



6.2 **40 ELM GROVE, BALACLAVA**
LOCATION/ADDRESS: **40 ELM GROVE, BALACLAVA**
EXECUTIVE MEMBER: **LILI ROSIC, GENERAL MANAGER, CITY STRATEGY AND SUSTAINABLE DEVELOPMENT**
PREPARED BY: **MATT SPENCER, PRINCIPAL PLANNER**

1. PURPOSE

1.1 To consider and determine Planning Permit Application P1150/2017 for demolition of the existing building and construction of four (4) double storey dwellings.

2. EXECUTIVE SUMMARY

WARD:	Canal
TRIGGER FOR DETERMINATION BY COMMITTEE:	More than 15 objections
APPLICATION NO:	1150/2017
APPLICANT:	Les Klajn
EXISTING USE:	Residential (two dwellings)
ABUTTING USES:	Residential
ZONING:	Neighbourhood Residential Zone - Schedule 1 (NRZ1)
OVERLAYS:	Heritage Overlay Schedule 7 (HO7) Special Building Overlay Schedule 1 (SBO1)
STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL	Expired

- 2.1 It is proposed to demolish the two existing attached dwellings on the site and to construct four (4) double storey dwellings, each with two bedrooms and a car space accessed from the rear laneway
- 2.2 The application was advertised. Nineteen objections were received raising concerns with accuracy of the plans, the response to the heritage character of the area, access to and egress from the rear carpark and failure to meet a number of ResCode objectives.
- 2.3 In response to Council and objector requests for further details and corrections to be made to the plans, amended plans were submitted by the applicant, pursuant to Section 57A of the Planning and Environment Act 1987.



- 2.4 The amended plans were emailed and/or posted to all objectors on 23 August 2018. Whilst the amended plans do not significantly change the form or layout of the proposal, they do correct a number of errors and inaccuracies of the original plans.
- 2.5 It is considered that the proposed development would sit comfortably within the streetscape and not diminish, detract from or compete with the significance of the heritage place or streetscape character.
- 2.6 The proposed development would display a high degree of compliance with the standards of Clause 55 (ResCode) thereby ensuring that the amenity of neighbouring dwellings would not be unreasonably impacted upon. A minor variation to the site coverage standard is considered acceptable, whilst permit conditions would ensure that the permeability standard would be met, overlooking would be prevented and adequate open space and storage would be provided.
- 2.7 The number of car spaces proposed would meet the requirements of the planning scheme.
- 2.8 The design of the car parking area would allow for safe and efficient vehicle movements to and from the site.
- 2.9 Vehicle access would be provided from the rear of the site, via an existing laneway. An existing crossover at the front of the site would be replaced with kerb and footpath to provide an additional on-street car space.
- 2.10 It is recommended that the Council approve the application and issue a Notice of Decision to Grant a Permit, subject to conditions.

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 demolition of the existing building and construction of four (4) double storey dwellings at 40 Elm Grove, Balaclava
- 3.3 That the decision be issued as follows:
 - 1 **Amended Plans required**

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 under Section 57A of the Planning and Environment Act 1987, but modified to show:

 - a) Deletion of the vertical strapping to the gable ends and its replacement with plain render
 - b) The surface of the walkway along the east (side) boundary to be



notated as being permeable

- c) The first floor east facing kitchen windows to units 2, 3 and 4 provided with sill heights to 1.7 m above finished floor level or fixed obscure glazing to 1.7 m above the floor level or permanent screens to 1.7 m above the floor level of each unit. If screens, rather than obscure glazing or 1.7 m high sills are to be utilised, the plans must include elevation and cross section drawings of the screens to ensure that overlooking of neighbouring secluded private open space and/or neighbouring habitable room windows are prevented. The drawings must:
- Be drawn to scale and fully dimensioned;
 - Clearly delineate any solid parts of the screen and any louvre or batten parts of the screen;
 - Clearly illustrate how any louvre or batten system may allow upward views but will prevent downward and horizontal views to neighbouring properties;
 - Show the exact width and thickness of each louvre or batten, the exact spacing between each louvre or batten and a section detail from behind the screen demonstrating that direct views of adjacent private open space are prevented, while allowing outlook horizontally and upward from the windows.
- d) The depth of the balcony to Unit 4 increased to a minimum of 1.6 m
- e) The capacity of each external storage unit to be increased to a minimum of 3.2 m³
- f) Windows shown as operable apart from those portions comprising fixed obscure glass
- g) Windows nominated as double glazed
- h) Water tanks to each dwelling notated as being connected to toilets for flushing and all water tanks notated as being located underground.
- i) Solar panels and screened gas hotwater units to be shown on the rear flat/skillion roof
- j) A bicycle rail for visitors located to the north side of the electric meters
- k) The site coverage at TP-08 amended to 62%
- l) The location of all air-conditioning unit(s) and/or hot water service(s) to each Unit
- m) A full schedule of materials, finishes and paint colours, including colour samples (colour samples in a form that is able to be endorsed and held on file)
- n) Any changes necessary to meet the requirements of Melbourne Water as outlined in condition 4 below
- o) Any changes necessary to meet the requirements of the Sustainable Design Assessment in the corresponding condition below



- p) Any changes necessary to meet the requirements of the Water Sensitive Urban Design Response in the corresponding condition below

2 No Alterations

The development and colours, materials and finishes as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

3 Satisfactory continuation

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

4 Melbourne Water

- i. Prior to the development plans being endorsed, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Plans must be submitted with ground and floor levels to Australian Height Datum (AHD) and must be amended as follows:
 - a) Dwellings must be shown to be constructed with finished floor levels set no lower than 10.17 metres to Australian Height Datum (AHD), which is 300mm above the applicable current flood level of 9.87 metres to AHD.
 - b) Open carports must be shown to be constructed with finished surface levels set no lower than 10.02 metres to AHD, which is 150mm above the applicable flood level of 9.87 metres to AHD or set on natural ground surface levels.
- ii. Any new front fence or gate must be of a 50% open style which will allow the free passage of flood flows through the fence, and thereby preventing floodwaters backing up behind solid structures which can increase flood levels on neighbouring properties. More resilient solid brick and steel fences may increase upstream flood levels.
- iii. Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed) reduced to the AHD, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.

