

**1.3 15-17 MARRIOTT PARADE, GLEN WAVERLEY  
CONSTRUCTION OF A FIVE STOREY BUILDING TO BE USED AS A CHILD CARE  
CENTRE, FIVE (5) TOWNHOUSES AND BUSINESS IDENTIFICATION SIGN  
(TPA/53422)**

**EXECUTIVE SUMMARY:**

This application proposes to construct a five storey building to be used as a child care centre, five (5) two to three storey dwellings and display of signage.

An appeal has been lodged with the Victorian Civil and Administrative Tribunal (VCAT) against Council's failure to determine the application within the prescribed time. Council is unable to determine the application but must form a position on the application.

The application was subject to public notification. Ninety-six (96) objections to the proposal have been received.

Key issues to be considered relate to visual bulk and mass of the development, neighbourhood character, landscaping, private open space, overlooking, overshadowing, design detail, car parking and vehicle access, potential impact of additional traffic generation on the surrounding road network and appropriateness of the proposed non-residential uses (child care centre) in this location.

This report assesses the proposal against the provisions of the Monash Planning Scheme including the relevant state, regional and local planning policy framework and Clause 55, along with issues raised by objectors.

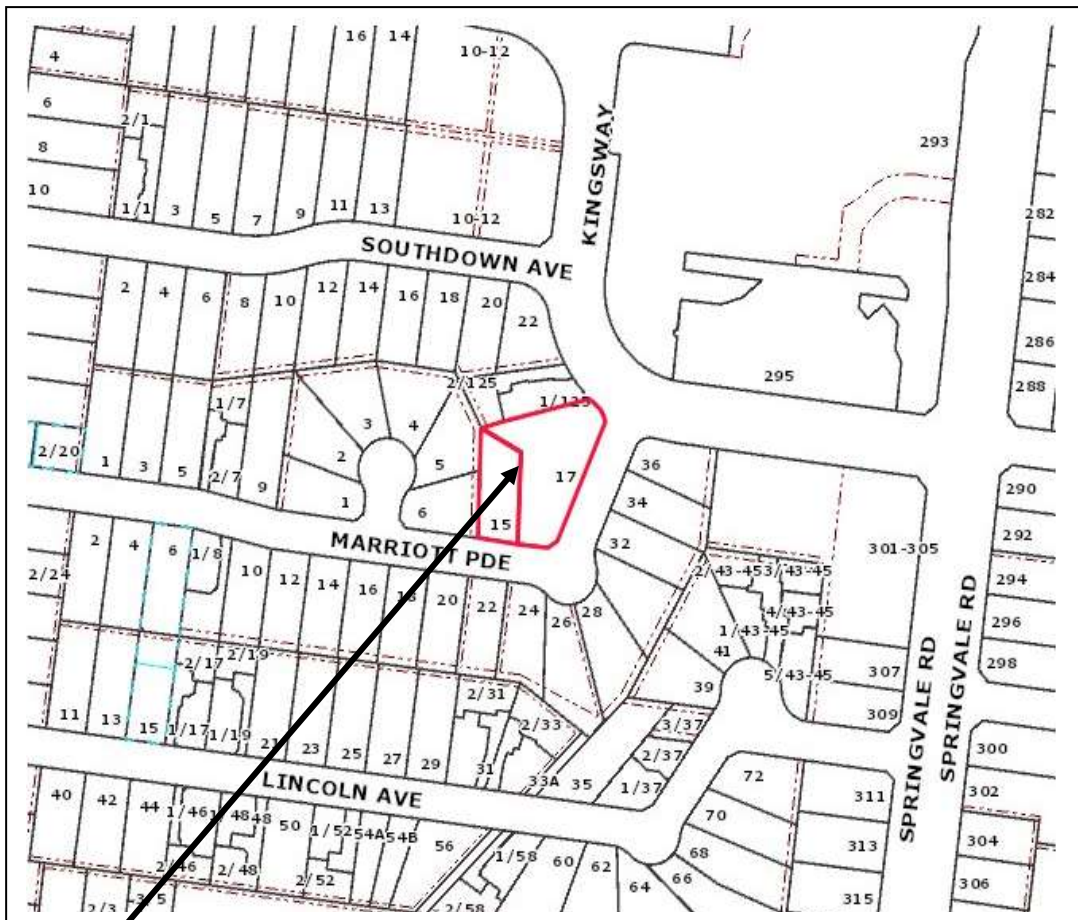
**The reason for presenting this report to Council is the proposed development cost of \$13.5 Million.**

**The proposal is considered inconsistent with the relevant provisions of the Monash Planning Scheme and it is recommended that should Council have decided the application, that is be refused.**

<b>RESPONSIBLE DIRECTOR:</b>	<b>Peter Panagakos</b>
<b>RESPONSIBLE MANAGER:</b>	<b>Catherine Sherwin</b>
<b>RESPONSIBLE PLANNER:</b>	<b>Jeanny Lui</b>
<b>WARD:</b>	<b>Glen Waverley</b>
<b>PROPERTY ADDRESS:</b>	<b>15-17 Marriott Parade, Glen Waverley</b>
<b>EXISTING LAND USE:</b>	<b>Two single storey detached dwellings</b>
<b>PRE-APPLICATION MEETING:</b>	<b>Yes</b>

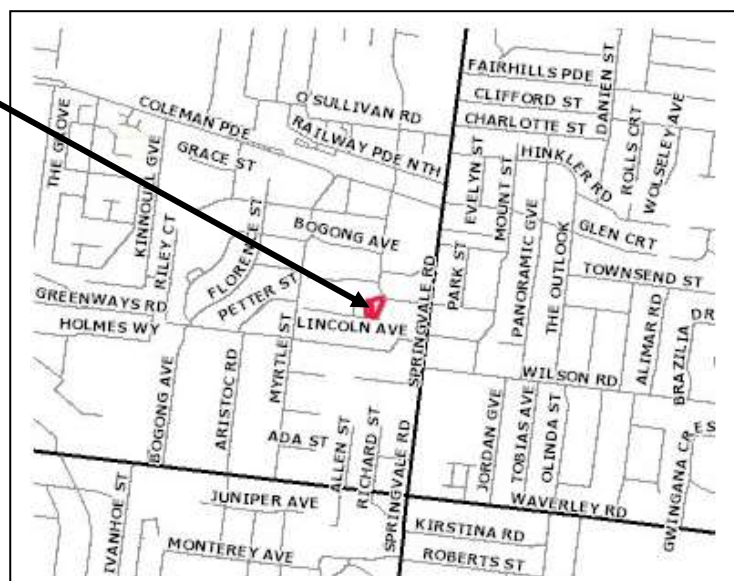
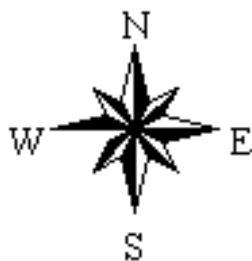
<b>NUMBER OF OBJECTIONS:</b>	<b>Ninety Six (96)</b>
<b>ZONING:</b>	<b>15 Marriott Parade- General Residential Zone Schedule 7</b> <b>17 Marriott Parade- Residential Growth Zone Schedule 4</b>
<b>OVERLAY:</b>	<b>No overlays</b>
<b>RELEVANT CLAUSES:</b> <b><u>Planning Policy Framework</u></b> Clause 11.01-1R- Settlement – Metropolitan Melbourne Clause 11.02-1S- Supply of Urban Land Clause 13.07-1S- Land Use Compatibility Clause 15.01-1S&R- Urban Design Clause 15.01-2S- Building Design Clause 15.01-4S & R- Healthy Neighbourhoods Clause 15.01-5S- Neighbourhood Character Clause 15.02-1S- Energy and Resource Efficiency Clause 16.01-1R- Housing Supply- Metropolitan Melbourne Clause 16.01-2S- Housing Affordability Clause 17.01-1S&R- Diversified Economy Clause 17.02-1S- Business Clause 18.01-1S- Land Use and Transport Planning Clause 18.02-1S- Walking Clause 18.02-2S&R- Cycling Clause 18.02-4S- Roads Clause 19.02-2S- Education Facilities Clause 19.03-3S- Integrated Water Management	<b><u>Local Planning Policy Framework</u></b> Clause 21- Municipal Strategic Statement) Clause 21.04- Residential Development Clause 21.08- Transport and Traffic Clause 21.13- Sustainability and Environment Clause 22.01- Residential Development and Character Policy Clause 22.04- Stormwater Management Policy Clause 22.05- Tree Conservation Policy Clause 22.09- Non-Residential Use and Development in Residential Areas Clause 22.13- Environmentally Sustainable Development Policy Clause 22.14 – Glen Waverley Major Activity Centre Structure Plan  <b><u>Particular Provisions</u></b> Clause 52.06- Car Parking Clause 52.34- Bicycle Facilities Clause 53.18- Stormwater Management in Urban Development Clause 55- Two or more dwellings on a lot and residential buildings Clause 65 – Decision Guidelines
<b>STATUTORY PROCESSING DATE:</b>	<b>7 May 2022</b>
<b>DEVELOPMENT COST:</b>	<b>\$13.5 Million</b>

