



Delegate Report

File Number: DA4926/2
 Planning Application No. P153/22
 Responsible Officer: Claire Wilkinson- Senior Statutory Planner
 Attachments: N/A

Conflict of Interest

After reading the definitions of a general or material conflict of interest as defined by the *Local Government Act 2020*, do you have a conflict of interest?

Yes

(if YES, please complete a Conflict of Interest and Declaration Making Declaration form)

No

<i>Application Details</i>	
APPLICANT	Bruce Maples C/- Ellen Hogan and Associates Pty Ltd
PROPOSAL	Development of land for seven (7) dwellings, subdivision of land into seven (7) lots, removal of easements and a reduction of car parking requirements
APPLICATION LODGED	10 August 2022 Amended- 17 March 2023 (from 8 Dwellings to 7 Dwellings) Amended- 10 August 2023 (Landscape Plan) Request from applicant to place file on hold- 28 November 2023
NOTICE AND SUBMISSIONS	Notices sent to twenty-eight (28) Owners/Occupiers of surrounding properties (25 October 2022 – 10 November 2022). Notice on site - Yes Six (6) objections received.
NOTICE AND SUBMISSIONS	Notices sent to thirty-six (36) Owners/Occupiers of surrounding properties (3 August 2023 – 25 August 2023). Notice on site - Yes Six (6) objections received.
CONSULTATIVE MEETING	19 October 2023
<i>Property Details</i>	

PROPERTY ADDRESS	23 Elvins Street, Mansfield
LAND DESCRIPTION	Lot 1 TP645469J and Lot 1 LP22036 Parish of Mansfield
RESTRICTIVE COVENANTS	Nil
LAND AREA	1,414m ² (combined)
EXISTING USE	Single dwelling (to be removed)
<i>Planning Provisions</i>	
ZONE	Clause 32.08 – General Residential Zone
OVERLAYS	Nil
MUNICIPAL PLANNING STRATEGY	Clause 02.03-1 – Settlement Clause 02.03-5 – Built environment and heritage Clause 02.03-6 – Housing Clause 02.03-9 – Infrastructure
PLANNING POLICY FRAMEWORK	Clause 11.01-1S – Settlement Clause 11.01-1R – Settlement – Hume Clause 11.01-1L-01 – Mansfield Township Clause 15.01-1S – Urban design Clause 15.01-2S – Building design Clause 15.01-3S – Subdivision design Clause 15.01-5S – Neighbourhood character Clause 16.01-1S – Housing supply Clause 16.01-1L – Housing supply in Mansfield Township Clause 16.01-2S – Housing affordability Clause 18.02-4S – Roads Clause 19.03-1L – Development and infrastructure contributions plans Clause 19.03-3S – Integrated water management
PARTICULAR PROVISIONS	Clause 52.02 – Easements, restrictions and reserves Clause 52.06 – Car parking Clause 55 – Two or more dwellings on a lot and residential buildings

	Clause 56 – Residential subdivision
Permit Triggers	
GENERAL RESIDENTIAL ZONE	Clause 32.08-3 – A permit is required to subdivide land.
GENERAL RESIDENTIAL ZONE	Clause 32.08-6 – A permit is required to construct two (2) or more dwellings on a lot
EASEMENTS, RESTRICTIONS, RESERVES	Clause 52.02 – A permit is required before a person proceeds under Section 23 of the <i>Subdivision Act 1988</i> to create, vary or remove an easement or restriction or vary or remove a condition in the nature of an easement in a Crown grant.
CAR PARKING	Clause 52.06-3 – A permit is required to reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5.
Other	
CULTURAL SENSITIVITY	The land is not in an area of aboriginal cultural heritage sensitivity.
SITE INSPECTION	10 November 2022

Application Process

Date	Action
10 August 2022	Application Lodged
25 October 2022 – 10 November 2022	Notices sent to twenty-eight (28) Owners/Occupiers of surrounding properties. Notice on site - Yes Six (6) objections received.
17 March 2023	Section 57A application to amend the application after notice was given. Reduction in dwellings and associated subdivision from 8 to 7 and associated design changes.
14 April 2023	Reminder email RE: Outstanding Planning Application & Public Notice fee & Amendment to Application Invoices
22 May 2023	2 nd Reminder email RE: Outstanding Planning Application & Public Notice fee & Amendment to Application Invoices
14 June 2023	3 rd Reminder email RE: Outstanding Invoices
3 August 2023 – 25 August 2023	Notice of the amended application was required in accordance with Section 57B of the Act.

	<p>Notices sent to thirty-six (36) Owners/Occupiers of surrounding properties.</p> <p>Notice on site - Yes</p> <p>Six (6) objections received.</p>
19 October 2023	Consultative Meeting between Objectors/ Applicant and Council Officers
14 November 2023	Applicant provided Council a written response to matters raised in Consultative Meeting
17 November 2023	Written response from applicant sent to objectors
28 November 2023	Planning Officers email the Applicant and attach a detailed written excerpt of the Officer Assessment Report. This points out the key concerns of the application and advises that the officer recommendation would likely be a refusal. Council officers advise that the application be heard at the December 2023 Council Meeting.
28 November 2023	Email from Applicant requesting to place the application on hold.

Background

Proposal

The permit applicant, Bruce Maples C/- Ellen Hogan and Associates Pty Ltd seeks approval for the development of land for seven (7) dwellings, subdivision of land into seven (7) lots, removal of easements and reduction of visitor car parking requirements on the land identified as 23 Elvins Street, Mansfield.

The proposal comprises the following features:

Dwelling 1 / Lot 1

- Lot size – Applicant has not provided a revised Proposed Plan of Subdivision with seven lot/ amended submission. (?? m²)
- Dwelling characteristics:
 - Floor area – 129.7m² (lower floor and upper floor only) + balcony of 26.5m².
 - Lower Floor – Open plan living, kitchen and dining areas, laundry adjacent to kitchen/dining with powder room and single garage.
 - Upper Floor – Master bedroom with ensuite, 2 x bedrooms with BIR, bathroom with bath and WC, living/retreat space with wrap around balcony.
 - Boundary setbacks:

East:	7.285m (from first floor overhang).
South:	2.965m
West:	1.26 metres from proposed abutting dwelling
North:	6.26m from proposed abutting dwelling.
 - Maximum height – 8.13 metres above NGL.

- Car parking:
 - Single garage with tandem car parking provided.

Dwelling 2 / Lot 2

- Lot size – Applicant has not provided a revised Proposed Plan of Subdivision with seven lot/ amended submission. (?? m²)
- Dwelling characteristics:
 - Floor area – 129.7m² (lower floor and upper floor only) + balcony of 27m².
 - Lower Floor – Open plan living, kitchen and dining areas, laundry adjacent to kitchen/dining with powder room and single garage.
 - Upper Floor – Master bedroom with ensuite, 2 x bedrooms with BIR, bathroom with bath and WC, living/retreat space with wrap around balcony.
 - Boundary setbacks:

East:	1.26m from proposed abutting dwelling
South:	2.965m
West:	4.44 metres from proposed abutting dwelling
North:	6.26m from proposed abutting dwelling.
 - Maximum height – 8.05 metres above NGL.
- Car parking:
 - Single garage with tandem car parking provided.

Dwelling 3 / Lot 3

- Lot size – Applicant has not provided a revised Proposed Plan of Subdivision with seven lot/ amended submission. (?? m²)
- Dwelling characteristics:
 - Floor area – 129.7m² (lower floor and upper floor only) + balcony of 27m².
 - Lower Floor – Open plan living, kitchen and dining areas, laundry adjacent to kitchen/dining with powder room and single garage.
 - Upper Floor – Master bedroom with ensuite, 2 x bedrooms with BIR, bathroom with bath and WC, living/retreat space with wrap around balcony.
 - Boundary setbacks:

East:	4.44 metres from proposed abutting dwelling
South:	2.965m
West:	0.685 metres from proposed abutting dwelling
North:	6.26m from proposed abutting dwelling.
 - Maximum height – 7.9 metres above NGL.
- Car parking:
 - Single garage with tandem car parking provided.

Dwelling 4 / Lot 4

- Lot size – Applicant has not provided a revised Proposed Plan of Subdivision with seven dwelling amended submission. (?? m²)
- Dwelling characteristics:
 - Floor area – 151.7m² (lower floor and upper floor only) + balcony of 27m².
 - Lower Floor – 1 x bedroom with BIR and ensuite, open plan living, kitchen and dining areas, laundry with WC and garage.
 - Upper Floor – 2 x bedrooms with BIR, bathroom with shower and WC, living/retreat space with wrap around balcony.
 - Boundary setbacks:

East:	0.685 metres from proposed abutting dwelling
South:	1m
West:	1.2 metres from balcony
North:	7.13m
 - Maximum height – 7.78 metres above NGL.
- Car parking:
 - Single garage to with tandem car parking provided.

Dwelling 5 / Lot 5

- Lot size – Applicant has not provided a revised Proposed Plan of Subdivision with seven dwelling amended submission. (?? m²)
- Dwelling characteristics:
 - Floor area – 138m² (lower floor and upper floor only) + balcony of 9.4m².
 - Lower Floor – Open plan living, kitchen and dining areas, European laundry, powder room and garage.
 - Upper Floor – Master bedroom with adjoining bathroom, 1 x bedroom with BIR, 1 x bedroom with WIR, bathroom with bath and WC, balcony overlooking Elvins Street to east.
 - Boundary setbacks:

East:	7.045 metres (from first floor overhang).
South:	6.26m from proposed abutting dwelling
West:	0 metre (garage wall on boundary)
North:	1.365m
 - Maximum height – 7.65 metres above NGL.
- Car parking:
 - Double garage with internal connection.

Dwelling 6 / Lot 6

- Lot size – Applicant has not provided a revised Proposed Plan of Subdivision with seven lot/ amended submission. (?? m²)
- Dwelling characteristics:
 - Floor area – 138m² (lower floor and upper floor only) + balcony of 8m².
 - Lower Floor – Open plan living, kitchen and dining areas, European laundry, powder room and garage.
 - Upper Floor – Master bedroom with adjoining/ensuite bathroom, 1 x bedroom with BIR, 1 x bedroom with WIR, bathroom with bath and WC, balcony overlooking internal common property to south.
 - Boundary setbacks:

East:	0 metre (garage wall on boundary)
South:	6.26m from proposed abutting dwelling
West:	0 metre (garage wall on boundary)
North:	1.365m
 - Maximum height – 7.06 metres above NGL.
- Car parking:
 - Double garage with internal connection.

Dwelling 7 / Lot 7

- Lot size – Applicant has not provided a revised Proposed Plan of Subdivision with seven lot/ amended submission. (?? m²)
- Dwelling characteristics:
 - Floor area – 144.8m² (lower floor and upper floor only) + balcony of 12m².
 - Lower Floor – 1 x bedroom with BIR and ensuite, open plan living, kitchen and dining areas, powder room and garage No laundry in this dwelling.
 - Upper Floor – 2 x bedroom with BIR, bathroom with shower and WC, living space with adjoining balcony overlooking internal common property to south.
 - Boundary setbacks:

East:	0 metre (garage wall on boundary)
South:	6.26m from proposed abutting dwelling
West:	1.1 metres
North:	1.365m
 - Maximum height – 5.46 metres above NGL.
- Car parking:
 - Double garage with internal connection.

Dwellings 1-6 are proposed to have gable room forms, with dark grey face brick at ground level and a combination of render and weathertex cladding at upper levels. Dwelling 7 has a skillion roof with dark grey face brick at ground level and render on the upper level. Roofing will be Colorbond with unspecified materials.

