



6.3 [95 ST KILDA ROAD, ST KILDA \(PDPL/00786/2022\)](#)
LOCATION/ADDRESS: 95 ST KILDA ROAD, ST KILDA
EXECUTIVE MEMBER: LAUREN BIALKOWER, ACTING GENERAL MANAGER, CITY GROWTH AND DEVELOPMENT
DONNA D’ALESSANDRO, MANAGER CITY DEVELOPMENT
PREPARED BY: ZAC VAN GRONDELLE, PRINCIPLE PLANNER
PHILLIP BEARD, PRINCIPAL PLANNER

1. PURPOSE

- 1.1 To determine an application for the construction of buildings and works comprising a nineteen (19) storey building comprising apartments, café, office space, with four basement levels of car parking, accessed via St Kilda Road, including a reduction in residential parking and a full waiver of office and café (food and drinks premises) parking.

2. EXECUTIVE SUMMARY

WARD:	Lake
TRIGGER FOR DETERMINATION BY COMMITTEE:	More than 16 objections
APPLICATION NO:	PDPL/00786/2022
APPLICANT:	Tract Consultants
EXISTING USE:	Car Hire and ancillary offices
ABUTTING USES:	Residential
ZONING:	Mixed Use Zone
OVERLAYS:	Design and Development Overlay, Schedule 36-IE
STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL	Expired

- 2.1 The proposal is for a mixed use development within a 19 storey building above four levels of basement car parking. The proposal would result in a total of 78 apartments being 10 x one bedroom, 29 x two bedroom and 39 x three bedroom along with 111m² of café space and 102m² of co-working office space.
- 2.2 Vehicle access to the site would be from St Kilda Road, to the south of the site. It would access the four basement levels that would provide for 66 car parking spaces. At grade level, a loading bay would be provided together with bike storage for 68 bicycle spaces.
- 2.3 The proposal involves full demolition of the site including the former car hire. The site is not located within a Heritage Overlay, and therefore does not require a planning permit for demolition. The permit triggers for this application relate to building and works due to the zoning of the site (Mixed Use) and Design and Development overlay requirements, and waiver of the car parking requirements.



- 2.4 The proposal seeks a full waiver of the office and café parking (three spaces each, six in total) and by way of allocating all 66 spaces to the dwellings, seeks a reduction in the parking for the residential component, which would require 117 car spaces.
- 2.5 It is considered the waiver of commercial/café parking is acceptable, however the residential parking shortfall is not. It is recommended to include conditions on the permit for another 14 car spaces through the provision of an additional basement level. A reduction in building height by 2 levels will also assist in reducing the parking shortfall.
- 2.6 The application was advertised and received 25 objections. The concerns raised related to a broad range of issues including overall building height, scale, bulk and massing, residential amenity such as overshadowing, loss of daylight, loss of privacy, loss of views, traffic and parking and land use concerns.
- 2.7 A consultation meeting was held on 6 February 2023. The meeting was attended by Ward Councillors, the permit applicant, objectors and planning officers. The meeting did not result in changes to the advertised proposal.
- 2.8 Built form on this site is subject to a Design and Development Overlay (DDO36-1E), which controls the design and built form of new development. DDO36 includes requirements for the maximum height of any building and the siting of buildings from the front, rear and sides of the site. For this site, the discretionary maximum height is 13 storeys, with potential for another two storeys to be considered, giving a discretionary maximum of 15 storeys.
- 2.9 The proposal would have a maximum height of 19 storeys (including a mezzanine) and due to the site being located between a 26 storey building to the north and a 15 storey building to the south, it may provide a transition in height, however does not respond to the requirements of the DDO. The development should also better respond to the low rise residential interface to the west and therefore a condition is recommended to reduce the height of the building by 2 levels.
- 2.10 By reducing the height of the building, it is considered that the proposal would result in an acceptable interface to the existing flats to the west, fronting Barkly Street. Those four storey flats are part of a different planning setting by way of their residential zoning, their inclusion in a Heritage Overlay and by way of a different DDO height control that allows only four storeys.
- 2.11 The proposal would increase traffic generation given the additional car parking for the development. However, it is considered that the increase in traffic during peak hours are a low volume that could be safely accommodated within the existing capacity of this section of St Kilda Road.
- 2.12 The proposal is recommended for approval, subject to conditions below.

3. RECOMMENDATION

- 3.1 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.
- 3.2 That a Notice of Decision to Grant a Permit be issued for construction of buildings and works comprising a 17 storey building for apartments, café, co-working office space, a reduction in residential parking and a full waiver of office and café parking at 95 St Kilda Road, St Kilda.



3.3 That the decision be issued as follows:

Amended Plans Required

1. Before the use or 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 prepared by Bayley Ward titled "95 St Kilda Road", project 1849, plans TP000-TP7230, Council date stamped 23 November 2022 and advertised but modified to show:
 - a) An additional basement level containing at least 14 car parking spaces
 - b) Deletion of levels 13 and 14
 - c) The southern balconies of dwelling 104 on levels 1 and 2 to be opened to the western boundary and closed to the communal open space areas.
 - d) The replacement of cement sheet cladding (CT01, CT02 & CT03) with a more durable material
 - e) Reduction of the western boundary wall height adjacent to the communal open space by 3.1 metres, to a maximum height of 9.9m.
 - f) The provision of a pedestrian sight triangle along the southern side of the accessway, in accordance with Design Standard 1 of Clause 52.06.
 - g) The provision of 1 bicycle space per dwelling
 - h) Any convex mirror must be attached to the building (not to a fence or within a footpath)
 - i) Indication of the Pool and spa to the Penthouse terrace on level 17 (if proposed) consistent with the landscape plan
 - j) Locations of EV charging infrastructure points
 - k) Any changes required by conditions 4 (Sustainable Management Plan), 7 (Water Sensitive Urban Design), 9 (Drainage / Engineering), 11 (Urban Art) 12 (Waste Management Plan), 13 (Landscape Plan) and 17 (Traffic Impact Assessment).

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.

No Change to External Finishes

3. All external materials, finishes, and colours as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

Sustainable Management Plan

4. Before the development starts a Sustainable Management Plan (SMP) must be submitted to and approved by the Responsible Authority. Upon approval the SMP will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the SMP to the satisfaction of the Responsible Authority. Amendments to the SMP must be incorporated into plan changes required under Condition 1. The report must be generally in



accordance with the SMP prepared by Hip V. Hype dated 10 November 2022 but updated to address the following:

- a) Measures to Specify provision of waste streams in bin room – 3 bin chutes throughout.
- b) Low/No VOC, embodied carbon, recycled etc – add to Materials & Finishes schedule where applicable.
- c) Provide Building Users Guide (BUG) at occupancy stage.
- d) WELS ratings
- e) HRV/ERV ventilation provided to all apartments
- f) All-electric development
- g) Embedded network provides 100% renewable energy to all apartments
- h) Solar PV - 44 x 415W photovoltaic panels (18.26kWp) offsetting the base building power usage and supplement domestic hot water systems
- i) Hot Water system with Electric heat pump
- j) Load management electric vehicle charging infrastructure will be installed to enable electrical vehicle charge stations
- k) 90% of construction waste to be diverted from landfill (i.e. reused or recycled)
- l) Separated waste streams including recycling and organics
- m) A tap and floor waste will be provided on each balcony
- n) Mechanically exhausted (variable speed drive fans) basement with CO2 monitors
- o) Specify which windows are operable / openable
- p) Trafficable terraces rainwater captured to RWT for garden irrigation
- q) High-performance, double glazed and thermally broken window systems to all apartments

Incorporation Sustainable Design Initiatives

5. The project must incorporate the sustainable design initiatives listed in the endorsed Sustainable Management Plan to the satisfaction of the Responsible Authority.

Implementation of Sustainable Design Initiatives

6. Before the occupation of the development approved under this permit, a report from the author of the Sustainable Management Plan approved pursuant to this permit, or similarly qualified person or company, must be submitted to the satisfaction of the Responsible Authority. The report must confirm that all measures and recommendations specified in the Sustainable Management Plan report have been implemented and/or incorporated in accordance with the approved report to the satisfaction of the Responsible Authority.

Maintenance Manual for Water Sensitive Urban Design Initiatives (Stormwater Management)

7. Before the development starts (other than demolition or works to remediate contaminated land) a Maintenance Manual for Water Sensitive Urban Design Initiatives must be submitted to and approved by the Responsible Authority. The manual must set out future operational and maintenance arrangements for all WSUD (stormwater management) measures. The program must include, but is not limited to:



- inspection frequency
- cleanout procedures
- as installed design details/diagrams including a sketch of how the system operates

The WSUD Maintenance Manual may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Building User's Guide or a Building Maintenance Guide.