5 Walls on or facing the boundary

Prior to the occupation of the building(s) allowed by this permit, all new or extended walls on or facing the boundary of adjoining properties and/or the laneway must be cleaned and finished to a uniform standard. Unpainted or unrendered masonry walls must have all excess mortar removed from the joints and face and all joints must be tooled or pointed 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.



6 Sustainable Design Assessment

Before the development starts (other than demolition or works to remediate contaminated land) a Sustainable Design Assessment that outlines proposed sustainable design initiatives must be submitted to, be to the satisfaction of and approved by the Responsible Authority. When approved, the Assessment will be endorsed and will then form part of the permit and the project must incorporate the sustainable design initiatives listed.

The report must be generally in accordance with the report submitted with the initial application material but modified to include an assessment against the Built Environment Sustainability Scorecard (BESS)

7 Incorporation of Sustainable Design initiatives

The project must incorporate the sustainable design initiatives listed in the endorsed Sustainable Design Assessment to the satisfaction of the Responsible Authority.

8 Implementation of Sustainable Design Initiatives

Before the occupation of the development approved under this permit, a report from the author of the Sustainable Design Assessment 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 Ecologically Sustainable Design report have been implemented and/or incorporated in accordance with the approved report to the satisfaction of the Responsible Authority.

9 Water Sensitive Urban Design

Before the development starts (other than demolition or works to remediate contaminated land) a Water Sensitive Urban Design Report that outlines proposed water sensitive urban design initiatives must be submitted to, be to the satisfaction of and approved by the Responsible Authority. The report must demonstrate how the development meets the water quality performance objectives as set out in the Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO) or as amended.

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

10 Incorporation of Water Sensitive Urban Design initiatives

Before the occupation of the development approved under this permit, the project must incorporate the water sensitive urban design initiatives listed in the endorsed Water Sensitive Urban Design Report to the satisfaction of the Responsible Authority, and thereafter maintained to the satisfaction of the Responsible Authority.

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

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.

12 Tree Protection Plan

The works described in the submitted *Tree Protection Plan*, prepared by Kylie May for John Patrick Landscape Architects dated March 2016, must be undertaken and implemented to the satisfaction of the Responsible Authority.

13 Waste Management

An adequate waste management arrangement must be provided for the premises, in accordance with Council's Local Law No. 1 (Community Amenity) 2013 to the satisfaction of the Responsible Authority.

14 Landscape Plan

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

15 Applicant to Pay for Reinstatement

Before the occupation of the development allowed by this permit, the applicant/owner must do the following things to the satisfaction of the Responsible Authority:

- a) Pay the costs of all alterations/reinstatement of Council and Public Authority assets necessary and required by such Authorities for the development.
- b) Obtain the prior written approval of the Council or other relevant Authority for such alterations/reinstatement.
- c) Comply with conditions (if any) required by the Council or other relevant Authorities in respect of alterations/reinstatement.

16 Parking and Loading Areas Must Be Available

Car parking areas must be kept available for those purposes at all times and must not be used for any other purpose such as storage to the satisfaction of the Responsible Authority.



17 Vehicle Crossings

Before the occupation of the development allowed by this permit, all redundant crossings must be removed and the footpath, naturestrip, kerb and road reinstated as necessary at the cost of the applicant/owner and to the satisfaction of the Responsible Authority.

18 Public Services

Before the occupation of the development allowed by this permit, any modification to existing infrastructure and services within the road reservation (including, but not restricted to, electricity supply, telecommunications services, gas supply, water supply, sewerage services and stormwater drainage) necessary to provide the required access to the site, must be undertaken by the applicant/owner to the satisfaction of the relevant authority and the Responsible Authority. All costs associated with any such modifications must be borne by the applicant/owner.

19 Piping and ducting

All piping and ducting (excluding down pipes, guttering and rainwater heads) must be concealed to the satisfaction of the Responsible Authority.

20 No equipment or services

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

21 Privacy screens must be installed

Privacy screens as required in accordance with the endorsed plans must be installed prior to occupation of the building to the satisfaction of the Responsible Authority and maintained thereafter to the satisfaction of the Responsible Authority.

22 Time for starting and completion

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

- a) The development is not started within two years of the date of this permit.
- b) The development is not completed within two years of the date of commencement of works.

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.

Permit Notes:

Building Approval Required

This permit does not authorise the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.



Building Works to Accord with Planning Permit

The applicant/owner will provide a copy of this planning permit to any appointed Building Surveyor. It is the responsibility of the applicant/owner and Building Surveyor to ensure that all building development works approved by any building permit is consistent with this planning permit.

Due Care

The developer must show due care in the development of the proposed extensions so as to ensure that no damage is incurred to any dwelling on the adjoining properties.

Days and Hours of Construction Works

Except in the case of an emergency, a builder must not carry out building works outside the following times, without first obtaining a permit from Council’s Local Laws Section:

- Monday to Friday: 7.00am to 6.00pm; or
- Saturdays: 9.00am to 3.00pm.

An after-hours building works permit cannot be granted for an appointed public holiday under the Public Holidays Act, 1993.

Drainage Point and Method of Discharge

The legal point of stormwater discharge for the proposal must be to the satisfaction of the responsible authority. Engineering construction plans for the satisfactory drainage and discharge of stormwater from the site must be submitted to and approved by the responsible authority prior to the commencement of any buildings or works.

