



6.4 [21-25 THE AVENUE BALACLAVA \(PDPL/01434/2021\)](#)

LOCATION/ADDRESS: 21-25 THE AVENUE BALACLAVA VIC 3183

EXECUTIVE MEMBER: BRIAN TEE, GENERAL MANAGER, CITY GROWTH AND DEVELOPMENT

PREPARED BY: MATTHEW SCHREUDER, PRINCIPLE PLANNER

1. PURPOSE

- 1.1 To determine an application for the construction of a three-storey apartment building containing 34 dwellings over one basement level of car parking and a front fence exceeding 1.5 metres in height.

2. EXECUTIVE SUMMARY

WARD:	Canal
TRIGGER FOR DETERMINATION BY COMMITTEE:	More than 16 objections
APPLICATION NO:	PDPL/01434
APPLICANT:	Martell Pty Ltd
EXISTING USE:	Residential
ABUTTING USES:	Residential
ZONING:	General Residential Zone – Schedule 1
OVERLAYS:	Special Building Overlay – Schedule 1
STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL	Expired

- 2.1 The application seeks approval for construction of a three-storey apartment building containing thirty-four (34) dwellings over one level of basement car parking containing thirty-four (34) car parking spaces and a front fence exceeding 1.5 metres in height.
- 2.2 The development site comprises three lots, being 21, 23, and 25 The Avenue ('the site'). Each lot is currently occupied by one single storey dwelling and associated outbuildings. No. 23 and 25 benefits from on-site parking with direct access from The Avenue. The total area of the site is 1763m².
- 2.3 A planning permit is required under Clause 32.08-6 (General Residential Zone) to construct two or more dwellings on a lot and an associated front fence exceeding 1.5 metres in height. The application must be assessed against Clause 55 including 55.07 which relates to apartment developments of 4 storeys and less. A planning permit is also required for buildings and works within the Special Building Overlay – Schedule 1, for which Melbourne Water are a determining referral authority.
- 2.4 Council gave public notice pursuant to Section 52 of the Planning and Environment Act 1987 ('the Act') by letters to owners and occupiers of surrounding properties in addition to directing the applicant to display two signs on the site for a period of 18 days.



- 2.5 A total of twenty-five (25) objections were received, with key concerns relating to car parking, access, traffic generation, increase of density, loss of the existing dwellings, neighbourhood character, and amenity impacts including overlooking, overshadowing and visual bulk.
- 2.6 The application was amended in accordance with Section 57a of the Act on 24 January 2023. The amended plans sought to address concerns raised by Planners, referral departments and objectors in relation to garden area non-compliances, visual bulk, and daylight to proposed bedrooms and living areas.
- 2.7 It was determined that the changes would not increase material detriment to any persons as compared with the previously advertised plans. Accordingly, the application was not formally re-advertised. However, registered objectors were provided a copy of the amended plans by e-mail on 3 February 2023. This report is based upon these amended plans date stamped 'received 24 January 2023 contained in **Attachment 1**.
- 2.8 A Consultation meeting was held on 14 March 2023. The meeting was attended by Ward Councillors, the applicants, objectors, and planning officers. The meeting provided an opportunity to explain the application, for the objectors to elaborate on their concerns, and for the applicant to respond.
- 2.9 The meeting did not result in any further changes to the proposal. However, the applicant provided informal 'discussion plans' in response to outstanding design issues on 13 July 2023. The discussion plans have no formal status but demonstrate how outstanding issues could be resolved, through permit condition changes. The changes improved the presentation to the street though providing a strong vertical design element and greater symmetry across the entire frontage as well as defining the individual entries of the ground floor dwellings. The discussion plans were emailed to all objectors on 11 October 2023. The discussion plans are contained in **Attachment 2**.
- 2.10 The proposal is considered acceptable for the following reasons:
- At the State and Local level, there is strong strategic policy support for the proposal. The development would result in a yield of 34 dwellings that are well located near a major activity centre, shops, services, facilities, amenities, infrastructure and public transport.
 - The proposed three storey development is an acceptable response to the existing neighbourhood character which contains an eclectic mix of single, double and triple storey development. Subject to conditions to provide greater verticality in the streetscape design, the proposal will sit comfortably within the streetscape.
 - Subject to conditions to reduce overshadowing impacts, the development will not result in unreasonable external amenity impacts to surrounding dwellings.
 - Subject to conditions to improve daylight access into the building and the layout of some apartments, the proposal would result in an acceptable level of amenity for future occupants.
 - The proposal provides thirty-four (34) car parking spaces. This complies with the statutory requirements pursuant to Clause 52.06 of the planning scheme. The proposed basement car park has a functional layout and access arrangement. Traffic generated by the proposal can readily be accommodated by the existing road network.



- Subject to conditions, the development would achieve satisfactory Environmentally Sustainable Design (ESD) and Water Sensitive Urban Design (WSUD) outcomes.
- On site waste facilities would be provided within the basement. Waste would be managed by a private waste collection company in accordance with an endorsed Waste Management Plan.

2.11 It is recommended that Council approve the application and issues a Notice of Decision to Grant a Planning Permit, subject to conditions.

3. RECOMMENDATION

- a. That the Responsible Authority, having caused the application to be advertised and having received and noted the objections, issue a Notice of Decision to Grant a Permit.
- b. That a Notice of Decision to Grant a Permit be issued for “Construction of a three storey apartment building containing dwellings over one basement level of car parking and a front fence exceeding 1.5 metres in height on a lot within the General Residential Zone (GRZ1) and affected by the Special Building Overlay (SBO1) at 21, 23 & 25 The Avenue, Balaclava.
- c. That the decision be issued as follows:

Amended Plans Required

- 1 Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and an electronic copy must be provided. The plans must be generally in accordance with the plans submitted with the application (prepared by AWA Architects and Interior Design, identified as Drawings TP01 through to TP20, Architect and dated as received on 24 January 2023) but modified to show:
 - a) All changes in accordance with the ‘discussion plans’ prepared by AWA Architects and Interior Design noted as Basement plan, Ground, First Floor Plan noted as plot date 12 July 2023, Second Floor Plan and Roof Plan noted as plot date 10 July 2023, North and South Elevation Plan noted as plot date 12 July 2023, East and West Elevation Plan noted as plot date 11 July 2011 and Section Plan noted as plot date 10 July 2023 but modified to show the changes required by Condition 1b to r below.
 - b) The front setback of the building increased to comply with Clause 55.03-1 Standard B6 (Street Setback Objective)
 - c) All views from new habitable room windows and balconies into existing habitable room windows and secluded private open space to be limited in accordance with Clause 55.04-5 Standard B22 (Overlooking Objective)
 - d) Changes to the built form to ensure compliance with Clause 55.04-5 Standard B21 (Overshadowing Open Space Objective) as it affects the secluded private open space of No. 19 The Avenue.
 - e) The materials schedule amended to change;
 - The dark Grey Colour Render (noted as R2) along the ground and first floor front elevation to brick in a similar colour. The brick finish to wrap around the side elevations for a depth of 1 apartment