Site Management Water Sensitive Urban Design (larger Multi-Unit Developments)

8. The developer must ensure that:
 - 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.

Drainage / Engineering

9. Before the development starts excluding demolition, excavation, piling, site preparation works, and works to remediate contaminated land, or as otherwise agreed by the Responsible Authority, a stormwater drainage system design incorporating integrated water management design principles, must be submitted to and approved by Port Phillip City Council. The stormwater drainage system design must:
 - a) Include a detailed response to Clause 19.03-3L (Stormwater Management (Water Sensitive Urban Design) of Port Phillip Planning Scheme'
 - b) Incorporate a legal point of discharge (LPD) to the satisfaction of Port Phillip City Council.

Drainage / Engineering

10. The stormwater drainage system must be constructed in accordance with the design approved under this permit, connected to the existing stormwater drainage system and completed prior to the occupation of the building to the satisfaction of Port Phillip City Council.

Urban Art Plan

11. Before the development starts (other than demolition or works to remediate contaminated land), an urban art plan in accordance with Council's Urban Art Strategy must be submitted to, be to the satisfaction of 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 plan must be installed prior to the occupation of the building to the satisfaction of the Responsible Authority.



Waste Management Plan

12. Before the development starts (other than demolition or works to remediate contaminated land), a Waste Management Plan must be submitted to, approved by and be to the satisfaction of the Responsible Authority. The Waste Management Plan must be generally in accordance with the Waste Management Plan (prepared by One Mile Grid dated 11 November 2022) submitted with the application.

Landscape Plan

13. Before the development starts (other than demolition or works to remediate contaminated land), a detailed Landscape Plan must be submitted to, approved by and be to the satisfaction of the Responsible Authority. The Landscape Plan must be generally in accordance with the Landscape Plan (prepared by Tract) submitted with the application but amended to incorporate:
 - a) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant;
 - b) A survey, including, botanical names of all existing trees to be retained or removed on the site including Tree Protection Zones for trees to be retained calculated in accordance with AS4970-2009;
 - c) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site;
 - d) The delineation of all garden beds, paving, grassed area, retaining walls, fences and other landscape works and be consistent with the architectural plans;
 - e) Details of landscaping within the St Kilda Road frontage
 - f) Details of landscaping on all communal terraces and open communal spaces
 - g) Details of how the vertical landscaping and communal landscaping will be maintained and serviced.
 - h) Notes regarding site preparation, including the removal of all weeds, proposed mulch, soil types and thickness, subsoil preparation and any specific maintenance requirements;
 - i) Tree protection measures including for street trees accurately drawn to scale and labelled.
 - j) Any changes as required by Condition 1.

When the Landscape Plan is approved, it will become an endorsed plan forming part of this Permit.

Completion of Landscaping

14. 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.

Landscaping Maintenance

15. 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.

Street Tree Protection

16. Tree Protection Fencing is to be established around the tree protection zone of the St Kilda Road street trees prior to demolition and maintained until all works on site are complete.
- The fencing is to be a 1.8 metre high temporary fence constructed using chain wire / cyclone mesh panels, with shade cloth attached (if required), held in place with concrete feet/pads. Alternative materials may be used, if approved by the Responsible Authority.
 - The fencing is to encompass the entire nature strip with each end beyond the TPZ of each tree as shown in the Tree Protection and Management Plan (drawing).
 - No excavation, construction activity, grade changes, surface treatment or storage of materials of any kind is permitted within the TPZ, unless approved in the endorsed Tree Protection and Management Plan.

Traffic Impact Assessment

17. Before the use or development starts, a Traffic Impact Assessment 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 generally in accordance with the Traffic Impact Assessment prepared by OneMile Grid dated 11 November 2022 but must include:
- Further details on how two way traffic will be managed within the site (including swept paths through the basement levels and details of the traffic signalisation / vehicle queuing system).

Acoustic Internal Amenity

18. Before the use commences, the permit holder must ensure that internal noise levels of the sleeping areas of the proposed dwellings must not exceed 35dB(a) with the windows closed; and for all other habitable rooms, levels must not exceed 40dB(A) with windows closed in accordance with relevant Australian Standards for acoustic control (including AS2107-1987 and AS3761 - Road Traffic) to the satisfaction of the Responsible Authority.

Car Parking and Bicycle Parking Layout

19. Before the use or 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 be:
- Constructed
 - Properly formed to such levels that may be used in accordance with the plans
 - Surfaced with an all weather surface or seal coat (as appropriate);
 - Drained and maintained
 - Line marked to indicate each car space, visitor space, bicycle space, loading bay and/or access lane.
 - Clearly marked to show the direction of traffic along access land and driveways
- All to the satisfaction of the Responsible Authority.



20. The mechanical car stackers are to be maintained in a good working order and be permanently available for the parking of vehicles in accordance with their purpose, to the satisfaction of the Responsible Authority.
21. Bicycle parking spaces and end of trip facilities are to be designed in accordance with Clause 52.34 of the Port Phillip Planning Scheme.
22. Before the occupation of the development allowed by this permit, a minimum of one (1) car space must be provided for the exclusive use of disabled persons. The car space must be provided as close as practicable to the front entrance of the building and must be clearly marked with a sign to indicate that it must only be utilised by disabled persons. The minimum dimensions of the car space must be 3.2 metres wide by 4.9 metres long to the satisfaction of the Responsible Authority.

Loading/unloading

23. The loading and unloading of vehicles and the delivery of goods to and from the premises must at all times be conducted entirely within the site and in a manner that limits interference with other vehicular traffic to the satisfaction of the Responsible Authority.

Piping, Ducting, Service Units

24. All service pipes/service units (excluding down pipes, guttering and rainwater heads) must be concealed from view from the public realm and any screening devices suitably integrated into the design of the building to the satisfaction of the Responsible Authority.

Walls on or facing the boundary

25. Before the occupation of 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.

Glare

26. External building materials and finishes must not result in hazardous or uncomfortable solar reflectivity and glare to pedestrians, public transport operators and commuters, motorists, aircraft, or occupants of surrounding buildings and public spaces, to the satisfaction of the Responsible Authority.

Vehicle Crossings

27. Before the occupation of the development allowed by this permit, all disused or redundant vehicle crossings, must be removed and the area re-instated with footpath, nature strip, kerb and channel and re-location of the on-street parking metre at the cost of the applicant/owner as well as any on street parking signage and line marking changes and to the satisfaction of the Responsible Authority.

Lighting baffled

28. All lighting of external areas must be suitably baffled so as not to cause nuisance or annoyance to nearby residential properties.



Satisfactory Continuation

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

Department of Transport Conditions

30. Prior to occupation all disused or redundant vehicle crossings must be removed, and the area reinstated to kerb and channel and naturestrip to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria.

Note: a) Separate consent may be required from Head, Transport for Victoria under the Road Management Act 2004 for buildings and works undertaken outside the title boundary within a Transport 2 Zone (St. Kilda Road). Please contact Head, Transport for Victoria prior to commencing any works.

Time for Starting and Completion

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

- a) The development is not started within three (3) years of the date of this permit.
- b) The development is not completed within five (5) 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

RECOMMENDATION PART B

3.4 That the Planning Committee Authorise the Manager City Development to instruct Council’s Statutory Planners and/or Council’s solicitors on any VCAT Application for Review should one be lodged.

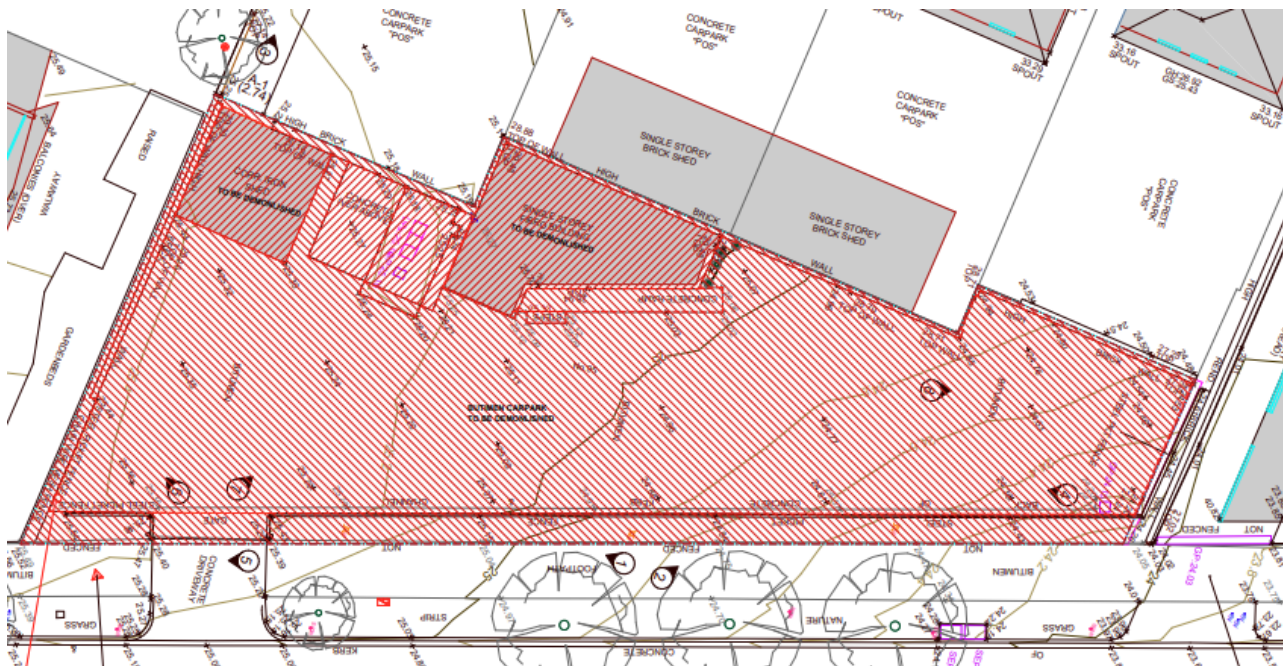
4. RELEVANT BACKGROUND

4.1 The following planning permits have been granted for this site as follows.

Application No.	Proposal	Decision	Date of Decision
142/1991	Use of premises as a car yard	Permit	26 th May 1991
404/1992	To erect illuminated pole sign	Permit	10 th September 1993
187/1993	Retail Sale of Communication Goods and Car Rental Yard	Permit	27 th August 1993
1070/2010	Alterations and Works to Existing Car Rental Yard	Permit	24 th November 2010
1077/2012	Buildings and works to existing car rental yard including front fence.	Permit	24 th January 2013

