

5.1 14-16 BURTON AVENUE CLAYTON – EXTENSION TO THE EXISTING PLACE OF WORSHIP, ASSOCIATED USE AS A PLACE OF ASSEMBLY AND REDUCTION IN THE CAR PARKING REQUIREMENTS OF THE MONASH PLANNING SCHEME

(TPA/36300:MD:HM)

Ward : Oakleigh

Responsible Director: Don Cameron

Reason for Council Consideration: Cost \$1.5 Million

Statutory Processing Date : 17 October 2008

Pre-Application: Yes

RECOMMENDATION

*The Council having caused notice of planning application No.36300 to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to grant a planning permit and issue a **Notice of Decision** to grant a permit under the provisions of the Monash Planning Scheme in respect of the land known and described as 14-16 Burton Avenue, Clayton, for the development and use of the land for buildings and works comprising extension to the existing place of worship, associated use as a place of assembly and reduction in the car parking requirements of the Monash Planning Scheme subject to the following conditions, including the specified standard conditions set out in the Council's "Town Planning Standard Conditions" adopted by the Council 16 September 2003:*

1. *Before the development and use starts, three copies of amended plans drawn to scale and dimensioned, 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 generally in accordance with the plans submitted with the application, but modified to show :

- a) *The foyer area and canopy must be reduced in size and not intrude in front of the existing church building and the canopy redesigned to reduce its visual impact;*
- b) *Reduction in the height of the wall on the boundary by either raking the roof back to the boundary or some other method to the satisfaction of the Council to ensure a maximum ceiling height at the boundary of 2.4 metres;*
- c) *Car parking spaces and aisle widths designed to comply with the provisions of Clause 52.06-3 of the Monash Planning Scheme and subsequent reduction in the dimensions of the hall building as well as providing a minimum 500mm landscape setback to the western side of the building;*
- d) *The rear deck must be enclosed with railing to prevent pedestrian access straight on to the car park and to include removal of the steps apart from those required for normal access;*

- e) *The car parking space adjacent to the turning bay to be extended by 1 metre to ensure vehicles can exit in a forward direction;*
 - f) *Details of all service equipment, including mechanical ventilation located outside the building and appropriate screening to be incorporated as part of the architectural design of the building;*
 - g) *The location and design of any proposed electricity supply meter box/kiosk/substation. This facility must not be located within the front landscape setback;*
 - h) *The location of any fire booster, gas and water meters. These facilities should be designed to minimise their visual prominence if located with the front landscape setback;*
 - i) *Detailed schedule of the external building materials, colours and finishes including paving.*
2. *The development and use as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.*
 3. *The use may operate only between the hours of 8:00am and 10:00pm unless the Responsible Authority gives consent in writing.*
 4. *The maximum number of persons permitted on site between the hours of 8:00am - 6:00pm(Monday to Saturday inclusive) must not exceed 150.*
 5. *Noise from mechanical services equipment and any music noise associated with the premises must at all times conform with State Environment Protection Policies SEPP N-1 and SEPP N-2 respectively.*
 6. *The amenity of the area must not be detrimentally affected by the use or development, through the :*
 - a) *transport of materials, goods or commodities to or from the land;*
 - b) *appearance of any building, works or materials;*
 - c) *emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;*
 - d) *presence of vermin.*
 7. *Prior to commencement of any buildings and works on the site, a construction management plan must be prepared and submitted to the Responsible Authority for approval. The plan must be to the satisfaction of the Responsible Authority. Once approved, the plan must be implemented to the satisfaction of the Responsible Authority. The plan must address the following issues:*
 - a) *measures to control noise, dust and water runoff;*
 - b) *prevention of silt or other pollutants from entering into the Council's underground drainage system or road network;*