- The light render wall (noted as R1) on the west elevation above the basement entry,
 - The central section of the entry shown as Dark Grey Colour Render (noted as R2) changed to Axon Cladding Dark Colour (noted as Ax dark colour).
- f) The location and cubic metre capacity of storage to each apartment in compliance with Clause 55.07-10 Standard B44 (Storage Objective)
- g) Additional highlight window provided in Bedrooms 2 of apartments G1, 2, 9 and 10 to provide improved air circulation in accordance with Clause 55.07-15 Standard D49 (Natural Ventilation Objective)
- h) A notation to achieve a minimum 7 – star average energy rating.
- i) The size and location of the solar photovoltaic system.
- j) A notation outlining that there are electrical provisions at the main switchboard that allows owners the option to install a charge point to their car space.
- k) Details of proposed roof materials that are light reflective to reduce heat gain to the building.
- l) A notation stating that a minimum 20% of the concrete will be replaced with a supplementary cementitious material (SCM), 50% recycled aggregate and 50% recycled water.
- m) A notation stating that all fabricated structural steelwork to be supplied by a steel fabricator / contractor accredited to the environmental Sustainability Charter of the Australian Steel Institute and a minimum of 60% of all reinforcing bar and mesh is produced using energy -reducing processes in its manufacture.
- n) Any changes or notation required to accord with the amended Sustainability Management Plan required pursuant to Condition 11 of this permit.
- o) Any changes to the plans to accord with the amended Water Sensitive Urban Design Report required pursuant to Condition 13 of this permit.
- p) Any Changes to the plans to accord with the amended Waste Management Plan required pursuant to Condition 16 of this permit.
- q) Any changes required to comply with the Melbourne Water requirements at Condition 18 through 21 of this permit.

No Alterations

- 2 The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason without the prior written consent of the Responsible Authority.

Satisfactory Continuation and Completion

- 3 Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

Ongoing involvement of the Architect

- 4 The applicant must retain AWA Architects and Interior Design to complete the design and provide architectural oversight of the delivery of the detailed design as shown in the



endorsed plans and endorsed schedule of materials and finishes during the construction except with the prior written approval of the Responsible Authority.

Privacy Screening Must Be Installed

- 5 Prior to the issue of any Certificate of Occupation for the development allowed by this permit the installation of privacy screens must be undertaken in accordance with the endorsed plans. The privacy screens must be maintained thereafter to the satisfaction of the Responsible Authority.

Walls on or Facing the Boundary

- 6 Prior to the issue of any Certificate of Occupation for the development allowed by this permit all new or extended walls on or facing the boundary of adjoining properties and/or a laneway must be cleaned and finished to a uniform standard to the satisfaction of the Responsible Authority. Unpainted or unrendered masonry walls must have all excess mortar removed from the joints and face and all joints must be tooled or pointed also to the satisfaction of the Responsible Authority. Painted or rendered or bagged walls must be finished to a uniform standard to the satisfaction of the Responsible Authority.

No Equipment or Services

- 7 Any plant, equipment or domestic services visible from the primary street (other than a lane) or public park must be located and visually screened to the satisfaction of the Responsible Authority.

Vehicle Crossings

- 8 Prior to the issue of any Certificate of Occupation for the development allowed by this permit, vehicle crossings must be constructed in accordance with Council's current Vehicle Crossing Guidelines and standard drawings to the satisfaction of the Responsible Authority. All redundant crossings must be removed and the footpath, nature strip, kerb and road reinstated as necessary at the cost of the applicant/owner and to the satisfaction of the Responsible Authority.

Car and Bicycle Parking layout

- 9 Before the occupation of the development starts, the area(s) set aside for the parking of vehicles and bicycles and access lanes as shown on the endorsed plans must, to the satisfaction of the Responsible Authority, be:
 - a) Constructed;
 - b) Properly formed to such levels that may be used in accordance with the plans;
 - c) Surfaced with an all weather surface or seal coat (as appropriate);
 - d) Drained and maintained;
 - e) Line marked to indicate each car space, bicycle space, loading bay and/or access lane; and
 - f) Clearly marked to show the direction of traffic along access land and driveways.

Completion and maintenance of Landscaping

- 10 The landscaping as shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority before the occupation of the development and/or the commencement of the use or at such later date as is approved by the Responsible Authority in writing. The landscaping as shown the endorsed



Landscape Plan must be maintained, and any dead, diseased or damaged plant replaced in accordance with the landscaping plan to the satisfaction of the Responsible Authority.

Amended Sustainability Management Plan

- 11 Prior to the plans being endorsed under condition 1 of this permit, an amended Sustainability Management Plan (SMP) must be submitted to and be approved by the Responsible Authority. The SMP must be generally in accordance with the SMP by Eco-city Sustainability Consultants dated May 2022 but modified to be in accordance with all changes required pursuant to Condition 1 of this permit.

Where alternative ESD initiatives are proposed to those specified in this condition, the Responsible Authority may vary the requirements of this condition at its discretion, subject to the development achieving equivalent (or greater) ESD outcomes.

When approved, the Assessment will be endorsed and will then form part of this permit and the project must incorporate the sustainable design measures listed.

Incorporation and Maintenance of Sustainable Design Initiatives

- 12 Prior to the issue of any Certificate of Occupation for development allowed by this permit, the provisions, recommendations and requirements of the endorsed Sustainability Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

The ESD initiatives of the endorsed Sustainability Management Plan must be fully implemented and maintained throughout the operational life of the development to the satisfaction of the Responsible Authority.

Amended Water Sensitive Urban Design Report

- 13 Prior to the plans being endorsed under Condition 1 of this permit, an amended Water Sensitive Urban Design (Stormwater Management) Report must be submitted to and approved by the Responsible Authority. The report must be generally in accordance with the SMP by Eco-city Sustainability Consultants dated May 2022 and must demonstrate how the proposed stormwater devices will be maintained on an on-going basis. This can be demonstrated by providing a maintenance manual including the following information;

- A full list of maintenance tasks,
- The required frequency of each maintenance task (monthly, annually etc.),
- Person responsible for each maintenance task.

When approved, the Report will be endorsed and will form part of this permit.

Incorporation of Water Sensitive Urban Design Measures

- 14 Prior to the occupation of any dwelling/building approved under this permit, the provisions, recommendations and requirements of the endorsed Water Sensitive Urban Design Report must be implemented and complied with to the satisfaction of the Responsible Authority.

