

# ORDINARY MEETING OF COUNCIL

## 15 APRIL 2020



**12.2** **332 CARLISLE STREET, BALACLAVA**

**LOCATION/ADDRESS:** **332 CARLISLE STREET, BALACLAVA**

**EXECUTIVE MEMBER:** **LILI ROSIC, GENERAL MANAGER, CITY STRATEGY AND SUSTAINABLE DEVELOPMENT**

**PREPARED BY:** **MARTIN COOKSLEY, SENIOR URBAN PLANNER**

### 1. PURPOSE

- 1.1 To consider and determine planning permit application P727/2018 for the use of land for a Rooming House and signage at 332 Carlisle Street, Balaclava.

### 2. EXECUTIVE SUMMARY

<b>WARD:</b>	Canal Ward
<b>TRIGGER FOR DETERMINATION BY COMMITTEE:</b>	More than 15 objections
<b>APPLICATION NO:</b>	P727/2018
<b>APPLICANT:</b>	McGann Architects Pty Ltd
<b>EXISTING USE:</b>	Rooming House
<b>ABUTTING USES:</b>	Residential, Commercial/Retail
<b>ZONING:</b>	General Residential Zone - Schedule 1 (GRZ1)
<b>OVERLAYS:</b>	Special Building Overlay (SBO1)
<b>STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL</b>	Expired

- 2.1 The building at 332 Carlisle Street, Balaclava is a two-storey residential building with the ground floor currently being used as a Rooming House without a planning permit.
- 2.2 The retrospective application seeks permission for the use of the ground floor of the existing building as a Rooming House and signage at 332 Carlisle Street, Balaclava.
- 2.3 The first floor of the building does not form part of the rooming house, but is however occupied with two existing apartments, with one containing a home office.
- 2.4 The signage component of the application relates to the proposed construction of two signs: one 4.0m x 4.0m sign fixed to the east-face of the shared wall on the boundary with 330 Carlisle Street (which constitutes a Panel Sign) and a 1.0m x 1.5m free-standing sign located within the front garden (which has already been erected).
- 2.5 Both signs are proposed to display information regarding "Inner Focus Therapy", which is a home based business that operates from an office space associated with one of the existing first floor dwellings. Inner Focus Therapy is not associated with the operation of the Rooming House.
- 2.6 Thirty-three objections have been received to this application. The objectors have raised concerns about the use of the site for a Rooming House and the associated anti-



social behaviour at the site, as well as the use of the site (including open spaces) for social gatherings. Objectors also raised concerns regarding the potential impact to the on-street car parking network associated with the use of the site.

### 3. RECOMMENDATION

3.1 That the Planning Committee adopt Recommendation “Part A” and “Part B”, that:

- A. The Responsible Authority, having caused the application to be advertised and having received and noted the objections, issue a Notice of Decision to Grant a Permit.
- B. Authorise the Chief Executive Officer (or delegate) to instruct Council’s Statutory Planners and/or Council’s Solicitors on any VCAT application for review.

#### RECOMMENDATION “PART A”

3.2 That the Responsible Authority, having caused the application to be advertised and having received and noted the objections, issue a Notice of Decision to Grant a Permit for the use of land for a Rooming House and signage at 332 Carlisle Street, Balaclava subject to the following conditions:

#### 1. Amended Plans Required

Within 30 days of the date of the permit, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and an electronic copy must be provided. The plans must be generally in accordance with the plans submitted with the application (identified as TP-01 – TP-03, prepared by McGann Architects and dated 2 October 2019) but modified to show:

- a) Each of the eight proposed car spaces located within the rear setback of the site to be clearly line marked and dimensioned in accordance with the design standards for car parking at Clause 52.06-9 of the Port Phillip Planning Scheme. The plan is to clearly identify which car parks are allocated to the Rooming House and existing dwellings.
- b) The panel sign fixed to the wall of 330 Carlisle Street deleted.
- c) The home based business sign within the front yard to be deleted.
- d) Details of the existing and any proposed landscaping on the site.
- e) Any modifications as required by the Onsite Management Plan.
- f) Any modifications as required by the Waste Management Plan.

#### 2. No Alterations



The layout and description of the use(s) as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority unless the Port Phillip Planning Scheme exempts the new use from requiring a permit.

### **3. On-Site Management Plan**

Within 30 days of the date of the permit, a management plan must be prepared to the satisfaction of the Responsible Authority. The plan must include, but not be limited to, the following:

- a) Procedures, and standards for residents to minimise amenity and parking problems in the neighbourhood.
- b) A process which ensures non-car owners are prioritised for occupation of the building over individuals who own a car.
- c) Establishment of a Complaints hotline for, and regular meetings with, adjacent residents.
- d) Standards for property maintenance, health and cleanliness including measures to be undertaken to ensure areas surrounding the establishment are kept clean of litter.
- e) Security against thefts and break-ins, including security of residents' belongings.
- f) Development, documentation and promulgation of a fire management plan and appropriate training for all staff.
- g) Establishment of house rules (to be displayed in a prominent location and clearly visible to residents in the premises at all times) regarding:
  - (i) Resident behaviour
  - (ii) Noise
  - (iii) Alcohol consumption in communal areas
  - (iv) Littering
- h) Appropriate management and security practices so as to prevent the congregation of residents and visitors in communal and outdoor areas after 10pm.
- i) Prevention of alcohol consumption in the communal open space and communal rooms.
- j) No amplified sound or speakers to be permitted in the external areas at all times.
- j) Contact details of the relevant land manager being YSVG (Yury Shamis Venture Group).
- k) Details of how the door which provides access from the Rooming House to the first floor office associated with the Home Based Business will be permanently closed in accordance with relevant Building regulations.