**LOCALITY PLAN**



**SUBJECT SITE**

**NEIGHBOURHOOD PLAN**



15-17 Marriott Parade, Glen Waverley - Construction Of A Five Storey Building To Be Used As Child Care Centre, Five (5) Townhouses And Business Identification Sign

**RECOMMENDATION:**

**A.** That Council resolves that if it were in a position to make a decision, it would determine to **refuse the application for a Planning Permit (TPA/53422)** for the construction of a five storey building to be used as a child care centre, five (5) townhouses and a business identification sign at 15-17 Marriott Parade, Glen Waverley subject to the following grounds:

1. The proposal is inconsistent with Clause 22.09 of the Monash Planning Scheme - Non-residential Use and Development in Residential Areas, as it fails to have appropriate regard to the residential environment and the amenity of the neighbourhood.
2. The proposal is inconsistent with the objectives of Clause 21.04 Residential Development, Clause 22.01 Residential Development and Character Policy and Clause 55 in regard to building height and scale, neighbourhood character, landscaping, private open space, front fencing and design detail.
3. The proposal fails to meet the design and built form policies of the Glen Waverley Major Activity Centre Structure Plan.
4. The proposal has not been designed to respect the site context or achieve good quality architectural outcome. The proposed built form is out of character due to excessive building height, scale and bulk, lack of separation between dwellings, excessive front fencing and insufficient landscaping opportunities.
5. The proposal represents a poor design outcome for the site and the area.
6. The proposal does not provide for adequate or appropriate landscaping outcomes and does not positively contribute to the Garden City Character.
7. The proposal will have a detrimental impact on the safety and performance of the surrounding streets and street network.
8. The traffic generated by the proposal is likely to cause adverse impacts to the safety, efficiency and amenity of the residential area.
9. The proposed development and signage would adversely affect the amenity of area and adjacent properties.
10. The proposal results in an overdevelopment within the context of the neighbourhood.

11. The proposal fails to satisfy the decision guidelines of clause 32.07 and 32.08.
  12. The proposal will have adverse impacts to a Council street tree.
- B. That Council advise VCAT and all submitters of its position on this application.

### **BACKGROUND:**

#### **History**

##### **Planning Application TPA/46187**

Planning application TPA/46187 to construct a five storey residential building containing 57 apartment dwellings was refused at Council's meeting of 31 January 2017.

The main grounds of the refusal were:

- The proposal failed to respect the prevailing built form typology of low scale detached homes and medium density townhouse developments which characterises the street and broader neighbourhood.
- The proposal does not adequately satisfy the objectives and design standards of Clause 55 of the Monash Planning Scheme with regard to neighbourhood character, building height, landscaping and noise impacts.
- The proposed development will have a detrimental impact on adjoining residential developments as a result of its overall scale and bulk.
- The proposed development does not provide a good level of internal amenity for future residents.
- The proposal is in breach of the Restrictive Covenant in Instrument of Transfer No. B924316.
- The proposal overall was considered an over-development.

The development was subsequently refused by VCAT on 1 August 2017. The Tribunal's decision *Marriott Pty Ltd v Monash CC [2017] VCAT 1169* to refuse the application mainly because of the poor internal amenity for the proposed apartments, the proposal was not designed to be a suitable scale for the General Residential Zone and the interface with the western adjoining properties did not pay sufficient regard to the Garden City Character objectives.

#### **Change to zoning of land**

In November 2019, and subsequent to the consideration of the above application by Council and VCAT the surrounding land including 17 Marriott Parade was rezoned from General Residential Schedule 2 (GRZ2) to Residential Growth Schedule 4 (RGZ4) in April 2018 (Amendment C125). At this time, 15

Marriott Parade and surrounding land was rezoned from General Residential Schedule 2 (GRZ2) to General Residential Schedule 7 (GRZ7).

### **Planning Application TPA/51317**

Planning Permit TPA/51317 was issued on 2 September 2020 by Council to construct a four storey apartment building on 17 Marriott Parade and five (5) town houses on 15 Marriott Parade. The apartment building comprises eleven (11) apartments with maximum building height of 13.5 metres. The maximum height of the two storey townhouses are 7.3 metres, and the three storey townhouse is 10.1 metres. A total of thirteen (13) objections were received for this application.

The permit allows the development to commence before 2 September 2022. To date development has not commenced and no extension of time application has been received to extend the expiry of the Permit.

This application is a new TPA application, independent of the previous applications.

### **The Site and Surrounds**

The subject site is located at the south west corner of Marriott Parade and Kingsway, diagonally opposite the Ibis Hotel building. It is made up of two separate land titles with a combined site area of 2,186 square metres. The site is irregular in shape with direct street abuttal to Marriott Parade along its southern and eastern boundaries, and to Kingsway along a small section of its northern boundary. The land falls gently by approximately 2.5 metres from its north west to south eastern corner.

The site is currently developed with two single storey detached dwellings. Both dwellings date back to the 1960's. The sites contain no significant vegetation.

The site sits at the residential interface to the Glen Waverley Major Activity Centre.

Marriott Parade is a residential street and is characterised by a mix of single and double storey brick veneer homes dating back to the 1960's and displaying the typical characteristics of the broader Glen Waverley dwelling stock.

