

**1.2 44-46 WILLOW AVENUE, GLEN WAVERLEY
USE AND DEVELOPMENT OF A CHILD CARE CENTRE
(TPA/48771)**

EXECUTIVE SUMMARY:

This application proposes use and development of a child care centre and reduction to the parking requirements of the Monash Planning Scheme.

The application was subject to public notification. Seventy two (72) objections to the proposal have been received, including a 113 signature petition.

Key issues to be considered are planning objectives for vibrant activity centres and services provided to the local community, building height, car parking, traffic and impact to a tree in a public reserve.

This report assesses the proposal against the provisions of the Monash Planning Scheme including the relevant state and local planning policy framework.

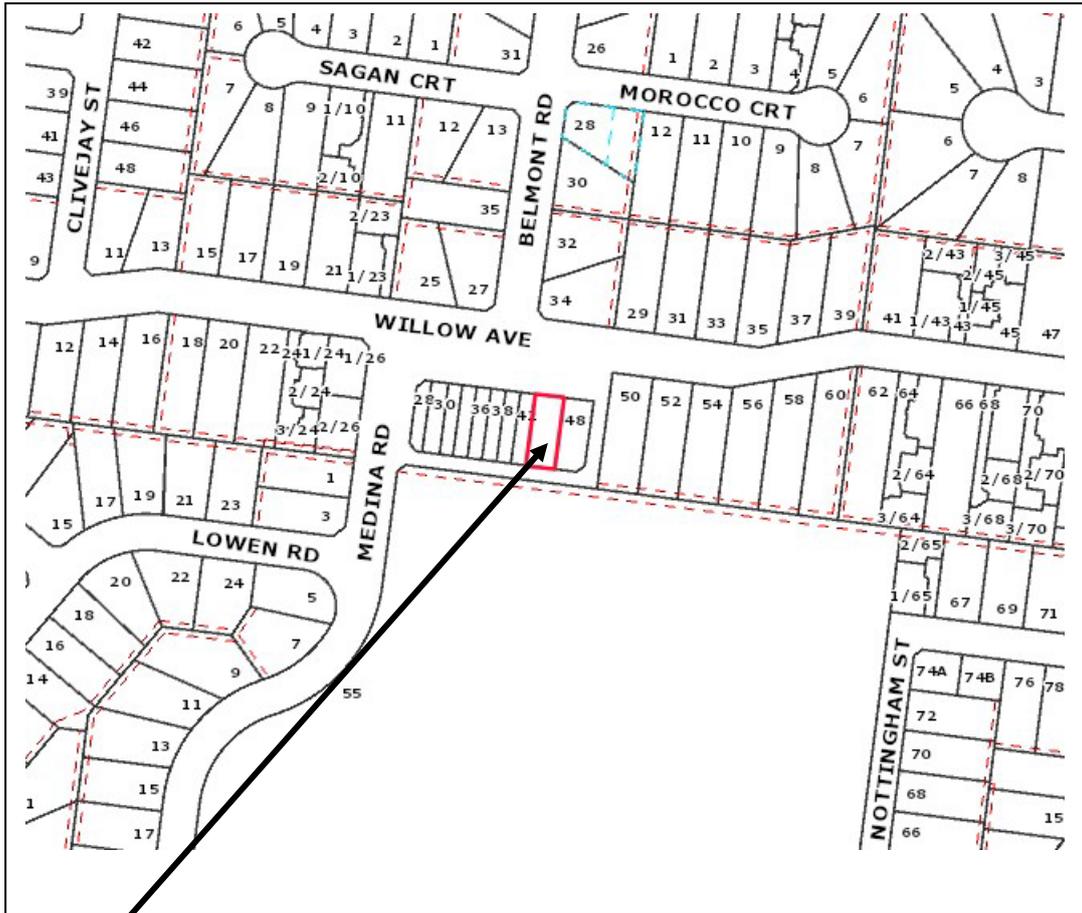
This report has been called in for consideration by Council by Cr Lake.

The proposed development is considered appropriate having regard to the relevant provisions of the Monash Planning Scheme. It is recommended that Council resolve to issue a Notice of Decision to Grant a Planning Permit, subject to conditions.

