

**1.2 270 CLAYTON ROAD, CLAYTON
USE OF LAND AS A RESIDENTIAL HOTEL (SERVICED APARTMENTS) AND
CONSTRUCTION OF A MULTI-STOREY MIXED USE BUILDING AND REDUCTION OF
THE CAR PARKING REQUIREMENT
(TPA/51795)**

EXECUTIVE SUMMARY:

This application proposes an 11 storey mixed use development comprising retail tenancy, office floor space and 104 serviced apartments supported by 120 car parking spaces in four levels of basement.

The application was subject to public notification. Three (3) objections to the proposal have been received.

Key issues to be considered relate to building height, the use of serviced apartments, internal amenity of the serviced apartments, amenity impacts to adjoining residential properties, adequacy of car parking numbers and vehicle access.

This report assesses the proposal against the provisions of the Monash Planning Scheme including the relevant state and local planning policy framework, the adopted Clayton Activity Centre Precinct Plan and issues raised by objectors.

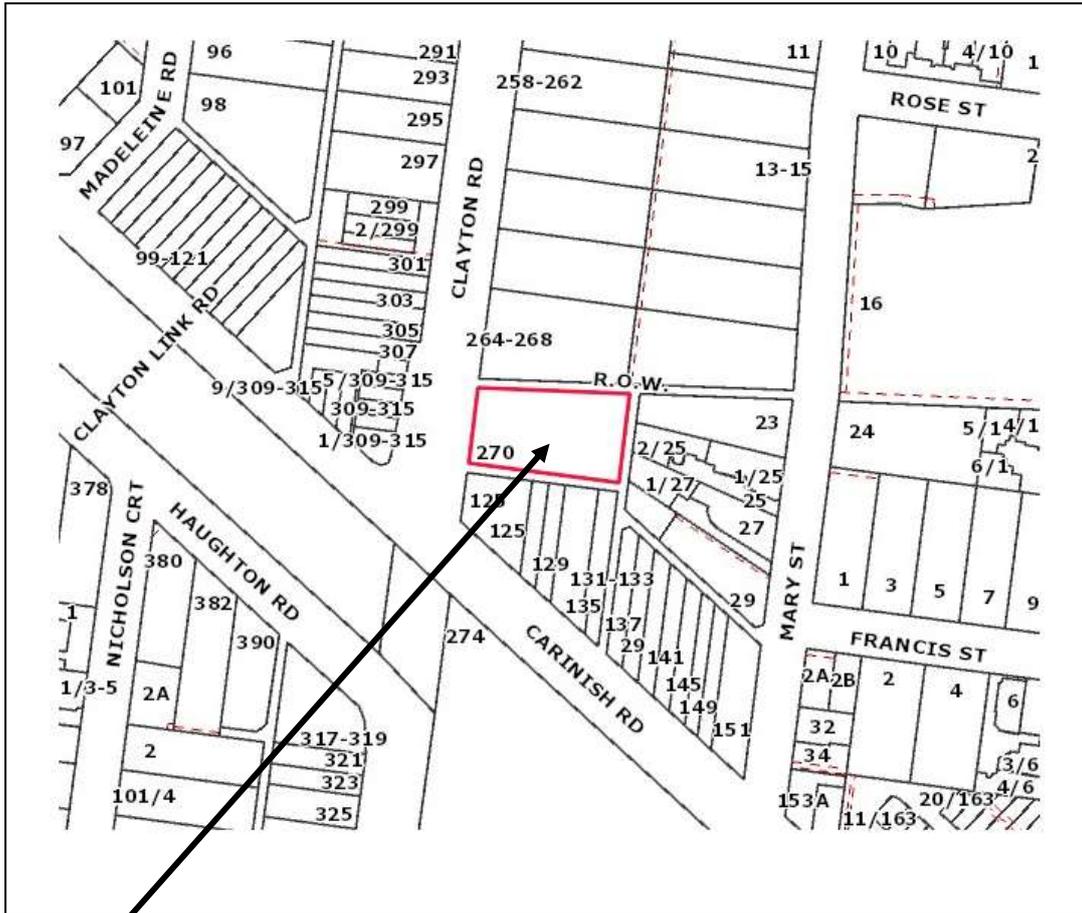
The reason for presenting this report to Council is the proposed development cost of \$34.5 Million.

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:	Oakleigh
PROPERTY ADDRESS:	270 Clayton Road, Clayton
EXISTING LAND USE:	Office (Medical Centre)
PRE-APPLICATION MEETING:	Yes
NUMBER OF OBJECTIONS:	Three (3)
ZONING:	Commercial 1 Zone