Construction Management Water Sensitive Urban Design

- 15 The developer must ensure that throughout the construction of the building(s) and construction and carrying out of works allowed by this permit:



- a) No water containing oil, foam, grease, scum or litter will be discharged to the stormwater drainage system from the site;
- b) All stored wastes are kept in designated areas or covered containers that prevent escape into the stormwater system;
- c) The amount of mud, dirt, sand, soil, clay or stones deposited by vehicles on the abutting roads is minimised when vehicles are leaving the site.
- d) No mud, dirt, sand, soil, clay or stones are washed into, or are allowed to enter the stormwater drainage system;
- e) The site is developed and managed to minimise the risks of stormwater pollution through the contamination of run-off by chemicals, sediments, animal wastes or gross pollutants in accordance with currently accepted best practice.

Amended Waste Management Plan

16 Prior to the plans being endorsed under Condition 1, an amended Waste Management Plan (WMP) must be submitted to and approved by the Responsible Authority. The WMP must be generally in accordance with the WMP submitted by One Mile Grid dated 11 April 2022 but modified to include:

- a) The correct numbers of units/bedrooms on pages 6 and 7
- b) Allocated space for glass recycle bins
- c) An increased collection frequency for both waste and recycling.
- d) Allocation of storage space for hard/green waste /e-waste with notes on how residents with bulky items will access the bin room.

When approved the WMP will be endorsed and form part of the permit.

No Damage to Existing Street Trees

17 The proposed works must not cause any damage to existing street trees. Root pruning of any street tree must be carried out to the satisfaction of the Responsible Authority prior to the construction/reinstatement of the kerb and channel/works. All trees will require a tree protection zone which complies with AS 4970-2009 at all times throughout the demolition and construction phase of the development. A tree protection fence is to be installed around any tree that is likely to be impacted by construction.

The fence is to be constructed in a diamond or square position around each tree trunk from 4 panels of a minimum height 1.8m x minimum length 2.1m, interlocking by bolted clamps and concrete pads. No entry to this area is permitted without the consent of the Responsible Authority.

Urban Art

18 Prior to the endorsement of plans under Condition 1 of this permit, an urban art plan in accordance with Council's Urban Art Strategy must be submitted to and approved by the Responsible Authority. The value of the urban art must be at least 0.5% of the total building cost of the development to the satisfaction of the Responsible Authority. Urban art in accordance with the approved Urban Art plan must be installed prior the issue of any Certificate of Occupancy for the development.



Melbourne Water Conditions

- 19 Finished floor levels of the ground floor must be constructed no lower than 9.34 metres to Australian Height Datum (AHD).
- 20 The basement entrance/ exist must incorporate a flood proof apex and associated bunding constructed no lower than 9.04 metres to AHD.
- 21 The front fence must be 'open style' (50%) of construction or timber paling to allow for the conveyance of overland flow.
- 22 Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water requirements.

Time for Starting and Completion

- 23 This permit will expire if one of the following circumstances applies:
 - a) The development is not started within two (2) years of the date of this permit.
 - b) The development is not completed within four (4) years of the date of this permit.The Responsible Authority may extend the periods referred to if a request is made in writing:
 - before or within 6 months after the permit expiry date, where the use or development allowed by the permit has not yet started; and
 - within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

4. RELEVANT BACKGROUND

- 4.1 There is no relevant planning background for this application.

5. PROPOSAL

- 5.1 The application is for the construction of a three-storey apartment building comprising 34 apartments, over one level of basement car parking containing 34 spaces of which one space would be allocated to each dwelling.
- 5.2 The building would contain six one-bedroom apartments and 28 two-bedroom apartments, with a total of thirteen (13) different apartment design typologies. Each one bedroom apartment would range from 49m² to 61m² and 64m² to 92m² for each two bedroom apartments.
- 5.3 The basement contains 34 car parking spaces and 10 bicycle spaces, storage cages, waste and recycle bin storage and service areas. The basement would be accessed via a single-lane crossover and ramp located to the west of the site's frontage.
- 5.4 Ground level apartments are provided with secluded private open space in terraces around the perimeter of the site. First and second floor apartments are provided with private open space in the form of balconies.
- 5.5 The development would have a minimum front setback of 4.7 metres, varied side setbacks of between 1.1 – 10.2 metres along the north elevation, 4.4 – 10.8 metres

along the south elevation and 2.9 – 5.2 metres along the rear east elevation. The overall height of the development would be 10.4 metres.

- 5.6 The building materials include brick, dark and light render and steel seam cladding. A flat roof profile is proposed.
- 5.7 The plans subject of this report are the plans prepared by *AWArchitects and Interior Design* and identified as TP01 through TP20 dated ‘received 24/01/2023’ and are located in **Attachment 1**.



Figure 1: Applicant’s 3D perspective of proposal (*AWA Architects and Interior Design*)

6. SUBJECT SITE AND SURROUNDS

Description of Site and Surrounds	
Site	<p>The site comprises three lots, being 21, 23 and 25 The Avenue. All three sites have a frontage to The Avenue of 36.07m, eastern boundary of 48.23m, a western boundary of 35.59m, rear boundary of 37.45m. The site has a total area of approximately 1763m².</p> <p>The site is located on the south side of The Avenue between William Street to the west and Hotham Street to the east. The land is generally flat and is currently occupied by three single storey dwellings and associated outbuildings. No.23 and No.25 include a cross over and drive way to the east side of the boundary.</p> <p>None of the three lots are affected by a restrictive covenant on the Certificate of Title.</p>



Figure 2 - The three sites that make up the development site. No's 21, 23, 25 The Avenue.

Surrounds and neighbourhood character

The site sits within a predominately residential context with a highly diverse neighbourhood character. The housing stock in The Avenue consists of housing types and styles ranging from single storey Victorian dwellings, mid-1900s apartment blocks of two to three storeys, and contemporary medium density residential development.

The sites are located approximately 450m from Carlisle Street activity centre and the Balaclava train station.

