

1. **807-811 WARRIGAL ROAD AND 1513-1517 DANDENONG ROAD, OAKLEIGH
CONSIDERATION OF AN AMENDED PROPOSAL PRIOR TO A VCAT HEARING
USE OF LAND FOR ACCOMMODATION (DWELLINGS AND RESIDENTIAL
HOTEL/SERVICED APARTMENTS), CONSTRUCTION OF BUILDINGS WORKS,
REMOVAL OF AN EXISTING EASEMENT (EASEMENT E-1 ON TP438575Q, E-1 & E2
ON PS403162C), CREATION AND ALTERATION OF ACCESS TO A ROAD IN A
ROAD ZONE CATEGORY 1
(TPA/46427)**

EXECUTIVE SUMMARY:

Council at its meeting of 31 January 2017 resolved to not support a proposal for the construction of three buildings ranging in height from 4 to 18 storeys to be used for 348 residential apartments, 106 serviced apartments/residential hotel, retail tenancies including a supermarket and cafe/food and drink premises.

An appeal had been lodged with Victorian Civil and Administrative Tribunal (VCAT) against Council's failure to determine the application within the prescribed time.

The applicant has circulated amended plans as part of the VCAT process. The amended proposal reduces the overall height of the proposed development from 18 storeys to 11 storeys.

This report assesses the proposed amendments and Council must form a position on these amended plans. The application is listed for a merits hearing at VCAT on 22 May 2017 unless resolved prior by consent of parties.

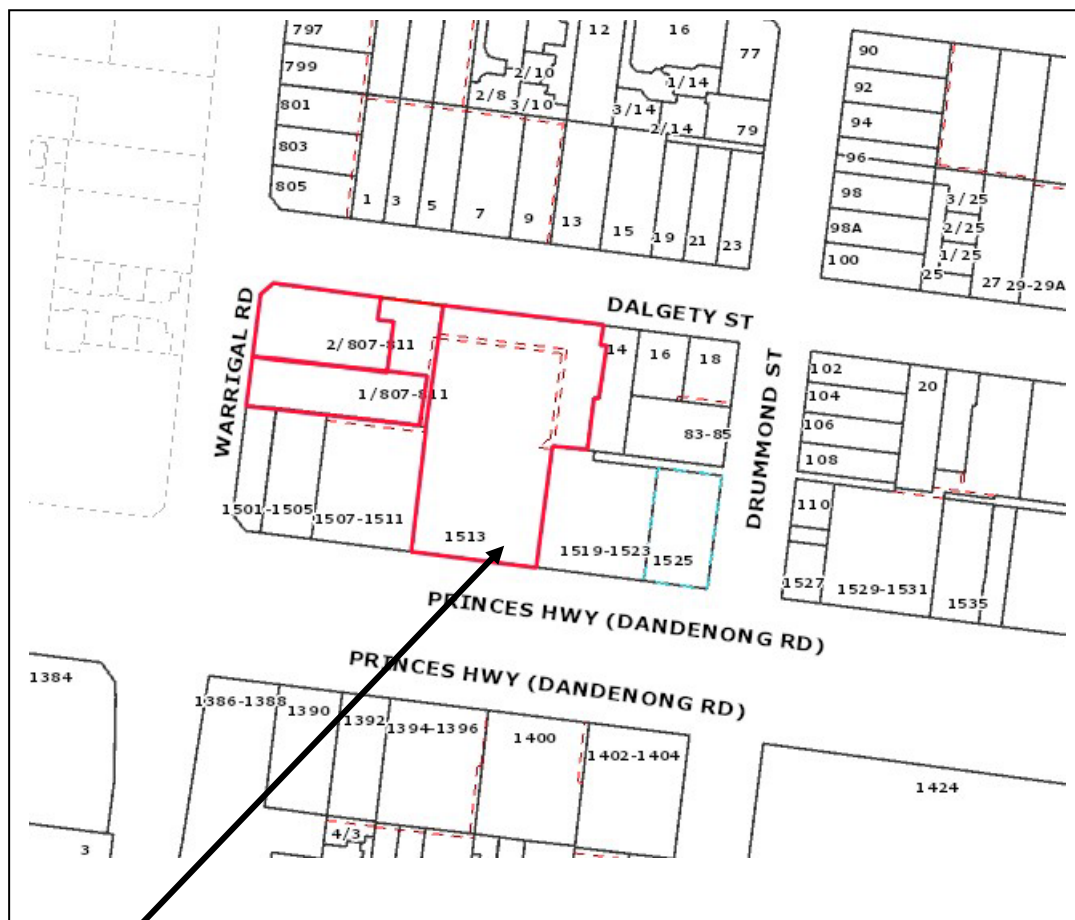
The reason for presenting this report to Council is because the previous application was determined by Council.

The amended proposal is considered a substantial improvement to the previous proposal but still raises a number of concerns including the overall height of the proposed development. Given these concerns, it is further recommended that Council support the amended proposal subject to conditions including a requirement to reduce the overall height to 8 storeys along with further modifications to the scale and massing of the development.