Noise

The air conditioning plant must be screened and baffled and/or insulated to minimise noise and vibration to other residences in accordance with Environmental Protection Authority Noise Control Technical Guidelines as follows:

- a) noise from the plant during the day and evening (7.00am to 10.00pm Monday to Friday, 9.00am to 10.00pm Weekends and Public Holidays) must not exceed the background noise level by more than 5 dB(A) measured at the property boundary
- b) noise from the plant during the night (10.00pm to 7.00am Monday to Friday, 10.00pm to 9.00am Weekends and Public Holidays) must not be audible within a habitable room of any other residence (regardless of whether any door or window giving access to the room is open).

4. RELEVANT BACKGROUND

The following relevant applications have previously been considered for the subject site:

Application No.	Proposal	Decision	Date of Decision
1399/2015	Buildings and works including demolition of the existing dwelling and subsequent construction of a two storey building with four, two bedroom dwellings and four car parking spaces	Withdrawn	05/12/2017



5. PROPOSAL

5.1 The plans that are the subject of this report are those that were received by Council on 20 August 2018, pursuant to Section 57A of the *Planning and Environment Act 1987*. The amended plans, were not formally advertised but were forwarded to all objectors on 23 August 2018. The plans do not significantly alter the form of the proposal but correct a number of inaccuracies and errors contained within the originally submitted plans.

Specific details of the proposal are as follows:

5.2 Demolition of existing buildings on the site

5.3 Construction of four (4) double storey attached dwellings, each with two bedrooms

5.4 Four covered car parking spaces would be located at the rear of the site, accessed from an existing right of way

5.5 The proposed building would include three roof forms, comprising:

- a double gable end roof at the front constructed to a height of 6.9m above natural ground level (NGL)
- a single gable end roof within the middle of the site constructed to a height of 8.1m above NGL
- a flat roof at the rear constructed to a height of 6.5m above natural ground level (NGL).

5.6 Specific details of the application are as follows:

Site Layout and Building Massing

5.7 The building would be setback a minimum of 3.3 m from the street and constructed to a maximum height of 8.1 m above natural ground level (NGL)

5.8 The site area covered by buildings would be 62%

5.9 The area of permeable surfaces would be 19%

5.10 Undercover carparking would be provided within the rear setback, accessed from the abutting right of way. A common walkway between the car spaces and the rear elevation of the building would provide access from the carpark to each dwelling entry

5.11 Opportunities for landscaping, including canopy trees, would be provided within the front setback, the west (side) setback and, to a lesser extent, along the east (side) boundary of the site

Side and rear setbacks and wall heights

West (side) elevation



- 5.12 At the ground floor of the west (side) elevation, the front and rear portions of the building would be setback 2.7 m from the boundary whilst the mid-portion would be setback 3 m
- 5.13 The top of the ground floor wall would be constructed to a height of 3.3 m above NGL.
- 5.14 At the first floor of the west (side) elevation, Unit 1 would be setback 2.6 m from the boundary, Units 2, 3 and 4 would be setback a minimum of 3.9 m
- 5.15 Balconies to Units 2, 3 and 4 would extend from the first floor of the west (side) elevation. The outside (west) edge of balconies to Units 2 and 3 would be constructed to within 2.1 m of the boundary, whilst the outside edge of the balcony to Unit 4 would be constructed to within 2.6 m of the boundary.
- 5.16 The top of the first floor wall would be constructed to a height of 5.8 m above NGL.

North (rear) elevation

- 5.17 The ground floor of the north (rear) elevation would be setback 8.5 m from the rear boundary, which abuts an existing right of way
- 5.18 The first floor would be setback 6 m from the north (rear) boundary thereby cantilevering above the ground floor by 2.5 m
- 5.19 The top of the first floor wall would be constructed to a height of 5.7 m above NGL.

East (side) elevation

- 5.20 The ground floor of the east (side) elevation would be setback 1.2 m from the boundary
- 5.21 The top of the first floor wall would be constructed to a height of 3.2 m above NGL.
- 5.22 At the first floor of the east (side) elevation, Unit 1 would be setback 1.8 m from the boundary, Units 2 and 3 would be setback 2.4 m and Unit 4 would be setback a minimum of 3.1 m from the boundary
- 5.23 The top of the first floor wall would be constructed to a height of 5.7 m above NGL.

On-Site Amenity and Facilities

- 5.24 Each dwelling would be provided with a separate pedestrian entry accessed from Elm Grove via a common walkway extending along the east (side) boundary
- 5.25 All proposed windows would have access to daylight
- 5.26 Each dwelling would be provided with open space as follows:
- Unit 1 = 13 m² ground floor secluded courtyard within the west (side) setback area and 37 m² within the front setback, both with access from living areas



- Unit 2 and Unit 3 = 13 m² ground floor secluded courtyard within the west (side) setback area and west facing 8 m² balcony at first floor with minimum dimension of 1.8 m and access from living areas
- Unit 4 = 13 m² ground floor secluded courtyard within the west (side) setback area and west facing 8 m² balcony at first floor with minimum dimension of 1.5 m and access from living areas

- 5.27 Each dwelling would be provided with 6m³ of storage and 1500L underground water tanks within ground floor courtyards
- 5.28 A bin enclosure and letter boxes would be located adjacent the pedestrian entrance at the south-east corner of the site
- 5.29 Building services cupboards constructed to a height of 1.4 m would also be located adjacent the pedestrian entrance to the site

Design detail

- 5.30 The front portion of the building would be provided with twin gable ended tiled roofs, the mid portion with a single gable end metal roof and the rear portion a skillion metal roof
- 5.31 The front fence would be constructed to a height of 1.5 m and would comprise vertical timber slats on a brick plinth punctuated by brick pillars. A pedestrian gate would be located at each end of the fence
- 5.32 The building would be finished in dark face brick at ground floor and dark bagged render at the first floor
- 5.33 Windows and doors would be provided with timber frames whilst a timber pergola would extend from part of the front façade at ground floor