5. PROPOSAL

- 5.1 Demolition of the existing buildings is proposed (no permit required) and construction of a 19-storey building above four basement parking levels.



- 5.2 In more detail, the proposal is described as follows.

Basement Levels

- 5.3 All basement levels (four in total) would have zero setbacks to each boundary, with levels one and four containing a combination of regular car spaces and one car stacker at each of those levels (11 spaces in each machine). There would be no stackers on the other two levels (basement level 2 and 3). The spaces and stackers would generally be arranged around the perimeter of each level with a total of 66 car spaces being proposed. They would comprise (including the stackers) 19 car spaces each at levels 1 and 4 and 14 spaces each at basement levels 2 and 3.
- 5.4 A total of 66 car spaces are proposed for this development.
- 5.5 Eighteen (18) individual storage cages are also proposed across the four basement levels.

Ground Level

- 5.6 Two secure compounds for bicycle storage are proposed with a combined total of 68 spaces. Additional storage cages are proposed in the northern section of this level adjacent to the bin store room. Other back-of-house facilities are proposed in this location.
- 5.7 Fronting St. Kilda Road would be a 111m² café (for co-working office space), the residential lobby with landscaping adjacent, and some service areas comprising one wall of a bicycle workshop/store, a substation and a fire booster area. The north end of the site fronting St. Kilda Road would also have a landscape area proposed leading to/from an egress stair.



- 5.8 At the south end of the site would be the new crossover and driveway to St. Kilda Road leading to the basement ramps and one service/loading bay.

Mezzanine Level

- 5.9 The co-working office space is continued at the mezzanine level with a floor area of 102m². There is an open lobby area which connects this floor to the ground floor below.
- 5.10 The remainder of the mezzanine level is occupied by building services.

Level 1

- 5.11 Apartments are situated at the north and south end of the site. The middle of the level is open and features a communal open space.

Level 2

- 5.12 As the level below, apartments are situated at the north and south end of the site. The middle of the level features enclosed communal areas.

Levels 3-15

- 5.13 These levels are exclusively used for dwellings which are positioned around the north, west and south sides. The central and east side is used for lift wells and stairs. Also refer to the dwelling breakdown below.

Level 16

- 5.14 Three dwellings occupy this level (including the entrance to the penthouse apartment on level 17. The dwellings are positioned to the north while the south of the level is open and used as a communal roof terrace.

Level 17

- 5.15 The top floor of the penthouse apartment exclusively occupies this level on the north side, with the central area of the level used as a private roof terrace. This level adopts a greater setback from the southern boundary.

Roof

- 5.16 The roof of the building is occupied by solar panels.


Elevations

- 5.17 The development is provided with two distinguishing façade elements, the first being a red and brown cement sheeting, which covers a significant portion of the exterior. The second feature is vertical planting wires which run the entire height of the building on the eastern (street façade). Balconies project from the building on the north, west and south sides of the building.
- 5.18 All levels are built to the street boundary. From levels 3 upwards, a setback is proposed from the western boundary. The development is setback from the north and south boundary from the ground floor upwards.

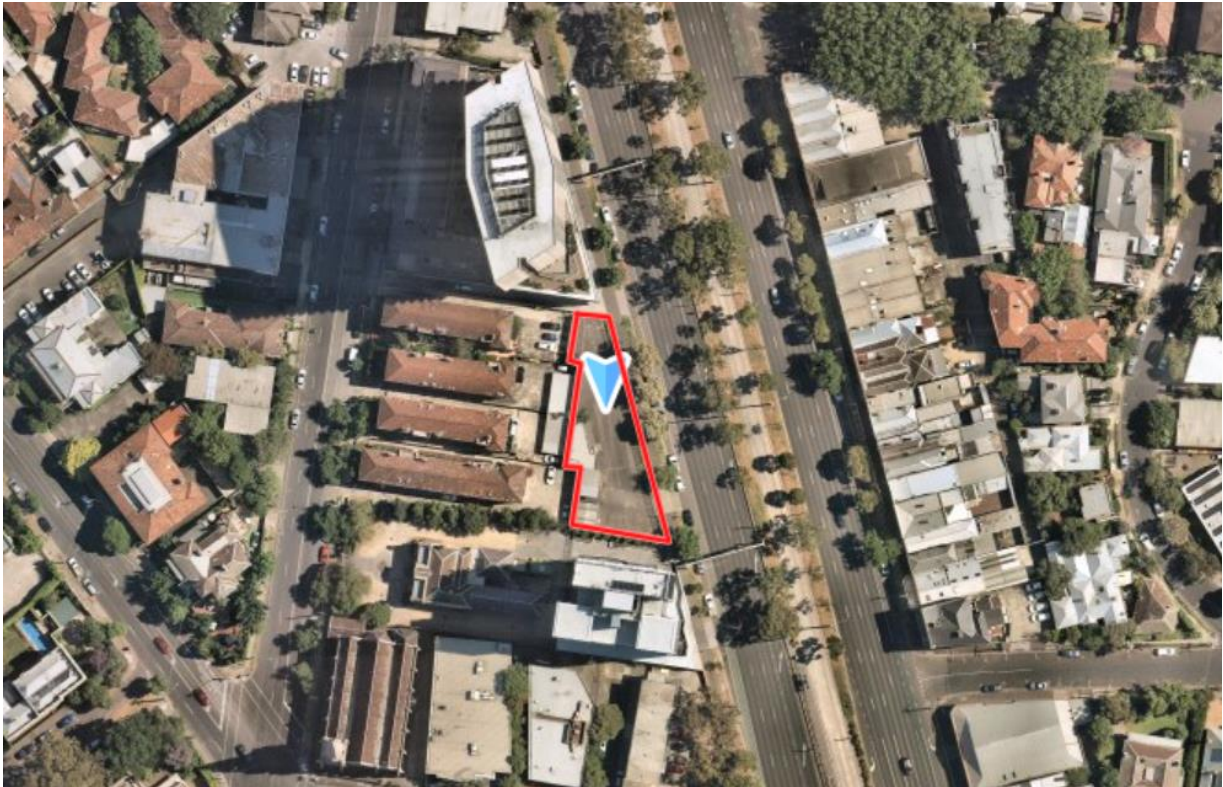
Apartment mix/level breakdown

	1 bedroom	2 bedroom	3 bedroom	Total
Level 1	2	3	0	5
Level 2	2	3	0	5
Level 3-4	3 (6)	1 (2)	2 (4)	6 (12)
Level 5-14	0	2 (20)	3 (30)	5 (50)
Level 15	0	0	3	3
Level 16	0	1	2	3
			Total:	78

6. SUBJECT SITE AND SURROUNDS

Description of Site and Surrounds	
Site Area	The site is an irregularly shaped block, with a frontage of 57.7 metres to St Kilda Road, a maximum depth of 25.67 metres and a staggered rear (west) boundary with an overall area of approximately 945m ² . There are no easements or covenants on the site.
Existing building & site conditions	<p>The site is presently developed with a number of small single storey buildings. The remainder of the site is developed with hardstand area. The site was previously used as a car hire centre. There is no vegetation on site, however there are 4 street trees adjacent to the site in the St Kilda Road reserve.</p> <p>Photo Google Street View</p> 
Adjoining sites	<p>Land to the north (3-5 St Kilda Road) is developed with a 28 storey apartment building. Land to the south (101 St Kilda Road) is developed with a 15 storey apartment building. Land to the west (34-40 Barkly Street) is developed with a series of 3 storey apartment buildings, orientated east-west. The rear of the sites are developed with hard stand parking areas.</p> <p>St Kilda Road adjoins the site to the east and has a width of approximately 59 metres (including footpaths, 4 lanes of traffic in each direction and a tramway). On the opposite side of St Kilda Road, land is developed with a series of double storey commercial terraces.</p>
Surrounding area	The neighbourhood has a mixed architectural form with the predominate height of buildings being 2-3 storeys in the surrounding street network. Buildings fronting St Kilda Road, are of differing heights, scale and design.