- c) *the location of where building materials are to be kept during construction;*
 - d) *site security;*
 - e) *maintenance of safe movements of vehicles to and from the site during the construction phase;*
 - f) *on-site parking of vehicles associated with construction activities;*
 - g) *wash down areas for trucks and vehicles associated with construction activities;*
 - h) *cleaning and maintaining surrounding road surfaces.*
8. *Before the use starts all works specified in this permit must be completed to the satisfaction of the Responsible Authority. The Responsible Authority must be advised in writing when all works are completed to enable the site to be inspected.*
 9. *No form of public address system may be installed so as to be audible from outside the building.*
 10. *No bin or receptacle or any form of rubbish or refuse shall be allowed to remain in view of the public and no odour shall be emitted from any receptacle so as to cause offence to persons outside the land.*
 11. *Adequate provision shall be made for the storage and collection of garbage and other solid wastes and these facilities are to be located on the site to the satisfaction of the Responsible Authority.*
 12. *No equipment, services, architectural features or structures of any kind, including telecommunication facilities, other than those shown on the endorsed plans shall be permitted above the roof level of the building unless otherwise agreed to in writing by the Responsible Authority.*
 13. *Disabled access to the building must be provided to the satisfaction of the Responsible Authority. All work carried out to provide disabled access must be constructed in accordance with Australian Standards Design for Access and Mobility AS 1428.1.*
 14. *The walls on the boundary of adjoining properties shall be cleaned and finished in a manner to the satisfaction of the Responsible Authority.*
 15. *A landscape plan prepared by a Landscape Architect or a suitably qualified or experienced landscape designer, drawn to scale and dimensioned must be submitted to and approved by the Responsible Authority prior to the commencement of any works. The plan must show the proposed landscape treatment of the site including:-*
 - *the location of all existing trees and other vegetation to be retained on site*
 - *provision of canopy trees with spreading crowns located throughout the site including the major open space areas of the development*

- *planting to soften the appearance of hard surface areas such as driveways and other paved areas*
- *a schedule of all proposed trees, shrubs and ground cover, which will include the size of all plants (at planting and at maturity), their location, botanical names and the location of all areas to be covered by grass, lawn, mulch or other surface material*
- *the location and details of all fencing*
- *the extent of any cut, fill, embankments or retaining walls associated with the landscape treatment of the site*
- *details of all proposed hard surface materials including pathways, patio or decked areas*

When approved the plan will be endorsed and will then form part of the permit.

16. *Before the occupation of the buildings allowed by this permit, landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority and then maintained to the satisfaction of the Responsible Authority.*
17. *All on-site stormwater is to be collected from hard surface areas and must not be allowed to flow uncontrolled into adjoining properties (including the road reserve).*
18. *Before the development starts, a site layout plan drawn to scale and dimensioned must be approved by the Responsible Authority.*

The plans must show a drainage scheme providing for the conveying of the stormwater to the nominated point of discharge. The nominated point of discharge is the north west corner of the property where it must be collected and free drained via a pipe to the 1200mm Melbourne Water drain in the road reserve to be constructed to Melbourne Water and Council Standards.

Note: If the point of discharge cannot be located then notify Council's Engineering Division immediately.

19. *The redundant crossing is to be removed and reinstated with kerb and channel to the satisfaction of Council.*
20. *Three copies of the plans for the drainage works must be submitted to and approved by the Engineering Division prior to the commencement of works.*
21. *Before the development permitted is completed, areas set aside for parked vehicles and access lanes as shown on the endorsed plans must be :*
 - (a) *constructed to the satisfaction of the Responsible Authority;*
 - (b) *properly formed to such levels that they can be used in accordance*

with the plans;

- (c) surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority;*
- (d) drained, maintained and not used for any other purpose to the satisfaction of the Responsible Authority;*
- (e) line-marked to indicate each car space and all access lanes to the satisfaction of the Responsible Authority.*

Parking areas and access lanes must be kept available for these purposes at all times.

