

YR-2019/418 - 28 Central Avenue, Mooroolbark – Planning Report

APPLICATION DETAILS

Site Address	28 Central Avenue, (Lot 37 LP11290) Mooroolbark
Application No.	YR-2019/418
Proposal	Buildings and works to construct six (6) dwellings
Existing Use	Residential
Applicant	Millar Merrigan
Zone	Clause 32.08-6 - General Residential Zone - Schedule 1
Overlays	Clause 43.02 - Significant Landscape Overlay (Schedule 23) Clause 32.80-6 - Design and Development Overlay (Schedule 8)
Permit triggers	General Residential Zone – Schedule 1 <ul style="list-style-type: none">• A permit is required for buildings and works to construct two or more dwellings on a lot. Design and Development Overlay – Schedule 8 <ul style="list-style-type: none">• A permit is required for buildings and works to construct multiple dwellings on a lot.
Objections	25 objections
Encumbrances on Title (Covenants/Section 173 Agreements)	None
Reason for Council Decision	More than 10 Objections
Ward	Melba

SUMMARY

Planning application YR-2019/418 was originally lodged with Council in 2019 for the construction of seven (7) dwellings on the lot, which was amended to construct six (6) dwellings to address planning concerns. At the Council Meeting, on 13 October 2020, Council resolved to issue an approval to construct six (6) dwellings and variation of an easement (Attachment 2).

At an objector appeal, Victorian Civil and Administrative Tribunal (VCAT) set aside the Council decision and remitted the application to Council for reconsideration.

This report is the reconsideration of the proposal. The application introduces minor changes and improvements to the previously approved plans to address the VCAT direction, to demonstrate full compliance to Garden Area Provision – Clause 32.08-4 General Residential Zone. It also removes the variation to the easement.

Following a second notification process, twelve (12) new objections have been received, in addition to the thirteen (13) objections originally received.

Objector concerns relate to insufficient car parking provision, unsafe design relating to traffic and retaining walls, design not energy efficient, inadequate street setback, overshadowing of open spaces, inappropriate landscaping, asbestos risk from demolition of the existing house, noise/vibration during construction period and property devaluation.

The land is within a consolidation area where the increased density is encouraged to increase the housing numbers, whilst enabling the efficient use of existing infrastructure. Residential consolidation within the activity centre has increased over recent years in line with this objective.

The revised proposal has been assessed as compliant with Clause 55, Council's Multi Unit Development Design Guidelines and the Design and Development Overlay design objectives.

Overall, the proposed development is considered an appropriate design response and is satisfactory when assessed against the relevant policies, provisions, and prescribed design standards of the Yarra Ranges Planning Scheme.

As such it is recommended that the application be approved subject to conditions.

RECOMMENDATION

That Council resolve to approve Planning Application YR-2019/418 for buildings and works to construct six (6) dwellings at 28 Central Avenue Mooroolbark and issue a Notice of Decision to Grant a Permit subject to conditions.

DISCLOSURE OF CONFLICT OF INTEREST

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

CULTURAL HERITAGE SIGNIFICANCE

The application has been checked against the requirements of the *Aboriginal Heritage Act 2006* and *Aboriginal Heritage Regulations 2007 (Vic)* as to the need for a Cultural Heritage Management Plan (CHMP). It has been assessed that a Cultural Heritage Management Plan is not required.

EXTRACTIVE INDUSTRY

The subject site is not located within 500 metres of land on which a work authority has been applied for or granted under the *Mineral Resources (Sustainable Development) Act 1990*.

HUMAN RIGHTS CONSIDERATION

The application has been assessed in accordance with the requirements of the *Planning and Environment Act 1987* (including the Yarra Ranges Planning Scheme), reviewed by the State Government and which complies with the *Victorian Charter of Human Rights and Responsibilities Act 2006*.

ENCUMBRANCES ON TITLE

The subject site is encumbered by a 3.05 metre drainage and sewer easement which traverses the rear boundary.

The site is not affected by a restrictive covenant.

BACKGROUND

Planning application YR-2019/418 was lodged with Council in 2019 for the construction of seven (7) dwellings on the lot. Following concerns raised by officers, the applicant amended the application, to construct six (6) dwellings. The application received 13 objections.

At the Council Meeting on 13 October 2020, Council supported the recommendation to approve the application a Notice of Decision (NOD) to Grant a Permit was issued for buildings and works to construct six (6) dwellings and variation of an easement (Attachment 2).

At an objector appeal in 2021, the Victorian Civil and Administrative Tribunal (VCAT) set aside Council's decision and the application was remitted back to Council for reconsideration (VCAT order – Attachment 3). The reasons were as follows:

- *If the permit applicant pursues the application to vary the easement the responsible authority is directed to give notice to all beneficiaries of the covenant [restriction] prior to its reconsideration of the application; and*
- *In its reconsideration of the application for planning permit the responsible authority is directed to consider whether the proposal complies with clause 32.08-4 of the Yarra Ranges Planning Scheme (garden area).*

The resubmitted application addresses both directions, as it removes the variation to the easement, and now complies with the Garden Area requirement of the planning scheme.

The application also includes minor changes in response to the previous condition 1 requirements for changes, (refer to proposal section) along with the following consequential improvements (in response to the VCAT direction) to the previously approved plans—

- Alterations to configuration of internal stairs of Dwelling six (6);
- Modified driveway alignment to include a canopy tree between Dwellings three (3) and six (6);
- Removes the variation to the easement;
- Proposes to build decks, external stairs, retaining walls, water tanks, storage sheds, and fences within the drainage and sewerage easement.

This report is for Council to reconsider the planning merits of the application as directed by the Tribunal and decide on the amended application to construct six dwellings.

SITE LOCATION AND DESCRIPTION

The subject site at 28 Central Avenue Mooroolbark, (Lot 37 PS011290) is on the north-east side of Central Avenue, approximately 145 metres east of the intersection with Newman Road, Mooroolbark (Figure 1).

