

**5.6 270 BLACKBURN ROAD, GLEN WAVERLEY – THE DEVELOPMENT OF A FOUR STOREY BUILDING COMPRISING OF A GROUND LEVEL CARPARK, OFFICE USE ON THE FIRST AND SECOND FLOORS AND A 75 SEAT RESTAURANT AT THE THIRD FLOOR LEVEL, PLUS ALTERATION OF ACCESS TO A ROAD ZONE CATEGORY 1, BUILDINGS AND WORKS UNDER THE SPECIAL BUILDING OVERLAY, WAIVER OF LOADING BAY REQUIREMENTS PURSUANT TO CLAUSE 52.07, REDUCTION IN BICYCLE REQUIREMENTS PURSUANT TO CLAUSE 52.34, AND A REDUCTION IN THE PROVISION OF ON SITE CAR PARKING.**

(TPA/36603:MM:RMK)

Ward : Glen Waverley

Responsible Director: Paul Kearsley

Reason for Council Consideration: Cost of Development \$2 million

Statutory Processing Date : 29 December 2008

Pre-Application Discussion: Yes

***RECOMMENDATION***

*Council having caused notice of planning application No. 36603 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 **refuse** the application for the planning permit under the provisions of the Monash Planning Scheme in respect of the land known and described as 270 Blackburn Road, Glen Waverley, for the purpose of the development of a four storey building comprising of a ground level carpark, office use on the first and second floors and a 75 seat restaurant at the third floor level, together with alteration of access to a road zone category 1, buildings and works under the special building overlay, waiver of the loading bay requirements pursuant to clause 52.07, reduction in the bicycle requirements pursuant to clause 52.34, and a reduction in the provision of on site car parking on the following grounds:*

- 1. The proposal is not consistent with the relevant policies of the Monash Planning Scheme*
- 2. The proposal is out of character with the surrounding area with regards to bulk, mass and scale*
- 3. The proposal is an overdevelopment of the site*
- 4. The proposal does not provide a sufficient number of car parking spaces, nor is the car parking provided easily accessible.*
- 5. The provision of waste storage and collection is unsatisfactory in terms of the allocation of appropriate storage space and the access and egress of heavy vehicles to and from the site.*
- 6. The proposed development does not provide for an appropriate level of access for people with a disability.*

7. *The proposal does not provide adequate bicycle parking and facilities in accordance with Clause 52.34 of the Monash Planning Scheme.*
8. *The proposal would have a detrimental effect on the amenity of the surrounding area.*

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

### **BACKGROUND**

The subject site is located on the eastern side of Blackburn Road, approximately 200 metres north of Coleman Parade and the Syndal Railway Station.

The site is generally rectangular in shape, has a frontage to Blackburn Road of approximately 20 metres, a northern boundary which abuts the adjoining laneway of 35.8 metres and a southern boundary of 30.8 metres, giving the site a total area of approximately 655 square metres. There is a significant level difference of between 2- 3.3 metres from the front to the rear of the site.

Refer to Attachment 1 for Locality Map.

The subject site sits within the Syndal Neighbourhood Activity Centre, within a strip of predominately single and two storey attached shops and offices located on the eastern side of Blackburn Road between High Street Road and Coleman Parade.

The land is currently developed with a double storey office building with at grade car parking. Vehicle access is via an existing crossover at the centre of the frontage. The laneway abutting the site along its northern boundary has a minimum width of 3 metres and provides access through to a public parking area as well as Matthew Street, which is north of the site.

Surrounding properties can be described as follows:

- To the north of the right of way is a double storey office building with basement car parking to the rear, accessed via the laneway.
- A 15 metre wide Melbourne Water Reserve which runs along the rear of the strip centre and car park. This reserve separates the activity centre and the residential neighbourhood to the east. Dwellings backing onto the reserve have frontage to Shirley Avenue.
- To the south is a single storey brick building with pitched roof currently used as a community health care facility by Syndal Day Service.
- A Council reserve sits directly opposite the subject site, as do a number of larger buildings containing office and restaurant uses, including a three storey office building currently under construction.