Housing lots are generally between 650 square metres to 750 square metres in size with visible front gardens and on-site car parking provision. The street is characterised by medium width nature strips and consistent street tree planting along its length. Marriott Parade is a no-through road with no access to Myrtle Street at its west end. All access and egress is to Kingsway, with a left turn only restriction onto Kingsway. The Ibis Hotel building is located diagonally opposite the site on the northern side of Kingsway and its six storey scale is fairly prominent when viewed from the subject site and this location within Marriott Parade.

Features of adjoining land is as follows:

**North:** A dual occupancy development comprising a single storey dwelling at the front and a double storey dwelling at the rear adjoins the site along its north western boundary at 125 Kingsway. A mix of habitable and non-habitable room windows are located along the southern facades facing the subject site.

**South:** The southern side of Marriott Parade opposite the subject site is residential in nature and comprises single and double storey detached homes typical to the neighbourhood.

**East:** The eastern side of Marriott Parade is developed with single and double storey detached homes. Front fencing in this part of Marriott Parade is generally 1.2 metres or higher with materials to provide good level of visibility.

**West:** Two residential properties fronting Berkley Court adjoin the site along its western boundary. In both instances, the main area of secluded open space/outdoor entertaining areas sit adjacent to the common fence line.

#### **Title & Covenant Details**

The land is described in two separate land titles (15 and 17 Marriott Parade). A restrictive covenant in Instrument of Transfer No. B924316 is registered on the title of 15 Marriott Parade and obliges the owner of the following.

*'...will not erect or cause to be erected on the said land hereby transferred or any part thereof any dwelling or dwellings constructed of other than brick or brick veneer. [sic]'*

The proposal complies with the restrictive covenant with the proposed dwellings on 15 Marriott Parade to be constructed with face brick.

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

#### **PROPOSAL:**

The application proposes the construction of a five (5) storey child care centre to accommodate 204 child care places, five (5) two storey townhouses with two levels of basement.

Key details of the proposal are summarised as follows:

#### **Child care centre (17 Marriott Parade and partly over 15 Marriott Parade)**

- A five storey building with maximum building height of 16.5 metres.
- A maximum of 204 child care places, and 39 staff for the child care centre.

- Proposed operation hours of 6.30am to 7pm, Monday to Friday.
- Proposed 1.65 to 2.3 metres high fence along the front boundary.
- Display of one business identification sign with total area of 3.12 square metres.

#### Dwellings (15 Marriott Parade)

- 5 x double storey dwellings with maximum building height of 6.115 metres. Each dwelling contains an open-plan living, dining and kitchen area on ground level, three bedrooms on first level, a multi-purpose room/ cinema in basement 1 and a double garage, laundry & storage area in the lower basement (basement 2). A lift provides access from basement 2 to the first level of each dwelling.
- A third level is constructed on top of the front two dwellings to provide additional space for staff & amenity for the child care centre. The maximum building height of this level is 10.695 metres.
- Secluded private open space (SPOS) of the dwellings are located along the western boundary. Each dwelling contains a SPOS area between 36 to 39 square metres with width of 5.365 metres.
- Proposed 1.3 to 1.6 metres high fence along the front boundary.
- Provision of 40.1% garden area.

#### Overall

- A total of 54 car parking spaces are provided within two levels of basement, including 10 spaces for the dwellings, and 44 spaces for the child care centre.
- A total of eight (8) bicycle spaces including six (6) spaces provided within the basement, and two additional spaces on ground level for the child care centre.
- Separate pedestrian entrances are provided for the child care centre and the dwellings.
- Contemporary building façades with face brickwork, metal cladding, stone wall, weatherboard cladding, rendered wall with timber look or white colour batten screens.
- Total site coverage of 60% and permeability of 29.4%.
- Vehicle access to the basement car park is near the centre of the eastern boundary via Marriott Parade.
- No removal of street trees proposed.

Attachment 1 details plans forming part of the application.

#### **PERMIT TRIGGERS:**

#### Zoning

No. 17 Marriott Parade is located within the Residential Growth Zone Schedule 4 and 15 Marriott Parade is within the General Residential Zone Schedule 7.



A primary difference between the zones relates to the applicable height requirement.

**Residential Growth Zone Schedule 4 (RGZ4)**

A permit is required to use the land for a childcare centre pursuant to Clause 32.07-2 (RGZ4). A permit is also required to construct a building or construct or carry out works for the use.

Under the Monash Planning Scheme, a 'child care centre' is defined as '*Land used to care for five or more children who are not permanently resident on the land*'.

The preferred maximum height of a residential building of 14.5 metres does not apply to the child care centre as it does not constitute a dwelling or residential building.

**General Residential Zone Schedule 7 (GRZ7)**

Pursuant to 32.08-6 (GRZ7), a Permit is required to construct two or more dwellings on a lot.

Part of the child care centre extends over the proposed dwellings at 15 Marriott Parade. Therefore, a permit is also required to use the land for a child care centre pursuant to Clause 32.08-2 in addition to construction of a building or carrying out of works for the use.

The maximum height of a residential building or dwelling must not exceed 12 metres. Clause 32.08-4 requires a minimum garden area of 35% to construct a dwelling on a lot above 650 square metres.

The maximum height of the proposed dwellings at 15 Marriott Parade is 10.695 metres which does not exceed the maximum building height allowed in GRZ7. The proposal provides a garden area of 40.1% to the dwellings at 15 Marriott Parade, satisfying the minimum requirements.

**Relevant Decision Guidelines**

Both Clause 32.07 (Residential Growth Zone) and Clause 32.08 (General Residential Zone) provide particular decision guidelines for non-residential use and development.

The responsible authority must consider these decision guidelines, including:

- Whether the use or development is compatible with residential use.
- Whether the use generally serves local community needs.
- The scale and intensity of the use and development.
- The design, height, setback and appearance of the proposed buildings and works.
- The proposed landscaping.

- The provision of car and bicycle parking and associated accessways.
- Any proposed loading and refuse collection facilities.
- The safety, efficiency and amenity effects of traffic to be generated by the proposal.

These decision guidelines will be discussed in the assessment section of this report.

#### Particular & General Provisions

##### **Clause 52.06-3 (Car Parking) & Clause 52.34 (Bicycle Facilities)**

The proposal is located within the Principal Public Transport Network (PPTN). No permit is triggered under these provisions as the car parking rate is satisfied.

##### **Clause 53.18 (Stormwater Management in Urban Development)**

An application to construct a building or construct or carry out works should meet all the standards and must meet the objectives of Clause 53.18-5 and Clause 53.18-6. Details to ensure compliance of this Clause would be required should this application be supported.

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

#### **CONSULTATION:**

Further information was requested of the Permit Applicant on 20 December 2021. In this letter, officers also raised the following preliminary concerns:

- The architectural presentation of the development presents unacceptably bulky and should be further refined to better mitigate building bulk.
- The proposed five storey built form exceeds the 3-4 storey built form envisaged in the Glen Waverley Activity Centre Structure Plan.
- The first floor of the townhouses should be broken up and articulated to reduce visual impact to the adjoining properties.
- The attic roof of the townhouses exacerbates the visual bulk and mass impact.
- The staircases of the child care centre and townhouses within the front setback areas are setback significantly less than 5 metres required in the GRZ7 & RGZ4.
- The ramp and staircase within the front setback of the townhouses will significantly reduce scope for meaningful landscaping.
- The bin storage within the front setback to Marriott Parade will adversely affect the streetscape.
- The proposal will overshadow the secluded private open space of the west adjoining property.
- The proposed front fencing along the Marriot Street boundary is higher than the preferred fencing height of 1.2 metres in GRZ7 & GRZ4.

