

**1.3 73-75 KINGSWAY, GLEN WAVERLEY
DEVELOPMENT AND USE OF A SIX (6) STOREY BUILDING (PLUS BASEMENT)
COMPRISING RESTAURANTS, PLACE OF ASSEMBLY AND OFFICES AND
REDUCTION IN THE CAR PARKING REQUIREMENT TO ZERO
(TPA/50168)**

EXECUTIVE SUMMARY:

This application proposes to develop a six (6) storey development for mixed commercial uses comprising restaurants, place of assembly and offices. Associated restaurant storage is located in the basement level. The proposal does not provide any car parking spaces on site and seeks full dispensation for the car parking requirement.

The application was subject to public notification. Four (4) objections have been received.

Key issues to be considered relate to the objectives and vision of the Glen Waverley Major Activity Structure Plan, height and scale of the proposed building, building setbacks, facade composition, architectural excellence, activation at street level and the laneway, equitable development, overshadowing, weather protection and provision of car parking.

This report assesses the proposal against the provisions of the Monash Planning Scheme including the relevant planning policy framework, zoning and overlay provisions, the objectives and design guidelines of the Glen Waverley Major Activity Centre Structure Plan (GWAC Structure Plan), development provisions in the Design and Development Overlay (DDO12) and car parking.

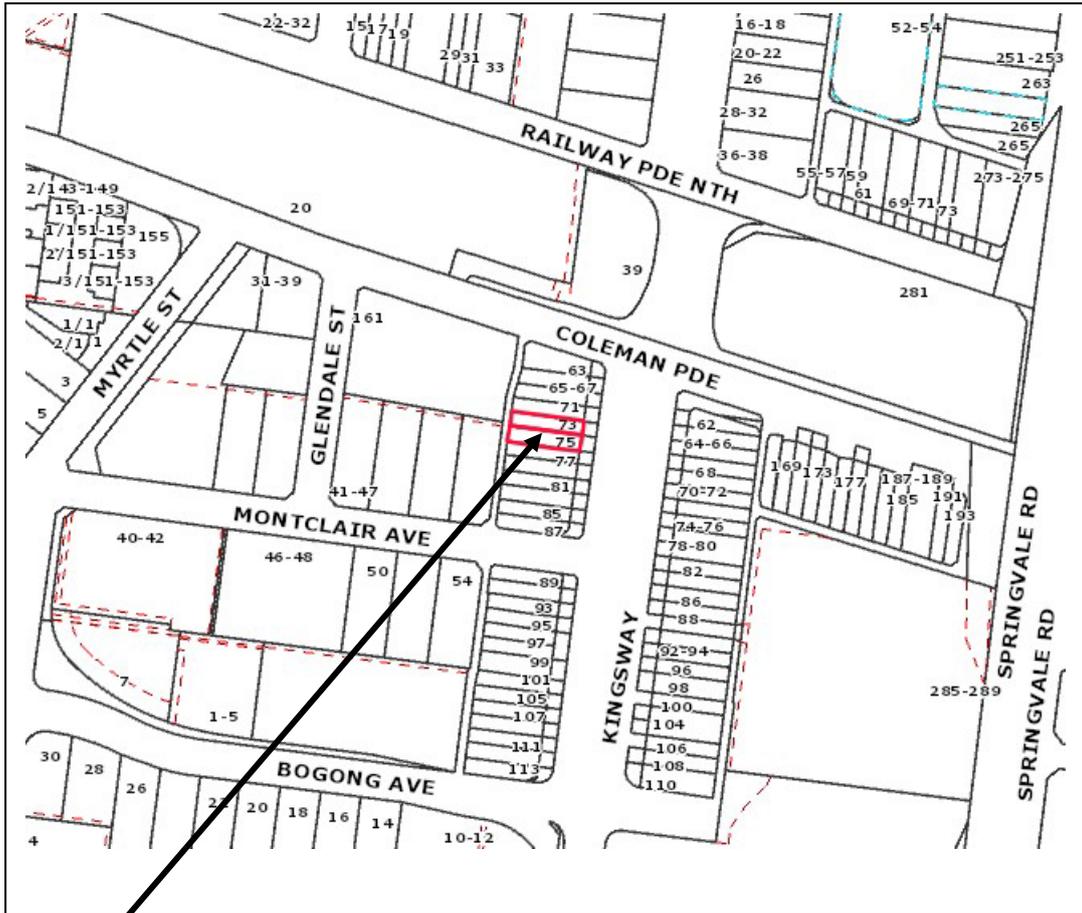
The reason for presenting this report to Council is the proposed development cost of \$5 Million.

The proposal is considered inconsistent with the relevant provisions of the Monash Planning Scheme and it is recommended that the application be refused.

RESPONSIBLE DIRECTOR:	Peter Panagakos
RESPONSIBLE MANAGER:	Natasha Swan
RESPONSIBLE PLANNER:	Jeanny Lui
WARD:	Glen Waverley
PROPERTY ADDRESS:	73-75 Kingsway, Glen Waverley
EXISTING LAND USE:	Shop

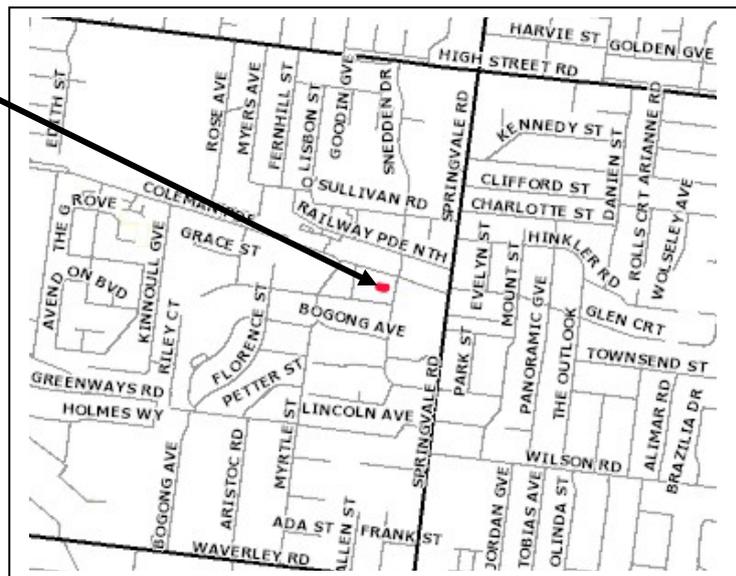
PRE-APPLICATION MEETING:	No
NUMBER OF OBJECTIONS:	Four (4)
ZONING:	Commercial 1 Zone (C1Z)
OVERLAY:	Design and Development Overlay Schedule 12 (DDO12)
AMENDMENT C125 (adopted)	N/A
RELEVANT CLAUSES: <u>Planning Policy Framework</u> <ul style="list-style-type: none"> • Clause 11.01-1R (Settlement – Metropolitan Melbourne) • Clause 11.02-1S (Supply of Urban Land) • Clause 11.03-1S (Activity Centres) • Clause 15 (Built Environment and Heritage) • Clause 15.01-1S (Urban design) • Clause 15.01-2S (Building Design) • Clause 17.02-1S (Business) • Clause 18.02-2R (Principal Public Transport Network) 	<u>Local Planning Policy Framework</u> <ul style="list-style-type: none"> • Clause 21.05 (Economic Development) • Clause 21.06 (Major Activity And Neighbourhood Centres) • Clause 21.08 (Transport And Traffic) • Clause 21.11 (Physical Infrastructure) • Clause 21.13 (Sustainability And Environment) • Clause 22.03 Industry and Business Development and Character Policy • Clause 22.14 (Glen Waverley Major Activity Centre Structure Plan) <u>Particular Provisions</u> Clause 52.06 – Car Parking
STATUTORY PROCESSING DATE:	27 September 2019
DEVELOPMENT COST:	\$5 Million