## ***PROPOSAL***

An application has been received for the development of a four storey building that comprises of a ground level car park and contains both office and restaurant use. The plans submitted with the application provide for the following (Attachment 2):

### Ground Level

- Building lobby and partially at grade car/semi basement parking enclosed and built to the perimeters of the site.
- Car parking accessed via a ramp from the north east corner of the site.
- The finished floor level of the lobby is approximately 1.5 metres from the footpath level. Stairs and a disabled access ramp are provided.
- A total of 32 car parking spaces, 30 of which are proposed to be part of a car stacker system.
- Bicycle parking and bin storage within the car park area.

### First Floor Level

- Entry to the first floor level is via the stairs and lift from the lobby area.
- The first floor level has the following layout:
  - 51m<sup>2</sup> of reception area
  - Lift and stairwell
  - Male and female toilets (24m<sup>2</sup>)
  - 499m<sup>2</sup> of office floor space
  - Board room of 25m<sup>2</sup>

### Second Floor Level

- Entry to the second floor level is via the stairs and lift from the lobby area.
- The first floor level has the following layout:
  - 28m<sup>2</sup> of reception area
  - Lift and stairwell
  - Male and female toilets (25m<sup>2</sup>)
  - 464m<sup>2</sup> of office floor space
  - Board room of 25m<sup>2</sup>

The second floor building line will be set back approximately 3 metres from the Blackburn Road frontage, with a 49m<sup>2</sup> balcony area occupying this setback.

### Third Floor Level

- Entry to the third floor level is via the stairs and lift from the lobby area.
- The first floor level has the following layout:
  - 31m<sup>2</sup> of reception area
  - Lift and stairwell
  - Male and female toilets (31m<sup>2</sup>)
  - 397m<sup>2</sup> of restaurant floor space containing 75 seats.

The anticipated business hours of the restaurant are as follows:

- Monday to Thursday 7am to 10pm
- Friday to Sunday 7am to 12 midnight

The third floor building line will be set back between 3 and 12.9 metres from the Blackburn Road frontage, and 9.5 from the southern Title boundary to provide for an outdoor terrace area of 89m<sup>2</sup>.

The building will utilise a range of materials and finishes comprising of cement render with a selected paint finish, selected brickwork, transparent and green tinted glass and timber cladding to create a contemporary building form.

### ***POLICY IMPLICATIONS***

#### **Melbourne 2030**

Clause 12 provides direction for metropolitan development in Melbourne. The key direction of this clause seeks to contain metropolitan Melbourne's urban development and to ensure that future development is sustainable in respect of its contribution to the economy, support of the community and environmental sustainability.

The policies relevant within the Monash Planning Scheme for the current application include the following:

#### State Planning Policy Framework

Clause 17: Economic Development

Clause 19: Design and Built Form

The policy requires that 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

Clause 21.03-2: Economic Development

The strategic vision is to develop sustainable employment opportunities and maintain Monash as the predominant business location in Melbourne's eastern region by supporting a proactive, progressive business community and creating attractive, convenient and vibrant business centres.

Clause 22.03: Business Development and Character Policy

This policy promotes the enhancement of the Garden City Character of Industrial and business areas. The subject site is located within Business

Character Area Type 2. The character of this area is derived from post-1950's strip and neighbourhood shopping. This Character Type consists of mainly single and double storey retail (including restricted retail premises) businesses mostly focussed on main roads and close to railway stations.

### **Zoning**

The subject site is located within a Business 1 Zone under the provisions of the Monash Planning Scheme. The purpose of this zone includes to encourage the intensive development of business centres for retailing and other complementary commercial, entertainment and community uses.

A planning permit is not required for the proposed office and restaurant use however pursuant to Clause 34.01-4 of the Scheme a permit is required for buildings and works.

Also affecting part of the site is a Special Building Overlay. A planning permit is required under the provisions of Clause 44.05 of the Planning Scheme to construct a building or to construct or carry out works. An application must be referred to the relevant floodplain management authority under the provisions of this overlay.