A copy of the proposed development plans is attached below:



Figure 1: Proposed site plan

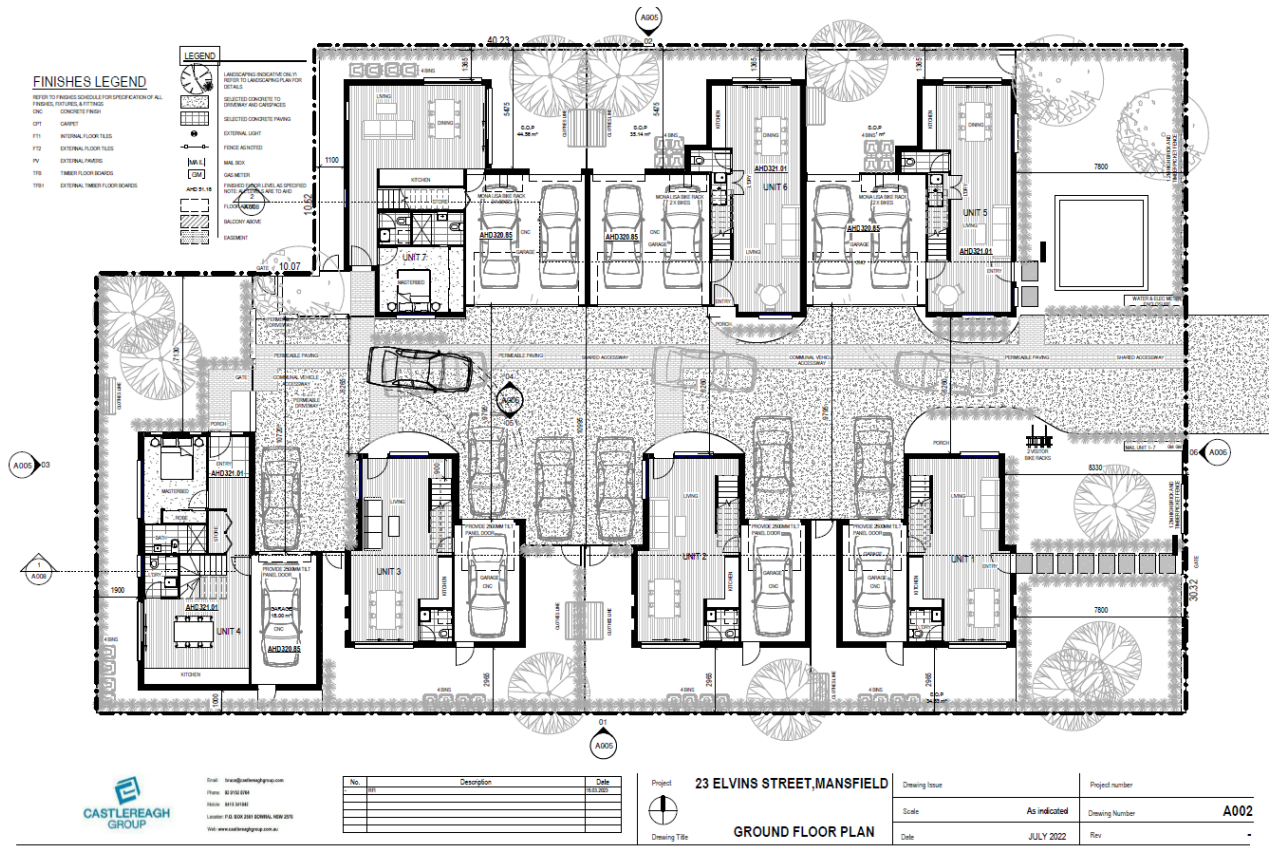


Figure 2: Proposed ground floor plan



Figure 3: Proposed upper floor plan

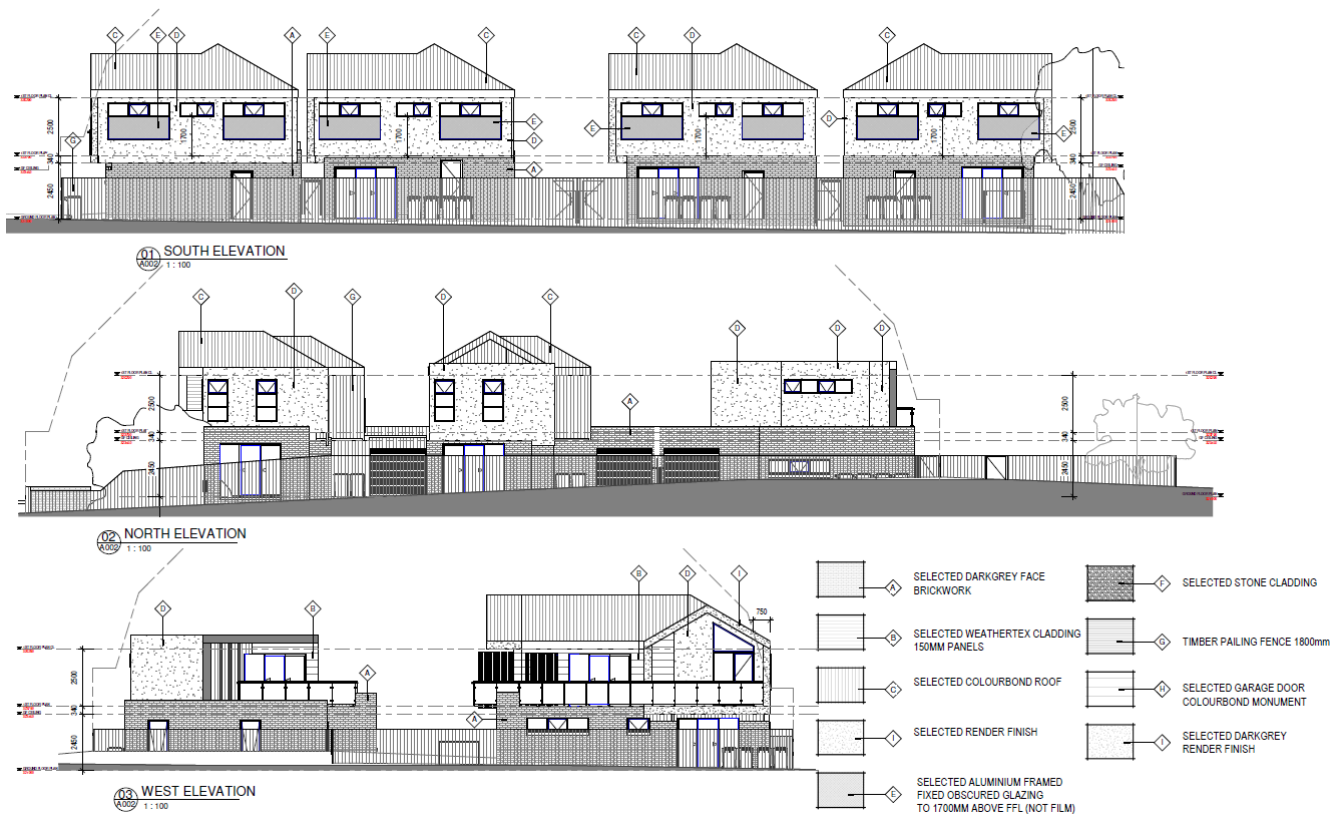


Figure 4: Proposed elevation plans



Figure 5: Proposed elevation plans



Figure 6: *3D Render of proposed development form*

Subject site, neighbourhood and environs

The subject site comprises two lots and is located on the western side of Elvins Street. The property is formally identified as Lot 1 TP645469J and Lot 1 LP22036 Parish of Mansfield. Both lots are generally rectangular in shape, with different depths that combined, create a 'notch' out of the site in the north-western corner. The site is generally flat, with minimal fall across the site. The site is currently improved by an existing single storey dwelling and domestic curtilage, in a similar fashion to the prevailing development form in the broader area.

The site has a frontage of approximately 30.32 metres to Elvins Street, with access to the site from same. The proposal would create a new shared accessway, with an approximate width of 5.4 metres (18%) of the site frontage, centrally located to access all dwellings. Dwellings would be setback 7.045m at their closest point to the frontage, and run in 2 'strips' from front to rear of the block in a linear fashion.

Lots in the surrounding area in all directions generally comprise residentially zoned and developed lots to the north, south and east, with areas between 600-1,000m². There are no infill developments in the surrounding area, with single dwellings being the sole development form. North and south of the site are single dwellings on such blocks, with generous backyards and street trees softening development. To the rear of the site is the Mansfield Golf Course, providing a pleasant outlook from the subject site and abutting properties.

The site appears to be connected to reticulated power, telecommunications, water and sewer.



Figure 7: Aerial image of subject site and immediate surrounds

Site History

Planning permits approved for the subject land include the following:-

- P116/22 Planning Permit for Eight Dwellings, Eight Lot Subdivision and removal of easements. Withdrawn 23 June 2022.
- P0133/11 Planning Permit for Four Dwellings and a Four Lot Subdivision and removal of easements. Issued 18 January 2012.

- P0255/06 Planning Permit for Four Dwellings, Four Lot Subdivision, and removal of easements. Issued 03 April 2007

Consultation

Referral Responses

<i>Referral Agency</i>	<i>Clause</i>	<i>Response</i>
GOULBURN MURRAY WATER (GMW)	Clause 66.02-5 – Determining	Conditional consent- (24 October 2022)- Five conditions relating to the management of stormwater, connection of each lot to reticulated services, sediment control during construction.
GOULBURN VALLEY WATER	Clause 66.01 - Determining	Conditional consent- (3 November 2022)- Eight conditions relating to the connection to reticulated services
SP AUSNET	Clause 66.01 - Determining	Conditional consent- (19 October 2022)- Three conditions relating to electricity provision.
ENGINEERING	Section 52 notice	No response provided.

Advertising

Advertising was carried out in accordance with the requirements of the Planning and Environment Act 1987, by way of:

- Letters to adjoining and nearby owners and occupiers; and
- Sign on site

1st Advertising (Eight dwellings)

Notices sent to twenty-eight (28) Owners/Occupiers of surrounding properties (25 October 2022 – 10 November 2022). Six objections received.

Amendment to Application after Notice

A Section 57A application to amend the application after notice was given. The following changes were made to the application:

- Reduction in dwellings and associated subdivision from 8 to 7 and associated design

changes.

These are the plans on which the report is based.

Notice of amended application

Notice of the amended application was required in accordance with Section 57B of the Act. The following forms of notice were undertaken:

- Letters to adjoining and nearby owners and occupiers; and
- Sign on site

2nd Advertising (Seven dwellings)

Notices sent to thirty-six (36) Owners/Occupiers of surrounding properties (3 August 2023 – 25 August 2023). Six objections received.

As a result of both public notifications, there have been nine (9) objections to the application which have been received, raising the following concerns:

- Overlooking from development;
- Overshadowing from development;
- Visual bulk of development;
- Insufficient boundary setbacks;
- Blocking of views of Golf Course;
- Traffic impacts;
- Car parking for residents and visitors;
- Noise impacts;
- Insufficient infrastructure to service development (no kerb, channel, footpaths, drainage etc);
- Neighbourhood character;
- Inaccurate calculations in plans;
- Insufficient private open space to dwellings;
- Removal of carriageway easement;
- Houses not being affordable; and
- Devaluation of property.

These matters are considered in the assessment section of this report.

There has also been a submission from the Mansfield Tennis Association Inc. requesting that future residents be made aware of the use of the tennis court lights until 11pm on all nights.

Consultation

A Consultative Meeting was held with six objectors and the applicant in Council Chambers on 19 October 2023.

The applicant provided a written response to the matters raised in the Consultative Meeting and this was sent to objectors on 17 November 2023.

Request from applicant to place file on hold- 28 November 2023

Mansfield Planning Scheme and Context Assessment

Mansfield Planning Scheme seeks to ensure that the objectives of planning in Victoria (as set out in Section 4 of the Planning and Environment Act 1987) are fostered through appropriate land use and development planning policies and practices which integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.

Municipal Planning Strategy (MPS)

Clause 02.03-1 – Settlement

The settlement pattern in the Shire is characterised by Mansfield Township as the major urban centre, with a number of surrounding smaller settlements, significant areas for rural living and a number of isolated 'legacy' settlements principally located around the shores of Lake Eildon. The 4 major valleys: Upper Delatite, Upper Goulburn, Howqua and Jamieson provide a distinctive and valued landscape setting for all settlements.

Mansfield Township

The Hume Regional Growth Plan 2014 considers Mansfield Township a sub-regional moderate growth centre in the Central Hume sub-region that is serviced by larger regional towns further west and north. It is the only urban centre with significant growth potential in the Shire and provides all major services and infrastructure for the community. Commercial and retail growth will occur within and around the shopping centre. There is a need for more industrial land to service demand. Existing infrastructure is capable of servicing growth however there is a need to increase water storage capacity.

Council's strategic directions for settlement are to:

- *Maintain the role of Mansfield Township as the main town with growth potential, supplying the majority of housing, commercial, retail and industrial growth.*
- *Limit development in unsewered towns to infill development based on land capability.*
- *Avoid out-of-sequence development and rezoning.*
- *Ensure there is sufficient land supply to meet current and future demand.*

Officer Response:

The Scheme sets a clear strategic direction for urban infill development to be undertaken with the Mansfield Township, which this proposal seeks to achieve.

Clause 02.03-5 – Built environment and heritage

Development of land along the Maroondah Highway and other major routes such as Mount Buller Road in the Shire need to be sensitive to their role as gateways to the Alpine areas

Mansfield Township's residential areas are characterised by wide streets with on street parking, large lots and street trees. Infill and medium density development will challenge the urban character of some areas in town but key attributes such as their spacious garden settings and identified heritage buildings should remain and be protected.

Council's strategic directions for the built environment and heritage are to:

- *Support development (including advertising signage) that is sensitive to the role of the Alpine approaches as gateways to Mansfield Township and the Alps.*
- *Encourage development that respects the unique character and location of each settlement and protects areas of natural, environmental and architectural character.*
- *Protect places of identified European and Aboriginal heritage significance.*
- *Protect the heritage values of the Goulburn, Howqua and Big Rivers.*

Officer response:

As is discussed further in this assessment, the subject site is considered suitable for medium density/infill housing development. Any form of such development will be distinct from existing development in the immediate area, which is to be expected in such development. The strategic direction of this clause seeks to manage that change to ensure that the unique character of areas is respected, and that change seeks to fit within this character rather than ignore it.