6. SUBJECT SITE AND SURROUNDS

Description of Site and Surrounds	
Site Area	437 m ² (13.72 m wide by 31.85 m deep)
Existing building & site conditions	<p>The site has a frontage to Elm Grove of 13.72 m and a depth of 31.85 m. A 3 m wide right of way abuts the rear boundary. This right of way provides vehicular access to properties facing Elm Grove and Sycamore Grove.</p> <p>The subject site currently accommodates a single storey 1970's era dark brick building with hipped tiled roof that does not contribute to the heritage value of the area.</p> <p>The existing building comprises two attached single storey dwellings sited one behind the other and constructed to a height of 5m above NGL.</p> <p>The front boundary is fenced with a 1.5 m high brick fence whilst the west (side) boundary and north (rear) boundary are each fenced with 1.9m high timber palings. The east (side) boundary is fenced with 2 m high palings.</p>



	<p>A single carport, which is accessed from Elm Grove via an existing crossover, is located at the south-east corner of the site.</p> <p>Pedestrian access to the site is provided from Elm Grove via a gate at the southwest corner of the site.</p> <p>The existing building is setback 3.9 m from the street, 2.6 m from the west (side) boundary, 5.6 m from the north (rear) boundary and 1.7 m from the east (side) boundary.</p>
<p>Nearby properties</p>	<p><u>42 Elm Grove – abutting east (side boundary of subject site)</u></p> <p>This site has a frontage to Elm Grove of approximately 6.6 m and accommodates a single storey cement rendered and timber Edwardian era dwelling with gable end metal roof sited behind a 1.5 m high timber picket fence.</p> <p>The existing dwelling is setback 3.1 m from the street and constructed for its entire length on the boundary it shares with the subject site.</p> <p>The rear elevation is setback 8.8 m from the rear boundary. Within this setback area is approximately 47 m² of secluded private open space and a weatherboard shed that abuts the northeast corner of the site. An Evergreen Alder tree with a circumference of 1.6m is located adjacent the boundary shared with the subject site.</p> <p>An existing gate at the north-west corner of the site provides vehicular access to the site from a right of way that abuts the rear boundary.</p> <p><u>38 Elm Grove – abutting east (side) boundary of subject site</u></p> <p>This site has a frontage to Elm Grove of approximately 13.7 m and accommodates a double storey block of 1970's era rendered brick flats with a hipped tiled roof sited behind a low rendered brick fence.</p> <p>This building is setback 3.9 m from the street and 2.6 m from the boundary it shares with the subject site.</p> <p>A number of ground and first floor windows face the subject site at this interface.</p> <p>At the rear of the site the building is setback 7.9 m from the abutting rear right of way. Within this setback area is an uncovered concrete carpark with six car spaces.</p> <p>Pedestrian access to the site is provided from Elm Grove via a common walkway along the east side of the building.</p> <p><u>35 Sycamore Street - opposite side of right of way</u></p> <p>Land opposite the right of way abutting the rear boundary of the subject site accommodates a single storey dwelling that is setback 7.2 m from the right of way.</p> <p>Within this setback is approximately 82 m² of secluded private open space and a shed.</p> <p>The rear boundary of this site, which abuts the right of way is fenced with approximately 1.8 m high timber palings.</p>
<p>Neighbourhood Character</p>	<p>Each side of Elm Grove is located within a heritage overlay, with all but seven of the 50 or so properties in the street identified as contributing to the heritage significance of the area.</p> <p>The street predominantly comprises single storey double fronted weatherboard and single fronted brick Edwardian era dwellings. These dwellings are infrequently punctuated by Victorian cottages and double storey flats.</p>



	<p>The variation of lot frontages and the mix of dwellings from different eras of development, results in a streetscape of mixed architectural styles and forms, including variations in front fencing, colours, materials and finishes.</p> <p>The double fronted dwellings, which are generally detached, are more common on the north side of the street toward the eastern end of the street. These dwellings have part gable ended and part hipped roof forms.</p> <p>The single storey dwellings, which are generally semi-detached, are common on the south side of the street and on the north side of the street toward the western end. These dwellings have gable ended roof forms.</p> <p>Lots that accommodate double fronted dwellings are generally 12 m to 15 m wide, whilst lots with single fronted dwellings are generally 6 m wide.</p> <p>Front setbacks vary between 3 m and 5 m.</p> <p>Rear setbacks are generally 5 m and provide for courtyard type rear secluded private open space. Site coverage is consistently in excess of 50 per cent.</p> <p>Front fences generally comprise either timber pickets or low brick with occasional variations.</p> <p>Street trees are generally undersized mixed natives.</p> <p>Two hour parking restrictions (from 8am to 6pm Monday to Saturday) operate on the north side of the street whilst a permit zone operates on the south side.</p>
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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?
<i>Neighbourhood Residential Zone - Schedule 1 (NRZ1)</i>	<p><i>A permit is required to:</i></p> <ul style="list-style-type: none"> ▪ <i>Construct two or more dwellings on a lot pursuant to Clause 32.09-6.</i> <p><i>A development must meet the requirements of Clause 55.</i></p> <p><i>Pursuant to Clause 32.09-4, 25% of the lot must be provided as garden area.</i></p> <p><i>Pursuant to Clause 32.09-9, a building must not be constructed for use as a dwelling or a residential building that:</i></p> <ul style="list-style-type: none"> ▪ <i>exceeds the maximum building height specified in a schedule to this zone; or</i> ▪ <i>contains more than the maximum number of storeys specified in a schedule to this zone.</i>