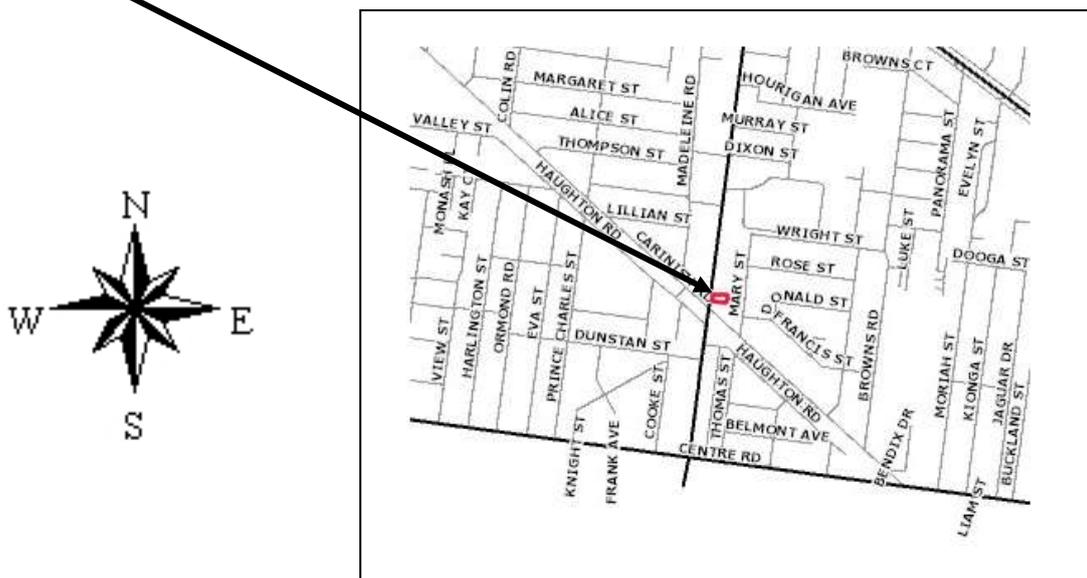
OVERLAY:	Special Building Overlay
RELEVANT CLAUSES: <u>State Planning Policy Framework</u> Clause 11.01-1S & 11.01-1R- Settlement Clause 11.02-1S – Supply of Urban Land Clause 11.03-1S & R – Activity Centres Clause 15.01-1S & R – Urban Design Clause 15.01-4S & R – Healthy Neighbourhoods Clause 15.02-1S – Energy and Resource Efficiency Clause 16.01-1S & R – Housing Supply Clause 16.01-2S – Housing affordability Clause 18.02-1S & R – Sustainable Personal Transport Clause 18.02-2R – Principal Public Transport Network Clause 18.02-4S – Car Parking Clause 19.03-3S – Integrated Water Management	<u>Local Planning Policy Framework</u> Clause 21.01- Introduction 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 Character Policy Clause 22.04 – Stormwater Management Policy Clause 22.13 – Environmentally Sustainable Development Policy <u>General & Particular Provisions</u> Clause 52.06 – Car Parking Clause 53.18 – Stormwater Management in Urban Development Clause 52.34 – Bicycle facilities Clause 65 – Decision Guidelines
STATUTORY PROCESSING DATE:	22 January 2021
DEVELOPMENT COST:	\$34.5 Million

LOCALITY PLAN



SUBJECT SITE

NEIGHBOURHOOD PLAN



270 Clayton Road, Clayton - Use of Land As A Residential Hotel (Serviced Apartments) And Construction of A Multi-Storey Mixed Use Building and Reduction of The Car Parking Requirement

RECOMMENDATION:

That Council resolves to issue a **Notice of Decision to Refuse to Grant a Planning Permit (TPA/51795)** for the use of land as a residential hotel (serviced apartment) and buildings and works associated with a multi-storey mixed use building and reduction of the car parking requirement at 270 Clayton Road, Clayton subject to the following grounds:

1. The proposal is inconsistent with the objectives and requirements of the adopted Clayton Activity Centre Precinct Plan having regard to building height, scale, setbacks, public realm, architectural excellence and impacts to adjoining properties.
2. The proposal will cause adverse amenity impacts to the adjoining residential properties.
3. The proposal will result in a poor urban design outcome.
4. The proposed on site car parking provision is not adequate.
5. The proposed serviced apartment would have a poor level of internal amenity.
6. The land is subject to the Special Building Overlay and Melbourne Water (Determining Referral Authority) objects to the proposal.

BACKGROUND:**The Site and Surrounds**

The subject site is located at the northern edge of the Clayton Activity Centre Precinct on the east side of Clayton Road, just north of the corner of Carinish Road in Clayton. It is located directly to the south of the Clayton Hall and the Clayton Railway Station is located approximately 60 metres to the south of the site.

Whilst commercially zoned and part of the greater Activity Centre, the railway reserve creates a visual barrier to the main shopping precinct further to the south. Residentially zoned land adjoins the site to the east.

The site itself is irregular in shape with a frontage (western boundary) to Clayton Road of approximately 25.4 metres, with the remaining three frontages being to laneways which includes a northern boundary of 50.2 metres, an eastern boundary of 29.9 metres and a southern boundary of 50.1 metres, yielding an overall site area of 1,384 square metres.

The land is currently developed with a two storey office building. It is being used as a medical centre by Monash Health - Ophthalmology Department. The building is constructed approximately 7.5 metres from the front and rear boundaries. The existing front setback contains basic landscaping and a pedestrian ramp leading to the building from the footpath. There are approximately 9 at-grade car parking spaces and vehicle access to the basement car park within the rear setback. There are three informal car spaces at the rear accessed off the rear laneway.

The site is within the Monash National Employment and Innovation Cluster (MNEIC) and the Monash Medical Centre is located approximately 200 metres to the north of the site.

More specifically, details of adjoining properties are as follows:

North: Abutting the site is a 3.06 metres wide laneway running east-west between Clayton Road and Mary Street. Beyond the laneway is the Clayton Hall, forecourt and remembrance gardens. The land is zoned Public Use Schedule 6 (PUZ6).

East: Abutting the site is a 3 metres wide laneway running north-south between the Clayton Hall and Carinish Road. Beyond the laneway are residential properties - 23, 25, 27 and 29 Mary Street. Each of these properties contains one or two single storey dwellings within the Residential Growth Schedule 3 (RG3).

South: Abutting the site is a 3.26 metres wide laneway running east-west. Beyond the laneway is the rear of the row of commercial buildings fronting Carinish Road, with some at-grade car parking spaces at the rear of those buildings. Further south is the Clayton railway station.

West: To the west is Clayton Road which is a major arterial road and zoned Road Zone Category 1. The western side of Clayton Road contains a group of one to two storey commercial buildings.

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 an eleven storey, mixed use development comprising retail tenancies, offices, and serviced apartments above four levels of basement car park.