- The proposal does not provide adequate landscape opportunities along the perimeter of the site.
- The proposed vehicle crossover will be too close to the Street tree (T11).

Officers advised the Applicant should these concerns not be addressed, that this application was unlikely to be supported.

The Permit Applicant responded to the further information letter on 25 February 2022 by providing the requested information. In relation to the preliminary concerns, the Applicant advised that they had amended the plans to address some of the concerns raised, but that they do not agree with all of the preliminary concerns. The design response was refined to provide greater 'horizontality' to break up the building façade, however the vertical timber elements and building materials were retained from the original design. A small visual break was provided to the first floor of the dwellings on the western elevation, and the staircase on the eastern elevation was shifted to align with the building façade. Additional information was provided to demonstrate shadow to adjoining properties meets the relevant requirements.

Officers advised the Applicant in writing on 9 March 2022 that the concerns raised in the further information letter were not satisfactorily addressed and additional concerns were raised about the external amenity impact of the proposed child care centre with 204 children. The Applicant was also advised that the proposal is unlikely be supported.

An appeal was lodged with VCAT against Council's failure to determine the application within the prescribed time (60 days from the receipt of further information). The appeal was lodged during the lead time to the May Council meeting.

### **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 displaying three large signs at the street frontages.

In response, 96 objections were received.

All objections are in relation to the proposed child care centre, raising the following concerns:

- Building height and scale is out of character.
- Car parking, vehicle access and increase in traffic volumes causing traffic issues, blocking of emergency vehicles and safety hazards. The situation will be worse during construction of the Suburban Rail Loop (SRL) as traffic volumes to the nearby residential streets will already be increased due to road closures.
- Increase in noise.

- Loss of privacy.
- Proposed commercial use are not appropriate in residential area.
- The proposal provides for over capacity in child care places in Glen Waverley.
- Potential fire hazard.
- Blocking view of adjoining residential properties.
- Impacts to the structure of adjoining buildings caused by the significant excavation of basements.
- Proposed signage is an eyesore.
- Loss of property values.
- Setting precedence of other business development.
- Fire safety issues such as how does it work for such a large scale child care centre to have fire drills in a local residential street.

Attachment 4 details the location of objector properties.

### **Referrals**

#### **External Referral**

##### **Department of Transport (Ref: PPR 38417/21)**

The application was referred to the Department of Transport in accordance with the requirement of Clause 66.02-11 *Use and Development Referrals* for the proposed child care centre which is classified as an 'education centre' under Clause 73.03.

The Department of Transport did not raise any concerns nor require any conditions.

#### **Internal Referral**

##### **Horticultural Services**

Concerns are raised with the proposed vehicle crossover to be constructed approximately 2.2 metres from the street tree (T11) located south of the proposed crossover.

Council's senior arboriculturist advised that T11 is a 6 metre high *Malus sp.* with good condition and has a useful life expectancy of more than 10 years. No excavation should take place within 3 metres of the base of the tree. The proposal does not meet this requirement.

Other street trees on the nature strip in front of the subject site will not be adversely affected by the proposed development and should be protected during construction.

#### Traffic Engineer

Council's Traffic Engineer raised concerns about the potential traffic generated by the proposed child care centre, which is not considered appropriate for Marriott Parade. In addition, the proposed vehicle crossing should be perpendicular to the carriageway instead of angled to improve pedestrian safety, and a short-term visitor parking space within the basement car park should be allocated and labelled to allow loading outside the peak parent parking demand period. These will be further discussed in the assessment section.

#### Drainage Engineer

No concerns subject to conditions including a detention system is to be provided for the development.

#### Waste Services

Council's Waste Management Team requested further detail on plans and within the Waste Management Plan (WMP) regarding purposes for the WMP, food organic and glass recycling, accurate waste volume calculation, waste collection arrangements, waste system management, bin storage inside the dwellings and washing facilities for the child care centre. The proposed WMP will require amendments to meet all Council's requirements.

### **DISCUSSION:**

#### **Planning Policy Framework (PPF)**

There is general support in both the State, Regional and Local Planning Policy Frameworks for the proposed uses of dwelling and child care facilities. Clause 11.03-1S (Activity Centres) & 1R (Activity Centres – Metropolitan Melbourne) seeks to provide for different types of housing located within close proximity to public transport and is within walking distance to shopping, working, leisure and community facilities. Clause 11.02-1S (Supply of Urban Land) seeks to ensure sufficient supply of land available to meet forecast demand for different uses including community uses.

Clause 15 (Built Environment and Heritage) requires development to respond to its context in terms of character and landscape. Development should achieve architectural and urban design outcomes that contribute positively to a local urban character and enhance the public realm and minimise detrimental impacts on neighbouring properties. Clause 15.01-4R (Healthy Neighbourhoods-Metropolitan Melbourne) 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 16.01-1S (Housing Supply) seeks to facilitate well-located, integrated and diverse housing that meets community needs. Strategies include encouragement of well-designed housing that provides a high level of internal and external amenity. 16.01-2S (Housing Affordability) seeks to deliver more affordable housing closer to jobs, transport and services.

Clause 17.02-1S (Business) encourages development that meets the community's needs for retail, entertainment, office and other commercial services. Strategies include ensuring commercial facilities are aggregated and provide net community benefit in relation to their viability, accessibility and efficient use of infrastructure. Clause 19.02-2S (Education Facilities) encourages to locate child care, kindergarten and primary school facilities to maximum access by public transport and safe walking and cycling routes, and ensure they provide safe vehicular drop-off zones.

Clause 18.02-1S, 2S & 3S (Walking, Cycling & Public Transport) encourages to facilitate an efficient and safe walking, bicycle & public transport network and increase the proportion of trips made by walking, cycling and public transport.

*Plan Melbourne 2017-2050*, a reference document to the Monash Planning Scheme also encourages housing growth in and around activity centres. This plan identifies the Glen Waverley Activity Centre (GWAC) as a Major Activity Centre.

The subject site benefits from its location within the Glen Waverley Major Activity Centre (GWMAC), and its interface with the commercial precinct. It is considered to be suitable for the proposed uses of 'dwelling' and 'child care centre' as supported by relevant strategic policies. Whether the proposed development should be supported depends on the design detail, its response to the site context and the potential external amenity impacts to the surrounding residential properties.

### **Residential Growth and General Residential Zones**

Both the RGZ and GRZ allow education, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations as identified in the objectives of the zones.

For a non-residential use, the decision guidelines of the zones include the following key considerations:

- Whether the use or development is compatible with residential use.
- Whether the use generally serves local community needs.
- The scale and intensity of the use and development.
- The design, height, setback and appearance of the proposed buildings and works.
- The proposed landscaping.
- The provision of car and bicycle parking and associated accessways.
- Any proposed loading and refuse collection facilities.
- The safety, efficiency and amenity effects of traffic to be generated by the proposal.

The proposed child care does not meet these key decision guidelines. Whilst the use generally serves community needs, it is the scale and intensity, design and appearance which is at odd with the surrounding built form. The ability to provide

meaningful landscaping within the existing residential setting will be compromised and the likely impact on the road traffic network is considered of significant.

