) and City structure and Built Form (Clause 21.05).

25. The local policy context for this development can be broadly described as being one that supports residential development that is sensitive to the amenity of adjoining properties and the heritage character of the neighbourhood. The City of Melbourne also actively encourages sustainable development. This is fully described in Clause 21.04 – Land Use and Clause 21.05 - City Structure and Built Form.

26. Particular to the residential Area 1 of East Melbourne, the MSS envisages the residential development which maintains the predominantly low scale and heritage character of the area (Clause 21.08-5, Figure 16).

Consultation

27. It was determined that the proposal may result in material detriment. Council gave notice of the proposal by ordinary mail to the owners and occupiers of surrounding properties, in accordance with Section 52 of Act. As a result of that process a total of twenty-one (21) objections were received.

28. Amended plans submitted to address concerns raised by Council’s Heritage Consultant were circulated to all objectors. As a result of this process a further fourteen (14) objections were received.

29. A total of 35 objections were received (24 were two types of proforma letters).
Finance

30. There are no direct financial issues that arise from the recommendations in this report.

Legal

31. Division 1 of Part 4 of the Act sets out the requirements in relation to applications for permits pursuant to the relevant planning scheme.

Background

Planning Application History

32. Planning Permit CM11554 was issued on 22 July 1987 for the purpose of alterations and additions to the existing premises. This approval included the construction of the timber stair and roof deck structure.

33. Planning Permit TP97/360 was issued on 7 May 1997 for painting.

Amended Plans

34. As initial concerns were expressed regarding the development, the applicant submitted amended plans to address these concerns on 21 December 2007. Details of the amended plans are as follows:

- 34.1. deletion of the stair rising from the skillion;
- 34.2. reduction in the length of the first floor bedroom from 7 metres to 5 metres; and
- 34.3. increase in the width of the first floor bedroom from 3.58 metres to 3.75 metres.

35. The amended plans were forwarded to Council’s Heritage Consultant for further comment. Comments received on 17 January 2008 are as follows:

“I have reviewed the amended proposed stamped 21.12.2007 and marked as 0/1/B, 0/2/B, 0/3/B, and 0/4/B”; and

“The amended proposal satisfies my concerns of 13.12.2007. The proposal is satisfactory from a heritage perspective.”

Circulation of Amended Plans

36. As a result of the large amount of objections submitted in regards to the application, a letter was sent to all the objectors on 22 January 2008 to highlight the permit requirements, the amended plans and comments made to the application by Council’s Heritage Consultant.

37. As a result of this, some of the existing objectors chose to write to expand on their previous objection, and new objections were also received (via a proforma letter). The details of these further objections (a total of 14) do not include new issues from that previously contained within the initial objection, which are summarised within the ‘Objections’ section of this report. The further letters of objection expanded on the concerns raised initially regarding the local significance of the building, the process and the conflicts between the provision of additional space to the dwelling and it occurring at ground floor only.
Proposed Planning Permit Conditions

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

2. A schedule and samples of all external materials, colours and finishes must be submitted to the satisfaction of the Responsible Authority prior to the commencement of the development. The schedule must show the materials, colours and finishes of all external walls, roof, fascias, window frames, glazing types, doors, balustrades, fences and paving, outbuildings and structures.

3. 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.

NOTES:

The permitted development has not been assessed against Clause 54 of the Melbourne Planning Scheme (Rescode) because the size of the lot exceeds 300 square metres and a planning permit is only required under the Heritage Overlay/Design Development Overlay (specify). A Rescode assessment is the responsibility of the relevant Building Surveyor.

A permit is required for a second dwelling on a lot. The studio to the rear of the site is considered a dependent persons unit.
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FINANCE ATTACHMENT

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There are no direct financial issues that arise from the recommendations in this report.

Joe Groher
Manager Financial Services
Division 1 of Part 4 of the Planning and Environment Act 1987 (“the Act”) sets out the requirements in relation to applications for permits pursuant to the relevant planning scheme.

In making its decision, section 60(1)(c) of the Act requires the Responsible Authority to consider, amongst other things, all objections and other submissions which it has received.

Section 61(b) provides that the Responsible Authority may decide to grant a permit subject to conditions.

Section 79 of the Act provides that if the Responsible Authority fails to grant a permit within the prescribed time an applicant may appeal to the Victorian Civil and Administrative Tribunal (“Tribunal”). If the applicant does so appeal, section 84 of the Act provides that the Responsible Authority may decide on an application at any time after an appeal has been lodged; however the Responsible Authority must not issue or give a permit, a notice of decision or a notice of refusal after the appeal has been lodged.

The Act provides that the Responsible Authority must give the applicant and each objector a notice in the prescribed form of its decision to grant a permit. The Responsible Authority must not issue a permit to the applicant until the end of the period in which an objector may apply to the Tribunal for a review of the decision or, if an application for review is made, until the application is determined by the Tribunal or withdrawn.

Kim Wood
Manager Legal Services