### Car Parking

Clause 52.06 of the Monash Planning Scheme seeks to ensure the provision of an appropriate number of car spaces having regard to the activities on the land and the nature of the locality. The table at Clause 52.06-5 sets out the number of car spaces required for particular uses. The provision of car parking will be discussed in the assessment section of this report.

### Loading Bay

This Clause specifies that no buildings or works may be constructed for the storage or sale of goods or materials unless space is provided on the land for loading and unloading commercial vehicles. A permit can be granted for a reduction in this requirement if the land area is insufficient or alternative adequate arrangements are provided for.

### Road Zone

Clause 52.29 of the Planning scheme is relevant as land is within/adjacent to a Road Zone Category 1. Under these provisions a permit is required to alter or create an access on the Road Zone. This Clause also triggers referral to the Roads Corporation.

## Bicycle Parking

Clause 52.34 of the Monash Planning Scheme seeks to ensure that adequate bicycle parking and facilities are provided for the site.

## ***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. Two large notices were required to be displayed on the land.

Twelve objections have been received. The grounds of objection can be summarised as follows:

- There are currently insufficient parking spaces available in the area, taking at times over 20 minutes for employees and customers of existing restaurants to find a parking spot.
- It is not acceptable to allow any additional restaurants to be established without first addressing the current parking issues.
- Residential Streets are currently saturated with commuter and visitor parking. Further development without adequate on-site car parking will further exacerbate the growing problem.
- The provision of parking proposed is inadequate.
- Car stackers are not appropriate for restaurant patrons.
- The proposed laneway access for parking is not appropriate.
- As on-site parking is insufficient, restaurant patrons may attempt to use the pipeline reservation for parking
- The proposal will create a traffic hazard within the laneway and onto the street network.
- Question as to whether the provision of one disabled car parking space is acceptable for this development.
- Development of the proposal could result in loss of trade to business due to the overspill of parking onto the street network.
- Loading bay facilities should be provided.
- The inclusion of a restaurant on the third floor is inappropriate for a building abutting a residential neighbourhood and could lead to noise and smell disturbances.
- Food and other waste related to the restaurant will attract vermin.
- The removal of waste from the premises is unclear.
- There will be noise from the roof mounted plant and mechanical services.
- Noise from restaurant patrons at night, particularly from the deck area.
- The building should be soundproofed and restaurant deck area removed.
- Concern that if the restaurant is not popular due to its location on the third floor, that the venue may become a nightclub.

- Bike racks have been proposed, however a shower facility has not, decreasing the likelihood of bicycle transport.
- The proposed building height is too high and out of character in terms of built form. Three storey height limit should be imposed. Single storey to the rear of the site where there is interface with residential.
- The rear (eastern) wall of the development is on the property boundary, which will lead to continuation of the graffiti problem.
- The proposal provides no active frontage to Blackburn Road. Loss of liveability.
- Overshadowing, overlooking into Shirley Avenue residences.
- Undesirable precedent.
- Loss of property values.

The application was referred to VicRoads and Melbourne Water. Both authorities have no objection to the proposal, subject to a number of conditions being incorporated into any permit issued.

### ***INTERNAL CONSULTATION***

The proposal was referred to Council's Drainage and Traffic Engineers, as well as Council's Municipal Building Surveyor.

The Drainage Engineers advise that underground drainage is available for the site and recommend a number of conditions be imposed on a planning permit if issued.

Council's Traffic Engineers strongly reject the proposed development due to the use of car stacker systems and the insufficient parking provision for both the office and restaurant components.

Council's Building Surveyors have also identified a number of concerns with the proposal, including:

- The inadequate provision of fire escapes. An additional stairway and escape from the building would be required.
- Stairs are to be fire isolated and discharge to the exterior of the building.
- Circulation space into and within the building is not compliant for people with disabilities. In particular the disabled ramped entry to the building is non compliant, as is access from the parking area to the lobby and lift facility.
- Projection over the laneway, second floor should not be allowed.