#### **Local Planning Policy Framework (LPPF)**

The local planning policy framework seeks to ensure new development has regard for the overarching Garden City Character principals consistent with Council policy. The provision of appropriate landscaping elements in new development being fundamental in implementing these policies. Clause 21 (Municipal Strategic Statement) identifies the Garden City Character of the municipality as a core value held by the community and recognises the need for housing diversity while respecting neighbourhood character, and the scale of development must be appropriate to the character of the activity centre.

At Clause 21.01-2 (Key Issues and Influences), Council's vision is to maintain a 'green and naturally rich city that keeps its green leafy character and values open spaces'. Monash's policy of large front setbacks facilitates the retention and enhancement of canopy tree to soften the built form. Planning provisions and policies have been developed to ensure new development provides suitable setbacks, appropriate site coverage and site permeability and sufficient open space areas to allow for tree retention and new planting to support garden city character.

In order to satisfy the housing needs of Monash residents, Council's goals include directing more intensive, higher scale development to the neighbourhood and activity centres that are well served by public transport, commercial, recreational, community and educational facilities closer to where people live.

Clause 22.01 (Residential Development and Character Policy) identifies the ten different character types within the Municipality. It refers to Clause 22.14 (Glen Waverley Major Activity Centre Structure Plan) for the character and built form envisaged for both sites.

In terms of neighbourhood character, both properties are within the Glen Waverley Major Activity Centre Structure Plan (GWMACSP) Precinct 7 where its key role is to support the growth of the activity centre by providing a diverse range and intensification of housing. The surrounding area to the west and south is also within Precinct 7 however the diverse range of housing is envisaged as medium density housing such as townhouses and units in the peripheral residential areas.

The proposed development containing five (5) two storey 'townhouse' type dwellings will provide for increased housing options within the GWMAC and satisfies the objectives of the Planning Policy Framework. The proposed child care centre will provide community facilities close to where people work and live. However both uses need to be designed to respond to the site context, respectful of the neighbourhood character, achieve an outcome that enhance the garden city character and minimise external amenity impacts to the nearby residences.

Clause 22.04 (Stormwater Management Policy) requires all designs have consideration of increases in hard surface areas and consequential impacts on the drainage system and water quality. Developments are to be designed and managed to minimise the impact of urban stormwater runoff on waterways.

Clause 22.09 (Non-Residential Use and Development in Residential Areas Policy) provides performance and locational criteria to ensure any non-residential use minimises impact on residential amenity. This policy includes locational, urban design, car parking and landscaping criteria.

Clause 22.05 (Tree Conservation Policy) applies to all land in Monash with key objectives in maintaining and enhancing the Garden City Character of Monash and ensuring new development provides for new canopy trees with spreading crowns.

Clause 22.13 (Environmentally Sustainable Development Policy) provides a framework for early consideration of environmental sustainability at the building design stage. A Sustainability Management Plan was prepared and submitted with the application which demonstrate the proposal achieves best practice.

#### **Glen Waverley Activity Centre Structure Plan**

The site is located within the Glen Waverley Activity Centre Structure Plan (GWACSP). The GWACSP provides a number of initiatives for more housing within the GWAC commercial area and in the adjoining residential streets. More people living in and around the centre will contribute to active and vibrant streets, and provide greater demand for additional shops, cafes, restaurants and services.

The site is identified as being located within ‘*Precinct 7: Surrounding Residential*’, where, among other things, the GWACSP envisages the following.

*‘The surrounding residential precinct provides a key role in supporting the growth of the centre by delivering a diverse range of housing that is located in close proximity to shops and services, public transport and open space.’*

The objective of Precinct 7 is:

*‘To provide for a diversity of housing types within the precinct and strengthen connections to the GWAC commercial area and surrounding open spaces’*

Strategies to achieve the objective are:

- *‘Allow for intensification of housing in identified areas’*
- *‘Improve pedestrian and cycle links between the precinct and GWAC commercial area’*

Built form objectives for the Activity Centre have been divided into different built form areas across the centre. In relation to the subject site, 17 Marriott Parade is located within Built Form Area K, whilst 15 Marriott Parade sits outside of the built



form areas and as such, is identified being an area to provide for housing diversity surrounding the GWMAC.

Form Area K provides the following design guidelines:

- Opportunity for 3 to 4 storeys
- Front setbacks of at least 5 metres and side and rear setbacks in accordance with ResCode.

### **Proposed Use of Child Care Centre**

In addition to the decision guidelines within the land use zone provisions, Clause 22.09 (Non-Residential Use and Development in Residential Areas Policy) provides additional performance and locational criteria to ensure any non-residential use minimises impact on residential amenity. Of critical importance is the ability for development of increased scale to appropriately integrate with the built form and character of the surrounding area. The objectives of the policy are:

- *To ensure that development is appropriate having regard to the residential environment of the surrounds and that the amenity of the neighbourhood is not adversely affected by a business conducted in a residential area.*
- *To ensure that all built form in residential areas is respectful of residential character.*
- *To ensure that adequate and well-located vehicle parking is provided for all new developments.*

It is important for the proposed use of child care centre to minimise and mitigate external impacts to the nearby residential amenity and ensure the built form suitably integrates with the other built form within the neighbourhood context.

#### *Locational criteria*

- *Locate discretionary non-residential uses in residential areas adjacent to existing activity centres and on higher order and busier streets and roads, and particularly on corner sites.*
- *Avoid locating in heritage precincts and in lower order residential streets and cul-de-sacs.*
- *Avoid a concentration of non-residential uses in any particular area where the cumulative impact on residential amenity is unacceptable.*
- *Provide appropriate buffers and interface between commercial, residential and industrial land uses.*

The site is located within the GWMAC and has easy access to the core commercial area in Kingsway and The Glen Shopping Centre. The proposed use of a child care centre will cater for the needs of the local community. However, the proposed vehicle access is from Marriott Parade where it is not a main road nor a higher-order road, the potential increase in traffic volume may result in an adverse impact to the nearby residents. Council's Traffic Engineer is concerned that the proposal to accommodate a maximum of 204 children and 39 staff will generate a

significant increase in traffic which is not appropriate for Marriott Parade, being a no through road. Whilst the use of child care centre is generally supported in residential zones, the proposed scale and intensity is not considered appropriate.

### **Neighbourhood Character, Built Form & Design Detail**

Local policy suggests that the site is earmarked for a scale of development that provides a transition between areas of more intensive use and other residential areas. Neighbourhood character envisages well landscaped front setbacks to create an open garden setting character and support the objective of 'garden character'. Walls and fencing within the front setbacks are encouraged to be low or non-existent, allowing views to planting within the front setback area. Clause 22.14 (Glen Waverley Major Activity Centre Structure Plan) encourages excellent building design that responds to the characteristics of the site and its context.

There are two components in this proposed development consisting a five storey building to be used as a child care centre within the lot zoned Residential Growth, and five dwellings within the lot zoned General Residential. There are different development requirements within the two zones.

### **Buildings and works within the Residential Growth Zone – Schedule 4 (RGZ4)**

In order to assess if the design, height, setback and appearance of the proposed child care centre, although Clause 55 does not apply, the standards can at times be used as a guide. The table below lists the Clause 55 variations identified in the schedule to the zone.