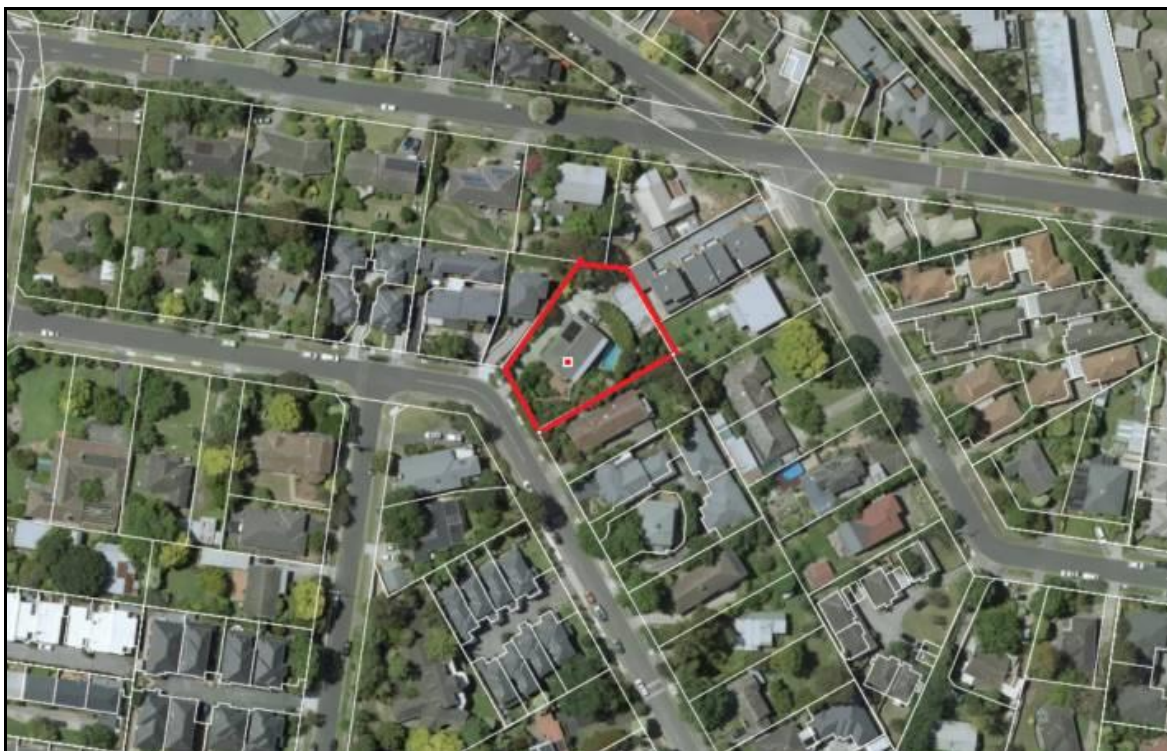


Figure 1 - Aerial Subject site (Source: MetroMap)

The site is developed with a split-level weatherboard dwelling setback approximately ten metres from the frontage. The land contains a swimming pool and outbuildings. The vegetation onsite comprises a mix of exotic shrubs and hedging along property boundaries and scattered low value trees (Figure 2):



Figure 2 – Subject site frontage (Source: Site Inspection 10 May 2023)

Site access is via a concrete crossover and driveway along the north boundary. The site is irregular in shape with a street frontage of 21.11 metres and a variable depth of 38.47 metres to 45.71 metres with a total site area of 1,368 square metres. Topographically, the site has a steep slope from east to west resulting in a fall of approximately eight (8) metres. Central Avenue is a sealed local road with barrier kerb and channel and footpaths on either side (See Attachment 11 for additional site photos).

The location is located within Mooroolbark Activity Centre and is well-served by existing infrastructure and community facilities, recreation centres/parks, public transport and shopping centres. Distances to transport and services are detailed below:

- Mooroolbark Train Station, 800 metres (walkable) to the north
- Bus routes – 800 metres (walkable) to the north (Route 689, 680 & 675 and Telebus Routes 3 & 4)
- Hookey Park, 650 metres (walkable) to the east
- Mooroolbark Terrace Shopping Centre – 950 metres (walkable) to the north-east (Coles and IGA supermarkets, post office, pharmacy, banks, and medical clinics)
- Education centres within a one-kilometre radius: Mooroolbark Early Childhood Education Centre, Yarra Hills Secondary College and St Peter Julian Eymard Primary.

SURROUNDING AREA

The surrounding area is described as:

- North - 21 Mount View Parade, Mooroolbark: Is a regular shaped block with a lot size of 883 square metres, comprising a single dwelling, several outbuildings and scattered vegetation.
- East -
 - 19 Felix Grove, Mooroolbark: Is an irregular shaped block with a lot size of 846 square metres is developed with a single dwelling and vegetation.
 - 17 Felix Grove, Mooroolbark: Is an irregular shaped block with a lot size of 838 square metres is currently occupied by a single dwelling and vegetation. Planning Permit YR-2018/377 was issued on 30 October 2018, to construct four (4) double storey dwellings on the land; and
 - 15 Felix Grove, Mooroolbark: Is a regular shaped block with a lot size of 833 square metres, with a single dwelling and vegetation.
- South - 26 Central Avenue, Mooroolbark: Is a regular shaped block with a lot size of 828 square metres, developed with a single dwelling and vegetation.
- West - 30A Central Avenue, Mooroolbark: Is an irregular shaped block with a lot size of 431 square metres, developed with a double-storey dwelling. This lot was created as a result of Planning Permit YR-2008/1231 (to construct two additional dwellings to rear of existing dwelling)

The surrounding area comprises of a variety of allotment sizes and configurations, between 140 square metres to 2000 square metres. The subject site and surrounds are located within the *Residential Precinct* of the Mooroolbark Activity Centre as identified by Clause 11.03-1L-04 in the Yarra Ranges Planning Scheme.

This precinct has undergone a gradual change in recent years with evidence of several emerging multi-unit developments along Central Avenue as well as Summit Court. Such examples are evident at 34-32 Central Avenue, 30 Central Avenue, 19 Central Avenue, and 24-22 Central Avenue.