Once to the satisfaction of the responsible authority, the management plan will be endorsed and form part of this permit. The management of the use must always be in accordance with the endorsed management plan to the satisfaction of the Responsible Authority.

### **4. Waste Management Plan**

Before the use starts, a Waste Management Plan based on the City of Port Phillip's



Waste Management Plan Guidelines for Developments must be prepared by a Waste Management Engineer or Waste Management Planner to the satisfaction of the Responsible Authority and endorsed as part of this permit. The Plan must include reference to the following:

- Land use type.
- The estimated garbage and recycling volumes for the whole development.
- Bin quantity, size and colour.
- The garbage and recycling equipment to be used.
- Collection frequency.
- The location and space allocated to the garbage and recycling bin storage area and collection point.
- The waste services collection point for vehicles.
- Waste collection provider.
- How tenants will be regularly informed of the waste management arrangements.
- Scaled waste management drawings.
- Signage.

Once submitted and approved, the waste management plan must be carried out to the satisfaction of the Responsible Authority.

#### **5. Landscaping Maintenance**

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

#### **6. Time for starting and completion**

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

- a) The use is not started within two years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing:

- before or within 6 months after the permit expiry date, where the use or development allowed by the permit has not yet started; and
- within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

#### **Permit Notes:**

##### **Building Approval Required**

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

#### **Noise**



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

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

**Approval Required for Signs**

Unless no permit is required under the planning scheme, signs must not be constructed or displayed without a planning permit.

**RECOMMENDATION “PART B”**

- 3.3 Authorise the Manager City Development to instruct Council’s Statutory Planners and/ or Council’s Solicitors on the VCAT application for review.

- 2.7 The key matters for consideration are the impact of the proposed use upon residential amenity, the management of the site and associated parking implications. The appropriateness of the proposed signage is also a relevant consideration.
- 2.8 It is concluded that subject to conditions, the existing ground floor of the building could continue to be used for the purpose of a Rooming House without unreasonable impacts on the amenity of the adjoining and adjacent properties.
- 2.9 Both signs are prohibited and are recommended to be deleted from the proposal.
- 2.10 The proposal, subject to the deletion of the signage is recommended for approval, subject to conditions.

**4. RELEVANT BACKGROUND**

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

Application No.	Proposal	Decision	Date of Decision
1331/2007	<i>Business identification signage to existing building</i>	<i>Approval</i>	<i>11/12/2007</i>
352/2008	<i>Erection of business identification sign to the existing front fence</i>	<i>Approval</i>	<i>28/04/2008</i>



- 4.2 Both of the above permits related to business signage for a previous Medical Centre and were restricted to small signs fixed to the fence and next to the entranceway. These signs have since been removed.
- 4.3 Council's Planning Compliance team have received a number of complaints from the surrounding neighbours regarding noise and amenity from the subject site. These complaints began in April 2019.
- 4.4 Council's Compliance officers inspected the site following the receipt of complaints and determined that the site was operating as a Rooming House and instructed the owner to apply for a planning permit for the use.

## 5. PROPOSAL

- 5.1 The current application for the use of land for a Rooming House at the ground floor of the building and signage is a retrospective application, which was lodged on 14 September 2018.
- 5.2 In the months following lodgement and public notice, a consultation meeting was conducted and the applicant made several changes to the plans in response to the objections and at the request of Council Planning officers.
- 5.3 The applicant formally lodged these plans under Section 57A of the *Planning and Environment Act 1987* on 21 November 2019. The changes included:
  - Floor plans updated to show eight bedrooms on ground floor and two separate apartments on the first floor, with the internal stair access from the ground floor rooming house to the first floor apartment blocked off by a locked door at the top of the staircase.
  - Confirmation of the maximum number of occupants for the rooming house (14).
  - Confirmation of proposed number of rooms for the rooming house (8).
  - Confirmation of apartment configuration on the first floor (one two-bedroom apartment, one three-bedroom apartment with an existing home office space provided with access from the rear deck associated with the three-bedroom apartment).
  - Description of how the first floor would be separate and remain separated from the ground floor Rooming House.
  - Clarification that the camper van parked in the rear carpark does not form part of the Rooming House.
  - Overall number of car parking spaces proposed / provided on site (eight spaces, including two within existing garage which are associated with the existing dwellings).
- 5.4 The application as amended proposes the following:

### Land use

- The use of the ground floor of the existing building for the purpose of a Rooming House. The ground floor would contain eight rooms and would have access via entrances at the rear and to the east and west elevations of the building.
- The first floor of the building is occupied with two existing apartments (one two-bedroom on the western side, and one three-bedroom located on the eastern



side) and a home office space associated with the three-bedroom dwelling. This layout is not proposed to change and access from the home office at first floor to the Rooming House below is proposed to be blocked. Each apartment has a separate entrance to the front of the dwelling via the porch entrance and staircase.

### Buildings and Works

- No buildings and works are proposed.

### Carparking:

- The provision of eight car parking spaces at the rear of the existing building, two within an existing garage that are associated with the two, first floor apartments (one space each) and the remaining six in the rear yard, with vehicle access via a Right of Way from Orange Grove to the east of the site.