Features of the proposal are as follows:

Proposed Use	Floor Area (m ²)/number of apartments
Ground level: Retail tenancies	288m ²
Levels 1 to 4: Office tenancies	3,672m ²
Levels 5-9: Serviced apartments	114 serviced apartments
Level 10: Health club, conference centre exclusive to the office patrons and serviced apartment guests	Health club: 89m ² Conference Centre: 127m ²

- A total of 120 car spaces are proposed within four levels of basement. Access to the basement car park will be via the two-way laneway located to the north of the site from Clayton Road.
- Ground level contains two retail tenancies, one fronting Clayton Road and one fronting the Clayton Hall forecourt and Remembrance Gardens.
- Pedestrian entry to the upper levels of the building is located to the side, centrally fronting the northern laneway. Levels 1–4 contain office tenancies ranging in floor area between 57 and 372 square metres. Each tenancy has its own terrace with in-built planter boxes and seating.
- Levels 5-9 contain a total of 104 serviced apartments comprising a mixture of studios (no separate bedroom), one and two bedroom apartments.
- Level 10 is the rooftop communal open space area of approximately 214 square metres primarily facing the Clayton Hall forecourt and remembrance gardens to the north. There is also the conference centre and health club facilities on this level with associated changing rooms and amenities.
- There are four lifts in the building providing access to the upper levels from the basement car park and ground level lobby. Two lifts are dedicated to the offices and two lifts are dedicated to the serviced apartments.
- A modern, contemporary building façade is proposed characterised by a defined 4 storey street wall acting as the ‘podium’ with lightweight materials (glazing and perforated metal panelling) and recessed ‘tower’ component with more ‘heavyweight’ materials (face brickwork and precast concrete).

Attachment 1 details plans forming part of the application.

PERMIT TRIGGERS:

A planning permit is required for the current proposal in accordance with the following planning scheme provisions.

Zoning

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

Pursuant to the requirements of Clause 34.01 a permit is required for the following:

- Clause 34.01-1: Use of accommodation (including serviced apartments) where the frontage at ground level exceeds 2 metres.
- Clause 34.01-4: Construct a building.

No permit is required for use of retail premises and offices within the zone. The proposed conference centre and health club facilities are ancillary to the office and serviced apartment uses.

Special Building Overlay

The land is subject to the Special Building Overlay. Pursuant to Clause 44.05-2 a permit is required to construct a building.

An application must be referred to the relevant floodplain management authority.

Particular & General Provisions

Clause 52.06- Car Parking

Pursuant to 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 52.06-5 does not specify the car parking requirement for serviced apartments, as such car parking provision must be the satisfaction of the Responsible Authority.

This proposal seeks to reduce the number of on site car parking provision by a total of 48 spaces including 6 spaces for the retail premises and 42 spaces for the office tenancies.

Clause 52.34 – Bicycle Facilities

Pursuant to Clause 52.34-2 (Bicycle Facilities), a permit may be granted to vary, reduce or waive any requirement of Clause 52.34-5.

As the required bicycle parking has been provided on the site, a Planning Permit is therefore not sought under this provision.

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

CONSULTATION:

Officers advised the Applicant 18 August 2020 via email that there are areas of non-compliance with the adopted Clayton Activity Centre Precinct Plan, which are unlikely to be supported. The proposed car parking rate for the serviced

apartments is significantly lower than the other serviced apartments approved in the municipality. In addition, there are concerns about the internal amenity of some serviced apartments which are less than 3 metres in width; and the encroachment of building features onto the road reserve 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.

The Permit Applicant responded on 12 November 2020 by submitting an amended plan addressing some of the concerns raised, but that they do not agree with all of the preliminary concerns. This plan substituted the original plans submitted with the application. The major changes include an increase of on site car parking provision from 104 to 120 spaces; and an increase of the angled front setback of the tower component. The application proceeded with these plans to public notice and these form the basis of this assessment.

The Applicant was verbally advised that this application was coming to the February Council meeting, in addition to a letter that was sent to the Applicant formally informing them of the details of the Council meeting. The Applicant has been verbally advised that this application is recommended for refusal.

Public Notice

The application was advertised in accordance with section 52 of the *Planning and Environment Act 1987* by sending notices to the surrounding property owners and occupiers, and four large signs displayed at the four frontages of the site.

Objections received for the applications included the following:

- The development will set a precedent for other high density developments
- Vehicle access and impacts on traffic volume and on street parking around Mary Street
- The development will set a precedent for other high density developments

Suburban Railway Loop Authority (SRLA)

The SRLA was also notified as the subject land is located close to the Clayton Railway Station where it may be affected by the Suburban Railway Loop.

SRLA did not object to the proposed development however requested the applicant to provide additional detail in relation to the development's footings and piles, and basement wall retention system to assist the assessment of ground movement and ground loading; and details of the construction periods to assist the SRLA to assess works and site areas.

Officers have passed the advice to the permit Applicant.

Public information session

In addition to the statutory notice, an online public information session was held on 9 December 2020.

Approximately eight (8) community members participated in the online public information session. Oakleigh Ward Councillors were also in attendance.

Attachment 4 details the location of objector properties.

Referrals**External Referrals****Department of Transport (Ref: PPR 33686/20-A)**

Pursuant to the provisions of Clause 66.02-11 the application was referred to the Department of Transport (DOT) as the proposed residential building (including serviced apartment) comprises more than 60 lodging rooms.

The Department of Transport advised that they do not object to the proposed development, and did not require any conditions to be included on the permit.

Melbourne Water (Ref: WMA-1181994)

The application was referred to Melbourne Water pursuant to Clause 44.05-6 of the Monash Planning Scheme, who objected based on the following grounds:

- The proposed development does not comply with the objectives set out in Section 4(1) of the Planning and Environment Act 1987 “to protect public utilities and other assets and enable the orderly provision and coordination of public utilities and other facilities for the benefit of the community”.
- The proposed development is inconsistent with Melbourne Water’s Asset Protection Requirements relating to construction within proximity of a Melbourne Water drainage asset/easement.

A further response from Melbourne Water dated 27 November 2020 retains the objection, however they appear to be involved in on-going discussions with the applicant in regards to their requirements.

