EXECUTIVE SUMMARY:

This application proposes the development of a three storey building (20 apartments) with basement car parking.

One hundred and four (104) objections to the proposal have been received. Key issues relating to the application include neighbourhood character, scale and built form, overshadowing, open space provision, traffic and car parking, internal amenity.

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

The reason for presenting this report to Council is the proposed development cost of $5.6 Million.

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

The proposal is inconsistent with the relevant provisions of the Scheme and should not be supported.

<table>
<thead>
<tr>
<th>RESPONSIBLE DIRECTOR:</th>
<th>Sue Wilkinson</th>
</tr>
</thead>
<tbody>
<tr>
<td>RESPONSIBLE MANAGER:</td>
<td>Peter Panagakos</td>
</tr>
<tr>
<td>RESPONSIBLE PLANNER:</td>
<td>James Heitmann</td>
</tr>
<tr>
<td>WARD:</td>
<td>GLEN WAVERLEY</td>
</tr>
<tr>
<td>PROPERTY ADDRESS:</td>
<td>1 KENNEDY STREET GLEN WAVERLEY</td>
</tr>
<tr>
<td>PRE-APPLICATION MEETING:</td>
<td>NO</td>
</tr>
<tr>
<td>NUMBER OF OBJECTIONS:</td>
<td>104 (including 2 petitions)</td>
</tr>
<tr>
<td>ZONING:</td>
<td>Residential 1</td>
</tr>
<tr>
<td>EXISTING LAND USE:</td>
<td>Vacant</td>
</tr>
<tr>
<td>OVERLAY:</td>
<td>Vegetation Protection (schedule 1)</td>
</tr>
<tr>
<td>RELEVANT CLAUSES:</td>
<td>State Planning Policy Framework Clause 10.01 (Purpose) Clause 10.02 (Goal) Local Planning Policy Framework Clause 21 (Municipal Strategic Statement)</td>
</tr>
<tr>
<td>Clause 10.04 (Integrated Decision Making)</td>
<td>Clause 21.04 (Residential Development)</td>
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<td>Clause 11 (Settlement)</td>
<td>Clause 21.08 (Transport and Traffic)</td>
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<td>Clause 11.04 (Metropolitan Melbourne)</td>
<td>Clause 22.01 (Residential Development and Character Policy)</td>
</tr>
<tr>
<td>Clause 14.02-1 (Catchment planning and management)</td>
<td>Clause 22.04 (Stormwater Management Policy)</td>
</tr>
<tr>
<td>Clause 15 (Built environment and heritage)</td>
<td>Particular Provisions</td>
</tr>
<tr>
<td>Clause 16 (Housing)</td>
<td>Clause 52.06 (Car Parking)</td>
</tr>
<tr>
<td>Clause 16.01-2 (Location of residential development)</td>
<td>Clause 52.34 (Bicycle Facilities)</td>
</tr>
<tr>
<td>Clause 16.01-3 (Strategic redevelopment sites)</td>
<td>Rescode</td>
</tr>
<tr>
<td>Clause 16.01-4 (Housing diversity)</td>
<td>Clause 55</td>
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</tbody>
</table>

**STATUTORY PROCESSING DATE:** 22 November 2013

**DEVELOPMENT COST:** $5,600,000
RECOMMENDATION:
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 under the provisions of the Monash Planning Scheme to the land described as 1 KENNEDY STREET GLEN WAVERLEY VIC 3150, application number TPA/41675 for the THE DEVELOPMENT OF A THREE STOREY APARTMENT BUILDING (20 DWELLINGS) WITH BASEMENT CAR PARKING, on the following grounds:

1. The proposal is inconsistent with the Residential Development Policy and Residential Development and Character Policy at Clauses 21.04 and 22.01 of the Monash Planning Scheme.

2. The proposal does not adequately satisfy the objectives and design standards of Clause 55 of the Monash Planning Scheme with regard to Neighborhood Character, Street Setback, Building Height, Energy Efficiency, Landscaping, Overshadowing, Private Open Space, Design Detail and Site Services.