Matters of character are discussed further in this assessment, however the proposal is generally considered inconsistent with this direction, by seeking to overdevelop the site in a manner that does not respect the existing character of the area.

Clause 02.03-6 – Housing

A diversity of housing opportunities is an important part of providing housing for all. As the major urban centre of the Shire, the majority of housing growth will take place in Mansfield Township, where aged care, infill and medium density housing development will be key for the community to be able to age in place.

Council's strategic directions for housing are to:

- *Provide for housing needs to be met within townships and designated rural living areas.*

- *Maintain housing affordability and increase the diversity of housing choices, including opportunities for rural living.*

Officer response:

The proposal reflects an infill/medium density housing development within a designated township. While it is unlikely to serve the desire of ‘aging in place’ due to the features of the development, intensification of residential use/development in a residential area is consistent with this strategic direction.

Clause 02.03-9 – Infrastructure

Development infrastructure

It is expected development will connect to all available infrastructure or provide it as part of larger developments.

Stormwater, onsite water catchment facilities, water sensitive urban design, drainage, reticulated water and sewerage systems, public open space, variety of lot sizes, provision of quality internal and access roads and detailed landscaping plans are necessary to improve development outcomes.

Council’s strategic directions for development infrastructure are to:

- *Support the provision of infrastructure that meets current and future needs.*
- *Support the provision of full reticulated infrastructure to all urban areas.*
- *Support the fair and equal distribution of infrastructure and services to new development.*
- *Support the provision of wastewater management systems that will minimise adverse impact on Special Water Supply Catchments.*

Officer response:

The subject site is serviced by all available reticulated infrastructure, with the developer required to ensure that their development can be serviced and any capacity impacts are addressed at the developers cost. The proposal is not accompanied with detailed landscaping plans, which is an unfortunate omission in assessing the development.

Planning Policy Framework (PPF)

Clause 11.01-1S – Settlement

Objective

- *To facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.*

Relevant strategies

- *Develop sustainable communities through a settlement framework offering convenient access to jobs, services, infrastructure and community facilities.*
- *Ensure regions and their settlements are planned in accordance with their relevant regional growth plan.*
- *Guide the structure, functioning and character of each settlement taking into account municipal and regional contexts and frameworks.*
- *Create and reinforce settlement boundaries.*
- *Deliver networks of high-quality integrated settlements that have a strong identity and sense of place, are prosperous and are sustainable by:*
 - *Building on strengths and capabilities of each region across Victoria to respond sustainably to population growth and changing environments.*
 - *Developing settlements that will support resilient communities and their ability to adapt and change.*
 - *Balancing strategic objectives to achieve improved land use and development outcomes at a regional, catchment and local level.*
 - *Preserving and protecting features of rural land and natural resources and features to enhance their contribution to settlements and landscapes.*
 - *Encouraging an integrated planning response between settlements in regions and in adjoining regions and states in accordance with the relevant regional growth plan.*
 - *Providing for appropriately located supplies of residential, commercial, and industrial land across a region, sufficient to meet community needs in accordance with the relevant regional growth plan.*
 - *Improving transport network connections in and between regional cities, towns and Melbourne.*
 - *Integrating the management of water resources into the urban environment in a way that supports water security, public health, environment and amenity outcomes.*
 - *Minimising exposure to natural hazards, including increased risks due to climate change.*
 - *Contributing to net zero greenhouse gas emissions through renewable energy infrastructure and energy efficient urban layout and urban design.*
- *Encourage a form and density of settlements that supports healthy, active and sustainable transport.*
- *Limit urban sprawl and direct growth into existing settlements.*
- *Promote and capitalise on opportunities for urban renewal and infill redevelopment.*
- *Develop compact urban areas that are based around existing or planned activity centres to maximise accessibility to facilities and services.*

Clause 11.01-1R – Settlement – Hume

Relevant strategies

- *Support growth and development in other existing urban settlements and foster the sustainability of small rural settlements.*

Officer Response:

The proposal is generally consistent with settlement policy, insofar as it directs growth and development to serviced urban land within existing settlement boundaries. An appropriately designed and sited development of the site would be more likely to obtain officer support.

Clause 11.01-1L-01 – Mansfield Township

Relevant objective

- *To support the growth of Mansfield township as the focus of development in the Shire.*

Relevant strategies

- *Contain and intensify residential development within existing residentially zoned land.*
- *Encourage the redevelopment of key strategic sites, infill sites and currently vacant General Residential land.*

Officer response:

As noted above, the proposal does intensify residential development within existing residentially zoned land, and the proposal is not considered unacceptable due to broader strategic directions relating to residential growth.

Clause 15.01-1S – Urban design

Objective

- *To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.*

Relevant strategies

- *Require development to respond to its context in terms of 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 the interface between the private and public realm protects and enhances personal safety.*

- *Ensure development supports public realm amenity and safe access to walking and cycling environments and public transport.*
- *Ensure that the design and location of publicly accessible private spaces, including car parking areas, forecourts and walkways, is of a high standard, creates a safe environment for users and enables easy and efficient use.*
- *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 and on the safety and efficiency of roads.*
- *Promote good urban design along and abutting transport corridors.*

Officer response:

The typology of the area generally comprises single storey dwellings of weatherboard and brick construction/cladding. Sizeable native street trees are found in front of most dwellings, from the median strip and spread on private property. Dwellings have varied setbacks between 5-10 metres, however the dwelling type and treed character ensures that such structures are nestled into the streetscape. Elvins Street in this area provides a sense of a 'leafy' quiet residential street with high amenity value. There are limited front fences, which are usually low picket forms that allow passive surveillance and a sense of openness from the public realm. Elvins Street is a 2 way sealed road, with kerb/channel on the western side and open table drain to the eastern side. On-street car parking is available on the western side of the street but is rarely utilised. There is virtually no infill development surrounding the subject site.

The proposed dwellings are a significant variation from the existing character as described above. While the site is considered suitable for re-development of medium density housing (being a large serviced block in the general residential zone), the form that these dwellings take in the streetscape is inconsistent with the existing or future character of the area.

Central to this issue is the presentation of Dwellings 1 and 5 to Elvins Street. The dwellings utilise a double storey form with upper level protrusions, increasing their visual bulk and dominance to the street. The length of built form across the site at the front walls presents a highly urbanised form, with no effective building separations from Elvins Street. The common driveway presents a 'gun barrel' hardstand presentation, with the eye drawn to upper levels by protruding decks over the accessways. The combination of gable and skillion roofing at a number of angles appears clunky and reflects an overall poor design outcome.

As is noted in the Clause 55 assessment, a number of detailed design features are considered to not be met based on the current plans. These features ultimately affect the internal amenity of future residents of the dwellings and are not supported by policy in this clause.

Clause 15.01-2S – Building design

Objective

- *To achieve building design and siting outcomes that contribute positively to the local context, enhance the public realm and support environmentally sustainable development.*

Relevant strategies

- *Ensure a comprehensive site analysis forms the starting point of the design process and provides the basis for the consideration of height, scale, massing and energy performance of new development.*
- *Ensure development responds and contributes to the strategic and cultural context of its location.*
- *Minimise the detrimental impact of development on neighbouring properties, the public realm and the natural environment.*
- *Improve the energy performance of buildings through siting and design measures that encourage:*
 - *Passive design responses that minimise the need for heating, cooling and lighting.*
 - *On-site renewable energy generation and storage technology.*
 - *Use of low embodied energy materials.*
- *Ensure the layout and design of development supports resource recovery, including separation, storage and collection of waste, mixed recycling, glass, organics and e-waste.*
- *Encourage use of recycled and reusable materials in building construction and undertake adaptive reuse of buildings, where practical.*
- *Encourage water efficiency and the use of rainwater, stormwater and recycled water.*
- *Minimise stormwater discharge through site layout and landscaping measures that support on-site infiltration and stormwater reuse.*
- *Ensure the form, scale, and appearance of development enhances the function and amenity of the public realm.*
- *Ensure buildings and their interface with the public realm support personal safety, perceptions of safety and property security.*
- *Ensure development is designed to protect and enhance valued landmarks, views and vistas.*
- *Ensure development considers and responds to transport movement networks and provides safe access and egress for pedestrians, cyclists and vehicles.*
- *Encourage development to retain existing vegetation.*
- *Ensure development provides landscaping that responds to its site context, enhances the built form, creates safe and attractive spaces and supports cooling and greening of urban areas.*

Officer Response:

The proposed development is larger in scale than the other developments in the area, both in quantitative figures and qualitative features (such as visual bulk and articulation). The massing of the development is considered to be excessive in the context of the site and surrounding properties on Elvins Street.

Clause 15.01-3S – Subdivision design

Objective

- *To ensure the design of subdivisions achieves attractive, safe, accessible, diverse and sustainable neighbourhoods.*

Relevant strategies

- *In the development of new residential areas and in the redevelopment of existing areas, subdivision should be designed to create liveable and sustainable communities by:*
 - *Creating compact neighbourhoods that have walkable distances between activities.*
 - *Creating urban places with a strong sense of place that are functional, safe and attractive.*
 - *Providing a range of lot sizes to suit a variety of dwelling and household types to meet the needs and aspirations of different groups of people.*
 - *Creating landscaped streets and a network of open spaces to meet a variety of needs with links to regional parks where possible.*
 - *Facilitating an urban structure where neighbourhoods are clustered to support larger activity centres served by high quality public transport.*
 - *Reduce car dependency by allowing for:*
 - *A convenient and safe road network.*
 - *Minimising exposure of sensitive uses to air and noise pollution from the transport system.*
 - *Being accessible to people with disabilities.*
 - *Creating an urban structure that:*
 - *Responds to climate related hazards.*
 - *Incorporates integrated water management, including sustainable irrigation of open space.*
 - *Minimises peak demand on the electricity network.*
 - *Supports energy efficiency and solar energy generation through urban layout and lot orientation.*
 - *Supports waste minimisation and increased resource recovery.*

Officer response:

The proposed subdivision aspect of the development follows the proposed development form, such that if the development were considered acceptable, the subdivision would follow suit. This policy setting provides little assistance in assessment of this application.

Clause 15.01-5S – Neighbourhood character**Objective**

- *To recognise, support and protect neighbourhood character, cultural identity, and sense of place.*

Relevant strategies

- *Support development that respects the existing neighbourhood character or contributes to a preferred neighbourhood character.*
- *Ensure the preferred neighbourhood character is consistent with medium and higher density housing outcomes in areas identified for increased housing.*
- *Ensure development responds to its context and reinforces a sense of place and the valued features and characteristics of the local environment and place by respecting the:*
 - *Pattern of local urban structure and subdivision.*
 - *Underlying natural landscape character and significant vegetation.*
 - *Neighbourhood character values and built form that reflect community identity.*

Officer response:

The proposed dwellings are two-storey dwellings, in contrast to the existing single storey typology found in the surrounding area. This section of Elvins Street is relatively intact as comprising single storey dwellings, with these being nestled into the streetscape behind vegetation. There are no two storey dwellings in the immediate vicinity. The underlying urban structure and subdivision is detached dwellings on 600+m² lots.

As is discussed through this report, the proposed dwellings are a significant variation from the existing character, such that the underlying urban structure and characteristics of the local environment are not continued through this development. While supporting/protecting neighbourhood character is not code for preventing new development, in this instance the proposed development is of such intensity and impact that it should not be supported on this site, for the reasons discussed elsewhere in this report. A more modest proposal, that would still reflect intensification on the site and surrounds, would be more likely to obtain support despite a transition in form.

Clause 16.01-1S – Housing supply

Objective

- *To facilitate well-located, integrated and diverse housing that meets community needs.*

Relevant strategies

- *Ensure that an appropriate quantity, quality and type of housing is provided, including aged care facilities and other housing suitable for older people, supported accommodation for people with disability, rooming houses, student accommodation and social housing.*

- *Increase the proportion of housing in designated locations in established urban areas (including under-utilised urban land) and reduce the share of new dwellings in greenfield, fringe and dispersed development areas.*
- *Encourage higher density housing development on sites that are well located in relation to jobs, services and public transport.*
- *Identify opportunities for increased residential densities to help consolidate urban areas.*
- *Facilitate diverse housing that offers choice and meets changing household needs by widening housing diversity through a mix of housing types.*
- *Encourage the development of well-designed housing that:*
 - *Provides a high level of internal and external amenity.*
 - *Incorporates universal design and adaptable internal dwelling design.*
 - *Support opportunities for a range of income groups to choose housing in well-serviced locations.*

Officer response:

The application proposes seven (7) new dwellings which would provide a diversity in housing options for future residents of the area. As discussed in the Clause 55 assessment, there are elements of the dwellings that would result in reduced amenity inconsistent with the expectations of a resident of a new dwelling. The site is well positioned in relation to jobs, transport and services and would provide the potential for future residents to utilise active or public transport in lieu of car based modes of transport. The site is connected to existing infrastructure and service provision.