### Signs

- The installation of two non-illuminated signs: one 4.0m x 4.0m sign fixed to the east-face of the shared wall on the boundary with 330 Carlisle Street (this sign constitutes a panel sign), and a 1.0m x 1.5m free-standing sign located within the front garden.
- The free-standing sign was installed prior to the lodgement of the planning application and an image of the sign is located in the photo below:



- Both signs are proposed to display information regarding “Inner Focus Therapy”, which is a home based business that operates from an office space associated with one of the existing first floor dwellings. Inner Focus Therapy is not associated with the operation of the Rooming House. Both signs are therefore considered to be home based business signs pursuant to the definitions at Clause 73.02 of the Port Phillip Planning Scheme. However, the sign fixed to the wall of 330 Carlisle Street also constitutes as a panel sign pursuant to the definitions at Clause 73.02 of the Planning Scheme.

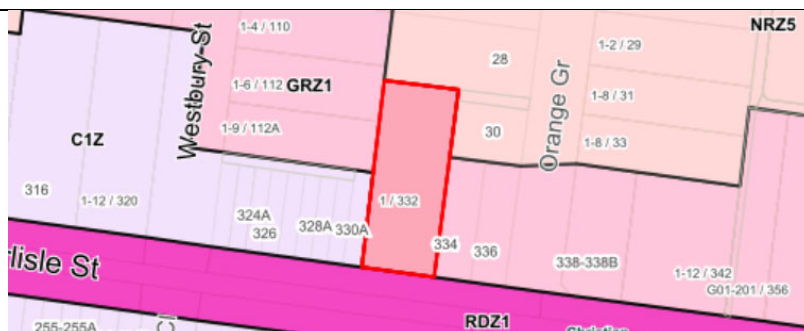


5.5 The assessment in this report relates to the Section 57A plans referred to as drawing no. TP-03D Council date stamped 20 November 2019.

**6. SUBJECT SITE AND SURROUNDS**

Description of Site and Surrounds	
Site Area	Approximately 1061sqm
Existing building & site conditions	<p>The subject site is located on the north side of Carlisle Street, Balaclava in between Westbury Street to the west and the Orange Grove to the east. The site has a frontage to Carlisle Street of 20.2m and a site depth of 52m. The rear boundary is 20.7m in width. The rear of the site is accessed off Orange Grove via a Right of Way which runs east-to-west between 28 and 30 Orange Grove.</p> <p>The site contains an existing double storey building which has historically accommodated dwellings and a medical centre. The building has a setback of approximately 10 metres. The building is double-storey to the rear and is positioned with a setback of 17m from the rear boundary. Side setbacks are between 5.0m from the east side boundary and approximately 2.m from the western boundary.</p> <p>The existing building appears to be a Federation era construction and features a red brickwork finish in combination with stucco detailing. The building contains a feature porch entrance that slightly projects beyond the front setback with a feature gable, and a hipped roof with a feature gable, all constructed from dark-brown tiles. Two brick chimneys are located within the mid-section of the roof. To the rear, a contemporary two-storey addition exists with a first floor deck adjoining. A two-car garage and shed is located abutting the rear boundary.</p> <p>The total floor area of all buildings on site is 565 square metres.</p> <p>The existing layout of the building reflected a Medical Centre on the ground floor containing 9 individual consultation or office spaces associated with the medical centre use. The layout of the first floor of the building is not proposed to change.</p> <p>There is some existing landscaping within the front setback in the form of medium height bushes, which extends along the eastern boundary towards the rear of the site. A large tree exists in the rear yard (which is not proposed to be removed). There is also space for informal car parking within the rear setback, which is proposed to be formalised and will contain a total of eight car spaces.</p>
Surrounds/neighbourhood character	<p>The subject site is located within the General Residential Zone but borders a Neighbourhood Residential Zone immediately to the north and a Commercial 1 Zone immediately to the west (as depicted in the map below). As a result, the surrounding area has a combination of residential and commercial buildings.</p>





#### Zone Map

The era of existing buildings is varied with some original Victorian commercial buildings located along the Carlisle Street, Federation era dwellings including bungalows and cottages within the surrounding residential streets (including Orange Grove), and some larger (two-to-three storey) Federation era residential buildings along both sides of Carlisle Street.

There are a number of examples of contemporary infill development within both the commercial and residential areas. The predominant scale of buildings is also varied with examples of single storey dwellings, two-to-three storey commercial and residential buildings and multi-storey mixed use buildings all evident within the vicinity. Wellington Street is approximately 20m in width and features on street parallel parking on both sides.

On street car parking is restricted generally from half to one hour parking on both sides of Carlisle Street, with 2 hour (8am – 6pm) and unrestricted parking in Orange Grove.

330 Carlisle Street is located to the west of the site. The site is occupied by an existing two storey commercial building containing a ground floor shop and first floor office. The building is of the Victorian era, and presents as a typical Victorian commercial building that features painted and rendered brick façade, wide shopfront windows, a full awning across the path that contains signage and a flat roof. The building incorporates nil setback to the street, and therefore presents an unpainted brick wall to the eastern interface (adjoining the subject site). The site features a minor rear setback which provides vehicle access for services and deliveries only.

112 and 112 A Westbury Street is also located to the west of the site, where it abuts the rear yard via the side boundary. The sites contain two three storey apartment buildings. The buildings are both contemporary in style, demonstrating typical 'six-pack' style designs with brown brick facades, landscaping setbacks to surround with three-storey high walls to each side, hipped tiled roofs, and some balconies – generally to the northern and western side of the building at 112 Westbury Street. Both sites contain a rear setback which provides car parking to residents of the building.