REQUIREMENT	RESPONSE
Minimum front street setback – 5 metres.	<p>Fails to achieve objectives</p> <p>The building is setback 5 metres from the front boundary to Marriott Parade however large areas within the front setback are occupied with the driveway, pedestrian ramps and hard surface areas associated with the outdoor play area. The proposal does not provide adequate room for meaningful canopy tree planting and landscaping within the front setback area and fails to meet the objectives of this requirement.</p>
Minimum side street setback – 3 metres	<p>Fails to achieve objectives</p> <p>The building is setback a minimum of 4.61 metres from the side boundary however majority of this area is occupied by hard surface and fails to achieve the objectives of this requirement.</p>

<p>Landscaping - Retention or provision of at least three canopy trees (two located within the front setback) with a minimum mature height equal to the height of the roof of the proposed building or 10 metres, whichever is greater.</p>	<p>Fails to achieve objectives</p> <p>There is no significant existing vegetation on site. The landscape plan shows that synthetic grass is proposed within the front setback area which is not considered appropriate to the streetscape. The front setback area is also occupied by raised planters, sandpits and steps and fails to provide an open garden setting. There are also concerns about the impact on a street tree.</p>
<p>Front fence height – no front fence.</p>	<p>Variation required</p> <p>The development proposes a 1.65 to 2.3 metres high fence along the Marriott Parade boundary. The fence is constructed with stone wall and timber batten, with acoustic screen behind the fence. This fence allows minimal visibility to the front setback areas from the street and fails to achieve the objectives of this standard.</p>

The proposed building is not consistent with the built form envisaged in the GWMACSP. It exceeds the preferred height of 3 to 4 storeys, does not provide excellent architectural quality in building design to respond to the characteristics of the site and its context. It has not been designed to integrate with and contribute positively to street life and provide surveillance of the public realm.

Despite meeting the setback requirements, the excessive hard surface associated with steps, pedestrian ramps and driveway significantly reduces scope for meaningful landscaping within the front setback area, failing to meet the objectives of the standard.

The development also fails to create human scaled places that promote visual and pedestrian amenity, provide landscape front setbacks to contribute to the 'buildings-in-landscape' character of the existing residential areas surrounding the GWMAC commercial centre, or designed to avoid large high massing buildings that dominate streetscapes.

In addition, the five storey building will present an unacceptable visual bulk and mass to the streetscape and adjoining properties, failing to meet the urban design criteria under Clause 22.09 (Non-Residential Use and Development in Residential Areas Policy). The building style does not integrate with the other properties in the area, the proposed design presents an unacceptable visual bulk and mass to the street and adjoining properties, and the use of materials does not assist in softening the presentation of the building. The proposal is not designed to achieve an outcome to enhance the garden city character, and does not contribute to the buildings-in-landscape character.

Although the land is located within a residential zone there is discretion to allow for a limited range *“non-residential uses to serve local community needs in appropriate locations”*, concerns relate more to the design details and intensity of the proposal to satisfy the decision guidelines for non-residential use and development in the RGZ.

The proposed child care centre is constrained by a high number of sensitive interfaces being in the residential area. The applicant has not demonstrated that the site is suitable to accommodate the level of proposed development and intensity of the use to accommodate 204 children and up to 39 staff on site.

The proposed development is considered to be too intense, on the basis of the following design response:

- The built form and design does not result in an acceptable presentation to the streetscape and adjoining residence within a residential setting. Whilst a higher scale development is generally considered acceptable on this site, the proposed architecture does not provide an acceptable level of articulation to avoid a large high massing building. The extensive use of timber louvers along building facades significantly reduces the effectiveness of articulation, and exacerbates the building bulk and mass. The proposed architectural design, building style and finishing materials is not cohesive with the existing residential setting.
- The extensive use of stone wall and timber fence/ louvers results in an extremely ‘harsh’ presentation to the streetscape. The use of more typical residential building materials would assist in softening the building’s presentation in all elevations, reducing its visual bulk impact and better integrating with other properties in the area.
- The excessive hard surface within the front setback, and pedestrian pathway along the northern boundary does not provide adequate room for meaningful canopy tree planting and landscaping to maintain the garden city character.
- The need to use the front setback area as a dedicated play area with associated structures and high fencing further reduces the scope of achieving an open landscape garden setting.
- The proposed front fence up to 2.2 metres high along the boundary of Marriott Parade does not provide an open garden setting.
- Apart from the front and side street setbacks, there are no other outdoor open areas and the children’s play areas are located in the centre of the building on each level. These ‘outdoor’ play areas are incorporated within the building and provided with artificial turf. The lack of ground level open space or true outdoor play areas indicates the proposal is an over development.

Overall, the scale of the child care centre is excessive and is not considered to be respectful of the residential context. The proposal results in a continuous and dominating built form with minimum recession and variation to reduce the visual

impacts in the residential area. Although setbacks and building envelope of the child care centre is similar to the previously approved apartment building, the architecture of the building and the excessive use of timber screening exacerbates the visual bulk and mass of the building.

The setbacks and articulation of the building are ‘hidden’ by the screening and cannot be appreciated. The additional 5<sup>th</sup> level of the child care centre with associated screening details further exacerbates the bulk and mass impacts. Furthermore, there are insufficient spaces along the property boundaries to facilitate the meaningful establishment of canopy trees within different interfaces which would otherwise assist in softening the massing impact of the development.

### **Buildings and works within the General Residential Zone – Schedule 7 (GRZ7)**

The proposed double storey dwellings with basement provide a conventional dwelling layout with ground level open space areas. The proposal meets the objective to provide for a different housing type and increase housing supply to the GWMAC.

The table below lists the variations within the schedule to the zone.

REQUIREMENT	RESPONSE
Minimum front street setback – 5 metres	<p>Fails to achieve objectives</p> <p>The dwellings are setback a minimum of 5.11 metres from the front boundary in Marriott Parade. However majority of this area is occupied by staircases and a pedestrian ramp, and provides little scope for meaningful canopy tree planting which fails to achieve an open garden setting outcome.</p>
Minimum side street setback – 3 metres	Not applicable
Landscaping - Retention or provision of at least two canopy trees with a minimum mature height of 10 metres	<p>Fails to achieve objectives</p> <p>There is no existing significant vegetation on site. The landscape plan shows that a small garden bed is provided along the boundary frontage and in front of dwelling 1; however the majority of the front setback area is occupied by hard surface associated with the staircase and pedestrian ramp. Two larger canopy trees are proposed near the southwest corner of the site and in front of dwelling 1 however they will not be able to soften the visual impact of the hard surface within the front setback area. The proposal fails to provide an open garden setting outcome and does not satisfy the garden city character objective.</p>

<p>Private open space- An area of 60 square metres with one part of the private open space at the side or the rear of the dwelling or residential building with a minimum area of 40 square metres, a minimum width of 5 metres and convenient access from a living room</p>	<p>Variation required</p> <p>Each townhouse is provided with a total private open space (POS) of 36 to 39 square metres at the rear of the dwellings, which includes a 7.5 square metre area of subterranean courtyard from the basement level. Canopy trees are proposed to be planted along the western boundary and dwelling services such as clothesline are also located within the POS area.</p> <p>The proposal does not provide a minimum POS of 60 square metres, nor a SPOS area of 40 square metres. The subterranean courtyards further reduce the usability of the POS area.</p>
<p>Front fence height – 1.2 metres</p>	<p>Variation required</p> <p>The development proposes a 1.35 to 1.6 metre high fence along the southern boundary in front of dwelling 1. The fence is constructed with stone wall and timber batten. This fence allows minimal visibility to the front setback areas from the street, in conjunction with the excessive hard surface within the front setback, the proposal fails to achieve the objectives of this standard.</p>

As indicated in the above table, the proposed dwellings fail to satisfy the objective to provide sufficient room for meaningful canopy tree planting and contribute to the preferred neighbourhood character.