22. *The driveways and parking areas should be designed in accordance with the Australian Standard for Off-Street Parking, AS/NZS 2890.1/2004, apart from the dimensions of car parking spaces and associated accessways which must be in accordance with the provisions of Clause 52.06-3 of the Monash Planning Scheme.*

Conditions 23 – 30 required by Melbourne Water (Ref: 148094)

23. *No polluted and/or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or watercourses.*
24. *A minimum soil cover of 850mm must be maintained over Melbourne Water's assets when constructing the new driveway crossover.*
25. *Any damage caused to Melbourne Water's assets due to the proposed work shall be borne by the applicant/responsible party.*
26. *Finished floor levels of the new toilets, hall, office and foyer must be no lower than 54.39 metres to Australian Height Datum (AHD).*
27. *Prior to the issue of a Certificate of Occupancy, a certified survey plan, showing finished floor levels (as constructed) reduced to AHD, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.*
28. *Finished floor levels for the new vestry, sanctuary and store/flower room must be no lower than the existing floor level.*
29. *The decking is to be constructed with unenclosed foundations to allow for the passage of overland flows.*
30. *Any new car parking must be constructed with finished floor or surface levels no lower than 350mm below the applicable flood level.*

NOTES:

1. *Building approval must be obtained prior to the commencement of the above approved works.*

2. *Any new drainage work within the road reserve and connection to Melbourne Water drainage systems requires the approval of both the Council's Engineering Division and Melbourne Water prior to the works commencing. The plans are to show sufficient information to determine that the drainage works will meet all drainage conditions of the permit.*
3. *Engineering permits must be obtained for new or altered vehicle crossings and for the drainage works within road reserve and these works are to be inspected by Council (telephone 9518 3690).*

Melbourne Water Footnotes:

- 1 *If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on telephone 9235 2517, quoting Melbourne Water's reference 148094.*
- 2 *The applicable flood level for the property is 54.13 metres to Australian Height Datum (AHD).*

Melbourne Water Advice To Applicant:

Flood Level Information

Preliminary land and flood level information available at Melbourne Water indicates that the above property is subject to flooding from the Burton Avenue Drain (5042), for a storm event with a 1% chance of occurrence in any one year. The applicable flood level for the property is 54.13 metres to Australian Height Datum (AHD).

Freeboard

Freeboard is the difference between the floor level of a building and the 100-year flood level. Freeboard requirements are designed to ensure that valuable buildings, their contents and the people in them are safely above the 100-year flood level.

Construction and Site Management

The Best Practice Environmental Management Guidelines for Urban Stormwater (The Stormwater Committee, 1999) may be used as a guide when developing site controls to minimise sediment laden runoff and stormwater pollution during construction. Section 6.3, titled Construction Activity, of these guidelines provides a useful checklist to develop a Site Management Plan.

Expiry of permit:

In accordance with section 68 of the Planning and Environment Act 1987, this permit will expire if one of the following circumstances applies:

- *The development and use are not started within two years of the date of this permit.*
- *The development is not completed within four years of the date of this permit.*

In accordance with section 69 of the Planning and environment Act 1987,

the responsible authority may extend the periods referred to if a request is made in writing before the permits expires, or within three months afterwards.

and directs that the Applicant and each objector be given a notice of the Council's decision to grant the permit.

BACKGROUND

The subject site is located on the east side of Burton Avenue approximately 200 metres south west of Dunstan Street, Oakleigh. The land is regular in shape and has frontage to Burton Avenue of 41.58 metres, depth of 48.77 metres and an overall area of 2,028 square metres. (See Attachment 1 for locality plan)

The land contains a number of buildings including a brick church occupying most of the eastern portion of the site with a weatherboard hall to the rear of the church. The western portion of the site comprises another weatherboard hall and two small brick outbuildings (toilet and shed) at the rear.

The church is a modest brick building (212 square metres) in relatively good condition dating from the first half of the 20th century, with a small tower and pitched terracotta tiled roof and seating for 90 people in pews.

The two weatherboard halls are in very poor condition.

Vehicle access to the site is via an existing crossover towards the middle of the site accessing an informal car parking area.