RESPONSIBLE DIRECTOR:	Peter Panagakos
RESPONSIBLE MANAGER:	Natasha Swan
RESPONSIBLE PLANNER:	Craig Smith
WARD:	Glen Waverley
PROPERTY ADDRESS:	44-46 Willow Avenue, Glen Waverley
EXISTING LAND USE:	Shop and residence (Milk bar)
PRE-APPLICATION MEETING:	No
NUMBER OF OBJECTIONS:	72 objections including a 113 signature petition
ZONING:	Commercial 1 Zone
OVERLAY:	None
RELEVANT CLAUSES: <u>State Planning Policy Framework</u>	<u>Local Planning Policy Framework</u>
<ul style="list-style-type: none"> • Clause 11 Settlement • Clause 11.03-1S Activity Centres • Clause 15 Built Environment and Heritage 	<ul style="list-style-type: none"> • Clause 21.02 Key Influences • Clause 21.03 A Vision for Monash • Clause 21.05 Economic Development • Clause 21.06 Activity Centres

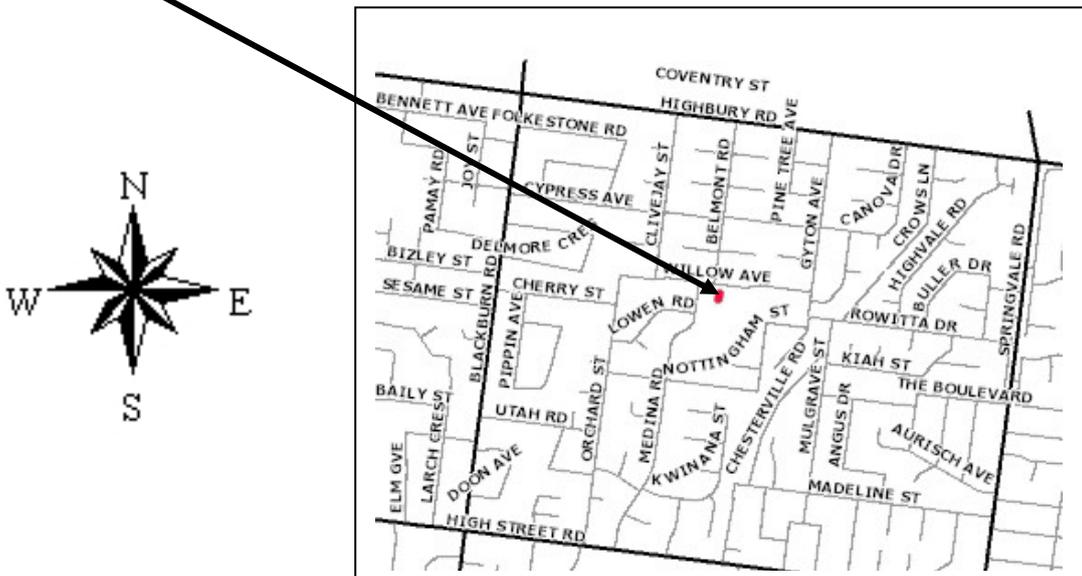
<ul style="list-style-type: none">• Clause 15.01 Built Environment• Clause 17 Economic Development• Clause 17.01 Employment• Clause 17.02 Commercial	<u>Particular Provisions</u> <ul style="list-style-type: none">• Clause 52.06 Car Parking
STATUTORY PROCESSING DATE:	15 July 2018
DEVELOPMENT COST:	\$600,000

LOCALITY PLAN



SUBJECT SITE

NEIGHBOURHOOD PLAN



RECOMMENDATION:

That Council resolves to issue a **Notice of Decision to Grant a Planning Permit (TPA/48771)** for the use and development of a child care centre and reduction to the car parking requirements of Clause 52.06 of the Monash Planning Scheme, at 44-46 Willow Avenue, Glen Waverley subject to the following conditions:

Amended Plans

1. Before the development starts, three copies of plans drawn to scale and dimensioned must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a) The second floor setback 3 metres from the front boundary.
 - b) A schedule of external colours and materials to visually break up building lines, ensure suitably muted tones and create visual interest.
 - c) Tree protection measures in accordance with the arborist report by Lloyd Hetrick dated 3 October 2017 to protect the *Eucalyptus nicholii* (Narrow-leaved Black Peppermint) in the adjacent public reserve to the east.
 - d) Any consequential modifications to the extent of the roof area and balustrades to minimise the extent of pruning to the *Eucalyptus nicholii* (Narrow-leaved Black Peppermint) in the adjacent public reserve to the east.