LOCALITY PLAN



SUBJECT SITE

NEIGHBOURHOOD PLAN



73-75 Kingsway, Glen Waverley - Development And Use Of A Six (6) Storey Building (Plus Basement) Comprising Restaurants, Place Of Assembly And Reduction In The Car Parking Requirement To Zero

RECOMMENDATION:

That Council resolves to issue a **Notice of Decision to Refuse to Grant a Planning Permit (TPA/50168)** for the development and use of a six (6) storey building (plus basement) comprising restaurants, place of assembly and offices; and reduction in the car parking requirement to zero at 73-75 Kingsway, Glen Waverley subject to the following grounds:

1. The proposal does not satisfy the design guidelines of the Design and Development Overlay Schedule 12 in relation to building height, and activated laneways.
2. The dominant upper form (the tower) that eclipses the lower base (the podium) is inconsistent with the built form expected in the Glen Waverley Major Activity Centre Structure Plan.
3. The design response does not demonstrate architectural excellence envisaged in the Glen Waverley Major Activity Centre Structure Plan.
4. The design does not maintain a human scale to the public realm and retain the fine-grain character of Kingsway.
5. The proposal fails to satisfy the purpose of Clause 52.06 of the Monash Planning Scheme in relation to the provision of appropriate on site car parking spaces, safety and traffic movement in the area.
6. The proposal will have a detrimental impact to the amenity of the locality.
7. The proposal is considered to be an inappropriate design response.

BACKGROUND:**The Site and Surrounds**

The site is located on the west side of Kingsway in the Glen Waverley Major Activity Centre (GWMAC). The subject site comprises of two lots located in the middle of twelve shops, with four shops to the north towards Coleman Parade and six shops to the south towards Montclair Avenue. It is bounded to the west by a laneway connecting Coleman Parade and Montclair Avenue.

The combined land is rectangular in shape, with an east (frontage) and west (rear) boundary of 12.19 metres to Kingsway and a north and south boundary of 30.48 metres, resulting a total site area of 371.5 square metres.

The site currently contains two attached commercial buildings. 73 Kingsway is the northern property containing a double storey building currently used as a hair salon on the ground level and a beautician/ massage salon on the first level. There are two car parking spaces (one for each tenancy) at the rear of the building. 75 Kingsway is the southern property containing a single storey building used as a

shop (optometrist). There are also two car parking spaces at the rear of the building. Vehicle access to these car spaces is via the lane to the rear. There are no easements or vegetation over the site.

The surrounding land use to the west of the site beyond the laneway is a two storey RSL building. To the east, north and south of the site is low scale (one to two storey) commercial buildings on Kingsway. Further to the north at 39 Kingsway is a 10 storey 'Ikon' building with commercial use on the ground and podium level, and residential apartments above. There are on street parking in the middle strip and along both kerbsides on Kingsway. The site is also in close proximity to the Council Central Car Park (281 Springvale Road Glen Waverley), the Multi-level car park (1-5 Bogong Avenue Glen Waverley), and the two at-grade open car parks in Montclair Avenue in Glen Waverley. The land immediately adjacent to the subject site are all zoned Commercial 1.

Site Context

The site is located towards the southern part of the Glen Waverley Major Activity Centre (GWAC). The GWAC provides for a range of land uses including retail, entertainment, hotel accommodation and various civic, health and other professional services. Existing development within the GWAC ranges from single storey shop premises on small sites to the 10 storey "Ikon" development adjacent to Glen Waverley Railway Station. In more recent times, planning permits have been issued allowing for a 15 storey residential apartment building (Galleria-O'Sullivan Street), and Sky Garden residential towers of 12-20 storeys, to be located at the southern end of The Glen Redevelopment Project. Both the Galleria and Sky Garden developments are currently under construction. In addition, planning permits have been issued allowing the development of an 11 storey mixed use development at 50 and 54 Montclair Avenue in Glen Waverley. These developments are all located within the GWAC and are close in proximity to the subject site.

The GWAC Structure Plan was approved by the Minister under Amendment C120 in January 2018. It sets out a 20 year plan for the growth and improvement of the Activity Centre.

In accordance with the GWAC Structure Plan the subject site is located in Precinct 1 (Kingsway)/Area A where building heights of 4-6 storeys are envisaged. This report will discuss the assessment of the proposal against the relevant requirements set out in the GWAC Structure Plan and the relevant design provisions in the Design and Development Overlay 12 (DDO12) which aim to achieve the design outcome envisaged in the GWAC Structure Plan.

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

PROPOSAL:

The proposal is to develop the site for a six (6) storey development for mixed commercial uses.

The following Development Summary is provided for reference.

DEVELOPMENT SUMMARY

Floor	Main Use	Area (m ²)/ Maximum Number of Patrons
Basement	Store room for the restaurants, pump room and substation	217.96m ²
Ground floor	Restaurant x 2	274m ²
Level 1	Restaurant x 2	286m ²
Level 2	Place of assembly x 2	286m ² / 70 patrons (35 patron per premises)
Level 3	Place of assembly x 2	190m ² / 70 patrons (35 patron per premises)
Level 4	Office x 2	190m ²
Level 5	Office x 2	190m ²

- Entry from Kingsway to the building on the ground level is in between the two restaurants.
- Each of the ground floor restaurant has an individual entrance directly from the footpath that leads to the lift lobby where one lift is proposed to serve the building.
- Rear pedestrian access to the building is provided via the laneway and bicycle parking is located in this common area. The common area and staircase provides access to the ground floor restaurants and levels above.
- There are no on site car parking spaces.