Surrounding development comprises a mix of development including conventional one and two storey residential development including multi unit dwellings as well as a three storey aged care facility being constructed on the adjoining site to the south west. The Clayton Community Centre is located to the south of the site and a 3 storey apartment building is being constructed on the corner of Burton Avenue and Dunstan Street opposite another church (The Church of Christ Fellowship) at this intersection.

PROPOSAL

The proposal is to demolish the existing weatherboard halls and two small outbuildings on the site and extend the existing church building. The plans submitted with the application provide for the following (Attachment 2):

- A new hall to be constructed to replace the existing halls and connected to the existing church by a foyer and internal accessway. A building setback of between 7.4 metres and 9 metres from Burton Avenue.
- A new entrance foyer and office to be constructed at the front of the site.
- A kitchen and male and disabled toilets to be constructed at the rear of the hall.

- A new sanctuary, store/flower room and vestry to be constructed in the space between the existing eastern wall of the church and the eastern side boundary of the site.
- Two existing rooms at the rear of the church building to be converted into female toilets.
- A driveway is proposed to be constructed along the western and southern sides of the new building with access from a new crossover from Burton Avenue.
- A total of 22 car parking spaces including one disabled space are to be provided on the site.
- The proposed extension is modern in design and is to be constructed of precast concrete panels with the front elevation containing large areas of glazing.

The net increase in floor space resulting from the proposal will be 185 square metres in area.

The applicant advises that the activities proposed within the redeveloped building will remain essentially the same and comprise the following:

Day of the Week	Type of Activity	Hours of Operation	Approx No of People Attending the Activity
Monday - Friday	Normal Use	5.00pm – 10.00pm	Not necessarily each night of the week or every week
Thursday evening (once a week)	Mediation group (not church group)	7.00pm – 10.00pm	30
Saturday	Cleaning and Maintenance of Property	Time of use depends on availability of those responsible for the month	20
	Singing or dance practice		50
	Leaders Meetings		25
Saturday Afternoons (when required)	21 st Birthdays, Weddings and Anniversaries. Typically involve cultural dancing and singing	Traditionally held on a Saturday afternoon (not evenings)	Numbers not provided
Sunday	Sunday School and pre-worship singing and discussion for parents	8.00am	50
	Worship	10.00am	200
	Often there is a meal at lunchtime Depending on the time of year ie bible studies, meetings, cultural sharing and singing practice	1.00pm	Numbers not provided

Day of the Week	Type of Activity	Hours of Operation	Approx No of People Attending the Activity
	Contemporary worship (youth) monthly at present	3.00pm	80
	Outreach Program (twice monthly)	4.00pm (Normal use not usually after 6.00pm)	80
Evenings or Weekends (when required)	Funeral (with a meal to follow)	Usually held between 6.00pm – 10.00pm	200+
Evenings or Weekends (when required)	The Church hosts tour groups from different parts of the Cook Islands varying in size, purpose & duration. Activities include arranging billets, meals, worship, singing and dancing	Activities are usually during the evening or weekends	Number of tours vary each year but average between 5-6 each year
Special Days	Other Cook Island Churches may combine at Clayton	6-7 times a yr usually on a Sunday concluding by 9.00pm	300+
First two Sundays in January	Nightly Worship	6.00pm – 8.00pm	100

The applicant advises that the major change to the use of the facility will be by small groups during weekdays on a weekly or monthly basis ie choirs/community groups etc.

POLICY IMPLICATIONS

The policies relevant to the application under the Monash Planning Scheme include the following:

State Planning Policy Framework

Clause 11.03-6: Social Needs

Planning is to recognise social needs by providing land for a range of accessible community resources, such as affordable housing, places of employment, open space, and education, cultural, health and community support facilities.

Clause 12: Metropolitan Development

This clause gives expression to Melbourne 2030 by providing specific objectives and strategies for Metropolitan Melbourne. Strategies include defining the role and function of activity centres and encouraging a mix of activities that generate high numbers of trips including business, retail, services and entertainment. The subject site is located within the Clayton Activity Centre designated a major activity centre under Melbourne 2030.