No Alteration or Changes

2. The use and development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

Number of Children

3. There must be no more than 54 children on the premises at any one time

Hours of Operation

4. The use may operate only between the hours specified below:
 - Monday to Friday: 7.00 am to 6.30pm

Tree in Public Reserve

5. The *Eucalyptus nicholii* (Narrow-leaved Black Peppermint) in the adjacent public reserve to the east must be protected in accordance with the arborist report by Lloyd Hetrick dated 3 October 2017 and must not be damaged during construction.

In the event removal of tree is required, prior written consent must be obtained from Council and removal undertaken by Council at the owner's cost.

6. Prior to the commencement of any works that are permitted by this permit, a protective barricade must be provided around the *Eucalyptus nicholii* within the adjacent public reserve. The barricaded area must be inspected and verified by an authorised officer of the Responsible Authority.
7. All works within the dripline of the *Eucalyptus nicholii* must be supervised by a qualified landscape architect or horticulturist who shall ensure that the works are done in a manner which protects and minimises any damage to the tree.
8. No building material, demolition material or earthworks shall be stored or stockpiled under the canopy line of the *Eucalyptus nicholii* during the construction period of the development hereby permitted.

Amenity

9. The amenity of the area must not be detrimentally affected by the use or development, through the:
 - a) transport of materials, goods or commodities to or from the land;
 - b) appearance of any building, works or materials;
 - c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
 - d) presence of vermin;
10. Adequate provision shall be made for the storage and collection of garbage and other solid wastes and these facilities are to be located on the site to the satisfaction of the Responsible Authority.
11. No bin or receptacle or any form of rubbish or refuse shall be allowed to remain in view of the public and no odour shall be emitted from any receptacle so as to cause offence to persons outside the land.
12. No goods must be stored or left exposed outside the building so as to be visible from any public road or thoroughfare.

13. Noise from the premises must comply with State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 (SEPP N-1).

Car Parking

14. No fewer than 7 car spaces must be maintained on site for the exclusive use of staff the child care centre.
15. Before development commences a Car Parking Management Plan must be submitted to and endorsed by the responsible authority to ensure that the onsite parking spaces are fully utilised by staff.
16. Prior to occupation of the approved development, areas set aside for parked vehicles and bicycles and access lanes as shown on the endorsed plans must be:
- (a) constructed to the satisfaction of the Responsible Authority;
 - (b) properly formed to such levels that they can be used in accordance with the plans;
 - (c) surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority;
 - (d) drained, maintained and not used for any other purpose to the satisfaction of the Responsible Authority;
 - (e) line-marked to indicate each car space and all access lanes to the satisfaction of the Responsible Authority.

Drainage

17. All on-site stormwater is to be collected from hard surface areas and must not be allowed to flow uncontrolled into adjoining properties or the road reserve. The private on-site drainage system must prevent stormwater discharge from the driveway over the footpath and into the road reserve. The internal drainage system may include either:
- a) a trench grate (150 mm minimum internal width) located within the property and not the back of footpath; and/or
 - b) shaping the internal driveway so that water is collected in a grated pit on the property; and or
 - c) another Council approved equivalent.

Completion of Buildings and Works

18. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

Permit Expiry

19. This permit will expire in accordance with section 68 of the Planning and Environment Act 1987, if one of the following circumstances applies:

- a) The development has not started before two (2) years from the date of issue.
- b) The development is not completed before four (4) years from the date of issue.
- c) The use is not commenced within two (2) years from completion of the development.

In accordance with section 69 of the Planning and Environment Act 1987, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within six months of the permit expiry date, where the development or use allowed by the permit has not yet started; or within 12 months of the permit expiry date, where the development has lawfully started before the permit expires.

Permit Notes

- A. No work must be commenced in, on, under or over the road reserve without having first obtaining all necessary approval under the Road Management Act 2004, the Road Safety Act 1986, and any other relevant acts or regulations created under those Acts.
- B. Building approval must be obtained prior to the commencement of the above approved works.
- C. Unless no permit is required under the planning scheme, no sign must be constructed or displayed without a further permit.
- D. All stormwater collected on the site is to be detained on site to the predevelopment level of peak stormwater discharge.
- E. The nominated point of stormwater connection for the site is to be the existing property connection.
- F. Engineering permits must be obtained for new or altered vehicle crossings and for new connections to council drains and these works are to be inspected by Council's Engineering Department. A refundable security deposit of \$500 is to be paid prior to the drainage works commencing.

BACKGROUND:**History**

No planning permits have been issued to the land.

The Site and Surrounds

The site is located within the Willow Avenue local activity centre. It has an area of 365 square metres and contains double storey building, currently operating as a milk bar.