RESPONSIBLE DIRECTOR:	Peter Panagakos
RESPONSIBLE MANAGER:	Angela Hughes
RESPONSIBLE PLANNER:	James Heitmann
WARD:	Oakleigh

PROPERTY ADDRESS:	807-811 Warrigal Road & 1513-1517 Dandenong Road, Oakleigh
PRE-APPLICATION MEETING:	Yes
NUMBER OF OBJECTIONS:	Eighteen (18)
ZONING:	Commercial 1 Zone
EXISTING LAND USE:	Restricted Retail (lighting and furniture shop) Indoor Recreation (cricket training)
OVERLAY:	Design & Development Overlay 10 Environmental Audit Overlay
RELEVANT CLAUSES: <u>State Planning Policy Framework</u> Clause 11 – Settlement Clause 11.04 – Metropolitan Melbourne Clause 13.03-1 – Use of Contaminated Land Clause 14.02-1 – Catchment Planning and Management Clause 15 – Built Environment and Heritage Clause 16 – Housing Clause 17 – Economic Development	<u>Local Planning Policy Framework</u> Clause 21 – Municipal Strategic Statement Clause 21.04 – Residential Development Clause 21.05 – Economic Development Clause 22 – Local Planning Policies Clause 22.03 – Industry and Business Development and Character Policy <u>Particular Provisions</u> Clause 52.06 – Car Parking Clause 52.07 – Loading and unloading of vehicles Clause 52.29 – Land Adjacent to a Road Zone Clause 52.36 – Integrated transport planning Clause 52.34 – Bicycle facilities <u>General Provisions</u> Clause 65 – Decision Guidelines
DEVELOPMENT COST:	\$108 million

LOCALITY PLAN



SUBJECT SITE

NEIGHBOURHOOD PLAN



807-811 Warrigal Road and 1513-1517 Dandenong Road, Oakleigh - Use of Land For Accommodation (Dwellings And Residential Hotel/ Serviced Apartments), Construction of Buildings Works, Removal of An Existing Easement (Easement E-1 on TP438575Q, E-1 & E2 On PS403162C), Creation and Alteration of Access To A Road In A Road Zone Category 1

RECOMMENDATION:

A. That Council resolves to support the amended proposal pertaining to Application for Planning Permit No. **TPA/46427** to allow for the **USE OF LAND FOR ACCOMMODATION (DWELLINGS AND RESIDENTIAL HOTEL/SERVICED APARTMENTS), CONSTRUCTION OF BUILDINGS WORKS, REDUCTION IN THE CAR PARKING REQUIREMENTS OF CLAUSE 52.06, REMOVAL OF AN EXISTING EASEMENT (EASEMENT E-1 ON TP438575Q, E-1 & E2 ON PS403162C), CREATION AND ALTERATION OF ACCESS TO A ROAD IN A ROAD ZONE CATEGORY 1, at 807-811 WARRIGAL ROAD AND 1513-1517 DANDENONG ROAD OAKLEIGH** subject to the following conditions:

1. Before the development starts, three copies of amended plans drawn to scale and dimensioned, must be submitted to and approved by the Responsible Authority. The submitted plans must clearly delineate and highlight any changes. 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 circulated 21/04/17 (Rothe Lowman, Project No. 216027, Rev A 20.04.17), but modified to show:

- a) Building C – reduction in the overall height to 8 storeys.
- b) Building C – adjustment of upper-level form with a uniform setback including a 6m setback from the Dandenong Road frontage behind a 7 storey parapet.
- c) Building C – provide a setback from the western boundary to facilitate a public through block connection between Dalgety Street and Dandenong Road. The through block connection should have a minimum width of 6m to allow pedestrian only access.
- d) Building B – reorganise the communal courtyard to allow for improved communal amenity and solar access. This rearrangement may result in reorientating the courtyard to the north.
- e) Buildings A and B – improved foyer and entry address, accessible off the central communal amenity space to improve a sense of address (and the navigation to building entries and distances along corridors).
- f) Building A – relocated (or removed) car park entry on Dalgety Street so that it does not interrupt the row of townhouses (TH01 to 06).
- g) Building A – increased setback to 7 storey element to match alignment of DDO Precinct B boundaries.
- h) Parking allocated to the residential dwelling component of the development physically secured and separated from the retail and

residential hotel components of the development. Residential visitor car parking may be provided within common property/collective use.

- i) Direct vehicle access to parking areas associated with retail and residential hotel components of the development restricted to access via Dandenong Road.
- j) Provide a corner splay or area at least 50% clear of visual obstructions (or with a height of less than 1.2 metres), which may include adjacent landscaping areas with a height of less than 0.9 metres, extending at least 2.0 metres long x 2.5 metres deep (within the property) to provide a clear view of pedestrians on the footpath of the frontage road.
- a) Any required modification to plans as recommended in the required Wind Modelling Assessment.
- k) A detailed schedule of all materials and finishes.

All to the satisfaction of the Responsible Authority.

- 2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
- 3. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
- 4. Prior to endorsement of plans pursuant to condition 1 of the permit, a Wind Modelling Assessment must be undertaken by a suitably qualified person to assess the wind impact of the development at street level. Any recommendations or required modifications to the development must be implemented to the satisfaction of Responsible Authority.
- 5. Prior to the commencement of any works, use and development and for the usage of the land to be changed for a sensitive use (Residential) permitted by this permit for the land, you are required to provide to Council either:
 - i. A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970; or
 - ii. An environmental auditor appointed under the Environment Protection Act 1970 must make a Statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.

Three copies of the Certificate of Environmental Audit or the Statement of Environmental Audit and the audit area plan must be submitted to the Responsible Authority.