3. The proposal is out of character with the existing development in the area in particular with regard to street setback, mass, bulk and scale.

4. The proposal would have a poor level of internal amenity for future residents.

5. The proposal would have a detrimental impact on the amenity of surrounding land.

And directs that the Applicant, each objector and VCAT be given a copy of the Council’s position with regard to the application.

BACKGROUND:

The Site and Surrounds
The subject land is located on the north-western corner of the intersection of Kennedy Street and Fairhills Parade in Glen Waverley. The land is irregular in shape having an overall area of 1,611m². The property has a 36m wide frontage to Kennedy Street and 6.88m wide frontage to Fairhills Parade. The land has a gradual fall of approximately 3.3m from north to south. A 1.83m wide drainage and sewerage easement encumbers part of the northern boundary. A 2.0m wide drainage and easement encumbers the north-eastern corner of the land.

The land is currently vacant and was previously developed with a single storey dwelling and associated outbuildings. The dwelling was demolished approximately 10 years ago. The land does not contain any vegetation of any substantial significance.
Land use and built form within the surrounding area is diverse. Properties adjacent to the western boundary are a mix of single and double storey medical centres fronting Springvale Road. Car parking areas associated with the medical centres are located along the common boundary. A single storey medical centre is also located at 1 Fairhills Parade opposite the subject land to the east. Land within the immediate and wider surrounds to the north, east and south is an established residential area. The built form predominantly comprises of a mix single and double storey detached dwellings constructed of brick and weatherboard with pitched tiled roofs. The housing stock of the area includes a mix of original dwellings dating back to the 1960’s, medium density unit development from the past 15 years and new dwellings having replaced the original dwellings.

The Glen Waverley Major Activity Centre is located 70m from the subject site across Springvale Road.

**PERMIT TRIGGERS:**

**Zoning**
The subject site is located within a Residential 1 Zone under the provisions of the Monash Planning Scheme.

A planning permit is required to construct two or more dwellings on a lot in accordance with Clause 32.01-4 of the Scheme.

**Particular Provisions**

Clause 52.06: Car parking
Prior to a new building being occupied the car parking spaces required under Clause 52.06-5 must be provided on the land.

Clause 52.34: Bicycle Facilities
A new use must not commence until the required bicycle facilities and associated signage has been provided on the land.

**Rescode**
Clause 55: Two or more dwellings on a lot and residential buildings
A development must meet all of the objectives of this clause and should meet all of the standards.

**PROPOSAL:**
The application seeks approval for the the development of a three storey apartment building (20 dwellings) with basement car parking.

The details of the proposal are summarised as follows:

- 3 x one bedroom apartments, 8 x two bedroom apartments and 9 x three bedroom apartments;
- Building setback of 1.8m-4.5m to Kennedy Street;
• Building setback of 3.132m to Fairhills Parade;
• Side and rear setbacks of 2.5m-4.49m;
• Maximum overall height of 10.48m. The massing of the development is split between two buildings. The development presents as a three storey apartment building to the street and double storey apartment building to the rear of the site;
• A contemporary range of materials and finishes is proposed for the development, including:
  - Painter rendering;
  - Timber cladding;
  - Alucobond panelling;
  - Flat roof form;
• Ground floor dwelling secluded private open space areas 36m2-57m2 with a minimum dimension of 3.0m;
• Upper level dwelling secluded balcony open space areas 8m2-9m2 with a minimum dimension of 1.6m;
• All existing vegetation to be removed.

CONSULTATION:

Public Notice
Notice of the application was given in pursuant to the requirements of Section 52 of the Planning and Environment Act 1987 by way of sending letters property owners and occupants within the surrounding vicinity. Two (2) large signs were displayed on the site during the notification period.

One hundred and four (104) objections to the proposal have been received.