Vehicle access to the site is from the rear lane accessed from Willow Avenue and Medina Road. Street parking for the local activity centre is provided by way of 40 public spaces along the Willow Avenue service road and Medina Road.

North – The land to the north comprises detached dwellings.

South – The land to the south is Glendal Primary School.

East – The land to the east comprises a small Council reserve and detached dwellings.

West – The land to west comprises single storey shops and double storey shops and shop-top dwellings.

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

PROPOSAL:

The application proposes the use and development of a child care centre and reduction to the parking requirements of the planning scheme.

The maximum number of children and staff at any one time is 54 and 8 respectively. The proposed hours of operation are Monday to Friday: 7.00 am to 6.30 pm.

Originally, the application proposed 58 children but was amended to reduce the number to 54. There remains some inconsistencies in the application documents, with some referring to 58 children and others referring to 54. This report and the officer recommendation is based on a proposal for 54 children.

A 3-storey building is proposed with an overall height of 10 metres. The architectural style is contemporary with a flat roof, rendered walls and powder coated steel and timber wall cladding.

7 car spaces are proposed within an undercroft car park at the rear of the site and accessed from the laneway.

The application was supported by the following:

- A planning report prepared by Fredman Malina.
- A traffic report prepared by Ratio Consultants.
- An arborist report prepared by Lloyd Hetrick.

Attachment 1 details plans forming part of the application.

PERMIT TRIGGERS:

The land is zoned Commercial 1 Zone and is not affected by any overlays.

A planning permit is required for the following:

- Commercial 1 Zone – use and development of a child care centre
- Car Parking (Clause 52.06) – reduction to the car parking requirements

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

CONSULTATION:

Public Notice

The application was advertised in accordance with section 52 of the *Planning and Environment Act 1987* by way of letters sent to the surrounding property owners/occupiers, and signs displayed at the Willow Avenue frontage of the site.

Council has received 72 objections to the proposal, including a 113 signature petition. The grounds of objection can be summarised as follows:

- Displacement or loss of milk bar.
- Car parking and increased traffic.
- Building height and scale.
- Already enough child care centres in area.
- Truck deliveries will disrupt the amenity of the area.
- Disruption from construction activity to local area.
- Child care centre would result in more people using the centre and people spending longer period in the centre.
- Change from retail to childcare would result in less foot traffic in the centre.
- Child care centre should not be located near shops.
- Land is too small for child care centre.
- Lack of outdoor play areas and play areas exposed to weather.

The loss of the milk bar and car parking were the most widely expressed concerns amongst objectors, with significant community concern expressed.

Attachment 4 details the location of objector properties.

Referrals

The application was referred to the following internal departments:

- Traffic – No issues raised subject to standard traffic conditions and approval of a Car Parking Management Plan.
- Drainage – No issues raised subject to standard conditions relating to stormwater drainage.
- Horticultural Services – There is a large *Eucalyptus nicholii* (Narrow-leaved Black Peppermint) in the adjacent public reserve to the east with approximately half its canopy overhanging the subject site. The tree is in good health and makes a significant contribution to the landscape character of the area. The extent of canopy pruning required and development impacts to the roots would result in the tree not remaining viable. This would necessitate its removal which is not supported.

DISCUSSION:

Activity centre development and locational considerations

Child care centres are part of the activity mix sought in local activity centres. The proposal makes a positive contribution to the development of vibrant activity centres and the supply of services to the local community.

The co-location of the child care centre adjacent to the primary school is considered positive and provides opportunities for multi-purpose trips. The childcare centre would be easily accessible by the surrounding residential community. The road reserve, public reserve and primary school provide a buffer between the site and the surrounding residential properties; mitigating amenity impacts often associated with childcare centres.

Building scale and design detail

The existing heights in the activity centre are comprised of single and double storey buildings.

A 3-storey development was recently approved at 36 Willow Avenue (TPA/48418) comprising an office and dwelling. Construction has not commenced. The third storey of 36 Willow Avenue is heavily recessed at the front and rear of the site and reads as a discrete, podium style third storey.

It is envisaged that the activity centre will gradually develop to a 3-storey centre and fit amongst a predominately double storey residential area. The third storey is recessed 2 metres from the front facade. However, it is recommended this be increased to 3 metres to further reduce any impacts along the Willow Avenue frontage.

The contemporary architectural style, flat roof, rendered walls and powder coated steel and timber wall cladding is considered an appropriate design response for the activity centre. A schedule of external colours and materials is recommended to show a mix of colours and materials and suitably muted tones. This would assist in reducing visual bulk by breaking up the building lines and to avoid emphasising building elements.