Clause 16.01-1L – Housing supply in Mansfield Township

Relevant strategies

- *Encourage higher density development in areas that can capitalise on existing physical and social infrastructure in proximity to the Mansfield town centre.*
- *Support smaller housing options and retirement and aged care accommodation close to town centres and areas with existing social and physical infrastructure.*
- *Encourage opportunities to increase the supply of affordable housing to cater for lower income households, older people and young people.*

Officer response:

As discussed above, the site is well located and serviced, such that some form of intensification is considered appropriate. The dwellings are unlikely to provide smaller housing options for an aging population (with 3 bedrooms in each and 2 storey forms), and while they may be more affordable than a single dwelling on a large lot, is unlikely to be affordable housing as that term is defined in the act.

Clause 16.01-2S – Housing affordability

Objective

- *To deliver more affordable housing closer to jobs, transport and services.*

Relevant strategies

- *Improve housing affordability by:*
 - *Ensuring land supply continues to be sufficient to meet demand.*
 - *Increasing choice in housing type, tenure and cost to meet the needs of households as they move through life cycle changes and to support diverse communities.*
 - *Promoting good housing and urban design to minimise negative environmental impacts and keep costs down for residents and the wider community.*
 - *Encouraging a significant proportion of new development to be affordable for households on very low to moderate incomes.*
- *Increase the supply of well-located affordable housing by:*
 - *Facilitating a mix of private, affordable and social housing in suburbs, activity centres and urban renewal precincts.*
 - *Ensuring the redevelopment and renewal of public housing stock better meets community needs.*
- *Facilitate the delivery of social housing by identifying surplus government land suitable for housing.*

Officer response:

As noted above, the development would comprise a new housing option that may have elements of affordability compared to detached single dwellings on larger lots, however the development is not purported to be an affordable housing development in the manner envisaged by this clause.

Clause 18.02-4S – Roads**Objective**

- *To facilitate an efficient and safe road network that integrates all movement networks and makes best use of existing infrastructure.*

Relevant strategies

- *Plan an adequate supply of car parking that is designed and located to:*
 - *Protect the role and function of nearby roads.*
 - *Enable the efficient movement and delivery of goods.*
 - *Facilitate the use of public transport.*
 - *Maintain journey times and the reliability of the on-road public transport network.*

- *Protect residential areas from the effects of road congestion created by on-street parking.*
- *Enable easy and efficient use.*
- *Achieve a high standard of urban design.*
- *Protect the amenity of the locality, including the amenity of pedestrians and other road users.*
- *Create a safe environment, particularly at night.*
- *Allocate land for car parking considering:*
 - *The existing and potential modes of access including public transport.*
 - *The demand for off-street car parking.*
 - *Road capacity.*
 - *The potential for demand-management of car parking.*
 - *Consolidate car parking facilities to improve efficiency.*

Officer response:

As discussed further in this report, the quality of material provided has made it challenging to undertake an informed assessment on car parking provision; however it is clear that a number of car parking spaces provided are undersized and do not allow for easy ingress and egress to and from the site. The car parking locations on the site do not achieve a high standard of urban design.

In terms of the broader road network, Elvins Street is a 2 way sealed local street, which is capable of accommodating additional traffic that would emanate from the proposed development.

Clause 19.03-1L – Development and infrastructure contributions plans

Strategy

- *Ensure that the cost of new infrastructure required to serve a specific development is met by the developer.*

Officer response:

The subject site is connected to reticulated services, and any upgrades to such services to accommodate the development would be borne by the developer.

Clause 19.03-3S – Integrated water management

Objective

- *To sustainably manage water supply and demand, water resources, wastewater, drainage and stormwater through an integrated water management approach.*

Relevant strategies

- *Plan and coordinate integrated water management, bringing together stormwater, wastewater, drainage, water supply, water treatment and re-use, to:*
 - *Take into account the catchment context.*
 - *Protect downstream environments, waterways and bays.*
 - *Manage and use potable water efficiently.*
 - *Reduce pressure on Victoria's drinking water supplies.*
 - *Minimise drainage, water or wastewater infrastructure and operational costs.*
 - *Minimise flood risks.*
 - *Provide urban environments that are more resilient to the effects of climate change.*
- *Integrate water into the landscape to facilitate cooling, local habitat improvements and provision of attractive and enjoyable spaces for community use.*
- *Facilitate use of alternative water sources such as rainwater, stormwater, recycled water and run-off from irrigated farmland.*
- *Ensure that development protects and improves the health of water bodies including creeks, rivers, wetlands, estuaries and bays by:*
 - *Minimising stormwater quality and quantity related impacts.*
 - *Filtering sediment and waste from stormwater prior to discharge from a site.*
 - *Managing industrial and commercial toxicants in an appropriate way.*
 - *Requiring appropriate measures to mitigate litter, sediment and other discharges from construction sites.*
- *Manage stormwater quality and quantity through a mix of on-site measures and developer contributions at a scale that will provide greatest net community benefit.*
- *Provide for sewerage at the time of subdivision or ensure lots created by the subdivision are capable of adequately treating and retaining all domestic wastewater within the boundaries of each lot.*
- *Ensure land is set aside for water management infrastructure at the subdivision design stage.*
- *Minimise the potential impacts of water, sewerage and drainage assets on the environment.*
- *Protect significant water, sewerage and drainage assets from encroaching sensitive and incompatible uses.*
- *Protect areas with potential to recycle water for forestry, agriculture or other uses that can use treated effluent of an appropriate quality.*
- *Ensure that the use and development of land identifies and appropriately responds to potential environmental risks, and contributes to maintaining or improving the environmental quality of water and groundwater.*

Officer response:

As discussed above, the subject site is serviced by reticulated infrastructure, including drainage, and includes a drainage concept design. Were a permit to be granted, conditions would require flows from the site to be reduced to that of a single dwelling, and stormwater reuse measures to be applied across the site.

Zoning

Clause 32.08 – General Residential Zone

Purpose

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To encourage development that respects the neighbourhood character of the area.*
- *To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.*
- *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations*

Clause 32.08-4 – Construction or extension of a dwelling or residential building

An application to construct or extend a dwelling or residential building on a lot must provide a minimum garden area as set out in the following table:

Lot size	Minimum percentage of a lot set aside as garden area
<i>400 - 500 sqm</i>	<i>25%</i>
<i>Above 500 - 650 sqm</i>	<i>30%</i>
<i>Above 650 sqm</i>	<i>35%</i>

Officer response:

As per the Tribunal decision of *Clayton Gardens Pty Ltd v Monash CC (Red Dot) [2019] VCAT 1138 (31 July 2019)*, the calculation of garden area is to be considered in the context of the ‘planning unit’ of the application; rather than the measurement of individual lots comprising the planning unit. The Tribunal has also found that the garden area requirement must be met at the application stage and cannot be addressed through conditions.

Garden area is defined at Clause 73.01 of the Mansfield Planning Scheme as:

Any area on a lot with a minimum dimension of 1 metre that does not include:

- (a) a dwelling or residential building, except for:*
 - i. an eave, fascia or gutter that does not exceed a total width of 600mm;*
 - ii. a pergola;*

- iii. unroofed terraces, patios, decks, steps or landings less than 800mm in height;
- iv. a basement that does not project above ground level;
- v. any outbuilding that does not exceed a gross floor area of 10 square metres; and
- vi. domestic services normal to a dwelling or residential building;

(b) a driveway; or

(c) an area set aside for car parking.

The proposed development comprises 2 parcels with a total combined area of 1,414m². 35% of the site must therefore be provided as garden area.

The application plans state that the area provided is 36.4%, however the garden area plan includes areas that don't meet the above definition, as annotated below:

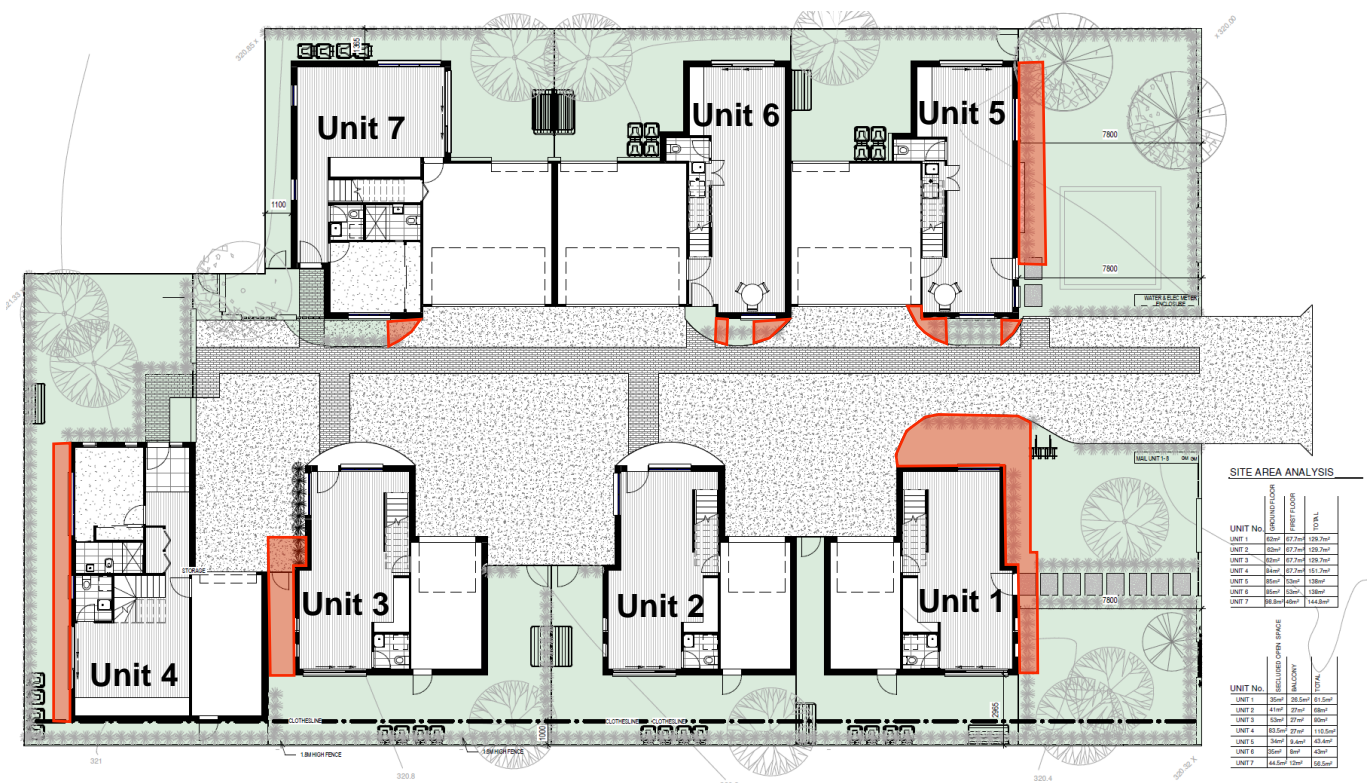


Figure 8: Garden area plan with areas in red that should be excluded from calculation

Of the non-compliant areas, the areas in front of the driveway do not have minimum dimension of 1 metre as the highlighted points. The larger highlighted areas adjacent units 1, 2, 3 and 5 have upper level balconies or rooflines, that do not come under the exemptions in the definition.

Using Objective Trapeze to scale these areas from the plans, the highlighted areas above have the following approximate area calculations:

- 21m² - Adjacent to Unit 1
- 9.8m² - Adjacent rear Unit 3
- 6.8m² - Rear Unit 4
- 9.5m² - Front of Unit 5
- ~4m² - Areas in front of dwellings 5-7

Total = 51.1m²

This would represent approximately 3.6% garden area. Assuming that the asserted 36.4% calculation on the plans is a correct depiction of the areas shown on the garden area plan, this would result in an area of approximately 32.8%, and thus would not meet the minimum garden area requirement and therefore cannot be approved in its current form.

Clause 32.08-6 Dwellings and residential buildings

For the construction and extension of two or more dwellings on a lot, dwellings on common property and residential buildings, the objectives, standards and decision guidelines of Clause 55.

Officer response:

An assessment against the relevant provisions of Clause 55 has been undertaken and is found at the end of this report. Significant variations to the Clause 55 objectives and standards are required and assessed therein.

Clause 32.08-13 Decision guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

General

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The purpose of this zone.*
- *The objectives set out in a schedule to this zone.*
- *Any other decision guidelines specified in a schedule to this zone.*
- *The impact of overshadowing on existing rooftop solar energy facilities on dwellings on adjoining lots in a General Residential Zone, Mixed Use Zone, Neighbourhood Residential Zone, Residential Growth Zone or Township Zone.*

Subdivision

- *The pattern of subdivision and its effect on the spacing of buildings.*
- *For subdivision of land for residential development, the objectives and standards of Clause 56.*

Dwellings and residential buildings

- *For the construction and extension of two or more dwellings on a lot, dwellings on common property and residential buildings, the objectives, standards and decision guidelines of Clause 55.*

Officer response:

For the reasons that are discussed further in this assessment, it is considered that the proposed development and subdivision is inconsistent with the Municipal Planning Strategy and the Planning Policy Framework in relation to urban design, building design and neighbourhood character. There are numerous non-compliances with the objectives and standards of Clause 55, which are discussed further in this report.