### ***ASSESSMENT***

The use of the site for office and restaurant use is not inconsistent with 'Melbourne 2030' and State and Local Policies and the provisions of the Municipal Strategic Statement particularly as the site is located within a

Neighbourhood Activity Centre, close to public transport routes. However, there are concerns with the specific design detail of the development that cannot be supported and are detailed below:

### Design and Built Form

The objectives of the design and built form policy at Clause 19.03 of the Monash Planning Scheme are to achieve high quality urban design and architecture that:

- Reflects the particular characteristics, aspirations and cultural identity of the community.
- Enhances livability, diversity, amenity and safety of the public realm.
- Promotes attractiveness of towns and cities within broader strategic contexts.

The following assessment against the design and built form principals at Clause 19.03-2 demonstrates that the proposed development does not support the greater part of these design and built form principals, nor does the proposal contribute positively to the local urban character, nor enhance the public realm.

### Context

The site is located at the edge of a neighbourhood activity centre, which interfaces with a residential area to the east. Adjoining commercial development is low scale with a maximum height of approximately 7 metres (two storeys). The exception to this is a three-storey office building under construction on the western side of Blackburn Road. Nearby residential development is modest in its form and scale with some two-storey medium density infill housing interspersed.

Planning principles provide that new architecture should address the street and complement the scale, form and colour of the architecture within each street. Redevelopments should be of a height and bulk that is sympathetic to the scale of adjacent buildings.

The 16 metre (four-storey) height of the proposal as viewed from Blackburn Road fails to respect the predominantly single and two-storey character of the streetscape, which generally does not exceed a height of 7 metres. Given the fall of the land, and along the side elevations the proposed average building height is in the order of 14-15 metres. This height and scale along side boundaries is further disrespectful of the adjoining lower scale buildings.

With respect to the rear residential interface, a 13.6 metre (four-storey) high wall is proposed. The interface with residential properties to the east is most sensitive and the proposed building height and bulk along this eastern boundary is contrary to planning principals and the orderly and proper planning of the area.

Whilst it is acknowledged that the centre is undergoing significant change, it is considered that a reduction in scale to a maximum height of three storeys at the front of the site and two storeys to the rear would enable the development to sit more comfortably within the streetscape, whilst minimising visual impact on the residential area to the east.

### The Public Realm

It is considered that the scale of the building as viewed from the public realm will be out of context with the surrounding area and provides a harsh contrast to existing development. Development of the proposal would not protect and enhance the public realm, which includes main pedestrian spaces, streets and walkways.

### Landmark, Views and Vistas

Landmark, views and vistas should be protected and enhanced or, where appropriate created by new additions to the built environment. The site is located towards the edge of a neighbourhood activity centre, within the strip and adjacent to low rise buildings. A building of this scale and form at this particular location would be inappropriate and to the detriment of the streetscape.

### Pedestrian Spaces

Design of the relationship between buildings and footpaths and other pedestrian spaces should enhance the visual and social experience of the observer. It is considered that the lack of an interactive frontage at ground floor level compromises the pedestrian experience.

### Light and Shade and Energy Resource Efficiency

The shadows cast by the proposed building will impact on pedestrian spaces, Blackburn Road and the adjoining community health facility during the morning and afternoon period. Energy efficiency appears poor with significant glazing proposed on the northern and western elevations of the building. An energy rating report has not been submitted with the application, however the minimum requirement will need to be achieved at the Building Permit stage.

### Architectural Quality

The proposed development displays a reasonable standard of architectural integrity and proposes a range of materials that will sit comfortably within the streetscape.

### Landscape Architecture

Given the nature of the proposed uses and the existing character and layout of built form in the strip centre, landscaping has not been incorporated into the design of the development.

### Car Parking

Clause 52.06-6 of the Monash Planning Scheme provides guidelines for the provision of car parking for different land uses. Alternatively, Council’s Car Parking Policy also specifies requirements for car parking. Accordingly the following table includes both measures for car parking for the current proposal.