6.1 The aerial image below taken from Nearmap (dated 1 Jan 2023) shows the subject site in its broader context.



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?
Mixed Use Zone (Clause 32.04)	A planning permit is not required for use of the land (dwelling is listed in section 1, as is food and drink premises given it is below 150m ² and office as it is below 250m ²). A planning permit is required for buildings and works.
Design & Development Overlay, Schedule 36 (Clause 43.02)	A planning permit is required to construct a building or construct or carry out works, pursuant to Clause 43.02-2 of the Port Phillip Planning Scheme.



Particular Provisions	Why is a permit required?
Car Parking (Clause 52.06)	<ul style="list-style-type: none"> ▪ Pursuant to Clause 52.06-3, a <u>permit may be granted</u> to reduce or to waive the number of car spaces required by the table. ▪ A dwelling has a requirement of 1 space for each one or two bedroom dwelling (39 spaces required for the 39 one or two bedroom dwellings) and 2 spaces for each three or more bedroom dwelling (78 spaces required for the 39 three bedroom dwellings). ▪ An office requires 3 spaces for each 100m² of net floor area (3 spaces required for the 102m² office space) ▪ A food and drink premises requires 3.5 spaces for each 100m² of leasable floor area (3 spaces required for 111m² food and drink premises) ▪ There are no visitor parking requirements as the site is within the Principal Public Transport Network Area. ▪ This development therefore requires a total provision of 117 car spaces. ▪ The proposal includes 66 car parking spaces; Therefore, a permit <u>is required</u> under this Clause for a reduction of 57 spaces.
Clause 52.29 (Land Adjacent to the Principal Road Network)	A permit <u>is required</u> to create or alter access to a road in a Transport Zone 2.
Clause 52.34 (Bicycles)	<ul style="list-style-type: none"> ▪ Pursuant to Clause 52.34-1, a new use must not commence, or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land. ▪ A permit may be granted to vary, reduce or waive any requirement of Clause 52.34-3 and Clause 52.34-4. ▪ Pursuant to Table 1 to Clause 52.34-5, the use of a dwelling (in developments of four or more storeys) requires 1 resident space for each 5 dwellings (78 dwellings would require 15 resident spaces) ▪ Pursuant to Table 1 to Clause 52.34-5, the use of dwelling (in developments of four or more storeys) would require 1 visitor space per 10 dwellings (78 dwellings would require 7 visitor spaces) ▪ The proposal includes 68 bicycle spaces and therefore a permit <u>is not</u> required for the reduction.

8. PLANNING SCHEME PROVISIONS

8.1 Planning Policy Framework

The following provisions of the PPF are relevant to this application:

Clause 02: Municipal Planning Strategy

02.01 – Context

02.02 - Vision

02.03 – Strategic Directions

02.04 – Strategic Framework Plans

Clause 11: Settlement

11.03-6L-03 – St Kilda Road South Precinct

Clause 12: Environmental and Landscape Values

12.01 – 1L – Urban Forest

Clause 13: Environmental Risks and Amenity

13.07-1L-03 – Interfaces and Amenity

Clause 15: Built Environment and Heritage

15.01-1L-02 – Urban Design

15.01-2L-01 – Building Design

15.01-2L-02 – Environmentally Sustainable Development

15.01-2L-03 – Urban Art

Clause 16: Housing

16.01-1L-01 – Housing Diversity

16.01-1L-02 – Location of Residential Development

Clause 18: Transport

18.01-1L-01 – Land use and transport integration

18.02-4L-01 – Car Parking

18.02-4L-02 – Loading Facilities

Clause 19: Infrastructure

19.03-3L – Stormwater Management (Water Sensitive Urban Design)

19.03-5L – Waste and Resource Recovery

8.2 Other relevant provisions

Clause 52.06 Car Parking

Clause 52.29 Land Adjacent to the Principal Road Network

Clause 52.34 Bicycle Facilities

Clause 58 Apartment Developments



Clause 65 Decision Guidelines

Clause 71.02 Integrated Decision Making

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.
3. 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 introduces and 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

The application was referred to the following areas of Council for comment. The comments are discussed in detail in Section 12.

9.1 INTERNAL REFERRALS

Urban Design

Built Form

- *Form, mass and visual impact*

The DDO36 includes a discretionary building height of 13 storeys (46 metres). The application is for nineteen storeys with height of 61.53 metres (AHD 86.53) at its highest point at the northern end and 55.80 metres (AHD 80.80) at the southern end. The building height transitions from the building to the north (AHD 109.51) and to the building to the south (AHD 75.60). While the proposed building exceeds the discretionary height limit it

does perform a transitional or connecting role between the two adjacent towers. This represents a reasonable and appropriate response to the policy and built urban contexts.

- *Streetwall/setback/separation*

The building presents a full height street wall to St Kilda Rd without a podium or any upper level setbacks. The building is built to the rear or west boundary with a podium at the top of level three with varied setbacks from the tower to the rear boundary. Here the interface is with four blocks of two-storey flats, the middle two with single storey brick sheds defining the boundary with the subject site. The closest setback from the western boundary to any of these buildings is approximately 7.63 metres scaled off the survey/demolition plan TP1002. The DDO has a minimum setback of 4.5 metres to existing habitable room windows, so the application appears to comply with this requirement. We note the proposed setbacks are significantly less than those (approximately 4.5m) between the adjacent apartment building at 101 St Kilda Rd and the heritage building to its rear at 42 Barkly. The proposed setbacks for the application appear consistent with the DDO objectives and requirements and are considered appropriate.

- *Character*

The building has a balanced expression of mass and void with solid, wall elements to the north, east and south elevations due to the nature of the interfaces, either with adjacent apartments or busy St Kilda Rd. The west elevation has larger expanses of glazing to take advantage of views towards Port Phillip Bay. The architectural expression represents an appropriate response to the site surrounds and wider urban context.

- *Overshadowing*

The DDO requires new development to not overshadow the eastern kerb line of St Kilda Rd between 10am and 3 pm at the September equinox. Shadow diagrams indicate that the proposed development would comply with this requirement.

- *Fenestration*

Primary outlook for apartments is to the west and south-east while windows are limited on the north and south elevations that interface with the adjacent apartment buildings. Glazing generally is in a vertical format and is mostly clear with panels of shadow tint as contrasting elements. The approach to glazing is appropriate.

- *Materials and finishes*

The materials and finishes palette proposes tinted ribbed concrete to the central lift core, face brickwork to some ground level walls, different coloured cement sheet cladding to all external facing upper levels, composite timber lining to ceilings or soffits, dark green and copper coloured metal to slab edges and balustrades. Vertical wires are proposed to the outside of the lift core to support climbing plants. The renders and elevations show significant areas of planting on the central core and stair on the building's eastern façade. The colour palette is of warm, earthy shades of light to dark brown, copper and green. The colours and their disposition across the facades of the building are considered acceptable.

However, the extensive use of, what is assumed to be lightweight, cement sheet to large areas of the facades requires further justification as a suitable material for a building of this scale and prominence.

Amenity & Legibility

- *Ground floor activation/transparency*



DDO36 defines the site as having a mixed commercial/residential frontage and seeks:

- *At least 60 per cent clear glazing between a height of 1-2m above the footpath level*
- *Pedestrian entries should be at least every 30m*
- *A clear address to any adjoining street (except on laneways) and incorporate multiple entries and clear glazing at street level to allow for surveillance whilst still providing privacy.*

Outcomes sought by the DDO include activation of the public realm, safe and high-quality interfaces, enhanced pedestrian experiences, and diverse retail and commercial uses at street level

The ground level is occupied by fairly inactive uses whose street presentation is dominated by blank walls and screens. The residential entry does not have direct and clear sightlines to the lift lobby and mail room. The proposed design is not considered to adequately address the objectives and requirements of the DDO for generous levels of ground level transparency and activation.

We recommend further information to demonstrate increased levels of ground level activation with improved interface with St Kilda Rd frontage.

- *Wind effects*

A major feature of the building are the open stair and lobby or landing areas on the St Kilda Rd frontage that will be exposed to the effects of weather. We note the findings of the desktop wind report by Vipac Engineers and Scientists that anticipated wind effects to footpaths, ground level entries and upper level shared spaces expected to be within the walking or standing criterion.

We support the recommendation by Vipac that a wind tunnel test be undertaken during detailed design to quantify wind conditions and determine any measures to control unwanted wind impacts on shared or public spaces. This should also include the open stair, lobbies and landings on the St Kilda Rd frontage.

- *Landscaping*

Landscape is a key component of the design proposal with extensive areas of planting within planter boxes around the central lift core and stair. It is not clear how sections of these are to be achieved or maintained, including safe access, particularly those attached to the stairs and lift core. The sloped ones may present problems given their gradient. If the planting scheme is not able to be delivered to the standard and quality intended the proposed design would not be realised.