	<p><i>If no maximum building height or maximum number of storeys is specified in a schedule to this zone:</i></p> <ul style="list-style-type: none"> ▪ <i>the building height must not exceed 9 metres; and</i> ▪ <i>the building must contain no more than 2 storeys at any point.</i> <p><i>Building height if land is subject to inundation</i></p> <p><i>If the land is in a Special Building Overlay, Land Subject to Inundation Overlay or is land liable to inundation the maximum building height specified in the zone or schedule to the zone is the vertical distance from the minimum floor level determined by the relevant drainage authority or floodplain management authority to the roof or parapet at any point.</i></p>
<i>Heritage Overlay - Schedule 7 (HO7)</i>	<p><i>Pursuant to Clause 43.01-1 of the Port Phillip Planning Scheme a permit is required to:</i></p> <ul style="list-style-type: none"> ▪ <i>demolish or remove a building.</i> ▪ <i>construct a building or construct and carry out works.</i>
<i>Special Building Overlay - Schedule 1 (SBO1)</i>	<p><i>A permit is required to construct a building or to construct or carry out works pursuant to Clause 44.05-1.</i></p> <p><i>Pursuant to Clause 44.05-5, an application must be referred to the relevant floodplain management authority under Section 55 of the Act unless in the opinion of the responsible authority, the proposal satisfies requirements or conditions previously agreed to in writing between the responsible authority and the floodplain management authority.</i></p> <p><i>Clause 2.0 to Schedule 1 of the Special Building Overlay indicates that Melbourne Water is the relevant floodplain management authority for the purposes of Clause 44.05-5.</i></p>

8. PLANNING SCHEME PROVISIONS

8.1 State Planning Policy Frameworks (SPPF)

The following State Planning Policies are relevant to this application:

Clause 11: Settlement, including:

Clause 11.01-1R1: Settlement - Metropolitan Melbourne

Clause 11.02: Managing Growth

Clause 15: Built Environment and Heritage, including:

15.01-1: Built Environment

15.01-1S: Urban Design

15.01-1R: Urban design - Metropolitan Melbourne

15.01-2S: Building Design

15.01-5S: Neighbourhood character

15.02-1: Sustainable development



15.03: Heritage

Clause 16: Housing, including:

Clause 16.01: Residential development

Clause 16.01-1S: Integrated housing

Clause 16.01-1R: Integrated housing - Metropolitan Melbourne

Clause 16.01-2S: Location of residential development

Clause 16.01-3S: Housing diversity

Clause 16.01-3R: Housing diversity - Metropolitan Melbourne

Clause 16.01-4S: Housing affordability

Clause 19: Infrastructure

Clause 19.01-1S: Energy supply

Clause 19.01-2S: Renewable energy

Clause 19.01-2R: Renewable energy - Metropolitan Melbourne

Clause 19.03: Development Infrastructure

Clause 19.03-4S: Stormwater

Clause 19.03-6S: Waste and resource recovery

8.2 Local Planning Policy Framework (LPPF)

The following local planning policies are relevant to this application:

Clause 21.03 Ecologically Sustainable Development, including

Clause 21.03-1 Environmentally Sustainable Land Use and Development

Clause 21.03-2 Sustainable Transport

Clause 21.04 Land Use, including

Clause 21.04-1 Housing and Accommodation

Clause 21.05 Built Form, including

Clause 21.05-1 Heritage

Clause 21.05-2 Urban Structure and Character

Clause 21.05-3 Urban Design and the Public Realm

Clause 21.05-4 Physical Infrastructure

Clause 21.06 Neighbourhoods, including

Clause 21.06-1 East St Kilda and Balaclava

Clause 22.04 Heritage Policy

8.3 Other relevant provisions

Clause 52.06 Car Parking

Clause 55 Construction of two or more dwellings on a lot



Clause 65

Decision Guidelines

8.4 Relevant Planning Scheme Amendment/s

Nil

9. REFERRALS

Internal referrals

The advertised plans were referred to the following areas of Council for comment. The comments are discussed in detail in Section 9.

9.1 Heritage Advisor

This is a re-submitted application. I provided comments on the original schemes submitted under the previous application 1399/2015, which I understand was withdrawn (see below).

The scheme as now submitted is very similar to the revised scheme. However, it appears that few if any of my suggested changes have been adopted. One change that has been made is to eliminate the step in the façade that would have resulted in odd profile to the gable on the right side. The façade is now completely flat, and while results in a loss of articulation, it does resolve the issue with the treatment of the gables.

While I would still like to see the other changes I suggested, I am concerned that this will not necessarily improve the design and may only result in further issues. However, one simple change that I would like to see is the removal of the vertical strapping to the gable ends. This should just be plain render.

Also, I see there are still inconsistencies in the plans (e.g. the sections still appear to show the earlier scheme with a hipped roof, plan no. TP10 is for the original scheme and should be deleted entirely, and the shadow diagrams appear to be based on a different scheme as the floor layouts are different), which doesn't instil much confidence about how well the design will be executed.

So, in summary, subject to the following changes the design would be acceptable in relation to heritage:

- *Removal of the timber straps from the gables (two in front and main gable to rear).*
- *Submission of full schedule of colours and materials.*
- *Deletion of inconsistent plans showing superseded schemes.*

Having said this, I'm still not completely satisfied with the final design. However, I understand it is the result of consultation with objectors that was undertaken without my involvement and that certain aspects (e.g. the very odd double gable treatment) are the result of this consultation.

9.1.1 Planning Officer comment:

The detail of the current application in terms of its roof form and materials responds to concerns relating to the design of the previous proposal for the site expressed by objectors. These concerns included objection to proposed

metal door and window frames (which are now timber) and the awkward combination of hipped and gable roof forms presenting to the street.

With respect to the inconsistencies in the plans, as discussed earlier in this report, the latest set of plans correct the errors and inaccuracies of the advertised set of plans.

It is agreed that the timber straps to the gable end roofs should be deleted and replaced with plain render. Such an outcome could be achieved by permit condition (refer recommended condition 1a).