Clause 14.01: Planning for Urban Settlement

Clause 19.03: Design and Built Form

Development should achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties.

Local Planning Policy Framework

Clause 21: Municipal Strategic Statement

A key influence is the maintenance and enhancement of the Garden City Character within Monash.

Clause 21.08: Transport and Traffic

A key issue is that car parking should satisfy the needs of users without detriment to local amenity.

Clause 22.01: Residential Development and Character Policy

The subject site is located within Character Area Type B. This character type is characterised by the evenly distributed mix of consistently setback post-War single storey weatherboard and brick houses. Later infill development and redevelopment includes a minority of large two storey houses and multi housing developments.

The desired future character statement for Residential Character Type “B” requires that the neighbourhood retain its modest and unassuming character by ensuring that redevelopments are appropriate in scale and form to the existing building stock, and by protecting and enhancing the relationship of the built-form to the street.

Clause 22.04: Stormwater Management Policy

Zoning

The subject site is located within a Residential 1 Zone under the Monash Planning Scheme. The purpose of the zone is to:

- To implement the State Planning Policy Framework and the Local Planning Framework, including the Municipal Strategic Statement and local planning policies.
- To provide for residential development at a range of densities with a variety of dwellings to meet the housing needs of all households.
- To encourage residential development that respects the neighbourhood character.
- In appropriate locations to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs.

A planning permit is required for the use of land for a Place of Assembly as the activities on the site are expanding. A permit is also required for all buildings and works.

A Special Building Overlay applies to the site and a planning permit is also required for buildings and works under this provision of the Scheme.

CONSULTATION

Notification of the application was sent by mail to owners and occupiers of land opposite and adjoining the site and within the immediate area. One large notice was also displayed on the land.

Two objections have been received to the proposal. The ground of objection are summarised as follows:

- The proposal is an overdevelopment of the site
- The proposal will lead to an increase in traffic
- There is inadequate car parking provided on site
- The proposal will lead to an increase in noise particularly from music
- The proposal will exacerbate the litter problem already experienced at the site and within the street
- The adjacent unit located at 1/18 Burton Avenue may be adversely affected by construction of the boundary wall in terms of subsidence and movement/damage to the garage/units foundations and walls
- Reduction in sunlight due to the height and very close proximity of the proposed boundary wall

The application was referred to Melbourne Water for comment. Conditions are required to be placed on any permit issued.

The application was also referred to Council's traffic and drainage sections for comment. Drainage conditions are required on any permit issued. Council's traffic engineers have some concerns regarding the layout of the car park. The details are discussed below.

ASSESSMENT

The continued use of the site as a place of worship and associated place of assembly is considered satisfactory, as the site is located within a major activity centre. However, there are concerns regarding the intensity of the use on the site given its proximity to existing residential development and this is evidenced by the objectors concerns. A discussion of the main issues regarding the proposal follows.

Use

A 'Place of Worship' is defined within the Planning Scheme as land used for religious activities, such as a church, chapel, mosque, synagogue and temple. Often the general congregation also participates in ancillary activities within the place of worship such as church gatherings, meetings etc.

The lack of previous planning and building approvals for the subject site would indicate that the church and halls were constructed on the land prior to the

introduction of planning controls and various levels of activity have occurred over the years depending on each congregation using the premises at various times.

Recently the congregation appears to have significantly increased and the activities have changed. The observation is that there are more cultural activities now occurring on the site, which have resulted in larger numbers attending at various times during the year. These activities are no longer ancillary to the Place of Worship but fall within the definition of a 'Place of Assembly', which is defined as land where people congregate for religious or cultural activities, entertainment, or meetings.

The plans submitted with the application have been designed to accommodate these changes.

This is considered satisfactory provided appropriate conditions are placed on the permit in respect to meeting EPA noise requirements to limit the impact to the surrounding residential area.

Layout and Built Form

The setback of the proposed extension to the church varies between a minimum of 7.4 metres and 9 metres from the frontage of the site. This is considered satisfactory and in keeping with front landscape setbacks within the streetscape.