We recommend further information be provided to demonstrate how these are to be delivered and successfully maintained over an extended period.

Planner comments

These matters have all been addressed in the assessment section of this report below. It is noted that the applicant has provided additional wind impact assessments after this referral was received which confirmed there would be no worsening of wind conditions at the rear of the site.

Traffic Engineer

Comments verbally made on 30 March 2023 were as follows:

- *Gradients, floor to ceiling heights are satisfactory*



- *Please ensure there is no gate at the St Kilda road entrance*
- *The 'tight' internal manoeuvres at the north and south ends of the basements are satisfactory*
- *New crossover must be 2.5m at least from trunk of nearest street tree.*
- *Traffic volumes/generation are satisfactory*

Noted.

- *Parking meter must be relocated at applicant cost and all other elements (kerbs, nature strip) to be fully made good.*
- *New crossover must be to Council's standards with footpath to be retained, proper pedestrian levels across the crossover.*

Please include the following conditions.

- *One disabled car space must be shown.*
- *Convex mirror must be attached to the building, not the fence or footpath*
- *Explore making the existing low boundary fence to the south (at the new crossover) even lower.*
- *More work is needed to get a proper sight line here.*

These issues are discussed in section 12.3 of this report with a number of conditions included on any permit issued (**Refer to recommended conditions 1f, 1g and 1h**)

- *Swept path at ground level VERY tight with two vehicles entering/leaving at the same time.*
- *Service vehicle path/access also very tight, as are all the 'circular' areas ramping up/down in each basement level with two cars passing being VERY tight. Further concern that B85 size vehicle has been shown in basement level 4 (opposed to larger vehicles in the levels above).*

These matters are further discussed in section 12.3 of this report and included in the traffic management plan condition (**refer to recommended condition 17**).

- *The 0.85 per dwelling rate is very misleading due to 2 and 3 bedroom dwellings being included.*
- *Three bedroom apts should have two spaces each. Parking shortfall is too high.*

These issues are discussed in section 12.3 of this report. It is recommended to provide an additional 14 car spaces and therefore an additional basement level would be required (**Refer to recommended conditions 1a**). **In addition to the deletion of the basement level**, it is recommended via condition on any permit granted, to delete 2 levels of the tower. This would also reduce the impact of the parking shortfall. The result in a minimum of 80 car parking spaces which would allow a minimum of 1 space per dwelling and 2 spaces for 2 of the 3 bedroom dwellings. This is considered to be an appropriate shortfall given the sites location to the adjacent public transport provisions.

Sustainable Design

The application was referred to Council's Sustainable Design Advisor in November 2022. The comments were provided to the application to resolve the issues. A subsequent referral response received in January 2023 confirms that all outstanding items can be resolved by conditions on any permit granted, as follows below.

- *Increase the provision of Residential Bicycle Parking from 68 to required 78.*
- *Specify provision of waste streams in bin room – 3 bin chutes throughout.*



- *Low/No VOC, embodied carbon, recycled etc – add to Materials & Finishes schedule where applicable.*
- *Provide Building Users Guide (BUG) at occupancy stage.*

ESD initiatives to be tabled on plans:

- *WELS ratings*
- *High-performance, double glazed and thermally broken window systems to all apartments*
- *HRV/ERV ventilation provided to all apartments*
- *All-electric development*
- *Embedded network provides 100% renewable energy to all apartments*
- *Solar PV - 44 x 415W photovoltaic panels (18.26kWp) offsetting the base building power usage and supplement domestic hot water systems*
- *Hot Water system with Electric heat pump*
- *Load management electric vehicle charging infrastructure will be installed to enable electrical vehicle charge stations*
- *90% of construction waste to be diverted from landfill (i.e. reused or recycled)*
- *Separated waste streams including recycling and organics*
- *A tap and floor waste will be provided on each balcony*
- *Mechanically exhausted (variable speed drive fans) basement with CO2 monitors*
- *Specify which windows are operable / openable*
- *Trafficable terraces rainwater captured to RWT for garden irrigation*
- *Infinity pool and spa on Penthouse terrace to be shown on plans*
- *Indicate location/s of EV charging infrastructure points*

Strategic Planning

Council's Strategic Planning Department provided background to the DDO controls on the site and a general position on exceed the discretionary height limit which will be utilised in the overall assessment of the development:

Background regarding the consideration of heights for this site:

- *Council commenced a review of the St Kilda Road South Precinct in 2013 in the context of increasing development pressure and change.*
- *The St Kilda Road South Precinct Urban Design and Land Use Framework (November 2015) was developed to provide a strategic basis for comprehensive revised planning policy and controls that respond to this changing development context and to guide future development.*
- *C122 provided for the statutory implementation of the St Kilda Road South Land Use and Design Framework (including the introduction of a DDO to the majority of the precinct.*
- *The Panel's overall view is that the Precinct has a strategic role to support growth and intensification, and that Council's emphasis on managing 'development pressure' led to overly restrictive built form requirements. Ultimately, the Panel concluded that this approach did not recognise the reality of recent development nor optimise the opportunity presented for urban renewal, particularly on the western side of St Kilda Road.*



- *In terms of building heights, the Panel recommended increased building heights around the Junction and St Kilda Hill where higher scale development had already occurred and to create a strong urban form in these locations.*
- *Specifically, the Panel recommended that the heights at the Junction, St Kilda Hill (including the subject site) be increased from 10 storeys to 18 storeys. Noting: The Panel regards the ten storey height proposed by Council for the Junction, at nearly one third the scale of the tallest buildings at this location, low. Buildings up to 18 storeys at the Junction would provide a better transition and strong urban morphology at this location. Scaling down to between 13-15 storeys at Alma Road (instead of the proposed 8 -10) will emphasise the hill and intersection at the approximate scale of existing or approved development. This scale is more achievable on the western side and south eastern corner where the development parcels are larger.*
- *The Panel also recommended the introduction of a requirement in the DDO to allow for the consideration of 1-2 additional storeys above the preferred height, where the proposal meets specific criteria.*
- *Importantly, Council supported the strengthening and limiting the extent of discretion for discretionary building heights to only one or two storeys. DDO36 includes clear guidance regarding what criteria must be met when considering height above the discretionary limit.*
- *Council's adoption of AmC122 varied the heights in this location (1E) from the panel's recommendation, and Council's position was ultimately supported by the Minister for Planning through gazettal, per DDO36.*

In summary, given the relatively recent adoption by council of AmC122 (19 September 2017) and the specific consideration of heights within the St Kilda Hill Precinct through the drafting/approval of DDO36, there would need to be significant justification (such as a change in circumstance) provided as to why the proposal's height should exceed the 15 storeys identified in DDO36 for this site.

An assessment against the DDO requirements are provided in section 12.2 of this report.

9.2 External referrals

Referral Authority	Response	Conditions
DoT (VicRoads)	No objection subject to conditions	<p>Condition provided:</p> <p><i>Prior to occupation all disused or redundant vehicle crossings must be removed, and the area reinstated to kerb and channel and naturestrip to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria.</i></p> <p><i>Note:- a) Separate consent may be required from Head, Transport for Victoria under the Road Management Act 2004 for buildings and works undertaken outside the title boundary within a Transport 2 Zone (St. Kilda Road). Please contact Head, Transport for Victoria prior to commencing any works.</i></p>

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 (517 notices) and directed that the applicant give notice of the proposal by posting 1 notice(s) on the site for a 14 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 in italics where the concern will not be addressed in Section 12):

Amenity concerns:

- *Overshadowing, loss of daylight and blocking of sunlight (to all directions and particularly within the rear yards of the properties fronting Barkly Street):*
- *Loss of privacy from overlooking*
- *Impact views decreasing property values*
- *Noise and dust from construction*

These matters are discussed in section 12.4 of the report. It is noted that there is no consideration of general view loss as this is not a relevant planning consideration. Noise and dust during construction would be managed through the relevant local law.

Built Form concerns:

- *Wind impacts*
- *Insufficient setbacks and closeness of buildings*
- *Visual bulk of the podium when viewed from west and east*
- *Height in excess of DDO controls*
- *Impacts to buildings in the heritage overlay*
- *Change to the character of the area*
- *Higher density*
- *Block views of the church spire*
- *Insufficient landscape*
- *Impacts to street trees*

These matters are discussed in section 12.2 of this report the assessment and the attachment 1 (Clause 58 report). Conditions have been added to the permit to ensure the street trees are protected during construction (**recommended condition 16**).

Parking / Traffic concerns:

- Traffic congestion
- Parking shortfall will cause further parking issues in the area
- Queuing of cars due to traffic light system

Council's Traffic Engineers have not raised any concern with the ability of the surrounding road network to handle the additional traffic volumes. Queuing was also assessed to be adequate. A condition on permit has been recommended to provide an additional basement level and delete 2 levels of dwellings within the main tower which will lower the parking reduction sought (**Refer to recommended conditions 1a and 1b**) and would resolve other matters as outlined in this report.