6. The development and/or use allowed by this permit must strictly comply with the directions and conditions of the Environment Protection Act 1970 and also with the conditions on the Certificate or Statement of Environmental Audit.
7. A Section 173 Agreement under the Planning and Environment Act 1987 may need to be entered into with the Responsible Authority depending on the conditions of the Statement of Environmental Audit issued for the land. Any amendment must be approved by the Responsible Authority prior to the commencement of any works, use and development and may require further assessment of the land.
8. Prior to the use of the land permitted by this permit, issue of a Certificate of Occupancy under the Building Act 1993 and certification/issue of a statement of compliance under the Subdivision Act 1988 a letter must be submitted to Council prepared by an Environmental Auditor appointed by the Environment Protection Authority under the Environment Protection Act 1970 to verify that the conditions of the Statement of Environmental Audit issued for the land have been satisfied.

A copy of the certificate or statement of Environmental Audit issued for the land must be provided to each owner, under a covering letter which draws attention to any conditions or directions on the Certificate or Statement of Environmental Audit.

The land owner and all its successors in title or transferees must upon release for private sale of each of the lots created (if any) by the subdivision include in the Vendor's Statement pursuant to Section 32 of the Sale of Land Act 1962 annexed to the Contract of Sale for the sale of the land, a copy of the planning permit and relevant plans, Certificate or Statement of Environmental Audit for the land and any management plans or other documentation required to be prepared and adhered to in respect of the land.

9. Prior to the commencement of the permitted development, the owner of the land to which this permit relates must enter into an agreement with the Responsible Authority under Section 173 of the Planning and Environment Act 1987. In addition to the usual mechanical provisions, the agreement must provide for the following matters:
 - a) Serviced apartment premises within the development are restricted to short-stay serviced apartments defined as "Residential Hotel" by the Monash Planning Scheme.
 - b) Permanent occupation of apartment premises as a primary residence is prohibited.

- c) Serviced apartment premises are to managed and remain under the control of a single operator responsible for the operation and maintenance of the entire premises.
- d) Car parking allocated to serviced apartments on Title, managed and allocated by the serviced apartment operator to the satisfaction of the Responsible Authority.
- e) The costs of the Responsible Authority in relation to the preparation, review and registration of the agreement are to be borne by the owner.

A memorandum of the Agreement is to be entered into on Title. The cost of the preparation and execution of the Agreement and entry of the memorandum on Title is to be paid by the owner.

10. Prior to the commencement of the use for serviced apartments an Operational Management Plan concerning the serviced apartments prepared to the satisfaction of the Responsible Authority must be submitted and approved by the Responsible Authority. The plan should detail but not be limited to:
- a) The presence of a manager on site;
 - b) Services provided;
 - c) Operating hours;
 - d) Management of the car park associated with the serviced apartments.

When approved, the Operational Management Plan will be endorsed to form part of this permit and must be implemented to the satisfaction of the Responsible Authority.

11. Function and conference facilities within the development must not exceed 30 patrons/seats at any single time and be operated ancillary to the primary use as serviced apartments, unless otherwise consented to in writing by the Responsible Authority.
12. Function and conference facilities must only operate between 7:30am and 7:30pm Monday to Friday unless otherwise agreed to in writing by the Responsible Authority.
13. Prior to the commencement of works on the site, the owner shall prepare a Waste Management Plan for the collection and disposal of garbage and recyclables for all uses on the site by private contractor. The Waste Management Plan shall provide for:
- a) The method of collection of garbage and recyclables for uses;
 - b) Designation of methods of collection by private services;

- c) Waste collection via the laneway adjacent to the northern boundary;
- d) Appropriate areas of bin storage on site and areas for bin storage on collection days;
- e) Measures to minimise the impact upon local amenity and on the operation, management and maintenance of car parking areas;
- f) Litter management.

A copy of this plan must be submitted to and approved by the Responsible Authority. Once approved the Waste Management Plan will be endorsed to form part of the permit.

- 14. No goods must be stored or left exposed outside the building so as to be visible from any public road or thoroughfare.
- 15. 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.
- 16. 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;
- 17. The loading and unloading of goods from vehicles must only be carried out on the land.
- 18. The occupants and management of the premises must ensure that any noise emanating from the premises, during and post construction, must not exceed the standards of the State Environment Protection Policies No. N1 and N2 and must on request provide evidence to Council of Compliance with the policies.
- 19. Air-conditioning and other plant and equipment installed on or within the buildings must be so positioned and baffled that any noise emitted complies with the appropriate Australian Standards and EPA requirements.

At the immediate request of the Responsible Authority noise testing must be taken to demonstrate compliance with EPA noise requirements. Noise testing is to be undertaken at no cost to the Responsible Authority.

20. 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.
21. 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:-
- Planting to soften the appearance of the development.
 - Schedule of all proposed trees, shrubs, creepers 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.
 - Provision of appropriate species suited to low water use and low ongoing maintenance.
 - Detail of growing medium, irrigation and drainage of planter boxes and planting within confined spaces.
 - The extent of any cut, fill, embankments or retaining walls associated with the landscape treatment of the site.
- When approved the plan will be endorsed and will then form part of the permit.
22. 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.
23. Before the use and development permitted starts, 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.

24. The layout of the development shall generally follow the Design Standards for car parking set out in Clause 52.06-8 of the Monash Planning Scheme.

25. Car parking within the development must be allocated as follows:

- Provision of no less than 1 car space to each one or two bedroom dwelling.
- Provision of no less than 2 car spaces to each three or more bedroom dwelling.
- Provision of no less than 102 car spaces associated with the supermarket, cafe and retail tenancies.
- Provision of no less than 1 car space per 5 dwellings for residential visitor car parking.
- Provision of no less than 0.69 car spaces per serviced apartment/hotel room.