Recommended condition 1m) requires a full schedule of materials, finishes and paint colours.

9.2 Urban Design Advisor

Built Form

Height, form & mass

- *The height of the proposed townhouse development is within the limit allowed and the varied front roofline helps to integrate the size and mass of the building into the street.*

Setbacks

- *The setback of the building matches with the building line of adjacent properties, this is supported.*

Response to character and streetscape

- *There are several types of building façades within the vicinity to the proposed townhouse development; these are mostly dual fronted lots, but also include single fronted lots and dual story unit blocks. The proposed building is an appropriate response to the surrounding streetscape context.*

Public realm & ground floor

Landscape and open space requirements

- *Landscape treatments proposed on the plans are indicative only and no detail regarding the specifics of the landscaping are noted.*

Façade treatment & detail

Response to surrounding character

- *The façade of the proposed building has been amended in an attempt to reflect the style of surrounding buildings on the street. The double gabled roof line, detailing on the parapet wall and tiled roof treatment at the front of the building are examples of this.*

Materials and reflectivity

- *The façade treatment is proposed to integrate with surrounding built form including the addition of timber framed windows at the front of the property. There are no issues with reflectivity.*

Fence height

- *Fence heights and visual permeability are appropriate and are supported.*

Roof form and pitch

- *The proposed roof pitch references surrounding roof lines and helps to integrate the new building within the street.*

Amenity

Outlook and access to daylight

- *The proposed townhouse development considers adjacent properties, with windows, doors and balconies aligned to best use available sunlight and views whilst avoiding any overlooking issues with view screens.*

Private open spaces

- *The townhouse development provides private open space opportunities for each of the properties at either ground or first floor level.*

Recommendation

The proposed townhouse development is suitable for the site and integrates within the surrounding streetscape. We generally support the proposal.

9.2.1 Planning Officer comment:

Any permit that may issue should include a condition requiring the submission of a satisfactory landscape plan (refer recommended condition 14).

It is agreed that the development provides an acceptable outcome which, 'is suitable for the site and integrates within the surrounding streetscape'.

9.3 Transport Safety Engineer

Proposal:

- *The demolition of existing residential dwelling at 40 Elm Grove and construct a two-storey residential building, comprising:*
 - *4 x two-bedroom apartments;*
- *A total of 4 car spaces are proposed on-site within an undercroft at the rear of the site.*
- *Vehicle access is proposed via a new crossover to the rear ROW.*

Car Park Layout:

Access ways:

- *Vehicle access is proposed via a new crossover to the rear ROW. Access way dimensions are in accordance with Clause 52.06 of the planning Scheme.*
- *Full pedestrian sight triangles have not been provided in accordance with the planning scheme. Given the level of use and expected pedestrian activity, I am satisfied to allow the reduced sight triangles in this case.*

Car parking spaces:

- *Parking space dimensions of 3m x 5m, accessed from an aisle at least 5.68m in accordance with the planning scheme requirements. This is considered acceptable.*



- *The traffic report has provided a swept path assessment showing a B85 can enter/exit each space with suitable clearance.*
- *Car Parking Layout is satisfactory.*

Headroom

- *Minimum headroom complies with Clause 52.06 of the planning scheme.*

Bicycles

- *Bicycle parking is not required under the planning scheme.*

Loading and Waste Collection

- *A Loading Zone is not required in the planning Scheme.*
- *Waste Management plan to be referred to Council's Waste Management department for assessment.*

Traffic Generation and Impact:

- *Typical residential developments generate a daily traffic rate of between 4-7 vehicle movements per dwelling, with peak hour rates 10% of daily volumes. Based on these rates, traffic generation will be in the order of 20 vehicle movements a day and 2 vehicle movement during the peak hours.*
- *Overall the expected traffic generation of the proposed development is expected to have a negligible impact on surrounding local streets and intersections.*

On Street Parking:

- *The existing on-street parking is a mixture of 2P and permit only restrictions. Capacity outside of business hours is nearing capacity.*
- *Residents/visitors of the development will not be eligible for resident parking permits and will need to abide by on-street parking restrictions.*
- *It is proposed to reinstate the existing crossover to Elm Grove, this will result in an increase in the level of on-street parking by up to 1 space. This is considered acceptable.*

Parking overlay and parking provisions:

- *Clause 52.06 of the planning scheme requires 4 off-street parking spaces to be provided for the proposed land uses.*
- *Given the applicant proposes to provide 4 off-street car spaces, this meets the planning scheme requirement and is considered acceptable.*
- *Note that the assessment of the appropriate car parking provision lies with Statutory Planning.*

Other:

- *Any redundant crossovers must be reinstated to Council satisfaction.*
- *Any proposed crossovers must be installed to Council satisfaction.*
- *The Applicant is responsible for all costs, including those incurred by Council for associated on-street parking signage and line-marking changes.*



9.3.1 **Planning Officer comment:**

Any permit that may issue should include conditions that ensure crossovers, signage and line-marking are delivered to Council’s satisfaction (refer recommended conditions 16 and 17).

9.4 **Parks Services**

I have gone through the report provided and found it comprehensive in regards to tree protection.

Please ensure the entire tree report is added as recommendations in the final planning application.

9.4.1 **Planning Officer comment:**

The tree protection plan referred to relates to the existing tree within the rear yard of the neighbouring site to the south of the subject site. Any permit that may issue should include a condition that ensures that the tree protection plan is implemented (refer recommended condition 12).

9.5 **External referrals**

Referral Authority	Response	Conditions
Melbourne Water	No objection subject to conditions.	Refer condition 4

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 (30 letters) and directed that the applicant give notice of the proposal by posting two notices 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 19 objections. The key concerns raised are summarised below and will be addressed in Section 11:

- Excessive bulk
- Failure to respond to heritage streetscape
- Inaccurate plans and reports

It is considered that the latest set of plans have corrected the inaccuracies of the previous plans.