334 Carlisle Street is located to the east of the site. The site is occupied by an altered single-storey Federation era bungalow,



	<p>which is used as a dwelling. The building is constructed with a red brickwork façade and stucco render trim. The building presents a large gable roof facing the street, with a smaller gable over the porch entrance, both constructed with dark brown tiles. A concrete driveway which provides vehicle access off Carlisle Street exists to the front of the site, with a car space located in front of the dwelling. The dwelling also presents a wall to the eastern boundary, facing onto the subject site, and a narrow walkway along the western boundary created by the building's west side setback.</p> <p>30 Orange Grove is also located to the east, where it abuts the rear yard of the site along its east side boundary. 30 Orange Grove contains a single-storey Federation era bungalow with a red-brickwork façade and rendered finish, a transverse gable roof and large feature gable facing the street constructed from terracotta tiles, a wide entrance porch and a landscaped front setback. The site contains a small rear yard that is mostly covered by an open-roofed pergola. The site does not contain a car space.</p> <p>28 Orange Grove is located directly to the rear of the site. contains a single-storey Federation era bungalow with a red-brickwork façade and rendered finish, a hipped roof and large feature gable facing the street constructed from terracotta tiles, a wide entrance porch and a heavily landscaped front setback. The site contains a contemporary addition to the rear with a small pocket of private open space located on the north-west side of the site. A high timber picket front fence is located along the Orange Grove side of the building, and a high side boundary fence intersects with the site where it adjoins the right of way to the south. The site contains a driveway with access to Orange Grove that leads to a car space located within the side setback.</p> <p>To the south side of the site, on the opposite side of Carlisle Street, is the three-storey commercial building at 285 Carlisle Street. The building contains 26 individual commercial units with a number of ground floor shopfronts, an arcade through to shops located within the site, and upper floor spaces that contains medical centres, a gym and offices. A large public car park is located at the rear of the site, with access from Carlisle Avenue. The building is constructed with a red brick façade, flat roof, internal staircases for upper floor access with external catwalks facing over the car park, and nil setback to both Carlisle Street and Carlisle Avenue.</p>
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**7. PERMIT TRIGGERS**

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

Zone or Overlay	Why is a permit required?
Clause 32.08 General Residential Zone Schedule 1	A permit is not required for the use of the land for the purpose of a Rooming House under the condition that the use meets the requirements of Clause 52.23-2, pursuant to the Table of Uses at Clause 32.08-2 of the Port Phillip Planning Scheme.



	<p>As the proposed Rooming House does not meet the requirements of Clause 52.23-2 (total floor area of all buildings on the land exceeds 300 square metres and more than 12 persons to be accommodated on site), a permit is required for the use of the land for the purpose of Rooming House.</p> <p>It is noted the subject site adjoins a Commercial 1 Zone with the panel sign proposed located on the wall of the building which divides the zones. All buildings, including the face of the side boundary walls to 330A Carlisle Street, form part of the General Residential Zone. Therefore, the requirements of Clause 34.01 do not apply to this site.</p>
<p>Clause 44.05 Special Building Overlay (SBO1)</p>	<p>A permit is required to construct a building or to construct or carry out works.</p> <p>Given there are no buildings and works proposed, a permit is not required under the Special Building Overlay.</p>
<p>Clause 52.05 Signs</p>	<p>Pursuant to Clause 52.05-13 a permit is required for a Home Based Business Sign in a high amenity area (category 3), on the condition that the sign does not exceed 0.2 square metres.</p> <p>Any home based business sign that exceeds 0.2 square metres is prohibited.</p> <p>A panel sign is prohibited in a high amenity area (category 3) as it is not a sign within Section 1 or 2.</p>
<p>Clause 52.06 Car Parking</p>	<p>A permit is required to reduce (including to zero) the number of car parking spaces required under Clause 52.06-5 or in a schedule to the parking overlay.</p> <p><u>Rates, pursuant to Cl. 52.06-5:</u></p> <ul style="list-style-type: none"> <li>• <u>Dwelling</u> – 1 to each one or two bedroom dwelling, plus 2 to each three or more bedroom dwelling (with studies or studios that are separate rooms counted as bedrooms). Visitor parking not required in Principal Public Transport Network Area (PPTN).</li> <li>• <u>Rooming House</u> – 1 car space to each four bedrooms.</li> <li>• <u>Home based business</u> – car parking not required in PPTN area.</li> </ul> <p>The required spaces for each use is as follows:</p> <ul style="list-style-type: none"> <li>• 1x space for Apartment 1</li> <li>• 2x spaces for Apartment 2</li> <li>• 2x spaces for the Rooming House</li> <li>• For a total of 5 car spaces</li> </ul> <p>As the site can accommodate on-site car parking equal to the rate required for a Rooming House under Clause 52.06-5, a</p>