More details about the proposed building are provided below:

Basement level

- One level of basement which contains two separate store rooms for the ground and first level restaurants; a pump room, a substation room and a 5000 litre rainwater tank to serve the building.
- The basement is built almost to the front and rear boundaries, and is accessed via the common lift or staircase.

Podium - Ground, First and Second floor levels

- Three levels of podium which are built up to the front boundary. The ground level is setback 1.5 metres from the rear boundary while the first and second levels project over the ground level and built to the rear boundary.
- Entries to the ground floor restaurants and to the building sit under the proposed canopy which extends over the footpath from the site.

Tower – Third, Fourth and Fifth levels

- Levels 3 to 5 are setback 7.875 metres from the front boundary which includes a 2.776 metres wide balcony for each tenancy. They are setback 1 metre from the rear boundary.
- Level 3's balcony extends towards the front boundary (over the podium roof) with a total balcony area of 92 square metres.
- Levels 3 to 5 each contain two separate tenancies with shared amenities. Access to these levels is via the commercial lift or stairwell.

Built Form

- The proposed building has a maximum building height of 26.2 metres at the rear of the building. The front of the building is 25.67 metres in height towards the northern side of the land; and 25.274 metres in height towards the southern side of the land due to the slight slope.
- Floor to ceiling heights vary from 4.5 metres at the ground and first levels, 3.6 metres at levels 2 to 4 and 4.4 metres at level 5. This is consistent with the floor to ceiling heights for restaurant envisaged in the Design and Development Overlay Schedule 12 (DDO12), however it exceeds the floor to ceiling height required for other commercial uses which will be further discussed later in this report.
- A lift and a staircase run centrally on the site from the basement level to level 5, with an external glass lift shaft.
- The façade of the building mainly comprise concrete panels with a patterned finish and black window frames or handrails of glazed balconies.

Attachment 1 details plans forming part of the application.

PERMIT TRIGGERS:

A planning permit is required for the proposal in accordance with the following provisions of the Monash Planning Scheme.

- Clause 34.01-1 – Use of land for a place of assembly (Commercial 1 Zone);
- Clause 34.01-4 – Buildings and works (Commercial 1 Zone);

- Clause 43.02 – Buildings and works within the Design and Development Overlay 12 (DDO12).
- Clause 52.06- Reduce (including reduce to zero) the number if car parking spaces required under Clause 52.06-5.

A planning permit is not required to use land for a restaurant or an office in the Commercial 1 Zone.

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

CONSULTATION:

Further Information Request

The application was lodged on 5 March 2019 and further information was requested of the Permit Applicant on 15 April 2019. In this letter. Officers also raised the following preliminary concerns:

- The proposal does not demonstrate a high quality of architecture and has not been designed to retain the fine grain character of Kingsway.
- The proposal does not satisfy the design guidelines in the Design and Development Overlay Schedule 12 including buildings to be articulated to reflect the pattern of narrow shopfronts, to retain human scale, to use materials that do not generate glare, and to meet the floor to ceiling heights for retail and restaurant uses.
- The proposal will result in poor sense of address. It should be designed to allow adequate ground level lobby space to service the development.
- The proposal has not been designed to allow for activation of the laneway. In addition, it does not provide for an active frontage to the laneway.
- The proposal with no car parking provision is unlikely to be supported.

Officers advised the Applicant in writing that should these concerns not be addressed, that this application was unlikely to be supported and that the application would be refused.

The permit applicant responded to this letter on 27 June 2019 by providing the requested information. Amended plans were submitted to Council addressing some of the design issues however the primary issues of no on site car parking provision remained unaddressed.

The Applicant was advised that officers' concerns remain and that this application is unlikely be supported.

Public Notice

The application was advertised in accordance with section 52 of the *Planning and Environment Act 1987* by sending 212 notices to the surrounding property owners

and occupiers, and four (4) signs were displayed (one on each of the lot frontages and rear laneway frontages).

Four (4) objections to the proposal were received.

Key issues raised within objections can be summarised as:

- The proposed building is out of character.
- Disturbance during construction.
- Overshadowing to objector's property.
- Traffic and car parking impacts.
- The proposal will set a precedent for future developments.
- Unfair for other business owners who have previously paid car parking contributions.

Each of these matters has been considered as part of the following assessment of the application.

Attachment 4 details the location of objector properties.

Referrals

External Referrals

There were no external referrals required.

Internal Referrals

Drainage Engineers

The application was not referred to Council's Drainage Engineer as the proposal will not increase the hard surface coverage of the site.

Traffic Engineers

A Traffic Report provided by the applicant shows that car parking within the vicinity of the site is near capacity during weekday evenings and weekend lunch times. During weekday lunch times and weekend evenings parking supply becomes saturated and vehicles wait within the area for a vacant parking space. However there is ample parking capacity within the area outside of these times i.e. in weekday afternoons and evenings; and weekend lunch times and afternoon there are capacity to accommodate additional car parking demand.

Additional car parking occupancy surveys were undertaken to determine the parking in key areas of the wider Glen Waverley Activity Centre north of the Glen Waverley Railway Station. The parking surveys were undertaken on between 7am to 8pm Friday and 11am to 8pm Saturday, same days and times as the original survey. Results show that the majority of the parking areas experienced a high parking demand during business hours and have a reduced parking demand outside of these times.

Overall, the parking survey concluded that parking areas can accommodate an increase in car parking demand even during the peak parking times. It mentioned that when parking within the Activity Centre and within the vicinity of the site becomes saturated it is expected that people will park further away therefore, it argued that it is reasonable to include the parking areas to the north of the Glen Waverley Railway Station, and the Euneva Avenue East Car Park to accommodate the potential increase in car parking demand generated by this proposed development.

Council's Traffic Engineers have assessed the Traffic Report and the proposal with zero car parking provision. They have provided the following advice:

- The Traffic report indicates that the site is expected to generate a high number of multi-purpose trips, with patrons either working in the surrounding area or visiting the Activity Centre. It is accepted that there will be a proportion of multi-purpose trips for the restaurant and place of assembly uses during business hours, however it is considered that 50% is too high an estimate. It is likely that most patrons of a place of assembly will have planned their trip and travel to the area for that purpose. In the evenings, it is considered that many patrons also book a restaurant in advance and while there is likely to be a proportion of trips associated with workers already in the area, it is considered that 50% is also too high. It is suggested that 30% for multi-purpose trips to the restaurant and place of assembly uses only, during the day and evening is reasonable.
- According to the traffic report, the proposed staff parking demand for the restaurant and place of assembly uses is expected to be 15% of the total parking demand based on similar developments. This would equate to 4 parking spaces across 4 restaurants and similarly for the places of assembly which is considered to be too low. It is suggested that a staff parking demand of 2 spaces per restaurant/place of assembly is more likely based on similar uses in Monash.