Two petitions objecting to the proposal have been received. Petition 1 contains 150 signatories and petition 2 contains 13 signatories.

The key concerns raised within the objections are summarised as:
• Neighbourhood character;
• Building height;
• Bulk and mass;
• Parking;
• Increased traffic;
• Traffic and vehicle access;
• Disabled access;
• Waste management;
• Onsite amenity;
• Overshadowing
• Overlooking;
• Open space provision;
Referrals
Internal Referral
The application has been referred to Council’s Traffic and Drainage Engineers for comment. Relevant comments form part of the assessment of the application.

DISCUSSION:

Consistency with State and Local Planning Policies
Whilst increasing residential density development is sought by state and local policies it is considered the proposal is generally inconsistent with the local planning policy framework in respect of its impact on neighbourhood character.

In the Municipal Strategic Statement at Clause 21 the Garden City Character of the municipality is identified as a core value held by the community and Council as a significant and important consideration in all land use and development decisions. The proposal provides limited ability to provide for landscaping of the land.

At Clause 21.04 (Residential Development Policy) Council's goal is for residential development in the City to be balanced in providing a variety of housing styles whilst remaining sympathetic to existing neighbourhood character.

The Residential Development and Character Policy at Clause 22.01 seeks to ensure that new development is successfully integrated into existing residential environments, with minimal streetscape or amenity impact, and designed to achieve outcomes that enhance the Garden City Character of the area. The proposal is not consistent with some of the specific Policy Objectives including Built Form and Scale of Development, Private Open Space and Landscaping.

One of the objectives of the Tree Conservation Policy at Clause 22.05 is to maintain, enhance and extend the Garden City Character throughout Monash by ensuring that new development and redevelopment is consistent with and contributes to the Garden City Character as set out in the Municipal Strategic Statement.

Assessment Under Clause 55 (Rescode)

Neighbourhood Character
Standard B1 requires that the design response must be appropriate to the neighbourhood and the site, and must respect the existing or preferred neighbourhood character and respond to the features of the site.

In addition, the height and setback of buildings must also respect the existing or preferred neighbourhood character and limit the impact on the amenity of existing dwellings.
Council must also consider neighbourhood character policy in respect of Integration with the Street, and Front Fences.

The land is located within Residential Character Type ‘C’ having regard to the Monash Urban Character Study. Elements that contribute to character are the variety of architectural styles including single and double storey dwellings, consistent building setbacks, well-planted front gardens with large trees and shrubs within lots, and low fences, walls or open soft frontages.

The Desired Future Character Statement for the ‘C’ Character area envisages:

*The neighbourhood character of this area will develop within a pleasant leafy framework of well-planted front gardens and large canopy trees.*

*Architecture, including new buildings and extensions, will, in the majority of cases, be secondary in visual significance to the landscape of the Character Type from the street.*

*However, in neighbourhoods that currently have a large proportion of two storey houses, the architecture will gradually become more dominant, although it will always be buffered from the street by a well planted front garden that will ensure the soft leafy nature of the street will be perpetuated.*

*Setbacks will be generous and consistent within individual streets.*

*Building heights will vary between neighbourhoods. Those neighbourhoods where the diverse topography and well developed mature tree canopy provide a framework within which redevelopment can occur will have a larger proportion of two storey houses. In the lower, less wooded areas, buildings will be mainly low rise unless existing vegetation or a gradation in height softens the scale contrasts between buildings.*

*The built-form will be visually unified by well-planted front gardens that contain large trees and shrubs and street tree planting. Neighbourhoods that are influenced by the naturalistic landscape of the creek valleys or on highpoints and ridges will have a predominance of native trees in both the public and private realm. Trees within lots to be redeveloped will be retained wherever possible in order to maintain the established leafy character.*

*Streets which have a majority of gardens currently lacking fences will continue to do so. Walls and fences in other streets will be low to allow plants in the front garden to be visible from the street. Colours and materials will be sympathetic to the architecture of the house.*

*The soft quality of streets derived from the nature strips will be protected by ensuring that each lot frontage has only one single crossover. Landscape*
elements such as remnant indigenous vegetation and the large old coniferous wind-rows will be retained until horticulturally unstable.