Car parking and traffic

Under Clause 52.06 Car Parking, car parking should be provided at a rate of 0.22 spaces per child. The following table outlines the car parking provisions and requirements.

Use	Clause 52.06 requirement	Car spaces required	Car spaces provided
Child care centre (54 children)	0.22 spaces per child	11.88	7
Total		11.88	7

Given a total of 54 children are proposed the car parking requirement in this instance is 11.88 spaces. This figure is rounded down to 11 specs in accordance with the current Planning Scheme provisions.

The proposal therefore results in a total shortfall of 4 on site spaces as only 7 spaces are proposed on the subject site.

The 7 spaces are located within an undercroft car park at the rear of the site and accessed from the laneway. Swept paths demonstrate that vehicle turning movements to and from the site are satisfactory.

Car parking was one of the most widely expressed concerns amongst objectors, with significant community concern expressed.

The supply of publically available parking spaces varies due to the presence of “No Stopping” restrictions during the primary school peak times.

The availability of publically available parking in the area is provided in the following table:

Peak Times	Unrestricted Times	‘No Stopping’ Times
am	135 spaces	113 spaces
pm	135 spaces	102 spaces

The highest demand for car parking in the area generally occurred at 9am and between 3-3:30pm on the day of the survey.

During the morning peak 49 of the 113 available spaces were unoccupied and during the afternoon peak 25 of the 102 available spaces were unoccupied.

Child care centres generally have dispersed pick-up and drop-off times, although there are peaks in the morning and afternoon. Afternoon peaks generally do not coincide with the peak time for the primary school, these peaks typically occur before 9am and after 4pm. There is potential for some overlap in morning peaks however the parking survey indicates this is manageable.

There is sufficient parking on site to accommodate staff and sufficient street parking available to accommodate short-stay parent parking. To ensure that the onsite parking spaces are fully utilised by staff a Car Parking Management Plan is recommended.

Street parking for the local centre is provided by way of 40 public spaces along the Willow Avenue service road and Medina Road. There are 10 shop fronts in the local centre, with 44-46 Willow Avenue being a double-fronted shop. It is argued that 4 spaces are provided per shop front. On this basis the subject property would have 8 of the 40 spaces allocated to it. Given this it is considered a waiver of 4 on site spaces in this instance is satisfactory.

The predicted traffic generation is low and is expected to have a negligible impact on the local traffic network.

Amenity Impacts

The proposal will not unreasonably impact the amenity of the local area.

The proposal will not overlook or overshadow the habitable room windows or secluded private open space of the surrounding residential properties.

Noise generated by the proposal is considered reasonable for an activity centre and would not have unreasonable impact on sensitive land uses. The hours of operation are reasonable and the intensity of the use (54 children) is proportionate to the scale of the activity centre.

The frequency of the delivery of goods to the premises from commercial vehicles is not expected to be greater than the existing milk bar.

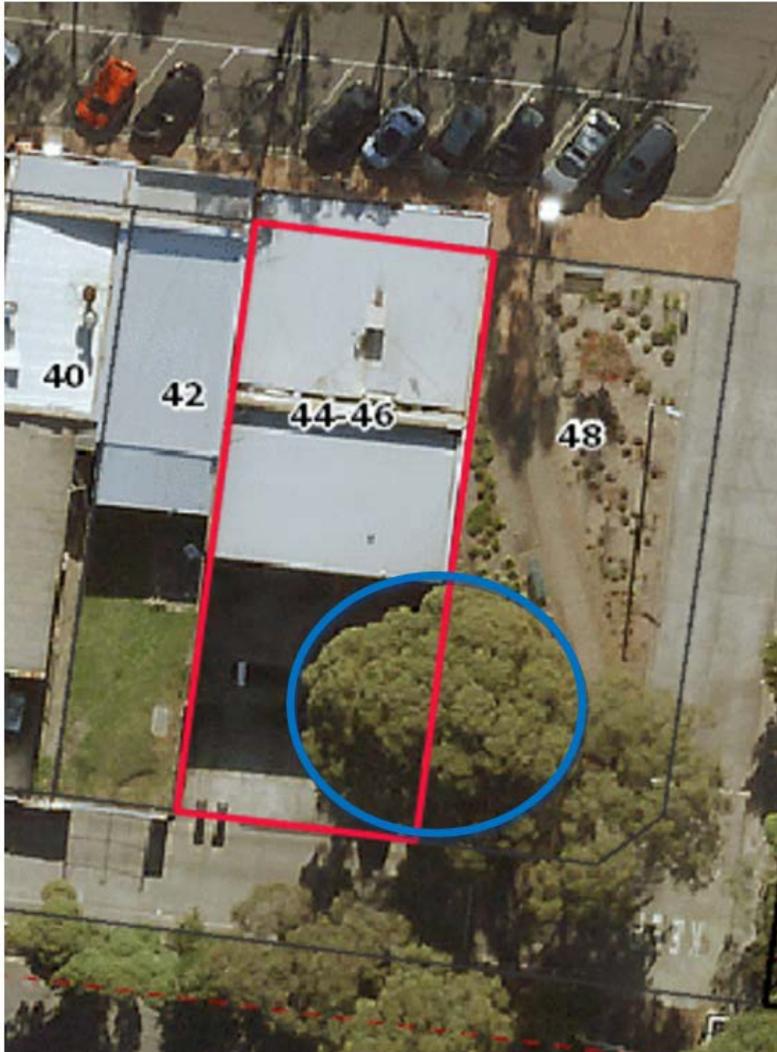
There is appropriate provision for the management of waste. Waste bins are stored within the under-croft car park and serviced from the rear lane.