Land use concerns:

- *Rubbish thrown from building*
- *Residential noise*

These matters are not assessed in the report as these issues are associated with the residential use of the land which does not require a planning permit.

Other matters:

- *Western boundary wall is not on the subject site and should not be demolished (being in the heritage overlay)*

The applicant has provided a “boundary re-establishment feature and level survey” (dated 29th August 2022, prepared by Veris). This survey demonstrates that the high brick wall is within the subject site and therefore not subject to any demolition controls. It is noted that a portion of the boundary wall at the rear of 34 Barkly Street sits on either side of the common boundary, however only the portion of the wall within the subject site is proposed to be demolished.

10.3 A consultation meeting was held on Monday 6th February 2023. The meeting was attended by a Ward Councillor, applicants, objectors and Planning Officers. The meeting did not result in any changes to the proposal.

10.4 It is considered that the objectors do not raise any matters of significant social effect under Section 60 (1B) of the Planning and Environment Act 1987.

11. OFFICER’S ASSESSMENT

11.1 Strategic Justification

The planning policy framework encourages higher dwelling densities on sites which have excellent access to transport and services. The site is in close proximity to tram routes and a variety of services and is therefore a prime candidate for increase growth. Additionally, with the site being zoned Mixed Use, the objective of the zoning is to encourage housing at higher densities than other residential zones.

In a municipal context, local policy identifies several key aspirations for the subject site and its surrounds. Clause 16.01-1L-02 (Location of Residential Development) lists the following policies (emphasis added):

Moderate residential growth within the established retail/commercial strips of Major Activity Centres, the Glen Huntly Road/Ormond Road Neighbourhood Activity Centre and the St Kilda Road Neighbourhood (St Kilda Road South Precinct) that is:

- *Generally sited above or to the rear of retail/commercial premises, or as part of more intensive mixed-use developments on larger strategic redevelopment sites as identified in Structure Plans.*
- *To an intensity and scale that keeps with the existing streetscape and heritage context, and does not compromise the economic function of the centre.*

The site being with the St Kilda Road South Precinct is specifically noted within the Municipal Planning *Strategy* at Clause 02.03 (Strategic Directions) and the Planning Policy Framework at Clause 11.03-6L-03 (St Kilda Road South Precinct) as follows:



Clause 02.03:

Council supports:

- *Maintaining the role of St Kilda Road as a preferred location for premier office accommodation and well-designed, higher density residential development.*

11.03-6L-03

St Kilda Road South Precinct

Objective

To strengthen the St Kilda Road South Precinct's image, liveability and sense of place as it transitions to increased residential uses.

Strategies

- *Create a diverse series of neighbourhoods with a strong sense of place, community and local identity.*
- *Provide additional opportunities for housing growth throughout the Precinct due to its proximity to public transport and activity centres.*

St Kilda Road Neighbourhood

Objective

To reinforce the St Kilda Road Neighbourhood as a niche retail and business area, a growing residential community and a safe and friendly pedestrian environment.

Strategies

Along the western side of St Kilda Road (DDO27 and DDO36):

- *Support residential development at the intersection of and north of Alma Road, and in Barkly Street, and Alma Road.*

These policies all support a higher density residential outcome on this site, which is subject to consideration of the built form among other considerations. The site is also subject to a Design and Development Overlay which sets out more specific requirements – the site being within precinct 1E of schedule 36 which allows a maximum height of 13 storeys. When considering the broader context of the streetscape, the site is flanked by higher density buildings (28 storeys to the north and 15 storeys to the south). The physical context and policy context therefore support a higher density residential development on this site, subject to more detailed assessment of the built form as outlined below.

11.2 Built Form

The subject site is encumbered by a Design and Development Overlay (DDO) - Schedule 36 which provides guidance on a preferred built form outcome. There is also guidance in Council's local policies (Clause 15.01-1L-02 (Urban Design) and Clause 15.01-2L-02 (Building Design) as well as a broad assessment of the prevailing character of the area. As referred to above, the site is flanked by higher density buildings to the north and south (28 and 15 storeys respectively), however outside of this, the neighbourhood has a mixed architectural form with the predominate height of buildings being 2-3 storeys in the surrounding street network. This reflects the broad heritage overlays that cover this part of the municipality. Buildings fronting main roads are generally taller and of different scales and designs.

Height and Setbacks

The subject site is included within schedule 36 to the Design and Development Overlay. This schedule was introduced through amendment C122 on 18th October 2018. At the time the amendment was gazetted, the 28 storey tower to the north of the subject site already existed. While the panel report recommended a height of 18 storeys at this site, Council's adoption of C122 varied the heights in this location determining that heights of 13-15 storeys would provide a reasonable transition from the established built form at the junction whilst maintaining emphasis of the corner site. These heights of 13-15 storeys were ultimately supported by the Minister for Planning through gazettal of the DDO. As a result, the current DDO specifies a preferred height of 13 storeys (46 metres) while an additional 2 storeys above this height can be considered. This is the context against which the development must be assessed. The proposed development is effectively 19 storeys (including the ground floor and mezzanine level) with a total height of 61.93 metres.

The surrounding built context and policy generally supports a development which maximises the discretionary controls. However, as noted in Council's Strategic Planning referral, justification is required to exceed the relatively recent DDO controls. Beyond the scale of the adjoining 28 storey building, there is no specific justification for the proposed tower to exceed the maximum discretionary control. The mere presence of the adjacent tower is considered to be insufficient justification, especially given that the adjoining building existed at the time the DDO controls were gazetted. It is also noted that this tower represents an anomaly in the prevailing scale of buildings within the DDO precinct and the wider surrounds. An increase of building heights above the discretionary maximum heights within the DDO sub-precinct would lead to predominant scale which is excessive in this location and does not reflect the intentions of the DDO which includes the following:

- *transition down in height to adjacent areas that have a lower height limit, so as not to visually dominate, overwhelm or compromise the character of adjacent existing lower scale development areas*

It is considered that a lower building height, closer to the DDO height requirements would still provide adequate transition between the two existing towers. A reduced height of two storeys, coupled with the top three levels of the development maintaining a setback at varied distances from the southern boundary, would provide an acceptable design response by stepping up to the taller tower to the north.

Exceeding the buildings heights contained within the DDO would lead to additional impacts, including overshadowing. At the proposed 19 storeys, the extent of overshadowing to the west would impact on the heritage places fronting Barkly Street and Alma Road. "The Manse" at 42 Barkly Street is listed on the Victorian Heritage Register while the Presbyterian Church at 2 Alma Road is specifically mentioned in the St Kilda local built environment policy and listed under the Heritage Overlay as a significant place. The current level of overshadowing of these places, which impact the church at 10am, and impact the Manse until midday is an unacceptable outcome. The overshadowing also impacts the residential properties fronting Barkly Street.

It is considered a reasonable requirement to reduce the building height by 2 levels. This will provide an overall height of 17 storeys, still providing an appropriate height transition between the two existing towers, responding to the objectives of the DDO, and will reduce the overshadowing of the heritage and residential properties to an acceptable level. It is therefore recommended a condition included in any permit



issued to delete levels 13 and 14 – being the last two ‘complete’ levels (levels 15 – 17 begin to step in from the south which should be retained) – **(refer to recommended condition 1b)**.

The DDO specifies that when the discretionary maximum height is exceeded, buildings should:

- *Moderate the height of existing tall buildings through a transition down in scale.*
- *Provide for high quality development that enhances the prominent corner of Alma Road and St Kilda Road and emphasises the topographic high point of St Kilda Hill.*
- *Prevent overshadowing beyond the eastern kerb-line of St Kilda Road.*

It is considered that these objectives are achieved by the reduced height of the proposed development, noting that there is no overshadowing of the eastern St Kilda Road footpath until after 3pm (on the September 21).

Regarding the setbacks, the DDO provides the following requirements which are mandatory (emphasis added):

- *The entire building must be set back a minimum of 4.5 metres from any common side or rear boundary **or** at least 9 metres from any existing building with habitable room windows or balconies on the same or an adjoining site (whichever is the greater), if an adjoining site has an existing building with a habitable room window a balcony facing that boundary; or*
- *A building can be built with a zero setback blank wall to a common side boundary, where:*
 - *a building on the adjoining site has a blank boundary wall which has been constructed on or within 200 millimetres of the boundary; or*
 - *the adjoining site has not been developed above the street wall height, or, to or above the preferred height where no street wall height is specified;*
 - *providing:*
there are no existing habitable windows or balconies on the adjoining site within 4.5 metres of the proposed development;
the primary living areas of all proposed dwellings have a main window and balcony oriented to the front or rear of the site; and
the proposed development does not unreasonably compromise the ability of the adjoining sites to be developed.

It is noted that the requirement is specifically worded ‘or’ (as emphasised above) to allow the option of either a 4.5 metre setback from boundary, or a 9 metre setback from adjoining habitable windows.