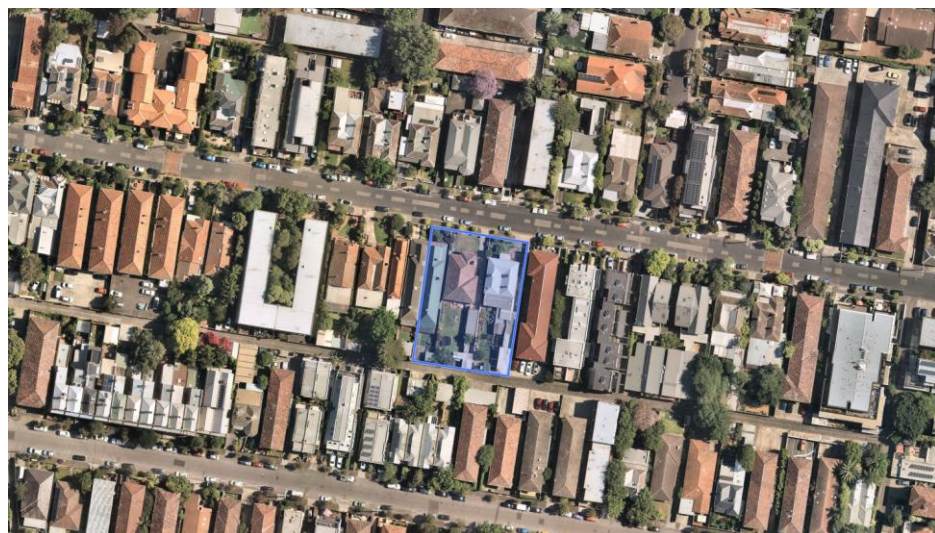


Figure 4 - Aerial photograph of the subject site dated 1 January 2023, showing subject site in blue

The site has the following interfaces:

South

The site abuts a bluestone laneway to the south, identified as roadway R1479. The laneway has an approximate width of 3.5-4 metres and is primarily used for rear vehicle access to properties that front The Avenue and Gourlay Street.

East

To the east of the site is 27 The Avenue, a double storey apartment block with a rendered exterior and a pitched/tiled roof. The building contains ground and first floor habitable room windows on the west side elevation which face the site.



Figure 5 - 27 The Avenue to the east of the subject site.

West

To the west, the site abuts 19 The Avenue, which is occupied by a single storey semi-detached dwelling. The dwelling shares a party wall with the dwelling located on the site at 21 The Avenue. 19 The Avenue features secluded private open space to the rear of the site and a garage accessed via the rear laneway.



Figure 6 - 19 The Avenue to the west of the subject site.



Figure 7. Mixed development on the opposite side of The Avenue.



Figure 8 - Recent apartment development to the east of the subject site on The Avenue.



Figure 9 - Recent development to the east of the subject site.



Figure 10 - Recent development to the east of the subject site.

7. PERMIT TRIGGERS

The following zone and overlay controls apply to the site, with planning permission required as described.

Zone or Overlay	Why is a permit required?
Clause 32.08 General Residential Zone (GRZ1)	<p>Clause 32.08-6 states that a permit is required to:</p> <ul style="list-style-type: none"> • Construct two or more dwellings on a lot. • Construct a front fence within 3 metres of a street if: <ul style="list-style-type: none"> ○ The fence is associated with two or more dwellings on a lot or a residential building, and ○ The fence exceeds the maximum height specified in Clause 55.06-2. <p>A development must meet the requirements of Clause 55.</p>
Clause 44.05 Special Building Overlay (SBO1)	<p>Clause 44.05-2 states that a permit is required to:</p> <ul style="list-style-type: none"> • Construct a building or construct or carry out works.
Clause 52.06 Car Parking	<p>Pursuant to Clause 52.06-3, a planning permit is required to reduce (including reduce to zero) the number of car parking spaces required under Table 1 of Clause 52.06-5 or in a schedule to the Parking Overlay.</p> <p>The subject site is in the Principle Public Transport Network Area (PPTN) and the rates in Column B of Table 1 to Clause 52.06 apply.</p> <p>As the site is in the PPTN, there is no statutory requirement to provide visitor spaces normally required for dwellings.</p>

	<p>The proposal generates the requirement for 34 car parking spaces, one (1) for each dwelling.</p> <p>The proposal provides a total of 34 car parking spaces, meeting the statutory requirement.</p> <p>No planning permit is required under this clause.</p>
<p>Clause 52.34 Bicycle Facilities</p>	<p>Clause 52.34-2 states that a permit may be granted to:</p> <ul style="list-style-type: none"> Vary, reduce or waive any requirement of Clause 52.34-5 and Clause 52.34-6. <p>Clause 52.34-5 sets out the statutory rate for bicycle spaces. Pursuant to Clause 52.34-5, no bicycle spaces are required for the development as it does not contain four or more storeys. No planning permit is required under this clause.</p>

7.1 A Site and Zoning Controls plan is contained at **Attachment 3**.

8. PLANNING SCHEME PROVISIONS

8.1 Planning Policy Frameworks (PPF)

The following Planning Policies are relevant to this application:

Clause 11: Settlement

Clause 15: Built Environment and Heritage

15.01-1I-02 Urban Design

15.01-2L-02 Environmentally Sustainable Development

15.01-5L Neighbourhood Character – East St Kilda and Balaclava

Clause 16: Housing

16.01 Residential Development

16.01-1L-02 Location of Residential Development

Clause 19: Infrastructure

19.03-3S Integrated Water Management

8.2 Other relevant provisions

Clause 52.06 Car Parking

Clause 55 Two or More Dwellings on a Lot and Residential Buildings

Clause 65 Decision Guidelines

Clause 71 Integrated Planning

8.3 Relevant Planning Scheme Amendment/s

The following Planning Scheme Amendment(s) is/are relevant to this application:

- Amendment C203port is a municipal-wide amendment, which:
 - Implements the Port Phillip Planning Scheme Audit 2018 and the land use and development directions of Council's adopted strategies and documents,



including *Act and Adapt – Sustainable Environment Strategy 2018-28*, *Art and Soul – Creative and Prosperous City Strategy 2018-22*; *Don’t Waste It! – Waste Management Strategy 2018-28*, *In Our Backyard – Growing Affordable Housing in Port Phillip 2015-25*, and *Move, Connect, Live – Integrated Transport Strategy 2018-28*.

- Updates the Port Phillip Planning Scheme to comply with Victorian Government changes to planning schemes regarding language, format and structure introduced by Amendment VC148.
- Updates local heritage policy to implement new Heritage Design Guidelines, which provide detailed and illustrated guidance on eleven development themes, informed by extensive consultation undertaken in 2019.
- Introduces new local VicSmart planning provisions to enable quicker assessments of some minor types of planning permit applications.
- Removes eleven Incorporated Documents from the Port Phillip Planning Scheme as they are obsolete.

Amendment C203port was approved with changes by the Minister for Planning and was gazetted on 14 April 2023. There are no transitional arrangements in the adoption of C203port. The Planning Scheme Amendment is policy neutral in respect to the majority of the policy changes where it does not alter the meaning of policy previously in the Port Phillip Planning Scheme. Where it is not policy neutral, it gives effect to adopted Council strategies and plans, augments policy by filling a known policy gap and/or responds to a recommendation of the Port Phillip Planning Scheme Audit 2018.

9. REFERRALS

9.1 Internal Referrals

The application was referred to the following areas of Council for comment.