- Impact on neighbouring tree
- Failure to meet all of the objectives of Clause 55 (ResCode)
- Poor access to parking spaces
- Unreasonable impact upon parking availability in the area



- No provision for bicycle parking
- Failure to meet the minimum garden area requirement

10.3 A consultation meeting was held on 28/06/2018. The meeting was attended by a Ward Councillor, applicants, objectors and Planning Officers.

10.4 As discussed earlier in this report, amended plans were submitted following the consultation meeting which corrected a number of the errors in the plans. These plans were subsequently forwarded to all objectors. It did not result in any of the objections being withdrawn.

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

11. OFFICER'S ASSESSMENT

Local Policy

11.1 Zoning

Schedule 1 to the General Residential Zone (GRZ) does not specify any variations to the height requirements of the parent Clause.

The building height must not therefore exceed 11 metres; and must contain no more than 3 storeys at any point.

The building would be two storeys and would be no more than 11m in height. The requirements of the zone, in terms of building height would therefore be met.

In terms of the garden area requirement, the proposed area identified as garden area would be 30% of the overall site area. The garden area requirement, which is 25%, would therefore be met.

11.2 Heritage

11.2.1 Demolition

It is proposed to demolish the two existing attached buildings on site. As the buildings have a nil grading and do not contribute to the heritage value of the area, the demolition is supported. Council's Heritage Advisor also supports the demolition.

In regard to the replacement building, the proposal has been assessed against the relevant performance measures contained within the Heritage policy as follows:

- Performance Measure 2 - Vista

It is considered that the development would maintain the existing vista to the principal facade of the neighbouring heritage place to the west.



This would be achieved by providing a front setback that would be greater than the front setback of the neighbouring heritage dwelling and a 2.7 m side setback that would provide visual separation between the proposed building and the neighbouring heritage place. It is considered therefore that Performance Measure 2 at Clause 22.04-3 of Council's Heritage Policy would be achieved.

- Performance Measure 3 - Scale

The height of the proposed front gables would be 1.5 m higher than the roof ridgeline of the neighbouring heritage place at 42 Elm Grove when viewed from the street and would not therefore meet Performance Measure 3, which recommends that the front portion of the proposed development be no higher than the neighbouring roof ridgeline.

Whilst the height of 42 Elm Grove is representative of the prevailing height of buildings within the street, height is but one component of scale. Building scale requires an analysis of elements and details as they proportionally relate to each other and require a consideration of not just height but also building form, setbacks and composition.

With regard to these elements it is considered that the proposed development would reflect the prevailing scale of this part of Elm Grove in an acceptable manner for the following reasons:

- The front setback would reflect the predominant front setback within the street whilst the provision of setbacks from each side boundary would reflect the detached built form evident on allotments that have frontage widths that are similar to that of the subject site
- Subject to removal of gable end strapping as recommended by Council's Heritage Advisor, the proposed gable end roof form would reflect the predominant roof form evident within the street
- Visible wall elevations of the proposed building would be articulated in a manner that would be complementary to the streetscape through fenestration and the use of complementary materials such as render and timber
- The proposed vertical window and door proportions would reflect the vertical forms that are typical of nearby Edwardian dwellings
- The proposal would provide a satisfactory transition between the building forms of 38 and 42 Elm Grove
- The front timber pergola would adequately reference verandahs that are a feature of nearby double-fronted Edwardian dwellings
- The proposed front fence would be appropriate to the architectural style of the building and the streetscape

In regard to the above elements it is noted that the neighbouring dwelling at 42 Elm Grove is single fronted and occupies a 6 m wide allotment.



This dwelling is not considered representative of the prevailing scale of buildings in this part of Elm Grove as properties to the west and east of this dwelling have 15 m frontages and, as a consequence, accommodate building proportions that are significantly wider and more dominant than the dwelling at 42 Elm Grove.

11.3 Neighbourhood character

The proposed front setback would meet the setback standard and the prevailing 3 m to 5 m front setbacks that are evident within the street.

It is considered that the proposed height of the building, particularly the front portion of the building, which would be 1.5 m higher than the neighbouring dwelling to the west and 1.3 m lower than the neighbouring flats to the east, would adequately integrate with and provide an appropriate transition between neighbouring buildings.

With respect to the wider streetscape, although existing Edwardian buildings in the street are generally single storey, they have an equivalent height of a contemporary two storey building such as that proposed.

In terms of site coverage, the side, rear and front setbacks would result in a building footprint that would be commensurate with buildings nearby, noting that the proposed site coverage would only marginally exceed the site coverage prescribed by standard B8 (ResCode).

The extent of building footprint would provide opportunities for landscaping within the front setback and each side setback. It is noted that landscaping does not provide a significant contribution to the character of the area due to the relatively dense pattern of development within the area. Nevertheless, details would be required for both soft and hard landscaping throughout the development per recommended condition 14.

11.4 Amenity – Clause 55 (Rescode)

The proposed development would satisfy the Clause 55 standards and objectives with respect to the neighbourhood character, residential policy, infrastructure, integration with the street, street setback, building height, energy efficiency, safety, landscaping, access, parking location, side and rear setbacks, walls on boundaries, daylight to existing and proposed windows, overshadowing, internal views, accessibility, dwelling entry, daylight to new windows, detail design, front fences, common property, site services,

The proposal seeks variation to the following Clause 55 standards:

- site coverage
- permeability
- overlooking
- noise
- private open space
- storage

An assessment of these elements is provided as follows:



11.4.1 Site coverage (Standard B8)

62% site coverage is proposed, whereas the standard prescribes 60%.