The table below details the approved unit developments in the surrounding area:

Address	Permission for:	Permit number
8 Summit Court	Construction of eight (8) dwellings	YR-2016/912
17 Summit Court	Construction of eight (8) dwellings	YR-2016/1200
19 Central Avenue	Construction of eight (8) dwellings	YR-2013/260
15 Central Avenue	Construction of four (4) dwellings	YR-2016/1267
13 Central Avenue	Construction of four (4) dwellings	YR-2015/561
31 Mount View Parade	Construction of six (6) dwellings	YR-2018/1153

A number of residential properties have been converted into medical centres along Hull Road and Brice Avenue. There is no dominant residential architectural style in the area. Weatherboard and brick are common materials used.

PROPOSAL

The proposal is to construct six two-storey dwellings comprising:

- Five three-bedroom dwellings; and
- One two-bedroom dwelling.

Plans were submitted in response to the VCAT order under section 57A of the *Planning and Environment Act 1987* to include the following changes:

- Permit preamble wording amended to 'Building and works to construct six (6) dwellings;
- Deletion of variation of easement and work proposed as a build over easement proposal;
- Dwelling six (6) internal stair configuration altered, and driveway altered to add in an extra canopy tree at the end of common property driveway (between Dwellings 3 and 6);
- Total garden area increased due to common property driveway change for canopy tree; and
- Three-dimensional views of shadows to neighbouring properties as a result of the proposed works added to the plan.

Development drawings (Figures 3 – 8 and Attachment 4) demonstrate the following key attributes:

- Tandem dwelling layout, with a side-by side arrangement;
- A single crossover and common driveway to all dwellings along the north-western boundary and between the second and third row of dwellings; and
- Combination of standard floor plan (living spaces at ground level) and reverse-living layouts (living spaces at upper floor) and a combination of private open space at ground level and first floor levels (Figure 3 and 4):



Figure 3 - Proposed Ground Floor Plan



Figure 4 - Proposed First Floor Plan



Figure 5 - Proposed elevations

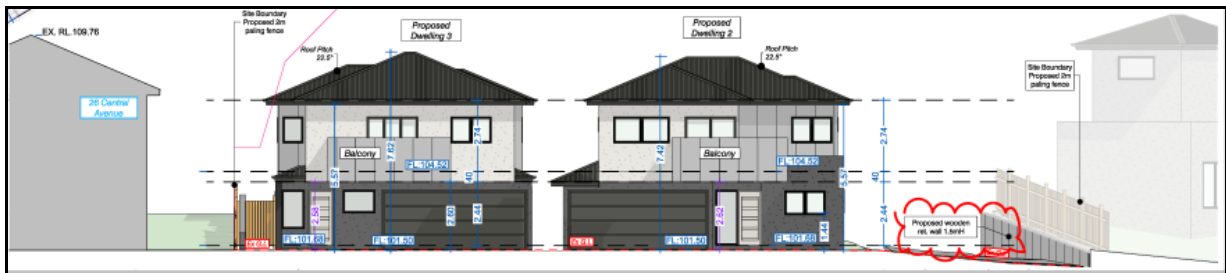


Figure 6 - East elevation Dwellings 2 and 3 (facing Central Avenue)

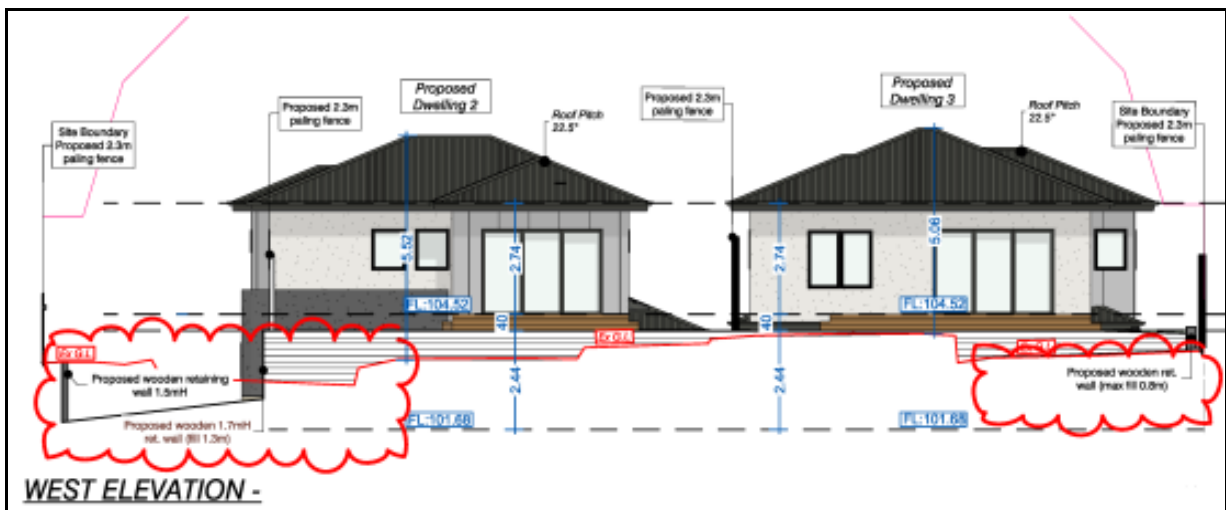


Figure 7 - West elevation Dwellings 2 and 3 (internal)

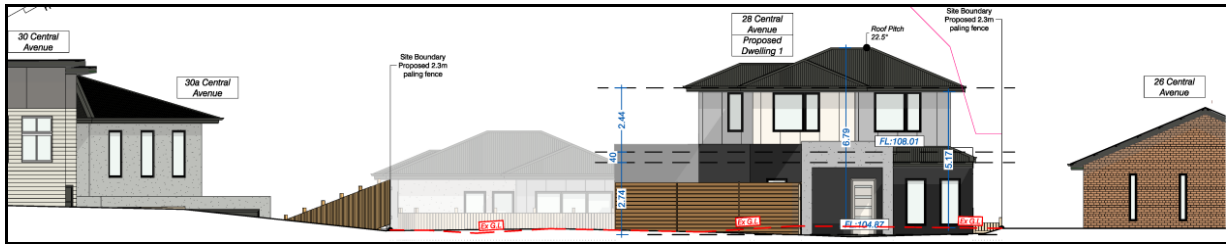


Figure 8 - Streetscape elevation

The table below summarises the key attributes of the proposal:

Dwelling No.	1	2	3	4	5	6
Bedrooms	2	3	3	3	3	3
Car parking	1 – Single garage	2 – Double garage	2 – Double garage	2 – Double garage	2 – Double garage	2 – Double garage
Front setback (metres)	7	N/A	N/A	N/A	N/A	N/A
Maximum dwelling height (metres)	8.0	6.9	6.5	8.9	8.8	8.9
Total Private open space area (square metres)	66	51	54	91	44	62
Secluded Private Open Space area (square metres)	35	43	45	91	44	62
Other Details						
Garden Area	36.5 percent					
Site Coverage	40.6 percent					
Permeability	34.3 percent					
Front Fence	No front fence is proposed					
Side and rear boundary fencing	Side and rear site boundaries - timber paling fences with a maximum height of 2.3 metres.					

External materials and finishes	<p>Ground Floor exterior walls -</p> <ul style="list-style-type: none"> - Cladding/render - Colour (Dulux Dieskau) <p>First floor exterior walls and front doors -</p> <ul style="list-style-type: none"> - Cladding/render - Colour (Dulux Flooded Gum and Vivid White) <p>Roofing, garage doors and window frames -</p> <ul style="list-style-type: none"> - Colourbond - Woodland Grey
Vehicle access	Common driveway access to all dwellings along the north-western boundary
Visitor car spaces	Provision of one visitor car space accessed via the common property driveway, adjacent to Dwelling 4.

PLANNING HISTORY

Application Number and Decision Date	<p>YR-2019/418 - Construction of six (6) dwellings and variation of an easement was approved at a Council Meeting on 13 October 2020.</p> <p>Refer to background section above for full details.</p>
VCAT History	<p>The decision YR-2019/418 was appeal by an objector to the Victorian Civil and Administrative Tribunal (VCAT). By the order of the Tribunal dated 16 July 2021, the decision of the responsible authority was set aside, and the application was remitted to the Council for reconsideration of the following matters:</p> <ul style="list-style-type: none"> • <i>If the permit applicant pursues the application to vary the easement the responsible authority is directed to give notice to all beneficiaries of the covenant [restriction] prior to its reconsideration of the application.</i> • <i>In its reconsideration of the application for planning permit the responsible authority is directed to consider whether the proposal complies with clause 32.08-4 of the Yarra Ranges Planning Scheme (garden area).</i>
Other History	<p>This report is the assessment and decision for remitted planning application YR-2019/418, which was formally amended to satisfy Victorian Civil and Administrative Tribunal (VCAT) order.</p> <p>The revised development application was re-advertised in accordance with the VCAT direction.</p>

PLANNING CONTROLS

The relevant planning policies can be found in Attachment 10.

Zoning:	Clause 32.08 - General Residential Zone - Schedule 1
Overlay:	<p>Clause 43.02 - Design & Development Overlay (Schedule 8)</p> <p>Clause 42.03 - Significant Landscape Overlay (Schedule 23)</p>
Planning Policy:	<p>Clause 2.02 (Vision) seeks to:</p> <ul style="list-style-type: none"> • Increase development in activity centres allowing people to have access to a range of transport options and an expanded network of pedestrian and bike trails. <p>Clause 2.03-1 (Settlement) seeks to</p> <ul style="list-style-type: none"> • Create sustainable urban form that consolidates development around a network of activity centres that also has environmental and social benefits including reducing car dependency, efficient use of community infrastructure, and reducing the need for urban development in rural areas. <p>Clause 2.03-6 (Housing) seeks to</p> <ul style="list-style-type: none"> • Provide more diverse and adaptable housing stock. <p>Clause 11.01-1L-01 (Settlement) seeks to:</p> <ul style="list-style-type: none"> • Cluster businesses, community facilities and housing within activity centres. • Support residential infill development in the consolidation areas of large neighbourhood activity centres or where appropriate to the role of the town or suburb consistent with Table 2 to Clause 2.03-1. • Discourage infill residential development in incremental areas that are not walkable to shops, public transport and public open space or in areas of environmental risk. • Discourage higher density housing in locations with poor access to activity centres. • Retain smaller towns and dispersed communities as locations for rural residential development options, which are dependent on larger urban centres for many services. • Contain rural towns within Urban Growth Boundaries to create distinctive and compact towns separated by rural land.