Internal Department/Officer	Referral comments (summarised)
<p>Urban Design</p>	<p>No objection subject to conditions</p> <p>From an urban design perspective, the proposal is supported subject to changes that could be resolved through conditions. This included:</p> <ul style="list-style-type: none"> • Changes to the streetscape design to create stronger vertical, rather than horizontal, presentation to the street. • Improve activation of the street through individual entries for ground floor apartments. • Improve daylight access to the common areas within the building and improved layout for some apartments. <p><u>Planner Comment:</u></p> <p>The applicant submitted informal discussion plans that address each of the above issues. These plans are discussed where relevant in the assessment. The conditions of the officer</p>



	<p>recommendation refers to changes as shown on the discussion plans to resolve these issues.</p>
Heritage Advisor	<p>No objection</p> <p>Council's Heritage Advisor stated that while 21 & 25 The Avenue are noted as 'contributory outside the Heritage Overlay', the properties have not been identified in the current Amendment C206port (HO7 Heritage Review). Therefore, demolition is supported.</p>
Development Engineer	<p>No objection</p>
Environmentally Sustainable Development	<p>No objection</p> <p>The revised Sustainability Management Plan (SMP) addresses some but not all the original referral comments. Alterations to the report and application drawings need to be undertaken before the application can be deemed to meet Council's ESD standards.</p> <p><u>Planner Comment:</u></p> <p>Conditions that form part of the officer recommendation requires amendments to the development plans to ensure that the initiative is the SMP are reflected in the development.</p>
Waste Management	<p>Changes required</p> <p>Changes to the Waste Management Plan were requested. These include correcting errors in relation to apartment numbers, the inclusion of glass recycling bins, increasing bin collection frequency and the allocation of storage space for hard/green waste/e-waste with notes on how residents with bulky items can access the bin room.</p> <p><u>Planner Comment:</u></p> <p>A condition that requires amendments to the Waste Management Plan to address the above form part of the officer recommendation.</p>
Open Space	<p>No objection subject to conditions</p> <p>Council's Landscape Architect advised that that landscape plan is generally acceptable.</p> <p><u>Planner Comment:</u></p> <p>Additional detail was required in relation to the species of plants, surface materials to be used and details of planter boxes. This information was provided, and the landscape plan is considered satisfactory.</p>



Traffic Engineer	<p>No objection subject to conditions</p> <p>The accessway, including the ramp grades, stop/go lighting system, with sight triangles, for the single width accessway was considered acceptable.</p> <p>A formal loading area was not considered necessary given the residential nature of the proposal.</p> <p>Residents of the proposed development will not have access to parking permits. Therefore, if the street is restricted with a Permit Zone restriction in the future, residents will not be able to utilise on-street parking for loading activities.</p> <p>The traffic generated by the proposal was not expected to cause unreasonable impact on the existing road network.</p> <p><u>Planner Comments:</u></p> <p>There are no requirements for loading bays for an apartment development. Currently the street does not have restricted parking and residents would be able to utilise street parking for loading residential belongings.</p> <p>If the street were to be restricted in the future, the generous basement car park aisle widths would allow for unloading belongings with limited disruption to the functionality of the car park. Residents of the building would need to arrange times with the body corporate that are most suitable.</p>
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9.2 External Referrals

Referral Authority	Response
Melbourne Water	No objection subject to conditions.

10. PUBLIC NOTIFICATION/OBJECTIONS

10.1 It was determined that the proposal may result in material detriment therefore Council gave notice of the proposal by ordinary mail to the owners and occupiers of surrounding properties (108 letters) and directed that the applicant give notice of the proposal by posting 2 notices on the site for an 18-day period, in accordance with Section 52 of the Planning and Environment Act 1987.

10.2 The application has received 25 objections. The key concerns raised are summarised below (officer comment will follow where the concern is not addressed in Section 10):

- Overdevelopment
- Visual bulk
- Clause 55 non-compliance and amenity impacts
- Neighbourhood character
- Inadequate landscaping

- Non-compliance with local policy, including Clause 21.04 (land Use) and Clause 21.06(Neighbourhoods). These policies have been moved in The Scheme and are now covered by Clause 16.01-1L (location of residential development) and 15.01-5L Neighbourhood Character – East St Kilda and Balaclava

- Traffic generation and inappropriate vehicle access

A Traffic Impact Assessment (TIA) was submitted with the application. The TIA notes the proposal will generate 5 vehicle movements per dwelling, with peak hour rates being 10% of daily volumes.

This equates to 170 vehicle movements per day. The morning and afternoon peak is expected to generate 17 vehicle movements (approximately 1 movement every 3-4 minutes Council's Traffic Engineer advises that these volumes can be readily accommodated by the existing road network.

- Car parking rate

The proposal meets the statutory car parking rate pursuant to Clause 52.06. Therefore, car parking is not a planning permit trigger and not within scope of consideration.

- Demolition of existing period dwellings

A planning permit is not required for the demolition of the existing dwellings at Nos. 21, 23 and 25 The Avenue. Therefore, demolition is not within scope of the planning application consideration.

- Reduction in housing value

Property values are not a relevant consideration under the Planning Scheme.

10.3 A consultation meeting was held on 14 March 2023. The meeting was attended by a Ward Councillor, applicants, objectors and Planning Officers. The meeting provided an opportunity to explain the application, for the objectors to elaborate on their concerns, and for the applicant to respond. Following the meeting, the applicant provided 'discussion plans' to address concerns related to streetscape presentation and daylight access. The discussion plans have been referred to where relevant to particular issues of concern.

11. OFFICER'S ASSESSMENT

11.1 The key issues relevant to assessment of this application arise from applicable policies and provisions of the Planning Scheme, the referral comments and the objections. The key issues can be identified under the following headings:

- Is there strategic support for increased housing on the site?
- Does the design respond appropriately to its context?
- Is the provision for landscaping acceptable?
- Are there unreasonable amenity impacts to neighbouring properties?
- Will future residents have acceptable amenity?

11.2 Is there strategic support for increased housing on the site?

11.2.1 The development of 34 apartments is supported by various planning policies which seek to facilitate increased development densities in accessible locations,



proximate to jobs, shops, services, facilities, amenities, infrastructure and public transport. A purpose of the General Residential Zone is to encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.