Council's Traffic Engineer does not support the proposal due to the following reasons:

- It does not comply with the car parking requirement of Clause 52.06 and adequate parking should be provided onsite to deliver sufficient, safe and functional car parking to service the development with minimal offsite impact.
- From a safety perspective and in terms of the impact on amenity for the surrounding community.
- The proposal is likely to increase the risk of traffic issues in the area in the future.

A complete redesign of the proposal would be required if it were redesigned to incorporate the provision of on site car parking spaces to address the issues raised.

Urban Design Advice

Independent urban design comments were obtained by Council from Hansen Partnership. A summary of their advice is as follows:

- The subject site does not benefit from a corner location that warrants the proposed building form and scale to serve the role of a landmark or gateway. The departure from the preferred height in excess of 4.2 metres of the Design and Development Overlay Schedule 12 is not reasonably justified.
- The proposal is likely to sit above the emerging skyline viewed along Kingsway having regard to the preferred heights on neighbouring sites.
- The relationship between the lower and upper forms is problematic. The upper form (tower) is overly dominant and eclipses the lower base (podium).
- A minimum setback of 1.5 metres to the rear boundary should be applied to tall levels to reduce the dominance of the building on the laneway, and to activate the laneway through improvements to passive surveillance and sunlight penetration to the laneway.
- A minimum setback of 3 metres should be provided from the centre of the laneway to allow for equitable development.
- This will be one of the first taller developments along Kingsway. The patterned design and materiality of the side walls will provide a reasonable visual interest and quality to these elevations in the interim period.
- The impact of overshadowing of the proposal on the public realm is supportable.
- The location of the ground level entries are within close proximity to each other would limit its sense of legibility in the streetscape. The ground level entries would benefit from a more defined entrance to the street, as well as considering slight level changes between ground level to the footpath to allow passive surveillance to the street.
- There are no tangible net community benefits or 'trade-off' that justify a height 'bump' in relation to urban design merits.
- The extensive use of 'feature panel with light and bright concrete' does not accentuate the distinction between the podium and tower components. The proposal should consider the use of natural, tactile and visually interesting treatments at podium near the public interface to reinforce a human scale. The tower should use lighter weight materials with larger details of a low maintenance materiality.
- The podium should be redesigned to include clear visual elements and articulation of the façade into fine-grain proportion to pick up on existing buildings along Kingsway.

DISCUSSION:**Consistency with State and Local Planning Policies****Plan Melbourne Refresh and Planning Policy Framework**

Plan Melbourne Refresh 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:

- *Support the development of a network of activity centres linked by transport*
- *Metropolitan activity centres will play a major service delivery role, including government, health, justice, and education service as well as retail and commercial opportunities*
- *Desire for activity centres and commercial areas to allow mixed use developments including retail, commercial and residential*

Plan Melbourne Refresh identifies the Glen Waverley Activity Centre as a Major Activity Centre, which is a suburban centre that provide access to a wide range of goods and services. Direction 1.2 in Plan Melbourne Refresh emphasises ‘*national employment and innovation clusters, metropolitan activity centres and major activity centres will ensure employment growth occurs outside of the central city*’. Policy 3.1.3 mentioned the ongoing development and maintenance of road network will support national employment and innovative clusters, metropolitan activity centres, major activity centres and other areas with high or growing job densities.

Further to Plan Melbourne Refresh, the following Planning Policy Frameworks are relevant:

- Clause 11.01-1R (Settlement - Metropolitan Melbourne) - *to focus investment and growth in places of state significant including Metropolitan Activity Centres.*
- Clause 11.02-1S (Supply of Urban Land) - *to ensure sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.*
- Clause 11.03-1S (Activity Centres) –
Concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community.
To support the continued growth and diversification of activity centres to give communities access to a wide range of goods and services, provide local employment and support local economies.
- Clause 15 (Built Environment and Heritage) – *support of the establishment and maintenance of communities by delivering function, accessible, safe and diverse physical and social environments, through the appropriate location of use and development and through high quality buildings and urban*

design. Clause 15.01-2S (Urban Design) expands on this objective, it says *seeking building design outcomes that contribute positively to the local context and enhance the public realm.*

- Clause 17.01-1S (Diversified Economy) - *to facilitate growth in a range of employment sectors and improve access to jobs closer to where people live.*
- Clause 17.02-1S (Business) – *to locate commercial facilities in existing or planned activity centres; provide new convenience shopping facilities to provide for the needs of the local population in new residential areas and within, or immediately adjacent to existing commercial centres.*
- Clause 18.02-2R (Principal Public Transport Network) – *increase the diversity and density of development along the Principal Public Transport Networks, particularly in interchanges, activity centres and where principal public transport routes intersect.*

These policies emphasise the importance of the adequate supply of land for commercial use and services in appropriate locations, where there are good public transport networks and easily accessible such as Activity Centres for redevelopment, with high quality buildings. The subject site is within the identified Principal Public Transport Network (PPTN) and has great accessibility to public transport. The proposal will positively contribute to employment opportunities and jobs within the activity centre; and provides for a range of services accessible to the community. Conceptually, the proposal is strategically justified, responding well to the broad policy objectives applicable to the Major Activity Centre, however it fails to satisfy relevant design objectives and requirements.

Local Planning Policy Framework

The Local Planning Policy Framework is set out at Clause 21 (Municipal Strategic Statement - MSS) and Clause 22 (Local Planning Policies) of the Monash Planning Scheme. These policies provide local context to the broader state planning policy objectives by, in this instance, identifying preferred locations for focusing economic growth.

The Strategic Framework Plan at Clause 21.05 (Economic Development) recognises the continued growth in activity centres particularly Glen Waverley, Oakleigh and Clayton. It identifies the need for these activity centres to continue to positively attract and retain local business to provide employment opportunities and investment. Clause 21.06 (Major Activity and Neighbourhood Centres) identifies Glen Waverley as one of the most significant Major Activity Centres in Monash. It identifies that the Glen Waverley Major Activity Centre *has a number of distinct comparative economic advantages such as its convenience shopping, major supermarkets and department stores, concentrated retail activities within The Glen and its substantial and well patronised entertainment precinct. Glen Waverley has an extensive range of goods and services, easy access to good quality public transport and transport routes and is recognised as a major social focus for the municipality and the middle south eastern region.*

Clause 21.06-3 also specifies the objectives of the Glen Waverley Major Activity Centre (GWMAC), which the following objectives are relevant to this proposal:

- Enhance the mix of retail, entertainment, office, residential and medical services to meet the needs of residents, workers and visitors through the implementation of the *Glen Waverley Activity Centre Structure Plan 2014*.
- Encourage medium to high rise development in appropriate locations, and with excellence in architectural quality and design.
- Encourage the use of sustainable transport modes to/from and within the Major Activity Centre and decrease traffic congestion within the Centre.
- Establish Kingsway as a vibrant and engaging civic spine by strengthening its hospitality, entertainment and retail focus and creating an attractive public space integrated with the library, community hub and future public square.
- Ensure buildings integrate with and contribute positively to street life and the public realm by ensuring new development provides opportunities for active and engaging uses at street level and are designed to minimise overshadowing and wind effects.
- Provide community, civic and cultural facilities, events and services that cater to the needs of existing and future populations.