	<p><b>permit is not required</b> for car parking provisions in this instance.</p> <p>At the subject site, the following car parking exists:</p> <ul style="list-style-type: none"> <li>• Two garages, associated with the two existing dwellings</li> <li>• Ad-hoc car parking within the driveway area.</li> </ul> <p>The applicant has advised that 8 car spaces can be accommodated on the subject site.</p> <p>The two car spaces within the garages will continue to be associated with the first floor dwellings. The car park layout has been shown and is based on discussion plans provided by the applicant.</p> <p>As the site can accommodate on-site car parking equal to the rate required for a Rooming House under Clause 52.06-5, a <b>permit is not required</b> for car parking provisions in this instance.</p>
<p>Clause 52.23 Rooming House</p>	<p>Pursuant to Clause 52.23-2 any requirement in the Activity Centre Zone, Capital City Zone, Commercial 1 Zone, General Residential Zone, Mixed Use Zone, Neighbourhood Residential Zone, Residential Growth Zone or Township Zone to obtain a permit to use land for a rooming house does not apply if all of the following requirements are met:</p> <ul style="list-style-type: none"> <li>• Any condition opposite the use 'rooming house' in the table of uses in the zone or schedule to the zone is met.</li> <li>• The total floor area of all buildings on the land, measured from the outside of the external walls or the centre of party walls, does not exceed 300 square metres, excluding outbuildings.</li> <li>• No more than 12 persons are accommodated.</li> <li>• No more than 9 bedrooms are provided.</li> </ul> <p>As the floor area (565sqm) and patron number requirements (14 persons to be accommodated for) above are not met, an exemption does not apply and a permit is required under the General Residential Zone.</p>

## 8. RELEVANT AMENDMENTS

- 8.1 Amendment VC152 was gazetted on 26 October 2018. It introduced definitions of “community care accommodation” and “rooming house” as follows:

**Community care accommodation:** Land used to provide accommodation and care services. It includes permanent, temporary and emergency accommodation. It may include supervisory staff and support services for residents and visitors.

**Rooming House:** Land used for a rooming house as defined in the Residential Tenancies Act 1997. Pursuant to the Residential Tenancies Act 1997, the definition of a Rooming house means a building in which there is one or more rooms available for occupancy on the payment of rent in which the total number of people who may occupy



these rooms is not less than four or in respect of which a declaration (by the Minister) is in force.

- 8.2 VC152 also introduced a car parking rate for rooming houses being one space per four bedrooms.
- 8.3 Amendment VC160 was gazetted on 23 January 2020. The Amendment, amongst other things, clarified the 'total floor area' permit exemption associated with a Rooming House as per Clause 52.23.
- 8.4 The proposed use would be defined as a Rooming House as the building offers eight individual rooms for occupancy on the payment of rent. The use does not constitute as community care accommodation as no therapy or care is provided to residents of the Rooming House.

## **9. PLANNING SCHEME PROVISIONS**

### **9.1 State Planning Policy Frameworks (SPPF)**

The following State Planning Policies are relevant to this application:

Clause 15: Built Environment and Heritage, including:

Clause 15.01-1: Built Environment

Clause 15.01-1S: Urban Design

Clause 15.01-1R: Urban design - Metropolitan Melbourne

Clause 15.01-2S: Building Design

Clause 15.01-5S: Neighbourhood character

Clause 15.02-1: Sustainable development

Clause 16: Housing, including:

Clause 16.01: Residential development

Clause 16.01-1S: Integrated housing

Clause 16.01-1R: Integrated housing - Metropolitan Melbourne

Clause 16.01-2S: Location of residential development

Clause 16.01-3S: Housing diversity

Clause 16.01-3R: Housing diversity - Metropolitan Melbourne

Clause 16.01-4S: Housing affordability

Clause 21.03 Ecologically Sustainable Development, including

Clause 21.03-1 Environmentally Sustainable Land Use and Development

Clause 21.03-2 Sustainable Transport

Clause 21.04 Land Use, including

Clause 21.04-1 Housing and Accommodation

Clause 21.05 Built Form, including

Clause 21.05-2 Urban Structure and Character

Clause 21.05-3 Urban Design and the Public Realm



- Clause 21.06 Neighbourhoods, including  
Clause 21.06-1 East St Kilda and Balaclava

## 9.2 Other relevant provisions

- Clause 52.06 Car Parking  
Clause 52.23 Rooming House  
Clause 65 Decision Guidelines

## 10. REFERRALS

### 10.1 Internal referrals

The application was referred internally to Councils Traffic, Waste and Housing Development Officer.

#### Traffic:

##### Access ways:

- *No changes are proposed to access way dimensions.*
- *It is proposed to utilize the existing crossover to the rear ROW Laneway at the rear of the site. This will result in no loss to the number of on-street parking spaces and is considered acceptable.*

##### Car parking spaces:

- *No changes are proposed to the existing off-street parking spaces, there not applicable to this application.*

##### Headroom

- *No changes are proposed to the existing garages, therefore not applicable to this assessment*

##### Gradient of Ramps

- *Not applicable to this assessment*

##### Bicycles

- *Bicycle parking is not required under the planning scheme.*
- *There is sufficient room located within the rear car park and garages for bicycle parking should it be required.*

##### Loading and Waste Collection

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

##### Traffic Generation and Impact:

- *Overall the traffic generation of the proposed development is expected to have a negligible impact on surrounding local streets and intersections.*
- *30 vehicle movements a day and 3 vehicle movement during the peak hours.*





On Street Parking:

- *The existing on-street parking is generally a mixture of 1/2P, 1P, 2P, Permit Zone and unrestricted, with parking nearing capacity both during and outside of typical business hours.*
- *Residents/visitors of the development will not be eligible for resident/visitor parking permits and will need to abide by on-street parking restrictions.*
- *It is proposed to utilize the existing crossover to the rear ROW Laneway at the rear of the site. This will result in no loss to the number of on-street parking spaces and is considered acceptable.*

Parking overlay and parking provisions:

- *Clause 52.06 of the planning scheme requires 6 off street parking spaces to be provided for proposed land uses.*
- *The applicant is seeking a waiver in car parking provisions and proposes to only provide 2 off-street car parking space.*
- *Note that the assessment for the appropriate rate for car parking provision lies with Statutory Planning.*

Other:

- *All redundant crossovers must be reinstated to Council satisfaction.*
- *All proposed crossovers must be installed to Council satisfaction.*

Planner comment:

Five on-site car parks are required by the planning scheme; however, the plans only show two formal spaces within garages on-site and adhoc parking within the driveway area.