- 11.2.2 This principle is reflected in Clauses 11.03-1S (Activity centres) and 16.01-2S (Location of residential development), along with Plan Melbourne 2017-2050. Plan Melbourne 2017-2050 is underpinned by nine principles, including the '20-minute neighbourhoods' concept (essentially giving people the ability to meet most of their daily needs within a 20-minute/ 800 metre one-way walk from home).
- 11.2.3 Clause 16.01-1L (location of residential development) seeks to direct housing growth to designated locations that have the greatest capacity for change, and that offer highest accessibility to public transport, shops and social infrastructure while maintaining the heritage, neighbourhood character and amenity values of established residential areas that limited potential for housing growth
- 11.2.4 The proposal is aligned with a strategy of Clause 16.01-1L which seeks to provide for incremental growth through well designed medium density (2 to 3 storey) infill development along Main and Collector roads that are already characterised by medium density development, such is the character of The Avenue
- 11.2.5 The site is located within the Principle Public Transport Network and is approximately 450 metres by foot to Carlisle Street within the Carlisle Major Activity Centre. The Avenue is a diverse street that is highly varied in terms of residential densities, building scale and period, and is therefore capable of accommodating change. Accordingly, the site is considered to be an appropriate location for increased residential density and is supported by the General Residential Zone and planning scheme policies.

11.3 Does the design respond appropriately to its context?

- 11.3.1 Clause 15.01-5L (Neighbourhood Character) identifies a strategy to design development so that its height, scale, massing and bulk respects the scale and form of nearby buildings in areas where the existing built form character is to be retained, or a preferred character for an area has been identified.
- 11.3.2 Strategies specific to East St Kilda and Balaclava provide guidance for new development. However these are most relevant to streetscapes that retain a greater proportion of earlier development and display a more consistent built form. The development accords with the broader strategy above in that the proposal is consistent in scale and built form with much of the newer development that is present on The Avenue.
- 11.3.3 The proposal is an acceptable response by providing a three-storey apartment building within an established residential streetscape that features several medium-density residential developments of two and three storeys.
- 11.3.4 Pursuant to Clause 32.08-10 (Maximum building height requirement for a dwelling), a building must not be constructed for use as a dwelling or a residential building that exceeds 11m or 3 storeys in height (excluding basements). The development would not exceed a maximum building height of



3 storeys or 11 having a total height above natural ground level of 10.4 metres which is compliant.

11.3.5 The Avenue is contained within Precinct R8 of the Carlisle Street Activity Centre Structure Plan 2009. The relevant excerpt from *Table 1 – Established Residential Precincts – Future Development and Preferred Character Statements* is outlined below:

The Avenue/ Gourlay Street	Existing Character type Victorian/ Interwar/Post War Garden Suburban	Future Residential Change Character Incremental Change
	<ul style="list-style-type: none"> • The precinct is dominated by Victorian dwellings and post war 1960's/ 70's buildings. More recent development has seen the introduction of duplexes and contemporary medium density housing. • The varied character of both The Avenue and Gourlay Street, combined with large lot sizes provide the propensity for further redevelopment. • There is already a high prevalence of multi -unit/ flats in multiple ownership, which will limit the extent of further change within the precinct 	<ul style="list-style-type: none"> • Walk up flats and contemporary development in form of apartments and duplexes will become the most dominant building styles through the precinct. • 1960's – 70's walk up flats will be updated to revitalise streetscapes and Victorian dwellings will be maintained and carefully restored where necessary. • Where located next to a Victorian Dwelling in good condition, new development will provide an innovative design response that respects the scale, form and setbacks of the existing dwelling. • New development will be well articulated with variations in wall treatments, and through the composition of openings and setbacks. • Landscaping will play a greater role in new development, with carefully considered garden spaces and vegetation that reduces the impact of the built form on the streetscape.

11.3.6 Whilst a three storey apartment building is acceptable, the proposal does not adequately respect the rhythm of lot and building widths in the street. The

proposal contains strong horizontal features that, when combined for a building across three lot widths, do not appropriately respond to the finer grain lot width pattern in The Avenue.

- 11.3.7 The applicant provided discussion plans to address this concern. The discussion plans satisfactorily address the concern by providing stronger vertical elements that break up the building mass into two distinct masses, joined by a central entry element. The discussion plans also add individual dwelling entries for ground floor apartments, responding to the fine grain pattern of Victorian era dwellings located to the west of the site.



Figure 11: Streetscape elevation as shown on the discussion plans.

- 11.3.8 Subject to conditions to reflect the changes proposed in the discussion plans, the development achieves strategy 3 of Clause 16.01-1L-02 'Location of residential development', which seeks to provide for incremental residential growth through well designed medium density (2 to 3 storey) infill development. Subject to these conditions, the proposal is also an acceptable response to the *Carlisle Street Activity Centre Structure Plan 2009* as it provides a residential scale and density that directly responds to the preferred future character statement for the precinct.
- 11.3.9 An additional condition would be included in the officer's recommendation that would require that the dark colour render along the ground and first floor front elevation shown on the discussion plan to be changed to brick in similar colour. This would provide a higher quality, more robust and durable finish. The brick finish would be required to wrap around the side elevations for a depth of 1 apartment. A condition would also require that the central section of the entry finished in Dark Render will be changed to Axon Cladding. This will reduce the number of materials and provide a more simplified presentation.

11.4 Is the provision of landscaping acceptable?

- 11.4.1 Given the site is greater than 650sqm, 35% must be provided as garden area. The proposal would provide garden area equating to 35% of the lot which is compliant. The application is supported by a detailed landscape plan which provides an appropriate planting schedule consisting of a variety of trees, shrubs and ground covers. The various trees will be capable of attaining a size at maturity that will soften the built form of the development when viewed from each elevation.



The plan provides details of surface materials and levels of permeability as well as specific planting details for the ground level as well as planter boxes. It is considered that the landscaping would be appropriate and consistent with the surrounding development.

The front setback of the building does not comply with Clause 55.03-1 Standard B6 (Street Setback Objective) by 200mm. Whilst a minor variation, compliance should be achieved to maximise area for landscaping, noting the site is relatively unconstrained. A condition is included in the officer recommendation to require compliance.

11.5 Will the amenity for future occupants be acceptable?

- 11.5.1 Subject to conditions to reflect changes shown on discussion plans, the development has been designed to provide an acceptable level of amenity for the future occupiers of the apartments. The one and two bedroom apartments are all provided with an open plan kitchen/living and dining room which have been designed to comply with room depth standards to ensure adequate daylight will enter the spaces.
- 11.5.2 Subject to conditions, all the of apartments will achieve compliance with the functional layout standards.
- 11.5.3 26 of the 34 apartments have been designed to comply the Accessibility objectives which exceeds the 40% required by the standard.
- 11.5.4 The ground floor apartments have appropriately dimensioned areas of private open space while the upper level apartments are provided with a balcony which exceeds the areas required by Clause 55.
- 11.5.5 There are insufficient apartments that meet the natural ventilation standards. A condition is included as part of the officer recommendation that will require an additional four apartments to include highlight windows that will enable compliance to be achieved. The highlight windows do not result in additional overlooking.
- 11.5.6 The internal corridors do not provide sufficient access to light and natural ventilation. The discussion plans amend the internal layout to provide greater natural light access into the corridors through windows, a light court and skylights. This will be reflected in the permit conditions in the officer recommendation.
- 11.5.7 At ground level Apartment G.03 contains two bedroom windows that front onto the vehicle ramp. This is a poor amenity outcome for future occupants. The figure below shows the windows highlighted yellow.