	<p>Clause 11.02-1S (Supply of urban land) seeks to:</p> <ul style="list-style-type: none"> • Ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses. <p>Clause 11.03-1L-04 (Mooroolbark Activity Centre) seeks to:</p> <ul style="list-style-type: none"> • Create a compact and accessible suburban village with a strong street-based retail core. <p>Strategies of the Mooroolbark Activity Centre Residential precinct are to:</p> <ul style="list-style-type: none"> • Encourage an increase in the number and diversity of dwellings in the activity centre. • Discourage office, medical or other non-residential land uses. <p>Clause 12 (Environmental and Landscape Values) seeks to:</p> <ul style="list-style-type: none"> • Assist with protection and conservation of Victoria’s biodiversity, to protect and conserve environmentally sensitive areas and to maintain and enhance the natural landscape character of the Yarra River corridor in which the topography, waterway, banks and tree canopy are dominant features providing a highly valued, secluded, natural environment for the enjoyment of the public. <p>Clause 12.05-2S (Landscapes) seeks to:</p> <ul style="list-style-type: none"> • Protect and enhance significant landscapes and open spaces that contribute to character, identity and sustainable environments. <p>Clause 15 (Built Environment and Heritage) seeks to:</p> <ul style="list-style-type: none"> • Require development to respond and protect to its context in terms of neighbourhood character, cultural identity, natural features, surrounding landscape and climate. • Ensure development contributes to community and cultural life by improving the quality of living and working environments, facilitating accessibility and providing for inclusiveness. • Ensure that development provides landscaping that supports the amenity, attractiveness and safety of the public realm. • Ensure that development, including signs, minimises detrimental impacts on amenity, on the natural and built environment. • Adopt housing and settlement strategy detailing need and identify locations for rural residential development.
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	<p>Clause 15.01-1S (Urban design) seeks to:</p> <ul style="list-style-type: none"> • Create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity. <p>Clause 15.01-2L (Environmentally Sustainable Development) seeks to:</p> <ul style="list-style-type: none"> • Achieve best practice in environmentally sustainable development from the design stage through to construction and operation. <p>Clause 15.01-2S (Building design) seeks to:</p> <ul style="list-style-type: none"> • Achieve building design outcomes that contribute positively to the local context and enhance the public realm. <p>Clause 15.01-5S (Neighbourhood character) seeks to:</p> <ul style="list-style-type: none"> • Recognise, support and protect neighbourhood character, cultural identity, and sense of place. <p>Clause 16.01-1S (Housing supply) seeks to:</p> <ul style="list-style-type: none"> • Facilitate well-located, integrated and diverse housing that meets community needs. <p>Clause 16.01-2S (Housing affordability) seeks to:</p> <ul style="list-style-type: none"> • Deliver more affordable housing closer to jobs, transport and services.
Clause 51.03:	N/A
Particular Provisions	Clause 52.06 - Carparking
Other Requirements:	<p>Clause 53.18 – Stormwater Management in Urban Development</p> <p>Clause 55 - Two or More Dwellings on a lot and Residential Buildings</p> <p>Clause 65 - Decision guidelines</p> <p>Clause 71.02-3 - Integrated Decision Making</p>

CONSULTATION

Internal Referrals

This application was referred to various business units within Council for technical advice on particular matters. The following is a summary of the relevant advice:

Department	Summary of Response	Conditions required
Traffic Engineering	<ul style="list-style-type: none"> • Parking ratios, garage dimensions, and the dimensions of the visitor parking space satisfy the Planning Scheme requirements • The accessway widths, and the dimensions of the overtaking space satisfy the Planning Scheme requirements. • The vehicle turning movements have been assessed. Vehicles can manoeuvre from all garages and the visitor parking space, to exit the site in a forward's direction. • Gradients and gradient transitions satisfy the Planning Scheme requirements. <p>No objection subject to conditions.</p>	<p>Recommended conditions regarding redundant crossover removal and new parking areas, vehicular accessways and crossover to be constructed and finished appropriately.</p>
Stormwater Engineering	<p>No objection, subject to conditions. Build Over Easement will be supported and appropriate measures will be put in place in the Build Over Easement permit.</p>	<p>Recommended conditions for:</p> <ul style="list-style-type: none"> - Build Over Easement permit required; - Water Sensitive Urban Design; - Stormwater Drainage Engineering Plans and Computations; - Detention System; and - Inspection and approval by Civil Engineer prior to occupation.
Arborist	<p>No objection subject to conditions.</p> <p>No planning permit triggered for vegetation removal under the Significant Landscape Overlay (Schedule 23)-</p> <ul style="list-style-type: none"> • Trees numbered 3, 4, 5, 6 and 7 have a single stem do not require a permit for removal. • Neighbouring Trees 1 and 2 have less than 10 per cent tree protection zone encroachment and will remain viable. 	<p>. Recommended conditions regarding:</p> <ul style="list-style-type: none"> - Removal of trees numbered 3, 4, 5, 6 and 7; - Replacement planting; and - Tree protection fencing for neighbouring Tree 1.

Waste Management	No objection subject to minor amendments to waste management site plan to satisfy to location of waste collection area.	Amended Waste Management Plan required
Environmentally Sustainable Design	No objection subject to a final Sustainable Design Assessment to be endorsed with plans.	Amended Sustainable Design Assessment response required with initiatives from the Sustainable Design Assessment to be noted on plans.

There were no external referrals required by the planning scheme.

Public Notification and Consultation

Notification of the application was undertaken by:

- Placing of one sign on the land
- Mailing notices to owners and occupiers of adjoining and/or nearby properties
- Placing the proposal on Council's website for a minimum of 14 days

Objections:

Twenty five objections have been received, comprising twelve (12) new objections on the most recent notification process, in addition to the thirteen (13) existing objections received when the application was originally advertised.

The main grounds of objection include the following issues:

- Overdevelopment;
- Visual bulk;
- Impact on north facing windows/privacy;
- Waste collection;
- Reduced front setback;
- Poor documentation;
- Insufficient car parking provision;
- Unsafe design relating to traffic and retaining walls;
- Design not energy efficient;
- Inadequate street setback;
- Overshadowing of open spaces;
- Inappropriate landscaping;
- The existing house to be demolished contains asbestos;
- Noise/vibration from construction; and
- Devaluation of properties on the street

ASSESSMENT/ KEY ISSUES

The proposal has been assessed and found to be consistent with the applicable Zone provisions, the planning policy requirements, particular provisions and decision guidelines of the planning scheme.

PLANNING POLICY

Housing Consolidation and Location

The subject site is located within the Residential Precinct of the *Mooroolbark Neighbourhood Activity Centre (MNAC)* within a nominated Consolidated Area.

Under the planning scheme policies clauses 2.02 (Vision), 2.03-6 (Housing), 11.01 (Settlement- Victoria) and 16.01 (Housing- Residential Development) of the Scheme, there is clear support for the proposed increase in housing density/consolidation on the site.

The proposed development has access to public transport, services, and facilities, aligning with policies Clause 11.02-1S (Supply of Urban Land), Clause 11.03-1L-04 (Mooroolbark Activity Centre) and Clause 16.01-1S (Housing Supply), whereby encourages the identification of opportunities for residential consolidation in existing urban areas, in proximity or within activity centres, with access to transport, employment corridors and daily amenities.