Internal Referrals**Traffic Engineering**

Concerns were raised in relation to the basement 1 ‘FPR’ door near the north-western corner opens directly into the accessway which is a safety concern. In addition the proposed 8 visitor bike spaces located on the naturestrip of Clayton Road have potential interfere to traffic and pedestrians and are not supported in this location.

Drainage Engineering

No concerns subject to standard conditions including an on-site detention system for storm events to be retained on site for the basement carpark. The design of the drainage and civil works is to be approved by Council's Engineering Department prior to drainage works commencing.

Waste Services

The proposed plans were amended during the application process to respond to the requirements from Council's Waste Services, and are considered satisfactory.

Urban Design Advice

Independent urban design comments were obtained by Council from an urban design consultant.

A summary of their advice is as follows:

- The subject site has physical qualities that support the notion of taller developments in principal. This includes the larger site area, its 'island' nature, its location and 'disconnection' from the Clayton Major Activity Centre commercial core due to the elevated sky rail, its proximity to the Monash NEIC, and public transport.
- The height of the proposed street wall will be dominating. This is too far a departure from the relevant provisions of Clause 21.06 *Major Activity and Neighbourhood Centres* which is also exacerbated by the absence of meaningful upper level setbacks.
- The proposed building height of 42 metres is excessive in this context, particularly given the absence of any compelling design rationale for the scale of form proposed.
- The absence of a meaningful upper level setback to Clayton Road is a serious deficiency in the urban design response. The proposal clearly dominates the scale of built form, and relies too heavily on the public realm to ameliorate the visual presence and impact of the development.
- An upper form setback of 4.5 metres from the centre point of the eastern abutting laneway relies too heavily on a 'base case' equitable development principle. It fails to acknowledge that the eastern adjoining properties are residentially zoned, even though they are zoned Residential Growth, they are afforded a level of amenity protection. The proposal relies too heavily on the Precinct Plan's 8 storey aspirations for the Residential Growth Zoned and has given little regard to the amenity expectations for those properties. The proposal will be visually overtly imposing and will excessively overshadow these properties. A substantial eastern setback is required as a response to this interface.
- A 3 metre ground floor setback should be provided to contribute to the 5 metre footpath widening aspirations of the Precinct Plan. Any requisite ramping should be provided internally within Retailer 02.

- The general palette of building materials is contemporary and broadly appropriate. However the approach to restrict ‘lightweight’ materials (glazing, perforated metal panelling) to the lower levels, and ‘heavyweight’ materials (face brickwork and precast concrete) to the upper levels will result in an architectural composition that reads as ‘top heavy’, which amplifies the concerns regarding the scale and bulk of the proposal.
- The proposed architectural screening elements at the lower levels that protrude approximately 800mm over the public realm is an unusually large extent of public realm cantilever. The outcome exacerbates the scale of the proposal as viewed from the public realm.

Overall, it is recommended that:

- The overall building height reduced to no more than 33 metres.
- The street wall reduced from 4 storey (maximum 18 metres) to maximum 12-13 metres to each of the subject site’s street and laneway interfaces.
- A 5 metre setback to be provided above podium level to the Clayton Road boundary.
- The scale of the proposal towards its eastern interface to be reduced by reducing the scale of street wall from 17.3 metres to 12-13 metres, reducing the height of the proposal to no more than approximately 33 metres and providing substantial eastern upper form setbacks.
- Provide a 3 metre ground floor setback to Clayton Road. This setback should be devoid of external ramping and landscaping, and should be sufficiently designed to provide meaningful public realm weather protection.
- Inverting the proposal’s juxtaposing approach to materiality by confining ‘heavyweight’ materials to the proposal’s street wall (face brickwork and precast concrete), and ‘lightweight materials’ to the proposal’s upper form (glazing and perforated metal).
- No aspect of the proposal should cantilever over the public realm, except weather protection measures.

DISCUSSION:

Consistency with State and Local Planning Policies

State Planning Policy Framework (PPF)

Plan Melbourne Refresh is the Metropolitan Strategy included as a reference document within the Planning Scheme. 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 are to locate a substantial proportion of new housing in or close to locations that offer good access to services and transport and employment areas.

Plan Melbourne Refresh also identifies places of state significance and places of local significance. Within the City of Monash, the main place of state significance is the Monash National Employment and Innovation Cluster (MNEIC). National employment and innovation clusters are designated geographic areas with concentrations of economic activity that currently make major contributions to the national economy and Melbourne's position as a global city and will be supported into the future. The MNEIC is Melbourne's largest established cluster, representing the largest concentration of employment outside the central city with a critical mass of leading education, health, research and commercial facilities, and existing industrial businesses.

The subject site is located within the MNEIC as identified in Plan Melbourne Refresh, where the scale of new residential development will generally comprise larger footprint residential development of a high quality design and finish.

Clause 11.02-1S (Supply of Urban Land) seeks to *ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.*

Clause 11.03-1R (Activity Centres – Metropolitan Melbourne) reiterates the objectives of Plan Melbourne and seeks to support the development and growth of Metropolitan Activity Centres by ensuring they:

- *Are able to accommodate significant growth for a broad range of land uses.*
- *Are supported with appropriate infrastructure.*
- *Are hubs for public transport services.*
- *Offer good connectivity for a regional catchment.*
- *Provide high levels of amenity."*

The subject site is located at the northern edge of the Clayton Activity Centre Precinct, and 60 metres from the Clayton Railway Station and it is well serviced by public transport, amenities and services. It is an appropriate location for higher density development to provide increased diversity of housing and supports the continued growth and diversification of the activity centre.

Clause 15.01-4R seeks to create a city of 20 minute neighbourhoods that give people the ability to meet most of their everyday needs within a 20 minute walk, cycle or local public transport trip from their home.