Any future subdivision of the development must provide for car parking in accordance with the above-mentioned requirement on Title to the satisfaction of the Responsible Authority. Car parking associated with serviced apartments are to remain entirely within common property associated with the serviced apartments and managed by the operator of the serviced apartments to the satisfaction of the Responsible Authority. Residential visitor car spaces are to remain in common property associated with and accessible to the residential dwelling component of the development.

26. Prior to occupation of premises approved by this permit a Car Parking Management Plan must be submitted to and approved by the Responsible Authority.

The Car Parking Management Plan must provide for adequate allocation of car parking to service all uses to be undertaken on the land including designated allocation of car spaces for residential visitor, staff of retail and hotel use of the car park. The Car Parking Management Plan must detail any barrier mechanisms and/or paid parking arrangements within public parking areas introduced and implemented in consultation with and to the satisfaction of the Responsible Authority.

Once approved the Car Parking Management Plan will be endorsed to form part of this permit. Car parking is to be provided in accordance with the endorsed Car Parking Management Plan and implemented to the satisfaction of the Responsible Authority.

27. 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 collection of stormwater within the site and for the conveying of the stormwater to the nominated point of discharge.

The nominated point of stormwater connection for the site is to the north of the property where the entire site's stormwater drainage must be collected and free drained via a pipe to the Council pit in the nature strip via a pipe to be constructed to Council Standards. A new pit is to be constructed if a pit does not exist or is not a standard Council pit. If the point of discharge cannot be located then notify Council's Engineering Division immediately.

28. All on-site stormwater is to be collected from hard surface areas and must not be allowed to flow uncontrolled into adjoining properties. The on-site drainage system must prevent discharge from driveways onto the footpath. Such a system may include either:-
- trench grates (150mm minimum width) located within the property; and/or
 - shaping the driveway so that water is collected in a grated pit on the property; and/or
 - another Council approved equivalent.
29. Prior to the development commencing detailed engineering plans for civil works within Dalgety Street are required to be submitted to Monash City Council Engineering Department for approval. These plans must include the following:
- New and modified vehicle crossovers.
 - The provision of indented car parking and any modification to the footpath and nature strip.
 - Any civil works and infrastructure within Council land along the site perimeter.
- These works are to be designed, constructed and inspected to the satisfaction of the Monash City Council Engineering Department. The full cost of the design and construction is to be met by the permit holder.
30. The existing redundant crossings are to be removed and replaced with kerb and channel. The footpath and nature strip are to be reinstated to the satisfaction of Council.

31. All new crossings are to be no closer than 1.0 metre measured at the kerb to the edge of any power pole, drainage or service pit, or other services. Approval from affected service authorities is required as part of the vehicle crossing application process.
32. A corner splay or area at least 50% clear of visual obstructions (or with a height of less than 1.2 metres), which may include adjacent landscaping areas with a height of less than 0.9 metres, extending at least 2.0 metres long x 2.5 metres deep (within the property) from the edge of the exit lane of each vehicle crossing to provide a clear view of pedestrians on the footpath of the frontage road.
33. The layout of the development shall follow the Design Standards for car parking set out in Clause 52.06-8 of the Monash Planning Scheme as detailed below:
 - Driveway to provide at least 2.1m headroom beneath overhead obstructions.
 - Driveway gradient to be no steeper than 1 in 10 (10%) within 5 metres of the frontage to ensure safety for pedestrians and vehicles.
 - Ramp grades (except within 5 metres of the frontage) to be designed as follows:
 - i. Maximum grade of 1 in 4.
 - ii. Provision of minimum 2.0 metre grade transitions between different section of ramp or floor for changes in grade in excess of 12.5% (summit grade change) or 15% (sag grade change).
 - Minimum requirements for car park dimensions to be in accordance with Table 2.
 - Clearance to car parking spaces to be in accordance with Diagram 1 in relation to the placement of a wall, fence, column, tree, tree guard or any other structure that abuts a car space.
34. Bicycle parking facilities shall generally follow the design and signage requirements set out in Clause 52.34 of the Monash Planning Scheme.
35. Before the development starts, 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) the location of site services and constructions sheds;
- e) site security;
- f) maintenance of safe movements of vehicles to and from the site during the construction phase;
- g) the provision of car parking for vehicles associated with construction of the development;
- h) wash down areas for trucks and vehicles associated with construction activities;
- i) cleaning and maintaining surrounding road surfaces;
- j) a requirement that construction works must only be carried out during the following hours:
 - Monday to Friday (inclusive) – 7.00am to 6.00pm;
 - Saturday – 9.00am to 1.00pm;
 - Saturday – 1.00pm to 5.00pm (only activities associated with the erection of buildings. This does not include excavation or the use of heavy machinery.)

VicRoads condition (ref: 18786/16)

- 36. The proposed crossovers to Warrigal Road and Princess Highway are to be constructed to the satisfaction of the Responsible Authority and at no cost to the Roads Corporation prior to the occupation of the development hereby approved.
- 37. The proposed crossovers to Warrigal Road and Princess Highway should be flared at 60 degrees with 3.0m radial turnouts at the kerb and with 1.0 clearance from any fixed object at the entrance of the property.
- 38. Landscaping and structures within the pedestrian visibility splays must be maintained at a height no greater than 900mm.