The proposed extension is contemporary in design however, will provide a stark contrast to the early 20th church building located on the site. This is an acceptable design response however the visual appearance of the existing church building as it presents to the street should not be compromised, therefore, the foyer area and canopy should be reduced in size and not intrude in front of the existing church and the front canopy redesigned to minimise its visual impact.

It is proposed to construct a new vestry, sanctuary and store/flower room along the eastern boundary of the site. The wall of this extension is above the maximum height normally required under Clause 55 for residential development. It is considered that the Rescode standard should apply as the wall will be adjacent to an existing residential building. Compliance can be achieved if the roof is raked back to the boundary and a ceiling height of 2.4 metres is maintained at this boundary. Accordingly, a condition should be placed on the permit to this effect.

Traffic and Car Parking

A 'Place of Worship' falls under the broad definition of 'Place of Assembly' under the provisions of the Monash Planning Scheme. Under Clause 52.06 a ratio of 0.3 spaces to each seat or to each square metre of net floor area, whichever is greater is required for a 'Place of Assembly'. Accordingly, as the net increase in floor area on the site is 185 square metres in area, a total of 56 would be required on site for the proposal.

A total of 22 car parking spaces are to be provided on site, including one disabled space, which is a deficit of 34 spaces.

The traffic report submitted with the application indicates that while the proposed increase in supply of on site parking isn't expected to totally eliminate the demand for off site parking, it is expected to fully satisfy the typical day to day demands whilst minimising the spread of off site parking for the typical Sunday activities and other occasional 'special event' activities where greater attendance numbers are currently experienced.

The traffic report states that members of the congregation have identified the use of the adjacent Community Centre car park and on street parking within Burton Avenue as areas generally used for car parking. This is considered satisfactory during the evening and at weekends, however, the use of the adjacent Community Centre parking cannot be assumed to be available for church use during office hours. Accordingly a restriction should be placed on the number of persons attending the church during the hours of 8:00am and 6:00pm Monday to Friday to ensure car parking is managed appropriately.

Matters raised by Council's Traffic Engineers in respect to the proposal are as follows:

- Car parking spaces are proposed to have dimensions of 2.8 metres x 4.9 metres with an aisle width of 5.3 metres. This does not meet the current standards within the Planning Scheme and is considered unacceptable particularly as the proposal constitutes a new development that should be designed to comply. There is no provision for vehicle overhang at the front of the car parking spaces, which may lead to larger vehicles projecting into the aisle, further reducing the available access width. The proposal does include a 500mm landscaping strip to allow a 5.8 metre wide manoeuvring area. This is not considered to be acceptable as drivers will be reluctant to use a landscaped area for manoeuvring and it may create problems when the ground is wet. Further, the provision of parking spaces at the current standard of 2.6 metres x 4.9 metres with a 6.4 metre paved aisle width will allow 2 additional car parking spaces to be accommodated on site. Accordingly a condition should be placed on the permit to require the car parking and aisles widths to comply with the Planning Scheme requirements.
- The rear of the building shows a deck area with steps the full width of the deck down to the access aisle to the car park. Council's Traffic Engineers advise that this is not supported, as the steps will interfere with vehicle manoeuvring. Also there is concern for pedestrians, particularly, children gathering around the steps and deck area being too close to vehicles parking and reversing in that area of the car park. Accordingly, the deck should be enclosed with no pedestrian access straight on to the car park.

Other Amenity Concerns

Concerns have been raised by objectors in respect to excessive noise from the congregation for various activities on the site. Conditions should be placed on

the permit to restrict hours of operation and the numbers attending the site during office hours, which should alleviate these concerns.

The issue raised in respect to the new boundary wall affecting the structure of the existing boundary wall is a building matter and the development will need to be constructed in accordance with the provisions of the building regulations.

CONCLUSION

The proposal to upgrade the existing facilities on the site for the church community is considered satisfactory subject to a number of changes as detailed above. Approval of the application is recommended.