Table 1 (Hierarchy of Activity Centres in Monash) at 21.06-3 identifies the primary focus of the Glen Waverley Major Activity Centre:

- Higher order goods
- Specialty retailing
- Department stores
- Entertainment
- Mixed commercial uses
- Offices
- Apartments
- Residential Hotels
- Community facilities
- Public transport

This table also identifies the Strategic Directions for Principal Activity Centres. It encourages further development of retail, office, entertainment and community facilities, medium to high rise developments, a wide range of arts, cultural and entertainment facilities, restaurant uses, office uses where contiguous retail frontage is not compromised within the centre. Design of the developments should incorporate good pedestrian linkages between the residential and retail precincts and parking provision to meet the needs of the Centre.

The proposed six storey building with a variety of commercial uses is deemed to be consistent with the objectives of the GWMAC. Critical in determining the appropriateness of the proposal is if the proposal demonstrates an excellence in architectural quality and design, and how it responds to the relevant design standards and requirements which is discussed in the balance of this report.

The MSS also includes local policy vision in relation to Traffic and Transport (Clause 21.08), Physical infrastructure (Clause 21.11), and Sustainability and Environment (Clause 21.13) which all have broad relevance to this proposal. More specifically, Clause 21.08 (Traffic and Transport) emphasises that car parking should be provided on site to satisfy the needs of users without detriment to local amenity. The relevant policy implementation is to *require every new use, or expansion of floor space to an existing use, to provide appropriate car parking either on site, or off site*. The zero on site provision of car parking is not considered appropriate.

Clause 22.03 (Industry and Business Development and Character Policy) is also relevant to this application. It seeks to ensure that new development is well integrated into existing business and industrial areas through high quality built form, together with a scale and character that enhances the streetscape and local amenity.

In general, the proposed multi storey commercial use building is considered consistent with the local planning policy framework in respect of increasing activities within a major activity centre close to good public transport, and enhancing the economic vibrancy and sustainability of the centre. However the proposal does not demonstrate excellent architectural appropriate design details, lacks fine grain details at street frontage to reflect the character of commercial buildings in Kingsway, provides zero on site car parking space, is not considered an appropriate response to the MSS.

Relevant Clause 22.13 (Sustainability and Environment)- Environmentally Sustainable Development Policy applies to all residential and non residential developments that require a planning permit throughout the City of Monash and is relevant to this application. In accordance with 'Table 1 – ESD information required' at 22.13-4, a Sustainability Management Plan would be required if the proposal was supported.

Clause 22.14 (Glen Waverley Major Activity Centre Structure Plan) applies to all land within the Glen Waverley Major Activity Centre (GWMAC). The main objective of this policy is to ensure use and development within the GWMAC is in accordance with the Glen Waverley Activity Centre Structure Plan 2014 (updated 2016). It specifies that any permit applications for the use and/or development of land within the GWMAC will be assessed on how they achieve the aspects of the GWAC Structure Plan. A Design and Development Overlay is applied to the areas

within the GWMAC to define development provisions within the GWAC Structure Plan.

Glen Waverley Activity Centre (GWAC) Structure Plan 2014 (updated 2016)

The GWAC Structure Plan is the relevant Structure Plan to be considered in the assessment of this application.

‘Area 1 – Central mixed use’

The subject site is located within ‘Area 1: Central mixed use’ in the GWAC Structure Plan. It is identified for hospitality/ entertainment/ retail use at ground level with housing/ offices/ hotel/ community uses/ library above.

The proposed commercial uses of restaurants, offices and place of assembly are in accordance with the designated use identified in *Area 1- Central mixed use*. It also meets the following objectives envisaged in *Area 1*:

- To encourage opportunities for mixed uses within multi storied buildings to provide for greater vitality, surveillance and opportunities for residential uses on upper levels.
- To support the continued development of Kingsway as the food and entertainment precinct and retain local retail uses within this precinct.
- Provide café, restaurant and entertainment uses at ground level along Kingsway.

The proposed mixed of commercial uses is also consistent with the purpose of the Commercial 1 Zone to *create a vibrant mixed use commercial centres for retail, office, business, entertainment and community uses*.

‘Precinct 1 – Kingsway’

Within ‘Area 1 – Central mixed use’ the subject site is further identified as being in ‘Precinct 1: Kingsway’ where the following is envisaged:

“This precinct will strengthen its hospitality, entertainment and retail focus with opportunities throughout for living above the shops. Kingsway will be the heart of the Glen Waverley Activity Centre, featuring pedestrian-friendly streets and public spaces.”

Relevant policies are:

- *Encourage opportunities for mixed use development across the precinct with housing, office or community uses located above ground level retail and hospitality uses.*
- *Incorporate active frontages across the precinct with fine grain tenancies providing for a variety of shops and experiences.*
- *Facilitate the redevelopment of underutilised sites throughout the precinct.*

- *Support the continuation of hospitality and entertainment uses along Kingsway.*
- *Within the Central Car Park site (281 Springvale Road, Glen Waverley), provide for a public square, library and community hub with activated ground level uses.*
- *Encourage a high level of pedestrian priority throughout the precinct with minimal vehicle movement along key streets.*
- *Encourage additional outdoor dining opportunities throughout the precinct.*

Following consideration of the broader vision for the GWAC as set out in the GWAC Structure Plan, officers are satisfied that conceptually, the current proposal for a multi-storey commercial development at this location enjoys strategic support. The introduction of a high rise building with varieties of commercial uses is encouraged at this location, subject to a design detail that retains the existing fine grain character in Kingsway, provides active and engaging street frontages to support a high level of pedestrian amenity in both the street frontage and the laneway, with appropriate car parking provision.

Design and Development Overlay, Schedule 12 (DDO12)

GWAC Structure Plan identifies the land as being in *Area 1- Central mixed use and Precinct 1- Kingsway*. The Design and Development Overlay, Schedule 12 (DDO12) sets out the applicable design requirements of the GWAC Structure Plan. The subject land is located within *Built Form Area A* which has the following development provisions.