The character of existing public open spaces within the Character Type, particularly those naturalistic corridors such as Damper Creek and Valley Reserve, will be protected by ensuring that buildings directly adjacent to such areas are set back and buffered with planting that complements that within the public open space.

The proposed three storey apartment building is inconsistent with the vision of the desired future character statement. Any development of the subject land needs to suitably integrate with the established and emerging built form of the surrounds. The primary relationship of the subject land relates to development within Kennedy Street and Fairhills Parade, as opposed Springvale Road where development of a more robust scale may be appropriate.

The surrounding development comprises predominantly modest detached dwellings, interspersed with a number of double-storey medium density housing developments. The newer development is generally sympathetic to the older housing stock, with some dwellings containing the first floor within pitched roofs, and others with smaller first floor footprints, all detached at the upper level.

The design of the proposal poorly integrates with the built form in the surrounding area with regard to both streetscape and rear yard character. The architectural styling of the proposal is not in keeping with the established built form and neighborhood. The proposed development is visually dominant in its presentation to the street being three storeys in height and comprises of multiple architectural styling elements at odds with the traditional residential form of the surrounding area.

Essentially the scale of such a large proposal is out of context with the surrounding built form. The apartment style of the development is not typical of the character of the surrounds which comprises of mostly detached single and double storey dwellings. Surrounding dwellings have a good sense of address and street aspect, in keeping with the suburban nature and form of the neighborhood. The proposal lacks a suitable sense of address and appropriate dwelling orientation to the street, poorly complimenting the surrounding built form.

It is considered that a more appropriate design response for the site would seek to better integrate new residential development having regard to the existing and preferred character of the area. Development of the land should be less visually dominant, more modest in scale and massing and provide for appropriate setback to the street and adjoining properties. Architectural styling and design detail should be more reflective and sympathetic of the
predominant character and form of the surrounding area including dwellings with a more individual sense of address and landscaped front setback.

**Built form and scale**
The size and scale of the proposal is an inappropriate design response having regard to the surrounding streetscape which comprises more modest suburban forms. The development has an overall height of up to 10.9m to the Kennedy Street frontage and continuous three storey sheer massing in an area where the streetscape predominantly comprises modest single storey detached dwellings. The façade treatment lacks appropriate visual interest and further exacerbates the bulk and dominance of the façade. A more graduated building height design response would result in a more appropriate and sympathetic transition between the surrounding residential from and the subject site. Greater façade articulation and utilization of softer materials and finishes in keeping with the form of the surrounding area would further improve the transition.

Minimal meaningful facade articulation, two and three storey sheer walls and a lack of building breaks to the upper levels results in substantial visual bulk to the streetscape and adjoining residential interface. The semi-basement proposed and fall of the land effectively increases the overall height of the development by an additional half storey/level resulting in a 3.5 storey building to part of the street aspect and a 2.5 storey building presentation to the north-east corner of the development.

The design response needs to more appropriately integrate with the established residential area and provide for more improved height transition. Greater upper level separation should be provided consistent with the established built form of surrounding development. The massing of the proposal should have greater regard to the established built form of the surrounding area.

**Street Setback**
The proposed setback of 1.8m-4.5m is not appropriate having regard to the prevailing setback of the surrounding area and the 7.6m requirement prescribed by Council's variation to Standard B6 of Clause 55. Dwellings on the adjoining properties to the east have setback to Kennedy Street of 7.6m-9.1m. In justifying any reduction in street setback, development needs to have regard to prevailing setbacks of the surrounding development, presentation of the development to the street including adequacy of landscaping opportunities, and appropriateness of the scale of the proposed development within the streetscape and context of the surrounding area.