While all dwellings are double storey, there are no solar panels on the neighbouring dwellings, and as a result there will be no overshadowing of neighbouring rooftop solar energy facilities. The applicant has provided an overshadowing diagram which also confirms that the dwellings will not unreasonably overshadow the adjoining properties.

Overlays

The subject site is not covered by any overlays.

Particular Provisions

Clause 52.02 – Easements, restrictions and reserves

Purpose

- *To enable the removal and variation of an easement or restrictions to enable a use or development that complies with the planning scheme after the interests of affected people are considered.*

Decision guidelines

- *Before deciding on an application, in addition to the decision guidelines in clause 65, the responsible authority must consider the interests of affected people.*

Officer response:

The easement to be removed is E-1 on TP645469J and E-1 on LP22036. E-1 on LP22036 is set aside for drainage purposes and affects all lots on the plan. E-1 on TP645469J is specified as being in favour of Mansfield Shire Council. The Title Plan does not clearly indicate the purpose of this easement, however it appears to provide for drainage and vehicle connections. There is sufficient capacity in the development to cater for drainage through the common property if required, and there are no other parties benefiting from the easement that may be affected. As such, the easement removal is considered acceptable.

Clause 52.06 – Car parking**Purpose**

- *To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.*
- *To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.*
- *To support sustainable transport alternatives to the motor car.*
- *To promote the efficient use of car parking spaces through the consolidation of car parking facilities.*
- *To ensure that car parking does not adversely affect the amenity of the locality.*
- *To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.*

Clause 52.06-3 – Permit Requirement

A permit is required to:

- *Reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay.*

Clause 52.06-5 – Number of car parking spaces required.

<i>Use</i>	<i>Rate Column A</i>	<i>Rate Column B</i>	<i>Car Parking Measure Column C</i>
<i>Dwelling</i>	<i>1</i>	<i>1</i>	<i>To each one or two bedroom dwelling, plus</i>
	<i>2</i>	<i>2</i>	<i>To each three or more bedroom dwelling (with studies or studios that</i>

			<i>are separate rooms counted as a bedrooms) plus</i>
	1	0	<i>For visitors to every 5 dwellings for developments of 5 or more dwellings</i>

The development provides for 7 x 3 bedroom dwellings, therefore requiring 2 x car parking spaces per dwelling and 1 x visitor car parking space.

The submitted plans do not clearly delineate car parking spaces for dwellings 1-4, but it is understood that the intent is to provide a tandem car parking space to each single garage. The plans indicate that there will be car parking provided between units 2 and 3, however this is not clearly defined and it is therefore assumed that a reduction of visitor car parking is required.

Clause 52.06-8 – Requirement for a car parking plan

Plans must be prepared to the satisfaction of the responsible authority before any of the following occurs:

- *a new use commences; or*
- *the floor area or site area of an existing use is increased; or*
- *an existing use is increased by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use.*

The plans must show, as appropriate:

- *All car parking spaces that are proposed to be provided (whether on the land or on other land).*
- *Access lanes, driveways and associated works.*
- *Allocation of car parking spaces to different uses or tenancies, if applicable.*
- *Any landscaping and water sensitive urban design treatments.*
- *Finished levels, if required by the responsible authority.*
- *Any other matter specified in a schedule to the Parking Overlay.*

Plans must be provided to the responsible authority under Clause 52.06-8 wherever Clause 52.06 applies, whether or not a permit application is being made under Clause 52.06-3 or any other provision of the planning scheme.

Clause 52.06-9 – Design standards for car parking

Plans prepared in accordance with Clause 52.06-8 must meet the design standards of Clause 52.06-9, unless the responsible authority agrees otherwise.

Officer response:

The application documents provide minimal detail in relation to car parking and access, including no depiction of car parking spaces, limited swept turn paths, no dimensions of garages and no sizing of parking areas. Assessing as best as possible using Objective Trapeze to scale plans, the following matters are noted as being unsatisfactory when considered against this clause:

- a) Dwellings 1-4 do not provide car parking spaces that meet Design Standard 2 of Clause 52.06-9 in relation to size within the garage (which scale at 3m width and 5.5m length for dwellings 1-3 and 6m length for dwelling 4). These are not minor variations and call into question the functionality of these spaces. It is concerning that this variation is 'hidden' on the plans and only picked up due to questioning the size of areas shown.
- b) The tandem parking spaces for dwellings 1-4 appear to brush up against the garage door (despite the design standards at Clause 52.06-9 requiring a 500mm gap for tandem spaces), with cars protruding out to the accessway. Based on the layout shown, the design does not demonstrate how a vehicle can reverse out of the garage of dwelling 5 without conflicting with the dwelling 1 tandem car parking space, how a vehicle can reverse out of the garage of dwelling 7 without conflicting with the dwelling 3 tandem car parking space, or how vehicles in dwelling 4 can enter and exit the site in a forward direction
- c) Further to these tandem space issues, the application does not demonstrate that each car can enter and exit the site in a forward direction in an acceptable number of manoeuvres. Limited swept paths are shown for isolated car parking spaces, which appear to contain various points of traffic conflict. For a development of this nature, traffic conflicts can and must be avoided.
- d) Design Standard 1 of Clause 52.06-9 provides criteria for vehicle passing areas at the front of a development. It is accepted that this standard does not strictly apply, as while the development includes more than 10 car parks, it does not abut a road in a TRZ2 or TRZ3, and the access is approximately 42m long in the site. However, as a matter of general functionality in a 14 car space development, cars must be able to safely maneuver and pass. The design includes a wider area at the front of the site, but when scaled appears to be 5.4m x 5.4m, which is insufficient to provide safe passing options to drivers. It is accepted that the crossover extends beyond this area such that greater length on public land will be available, however this does not mitigate the broader inadequacy of the provided passing area.
- e) The design does not clearly delineate any car parking spaces on the site, nor demonstrate dedicated provision for visitor car parking spaces. It may be assumed that car parking spaces adjacent to dwellings 2 and 3 are for visitor car parking, however there is no material on the plans that shows this, shows how large the spaces are, or if they are functional. Assuming that a reduction of the visitor car parking requirement is sought, there is no justification for this.

For these reasons, the proposal is considered to be inconsistent with Clause 52.06.

Clause 53.01 – Public Open Space Contribution and Subdivision

A person who proposes to subdivide land must make a contribution to the council for public open space in an amount specified in the schedule to this clause (being a percentage of the land intended to be used for residential, industrial or commercial purposes, or a percentage of the site value of such land, or a combination of both). If no amount is specified, a contribution for public open space may still be required under section 18 of the Subdivision Act 1988.

Officer response:

The Schedule to Clause 53.01 does not stipulate a mandatory public open space contribution to apply to the subdivision of residential, commercial or industrial land. The face sheet of both lots indicates that a Public Open Space contribution has not previously been paid for the land. Therefore the relevant tests for the application of POS are found in Section 18 of the Subdivision Act 1988.

Section 18(1A) states (*inter alia*):

The Council may only make a public open space requirement if it considers that, as a result of the subdivision, there will be a need for more open space, having regard to—

- a) the existing and proposed use or development of the land;*
- b) any likelihood that existing open space will be more intensively used after than before the subdivision;*
- c) any existing or likely population density in the area of the subdivision and the effect of the subdivision on this;*
- d) whether there are existing places of public resort or recreation in the neighbourhood of the subdivision, and the adequacy of these;*
- e) how much of the land in the subdivision is likely to be used for places of resort and recreation for lot owners;*
- f) any policies of the Council concerning the provision of places of public resort and recreation.*

It is considered that the development and subdivision of the land would be likely to lead to an increased use of Public Open Space than what is currently found on the existing lot configuration. The only realistic development of the subject land is for residential purposes. There are limited public parks in the vicinity of the subject site, with existing open space generally consisting of sporting facilities and ovals.

Consequently, if a permit were to be issued, a condition will be imposed requiring a payment of up to 5% of the land value as POS in accordance with Section 18 of the *Subdivision Act 1988*, prior to the issue of a Statement of Compliance.

Clause 55 – Two or more dwellings on a lot and residential buildings

The application includes development of two (2) or more dwellings on a lot. An assessment against the relevant provisions of Clause 55 is appended to this report, including discussion of non-compliances.

Clause 56 – Residential subdivision

The application seeks to subdivide the land consistent with the sought development. In the event that a permit is to be granted, conditions would be required to tie the development to the subdivision, which negates the need for a separate assessment against Clause 56.

General Provisions

Clause 65.01 – Approval of an application or plan

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- *The matters set out in section 60 of the Act.*
- *Any significant effects the environment, including the contamination of land, may have on the use or development.*
- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*
- *The effect on the environment, human health and amenity of the area.*
- *The proximity of the land to any public land.*
- *Factors likely to cause or contribute to land degradation, salinity or reduce water quality.*
- *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*
- *The extent and character of native vegetation and the likelihood of its destruction.*
- *Whether native vegetation is to be or can be protected, planted or allowed to regenerate.*
- *The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.*
- *The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.*
- *The impact the use or development will have on the current and future development and operation of the transport system.*

Clause 65.02 – Approval of an application to subdivide land

Before deciding on an application to subdivide land, the responsible authority must also consider, as appropriate:

- *The suitability of the land for subdivision.*
- *The existing use and possible future development of the land and nearby land.*
- *The availability of subdivided land in the locality, and the need for the creation of further lots.*
- *The effect of development on the use or development of other land which has a common means of drainage.*
- *The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.*
- *The density of the proposed development.*
- *The area and dimensions of each lot in the subdivision.*
- *The layout of roads having regard to their function and relationship to existing roads.*
- *The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.*
- *The provision and location of reserves for public open space and other community facilities.*
- *The staging of the subdivision.*
- *The design and siting of buildings having regard to safety and the risk of spread of fire.*
- *The provision of off-street parking.*
- *The provision and location of common property.*
- *The functions of any body corporate.*
- *The availability and provision of utility services, including water, sewerage, drainage, electricity and gas.*
- *If the land is not sewered and no provision has been made for the land to be sewered, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each lot.*
- *Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.*
- *The impact the development will have on the current and future development and operation of the transport system.*

Officer response:

The proposed subdivision cannot be assessed without a plan of subdivision (incomplete application). As discussed throughout this report, the proposal is considered to reflect a poor and disorderly planning outcome, that does not advance relevant Planning Policy in the Mansfield Planning Scheme. The proposal is inconsistent with the prevailing character of the area, fails to meet a number of Clause 55 objectives and is an overdevelopment of the site. The bulky and homogenous nature of the development is in stark contrast to the existing development pattern of Elvins Street, and as such cannot be supported.

Response to objections

Concern: *Overlooking from development*

Response: The proposal meets the relevant overlooking provisions of ResCode. While there is no doubt that this is a legitimate concern of objectors, this is not a basis in which to refuse the application.

Concern: *Overshadowing from development*

Response: The submitted overshadowing diagrams show that the proposal complies with the relevant standards in ResCode. These diagrams are considered accurate and overshadowing is not a basis in which to refuse the development.

Concern: *Visual bulk of development*

Response: This concern is shared by Council officers for the reasons discussed in this assessment.

Concern: *Insufficient boundary setbacks*

Response: The proposal meets the relevant setback provisions of ResCode, with minor variations that are considered inconsequential to the merit of the proposal. A more appropriate design response that matched the proposed setbacks, would likely be considered acceptable.

Concern: *Blocking of views of Golf Course*

Response: As expressed in the Tribunal decision of *Healy v Surf Coast SC [2005]*, there is no legal right to a view. The views of the golf course are fortuitously gained over private land, are not protected by planning scheme controls, and while they form part of the amenity of nearby dwellings, cannot be expected to be preserved in their current form.

Concern: *Traffic impacts*

Response: While the development will increase traffic along Elvins Street, Elvins Street is a sealed, 2-way road that can reasonably accommodate the traffic from an extra 6 dwellings.

Concern: *Car parking for residents and visitors*

Response: Officers share this concern as it relates to the practicality of car parking spaces provided. However it is noted that the actual number of spaces is regulated by the Planning Scheme, and if the right number and size of spaces is provided, Council cannot require more than that to be provided.

Concern: *Noise impacts*

Response: The proposal is for a residential development in a residential zone. Noise emissions would be commensurate with residential activity in residential zone.

Concern: *Neighbourhood character*

Response: For the reasons expressed throughout this report, this concern is shared by officers and forms a basis of refusal for the application.

Concern: *Insufficient infrastructure to service development (no kerb, channel, footpaths, drainage etc)*

Response: The site is serviced by all reticulated infrastructure, which appears to have sufficient capacity to accommodate the development. Permit conditions could ensure that the development is appropriately accommodated.

Concern: *Inaccurate calculations in plans*

Response: This concern is held by Council officers, with a number of inaccuracies discovered in the plans. For the application to be supported, more accurate information would be required to be provided.