Clause 16 of the Monash Planning Scheme seeks to increase the proportion of new housing in designated locations within established urban areas, on sites that are well located in relation to jobs, services and public transport. It also seeks to create mixed use neighbourhoods at varying densities that offer more choice in housing type.

Housing policy at Clause 16.01- 1R seeks to manage supply of new housing to meet population growth and create a sustainable city by developing housing and mixed use development opportunities in locations that are (as relevant):

- *Areas for residential growth.*
- *Areas designated as National Employment and Innovation Clusters.*
- *Metropolitan activity centres and major activity centres.*
- *Areas near existing and proposed railway stations that can support transit-oriented development.*

It also seeks to *'identify areas that offer opportunities for more medium and high density housing near employment and transport in Metropolitan Melbourne'* and *'create mix-use neighbourhoods at varying densities that offer more choice in housing'*.

As mentioned previously, the subject site is within an identified location that seeks to provide increased employment opportunities and housing diversity and density to support the MNEIC.

The Planning Policy Framework, including Clause 16.01-2S (Housing Affordability) seeks to increase choice in housing type and deliver more affordable housing closer to jobs, transport and services.

Clause 17.02-1S encourages development that meets the community's needs and locate commercial facilities in existing or planned activity centres, and Clause 17.04-1S encourages the development well-designed facilities including accommodation and retail opportunities, to ensure that tourism facilities have access to suitable transport and encourage investment that meets demand and supports growth in tourism.

Clause 18.02-2S & 2R promotes increased development close to high-quality public transport routes; maximise the use of existing infrastructure and increase the diversity of development along the Principal Public Transport Network particularly at interchanges and activity centres.

Clause 18.02-4S requires land to be set aside for car parking which enable easy and efficient use and achieve a high standard of urban design, protect the amenity of the locality including the amenity of pedestrians and other road users.

Plan Melbourne 2017-2050, a reference document to the Monash Planning Scheme also encourages these initiatives with the following policies:

- Plan for new development and investment opportunities on the existing and planned transport network.

- Facilitate an increased percentage of new housing in established areas to create a city of 20-minute neighbourhoods close to existing services, jobs and public transport.
- Support new housing in activity centres and other places that offer good access to jobs, services and public transport.
- Support the growth and development of Melbourne’s cultural precincts and creative industries.
- Promote urban design excellence in every aspect of the built environment.
- Recognise the value of heritage when managing growth and change.
- Stimulate economic growth through heritage conservation.
- Create mixed-use neighbourhoods, and improve neighbourhoods to enable walking and cycling.
- Facilitate housing that offers choice and meets changing household needs.

The subject site is located within the Clayton Activity Centre Precinct with good access to public transport. The proposed serviced apartments will make a positive contribution to the centre.

Local Planning Policy Framework (LPPF)

Local Planning Policy expands on the State Planning Vision for the local area. The Strategic Framework Plan at Clause 21.06 identifies the site as being located at the edge of the Clayton Activity Centre, just outside of its northern boundary. Clause 21.06 (Major Activity and Neighbourhood Centres) identifies Clayton as a Major Activity Centre with its primary focus being;

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

Table 1 (Hierarchy of Activity Centres in Monash) at 21.06-3 also identifies the Strategic Directions for Major Activity Centres encouraging redevelopment and concentration of activity, providing a range of entertainment, arts and restaurant uses, as well as encouraging office uses where contiguous retail frontage is not compromised.

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 are all have broad relevance to this proposal.

Clause 22.03 – Industry and Business Development Character Policy is also relevant in the assessment of the proposal. This policy applies to all land within the commercial zones and industrial zones and provides design guidelines to ensure that new development integrates with its context.

In accordance with the map at Clause 22.03, the subject site is located in Business Character Type 2. The desired future character statement indicates that new development should respect the scale and form of development of the relevant Activity Centre, while providing for appropriate change.

Clause 22.04 (Stormwater Management) applies to all land and seeks to ensure that new development considers stormwater management as part of the design.

Clause 22.13 (Environmentally Sustainable Development Policy) applies to all residential and non-residential developments that require a planning permit. This policy was introduced into the scheme on the 29 September 2016 and is relevant to this application. In accordance with clause 22.13-4, a Sustainability management Plan (SMP) is submitted with the application.