The proposed plans demonstrate that the building would be consistently setback 9 metres from the buildings to the north and south of the site. This responds to the requirements of the DDO and the highly urbanised context of the area and is considered to provide adequate separation between the buildings.

To the rear of the site, the existing habitable buildings are setback 19 metres from the common boundary. This will also provide adequate separation between the podium levels – which are built to the boundary and the upper tower levels which are setback an average of 4 metres from the boundary.



It is noted that there is no separation between the podium and tower forms along the streetscape elevation. Based on the St Kilda Road context and site constraints, Council's Urban Designer supports this outcome given it allows a greater setback to the adjoining properties to the west and the public realm overshadowing requirements are met.

Ground floor layout and public realm interaction

While the building itself adopts a zero street setback, the ground floor and mezzanine step in partially, creating a forecourt area around the residential entry. To the northern end of the site, the food and drink premises provides an active frontage to St Kilda Road. To the south, the bicycle workshop creates some permeability. This is an acceptable arrangement as it balances the service and practical needs of the frontage (ie pedestrian and vehicle entrances, booster cupboards etc) while providing an active frontage and landscaping. It is noted that the DDO specifies this site as a 'mixed residential / commercial frontage'. It is considered that the proposal is an adequate response to this requirement by providing an active glazed frontage on the northern end of the site, as well as a clearly articulated residential entrance. Awnings are provided which increase public amenity and weather protection on St Kilda Road.

Landscaping

Landscaping assessment is guided by local policies (15.01-2L-01 & 15.01-1L-02) as well as Clause 58. It is considered that the development provides an adequate level of landscaping in the front setback area and as part of the vertical landscaping concept (facing St Kilda Road). Given the site constraints and context of significant landscaping in the road reserve, the proposal presents an acceptable landscaping response. A landscaping plan will be required as a condition of permit which will confirm the details of the landscaping, including any landscaping provided on communal roof terraces and how the communal landscaping (and vertical landscaping) will be maintained (**Refer to recommended conditions 13, 14 & 15**)

External Materials

The existing character of the area provides many different material examples – the heritage buildings to the east (across St Kilda Road) and to the west are finished in harder more traditional materials such as brick and concrete render. Newer developments to the north and south adopt more glazing and cement / metal sheeting. Local policy, the DDO and Clause 58 require that new buildings be finished in high quality materials and that all sides of the building be considered in the façade strategy.

The development is provided with two distinguishing façade elements, the first being a red and brown cement sheeting, which covers a significant portion of the exterior. The second feature is the vertical planting wires which run the entire height of the building on the eastern (street façade).

Council's Urban Designer is generally supportive of the façade strategy and selected materials, noting the variation in lower levels and upper levels, as well as combination of glazing as a positive outcome. Concern was raised about the lightweight cement sheeting, and the applicant has confirmed that this will be replaced by prefabricated cement panelling. The replacement of the lightweight cement sheeting with a more durable material will be required as a condition of permit.

A condition will be added to the permit requiring an urban art strategy, in accordance with policy – 15.01-2L-03 (**Refer to recommended condition 11**)

Views

Local policy (15.01-1L-02) directs that views to prominent features such as churches and spires are considered. The DDO specifically notes views to and the prominence of the St Kilda Presbyterian Church as a consideration. When viewed from the south east, the church will maintain its prominence with a backdrop of the proposed development. A proposed condition to lower the building height by 2 levels will improve this outcome, further enhancing the prominence of the church. It is evident through the current developments on St Kilda Road that this will not overwhelm it and still provide its own space. Views of the church spire along St Kilda Road are limited due to topography however the proposed building will provide adequate setbacks to maintain some oblique views of the spire.

11.3 Transport

Provision of parking spaces

Pursuant to Clause 52.06, the development should provide car parking as follows:

Proposal	Rate	Total	Spaces required	Spaces provided	Shortfall
1 or 2 bedroom dwellings	1 space each	39	39	66	57
3 or more bedroom dwellings	2 spaces each	39	78		
Office	3 spaces per 100m ²	102m ²	3		
Food and Drink Premises	3.5 spaces per 100m ²	111m ²	3		

This results in a shortfall of 57 car parking spaces. Local policy provides guidance on when reductions in parking rates should be applied:

Clause 18.02-4L-01 - Car parking provision

Support a reduction in the required number of car parking spaces where the following are met:

- The site is located within a short walking distance to high frequency public transport; or the site is located within Activity Centres or areas immediately adjacent to Activity Centres.
- The provision of sustainable transport infrastructure / initiatives, including higher quantities of bicycle parking can reduce the demand for parking through increased use of alternative modes of transport: walking, cycling, and public transport.
- The development or use is unlikely to result in unreasonable adverse impacts on existing on-street parking.



However, Clause 11.03-6L-03 provides guidance specific to the St Kilda Road South Precinct:

Consider as relevant:

- *Designing development to be self-sufficient in on-site car parking and providing on-site parking as follows:*
 - *Residential development:*
 - *One car space to each one and two bedroom dwelling.*
 - *Two car spaces to each three or more bedroom dwelling.*
 - *Secure bicycle parking at a rate of one space per dwelling.*
 - *Publicly accessible bicycle parking for visitors at a rate of one space per five dwellings.*
 - *Office: Three car spaces per 100 square metres.*

In principle, a reduction of car parking spaces could be supported at this location, however Council's Traffic Engineers consider the reduction to be too high. It is noted that with a provision of 66 car spaces, this is less than 1 per dwelling.

In their letter dated 13 April 2023, the applicant proposed an additional level of basement parking (for a total of 5 levels) to provide an additional 14 parking spaces. This would bring the total of parking spaces to 80, at least 1 for each dwelling (and 2 extra). It is recommended that this forms a condition of permit.

As discussed above, a condition to reduce the building height by 2 storeys is proposed, deleting levels 13 and 14. This will reduce the dwelling numbers (a loss of 6 x 3 bedroom dwellings and 4 x 2 bedroom dwellings). In addition to improving overshadowing and visual bulk, the building reduction will improve the parking shortfall. A summary of the amended parking shortfall is provided below:

Proposal (with 2 level reduction)	Rate	Total	Spaces required	Spaces provided with additional basement	Shortfall
1 or 2 bedroom dwellings	1 space each	35	35	80	27
3 or more bedroom dwellings	2 spaces each	33	66		
Office	3 spaces per 100m ²	102m ²	3		
Food and Drink Premises	3.5 spaces per 100m ²	111m ²	3		



Given that the site has direct access to public transport, and the site constraints of providing more parking, the amended shortfall of 27 car parking spaces is considered acceptable.

It is noted that 68 bicycle parking spaces are provided which is in excess of the requirements listed at Clause 52.34, however policy requires 1 space per dwelling. This is also recommended by Council's Sustainable Design Advisor and has therefore been included as a condition of permit **(Refer to recommend condition 1g)**

Council's Traffic Engineers are satisfied that the traffic generated by the proposed development will be within acceptable limits due to its main road location. It is noted that VicRoads have not raised any concerns regarding traffic volumes either.

Design of parking spaces

Parking is provided within 4 basement levels (plus the recommended further basement). At the ground floor, there is an accessway along the southern boundary which connects the basement entrance to St Kilda Road as well as internal loading areas.

Council's Traffic Engineers have reviewed the parking area layouts and are generally satisfied that the relevant design standards of Clause 52.06 are met, however the following changes are required:

- *One disabled car space needs to be shown.*
- *Convex mirror must be attached to the building, not the fence or footpath, but mirror not ideal.*
- *Explore making the existing low boundary fence to the south (at the new crossover) even lower.*
- *More work is needed to get a proper sight line here.*
- *Swept path at ground level VERY tight with two vehicles entering/leaving at the same time.*
- *Service vehicle path/access also very tight, as are all the 'circular' areas ramping up/down in each basement level with two cars passing being VERY tight. Further concern that B85 size vehicle has been shown in basement level 4 (opposed to larger vehicles in the levels above).*

In response to these concerns, conditions are recommended to be included on the permit which demonstrate adequate sightlines are achieved along the southern boundary, as well as provision of a disabled parking space. Regarding the swept paths at ground levels and on the ramps, a traffic management plan will be required as a condition of permit which demonstrates how this will be achieved although it is considered likely that cars will be held in queue at ground level via a traffic signalisation system.

The design of the car parking areas is considered to satisfy policy (18.02-4L-01) and the relevant DDO by being sited underground with a single access point which is 6 metres wide. Pedestrian and bicycle entries are separated from vehicle entries.

A condition will be added to the permit to ensure that bicycle spaces are designed in accordance with Clause 52.34 **(Refer to recommend condition 21)**.

Loading Facilities

Adequate loading facilities have been provided at ground level which provide access to the waste collection areas, as well as to residential lobby. The loading bay is provided with a 6 metre clearance. This arrangement complies with the DDO requirements and local policy (18.02-4L-02).