Public Transport Victoria condition (File: FOL/16/34102)

- 39. The permit holder must take all reasonable steps to ensure that disruption to bus operations along Warrigal Road is kept to a minimum during the construction of the development. Foreseen disruptions to bus operations and mitigation measures must be communicated to Public Transport Victoria fourteen days (14) prior.
- 40. This permit will expire in accordance with section 68 of the *Planning and Environment Act 1987*, if one of the following circumstances applies:
 - The development is not started before 2 years from the date of issue.
 - The development is not completed before 4 years from the date of

issue.

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 permit expires, or within six months of the permit expiry date, where the development allowed by the permit has not yet started; or within 12 months of the permit expiry date, where the development has lawfully started before the permit expires.

NOTES:-

1. Building approval must be obtained prior to the commencement of the above approved works.
2. Premises used for the sale or storage of food in any manner whatsoever are to be registered under the Food Act and require Council approval via the Chief Environmental Health Officer before occupation.
3. Unless no permit is required under the planning scheme, no sign must be constructed or displayed without a further permit.
4. Building Permit approval for this development must take into consideration the location of future subdivision boundaries and their compliance with the Fire Separation Provisions of the Building Code of Australia, including Separating Walls and Openings near Boundaries, as well as the requirements of the Building Regulations.
5. Stormwater discharge is to be detained on-site to the predevelopment level of peak stormwater discharge. Approval of any detention system is required from Council prior to works commencing.
6. Any new drainage work within the road reserve requires the approval of the City of Monash's Engineering Division prior to the works commencing. Three copies of the plans (A3-A1 size) for the drainage works must be submitted to and approved by the Engineering Division. The plans are to show sufficient information to determine that the drainage works will meet all drainage conditions of the permit.
7. Engineering permits must be obtained for new or altered vehicle crossings and for connections to Council's drains/pits and these works are to be inspected by Council (tel. 9518 3690).
8. Approval of each proposed crossing, and a permit for installation or modification of any vehicle crossing is required from Council's Engineering Department.
9. The proposed crossings are to be constructed in accordance with the City

of Monash standards.

10. The accessible parking spaces should be designed in accordance with the Australian Standard for *Off-Street Parking for people with disabilities*, AS/NZS 2890.6. The vehicle path to and from each accessible space shall have a minimum headroom of 2200mm. The headroom above each dedicated space and adjacent shared area shall be a minimum of 2500mm.

BACKGROUND:

The Site and Surrounds

The subject land is located near the north-east corner of the intersection of Dandenong Road and Warrigal Road in Oakleigh. The consolidated land is irregular in shape having an overall area of 9,605 square metres and comprising of 3 separate Titles. Various easements encumber the land. The land has a 158.46 metre wide frontage to Dalgety Street along the northern boundary, 50.58 metre wide frontage to Dandenong Road along the southern boundary and 46.05 metre wide frontage to Warrigal Road along the western boundary.

The property is currently developed as commercial premises currently occupied by Beacon Lighting (orientated to the north-west corner of the site), Adriatic Furniture (orientated to Dandenong Road) and All Star Sports (orientated to Dalgety Street and Dandenong Road). The land is surrounded by commercial uses to the south-west (Bob Jane T-Mart and KFC) and east (Coles Express service station and gymnasium). The residential area to the north is a heritage precinct including numerous intact heritage dwellings constructed in the Federation and inter-war periods.

An aerial photograph of the subject site and surrounding land can be found attached to this report (Attachment 2).

VCAT Appeal

An appeal has been lodged with Victorian Civil and Administrative Tribunal (VCAT) against Council's failure to determine the application within the prescribed time. Council at its meeting of 31 January 2017 resolved that if it were in a position to make a decision, it would determine to **Refuse the application (TPA/46427)** for the use of land for accommodation (dwellings and residential hotel/serviced apartments), construction of buildings works, reduction in the car parking requirements of clause 52.06, removal of an existing Easement (EASEMENT E-1 ON TP438575Q, E-1 & E2 ON PS403162C), creation and alteration of access to a road in a Road Zone Category 1 at 807-811 Warrigal Road and 1513-1517 Dandenong Road, Oakleigh on the following grounds:

1. The proposed development is excessive in building height, scale and massing having regard to the surrounding context and applicable policy.
2. The proposal is inconsistent with the objectives and requirements of Design and Development Overlay – Schedule 10.
3. The proposal would have a poor level of internal amenity for future residents.
4. The proposal would have a detrimental impact on the amenity and development of surrounding land.

PROPOSAL:

The application proposes the development and use of a multi-storey apartment building including shop premises and associated car parking.

The application seeks to modify the previous proposed development as detailed in the following table:

ORIGINAL PROPOSAL PREVIOUSLY REFUSED BY COUNCIL (Attachment 1a)	AMENDED PROPOSAL (Attachment 1b)
<p>The construction of three buildings ranging in height from 4 to 18 storeys.</p> <p><u>Building A</u> Located to north-west corner of the site at intersection of Warrigal Road and Dalgety Street. Building height: 4 to 7 storeys</p> <p><u>Building B</u> Orientated to Dalgety Street Building height: 4 to 7 storeys</p> <p><u>Building C</u> Orientated to Dandenong Road Building height: 18 storeys</p>	<p>The construction of three buildings ranging in height from 4 to 11 storeys.</p> <p><u>Building A</u> Located to north-west corner of the site at intersection of Warrigal Road and Dalgety Street. Building height: 4 to 7 storeys</p> <p><u>Building B</u> Orientated to Dalgety Street Building height: 4 to 6 storeys</p> <p><u>Building C</u> Orientated to Dandenong Road Building height: 10 storeys</p>
<p>348 residential apartments:</p> <ul style="list-style-type: none"> - 99 x one bedroom apartments; - 206 x two bedroom apartments; - 20 x three bedroom apartments; - 23 x duplex (2 level, 2 bedroom) dwellings. 	<p>260 residential apartments:</p> <ul style="list-style-type: none"> - 73 x one bedroom apartments; - 138 x two bedroom apartments; - 26 x three bedroom apartments; - 23 x duplex (2 level, 2 bedroom) dwellings.