The applicant has provided plans for discussion purposes that clearly shows that eight formal car spaces can comfortably be contained on site, including the existing arrangement where the two garage car spaces are allocated to the existing first floor apartments.

Council's Traffic Engineer reviewed the discussion plan and the only additional comment was that the dimensions of the tandem car parks must add an additional 500mm of length to one of the bays (minimum dimension of 5.4m in length).

In order to reflect the proposed eight off-street car spaces, the plans need to be modified to show the proposed parking arrangement including line markings and dimensions (refer to Recommended Condition 1 a). The assessment at Section 13.3 of this report will proceed on the basis that at a minimum six spaces can be contained at the site.

Waste:

A waste management plan has not been submitted and should be required by permit condition if approved. Refer to recommended **Condition 5**.

Housing Development:



Council's Affordable Housing Program Coordinator stated that they were not required to comment specifically on the proposal as it would be a therapy-based accommodation facility rather than affordable housing. He did pose some concern with conditions 4 h) and i), which intend to restrict congregation at night in communal spaces and the consumption of alcohol in communal spaces as there are no private living spaces for residents to enjoy such activities.

Planner comment:

The planning officer clarified to the Housing Program Coordinator that the proposed Rooming House would not constitute a therapy-based accommodation, as the "Inner Focus Therapy" service is not affiliated with the Rooming House. This has not changed the perspective of the Housing Program Coordinator, in particular in regard to the on-site management plan.

Having regard to the requirement for an on-site management plan, specifically conditions 4 h) and i), it is noted that it is standard for Council to include restrictions on the use of communal areas where a permit is required for the use as a Rooming House.

Management Plans have ongoing force and effect in mitigating potential amenity impacts to adjoining properties as a result of the unique nature of Rooming House operations. Further, the requirement for a management plan ensures responsibility for the management of the property is predominantly passed on to and undertaken by the owner/operator.

Noting the previous complaints raised and registered with Council's Planning Compliance team relating to gatherings at night involving alcohol and excessive noise, it is considered appropriate to require the management plan to include restrictions on communal areas amongst other things.

## 10.2 External referrals

The application was not required to be externally referred.

## 11. PUBLIC NOTIFICATION/OBJECTIONS

11.1 It was determined that the proposal may result in material detriment therefore Council gave notice of the proposal by ordinary mail to the owners and occupiers of surrounding properties (62 letters) and directed that the applicant give notice of the proposal by posting one notice on the site for a 14 day period, in accordance with Section 52 of the Planning and Environment Act 1987.

11.2 The application has received 33 objections. An objector map is contained at **Attachment 3**. The key concerns raised are summarised below:

- Impact to on-street car parking network and traffic within the immediate neighbourhood. Additional concerns that people may sleep in vehicles, both on site and on the surrounding street network.

*A discussion regarding car parking is located in Section 12 below; however, it is important to note that there is no permit required to reduce the car parking requirement at the site because the on-site car parking supply would comply.*

- Number of occupants is not clear.



*The information submitted as a part of the Section 57A application, submitted 21 November 2019, has clearly identified that 14 occupants are proposed to be housed within the Rooming House.*

- Noise and disruptive behaviour associated with the use. This includes social gatherings, particularly at night, occurring uncontrolled at the site.

*See discussion at Section 12 below.*

- Not in keeping with the family-oriented neighbour of the surrounding neighbourhood. Not in keeping with the strategic vision for the Carlisle Street precinct.

*A Rooming House is classified as a residential use and is therefore appropriate in a General Residential Zone, within a building that originally existed for residential purposes. With appropriate management, it is considered a Rooming House can operate harmoniously within the existing neighbourhood.*

*It is noted that there are examples of similar Rooming Houses within the neighbourhood with frontages to Carlisle Street, including the Meryula Guest House at 382 Carlisle Street.*

- Lack of site management, including an inability to contact an authority when issues arise at the site.

*Discussion regarding the management of the site is located at Section 12 below.*

- Not in keeping with the heritage value of the building.

*The building is not protected by a Heritage Overlay, but is identified as a building that is 'contributory outside a Heritage Overlay' in accordance with the Port Phillip Heritage Review (Version 28, 2019). No buildings and works are proposed to the existing building with the only change to the appearance of the building being associated with the inclusion of two signs.*

*Discussion regarding the appropriateness of the signs is located at Section 12 of this report.*

- Overlooking from Bedroom 4 of the first floor apartment on the east elevation.

*As a part of the Section 57A amendment, submitted 21 November 2019, the room originally proposed as Bedroom 4 to the eastern apartment on the first floor is identified as remaining as an Office.*

*This would be unchanged as per the existing conditions at the site noting the existing area is not currently screened.*

- 11.3 A consultation meeting was held on 6 August 2019. The meeting was attended by applicants, objectors and Council officers. Following the consultation meeting the applicant made several changes to the plans to clarify information and formally lodged these under Section 57A on 21 November 2019. These plans were circulated to all objectors via email on 22 November 2019.
- 11.4 No objections were withdrawn.
- 11.5 It is considered that the objections do not raise any matters of significant social effect under Section 60 (1B) of the Planning and Environment Act 1987.