The proposal fails to provide a minimum of 60 square metres of POS for each dwelling further indicating that the proposal is an over development. The non-compliance of POS requirement not only reduces scope for canopy tree planting and landscaping within the development, but also reduces the useful space of the POS area and compromise the internal amenity of future residents.

In addition, building separation is expected to be provided to any residential development within the zone and to be respectful of building spaces in the neighbourhood. The proposal, although meeting the setback requirement of Standard B17, provides continual two or three storey walls with minimal articulation or separation which is not considered appropriate. The attic roof form (associated with the childcare centre) further exacerbates the visual bulk and mass of the dwellings. All the bedroom windows on the west elevation are provided with external screening creating a very busy and heavy façade with no visual break facing the adjoining residence's secluded private open space area.

The proposal also provides poor transition between the dwellings and the child care centre. The consolidation of the site should allow the development to provide a suitable transition in built form to the higher intensive built form within the

growth zone. The proposal connects the two elements by the third storey above the front dwelling (TH1). This level is marginally recessed from the dwelling below, resulting in almost a sheer three storey wall on the west and south elevation. This is not considered an appropriate design response to transition the building height from two to five storeys, from west to east.

It is noted that the previous approval on the land provided a greater variation in the third level setback with the presence of a communal residential balcony to assist in breaking up the built form in this location.

The proposed stone wall and timber fence provides minimal visibility from the street and does not assist in softening the overall presentation of this development to the streetscape. The design consisting 'stone wall' and timber fence results in a 'harsh' presentation of the streetscape, contradicts the garden city character objectives. The proposal does not provide any surveillance of the public realm and fails to meet the design objectives of the GWMACSP.

Overall, the proposal intends to rely on the approved development in the previous application to justify the building envelope of the proposed child care centre and the dwellings. However the proposed design in terms of architectural form, building setbacks, façade detailing and design detail of both components are fundamentally changed. The proposal no longer achieves a high quality design and landscape outcomes to meet relevant objectives of the zone and the GWACSP. The design response of this application is not deemed to be appropriate.

#### External Amenity Impacts

##### *Building setbacks and bulk*

Although the proposed development complies with the numerical setback requirements of respective zones, the built form and scale of the child care centre and the dwellings do not achieve an outcome to minimise visual bulk and mass impacts to the streetscape and adjoining properties.

##### *Overlooking*

Overlooking to adjoining properties from the child care centre and the dwellings generally complies with the Standard of ResCode by use of external screens to the windows above ground level. However, to be effective in addressing overlooking, further details of the timber batten screening/ louvers should be provided indicating the level of transparency.

##### *Overshadowing*

The project architect has prepared the required shadow plans as required by ResCode. The shadow diagrams demonstrate that whilst the west adjoining properties will experience additional shadow, the additional shadow cast is not excessive or unreasonable.

Specifically, dwellings adjoining to the west will be subjected to additional shadowing in the early morning at 9am caused by the proposed dwellings. The shadow will marginally exceed the shadow of existing boundary fence at 10am and 11am, and will be free of additional shadow by noon. A minimum of 75% of the secluded private open space of these properties will receive a minimum of five hours of sunlight hence satisfying Standard B21 (*Overshadowing Open Space Objective*) in this regard.

#### *Noise*

A change in the use of the subject site from residential to a 204 place child care facility will generate additional noise impacts. There will be an increase in noise with increased vehicle movements to and from the site and also from people arriving and departing from the site throughout the day.

The increase in noise will be much greater than any noise increase associated with the residential development of the site. The acoustic report submitted with the application has undertaken an assessment against the proposed child care centre and dwellings. It details the height, location and extent of acoustic screens required for each level of the proposed child care centre. It concludes that the noise levels generated from the child care centre will be compliant with the proposed acoustic criteria, and traffic noise will also be compliant with the relevant criteria in both external and internal areas of the child care centre.

The report also indicates that the maximum noise levels from the use of the car park associated with the proposed development will also be compliant with the relevant criteria in regard to sleep disturbance outside bedroom windows of the proposed dwellings as well as neighbouring dwellings. The proposed facades of the dwellings have also been designed to achieve compliance with relevant requirements.

All mechanical plant associated with the child care centre will need to be designed and sited to meet relevant requirements. If a permit were to be issued, further detail of the plant equipment and an acoustic assessment against this would be required as a condition. In addition, within 3 months of the commencement of the use of child care centre, an Acoustic Report prepared by a qualified acoustic engineer must be submitted to the Responsible Authority to demonstrate that the development meets the noise level in accordance with the relevant regulations.

#### Internal Amenity

There are concerns with the internal amenity of the proposed dwellings. The living room and bedroom 1 windows of proposed dwellings 1 and 2 do not face an outdoor space that is clear to the sky as the extension of the child care centre will be over these windows. The Sustainability Management Plan (SMP) provided with the application indicates that overall, the dwellings have sufficient access to daylight however detailed assessments against these windows should be provided explaining how the proposal complies with Standard B27 of Clause 55.05 *Daylight To New Windows Objective*. The extensive use of screening to the west facing



bedroom windows of the dwellings also reduces the internal amenity of the bedrooms.

### Landscaping

The Monash Planning Scheme seeks to maintain and enhance the Garden City Character of the Municipality and the Residential Zones seek to ensure development is located within a garden setting which allows retention of existing significant trees or planting of new canopy trees.

There are no significant trees or vegetation on site or on the neighbouring properties. The landscape plan shows proposed canopy trees to be planted in raised planters within the front setback of the child care centre, behind the high front fence. Except the hard surface areas associated with the pedestrian ramp and driveway, the entire front setback area will be provided with synthetic grass and does not provide a landscaped outcome to the streetscape. The failure to provide a landscaped street setback indicates that the design to allow the front setback area to be used for children's playground is not an appropriate design response.

In addition, the majority of the front setback area in front of the dwellings are occupied by hard surfaces associated with the staircase and pedestrian ramp. The development does not achieve an open garden setting to the streetscape, and fails to meet the garden city character objective.

The setback of the building along the northern boundary would provide limited space for canopy trees with spreading crowns to establish.

The proposed vehicle crossover in Marriott Parade is not setback sufficiently from the nearest street tree however this might be addressed by re-angling the crossover as recommended by Council's Transport Engineer.

### Car Parking, traffic and access

#### *Provision of Car Parking*

The majority of objectors have raised concerns relating to inadequate car parking and traffic generation. The development has a statutory requirement to provide 54 car spaces for the proposed 204 child care place and 5 dwellings. The prescribed number of car parking spaces required under Clause 52.06 have been provided on site.