'Built Form – Area A'

Built form objectives for the Activity Centre have been divided into different Built Form Areas across the centre. The subject site is located in 'Built Form Area A'. Relevant built form opportunities applicable to the subject land encourage:

- Opportunity for 4-6 storeys with maximum building height of 15-22 metres.
- Street edge/podium height of up to 3 storeys with additional height recessed 5 metres from the street frontage.
- Zero side setback.
- 1.5 metre rear setback to the laneway or Right Of Way (ROW) connecting Montclair Avenue and Coleman Parade.
- Building heights and setbacks designed to minimise shadowing of Kingsway footpaths and public spaces.
- Building designs should retain the fine grain character of Kingsway, where new buildings are articulated to reflect the pattern of narrow shopfronts. Buildings should also be designed to retain the human scale along Kingsway.

It is clear that the subject site has been identified as suitable for higher built form, with buildings of 4-6 storeys envisaged. In considering any development of this scale, design excellence is critical in determining its appropriateness. Design Excellence can be achieved through:

- Minimising the overshadowing impact on public realm;
- Demonstrating best-practice environment sustainable design (ESD);
- Retaining the fine grain character of the traditional shopping strip of Kingsway;
- Integrating with and contribute positively to street life;
- Providing surveillance of the public realm including laneways; and
- Providing wind and weather protection to reduce the impact of wind and rain on public spaces and provide adequate shade for pedestrians.

These are the design regulations sought in DDO12 within Built Form Area A, where the subject site is located. A detailed assessment of this proposal against the requirements in DDO12 is as follows:

REQUIREMENT	RESPONSE
Preferred maximum overall height of 22 metres (6 storeys)	Variation required Maximum overall building height of 26.2 metres (6 storeys). The proposed development exceeds the preferred height guidance by 4.2 metres which is unjustified. This will be further discussed in this report.
Zero street setback up to a façade height of 3 storeys.	Complies
5 metre street setback for storeys above 3 storeys.	Complies
Zero side setback	Complies
1.5 metres rear setback to the laneway	Variation required The ground floor is setback 1.5 metres from the rear laneway, levels 1 and 2 have zero setback and the levels above have minimal setbacks to the rear laneway.
Minimum floor to floor height: Residential Use: 3.2-3.5m Retail or Restaurant Use: 4.2-4.5m Any Other Use: 3.2-3.5m	Complies No residential use in this proposal. Restaurant Use: 4.5m Place of Assembly Use: 3.6m Office Use: 3.6m & 4.4m

Building Height and Built Form

The Glen Waverley Major Activity Centre (GWMAC) has been earmarked for change under current Local Planning Policy and, more specifically, the GWAC Structure Plan. Higher built form is envisaged and it is important that future development of this scale makes a positive contribution to the public realm and liveability of a place, through well considered and high quality facades. The impact of new building forms upon the GWMAC skyline should also be considered in relation to the visual amenity of a high rise building.

The proposed six (6) storey building is envisaged at this location within DDO12. However the maximum building height of 26.2 metres, which is 4.2 metres higher than the preferred building heights, is not justified.

As suggested in the Urban Design Advice, the proposal is at a mid-block location and does not benefit from a corner location that may form to serve the role of a landmark or gateway. In this mid-block context, the additional building height of 4.2 metres which is equivalent to one storey, would consequently undermine the anticipated hierarchy of the Activity Centre.

Based on the design regulations in different areas identified in DDO12, a key characteristic for the Kingsway spine will be predominantly low-rise urban form with the occasional taller development at intersections, entrances and 'marking' the end of the railway. The location of this site does not warrant a signature building or higher development. As such, the proposal is likely to sit above the preferred skyline viewed along Kingsway. This is not considered an acceptable design response envisaged in DDP12.

Building Setbacks and Interfaces

Front and Side Setbacks

The first three levels (podium) of the building will be built up to the front boundary and the levels above (tower) are setback 5 metres to the front boundary. The building will be built up to the northern and southern (side) boundaries. These setbacks are in accordance with the DDO12 requirements.

Kingsway Interface

The proposal presents a three storey 'podium' with a three storey 'tower' which in principal, is supportive. However, the additional 4.2 metres in height (above preferred building height in DDO12) to the tower component results in an overly dominant upper form (tower) that eclipses the lower base (podium).

The current proposal contains a floor to floor height on each level above the restaurants that exceeds the DDO12 requirements and in turn contributes to the excessive height of the tower. It is considered that if the tower were reduced in height to the preferred building height of 22 metres, would address the massing concerns and result in a more appropriate built form that presents as a subservient

element to the dominant base, thereby maintaining a human scale to the public realm.

Side Interface

The patterned design of the side walls is supportive. In this context where side boundaries are typically concealed by subsequent future redevelopment of neighbouring sites, the proposed design of the side walls will provide a reasonable visual interest and quality to the side elevations in the interim period.

Rear Setback and Laneway Interface

DDO12 requires developments to be setback 1.5 metres to the rear boundary to activate and provide surveillance to the laneway. The proposal is setback 1.5 metres to the rear boundary on the ground level, with levels 2 and 3 built to the boundary (zero setback); and levels 4, 5 and 6 setback 1 metre from the rear boundary.

The proposal partially satisfies the rear setback requirement in DDO12 and seeks to vary this requirement for the upper levels. The current proposal shows that Levels 1 and 2 are to project over the ground level rear setback area, and the upper levels being setback 1 metre from the rear boundary. This variation is unjustified as this will result in an elevation that accentuates the dominance of the building on the laneway, and impinges on the public realm.

An increase in the rear setbacks to meet the DDO12 requirements will create a more 'open' feeling, allow greater visibility and increase surveillance opportunities to the laneway. In addition, the current proposal in terms of architectural features, window presentation, and location of services, is designed to present as the 'back of the building' to the laneway. It should be designed to create a 'frontage' presentation to the laneway to improve pedestrian amenity and encourage walking through the laneway, to achieve the objectives of activating the laneway.

In addition, the use of concrete panel for the whole building does not maintain human scale at pedestrian level.

Overall, the inadequate setback of 1-1.5 metres to the rear boundary could possibly be achieved via permit conditions if one was to issue. However the design of building will still represent as the 'back of the building' to the laneway even if the rear setbacks are increased. A redesign of the proposal is required to create an active 'frontage' to the laneway, to improve pedestrian amenity and retain human scale.

Equitable Development

As the site is in a mid-block location, building to the northern and southern (side) boundaries, where side elevations are typically hidden by subsequent future development of neighbouring sites is supported. As discussed above, the

proposed patterned design on the side walls will provide reasonable visual interest before the adjoining sites are developed.