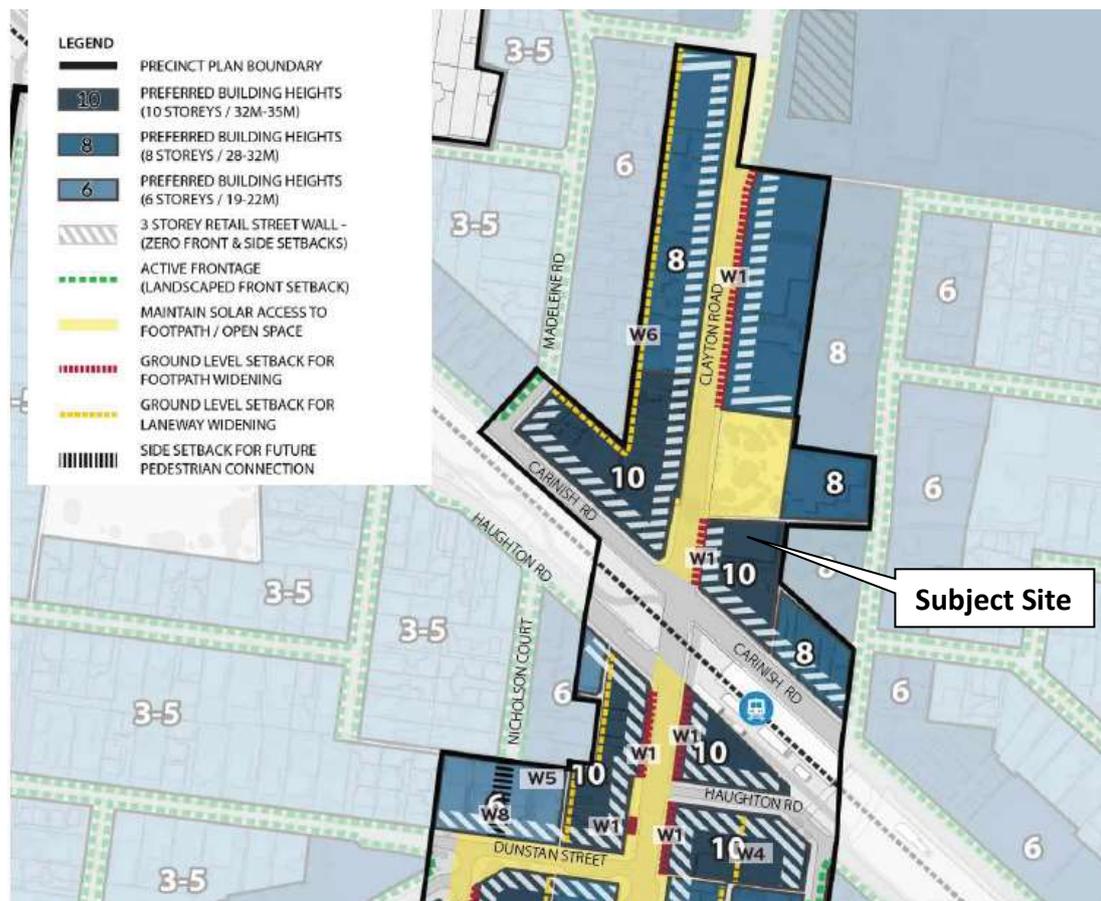
Clayton Activity Centre Precinct Plan

At its meeting on 28 January 2020, Council adopted the Clayton Activity Centre Precinct Plan, dated January 2020. The plan is yet to proceed to a Planning Scheme Amendment.

The subject site is located on the eastern end of the activity centre, in an area identified for 'retail/ commercial and mixed use'. It is in *Precinct 1- Central Retail*, and is identified as a 'key redevelopment site' which is suggested to accommodate a greater density of development. This site is earmarked for development with a preferred building height of 10 storey or 32-35 metres, while the adjoining properties (not being identified as 'key redevelopment sites') are earmarked with preferred building heights of 6 and 8 storeys.

The proposed development with maximum building height of 41.24 metres (11 storeys) significantly exceeds the preferred maximum building height of the Precinct Plan.

Although conceptually, a higher density development is supported on the subject site given it is a key redevelopment site, the concern with the current proposal surrounds its scale, its impact on the surrounding street network and residential neighbourhood and the urban design outcomes will be discussed in the balance of this report.

Figure 1 - Extract of Clayton Activity Centre Built Form Plan

The adopted Precinct Plan includes details of preferred built form outcomes including setbacks. The plan seeks the following development outcomes:

- *Provides for additional hospitality, retail and commercial uses within the lower levels of development*
- *Reinforces key activity nodes and entries into the Activity Centre with higher scale and exemplar built form*
- *Promotes visual interest and variation in the Activity Centre skyline*
- *Orinates a sense of enclosure and continuity in built form*
- *Establishes a pedestrian scale environment at street level*
- *Avoids unarticulated facades that give a bulky appearance*
- *Does not overwhelm existing residential properties and is articulated to minimise visual bulk when viewed from residential properties*
- *Provides an overall scale that is compatible with adjoining low-scale residential areas*
- *Maintain solar access to Clayton Road, Cooke street, Dunstan Street and the future Cooke Street Plaza*
- *Provides shade and shelter to footpaths in key retail areas*
- *Development should avoid 'wedding cake' built form outcomes*

The Clayton Activity Centre Precinct Plan envisages buildings within this precinct to have street walls (zero front and side setbacks) up to three storeys, with the upper levels to be setback a minimum of 5 metres from the front boundary.

The proposed development provides a four storey street wall with a ground level setback of 3.1 to 4.5 metres. Details of the proposed front and rear setbacks are shown in the table below:

Levels	Setbacks to front boundary	Setbacks to rear boundary
Ground level	3.1-4.5 metres	0 metre
Level 1	0 metre, or 3.6-4.4 metres	0 metre
Level 2	0 metre	0 metre
Level 3	0 metre, 4-4.7 metres	0 metre
Level 4	3-4.9 metres	3.3 metres
Levels 5-9	2.6-4.6 metres	2.96-2.975 metres
Level 10	5.3-6.8 metres	3.225 metres

In considering any development of this scale, design excellence is critical in determining its appropriateness. The ground level setback will provide an opportunity for landscaping in front of the building and ‘establish a pedestrian scale environment at street level’. However, as suggested in the Urban Design advice, this setback should be sufficiently designed to provide meaningful public realm and weather protection but should be devoid of external ramping and landscaping so as to enhance its presentation and maximise its benefit and contribution to the development and broader Activity Centre.

Building Height and Built Form

Street wall

The proposed building contains a 4 storey street wall (approximately 16 metres high) essentially proposed to be constructed to all boundaries of the site (except that the ground level, and some cut in areas on levels 1 and 3 from the front boundary). The proposal significantly exceeds the street wall height envisaged in the Clayton Activity Centre Precinct Plan.

As suggested in the Urban Design Advice, the height of the proposed street wall will dominate over the existing scale of built form in the immediate context. The scale of the proposed street wall should be reduced to maximum 12-13 metres which is in line with the requirements in the Clayton Activity Centre Precinct Plan.

Overall building height

In terms of the overall building height, the eleven storeys building has a total height of 41.24 metres. It is excessive in the surrounding context, particularly with the absence of any compelling design rationale from the applicant for the scale proposed. The additional building height is not justified with additional social or architectural benefits. As such, as suggested in the Urban Design Advice, the proposal should be reduced to no more than approximately 33 metres to:

- Create greater consistency with the scale of the approved built form to the west of the site at 99-121 Carinish Road Clayton;
- Reduce the visual bulk and overshadowing impact on surrounding residential properties;
- Acknowledge the gateway location through other ways than an overly tall building; and
- Create greater consistency with the Precinct Plan's preferred character for the Clayton Major Activity Centre and the subject site.