106 serviced apartments/residential hotel.	106 serviced apartments/residential hotel.
773.8m ² retail tenancy on the corner of Warrigal Road and Dalgety Street.	773.8m ² retail tenancy on the corner of Warrigal Road and Dalgety Street.
1,389m ² retail/supermarket tenancy fronting Dandenong Road.	1,309m ² retail/supermarket tenancy fronting Dandenong Road.
A cafe/food and drink premises adjacent to Dalgety Street.	A cafe/food and drink premises adjacent to Dalgety Street.
581 basement car parking spaces accessed from Dandenong Road and Dalgety Street.	555 basement car parking spaces accessed from Dandenong Road and Dalgety Street.
Vehicle access from Dalgety Street and Dandenong Road.	Vehicle access from Dalgety Street and Dandenong Road.
Loading area accessed from Warrigal Road.	Loading area accessed from Warrigal Road

ATTACHMENT 1A - original proposal previously refused by council (advertised 18/11/16-6/12/16).

ATTACHMENT 1B – amended plans circulated 21/4/17 prior to VCAT hearing.

PERMIT TRIGGERS:

Zoning

The land is zoned Commercial 1 under the provisions of the Monash Planning Scheme.

Pursuant to the requirements of Clause 34.01-1 a permit is required for accommodation (including a dwelling) where the frontage at ground level exceeds 2 metres. No permit is required for use of premises as a shop or cafe/food and drink premises within the zone.

Pursuant to the requirements of Clause 34.01-4 a permit is required to construct a building within the zone.

Overlays

The land is subject to Design and Development Overlay (Schedule 10). Pursuant to the requirements of Clause 43.02-2 a permit is required to construct a building. Buildings and works must be constructed in accordance with the requirements of the schedule to the overlay.

The land is subject to the Environmental Audit Overlay. Pursuant to the requirements of Clause 45.03-1, an environmental audit would be required prior to a more sensitive use commencing.

Particular Provisions

Clause 52.02: Easements

A permit is required to remove an easement.

Clause 52.06-3: Car Parking

A permit is required to reduce the number of car parking spaces required under Clause 52.06-5.

Clause 52.29: Land adjacent to a Road Zone, Category 1.

A permit is required to create or alter access to a road in a Road Zone, Category 1.

Attachment 3 details the zoning and overlays applicable to the subject site and surrounding land.

CONSULTATION:

Public Notice

Eighteen (18) objections to the original proposal (advertised 18/11/16-6/12/16) proposal were received. Key issues raised within objections can be summarised as:

- Scale, built form and building massing.
- Inconsistency with applicable policy and Design and Development Overlay 10.
- Traffic and vehicle access.
- Adequacy of car parking.

VCAT Statement of Ground's & Objector Parties

Four objectors to the original proposal lodged Statements of Grounds (objections) with VCAT. One of the submitted Statement of Grounds requested to be a party to the matter and actively participate in the VCAT hearing. All other Statements of Grounds were written submissions that will be considered in the Tribunal's assessment.

No further or modified Statements of Grounds have been received at VCAT following the circulation of the amended plans, at the time of writing this report. It is noted that VCAT may receive Statements of Grounds up until and including 17 May 2017.

There has also been a lot of comments on social media regarding this proposal. These comments raise the same concerns that have come through in formal objections, and are summarised above.

Attachment 4a details the location of original objector properties.

Attachment 4b details the location of persons whom have lodged a Statement of Grounds.

Referrals

The application has been referred to Council's Traffic and Drainage Engineers for comment. Relevant comments and conditions form part of the assessment and recommended conditions.

Public Transport Victoria

The application was referred to Public Transport Victoria pursuant to the requirements of Clause 52.36. Public Transport Victoria have no objection to the proposal and has requested the inclusion of conditions in any permit issued.

VicRoads

The application was referred to VicRoads pursuant to the requirements of Clause 52.29. The authority has no objection to the grant of a planning permit for the proposed development subject to conditions.

DISCUSSION:

Consistency with State and Local Planning Policies

Plan Melbourne is the Metropolitan Strategy that planning authorities must consider when assessing applications for planning permits. The key directions that are of particular relevance to the proposal are:

"Understand and plan for expected housing needs."

"Reduce the cost of living by increasing housing supply near services and public transport."

"Facilitate the supply of affordable housing."

Initiatives seek to locate a substantial proportion of new housing in or close to locations that offer good access to services and transport and employment areas.

Relevant housing objectives and strategies of activity centres policy found at Clause 11.01 seek:

“Provide different types of housing, including forms of higher density housing.”

“Encourage a diversity of housing types at higher densities in and around activity centres.”

Housing policy at Clause 16.01 seeks to:

“Increase the supply of housing in existing urban areas by facilitating increased housing yield in appropriate locations, including under-utilised urban land.”

“Locate new housing in or close to activity centres and employment corridors and at other strategic redevelopment sites that offer good access to services and transport.”

“Encourage higher density housing development on sites that are well located in relation to activity centres, employment corridors and public transport.”