## 12. OFFICER'S ASSESSMENT

### 12.1 Residential Density

Clause 21.04-1 (Housing and Accommodation) seeks to direct new medium-high density development to the substantial and moderate growth areas, which are locations that have the capacity for change, and offer highest accessibility to public transport, shops and social infrastructure. In this instance, the site is not located within a substantial residential growth area or a moderate residential growth area.

The site is located in an 'incremental residential growth area', which is a location with a frontage to a main road adjacent to the Principal Public Transport Network (PPTN) and/or proximity to a Major Activity Centre, and where there is an existing diverse neighbourhood character capable of accommodating change.

The subject site is located adjacent to the border of the Carlisle Street Major Activity Centre. Situated immediately adjacent to a Commercial 1 Zone, the subject site sits within an area where its immediate surrounds feature a diverse character. The subject site is considered suitable for a residential use.

In relation to the policy context, the proposal would advance state-wide policies that promote urban consolidation, housing diversity and housing affordability. In addition, in terms of local policy, there is a need for more diverse housing types to meet demographic trends, including an ageing population and a trend towards smaller household size.

It is considered that an increase in housing density through the conversion of the ground floor of the building to contain an eight room Rooming House (in addition to the two existing apartments on the first floor) is an acceptable increase given the capacity of the site and its proximity to the Carlisle Street Activity Centre.

### 12.2 Site Management

The key concern raised by objectors concerns the ongoing management of the proposed Rooming House. Specifically, the following matters have been raised;

- the potential for anti-social behaviour and general disturbances.
- The lack of on-site management.
- The use of the private open spaces for social gatherings.

It is acknowledged that the premises has been operating for some time without a planning permit as a Rooming House and has been the subject of complaints regarding anti-social behaviour in the past. The site has not had an on-site manager and it is proposed to continue to operate without an on-site manager (albeit it the owner / operator of the Rooming House business resides in one of the first floor dwellings).

The absence of an on-site manager was raised as a specific concern by several objectors.

The potential to have an onsite manager in association with the use as a Rooming House is something that has been contemplated in previous Rooming House proposals within the municipality including at 28 Wellington Street, St Kilda (P507/2017). This proposal was subsequently supported by Council and it was concluded at that time that:



- It was not essential to have an on-site manager.
- The most effective approach in ensuring management of the use is properly undertaken is for there to be a requirement for the endorsement of an on-site management plan requiring, amongst other things, contact arrangements for residents to report incidents should they occur, a complaint handling process to ensure that any incidents are properly recorded and addressed and preventative strategies for minimising disturbances on the site.

It is considered appropriate to follow the same process in this instance, (refer recommended **Condition 4**) requiring a management plan to be provided and endorsed, which would include, amongst other requirements, the following:

- Establishment of a complaints hotline for adjacent residents.
- Establishment of house rules and a code of conduct.
- No social gatherings after 10pm each night.
- Standards for property maintenance, health and cleanliness.
- Measures relating to external occupant noise.
- Measures to prevent alcohol consumption in communal areas.
- Security against thefts and break-ins.
- Details of relevant YSVG (Yury Shamis Venture Group) contact details.
- Details of how the door which provides access from the Rooming House to the first floor office associated with the Home Based Business will be permanently closed in accordance with relevant Building regulations.

The availability and transparency of a management plan for the premises would clearly articulate specific requirements for residents of the Rooming House and would be the responsibility of the Management of the Rooming House to enforce / adhere to.

In regard to the permanent closure of the door which provided access between the Rooming House and the first floor office associated with the Home Based Business, it is noted that this would require a Building Permit. Council's Building Department were consulted on this and noted that while not a required means of egress for the upper floor, fire separation would need to be established if blocked. Details of this will be required to be provided by way of permit condition and as part of the management plan.

The subsequent endorsement of the management plan to form part of any permit to issue will allow for dialogue to occur between adjacent residents and the site operators / managers which would assist in minimising and appropriately managing / addressing incidents of anti-social behaviour as well as being enforceable under any Planning Permit issued.

In regard to the general state of the site, it is considered appropriate to require the applicant to provide amended plans indicating all the existing and proposed landscaping on the site (refer to Recommended **Condition 1 d**). To ensure the site is well kept and presented a condition will also be included requiring the landscaping as shown the endorsed Plan is maintained to the satisfaction of the Responsible Authority.



### 12.3 Car parking

It is proposed to provide eight car parking spaces at the rear of the existing building, two within an existing garage, with vehicle access via a Right of Way from Orange Grove.

Discussion plans provided by the applicant indicate that eight vehicles (including the existing car spaces in the existing garages provided for the existing dwellings) would reasonably be accommodated on the site without being affected by other parked vehicles.

It is reasonable to consider this arrangement as the acceptable minimum car parking layout; however, the plans are required to be updated to reflect this and to ensure the parking spaces are provided in accordance with the design standards for car parking at Clause 52.06-9 of the Port Phillip Planning Scheme. (refer to Recommended **Condition 1 a**).

The proposed Rooming House would have a total of eight rooms and a total of 14 occupants contained on the ground floor. The first floor of the building would remain as one two-bedroom apartment on the west elevation and one three-bedroom apartment with an associated 20 square metre home office on the east elevation.

Pursuant to Clause 52.06-2, an assessment of car parking provisions does not include an existing use unless that use's floor area is proposed to increase.

It is not proposed to increase the floor area of the existing first floor dwellings and associated home office.

As a Rooming House, the required rate (as per Amendment VC152 gazetted 26 October 2018) under Table 1 of Clause 52.06 is a total of one car parking space to each four bedrooms.