Open substantially landscaped front gardens and the provision of large canopy trees with street setback are a significant element of the established character of the surrounding neighbourhood. The considerable encroachment of the development into the street setback inappropriately integrates the development with the established built from of the surrounding area. Siting development of the three storey scale proposed with a setback of 1.8m-4.5 is unsuitable given the locality and context. The provision of basement and
disabled access ramps, pedestrian entry porch, and bicycle parking further compromises the street setback and the ability for meaningful landscaping opportunities consistent with the Clause 22.01.

Car Parking and Access
The proposal provides the requisite number of car parking spaces pursuant to Clause 52.06 as detailed in the following table.

<table>
<thead>
<tr>
<th>Use</th>
<th>Number of Apartments</th>
<th>Clause 52.06 Requirement</th>
<th>Car spaces provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>One and two bedroom apartments</td>
<td>11</td>
<td>1 space per dwelling</td>
<td>11</td>
</tr>
<tr>
<td>Three bedroom and two bedroom + study apartments</td>
<td>9</td>
<td>2 spaces per dwelling</td>
<td>18</td>
</tr>
<tr>
<td>Visitor Parking</td>
<td>20</td>
<td>1 space per 5 dwellings</td>
<td>4</td>
</tr>
<tr>
<td><strong>Total Required</strong></td>
<td></td>
<td></td>
<td><strong>33</strong></td>
</tr>
<tr>
<td><strong>Total Provided</strong></td>
<td></td>
<td></td>
<td><strong>33</strong></td>
</tr>
</tbody>
</table>

The application provides for the required onsite car parking.

The traffic impact of the proposed development on the local road network was raised as a significant issue by objectors. The predicted traffic generation from the development is low and expected to have a negligible impact on the local traffic network. Peak traffic generation from the development is expected to be 10 vehicle trips per hour. Daily traffic volume from the development is predicted to be 100 vehicle trips per day which is well within the capacity of the existing local road network.

Kennedy Street and Fairhills Parade are both local access streets. Fairhills Parade intersects Springvale Road being a declared main road. On street parking within the surrounding area experiences high demand given the close proximity to the Glen Waverley Activity Centre, railway commuters, pick up and drop off from Glen Waverley Primary School. On street parking in the area is managed by short term parking restrictions and “No-Standing” restrictions at certain times of the day.

Council’s traffic engineers have raised issues with some aspects of the proposed design of the car parking and access arrangements which would require modification should a permit issue. Concerns relate to internal pedestrian pathway widths, car spaces widths adjacent to obstructions, turning space design/function, bicycle space location, sight lines at the property entrance, car stacker design specifications and associated requirements.

Private Open Space
Council’s variation to Standard B28 of Clause 55 as specified within the Schedule to the Residential 1 Zone (Clause 32.01) requires a dwelling to have private open space consisting of:

“An area of 75 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 35 square metres, a minimum width of 5 metres and convenient access from a living room.”

Typically, for apartment buildings an area of 40 square metres with a minimum width of 5 metres has been considered acceptable.

None of the ground level dwellings provide for sufficient secluded private open space areas. The width of secluded private open space areas for all but 1 ground floor apartments has a minimum dimension of 2.5m-3.0m. The small size of the proposed secluded private open space areas results in the spaces being somewhat dysfunctional having regard to useability, function, potential for substantial landscaping and canopy tree provision.

The application proposes nine apartments with 3 bedrooms, of which only two (three bedroom) apartments have ground floor open space areas. In developing the design response the proposal should seek to allocate more substantial secluded private open space areas to larger apartments. Larger dwellings are more likely to attract families and higher occupancy necessitating more substantial open space areas including larger balcony spaces.

Balconies are proposed to first and second floor dwellings. Balconies are heavily reliant on screening to prevent overlooking of the adjoining properties and within the development resulting in poor internal amenity outcomes.

The provision of a clothesline on the ground floor terrace space of Apartment 3 orientated to the street is inappropriate.