Concern: *Insufficient private open space to dwellings*

Response: As assessed in this report, the proposal generally complies with private open space provision for all but 1 dwelling (dwelling 6). In relation to this dwelling, it is considered that the underlying objective of this provision is met. Provision of private open space is not considered to be a reason to refuse this application.

Concern: *Removal of carriageway easement*

Response: Review of the title documents do not show a carriageway easement present; and in the case of the northern lot, the easement benefits only the Mansfield Shire Council and not the broader public. This is not considered a basis in which to refuse the proposal.

Concern: *Houses not being affordable*

Response: This has been commented on in the above report; however affordability or unaffordability does not ultimately affect the merit of the application that Council is required to assess.

Concern: *Devaluation of property*

Response: As held by the Victorian Civil and Administrative Tribunal, property values are not a relevant planning consideration.

Conclusions

This application proposes the development of land for seven (7) dwellings, subdivision of land into seven (7) lots, removal of a carriageway easement and reduction of visitor car parking requirements at the site known as 23 Elvins Street, Mansfield; being Lot 1 TP645469J and Lot 1 LP22036 Parish of Mansfield. Having assessed the application against the relevant clauses of the Mansfield Planning Scheme, it is considered that the proposal represents an overdevelopment of the site, that does not accord with the existing or preferred neighbourhood character of the area, dominates the site and surrounds due to excessive visual bulk, provides poor amenity outcomes for existing and future residents and fails to meet the minimum garden area requirement.

The application is therefore recommended for refusal.

Officer Recommendation

NOTICE OF DECISION TO REFUSE TO GRANT A PLANNING PERMIT

That Council, having caused notice of the application to be given under Section 52 of the *Planning and Environment Act 1987*, and having considered all matters under Section 60 of the *Planning and Environment Act 1987*, determines to **Refuse to Grant a Permit** for Planning Application P153/22 for the Development of land for seven (7) dwellings, subdivision of land into seven (7) lots, removal of easements and a reduction of car parking requirements on **Lot 1 TP645469J and Lot 1 LP22036 Parish of Mansfield**, commonly addressed as 23 Elvins Street, Mansfield, for the following reasons:

1. The proposal for a seven (7) lot subdivision is not supported by any plan of subdivision and therefore assessment against Clause 56 is not able to be undertaken.
2. The proposal fails to demonstrate compliance with the minimum garden area provisions at Clause 32.08-4 of the Scheme, as the submitted garden area plan includes a number of areas that do not meet the definition of garden area in the Scheme. The cumulative sum of these areas is greater than the purported extent of compliance with the garden area requirement.
3. The proposal is inconsistent with the Planning Policy Framework and Municipal Planning Strategy in relation to urban design and neighbourhood character, specifically Clauses 02.03-5, 15.01-1S, 15.01-2S and 15.01-5S, which aim to ensure that infill development respects the neighbourhood character of an area and that the form and scale of new development enhances the public realm. The proposal results in dwellings presenting unacceptable bulk and visual dominance to the streetscape and abutting properties, poor articulation that increases the visual bulk to Elvins Street, poor amenity outcomes for future residents and poor integration with the existing streetscape.
4. The proposal is inconsistent with the purpose and decision guidelines of the General Residential Zone, which seeks to encourage development that respects the neighbourhood character of the area.
5. The proposal fails to meet the standards and objectives of the following Clause 55 requirements:
 - a. B1 – Neighbourhood character – The proposed dwellings do not respect the existing or preferred neighbourhood character of the area, by:

- i. Presenting to the streetscape with excessive visual bulk due to prominent upper levels, reliance on protruding balconies for private open space and clunky roof forms and materials that are not found in the surrounding area;
 - ii. Providing minimal articulation and protrusions that increases visual bulk where present;
 - iii. Clustering built form (particularly on the southern elevation), with minimal separation at upper levels that present as a solid mass along the site; and
 - iv. Failing to soften the dwellings in the surrounding streetscape by use of greater setbacks, articulation or landscaping.
- b. B10 – Energy efficiency objective – The dwelling form and layout prevents north facing light from meaningfully penetrating habitable rooms of dwellings 1, 2, 3, 4 (at ground level) and dwelling 7 across the development, due to poor configuration, use of cantilevered balconies that shade main habitable rooms for dwellings 1-4, and overreliance across the development upon south-facing orientations for main rooms.
- c. B12 – Safety objective – The proposed dwelling layout results in obscured and isolated entry points to dwellings 2-4, by orientating the entrance perpendicular to the main street frontage, overhanging these areas with balconies and placing car parking spaces in locations that would prevent passive surveillance of entry points.
- d. B15 – Parking location – The proposal fails to provide the specified setbacks from accessways to habitable room windows, with a design/layout that will maximise impacts from vehicles rather than minimising or avoiding impacts of vehicle noise.
- e. B26 – Dwelling entry – A number of dwellings provide access points perpendicular to the street, located under cantilevered balconies and obscured by car parking areas; such that there is no readily discernible point of entrance a number of dwellings. No shelter, sense of personal space or transitional space around the entry is provided. The majority of dwellings comprise the same base design and form, such that no sense of identity is presented.
- f. B31 – Design detail – The dwellings fail to provide detailed design elements consummate with the existing or preferred neighbourhood character of the area, by:
 - i. The minimal articulation to the streetscape, comprising almost exclusively of upper level forward protrusions and hard edges;

- ii. The 'cookie cutter' typology of the dwelling designs, comprising almost entirely uniform floor plans and design elements that are inconsistent with the design elements of the broader area;
 - iii. Clunky roof forms that visually detract from the development and create a confusing visual presentation with no consistent rhythm or form;
 - iv. The dominating extent of built form, particularly along the southern elevation (and northern internal elevation) which presents the development as a large singular form from the public realm and abutting dwellings; and
 - v. The garage doors on the northern dwellings (5-7) comprise a large part of the visual presentation of these dwellings, resulting in a bland and bulky presentation akin to a rear laneway access.
6. The cumulative impact of variations to Clause 55 standards reflects that the proposal is an overdevelopment of the site that compromises the amenity of future residents to accommodate the development.
7. The application fails to provide car parking in accordance with Clause 52.06 of the Mansfield Planning Scheme, as:
- a) Dwellings 1-4 do not provide car parking spaces that meet Design Standard 2 of Clause 52.06-9 in relation to size within the garage, and tandem parking dimensions.
 - b) The design does not demonstrate that each car can enter and exit the site in a forward direction in an acceptable number of manoeuvres
 - c) The design does not demonstrate how vehicles in dwelling 4 can enter and exit the site in a forward direction
 - d) The design does not demonstrate how a vehicle can reverse out of the garage of dwelling 5 without conflicting with the dwelling 1 tandem car parking space.
 - e) The design does not demonstrate how a vehicle can reverse out of the garage of dwelling 7 without conflicting with the dwelling 3 tandem car parking space.
 - f) The design does not allow for a safe passing area for vehicles entering and exiting the site
 - g) The design does not clearly delineate provision for visitor car parking spaces and does not justify a reduction of this space.

Attachment: Clause 55 Assessment

The head clause of Clause 55 provides that:

A development:

- *Must meet all of the objectives of this clause that apply to the application.*
- *Should meet all of the standards of this clause that apply to the application.*

If a development meets standard B6, B7, B8, B17, B18, B19, B20, B21, B22, B27, B28, B30 or B32, it is deemed to meet the objective for that standard.

Where standard B6, B7, B8, B17, B18, B19, B20, B21, B22, B27, B28, B30 or B32 is met, the decision guidelines for that standard do not apply to the application.

55.02 NEIGHBOURHOOD CHARACTER AND INFRASTRUCTURE				
55.02-1 Neighbourhood Character	Met?	Standard B1	Met?	Comments
<p><i>To ensure that the design respects the existing neighbourhood character or contributes to neighbourhood character.</i></p> <p><i>To ensure that development responds to the features of the site and the surrounding area</i></p>	No	<i>The design response must be appropriate to the neighbourhood and the site.</i>	No	<p>The Mansfield Planning Scheme does not specify a preferred neighbourhood character for this area (although it is noted that the site is proximate to the Mansfield Town Centre, where redevelopment of land is generally supported).</p> <p>The typology of the area generally comprises single storey dwellings of weatherboard and brick construction/cladding. Sizeable native street trees are found in front of most dwellings, from the median strip and spread on private property. Dwellings have varied setbacks between 5-10 metres, however the dwelling type and treed character ensures that such structures are nestled into the streetscape. Elvins Street in this area provides a sense of a 'leafy' quiet residential street with high amenity value. There are limited front fences, which are usually low picket forms that allow passive surveillance and a sense</p>
		<i>The proposed design must respect the existing or preferred neighbourhood character and respond to the features of the site</i>	No	

			<p>of openness from the public realm. Elvins Street is a 2 way sealed road, with kerb/channel on the western side and open table drain to the eastern side. On-street car parking is available on the western side of the street but is rarely utilised. There is virtually no infill development surrounding the subject site.</p> <p>The proposed dwellings are a significant variation from the existing character as described above. While the site is considered suitable for re-development of medium density housing (being a large serviced block in the general residential zone), the form that these dwellings take in the streetscape is inconsistent with the existing or future character of the area.</p> <p>Central to this issue is the presentation of Dwellings 1 and 5 to Elvins Street. The dwellings utilise a double storey form with upper level protrusions, increasing their visual bulk and dominance to the street. The length of built form across the site at the front walls presents a highly urbanised form, with no effective building separations from Elvins Street. The common driveway presents a 'gun barrel' hardstand presentation, with the eye drawn to upper levels by protruding decks over the accessways. The combination of gable and skillion roofing at a number of angles appears clunky and reflects an overall poor design outcome.</p> <p>Further, dwellings 1-4 are clustered in close proximity along the southern elevation, in what is effectively a uniform setback that presents to the south, east and west as being effectively 1 continuous built form. The</p>
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				effective visual presentation from this is such that it appears to be a much bulkier and larger development than anything else found in the broader area. The lack of development to the rear (golf course) further exacerbates the visual bulk of the development as it is set against open space.
55.02-2 Residential Policy	Met?	Standard B3	Met?	Comments
<p><i>To ensure that residential development is provided in accordance with any policy for housing in the Municipal Planning Strategy and the Planning Policy Framework.</i></p> <p><i>To support medium densities in areas where development can take advantage of public transport and community infrastructure and services</i></p>	Yes	<p><i>An application must be accompanied by a written statement to the satisfaction of the responsible authority that describes how the development is consistent with any relevant policy for housing in the Municipal Planning Strategy and the Planning Policy Framework.</i></p>	Yes	The requisite statement has been provided with the application.
55.02-3 Dwelling Diversity	Met?	Standard B3	Met?	Comments
<p><i>To encourage a range of dwelling sizes and types in developments of ten or more dwellings</i></p>	N/A	<p><i>Developments of ten or more dwellings should provide a range of dwelling sizes and types, including:</i></p> <ul style="list-style-type: none"> • <i>Dwellings with a different number of bedrooms.</i> • <i>At least one dwelling that contains a kitchen, bath or shower, and a toilet and wash basin at ground floor level.</i> 	N/A	The development is for seven (7) dwellings and as such, this standard is not required to be met.
55.02-4 Infrastructure	Met?	Standard B4	Met?	Comments

<p>To ensure development is provided with appropriate utility services and infrastructure.</p> <p>To ensure development does not unreasonably overload the capacity of utility services and infrastructure.</p>	Yes	<p>Development should be connected to reticulated services, including reticulated sewerage, drainage, electricity and gas, if available.</p>	Yes	<p>All reticulated services are available to the land and will be connected per the requirements of the relevant authority.</p>
		<p>Development should not unreasonably exceed the capacity of utility services and infrastructure, including reticulated services and roads.</p>	Yes	<p>The development will not unreasonably impact service capacity. The applicant would be required to install appropriate drainage infrastructure to slow flows from the development to that of a single dwelling.</p>
		<p>In areas where utility services or infrastructure have little or no spare capacity, developments should provide for the upgrading of or mitigation of the impact on services or infrastructure.</p>	Yes	<p>As above.</p>
<p>55.02-5 Integration With The Street</p>	<p>Met?</p>	<p>Standard B5</p>	<p>Met?</p>	<p>Comments</p>
<p>To integrate the layout of development with the street</p>	Yes	<p>Developments should provide adequate vehicle and pedestrian links that maintain or enhance local accessibility.</p>	Yes	<p>Each dwelling is provided with appropriate vehicular and pedestrian access.</p>
		<p>Development should be oriented to front existing and proposed streets</p>	Yes	<p>Dwellings 1 and 5 are orientated towards Elvins Street, while other dwellings are orientated to the internal accessway.</p>
		<p>High fencing in front of dwellings should be avoided if practicable</p>	Yes	<p>No front fencing proposed.</p>
		<p>Development next to existing public open space should be laid out to complement the open space.</p>	Yes	<p>There is no public space abutting the site, however noting that dwelling 4 (and to a lesser extent, dwelling 7) have balcony facings towards the golf course to the west.</p>