Notwithstanding that the variation sought would be minor and the site coverage would be consistent with development in the area, it is considered that a variation would be acceptable as the proposed front setback would be consistent with the setbacks in this part of Elm Grove. Additionally, the front setback would provide sufficient space for landscaping to a commensurate level as exists nearby. Additional space would also be provided by the proposed side setbacks.

Further, the siting of the rear of the building is relatively consistent with that of surrounding buildings. The location of the car parking structures at the rear of the property, accessed from the right-of-way, would be appropriate for an area where outbuildings and car parking areas are often located in similar locations on nearby lots.

It is considered therefore that the site coverage objective under ResCode would be met.

11.4.2 Permeability (Standard B9)

19% permeability proposed, whereas the standard prescribes 20%.

Notwithstanding that the variation sought would be minor, on site water retention would be boosted by the provision of water tanks within each ground floor courtyard.

Nonetheless, opportunity is provided to improve the permeability of the development by requiring the walkway along the east side boundary to comprise a permeable surface [refer recommended condition 1b)].

Such an outcome would ensure that the permeability standard and objective would be met.

11.4.3 Overlooking (Standard B22)

The first floor plan indicates that each of the east facing windows would be provided with a 1.7m high privacy screen. The east elevation however is not consistent with the first floor plan as it shows screening to just one of the east facing first floor windows.

It is noted that not all the first floor east facing windows are habitable room windows. Those windows that are habitable room windows and therefore require screening are the kitchen windows to units 2, 3 and 4. Any permit that may issue should include a condition that these windows are provided with satisfactory screening [refer recommended condition 1c)].

At the north (rear) elevation there is no secluded private open space or habitable room windows within 9m and a 45 degree arc of the proposed first windows to unit 4.

The three balconies at the west (side) elevation would be provided with 1.7m high obscure glass screens in accordance with this standard.



11.4.4 Noise (Standard B24)

Mechanical plant is not shown on the plans, however sufficient opportunity to locate services within courtyards and/or first floor balconies would be provided, noting that these locations face an existing blank wall located on the boundary [refer recommended condition 1k)].

11.4.5 Private open space (Standard B28)

Units 1, 2 and 3 would be provided with balconies to living areas of a size and minimum dimension that would meet this standard.

Whilst the balcony to Unit 4 would meet the prescribed balcony size/area, it would be 0.1 m shy of meeting the prescribed minimum dimension. Any permit that may issue should include a condition that requires the depth of the balcony to be increased to a minimum of 1.6 m in accordance with the standard [refer recommended condition 1d)].

11.4.6 Storage (Standard B30)

Each dwelling would be provided with external storage of 1.6 m³ within each courtyard rather than the 6 m³ prescribed by this standard. The capacity of the storage could be doubled to 3.2 m³ by widening each storage unit, which would be acceptable [refer recommended condition 1e)], noting that each dwelling would be provided with internal storage, including understair storage.

11.5 Internal amenity

The layout and design of the proposed dwellings would offer a high standard of internal amenity for the future occupants of each dwelling. All dwellings have access to a balcony or courtyard off a living room and have good access to natural light and ventilation.

11.6 Traffic and Parking

Car parking would be provided in accordance with the requirements of the planning scheme.

The proposal would result in an additional on street car parking space by virtue of the existing crossover at the front of the site being made redundant.

As indicated by Council's transport safety engineer, the design of the car park, including access and egress arrangements, would be acceptable and the proposal would not unreasonably impact upon traffic in the area.

11.7 Sustainable Design and Water Sensitive Urban Design

An Environmentally Sustainable Design (ESD) report was provided as part of the submitted application material. This report demonstrates that the ESD initiatives for the proposed development, which were assessed using Sustainable Tools for Environmental Performance Strategy (STEPS), would obtain a score of 292.7. This score exceeds the prescribed sustainability score target of 172. The project would comply with each separate section of this assessment tool.



Nonetheless, the STEPS assessment tool is no longer applied by Council therefore any permit that may issue should include a requirement for an updated ESD report that provides an assessment against the Built Environment Sustainability Scorecard BESS (refer recommended condition 6).

11.8 A number of initiatives that are outlined in the ESD report are not shown on the plans. Accordingly, any permit that may issue should include conditions that require the following elements to be shown on amended plans:

- All windows shown as operable with operable component clearly notated
- Windows nominated as double glazed
- The water tanks to each dwelling notated as being connected to toilets for flushing
- Solar panels and screened gas hotwater units to be shown on the rear flat/skillion roof
- A bicycle rail for visitors located to the north side of the electric meters [refer recommended conditions 1f) to 1j)].

12. COVENANTS

The applicant has completed a declaration that there is no restrictive covenant on the titles for the subject site known as Lot 24 Block C on Plan of Subdivision 002430.

13. OFFICER DIRECT OR INDIRECT INTEREST

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

14. OPTIONS

- 14.1 Approve as recommended
- 14.2 Approve with changed or additional conditions
- 14.3 Refuse - on key issues

15. CONCLUSION

- 15.1 Demolition of the existing building on the site is considered appropriate as it does not contribute to the heritage value of the area.
- 15.2 Subject to conditions, it is considered that the proposed development represents an acceptable response to the character of the area and is respectful of its heritage context.
- 15.3 The proposal would provide for a good level of internal amenity for future occupants and would include the requisite number of car spaces, which would be accessed in a safe and functional manner.



- 15.4 The development would have a high degree of compliance with the off-site amenity standards of Clause 55, thereby ensuring that it would not introduce any unreasonable amenity impacts upon neighbouring properties..
- 15.5 It is recommended that the proposal be supported and a Notice of Decision to Grant a Permit be issued, subject to conditions.

TRIM FILE NO: PF17/326502

ATTACHMENTS

1. 1150/2017 - swept path diagrams (S57A plans)
2. 1150/2017 - ADV - Survey plan
3. 1150/2017 - 40 Elm Grove - objector map
4. 1150/2017 - S57A - Plans