The communal open space areas within the centre of the development is inadequate in justifying any reduction in private open space requirement for the development in that it lacks appropriate amenity, acting more as a thoroughfare or surplus space as opposed functional communal open space area. A more substantial space should be provided with improved solar orientation, landscaping and amenities for residents.

**Overlooking**

The development does not provide for adequate screening to prevent overlooking of the adjoining residential properties to the north and east. Additional screening is required to prevent overlooking of adjoining properties to the east in response to objector concerns and to achieve compliance with overlooking requirements.
The significant reliance on screening to prevent overlooking from the development results in compromised amenity outcomes for future residents and is an indication that the proposal is an overdevelopment of the site. The excessive screening proposed results in minimal (if any) outlook for a substantial number of upper level dwellings habitable room windows.

**Overshadowing**

Standard B21 of Rescode seeks to ensure buildings do not significantly overshadow existing secluded private open space. Where sunlight to the secluded private open space of an existing dwelling is reduced, at least 40 square metres with minimum dimension of 3 metres of the secluded private open space should receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September.

The proposal does not comply with the abovementioned requirement. The proposed development substantially overshadows adjoining secluded private open space areas to the immediate east impacting the adjoining properties at 1/3 and 2/3 Kennedy Street.

The overshadowing impact on the immediately adjoining residential properties compromises the function and amenity of the adjoining primary secluded private open space areas which had previously been unfettered by a 2.5-3 storey building of substantial visual and overshadowing prominence. The extent of overshadowing is excessive and is further evidence of the proposals excessive height, insufficient setback, and overdevelopment of the site.

**Landscaping**

Opportunities for meaningful landscaping and canopy tree provision along the perimeter of the development are constrained by the close proximity of the development to the adjacent boundaries. The front setback of the development is dominated by the basement and disabled access ramps and bicycle parking, compromising landscaping opportunities consistent with the established landscaping character of the surrounding streetscape.

**Waste Management**

The size of the proposed bin storage area within the basement is inadequate for the size of the development. The location of the bin storage area to the southern end of the basement is inconvenient. A larger, more central location is required for development of the proposed scale.

**On site amenity**

The development has not been designed to maximise solar access with minimal number of dwellings having north aspect to living rooms and secluded private open space areas. The substantial scale of the proposed development results in south and east facing secluded private open spaces being substantially overshadowed.

Habbitable room windows and balconies of the development are excessively reliant on screening and obscure glazing. The significant reliance on screening to prevent
overlooking from the development results in compromised amenity outcomes for future residents and is an indication that the proposal is an overdevelopment of the site.

Objector issues not previously addressed

- Impact on adjacent property from construction works, including structural, health and lifestyle impacts – conditions can be placed on any permit that issues in respect of environmental matters and construction operations, whilst structural issues will be dealt with at the building permit stage.
- Overdevelopment of the land – the proposal is considered to be an over-development due to the excessive bulk and mass of the building and poor internal amenity outcomes resulting from an inappropriate design response.
- Increased noise – this cannot be established and is not a relevant planning consideration.
- Reduction of property values – this is not a relevant planning consideration.
- Proposal is not family friendly like surrounding residential area – the proposal is providing a diverse form of housing sought by state and local planning policies.
- Loss of amenity – it is considered the proposal will have a negative impact on visual amenity.

CONCLUSION:

Whilst the proposal would satisfy the increased density objectives of the Monash Planning Scheme, it is considered it does so at the expense of the competing character policies within the Scheme, as well as a number of fundamental and critical areas of Rescode.

The design response displays inadequate regard for the surrounding context having insufficient consideration of neighbourhood character, established and emerging built form, building height and scale, height transition, design detail, overshadowing, overlooking, street setback, landscaping, open space provision and future amenity outcomes for residents. A more substantial land size and close proximity to an activity centre is not merely justification for development of increased density and scale. The proposal is excessive in its built form given the locality, does not demonstrate site responsive design and constitutes an overdevelopment of the subject land.

It is recommended that the application be refused.