Increased residential density and dwelling diversity is sought by State and Local policies. The proposed development is considered consistent with the local planning policy framework in respect of increased density and housing diversity objectives.

In the Municipal Strategic Statement at Clause 21, the Garden City Character of the municipality is identified as a core value held by the community and Council as a significant and important consideration in all land use and development decisions.

Monash Housing Strategy 2014

The Monash Housing Strategy has been developed to review Council’s current housing strategies based on an assessment of key State and Local Strategies and research from all tiers of Government and other research bodies.

The housing strategy identifies that a key issue for Monash will continue to be the management of household growth and change while at the same time preserving valued neighbourhood character and enhancing sustainability.

The need for the City of Monash to adopt a proactive role to address housing issues has been imperative and the Monash Housing Strategy forms part of that role. Opportunities for residential growth within the City of Monash are increasingly limited within established residential areas. The Monash Housing Strategy amongst other items has identified the lack of greenfield land supply within the municipality.

Clause 15.01-2 urban design principles for residential seek:

“To 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.”

As ResCode does not apply to buildings 5 storeys or more (on land not in a Residential Zone), Clause 15 sets out urban design principles to assess this application against these principles relate to context, the public realm, safety, landmarks, views and vistas, pedestrian spaces, heritage, consolidation of sites and empty sites, light and shade, energy and resource efficiency, architectural quality and landscape architecture. Consideration of these principles as relevant has been applied throughout the assessment of the application. As the application was received prior to implementation of the Governments new apartment guidelines they are not applicable to this application.

Council's goal for residential development is to provide for a balanced variety of housing styles whilst remaining sympathetic to existing neighbourhood character.

Relevant objectives and strategies of Clause 21.04-3 seek to:

“Provide accommodation for a diverse population that caters for different family and lifestyle preferences and a variety of residential environments and urban experiences.”

“Ensure that new residential development provides a high level of amenity including personal privacy for occupants and neighbours, high quality private and public open space, canopy tree cover, and effective traffic management and parking.”

“Direct high rise residential developments towards the Glen Waverley Principal and Oakleigh Major Activity Centres. These centres are well serviced by public transport, commercial, recreational, community and educational uses.”

The subject land is not located within the Glen Waverley or Oakleigh Major Activity Centre where development of the scale and density might be entertained. The original proposal substantially exceeded the applicable height guidance as envisaged by Design and Development Overlay 10.

Design and Development Overlay 10

The land is subject to Design and Development Overlay 10 (DDO10). Relevant design objectives seek:

- *“To encourage development to reinforce the Dandenong Road corridor.*
- *To encourage development to contribute to the diversity of the urban character of the area by encouraging high quality and visually stimulating new development.*
- *To ensure that the building scale and form in terms of height and bulk complements and does not visually overwhelm surrounding buildings.*
- *To encourage a transition between larger scale developments and abutting residential dwellings.*

- *To encourage development to integrate with laneways and enhance the public realm of laneways.*
- *To ensure high quality landscape treatments contributes positively to the street edges and to the setting of buildings.*
- *To ensure that car parking, vehicle access and service areas do not visually impinge on front setbacks or affect streetscape elements such as trees and nature strips.”*

In rezoning the land from Industrial 1 and applying a DDO10 to the surrounding area, Planning Scheme Amendment C102 (approved 5 May 2011) sought to facilitate the establishment of apartment development within former industrial areas adjacent to Dandenong Road. The rezoning of the land from Industrial 1 to Commercial 1 also sought to allow the introduction of residential development within the precinct. Objectives of DDO10 seek to encourage high quality development and more intensive built form outcomes. The commercial zoning of the land and diverse built form of development within the surrounding area result in the opportunity to achieve well designed apartment development increased housing density and dwelling diversity objectives.

The subject land has a preferred maximum building height of 14.0 metres (4 residential storeys) to Dalgety Street and 21.0 metres (6 storeys) to Dandenong Road. Applicable height guidance along Warrigal Road ranges from 4 storeys at the corner of Dalgety Street up to 6 Storeys towards Dandenong Road.

Urban Design Assessment

Council has engaged Hansen Partnership to provide urban design advice and independent assessment of the proposal, as part of Council’s preparation for the upcoming VCAT appeal.

The following extracts of this advice (Hansen Partnership, May 2017) is relevant to Council’s consideration of the amended proposal.

In relation to building height, Hansen Partnership provide the following comments:

In the most general of terms, we are satisfied that the moderated format of development sets an appropriate theme for regeneration of the site. However, we remain concerned that there are a number of key urban design attributes of this site which require further attention to ensure a compatible fit within the Dandenong Road Oakleigh Commercial Precinct (West) (DDO10) and its corresponding relationship to the important strategic junction to the south-west. The basis for our urban design comments are provided below.

While I accept that this large parcel (as amalgamated) can accommodate a development that is marginally above the designated overlay parameter, I would suggest that the most appropriate location for the 'highest' form is to the south-west corner of DDO10 Precinct B... The profile of the application (proposed building) should be reduced at its highest point to an 8 storeys maximum envelope given its mid-block infill location.

The following comments are made with regard to the provision of a 'pedestrian link' throughout the site:

The site plan does not realise a competent physical or visual connection through the site from north to south. While this is not mandated in the Planning Scheme, the division of the urban block into a series of elements provides an ideal basis for site permeability, which includes legibility and address.

This in my view, should be realised centrally within the site as a wide and open physical and visual link between Dalgety Street and Dandenong Road – a linkage which is presently severed by the location of unbroken form to the Dandenong Road frontage. An opening of this linkage would create permeability through the precinct.