Building setbacks and interfaces

Apart from the street wall and overall building height, the upper form setbacks (above the podium levels) are critical in taller buildings so as to give visual primacy to the podium levels and reduce the 'bulk' of the upper form (tower) of the building. This is discussed in further detail below.

Clayton Road setback

The proposed 'tower' is setback between 3 and 4.9 metres from the Clayton Road boundary. This is significantly less than the recommended setback of 5 metres in the Clayton Activity Centre Precinct Plan, and the impact of the reduced setback is exacerbated by presentation of the building and its 4 storey podium.

The Urban Design Advice also commented that *'it creates an outcome in which the proposal clearly dominates the scale of built form in proximity to the subject site (particularly along Clayton Road), and one that relies too heavily on the public realm to ameliorate the visual presence and impact of the development'*. It strongly recommends pursuing a minimum of 5 metres above-podium setback to the Clayton Road boundary, as recommended in the Clayton Activity Centre Precinct Plan, which will achieve a clear podium/ tower typology. Such a change would have a significant effect on the internal design of the building and cannot be required as a condition on a permit.

Northern setback

In terms of the zero tower setback to the northern boundary where it faces the Clayton Hall forecourt and Remembrance Gardens, it is considered acceptable as *'it will provide greater spatial definition to the broad, robust width and 'open character' of the reserve, and it clearly won't result in any additional overshadowing year-round'*. It is also considered an appropriate response to the adjoining context.

Southern and Western setbacks

Likewise, the proposal provides a 4.5 metres setback to the centre point of the southern laneway is an acceptable response to allow equitable development should the south adjoining commercial property wish to develop in the future.

Eastern setback

Immediately east of the subject site opposite the laneway are predominately single storey residential dwellings. This residentially zoned interface is comparatively more sensitive in its current form, even though those properties are zoned Residential Growth Zone and are in an area where development up to eight storeys is envisaged in the Clayton Activity Centre Precinct Plan.

The Urban Design Advice identified that the proposed setback refers to 4.5 metres from the centre point of the eastern laneway. Seemingly this is derived on the principles of equitable development. However, the design response fails to acknowledge that the subject site's east abutting interface consists of a series of residentially zoned properties. There should be greater regard and protection given to their current circumstances as opposed to what appears to be a reliance on the how the properties may be developed in the future under the Clayton Activity Centre Precinct Plan. Whilst they may be developed with buildings of up to 8 storeys little regard has been given to the amenity expectations for those properties.

It is considered that the proposal relies too heavily on the Clayton Activity Centre Precinct Plan's 8 storey aspiration for the east adjoining residential properties, and has given little regard to the amenity expectations for those properties.

Supporting this view is that the current proposal will result in an outcome that will be overly imposing with sheer built form. The shadow plans show that the proposed building will excessively overshadow these residential properties from 1pm onwards. To address this issue, the design should be revised to provide more substantial setbacks to the eastern interface and preserve some level of solar access to the private open space of the east adjoining properties (2/25 and 1/27 Mary Street) at the Equinox.

The current proposal does not provide for any measures to prevent overlooking. Increasing building setbacks to the east will assist in reducing the extent of overlooking to those residential properties, and this would need to be more carefully considered in any future application.

Architectural excellence

The adopted Clayton Activity Centre Precinct Plan identifies the objective to *create a contemporary and exciting identity for the Clayton Activity Centre through high quality design and architectural excellence*. It contains the following strategies:

- *Excellence in building design so that development responds to the characteristics of the site and its context;*
- *Maximise building height on larger sites where interface issues can be minimised;*
- *Strengthen the sense of place in the Clayton Activity Centre by providing buildings of exemplary architectural quality on prominent sites and in locations adjacent to existing and proposed public space;*

- *Ensure buildings do not overshadow key public spaces such as key commercial areas, street, parks and plazas;*
- *Ensure buildings do not overwhelm the footpaths of retail areas with taller element recessed from the street;*
- *Ensure buildings integrate with and contribute positively to streetscapes and public spaces;*
- *Strengthen the presence of buildings along the entire length of Clayton Road to promote increased interaction between the street, future retail, health and office uses;*
- *Ensure a transition in building height between commercial and residential areas;*
- *Ensure that all development supports a sustainable activity centre thought high ESD standards.*

Although the proposal does offer good quality architecture which will enhance the area and streetscape, the general approach of using lightweight materials to the podium and heavyweight materials to the tower will result in an architectural composition that reads as ‘top heavy’. This concern was raised in the Urban Design Advice and was recommended to ‘invert’ this relationship to reduce its visual presence and contribute to a more ‘balanced’ design outcome.

In addition, the proposed architectural screening elements at the lower levels that protrude approximately 800mm further exacerbate the scale of the proposal as viewed from the public realm. The Urban Design Advice strongly recommended that aspect of the proposal be deleted.

Serviced Apartment Use

As identified earlier in the report, a planning permit is required to use the land for serviced apartments. The subject site being located within the core of the Clayton Major Activity Centre with excellent access to public transport and is close to existing services, represents an appropriate location where serviced apartments should be located.

Serviced apartments are a form of short term accommodation which differs from apartments, dwellings, traditional hotels or motels. As such the layout and design of the proposed apartments differs and internal amenity requirements for future occupants are assessed differently. The majority of apartments include direct solar access to either bedroom or living room windows, whilst the ‘studio’ apartments do not contain separate living areas.