The setbacks to the rear boundary is not an acceptable response to equitable development having regard to the likely future development of other properties along the laneway. As discussed in the Urban Design Advice, *the rear elevation is setback 1.17 metres (levels 1 and 2) and 2.17 metres (levels 3-5) from the centre of the laneway. This does not present an acceptable response to allow a reasonable separation between the future development on adjoining parcel of the west of the laneway. We would accept a minimum of 3 metres from the centre of the laneway where a commercial window is proposed to be an equitable response.*

Based on the Urban Design Advice and the previous discussion under ‘Rear Setback and Laneway Interface’, if the proposal were redesigned to create an active frontage to the laneway, with a rear setback of at least 1.5 metres, it would also achieve equitable development with adjoining properties.

Design Excellence

Architectural quality and design detail is critical in determining the appropriateness of new development within the Glen Waverley Major Activity Centre (GWMAC). The GWAC Structure Plan recognises the importance of good design and the significant contribution to the character and identity of a place. More importantly, the key role it plays in defining the street level experience.

One of the main objectives of the GWAC Structure Plan aims to promote *‘excellence in architectural quality and design across the activity centre defining a contemporary and exciting identity for Glen Waverley’*.

Strategies to achieve this are:

- *“Encourage excellence in building design within both commercial and residential areas so that development responds to the characteristics of the site and its context.*
- *Retain the fine grain character of the traditional shopping strips such as Kingsway.*
- *Ensuring new buildings integrate with and contribute positively to street life, and provide surveillance of the public realm, including laneways.*
- *Ensuring new development creates human scaled places that promote visual and pedestrian amenity to enable informal interaction.*
- *Avoid large high massing buildings that dominate streetscapes and open spaces.*

The proposal adopts a typical ‘podium-tower’ approach where the ‘base’ (podium) of the building should present as a dominant element at the street level with recessive upper levels. The current proposal does not present an outcome that

this approach seeks. As discussed previously under the section ‘Building Height and Built Form’, the additional height above the preferred building height in DDO12 would result in an unacceptably dominant tower form.

The extensive use of ‘feature panel with light and bright concrete’ does not successfully accentuate the distinction between the podium and the tower. The proposal should employ higher levels of detail at the podium level with ‘heavier’ materials to provide depth and rhythm to the ‘base’. Conversely, the tower should use lighter weight material with larger details and low maintenance materiality to present as a subservient element to the dominant base.

Apart from the façade materials and colouring, the podium levels should also consider using more natural, tactile and visually interesting treatments near public interfaces to reinforce a human scale that the GWAC Structure Plan envisages. Furthermore, the podium facades should be designed to include clear vertical elements and articulation to better respond to the fine-grain character of the existing buildings along Kingsway.

These are the details that the current proposal fails to demonstrate, in response to the design objectives sought in the GWAC Structure Plan.

Wind and Weather Protection

The provisions in DDO12 requires a wind tunnel testing for buildings over six storeys, hence the proposed six storey building does not require the test. The proposal with a canopy extends over the footpath for weather protection is encouraged.

The proposed canopy at 3.57 metres above the footpath on Kingsway is appropriate in height and will be at a consistent level with the canopies on adjoining sites to provide continuous weather coverage. Other canopies on Kingsway are generally between 3 and 4.5 metres above the footpath. It is setback approximately 1.5 metres from the street kerb which is sufficient to avoid vehicle damage over time.

Overshadowing and Solar Access

One of the strategies in the GWAC Structure Plan is to ensure *new development is designed to minimise overshadowing to footpath and public spaces.*

To achieve this, DDO12 specifies that buildings should be designed to ensure solar access is maintained within the following area:

- Within 10 metres of the western property boundary of Kingsway, between Bogong Avenue and Railway Parade North, between 9am and 12pm on 21 September.

Shadow plans prepared by the project architect indicate that the additional shadow cast by the new building will fall onto the rear laneway in the morning and

fall onto Kingsway in the afternoon. The proposed building will not produce any additional shadow on Kingsway, within 10 metres of the property boundary, between 9am and 12pm thus being consistent with the provision of DDO12.

The impact of the additional shadow cast by the proposed building onto the rear laneway is considered acceptable given the shadow will start to move away from laneway after 9am. The laneway will not be impacted by any additional shadow cast by the new building in the afternoon.

Car parking provision

Clause 52.06 applies as the proposal includes new uses and an increase in the floor area. The number of car parking spaces required under Clause 52.06-6 must be provided to the satisfaction of the responsible authority in one or more of the following ways:

- On the land; or
- In accordance with a permit issued under Clause 52.06-3 (reduce the number of car parking spaces required under Clause 52.06-5, including reduce to zero); or
- In accordance with a financial contribution requirement specified in a schedule to the Parking Overlay.

The proposal does not provide any car parking spaces on the land. The four (4) existing car parking spaces at the rear of the building will be removed as a result of the proposed development. Accordingly, the proposal seeks to reduce the number of car parking spaces to zero pursuant to Clause 52.06-3 of the Monash Planning Scheme.

The subject land was previously within the Parking Overlay where a financial contribution, i.e. a car parking cash contribution, was accepted in lieu of providing on site car parking spaces. The Parking Overlay was removed from the Monash Planning Scheme on 24 May 2018 and since the Parking Overlay was removed, a car parking contribution is no longer able to be accepted.

The subject site has previously paid a car parking contribution to Council when the land was affected by the Parking Overlay. The contribution that has been paid is equivalent to 10.4 car parking spaces, of which 7.2 spaces were generated for the first floor extension of 73 Kingsway and 3.2 spaces for the ground level extension of the shop of 75 Kingsway.

The existing two storey hair salon and spa at 73 Kingsway and single storey shop at 75 Kingsway with total floor area of 490 square metres generates a car parking requirement of 17 car spaces. While 4 spaces are provided at the rear of the buildings, and a notional credit of 13 car spaces exists.

The subject site is located within the Principal Public Transport Network Area (PPTN) as identified on the *Principal Public Transport Network Area Maps (State Government of Victoria August 2018)*. The car parking requirements for different uses within the PPTN area are reduced in Clause 52.06 of the Monash Planning Scheme.

The following table provides an assessment of the proposal against the provisions of Clause 52.06 of the Monash Planning Scheme.

	Floor Area/ Number of Patrons	Clause 52.06 Requirement (PPTN Area)	Car Spaces Required	Car Spaces Provided
Restaurant (including basement storage)	778m ²	3.5 to each 100m ² of leasable floor area	27	0
Place Of Assembly	140 patrons	0.3 spaces per patron	42	0
Office	380m ²	3 spaces to each 100m ² of net floor area	11	0
Existing Credits	23.4 spaces from the existing uses			
Total Required After Deducting Car Parking Credits			56.6 (round down to 56)	
Total Provided				0

Based on the above calculations, a total of 80 car spaces are required to satisfy planning scheme provisions. No car parking is proposed on the site and consequently the proposal seeks a reduction to zero (0) parking spaces. The site currently has a credit of 23.4 car spaces, based on the existing floor area of the shops on site and the car parking contribution made. Accordingly a waiver of 56 spaces is required.