55.03 SITE LAYOUT AND BUILDING MASSING				
<p>55.03-1 Street Setback</p>	<p>Met?</p>	<p>Standard B6</p>	<p>Met?</p>	<p>Comments</p>
<p>To ensure that the setbacks of</p>	Yes	<p>Walls of buildings should be set back from streets the distance specified</p>	No	<p>The submitted plans show an upper level setback of 7.045m to</p>

<p><i>buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site</i></p>	<p><i>below:</i></p> <p><i>There is an existing building on both the abutting allotments facing the same street, and the site is not on a corner.</i></p> <ul style="list-style-type: none"> • <i>The average distance of the setbacks of the front walls of the existing buildings on the abutting allotments facing the front street or 9 metres, whichever is the lesser.</i> <p><i>There is an existing building on one abutting allotment facing the same street and no existing building on the other abutting allotment facing the same street, and the site is not on a corner:</i></p> <ul style="list-style-type: none"> ▪ <i>The same distance as the setback of the front wall of the existing building on the abutting allotment facing the front street or 9 metres, whichever is the lesser.</i> <p><i>There is no existing building on either of the abutting allotments facing the same street, and the site is not on a corner.</i></p> <ul style="list-style-type: none"> • <i>6 metres for streets in a Road Zone, Category 1, and 4 metres for other streets.</i> <p><i>The site is on a corner.</i></p> <ul style="list-style-type: none"> • <i>Min front setback if there is a building on the abutting allotment facing the front street, the same distance as the setback of the front wall of the existing building on the abutting allotment facing the front street or 9 metres, whichever is the lesser.</i> ▶ • <i>Min front setback if there is no building on the abutting allotment facing the front street, 6 metres for streets in a Road Zone, Category 1, and 4 metres for other streets.</i> • <i>Front walls of new development</i> 	<p>dwelling 5. Based on the applicants' submission, the standard would be 7.1 metres (based on average of 2 abutting dwellings at 5.525m and 8.835m)</p> <p>The variation is considered minor, and while the development is not considered consistent with the character of the area, the variation of 55mm on the front setback is immaterial to this assessment.</p>
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		<p><i>Porches, pergolas and verandahs that are < 3.6m high and eaves may encroach ≤ 2.5m into the setbacks of this standard</i></p>	N/A	N/A
55.03-2 Building Height	Met?	Standard B7	Met?	Comments
<i>To ensure that the height of buildings respects the existing or preferred neighbourhood character</i>	Yes	<i>The maximum building height should not exceed 9 metres, unless the slope of the natural ground level at any cross section wider than 8 metres of the site of the building is 2.5 degrees or more, in which case the maximum building height should not exceed 10 metres.</i>	Yes	Maximum development height = 8.13m (dwelling 1 south elevation)
55.03-3 Site Coverage	Met?	Standard B8	Met?	Comments
<i>To ensure that the site coverage respects the existing or preferred neighbourhood character and responds to the features of the site</i>	Yes	<i>The site area covered by buildings should not exceed 60 per cent</i>	Yes	Building site coverage is less than 60%
55.03-4 Permeability	Met?	Standard B9	Met?	Comments

<p><i>To reduce the impact of increased stormwater run-off on the drainage system</i></p> <p><i>To facilitate on-site stormwater infiltration</i></p>	Yes	<p><i>The site area covered by the pervious surfaces should be at least 20% of the site</i></p>	Yes	<p>Permeable area is greater than 20%</p>
		<p><i>The stormwater management system should be designed to:</i></p> <ul style="list-style-type: none"> <i>Meet the current best practice performance objectives for stormwater quality as contained in the Urban Stormwater - Best Practice Environmental Management Guidelines (Victorian Stormwater Committee, 1999).</i> <i>Contribute to cooling, improving local habitat and providing attractive and enjoyable spaces.</i> 	Yes	<p>The proposal can meet relevant requirements, which would be required to be constructed through permit conditions.</p>
<p>55.03-5 Energy Efficiency</p>	Met?	<p>Standard B10</p>	Met?	<p>Comments</p>
<p><i>To achieve and protect energy efficient dwellings and residential buildings</i></p> <p><i>To ensure the orientation and layout of development reduce fossil fuel energy use and make appropriate use of daylight and solar energy</i></p>	No	<p><i>Buildings should be:</i></p> <ul style="list-style-type: none"> <i>Orientated to make appropriate use of solar energy</i> <i>Sited and designed to ensure that the energy efficiency of existing dwellings on adjoining lots is not unreasonably reduced.</i> <i>Sited and designed to ensure that the performance of existing rooftop solar energy systems on dwellings on adjoining lots in a General Residential Zone, Neighbourhood Residential Zone or Township Zone are not unreasonably reduced. The existing rooftop solar energy system must exist at the date the application is lodged.</i> 	No	<p>Dwellings 5, 6 and 7 (and particularly 7) rely heavily on south facing habitable rooms, which are provided poor solar access and energy efficiency. Dwelling 7 is provided 2 small windows on the northern elevation, and open space primarily on the southern elevation, representing a poor solar outcome.</p> <p>Dwelling 1-4 are not afforded any north facing light into main habitable rooms, primarily due to cantilevered balconies on the northern elevation that shade solar access to the ground floor living spaces.</p> <p>There are no abutting solar energy systems that will be unreasonably affected by the development.</p>
		<p><i>Living areas and private open space should be located on the north side of the development if practicable</i></p>		No

		<i>Developments should be designed so that solar access to north-facing windows is maximised</i>	No	As above.
55.03-6 Open Space	Met?	Standard B11	Met?	Comments
<i>To integrate the layout of the development with any public and communal open space provided in or adjacent to the development</i>	N/A	<p><i>If any public or communal open space is provided on site, it should:</i></p> <ul style="list-style-type: none"> • <i>Be substantially fronted by dwellings, where appropriate</i> • <i>Provide outlook for as many dwellings as practicable</i> • <i>Be designed to protect any natural features on the site</i> • <i>Be accessible and useable</i> 	N/A	No public or communal open space is proposed.
55.03-7 Safety	Met?	Standard B12	Met?	Comments
<i>To ensure the layout of development provides for the safety and security of residents and property</i>	No	<i>Entrances to dwellings should not be obscured or isolated from the street and internal accessways</i>	No	Dwellings 2, 3 and 4 are obscured from the street by overhanging balconies and tandem car parking spaces, creating an isolated and unsafe environment for visitors to the site
		<i>Planting which creates unsafe spaces along streets and accessways should be avoided</i>	Yes	No such plantings proposed.
		<i>Developments should be designed to provided good lighting, visibility and surveillance of car parks and internal accessways</i>	Yes	Permit conditions would provide for good lighting through the development. While there are broader amenity concerns from the balcony form, in the current design users of balconies would see over most common areas, acting as a partial deterrent to negative activity.
		<i>Private spaces within developments should be protected from inappropriate use as public thoroughfares</i>	Yes	The development does not present opportunity for inappropriate use as a public thoroughfare.

55.03-8 Landscaping	Met?	Standard B13	Met?	Comments
<p><i>To encourage development that respects the landscape character of the neighbourhood</i></p> <p><i>To encourage development that maintains and enhances habitat for plants and animals in locations of habitat importance</i></p> <p><i>To provide appropriate landscaping</i></p> <p><i>To encourage the retention of mature vegetation on the site</i></p>	Yes	<p><i>The landscape layout and design should:</i></p> <ul style="list-style-type: none"> • <i>Protect any predominant landscape features of the neighbourhood</i> • <i>Take into account the soil type and drainage patterns of the site</i> • <i>Allow for intended vegetation growth and structural protection of buildings</i> • <i>In locations of habitat importance, maintain existing habitat and provide for new habitat for plants and animals</i> • <i>Provide a safe, attractive and functional environment for residents</i> <p><i>Development should provide for the retention or planting of trees, where these are part of the character of the neighbourhood</i></p> <p><i>Development should provide for the replacement of any significant trees that have been removed in the 12 months prior to the application being made</i></p> <p><i>The landscape design should specify landscape themes, vegetation (location and species), paving and lighting.</i></p>	Yes	Sufficient area is provided for landscaping for each dwelling. A detailed landscaping plan would be required as a condition of any permit issued.
55.03-9 Access	Met?	Standard B14	Met?	Comments
	Yes	<p><i>The width of accessways or car spaces should not exceed:</i></p> <ul style="list-style-type: none"> • <i>33% of the street frontage, or</i> • <i>if the width of the street frontage is less than 20m, 40% of the street frontage</i> 	Yes	Complies

<p><i>To ensure the number and design of vehicle crossovers respects the neighbourhood character</i></p>		<p><i>No more than one single-width crossover should be provided for each dwelling fronting a street</i></p>	Yes	Complies.
		<p><i>The location of crossovers should maximize the retention of on-street car parking spaces</i></p>	Yes	The crossover locations have no unreasonable impact on on-street car parking.
		<p><i>The number of access point to a road in a Transport Zone 2 should be minimised</i></p>	N/A	No abuttals to TRZ2
		<p><i>Developments must provide access for service, emergency and delivery vehicles</i></p>	Yes	Access is available to service, emergency and delivery vehicles, however these vehicles will likely be unable to turn around easily if entering the site.
<p>55.03-10 Parking Location</p>	<p>Met?</p>	<p>Standard B15</p>	<p>Met?</p>	<p>Comments</p>
<p><i>To provide convenient parking for resident and visitor vehicles</i></p> <p><i>To protect residents from vehicular noise within developments</i></p>	<p>No</p>	<p><i>Car parking facilities should:</i></p> <ul style="list-style-type: none"> • <i>Be reasonably close and convenient to dwellings and residential buildings</i> • <i>Be secure</i> • <i>Be well ventilated if enclosed</i> 	Yes	Complies. Each dwelling has an enclosed single or double garage for safe, secure and convenient car parking. While there are separate concerns regarding the compliance of spaces, the actual provision of safe spaces is not doubted.
		<p><i>Shared accessways or car parks of other dwellings and residential buildings should be located at least 1.5m from the windows of habitable rooms. This setback may be reduced to 1m where there is a fence at least 1.5m high or where window sills are at least 1.4m above the accessway</i></p>	No	Ground floor habitable rooms are setback less than 1.5 metres with sill heights less than 1.4 metres. The form of the accessway and dwelling siting provides minimal relief from vehicular noise, particularly for dwelling 7 where the master bedroom is adjacent to the accessway.

55.04 AMENITY IMPACTS				
55.04-1 Side And Rear Setback	Met?	Standard B17	Met?	Comments
<i>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</i>	Yes	<i>A new building not on or within 200mm of a boundary should be set back from side or rear boundaries 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.</i>	No	Does not comply in relation to dwelling 4. While the development is considered unreasonably bulky, this is not materially affected by this variation, which faces the golf course and therefore does not result in amenity impacts to existing dwellings
		<i>Sunblinds, verandahs, porches, eaves, fascias, gutters, masonry chimneys, flues, pipes, domestic fuel or water tanks, and heating or cooling equipment or other services may encroach not more than 0.5m into the setbacks of this standard</i>	Yes	Complies.
		<i>Landings having an area of not more than 2sqm and less than 1m high, stairways, ramps, pergolas, shade sails and carports may encroach into the setbacks of this standard</i>	Yes	No landings encroach within the required side and rear setbacks.
55.04-2 Wall On Boundaries	Met?	Standard B18	Met?	Comments
<i>To ensure that the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings</i>	Yes	<i>A new wall constructed on or within 200mm of a side or rear boundary of a lot or a carport constructed on or within 1 metre of a side or rear boundary of a lot should not abut the boundary for a length of more than:</i> <ul style="list-style-type: none"> • <i>10 metres plus 25 per cent of the remaining length of the boundary of an adjoining lot, or</i> • <i>Where there are existing or simultaneously constructed walls or carports abutting the boundary on an abutting lot, the length of the existing or simultaneously constructed walls or carports, whichever is the greater.</i> 	Yes	Complies – No walls on existing boundaries.

		<i>A new wall or carport may fully abut a side or rear boundary where slope and retaining walls or fences would result in the effective height of the wall or carport being less than 2 metres on the abutting property boundary.</i>	N/A	Not applicable to this development.
		<i>The height of a new wall constructed on or within 200mm of a side or rear boundary or a carport constructed on or within 1 metre of a side or rear boundary should not exceed an average of 3.2 metres with no part higher than 3.6 metres unless abutting a higher existing or simultaneously constructed wall.</i>	N/A	Not applicable to this development.
55.04-3 Daylight To Existing Windows	Met?	Standard B19	Met?	Comments
<i>To allow adequate daylight into existing habitable room windows</i>	Yes	<i>Buildings opposite an existing habitable room window should provide for a light court to the existing window that has a minimum area of 3sqm and minimum dimensions of 1m clear to the sky. The calculation of the area may include land on the abutting lot</i>	Yes	All existing habitable room windows will have access to the requisite light court.
		<i>Walls or carports more than 3m in height opposite an existing habitable room window should be set back from the window at least 50% of the height of the new wall if the wall is within a 55° arc from the centre of the existing window. The arc may be swung to within 35° of the plane of the wall containing the existing window</i> <i>Where the existing window is above ground floor level, the wall height is measured from the floor level of the room containing the window</i> <i>Refer to Diagram B2</i>	Yes	Complies.