<b>Use</b>	<b>Floor Area Sqm / No. of seats</b>	<b>No. of Car Parking Spaces required under Clause 52.06 of MPS</b>	<b>No. of Car Parking Spaces under Council’s Car Parking Policy</b>
Office	1161m <sup>2</sup>	41 (3.5 spaces/100sqm)	41 (3.5 spaces/100sqm)
Restaurant	75 seats (not including terrace area)	45 (0.6 spaces per seat)	27 (0.35 spaces per seat)
<b>TOTAL</b>		<b>86</b>	<b>68</b>

As can be seen in the above analysis the proposal generates a requirement for a minimum of 86 spaces under the provisions of the Monash Planning Scheme and 68 spaces under Council’s own Car Parking Policy.

A total of 32 spaces are provided on site, located within the semi basement carpark and accessed via the laneway. This shortfall of 36 spaces under Council’s Car Parking Policy requirements is unacceptable. The parking demand generated by the proposed development must be contained on-site. Unrestricted parking for the shopping centre is generally only available within the Council car park and on local and residential streets surrounding the shopping centre. The reliance on these areas to accommodate the developments parking overflow is not appropriate and changes to the parking restrictions may be introduced. The lack of on-site car parking will inevitably spill parking onto the street network. This reliance on off-site parking is unacceptable and will result in adverse off site impacts.

In addition, 30 of the 32 car parking spaces rely car ‘stacker’ systems as they are commonly known. A car stacker system can accommodate two vehicles at a time by working on the process of the first vehicle driving onto the hoist mechanism, the hoist raising the car mid-air thus creating an opportunity for an additional vehicle to be parked beneath. A pit is constructed below the car parking space and in order for the vehicle that is mid-air to exit, the lower vehicle must be lowered into the pit.

This arrangement is impractical and not functional as it is proposed that each car hoist be shared between the two proposed uses of office and restaurant. The use

of car stacker systems is generally only suitable for permanent users and not for short term parking and these systems are also generally restricted in height and do not provide for vehicles other than a standard sedan. Furthermore, in the evenings it is proposed that the restaurant employees share the car hoist system with partons. Problems arising from use of this system are foreseen and it is therefore considered that this arrangement will not work. All car parking spaces must function independently.

### Loading Bay Facilities

In association with the lack of car parking spaces provided on site, there are no loading bay facilities for the delivery of goods. The development proposes to rely on the use of on-street car parking spaces, which is considered unsatisfactory for a development of this size and nature. A waiver of the loading bay requirements is therefore not supported.

### Bicycle Parking

Clause 52.34 of the Monash Planning Scheme seeks to ensure that adequate bicycle parking and facilities are provided for the site. Bicycle facilities have been provided at the entry and within the car park of the building. Pursuant to Clause 52.34 a total of eleven (11) bicycle parking spaces are required however ten (10) are provided. A shower is also required and has not been provided. The applicant seeks to waiver these requirements. Given the significant lack of on-site parking a waiver of these requirements can not be supported.

### Disabled Access

Entry into the proposed building, circulations spaces within the building and access from the disabled car space to the lobby/lift area do not comply with disabled access requirements. Furthermore, disabled toilet facilities have not been provided.

### Waste Management

There is concern with the location of the bin storage area within the car park area, and the difficulty in accessing the bin area given that the ramped entry into the car park and the sole disabled car space being located in front of the waste area.

### Additional Objector Concerns

There are additional objector concerns with regards to a number of issues. With regards to these, the following is offered:

- The proposal complies with the acceptable standards of overshadowing and overlooking onto the nearby residential properties.

- Particular conditions regarding food, waste and the control of vermin would be incorporated into a permit should one issue.
- Any emission of noise from the premises must accord with EPA guidelines.
- The use of the deck area could be controlled via permit condition.
- Loss of property values are not a relevant planning consideration.
- The proposal is likely to set an undesirable precedent

### ***CONCLUSION***

Whilst a mixed-use development of office restaurant activities would be suitable in this location, it is considered that the development as proposed would result in adverse off-site impacts on the streetscape and street network. The lack of on-site car parking is not supported, nor is the use of car stacker systems for short-term use. All are likely to cause significant detriment to the surrounding area and are inconsistent with relevant planning policies. Accordingly, it is recommended that the development be refused.