Use	Number of Children/ No. of dwellings	Clause 52.06 requirement	Car Spaces Required	Car Spaces Provided
Child Care Centre	204	0.22 spaces to each child	44 spaces	44 spaces
Dwelling	5	2 spaces to each dwelling containing 3	10 spaces	10 spaces

		bedrooms or more		
<b>Total</b>			<b>54 Car Spaces</b>	<b>54 Car Spaces</b>

The proposal indicates that a maximum of 39 staff will be located on site at any one time, but only 24 staff are to be provided with onsite parking. Council's Traffic Engineer advises that Marriott Parade and nearby local streets have been protected by parking restrictions which discourages long-term parking. Any overflow staff parking is likely to extend into the local area where one side of a number of streets have available all day parking in an attempt to balance resident parking and longer term parking.

No concerns are raised in relation to the proposed car parking provision or car parking layout for the dwellings as they meet the requirements of Clause 52.06 in the Monash Planning Scheme.

#### *Traffic Generation*

The traffic report indicates that a total anticipated traffic generation for the development including child care centre and the dwellings is 167 peak hour movements and 926 daily movements. Council's Traffic Engineer is concerned that the due to the narrow width of the vehicle crossover being 6 metres, and the existing medium to high on-street parking occupancy, the development does not allow vehicles to enter and exit simultaneously. There are also concerns about the capacity of the development to accommodate the child care peak parking demand, which may be compromised with drivers waiting to enter the site needing to prop and wait for a vehicle to exit. This may create queuing and congestion on the westbound section of Kingsway with the potential to affect traffic flow into the southern end of the GWMAC.

Another concern relates to the volume of traffic generated by the child care centre, which is not appropriate for Marriott Parade as a lower order and no-through road. Based on the traffic generation estimated in the traffic report, the proposed development will increase the traffic volume from 28 peak hour trips and 280 daily trips to 195 peak hour trips and 1200 daily trips, which is a significant increase for the street and is likely to have an impact on the nearby residents.

The proposed scale and intensity of the child care centre is not considered to be compatible with the nearby residential use. The traffic to be generated by the proposal is likely to cause adverse impacts to the safety, efficiency and amenity of the residential area and street network.

#### *Car Parking Design*

Council's Traffic Engineers raised concerns regarding the proposed speed hump to the north of the accessible space within the basement level, which may detrimentally affect occupants attempting to enter the accessible space. In addition, the external section of the vehicle crossover should be amended to be perpendicular to the carriageway to reduce the speed of vehicles entering and

exiting the property; and emphasis the need for driveways to give way to pedestrians. The existing power pole will need to be relocated as a result of this requirement.

#### *Loading*

The traffic report provided with the application indicates that loading could be accommodated within the basement car park during off-peak times when parent demand is low, or on street. Council's Traffic Engineer recommends that due to the size of the child care centre, it may attract a higher delivery demand and loading should be located on site. It is suggested that a visitor parking space could be allocated for short term shared loading/ visitor parking within the basement car park to allow for loading activities outside peak parent parking hours.

#### Waste Collection

Private waste collection is proposed however the Waste Management Plan (WMP) is lacking in detail with respect to the provision of separate glass recycling, frequency and permitted time of waste collection, bin collection process, washing facilities and drainage in bin storage areas, and waste system management for the proposed dwellings and childcare centre.

An amended WMP would be required via permit conditions should one be issued.

#### Construction Impacts

A Construction Management Plan (CMP) including details of staging of the construction works and construction vehicle access traffic management plan would be a requirement of any permit issued. A CMP would assist in minimising impact on amenity during construction impact of the proposed development on the surrounding area, provide for details of construction staging, construction vehicle access, and ongoing shared path access including a requirement for the relocated shared path to be fully constructed prior to demolition of the existing shared path.

The extent of excavation and any required stabilisation measures will be considered by the appointed Building Surveyor as part of the Building Permit process.

#### Sustainability Management Plan

A Sustainability Management Plan (SMP) was prepared by Milton Architects which included a BESS assessment. The report indicates that the proposal achieves best practice. The plans include the recommendations of this report including the provision of a 2000L rainwater tank for each townhouse and a total of 12,000L underground water tank for the apartments.

### Proposed Signage

The proposal includes one business identification sign to be displayed on the stone planted wall along the front boundary to Marriott Parade; constructed at a height of approximately 0.5 metres above ground.

The sign contains a metal framed lightbox containing the name of the child care centre. The lightbox will be illuminated between 6am to 7pm. The sign also contains the address of the property and website of the child care centre next to the lightbox and this section of the sign will not be illuminated.

It is not expected that the lightbox will dazzle or distraction to drivers, and it will not result in a safety hazard for vehicles. However, the proposed illumination from 6am will likely have an adverse impact on the amenity of nearby residents given its residential context.

The proposed location and size of the signage is considered appropriate for a child care centre should the use be supported. However, the hours of illumination should be reduced.

### **Objections not previously addressed**

- The proposal provides for over capacity in child care places

Several objectors raised the concern that an additional child care centre is not warranted in this location due to the location of other facilities in the locality.

This issue was raised by objectors and examined by VCAT in P777/2018 Poppy Patch Pty Ltd v Monash CC (TPA/47955). In this case VCAT found the lack of need for a centre would not warrant refusal of the application.

7 *“Mr Stow did submit that there is no need for a childcare centre. He says that there are ample vacancies within the childcare centres in the area. Need for a centre may be a relevant factor in a planning decision but lack of a need will rarely be a ground for refusing to grant a permit (see for example Smith v Nillumbik SC [2017] VCAT 74). This Tribunal has found that the market for child care is complex and not just contained to the immediate local area. I accept that this childcare centre may provide for a specific part of the community, by offering a smaller centre in terms of number of children for example.*

8 *The key issue before me is whether this is a suitable design response. As set out in Council’s submission: Council’s concerns relate more to the constraints of this particular site, and the intensity of the proposal in relation to those constraints....”*

- Potential fire hazard

The proposed development will have to comply with relevant regulations in relation to fire safety, which will be assessed by the relevant building surveyor during the process of building application.

- Blocking view of adjoining residential properties

This is not a planning consideration. Planning Policy for this location does not allow for consideration of views.

- Impacts to the structure of adjoining properties caused by the significant excavation of basements

The relevant building surveyor will assess the proposed structural plans during the process of building application.

- Loss of property values.

This is not a planning consideration.

- Setting precedence of other business development.

Each application will be assessed in its merits, and residential zones do allow for the consideration of appropriate non-residential uses. This application has been assessed against the decision guidelines for non-residential use and the proposed development and its design response is not considered appropriate.

- Fire safety issues

Council's Building Surveyor advised that the building would need to comply with the regulations in the Building Regulations and the National Construction Code in regard to fire safety. The relevant building surveyor will assess the proposed design during the process of building application.

**CONCLUSION:**

The proposed development of a child care centre and five dwellings is not considered satisfactory as it fails to adequately comply with the relevant provisions and policies contained in the Monash Planning Scheme. The proposal does not respond to the context of the site being in a residential context and Marriott Parade is a local residential street. The proposal would have a significant impact on neighbouring amenity.

The proposed development raises concerns with relevant policy objectives including built height and scale, visual bulk and mass, traffic generation, landscaping and external amenity impacts.

Accordingly, it is recommended that the application not be supported.

**LIST OF ATTACHMENTS:**

Attachment 1 – Proposed Development Plans.

Attachment 2 – Aerial Photograph (January 2021).

Attachment 3 – Zoning and Overlays Map.

Attachment 4 – Objector Properties Location Map.