Diagram demonstrating break in built form

This approach would also be entirely appropriate given the existing arrangement of lobby and lift access as Buildings A and B which are both difficult to identify and circuitous. The sense of address to lift lobby positions would be more appropriate from the central communal entrance of Dalgety Street.

The building comprises of a total of 11 floorplates/levels. Given the slope of the land, at any given point the total height does not exceed 10 storeys above natural ground level. The suggested reduction in height of Building C by a further 2 storeys will result in a maximum 8 storey form above natural ground level.

The modified proposal provides for increased density, housing diversity and reasonable architectural merit. The suggested 8 storey scale and reduction in

building massing will result in a built form outcome generally consistent with the objectives of DDO10.

The proposed development generally complies with preferred height guidance along the Dalgety Street interface, having a four storey form, provides for building breaks along the Dalgety Street frontage and reasonable facade articulation.

Provision of a pedestrian link through the development will assist in integrating the site with the surrounding area, provide for a more cohesive urban form as surrounding land is further developed over time and assist provide some relief in the cumulative massing of the development

A reduction in the six and seven storey scale of Building A to four to five storeys will provide form building massing relief, improved height graduation and built form integration with established residential areas to the north.

The proposed design response demonstrates a high standard of architectural merit which is achieved through good design, appropriate facade articulation and the use of a high quality attractive range of contemporary materials and finishes. The facade treatment provides for appropriate degree of visual interest through use of varied materials and finishes, along with vertical and horizontal articulation to minimize the perception of visual bulk. Rooftop plant and service utilities have been integrated into the building design and are concealed by a screening.

The provision of commercial aspects to the development at ground level is consistent with the Commercial 1 Zoning of the land. Commercial components of the development should be provided with activated facades where practical, attractive and enhanced public realm areas. The suggested north-south pedestrian link through the development may result in re-orientation of some retail and residential hotel components of the development.

Car Parking, traffic and access

Car parking should be provided in accordance with the requirement specified by Clause 52.06-6 of the Monash Planning Scheme. The table below details the number of car parking spaces required:

Use	Clause 52.06-5 Requirement	Floor Area (m ²) / No. of dwellings	Car parking requirement generated	Car parking provision proposed
Retail (shop)	4 spaces /100m ²	773.8m ²	30 car spaces	30 car spaces
Retail (supermarket)	5 spaces /100m ²	1,309m ²	65 car spaces	65 car spaces
Food and Drink (café)	4 spaces /100m ²	144m ²	5 car spaces	5 car spaces
Dwellings	1 space per	211 dwellings	211 car spaces	211 car spaces

(1 & 2 bedrooms)	dwelling			
Dwellings (3 bedrooms)	2 spaces per dwelling	49 dwellings	98 car spaces	120 car spaces
Residential visitor	1 space per 5 dwellings	260 dwellings	52 car spaces	40 car spaces
Serviced Apartments	To the satisfaction of the responsible authority Suggested demand of 0.69 spaces per serviced apartment	106 rooms	73 car spaces	54 car spaces
Unallocated car spaces				30 car spaces
TOTAL REQUIRED			534 car spaces	
TOTAL PROVIDED				555 car spaces

The modified proposal provide for car parking provision in excess of the planning scheme requirement.

Proposed conditions specify minimum allocation of car parking provision for the uses that are proposed. A car parking management plan should be prepared to detail management and allocation of car parking to service any approved development on the land. Some unallocated car spaces will be required to be utilised for common use associated with the hotel, retail premises and residential visitor uses. Residential parking areas should be secure and separate to retail, serviced apartments and visitor parking. Retail parking areas should be provided with direct and convenient access to the supermarket and shop premises. It is not considered appropriate to allow parking associated with the retail tenancies and serviced apartments to be accessed via Dalgety Street.

Car parking is accessible from two access point within Dalgety Street and a single access point along Dandenong Road. There appears to be no separation of public and private car parking areas throughout the development. Urban design advice suggests removal of the western access point along Dalgety Street to provide for a less fragmented built form presentation to Dalgety Street. The removal of the access point will allow for additional planting within the nature strip and/or additional on street parking provision.

Internal amenity

The amended plans have addresses previous concerns regarding battleaxe light well arrangements, irregular shaped internal living spaces, poor solar amenity outcomes and increased balcony size.

Setbacks and immediately adjoining interfaces of the development will result in no screening requirement of habitable room windows.

Contamination

Clause 13.03-1 requires consideration of existing potential contamination. Planning decisions must ensure that contaminated land is suitable for its intended future use and development, and that contaminated land is used safely.

The land is subject to an Environmental Audit Overlay. Any approval should require conditions including a requirement for an Environmental Audit to be undertaken prior to commencement of works.

CONCLUSION:

The modified design response has addressed previously raised concerns and results in acceptable built form and amenity outcomes. As recommended by the report and included in the conditions, the modified 8 storey building would achieve an acceptable outcome having regard to objectives of DD10 providing for high quality design, increased density, housing diversity aspirations and re-invigorated commercial activity on the land. It is recommended that the proposal be supported subject to conditions including a further reduction in building height.

LIST OF ATTACHMENTS:

Attachment 1 – Proposed Development Plans.

Attachment 2 – Aerial Photograph (December 2016).

Attachment 3 – Zoning and Overlays Map.

Attachment 4a - details the location of original objector properties.

Attachment 4b – details the location of persons whom have lodged a Statement of Grounds.