The proposal contributes to increasing housing diversity and housing affordability within activity centres as sought by Clause 02 (Municipal Planning Strategic and Clause 11.03-1L-04 (Mooroolbark Activity Centre) policies.

The proposal represents an appropriate level of change to the area where increased residential development is encouraged under the scheme provisions.

Neighbourhood Character

Clauses 15.01-1S (Urban Design), and 15.01-5S (Neighbourhood Character) of the Scheme require new development to respond to its built form and policy context.

The proposal is consistent with the urban design principles at Clause 15.01-1S (Urban Design), and 15.01-5S (Neighbourhood Character) Clause 15.01-1S (Urban Design) by achieving architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties and ensure high standard in architecture and urban design:

- The design ensures that only one dwelling will have a direct frontage to Central Avenue; and
- The proposed setbacks and spacing around dwellings are respectful of the preferred neighbourhood characteristics sought, including allowance for landscaping around the site to soften and contribute to a garden characteristic.

As the site and surrounds are zoned for housing consolidation with an increase in density to respond to population growth and life cycle of housing needs, the area is expected to change. As such, rather than on focusing on the existing neighbouring character only, new housing proposals should meet the preferred neighbourhood character design outcomes contained in the design principles of Design and Development Overlay (Schedule 8). This is discussed next.

Environmentally Sustainable Development

Clause 15.01-2L (Environmentally Sustainable Development) aims to achieve best practice in environmentally sustainable development from the design stage through to construction and operation.

The Sustainable Design Assessment submitted with the application is not satisfactory as the concerns raised in the original Sustainable Design Assessment have not been resolved. Permit conditions require the Built Environment Sustainability Scorecard (BESS) and an updated Sustainable Design Assessment to be amended which will address the concerns prior to the plans being endorsed.

DESIGN AND DEVELOPMENT OVERLAY SCHEDULE 8 (DDO8)

Design and Development Overlay (Schedule 8) provides guidance on design principles covering building height; building form, siting and layout; design detail, material/colours, landscaping and front fence.

The following contains a general assessment to the proposal's alignment with preferred neighbourhood character using the common evaluation themes.

Building Height

For a lot less than 1,500 square metres, the Schedule 8 to Design and Development Overlay prescribes a maximum building height of nine (9) metres above natural ground level. The development has maximum building heights which range from approximately 7.42 metres to 8.99 metres from the natural ground level which is consistent with the requirements of the Design and Development Overlay (Schedule 8).

Building Form, Building Massing, Siting and Layout

The proposal provides an appropriate design response to the two adjoining sensitive interfaces through the provision of ample setbacks to adjoining properties. The development provides a setback ranging between 3.04 metres to 3.75 metres to the abutting residential property to the east of the site, setbacks ranging between one (1) metre to 2.71 metres to the west property boundary. All upper storeys do not overhang into these side setbacks and instead are either parallel or recessed.

This ensures that the upper storeys are sufficiently setback with ample separation between the building and boundary. This sense of space therefore ensures that the amenity of adjoining properties is not detrimentally impacted, and visual bulk is avoided.

The proposal provides breaks between each dwelling on upper floor levels and these breaks in the built form offer visual relief from the continuous attached built form when viewed from the sensitive east and west neighbouring properties.

The side setbacks and built form will ensure an appropriate graduation in height to the adjoining buildings. The development is appropriately articulated to minimise the perceived bulk and mass, especially because of the proposed built form at the rear of the site is well setback with landscaping provision. The site will have minimal impacts on the abutting properties. The existing crossing to be reconstructed will connect to a common accessway will ensure that the accessway does not dominate the streetscape.

The built form of the dwellings has been designed to step down along with the contours of the site with reduced building height (when measured from the natural ground level); this is evident when viewing the north and south elevation plans.

The slope of the site requires site cuts which range from 0.4 metres to two (2) metres across the site. The extent of cut and fill has been detailed on the elevation plans submitted. The elevations show efforts have been undertaken to balance the volume of cut and fill across the site.

The dwellings are well articulated, and the materials and colours chosen for construction ensure that the development integrates well with the surrounding area.

The break in built form and spaces within setbacks provides an opportunity for the planting of a canopy tree, which in turn, also softens the appearance of the built form.

The garages of the dwellings are located behind the active built form of the dwellings and will not dominate the facades of the dwellings as required by the built form requirements of Design and Development Overlay (Schedule 8).

The front site boundary will be open as required by the design guidelines of the Design and Development Overlay Schedule 8.

Detail, Materials and Colour

The dwellings are of high architectural standard and achieve architectural and urban design outcomes that contribute positively to the character of the area.

Front habitable room windows on both levels and carparking tucked behind from the frontage, aids an active frontage to the street frontage, that is positive design response.

The materials of construction and colours are respectful of the existing neighbourhood character. The proposed building colours and materials include:

- Dulux Dieskau (grey) exterior cladding/render to the ground floor,
- Dulux Flooded Gum (grey) and Dulux Vivid White external render to the first-floor exterior walls and
- Woodland Grey Colourbond to the roofing, garage doors and window frames.

The use of a mix of colours and materials enhances the articulation and reduces visual bulk.

Landscaping

The proposal will not involve the removal of any substantial vegetation from the site.

The application is accompanied by a Landscape Plan (Attachment 5). The landscape plan shows four canopy trees within the front setback and one canopy tree within the secluded private open space of each dwelling along the rear boundary. The inclusion of additional canopy trees within the development contribute to the landscape feel of the area and further demonstrates the developments compliance in terms of respecting character in the area.

In addition, a number of low scale plants are proposed along the driveway which will contribute towards softening the hard surface areas. As noted above, this would contribute towards improving the character of the landscape.

The layout of the dwellings ensures that there are adequate spaces to the site boundaries to facilitate adequate landscaping.

There are adequate landscaping opportunities within the street setback of the front dwelling and along the common accessway to minimise the visual impact of the built form to the street and the adjoining sites.