55.04-4 North Facing Windows	Met?	Standard B20	Met?	Comments
<i>To allow adequate solar access to existing north-facing habitable room windows</i>	Yes	<p><i>If a north-facing habitable window of an existing dwelling is within 3m of a boundary on an abutting lot, a building should be setback from the boundary 1m, plus 0.6m for every metre of height over 3.6m up to 6.9m, plus 1m for every metre of height over 6.9m, for a distance of 3m from the edge of each side of the window.</i></p> <p><i>A north-facing window is a window with an axis perpendicular to its surface oriented north 20 degrees west to north 30 degrees east.</i></p> <p><i>Refer to Diagram B3</i></p>	Yes	The proposal appears to comply in regard to units 1 and 2, however there is insufficient detail shown in relation to the windows of 25 Elvins Street to determine which windows are habitable rooms.
55.04-5 Overshadow Open Space	Met?	Standard B21	Met?	Comments
<i>To ensure buildings do not significantly overshadow existing secluded private open space</i>	Yes	<i>Where sunlight to secluded private open space of an existing dwelling is reduced, at least 75%, or 40sqm with minimum dimension of 3m, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9am and 3pm on 22 September</i>	Yes	The development complies with the Standard for all existing dwellings, as per the overshadowing diagram submitted with the application.
		<i>If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced</i>	N/A	Not applicable.
55.04-6 Overlooking	Met?	Standard B22	Met?	Comments
<i>To limit views into existing secluded private open space and habitable room windows</i>	Yes	<i>A habitable room window, balcony, terrace, deck or patio should be located and designed to avoid direct views into the secluded private open space of an existing dwelling within a horizontal distance of 9m (measured at ground level) of the window, balcony, terrace, deck</i>	Yes	Dwellings 1-4 are screened at 1.7m height on upper level habitable rooms, with no overlooking potential at ground floor. Dwelling 7 appears to have a sill height of 1.7m, however this is not annotated and permit conditions would require this. Dwellings 5 and 6 appear to

		<p><i>or patio. Views should be measured within a 45° angle from the plane of the window or perimeter of the balcony, terrace, deck or patio, and from a height of 1.7m above the floor level</i></p>		<p>overlook into the SPOS of 21 Elvins Street. Conditions could ensure this is achieved if a permit was granted.</p>
		<p><i>A habitable room window, balcony, terrace, deck or patio with a direct view into a habitable room window of an existing dwelling within a horizontal distance of 9m (measured at ground level) of the window, balcony, terrace, deck or patio should be either:</i></p> <ul style="list-style-type: none"> <i>• offset a minimum of 1.5m from the edge of one window to the edge of the other</i> <i>• have sill heights of at least 1.7m above floor level</i> <i>• have fixed, obscure glazing in any part of the window below 1.7m above floor level</i> <i>• have permanently fixed external screens to at least 1.7m above floor level and be no more than 25% transparent</i> 	Yes	As above.
		<p><i>Obscure glazing in any part of the window below 1.7m above floor level may be openable provided that there are no direct views as specified in this standard</i></p>	Yes	As above.
		<p><i>Screens used to obscure a view should be:</i></p> <ul style="list-style-type: none"> <i>• perforated panels or trellis with a maximum of 25% openings or solid translucent panels</i> <i>• permanent, fixed and durable</i> <i>• designed and coloured to blend with the development</i> 	Yes	As above.
55.04-7 Internal Views	Met?	Standard B23	Met?	Comments
<i>To limit views into the secluded private open space and habitable room windows of dwellings and</i>	N/A	<i>Windows and balconies should be designed to prevent overlooking of more than 50% of the secluded private open space of a lower-level dwelling or residential building</i>	N/A	In a strict application of the control, this is met as there are no dwellings 'directly below and within the same development'. However, it is noted that there is internal overlooking created between the balconies of

<i>residential buildings within a development</i>		<i>directly below and within the same development</i>		dwelling 2 and 6, and 3 and 7 across the common property.
55.04-8 Noise Impacts Objective	Met?	Standard B24	Met?	Comments
<i>To contain noise sources in developments that may affect existing dwellings</i>	Yes	<i>Noise sources, such as mechanical plant, should not be located near boundaries of immediately adjacent existing dwellings</i>	Yes	Standard domestic services such as air conditioners, and hot water tanks are not expected to emit noise that would cause nuisance to adjacent dwellings.
<i>To protect residents from external noise</i>		<i>Noise sensitive rooms and secluded private open spaces of new dwellings and residential buildings should take account of noise sources on immediately adjacent properties</i>	Yes	The site is located in a typical residential area with typical noise sources and emissions.
		<i>Dwellings and residential buildings close to busy roads, railway lines or industry should be designed to limit noise levels in habitable rooms</i>	Yes	The subject land is not proximate to industry, busy roads or railway lines that would have an unreasonable effect on future residents.

55.05 ON-SITE AMENITY AND FACILITIES				
55.05-1 Accessibility	Met?	Standard B25	Met?	Comments
<i>To encourage the consideration of the needs of people with limited mobility in the design of developments</i>	Yes	<i>The dwelling entries of the ground floor of dwellings and residential buildings should be accessible or able to be easily made accessible to people with limited mobility.</i>	Yes	The dwellings are accessible at ground floor to persons with limited mobility, however it is noted that 5 of the 7 dwellings require occupants to navigate stairs as all bedrooms are upstairs and not readily useable for persons with limited mobility.
55.05-2 Dwelling Entry	Met?	Standard B26	Met?	Comments
<i>To provide each dwelling or residential building with its own sense of identity</i>	No	<i>Entries to dwellings and residential buildings should:</i> <ul style="list-style-type: none"> • <i>be visible and easily identifiable from streets and other public areas</i> • <i>provide shelter, a sense of personal address and a transitional space around the entry</i> 	No	Internal dwellings provide access points perpendicular to the street that are obscured by cars and other features of the site; such that there is no readily discernible point of entrance to the dwellings. No shelter, sense of personal space or transitional space around the entry is provided (to the extent that the cantilevered balcony is said to

				provide this, that is considered a poor outcome). The ‘cookie cutter’ nature of the dwellings provides no discernible sense of identity for each dwelling.
55.05-3 Daylight To New Windows	Met?	Standard B27	Met?	Comments
<i>To allow adequate daylight into new habitable room windows</i>	Yes	<p><i>A window in a habitable room should be located to face:</i></p> <ul style="list-style-type: none"> <i>an outdoor space or a light court with a minimum area of 3sqm and minimum dimension of 1m clear to the sky, not including land on an abutting lot, or</i> <i>a verandah provided it is open for at least one third its perimeter, or</i> <i>a carport provided it has two or more open sides and is open for at least one third of its perimeter</i> 	Yes	All new habitable room windows are provided with the requisite light courts.
55.05-4 Private Open Space	Met?	Standard B28	Met?	Comments
<i>To provide adequate private open space for the reasonable recreation and service needs of residents</i>	Yes	<p><i>A dwelling or residential building should have private open space:</i></p> <ul style="list-style-type: none"> <i>an area of 40sqm, with one part secluded at the side or rear with a min area of 25sqm, a min dimension of 3m and convenient access from a living room, or</i> <i>a balcony of 8sqm with a min width of 1.6m and convenient access from a living room, or</i> <i>a roof-top area of 10sqm with a min width of 2m and convenient access from a living room</i> 	No	<p>The plans do not clearly show what areas are relied upon to meet SPOS/POS requirements for each dwelling.</p> <p>Each dwelling is therefore assessed as follows:</p> <ul style="list-style-type: none"> Dwelling 1 – complies (balcony) Dwelling 2 – complies (balcony) Dwelling 3 – complies (balcony) Dwelling 4 – complies (balcony) Dwelling 5 – complies (25m² SPOS and 40m² POS. It is arguable whether the SPOS is convenient to the living room however this could be addressed by condition. Dwelling 6 – does not comply – less than 40m² POS provided and balcony does not meet specified dimension Dwelling 7 – complies (balcony)

				The variation sought for dwelling 6 is generally acceptable when viewing the entirety of POS (open and balcony) available to that dwelling as a whole.
55.05-5 Solar Access To Open Space	Met?	Standard B29	Met?	Comments
<i>To allow solar access into the secluded private open space of new dwellings and residential buildings</i>	Yes	<i>The private open space should be located on the north side of the dwelling or residential buildings</i>	No	Does not comply. Areas of private open space and relied upon balconies (except dwelling 7) are located on the northern side of the dwellings. Dwelling 7 balcony on southern side of dwelling, however in context of site is not considered fatal as there are north facing POS areas to this dwelling at ground floor.
		<i>The southern boundary of secluded private open space should be set back from any wall on the north of the space at least (2 + 0.9h) metres, where 'h' is the height of the wall</i> Refer to Diagram B29	No	Complies for dwellings 1-6, dwelling 7 does not comply but is considered to meet objective for reason expressed above.
55.05-6 Storage	Met?	Standard B30	Met?	Comments
<i>To provide adequate storage facilities for each dwelling</i>	Yes	<i>Each dwelling should have convenient access to at least 6m³ of externally accessible, secure storage space</i>	No	No externally accessible storage space is shown to any dwelling. Were a permit to be granted, this could be a matter addressed by permit condition.

55.06 DETAILED DESIGN				
55.06-1 Design Detail	Met?	Standard B31	Met?	Comments
<i>To encourage design detail that respects the existing or preferred neighbourhood character</i>	No	<i>The design of buildings, including:</i> <ul style="list-style-type: none"> • <i>Facade articulation and detailing,</i> • <i>Window and door proportions,</i> • <i>Roof form, and</i> • <i>Verandahs, eaves and parapets,</i> 	No	For the reasons discussed throughout this assessment, it is considered that the proposal fails to provide detailed design elements commensurate with the existing or preferred neighbourhood character of the area. Of particular note are:

		<i>should respect the existing or preferred neighbourhood character.</i>		<ul style="list-style-type: none"> - The minimal articulation to the streetscape, comprising almost exclusively of upper level forward protrusions and hard edges; - The ‘cookie cutter’ typology of the dwelling designs, comprising almost entirely uniform floor plans and design elements that are inconsistent with the design elements of the broader area; - Clunky roof forms that visually detract from the development and create a confusing visual presentation with no consistent rhythm or form; and - The dominating extent of built form, particularly along the southern elevation (and northern internal elevation) which presents the development as a large singular form from the public realm and abutting dwellings.
		<i>Garages and carports should be visually compatible with the development and the existing or preferred neighbourhood character</i>	No	The garage doors on the northern dwellings (5-7) comprise a large part of the visual presentation of these dwellings, resulting in a bland and bulky presentation akin to a rear laneway access.
55.06-2 Front Fences	Met?	Standard B32	Met?	Comments
<i>To encourage front fence design that respects the existing or preferred neighbourhood character</i>	N/A	<i>The design of front fences should complement the design of the dwelling and any front fences on adjoining properties</i>	N/A	No front fencing proposed.
		<i>A front fence within 3m of a street should not exceed:</i> <ul style="list-style-type: none"> • Streets in a Road Zone – 2m • Other Streets – 1.5m 	N/A	As above.

55.06-3 Common Property	Met?	Standard B33	Met?	Comments
<p><i>To ensure that communal open space, car parking, access lanes and site facilities are practical, attractive and easily maintained</i></p> <p><i>To avoid future management difficulties in areas of common ownership</i></p>	Yes	<p><i>Developments should clearly delineate public, communal and private areas</i></p>	Yes	The common property areas relate to access and services, which are appropriate and can be appropriately delineated.
		<p><i>Common property, should be functional and capable of efficient management</i></p>	Yes	The common areas are typical of most unit developments and can be managed by a standard owners corporation.
55.06-4 Site Service	Met?	Standard B34	Met?	Comments
<p><i>To ensure that site services can be installed and easily maintained</i></p> <p><i>To ensure that site facilities are accessible, adequate and attractive</i></p>	Yes	<p><i>The design and layout of dwellings and residential buildings should provide sufficient space (including easements where required) and facilities for services to be installed and maintained efficiently and economically</i></p>	Yes	Services will be installed in accordance with the utility providers requirements. The site is within an established area, as such, infrastructure connections are achievable.
		<p><i>Bin and recycling enclosures, mailboxes and other site facilities should be adequate in size, durable, waterproof and blend in with the development</i></p>	Yes	Each dwelling will house their own bins within their respective yards and mailboxes are conveniently located at the front of the site.
		<p><i>Bin and recycling enclosures should be located for convenient access</i></p>	Yes	Each dwelling will house their own bins in the rear yard which is considered to be close and convenient for residents of the dwellings.
		<p><i>Mailboxes should be provided and located for convenient access</i></p>	Yes	A shared mailbox is located at the front of the site, which is convenient to all residents.