11.4 Offsite Amenity

Overshadowing, loss of daylight & visual bulk

Local policy and clause 58 provide limited to no guidance on acceptable levels of overshadowing to adjoining properties. Only the applicable DDO provides the following guidance:

In addition to meeting all of the relevant Built Form Outcomes in Table 2, areas where a discretionary maximum height of eight storeys or greater is specified, development must:

- *not overwhelm adjoining and / or adjacent residential dwellings in terms of building scale or bulk, access to daylight, outlook and overshadowing;*
- *transition down in height to adjacent areas that have a lower height limit, so as not to visually dominate, overwhelm or compromise the character of adjacent existing lower scale development areas;*

2.10 Interfaces with residential zones

- *Development adjoining properties in a residential zone should incorporate upper level setbacks to avoid amenity impacts from overshadowing of existing secluded private open space or habitable room windows, overlooking or visual bulk.*

The overshadowing diagrams provided by the applicant demonstrate that there will be overshadowing to the residential properties fronting Barkly Street until 12 midday. As proposed earlier, a condition to delete 2 levels will improve the overshadowing of these sites, limiting overshadowing the rear of the sites. Based on the urban context, and the policy aspirations for this precinct, this is considered to be an acceptable outcome. It is noted that from 1pm, the dwellings fronting Barkly Street are not encumbered by overshadowing from any development.

There is limited guidance on what constitutes as visual bulk and what an acceptable amount is. In this instance, the site would reasonably be expected to provide for a development of around 13-15 stories based on the DDO controls and the adjoining towers. A condition requiring the building to be lowered by 2 levels in combination with the proposed stepping of the upper 3 levels, is an adequate response to the DDO (**refer to recommendation condition 1b**). Therefore it is considered that the visual bulk is reasonable for the urban context and is reduced through use of varied materials with window and balconies.

Concern has been raised by neighbours regarding the visual prominence of the western podium wall which is on the boundary. At the consultation meeting and confirmed in their letter dated 24 March 2023, the applicant has agreed to reduce the height of the communal open space walls by 3.14 metres to a height of 9.94 metres which is considered to improve this interface (**refer to recommendation condition 1e**).

Overlooking

As above, the DDO provides direction on overlooking assessment, as does Clause 58. While no set overlooking measures or thresholds are specified, Clause 55 (which is applicable only to buildings less than 5 storeys) sets a threshold of 9 metres – ie where windows and balconies are more than 9 metres apart, no overlooking attenuation measures are required. In this case, this is also a reasonable threshold to apply. The proposed building is setback at least 9 metres from all neighbouring buildings and private open space areas. This is considered an acceptable outcome, which will limit (not entirely prevent) overlooking between dwellings.

Noise

A particular feature of this building is that all mechanical plant and services are located within the building itself (on the mezzanine level) as opposed to on the roof. This is a positive outcome as it will eliminate associated noise impacts. Given that the use of the land as a dwelling or dwellings does not require a planning permit, no further consideration can be given to noise generated by the dwelling use itself. It is noted that the dwellings will be fitted with acoustic attenuation measures for their own protection, which will in turn reduce noise emissions to existing dwellings.

11.5 Internal / Onsite Amenity

Dwellings

The development is subject to assessment against the internal amenity standards of Clause 58 as well as requirements of the DDO relating to noise and waste disposal. The attached Clause 58 assessment demonstrates that these standards have been met (and in most cases exceeded). In summary:

- All bedrooms and living rooms are provided with the minimum dimensions and areas. It is noted that in many cases, additional space is provided in both bedrooms and living rooms, beyond the minimum requirements.
- 71 out of the 78 dwellings have a dual aspect and can provide adequate breeze path and natural ventilation.
- All windows are on an external wall and provide excellent solar access, except for the southern most bedroom of dwelling 104 on levels 1 and 2. This is provided with a balcony to a semi enclosed communal open space. This will result in a poor amenity from noise, lack of solar access and reduced privacy. It is recommended to open this balcony to the west side of the building and close it off to the internal void area.
- All dwellings are provided with a 2.7 metre high ceiling. The room depth is not exceeded for any dwelling.
- All dwellings are provided with adequate storage facilities in excess of the minimum requirements. Some dwellings are provided external storage cages located on the ground floor.
- All dwellings meet the required dimensions for private open space and in most cases exceed the requirements generously. The majority of the private open space areas face either north, east or west and therefore provided with excellent solar access.
- 56% of dwellings meet the accessibility standards (which exceeds the 50% accessible requirement).



It is noted that an acoustic report has been provided with recommended glazing treatments to protect residents from noise generated by St Kilda Road traffic and the internal mechanical plant areas. This report and its recommendations will form a condition of permit.

Common areas & facilities

The development is required to provide 195m² of communal open space. Over levels 1 and 2, 436m² of communal open space is provided both indoors and outdoors. The space is usable and centrally located within the development. It is noted that an additional 181m² of communal open space is located on level 16, which receives excellent sunlight access due to its rooftop location.

The building is provided with a secured residential entry, which is visible from the street. The office and commercial entry is separate, through the food and drink premises. All common areas throughout the building are open to the east side, providing light and natural ventilation. Residents are provided safe and convenient access to the parking areas via the central lift and stairs.

A bin room has been provided on the ground floor with access to the loading areas which is out of view from the public and residents. Rubbish chutes have been provided with access to all levels – which is a convenient arrangement. A waste management plan has been provided – this will be endorsed as a condition of permit.

11.6 Environmentally Sustainable Design (ESD) and Water Sensitive Urban Design (WSUD):

The development is required to meet a variety of ESD and WSUD requirements, which the applicant has provided a Sustainability Management Plan (SMP) to address. Policies at Clause 15.01-2L-02 (ESD) and 19.03-3L (WSUD) apply to the application, as well as ESD requirements listed in the DDO schedule. Council's Sustainable Design Advisor provided assessment of the development and confirmed that it could meet its BESS and WSUD requirements, subject to conditions requiring updated documentation. These matters have been outlined in the referral section of this report and can be required as a permit condition. It is noted that none of the dwellings proposed are exclusively south facing which is a positive outcome.

It is noted that the development does not overshadowing any solar energy facilities (the closest being on the roof of 101 St Kilda Road to the south) and the SMP confirms that the relevant NatHers ratings is not exceeded.

12. INTERGRATED DECISION MAKING

- 12.1 Clause 71.02.3 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.

The proposal would result in several positive, neutral and negative impacts, which are outlined below:

Positive

- The proposal is considered to have strategic support from the Planning Scheme, which has a consistent theme of increasing residential density at strategic



locations and within close proximity to jobs, services and public transport (environmental, economic and social).

- The proposal would achieve the purpose of the zone by way of providing a residential use at higher density (environmental, economic and social).
- The proposal would provide high-quality architecture which would enhance the public realm and be respectful of the heritage significance of adjoining properties to the rear, subject to reduction of the height of the building. (environmental, economic and social).

Neutral

- Subject to conditions, the proposal is considered to satisfy the requirements of DDO26 (environmental, economic and social)
- Traffic impacts are not considered to be significant (economic and social).
- Onsite loading arrangements are acceptable (economic and social).

Negative

- The application has received 25 objections (social).

13. COVENANTS

13.1 The applicant has completed a restrictive covenant declaration form declaring that there is no restrictive covenant on the titles for the subject site known as Lot 1 of Plan of Subdivision 101041L [Parent Title Volume 06288 Folio 516].

14. OFFICER DIRECT OR INDIRECT INTEREST

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

15. OPTIONS

15.1 Approve as recommended

15.2 Approve with changed or additional conditions

15.3 Refuse - on key issues

16. CONCLUSION

16.1 The proposal is consistent with the strategic direction outlined by the Port Phillip Planning Scheme as the provision of high-density residential development in this location is supported through strategic policy and it is considered that the proposed dwelling typologies offer a good level of dwelling diversity.

16.2 With the proposed deletion of two levels, the built form will be responsive to the existing urban context and provide a transition to between the adjoining 28 storey and 15 storey buildings. Adequate setbacks are provided and although there will be overshadowing impacts to the west and east, this is considered to be acceptable based on the urban context, policy context and the DDO controls. The development provides an improved streetscape response with a partially active frontage and residential entry.

16.3 A parking reduction is sought, however with the conditions recommended, this will be reduced and each dwelling will be provided with at least 1 parking space and many of



the three bedroom dwellings will be provided with 2 spaces. This is considered to be an acceptable outcome given the site's proximity to public transport.

- 16.4 The development will provide an excellent level of internal and on-site amenity, noting the minimum standards of Clause 58 are often exceeded.
- 16.5 The development exceeds the discretionary height controls and requires a parking reduction, however on balance, the proposal is still a positive outcome, responding adequately to the local policy and urban context and adds to the housing supply. It is recommended to approve the development subject to the conditions outlined in this report.

- ATTACHMENTS**
1. **Clause 58 assessment**[↓](#)
 2. **Advertised Plans**[↓](#)
 3. **Advertised Landscape Plan**[↓](#)
 4. **Urban Context Report**[↓](#)
 5. **Zone Map - 95 St Kilda Road**[↓](#)