Front Fencing

No front boundary fence is proposed. Within the Central Avenue streetscape, there is a combination of both low front fences and no front fences. Having no front fence at this site is in-keeping with streetscape character rhythm. Further, it promotes an open spacious active frontage, with passive surveillance and views of front landscaping.

Overall, the proposed respectfully achieves a high level of design outcomes as sought by Design and Development Overlay (Schedule 8) and therefore the related policy provisions of Clause 2.02 (Vision), 2.03-6 (Housing), Clause 15.01-1S (Urban Design), and Clause 15.01-5S (Neighbourhood Character).

GENERAL RESIDENTIAL ZONE SCHEDULE 1 (GRZ1)

The proposed development respects the neighbourhood character of the area and allows for a housing types and housing growth particularly in a location offering good access to services and transport.

The proposed development would integrate respectfully into the neighbourhood consolidation area and is easily accessible to services and facilities. The proposed building would not be visually dominating and landscaping and the planting of mature species would be afforded to the site.

The amended application is fully compliant with the garden area requirement. calculate garden area is consistent with industry practice and additional advice received by Council on the matter.

	Requires	Provides	Complies
Building height	Building height allowance of 11 metres (maximum 3 storeys)	8.99 metres (two storeys)	Yes
Garden Area	Mandatory minimum 35 per cent	36.5 percent	Yes

TRAFFIC AND CAR PARKING REQUIREMENT

The proposal provides the statutory carparking spaces required. The design of car spaces and accessways generally complies with the requirements of Clause 52.06-9 of Yarra Ranges Planning Scheme.

The proposal provides car parking spaces as set out in the table below:

Car parking	Required spaces	Provided spaces
One two-bedroom dwelling	1	1
Five three-bedroom dwellings	15	15
Visitor car parking space	1	1
Total	17	17

BUILD OVER EASEMENT

The revised proposal no longer includes the variation to the easement. The amended plans propose to build over the easement running along the rear eastern boundary (stairs, decks, storage and fences to dwellings four (4), five (5) and six (6), the water tank under the deck for Dwelling four (4), and rear boundary fences to the northern and southern boundaries) as an alternative. Yarra Valley Water and Council have not objected to this request. The applicant will need Council permission to Build Over the Easement, which is a separate process to be followed after any planning permit being issued and will also be included as a notation on any permit issued.

CLAUSE 55 ASSESSMENT

Pursuant to the provisions of the zone, the proposal must meet the requirements of Clause 55. The application has been assessed against these provisions and found to be compliant (Attachment 8).

The proposal seeks to vary the following standards and objectives. Variations are considered acceptable.

55.03 Site layout and building massing

55.03-1 Street setback objective

To ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.

Standard B6

Comments – Standard Varied

Objective Met.

Dwelling 1

Required Front Setback - 9.0 metres

Proposed Front Setback - 7.0 metres

Variation - 2.0 metres.

A variation to the numerical standard is acceptable having regard to following observations:

- The properties immediately adjacent to the subject site have setbacks of 15.9 metres (30A Central Avenue Mooroolbark) and 7.9 metres (26 Central Avenue Mooroolbark). The average street setback on the eastern side of Central Avenue (not including outliers) is 8 metres;
- The site is within Councils Strategic Consolidation Area of growth in residential development where reduced setbacks can be balanced against achieving a high quality design response for higher residential density;
- The reduced setback would still allow for sufficient front landscaping, including a canopy tree to contribute to the streetscape character;
- Along Central Avenue are varied property setbacks. There is an absent of any strong consistent setback character pattern;
- The reduced setback is still within the scope of existing streetscape front property setbacks and does not introduce a new minimum setback standard;
- The subject site is irregular shapes, with a narrow width frontage; and
- The reduced setback seeks to respond to the site's location on a bend along Central Avenue, with following the contours of the lot angle in respect to the streetscape alignment.

55.04 Amenity impacts

55.04-1 Side and rear setbacks objective

To ensure that the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

Standard B17	Standard Varied. Objective Met.
	<p>Dwelling 3 - Southern Boundary</p> <p>Based on overall wall height of 5.58 metres</p> <p><i>Required</i> - Rear First Floor Setback - 1.77 metres</p> <p><i>Proposed</i> - Rear First Floor Setback - 1.71 metres</p> <p><u>Variation</u> - 0.6 metres (600 millimetres)</p> <p>Variation is acceptable having regard to following observations:</p> <ul style="list-style-type: none"> • Negligible difference in building appearance and off-site amenity impacts; • No additional overshadowing to southern adjoining secluded open space; and • All other side and rear setbacks a fully compliant with numerical standards and objective.

YARRA RANGES COUNCIL MULTI UNIT DEVELOPMENT DESIGN GUIDELINES

The application has been assessed against the Yarra Ranges Multi-Unit Development Guidelines and found to be generally compliant with the exception of the front setback (Attachment 9).

The proposal seeks to reduce the front setback requirement from nine (9) metres to seven (7) metres. The variation is considered acceptable for the reasons outlined below:

Guideline reference as relevant	Proposal response
Setbacks Front setback to comply with Standard B6:	A variation is considered appropriate to the setback guideline as while the front setback does not comply with Standard B6 (refer to Clause 55.03-1 assessment

<p>1.1.2 The front setback should comprise minimum 60 per cent. permeable surfaces in General Residential Zone and maximise permeability in Residential Growth Zone.</p> <p>1.2.2 No walls on boundaries in General Residential Zone is encouraged to promote ground level secluded private open space and maintain space between buildings.</p> <p>1.2.3 A minimum 2 metre setback is encouraged to one side boundary to accommodate landscape and path. Variation (or stagger) of this setback is encouraged to break built form across the elevation.</p>	<p>above for numerical calculations), it is considered acceptable in this instance due to:</p> <ul style="list-style-type: none"> • The context of the site being surrounded by dwellings on neighbouring properties that have a variety of setbacks; • The site is in a designated growth area where reduced setbacks are acceptable; • Sufficient landscaping including canopy tree planting would be possible; and • The subject site's irregular shape and unique position on the bend of Central Avenue lends itself to appropriately accommodating a reduced setback. <p>The front setback of the site provides a minimum 60 percent permeable surfaces.</p> <p>Walls on boundaries have been avoided due to the slope of the site. This promotes ground level secluded private open space and maintains separations between buildings.</p> <p>A minimum 2 metres setback has been provided to the northern boundary to accommodate landscape and driveway. Furthermore, dwellings are setback from the southern boundary between 1.2 metres and 2.71 metres to separate the built form across the elevation as recommended.</p>
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CLAUSE 53.18 STORMWATER MANAGEMENT IN URBAN DEVELOPMENT

The site achieves the objectives of this provision, subject to fully detailed stormwater drainage management plan with computations to be submitted and approved to satisfaction of responsible authority.