It is noted that levels 2 and 3 are proposed for use as a Place of Assembly, within which each premises is proposed to hold a maximum of 35 patrons with a floor area of 137 to 143 square metres. The proposed ratio of patrons with the floor area per premises is notably low (almost 4 square metre person). This means there is capacity in floor area for the number of patrons to increase in the future, noting the building code would allow 1 square metre per person, hence further increase the car parking requirement.

While considering a reduction of car parking application, Clause 52.06 of the Monash Planning Scheme requires the Responsible Authority to consider the following:

- Any relevant local planning policy or incorporated plan;

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- The availability of alternative car parking in the locality of the land;
 - The practicality of providing car parking on the site, particularly for lots of less than 300 square metres;
 - Any adverse economic impact of a shortfall of parking may have on the economic viability of the activity centre;
 - The future growth and development of the nearby activity centre;
 - Any car parking deficiency associated with the existing use of the land;
 - Any credit that should be allowed for car parking spaces provided on common land or by cash-in-lieu payment;
 - Local traffic management in the locality of the land;
 - The impact of fewer car parking spaces on local amenity, including pedestrian amenity and the amenity of nearby residential areas;
 - The need to create safe, functional and attractive parking areas;
 - Access to or provision of alternative transport modes to and from the land;
 - The equality of reducing the car parking requirement having regard to any historic contributions by existing business;
 - The character of the surrounding area and whether reducing the car parking provision would result in a quality/ positive urban design outcome.

While the total land size of the subject site is 371.5 square metres, it has a combined width of 12.2 metres which is quite narrow if a full basement with passing areas to provide additional 56 car parking spaces for the development. In addition, the subject site is within the Glen Waverley Activity Centre where it is well served by public transport, and it is expected that approximately 30% of the trips are multipurpose trips within the activity centre, as recognised by Council's Traffic Engineer.

The Glen Waverley Activity Centre used to be controlled by the Parking Overlay where cash-in-lieu payment was accepted instead of provision of on site car parking spaces. As indicated in the Applicant's Traffic Report prepared by Amber, the existing car parking demand is at capacity during weekday lunch times and weekend evenings; while there are parking capacity during weekday afternoon, evenings and weekend lunch times and afternoons. The restaurant component in this proposal is expected to have the same peak hours with other restaurants in Kingsway where the car parking demands are generated; while the place of assembly and office uses in this proposal may generate a different pattern of peak hours. It is therefore considered that the proposal is suitable for some reduction of the car parking requirement, however not to the proposed extent.

Bicycle storage facilities.

Under Clause 52.34 of the Monash Planning Scheme, the statutory requirement for the provision of bicycle facilities on the site is as follows:

	Floor Area/ Number of Patrons	Clause 52.34 Requirement	Bicycle Spaces Required
Restaurant (excluding basement storage as it is not available to the public)	560m ²	1 space to each 100m ² of floor area available to the public for employee; 2 spaces plus 1 space to each 200m ² of floor area available to the public if the floor area exceeds 400m ² for visitors	5 4
Place Of Assembly (including balconies)	256m ²	1 space to each 1500m ² of floor area for employee; 2 spaces plus 1 space to each 1500m ² of floor area for visitors	0
Office	380m ²	1 space to each 300m ² of net floor area for employee if the floor area exceeds 1000m ² ; 1 space to each 1000m ² of floor area if the floor area exceeds 1000m ² for visitors.	0
Total Required			9
Total Provided			12

The proposal therefore provides surplus bicycle parking spaces. The bicycle spaces are located at the ground floor, obscured from the frontage maintaining an active frontage to Kingsway.

However there are no direct access to the rear of the building from Kingsway, where the bicycle spaces are located. It is not appropriate to expect customers to access the bicycle parking area through the ground level restaurants to access the 'common access area' where it leads to the bicycle parking area; or via the rear laneway.

Waste Management

Bins and recycling storage are provided on the ground level towards the rear of the building.

In addition, the submitted Waste Management Plan (WMP) shows a waste room however it does not show any waste rooms on the plans. In addition, there are no sewer/ water facilities indicated for bin washing.

A revised plan should show the waste room connections to sewer disposal and water connection for bin washing, which could be addressed by permit conditions if one was to issue.

Objections not previously addressed

Disruption during construction

If this proposal was supported, a permit condition would require a construction management plan and traffic management plan to be submitted to Council prior to commencement of any construction works. This will ensure that traffic will be managed properly during construction and minimise impacts to the local area.

However disruption is inevitable during construction in relation to noise, dust or inconvenience caused by hoarding structures on the footpath. This does not warrant the proposal to be refused given they are not long term impacts.

Car parking contribution

Another objection raised concerns about unfairness to other business owners who have previously paid a car parking contribution when the area was subject to the controls of Parking Overlay.

The Parking Overlay was removed from the Monash Planning Scheme in May 2018, and Council is not allowed to accept any financial contribution i.e. car parking contribution in lieu of on site car parking spaces. Applicants are entitled to apply for a reduction in the number of car parking spaces required pursuant to Clause 52.06-3 of the Monash Planning Scheme, and the application would be assessed in its merit. Previous contributions have contributed toward the construction of existing car spaces or more recently those proposed to be provided in the proposed Montclair multilevel car park.

CONCLUSION:

The proposal for a multi-storey building for commercial uses is considered consistent with the broader state and local planning policy objectives for the Glen Waverley Major Activity Centre (GWMAC). The mix of commercial uses is encouraged at this location by the Glen Waverley Activity Centre Structure Plan, and it will add activity and vibrancy to the area.

The multi storey scale of the building is generally consistent with the design guidelines for the GWMAC. However the design response is poor with a building height exceeding the preferred building height and a rear setback inconsistent with the design guidelines envisages in the Design and Development Overlay 12. The design of the building fails to achieve an outcome that will activate the laneway and achieve equitable development with the adjoining site to the west of the laneway.

The façade materials and architectural details should be improved to reinforce the human scale to the public realm and better respond to the fine-grain character of Kingsway.

The proposed reduction in car parking requirement is excessive. It is not an appropriate response and traffic management outcomes are not satisfactory.

It is recommended that Council refuse this application.

LIST OF ATTACHMENTS:

Attachment 1 – Proposed Development Plans.

Attachment 2 – Aerial Photograph (January 2019).

Attachment 3 – Zoning and Overlays Map.

Attachment 4 – Objector Properties Location Map.