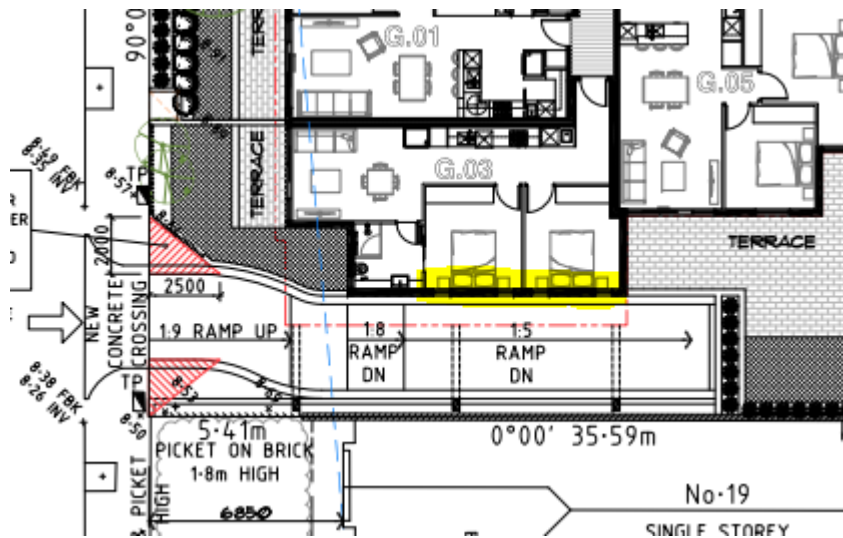


Figure 12: bedroom windows facing ramp

11.5.8 The discussion plans resolve this concern by changing the layout of the apartment into a one bedroom dwelling with a re-orientated window away from the ramp.



Figure 13: Redesigned apartment improving internal amenity

11.5.9 Apartment G.04 is a two bedroom apartment that contains a living area smaller than the bedrooms. This does not comply with the functional layout standards of Clause 55.07.

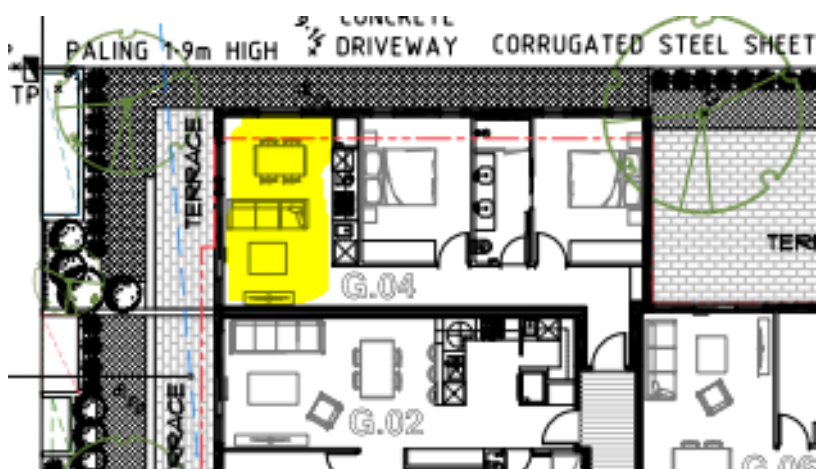


Figure 14: Apartment G.04 living area shown yellow

11.5.10 The discussion plans resolve this concern by enlarging the living area and making the apartment one bedroom instead of two.

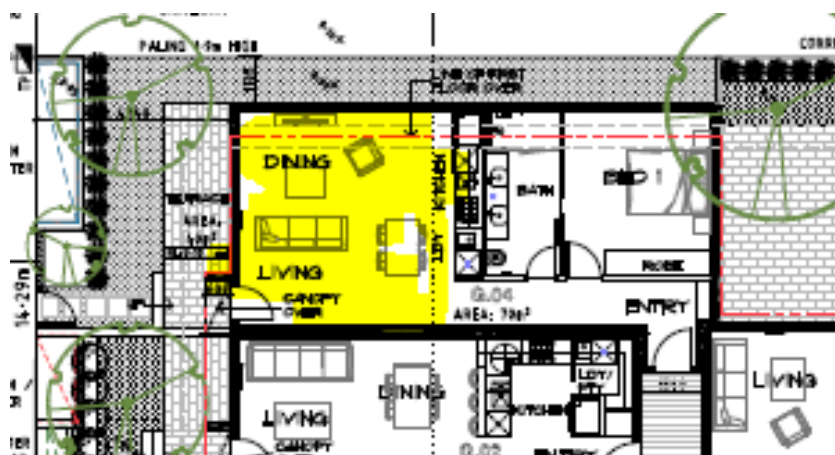


Figure 15: Larger living area for Apartment G.04

11.5.11 The re-design of these apartments are a significant improvement and will provide a better residential amenity outcome for any future occupants. Should a permit be granted, the plans will be updated per condition 1 of the recommendation should a permit be issued.

11.5.12 All apartments have been provided with an appropriate area of storage located within the basement car park. Storage areas have also been provided within the apartments. A total of 18 cubic metres of space has been provided which exceeds the area required by the storage standard of Clause 55.07-10.

11.6 Are off-site amenity impacts acceptable?

11.6.1 The proposal achieves a high level of compliance in relation to objectives that protect the amenity of neighbouring properties. The design of the apartment building has incorporated setbacks from boundaries and building heights that are consistent with development in the surrounding streets. Measures have

been adopted to minimise overlooking such as highlight windows, external screening and planter boxes that will obscure views into neighbouring private open space. Some objectives have required variations to standards and these are discussed under the relevant headings below.

11.6.2 Street Setback

The proposal requires a front setback of 4.96 metres being the average setback of No.27 and 19 The Avenue. The proposal provides for a setback of 4.74 metres, thus a variation of approximately 200 mm. Whilst the variation is relatively minor, it is considered that compliance should be achieved. This is because:

- The site is large and relatively unconstrained.
- The proposed three storey building that stretches across three lots will be one of the biggest in the street. In this context, a greater front setback to provide as much deep soil landscaping to soften the built form and a more recessed built form is appropriate.

A condition on permit in the officers recommendation requires the front setback to be increased to reflect the standard.