Recommended conditions have been included in the permit (Attachment 1) to secure stormwater drainage management plan submission.

RESPONSE TO OBJECTOR CONCERNS

CONCERNS	OFFICER RESPONSE
Overdevelopment	<p>The subject site is located within a General Residential Zone, is located within the Mooroolbark Neighbourhood Activity Centre and within proximity public transport as well community infrastructure which supports medium density development.</p> <p>The application achieves a high compliance with Clause 55 numerical standards and objectives, Council's Multi</p>

CONCERNS	OFFICER RESPONSE
	Unit Development Design Guidelines and achieves an acceptable response to neighbourhood character.
Visual bulk	<p>As outlined above the proposal complies with setback requirements as outlined in the Clause 55 assessment.</p> <p>The built form is well setback from all boundaries with a complete and also provides adequate separation between the dwellings and recessions at the upper floor level. Each elevation uses a variety of building colours, materials and finishes. Additionally, the first-floor balconies overhang the driveway area which provides visual interest; and cumulatively, the above ensures that there is visual relief and articulation in the built form so as to avoid visual bulk.</p>
Amenity impacts: Impact on north facing windows	<p>Adequate daylight would be allowed into habitable room windows to the north-western wall of 26 Central Avenue as a result of the proposal.</p> <p>The setbacks of the walls of the proposed Dwellings to adjacent habitable room windows are adequate and satisfy the requirements of Standard B19.</p>
Amenity impacts: Privacy	All windows and balconies will be appropriately screened where required to avoid direct views to secluded private open space and habitable room windows of neighbouring dwellings within nine (9) metres of the proposed development in accordance with the objective and B22 standard (Overlooking).
Waste collection	The proposal has been referred to Yarra Ranges Waste Department who has no objection. Conditions have been included on the proposed permit to demonstrate the location of waste bins for collection.
Poor documentation	This concern was submitted regarding the original application and since then revised documentation has been provided that is considered to be accurate.
Insufficient car parking provision	The proposal is fully compliant with minimum technically traffic standards and on-site car parking spaces, including a one visitor space as per Clause 52.06 (carparking) of the Scheme.
Unsafe design relating to traffic and retaining walls	Council traffic engineers have not identified any safety issues relating to the design of the car spaces. The locations of retaining walls are considered acceptable, and detailed design of retaining walls will be assessed

CONCERNS	OFFICER RESPONSE
	as part of the issuance of a building permit.
Design not energy efficient	<p>The design satisfies standard practice of good floor layout, solar access into main living area and take benefit of the northern aspect to locate secluded open space.</p> <p>Pursuant to Clause 15.02-2L (Environmentally Sustainable Development), the Sustainable Design Assessment was not considered to be satisfactory by Council's Sustainable Design department who have recommended improvements. Conditions have been required on any permit granted to address this.</p>
Inadequate street setback	<p>The proposal seeks a reduction to relevant street front setback standard provision from nine (9) metres to seven (7) metres as discussed within this report.</p> <p>The variation is deemed to be acceptable.</p>
Overshadowing of open spaces	<p>The proposal meets Clause 55.04-5 (Overshadowing) open space Standard B21 and objective.</p> <p>Some overshadowing occurs after 2pm to 26 Central Avenue, however at least 40 square metres of the secluded private open space would receive a minimum of five (5) hours of sunlight between 9am and 3pm on 22 September.</p>
Inappropriate landscaping	<p>There are adequate spaces around the dwellings that can be appropriately landscaped to improve the landscape character and street presentation of the development. A landscape plan will need to be endorsed as part of this process.</p>
Asbestos risk with existing dwelling demolished	<p>Issues relating to the removal of asbestos from sites is covered by legislation outside the <i>Planning and Environment Act 1987</i> and is not a relevant planning matter.</p> <p>Building Permit will manage safe disposal of asbestos.</p>
Amenity impacts during construction phase	<p>A Construction Management Plan will be required by way of permit condition to ensure that disruption during the construction and post completion construction phase will be minimised. As with any construction it is unlikely to be able to avoid any impacts whatsoever on adjoining properties.</p>
Devaluation of properties on the street	<p>The Tribunal have found claims that a proposal will reduce property values are difficult, if not impossible to</p>

CONCERNS	OFFICER RESPONSE
	gauge and of no assistance to the determination of a planning permit application. As such devaluation of property is not considered to be a relevant planning matter.

CONCLUSION

The development application has been assessed in accordance with Section 60(1) of the *Planning and Environment Act 1987* and all relevant instruments and policies.

The proposal is considered to be consistent with the objectives of planning policies, and the relevant zone and overlay provisions of the Planning Scheme.

As such, approval of the proposed development is recommended subject to conditions (Attachment 1).

ATTACHMENTS

- 1 Planning Permit Conditions
- 2 Report and Minutes from Council meeting 13 October 2020
- 3 Tribunal Order
- 4 Development Plans
- 5 Landscape Plan
- 6 Town Planning Report
- 7 Arborist Report
- 8 Clause 55 Assessment
- 9 Council's Multi-Unit Development Design Guidelines Assessment
- 10 Planning Policy
- 11 Site Inspection Photos