It is expected that the apartments are designed to provide a reasonable level of internal amenity. Most of the proposed serviced apartments are a minimum 3 metres in width however some apartments are exceptionally narrow such as Apartments 605, 606, 705, 706, 805, 806, 905 and 906, with an internal width of approximately 2.6 metres. Although Clause 58 *Apartment Developments* does not technically apply to serviced apartments, Standard D24 *Functional Layout*

Objective sets out the minimum width for bedrooms of 3 metres and living area (studio) of 3.3 metres which could be used for reference to achieve an acceptable level of internal amenity. The proposed 2.6 metres wide serviced apartments are not considered appropriate.

Car Parking, traffic and access

The subject site is located within the Principal Public Transport Network. There are no specific car parking rates for serviced apartments in Clause 52.06 of the Monash Planning Scheme. The provision of car parking must be to the satisfaction of the Responsible Authority.

The requisite car parking spaces required under Clause 52.06 is shown in the following table:

Proposed Car Parking Provision

Proposed Use	Clause 52.06 requirement	Floor area	Car spaces required	Proposed car parking allocation	Car parking reduction sought
Retail tenancy	3.5 spaces per 100m ² of leasable floor area	288m ²	10 spaces	4 spaces allocated (1.38 spaces per 100m ²)	6 space
Offices	3 spaces per 100m ²	3,672m ²	110 spaces	68 spaces (1.85 spaces per 100m ²)	42 spaces
Serviced apartments	-	114 apartments	Non-specified	47 spaces (0.41 spaces per apartment)	-
Car share	-	-	-	1 space	-
Total				120 spaces	48 spaces

A total of 120 car parking spaces are provided within the basement car park. The above table indicates that the proposal seeks to reduce the required car parking provision by 48 spaces, and to provide car parking for the serviced apartments at a rate of 0.41 space per apartment. Most of the proposed car parking reduction comes from the office use (42 spaces) with the proposed car parking rate of 1.85 spaces per 100 square metres.

Council's Traffic Engineer advised that *the direction of Council's adopted Monash Integrated Transport Strategy 2017 is to encourage sustainable mobility and reduce reliance on private vehicle use. The Clayton Activity Centre has excellent public transport access, with higher frequencies during office peak hours, and the limited availability of long-term off-site car parking encourages consideration of*

sustainable transport modes for staff. The development site is located in very close proximity to the rail and bus interchange. The traffic report submitted by the applicant references a recent Council decision to approve a six-storey mixed use development on land at 2-4 Kingsway in Glen Waverley with an office parking rate of 1.84 spaces per 100sqm. Council's Traffic Engineer consider that it is reasonable to reduce the onsite office parking provision to a similar rate to that of 2-4 Kingsway.

The 114 serviced apartments are proposed to be allocated 47 spaces, which equates to a rate of 0.41 spaces/apartment. It is considered that other similar developments in Monash within an Activity Centre generally provide a rate of minimum 0.5 spaces/ apartment. The proposal is well below this rate.

In addition, Council's Traffic Engineer advises that:

- *The traffic report provided by the applicant indicated that the parking occupancy survey shows that a supply of 113 unrestricted parking spaces in the area were noted. The report noted that unrestricted car parking was observed to have occupancy levels that varied from 73% to 96% in business hours (8:00am to 5:00pm). Of the supply of 113 unrestricted parking spaces, there were a minimum of 5 spaces available for parking during this period. This demonstrates a high demand for long-term parking spaces in the area.*
- *It is expected that there is sufficient parking within the Clayton Activity Centre to accommodate retail customer parking, and consequently the traffic report's recommendation of 2 staff spaces per retail premises (total 4 spaces) and one for the serviced apartment retail tenancy is considered to be reasonable.*
- *A loading dock is proposed on the ground level on the southern side of the development. Service and delivery vehicles are expected to prop for short periods during the off-peak. This is considered to be an acceptable arrangement.*
- *The adjacent laneway to the north is known to be an area of pedestrian & vehicle activity, and consequently it is recommended that the pedestrian sight line requirement apply to the basement access ramp.*
- *Loading is proposed via the southern laneway and turning movements are satisfactory.*

Overall, the proposed car parking rates for the retail premises and office component are acceptable given the location of the subject site. However the proposed rate for the serviced apartments is lower than the rates accepted in other developments in locations that have similar context and should be increased to a minimum 0.5 spaces per apartment.

Bicycle facilities

Under clause 52.34 of the Monash Planning Scheme a total of 41 spaces is required, including 25 employee/staff spaces and 16 visitor spaces. A total of 73 bicycle parking spaces are proposed, with six share bikes, including 2 e-bikes for

staff and guests of the serviced apartments and a further 10 visitor spaces on the site. However Council's Traffic Engineer indicates that the proposed 8 visitor spaces within the naturestrip will not be supported and recommended them to be relocated within the property boundaries of the subject land.

The provision of share bikes to encourage active transport is to be commended.

Objections not previously addressed

The development will set a precedent for other high density developments

The application will not set a precedent as each application will be assessed on its merit.

CONCLUSION:

The concept of developing the site for a mixed use commercial development is supported. The proposed retail and office uses are 'as of right' within a Commercial 1 Zone, and the proposed serviced apartment use is considered appropriate to this location and is supported.

The issues with this application relate to the scale of development and the inadequate provision of on-site car parking proposed for the offices and serviced apartments. The height of the building exceeds the preferred maximum height envisaged in the Clayton Activity Centre Precinct Plan, which is not justified with any additional social or urban design benefits. The site's location at the interface of the commercial and residential zones requires a more sensitive design approach with regard to building scale and setbacks. The on-site car parking provision is inadequate for the scale of the development having regard to the site's proximity to public transport.

The overall impacts on the vicinity are considered unreasonable and the application in its current form is not supported.

Furthermore, the subject site is liable to the Special Building Overlay and the relevant floodplain management authority (Melbourne Water) objects to the proposal. As such, Council must refuse the application in accordance with the requirements of the Planning and Environment Act 1987.

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.