11.6.3 Side and Rear Setbacks

The proposal provides a high level of compliance with the side and rear setback standard with only the second floor requiring minor variations. Along the south elevation (rear) of the second floor, the required setback is 5.85 metres and 5.25m has been provided. A variation of 600mm is required. The variation is supported given the rear laneway provides an additional buffer between the subject site and neighbouring properties that have a rear abuttal to the lane.

Along the west elevation the ground and first floor comply with the setback standards.

Along the second floor of western elevation setbacks vary from 4.43 metres to the edge of the balcony towards the rear of the site, with the building at this point setback further at 6.7 metres. Towards the front of the building the western side setback of Apartment S25 is 5.04 metres. For a wall height of 10.74 metres above natural ground level the required setback for the wall is 5.83 metres. As the minimum setback provided is 4.43 metres a variation of 1.5 metres is required for the balcony and a variation of 0.79 m is required for the western wall of Apartment S25. The variations are considered acceptable given opposite these areas are a 2 m high brick wall, on boundary walls and a garage.

Along the east elevation, most of the setback along the ground and first floor comply. At two points, a minor variation is required. These require imperceptible variations of approximately 100mm and are opposite non-sensitive common driveway areas.

The second floor wall heights are the same along the east elevation and also require a setback of 5.83 metres. Setbacks along the second floor on this elevation are also varied due to the articulated built form. The setback towards the front of the building is for the eastern wall of Apartment S27 is 5.03m. The

variation sort for Apartment S27 at the front of the site is 0.79 metres. This wall is opposite an apartment building which has a driveway located along the shared boundary. Given it is a non-sensitive space, the variation is acceptable.

The eastern side second floor setback increases to 5.63 metres towards the rear of the building. The variation of 0.2 m is also supported given it is minor and not opposite sensitive secluded private open space.

11.6.4 Overshadowing Open Space

The development seeks a variation to Standard B21 of Clause 55.04-5 Overshadowing Open Space objective. The proposal increases the amount of overshadowing of the secluded private open space (SPOS) of No. 19 The Avenue. Between 9 and 10 am the entire area of SPOS is overshadowed and after 10am the SPOS has an additional 8.41 sqm metres overshadowed by the development. Given the subject site is of a significant scale and is over a relatively unconstrained large area it is expected that the development should comply with this standard. It is not expected that the change required to achieve compliance is excessively onerous and may result in some additional setbacks of a small section of the wall or racking off the roof. Therefore, a condition of the recommendation will require compliance with Standard B21. The applicant is aware of this requirement in the officers recommendation and supports the condition.

Overshadowing diagrams are contained within **Attachment 5**.

11.6.5 The proposed development is an acceptable response to Clause 55 (Rescode) Objectives. A full assessment of the development against Clause 55 is contained within **Attachment 4**.

11.7 Car Parking/Traffic/Waste Management.

11.7.1 Clause 52.06 sets out the car parking requirements for new development. The proposal provides 34 car spaces within the basement car park. This meets the requirement for 34 one- and two-bedroom apartments. The basement car park meets the design requirements of Clause 52.06 in relation to car space dimensions, aisle widths and ramp gradients. All of the car spaces can be entered and exited in a safe and efficient manner as required by the parking provisions. As the subject site is located within the Principal Public Transport Network no visitor car spaces are required.

11.7.2 The planning submission was supported by a Traffic Impact Assessment (TIA) prepared by One Mile Grid (Traffic Engineers) which identified that the traffic generated by the future occupiers of the site would not have an unreasonable impact on the local road network. As outlined in Section 9 of this report, the application was referred to Councils Traffic Engineers who supported the findings of the TIA as well as the layout of the basement car park.

11.7.3 The access to the basement will be in the location of an existing crossover and two redundant crossovers will be required to be reinstated to kerb and channel.

11.7.4 A Waste Management Plan (WMP) has also been provided in support of the development. The WMP proposes that private contractors will collect all waste from the site. The waste will be collected from within the basement car park



and appropriate sept path diagrams have been provided to demonstrate that this is possible. A conveniently located bin storage area has been provided and is sufficient in area to accommodate all bins and waste types. The WMP has been reviewed and is generally supported by Councils waste management department subject conditions that will be included in the officers recommendation. The conditions will require the provision of glass recycling bins and increased collection frequencies.

- 11.7.5 Given the proposal is a purely residential development, loading and unloading will be infrequent. There is no requirement in the Planning Scheme to provide on-site loading facilities. Residents can utilise the unrestricted parking in the street for loading that cannot be accommodated within the basement parking.

11.8 Environmental Sustainable Design (ESD)

- 11.8.1 The proposal has been designed to incorporate a range of ESD initiatives in accordance with Clause 15.01-2L-02 Environmentally Sustainable Development. The proposal includes the provision of energy and water efficient appliances and metering which can assess the functionality and efficiency of the development. The development will achieve an average energy rating of 7.1 stars.
- 11.8.2 Rainwater will be harvested from all roof areas and a 20, 000 litre water tank will be connected to toilets and landscaping irrigation resulting in a STORM score of 106%.
- 11.8.3 All bedrooms and living rooms will have adequate access to natural ventilation and light subject to conditions included in the officer recommendation will require minor changes to some rooms in accordance with the discussion plans.
- 11.8.4 The proposal was referred to Councils ESD officers who supported the proposal subject to the ESD initiatives being shown on the plans.

11.9 Integrated Decision Making and conclusion

- 11.9.1 Clause 71.02 of the planning scheme requires the decision-maker to integrate the range of policies relevant to the issues to be determined and balance the positive and negative environmental, social and economic impacts of the proposal in favour of net community benefit and sustainable development. When considering net community benefit, fair and orderly planning is key; the interests of present and future Victorians must be balanced; and, the test is one of acceptability.

It is considered that the proposal presents positive aspects including:

- Increased number and diversity of housing on a well-located site proximate to the Carlisle Street Major Activity Centre.
- Subject to conditions will result in an acceptable architectural and context response that will contribute to the public and private realm.
- Subject to conditions will not result in unreasonable amenity impacts and an acceptable standard of amenity for future residents.
- Adequate car parking and appropriate access.



On balance, is considered the proposal is acceptable subject to conditions to address the issues of concern raised in this report and will result in a net community benefit.

It is recommended that Council issues a Notice of Decision to Grant a Planning Permit.

12. OFFICER DIRECT OR INDIRECT INTEREST

12.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.

13. OPTIONS

13.1 Approve as recommended

13.2 Approve with changed or additional conditions

13.3 Refuse - on key issues

ATTACHMENTS

1. **Section 57A Plans**[↓](#)
2. **Discussion Plans**[↓](#)
3. **Site Plan and Zoning Controls**[↓](#)
4. **Clause 55 Assessment**[↓](#)
5. **Shadow Diagrams**[↓](#)