The total number of car spaces required for the Rooming House use pursuant to the Planning Scheme would be two car spaces. On top of the existing car parking requirements of three spaces (three to the first floor dwellings with the home-based business requiring zero spaces in the PPTN area), the total required car parking rate is five spaces. With an acceptable minimum car parking layout that provides for eight car parking spaces, a reduction is not required under Clause 52.06.

Having regard to the nature of the proposed use of the ground floor as a Rooming House, levels of car ownership by residents of the premises are anticipated to be very low.

The 2009 '*Review of Social Housing Car Parking Demands*' prepared by GTA Consultants identifies an average rate of parking by tenants of rooming houses of 1:10.6 (0.09 per unit). It is noted that other studies including a 1999 Port Phillip Housing Association study identified even lower rates than 0.09 (See table extract from the GTA report below).

On 26 October 2009, Council adopted the following rates for Social Housing Units:





Housing Type	Parking rate (car space to each unit or dwelling)
Rooming houses (rooms with shared communal facilities or rooms mixed with bedsits)	0.09
Older persons' units (1-2 bed)	0.25
Singles units (1 bed)	0.19
Family units (2-4 bed)	0.35

It was resolved in adopting these rates that:

“That Council agrees that the rates above augment the standard parking rates for residential development identified in the broader Sustainable Transport Policy and Parking Rates Study 2007 (Ratio Study)”

Using Council’s adopted rate of 0.09 spaces per unit, the development would require two car parking spaces (rounded up from 1.26 as per the rate) for a Rooming House which is consistent with existing rate within the Planning Scheme. Given the anticipated nature of occupation, the provision of six additional car spaces at the premises (on top of the two garage car spaces associated with the existing dwellings) would be more than adequate.

The subject site, being located within the Principal Public Transport Network, is well serviced by alternative modes of transport. This includes trains from Balaclava Station (Sandringham Line), bus routes along the nearby Hotham Street (No. 219) and Brighton Road (No. 623) and multiple tram routes along Carlisle Street (Nos. 3, 3A and 16). Reliance on personal car use is therefore further reduced as a result of the location and the provision of 8 spaces (6 for the proposed Rooming House) is considered sufficient without resulting in unreasonable impacts on the adjoining road network.

#### 12.4 Signs

The proposal includes the installation of two non-illuminated signs which have no relevance to the use of the site as a Rooming House but instead promote the business of “Inner Health Therapy”, which is the home-based business use associated with the home office in Apartment 2. The proposed signs include:

- One sign fixed to the east-face of the shared wall on the boundary with 330 Carlisle Street with a total area of 16 square metres
- A smaller free-standing sign located within the front garden with a total area of 1.5 square metres which has already been erected on site.

The proposed signs meet the definition of home based business signs pursuant to Clause 73.02. According to that provision, the definition of a home based business sign is:

“A sign at a dwelling that advertises a home based business carried on in the dwelling, or on the land around the dwelling.”

The proposed signs display information about a home based therapy business that operates out of a home office area adjoining one of the existing apartments on the first floor level.



Pursuant to Clause 52.05-13, a home based business sign requires a permit in Category 3 (high amenity) areas if the display area exceeds 0.2 square metres.

Additionally, the proposed sign fixed to the wall of 330 Carlisle Street would also be considered a “panel sign” pursuant to the Sign Terms at Clause 73.02 of the Planning Scheme.

A panel sign is *a sign with an advertisement area exceeding 10 square metres*. A panel sign is prohibited in Category 3 areas pursuant to Clause 52.05-13.

As the sign has a total area of 16 square metres it can also be defined as a panel sign and is therefore prohibited.

A condition is recommended to be included on any permit to issue that requires the removal of the panel sign. Refer to recommended **Condition 1 b**).

The sign located within the front garden (which is being retrospectively applied for) is a home based business sign and is prohibited as it would have a display area of greater than 0.2 square metres. A condition is recommended to be included on any permit to issue that requires the removal of the sign located in the front garden. Refer to recommended **Condition 1 c**).

### 13. COVENANTS

13.1 The applicant has completed a restrictive covenant declaration form declaring that there is no restrictive covenant on the titles for the subject site known as Lot 1 of Title Plan 145776M [Parent Title Volume 08104 Folio 424].

### 14. OFFICER DIRECT OR INDIRECT INTEREST

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

### 15. OPTIONS

- 15.1 Approve as recommended
- 15.2 Approve with changed or additional conditions
- 15.3 Refuse - on key issues

### 16. CONCLUSION

- 16.1 It is considered that subject to conditions, including the deletion of the signage, the proposed use of land for a Rooming House would be appropriate and would not have an unreasonable impact upon the amenity of adjacent residents.
- 16.2 It is considered that the use would be appropriate in this location, and with appropriate site management, would not create any unreasonable impact to the amenity of the surrounding residential neighbourhood.
- 16.3 The proposal provides carparking in excess of the requirements for on-site car parking.
- 16.4 It is acknowledged that there are some outstanding matters relating to plan amendments and waste management within the proposed use. It is considered that these matters could be dealt with via conditions on any permit granted.
- 16.5 The proposed use is therefore considered to be acceptable subject to conditions.



ORDINARY MEETING OF COUNCIL  
15 APRIL 2020

**TRIM FILE NO:**

**PF18/29820**

**ATTACHMENTS**

1. Attachment 1 - Substituted Plans
2. Attachment 2 - Site photos
3. Attachment 3 - Objector map