Amenity related conditions of permit are recommended to ensure the amenity of the surrounding area is not unreasonably impacted.

Tree on public reserve

There is a large *Eucalyptus nicholii* (Narrow-leaved Black Peppermint) in the adjacent public reserve to the east with approximately half its canopy overhanging

the subject site. The tree is in good health and makes a significant contribution to the landscape character of the area.



Council's Horticultural Services department advised the extent of canopy pruning required and development impacts to the roots would result in the tree not remaining viable. This would necessitate its removal which is not supported.

The arborist report submitted with the application prepared by Lloyd Hetrick identifies potential impacts to the root system and to the canopy from pruning that would be required. The report recommends tree protection measures to minimise the impacts to the tree. Specifically, the report recommends the following tree protection measures:

- Non-invasive construction methods within the Tree Protection Zone (TPZ) of the tree to protect the roots.
- Excavation must not be below the depth of the concrete covering the TPZ apart from holes for piers to support the building.
- Holes for piers must be dug under the supervision of an arborist.

- Any underground services must be installed on the west side of the property clear of the TPZ.
- Canopy pruning must be kept to a minimum.

The report advises that provided care is taken not to damage the roots and pruning is kept to a minimum the tree should not be affected by the development.

The tree makes a significant contribution to the landscape character of the area it should be retained if possible. Conditions of permit are recommended to protect the tree in accordance with the arborist recommendations.

It is noted that planning objectives should be considered for the efficient utilisation of activity centre land and the equitable development of land generally. It is considered that the third level is predominately open play space. Some modification to the extent of rear roofed area could minimise pruning required. Conditions will require this to be detailed.

A condition of permit is recommended to require that in the event removal of tree is required, prior written consent must be obtained from Council and removal undertaken by Council at the owner's cost, but all efforts to save the tree have been made.

Objections not previously addressed

Displacement or loss of milk bar – This was one of the most widely expressed concerns amongst objectors, with significant community concern expressed. It is acknowledged the milk bar makes a positive contribution to the activity centre and provides an important service for the local community. However, Council cannot require the land owner maintain the milk bar. The granting of a permit for a child care centre simply grants the right to use and develop the land accordingly. It does not mandate that the milk bar be closed down and this is a matter between the land owner and the milk bar operator.

Already enough child care centres in area – The Victorian planning system does not attempt to regulate the supply and demand of goods and services in the local economy. Ultimately the market will determine the viability of such uses.

Disruption from construction activity to local area – The amenity impacts of construction activity are temporary and considered unavoidable with development. Amenity impacts from construction activity are subject to reasonable limits by permit condition and EPA regulations; enforceable by Council.

Child care centre would result in more people using the centre and people spending longer period in the centre – More people using the centre is considered a positive planning outcome and consistent with planning objectives for vibrant activity centres. A critical mass of users is considered important for the viability of

the local activity centre. People spending longer periods within activity centres is not considered undesirable for the same reasons.

Change from retail to childcare would result in less foot traffic in the centre – The proposal is not expected to reduce foot traffic in the centre. The foot traffic generated by parents, staff and children are not expected to be less than that generated by the milk bar.

Child care centre should not be located near shops – The commercial zoning of the land encourages a range of activities including child care. Generally speaking, locating a child care centres the Commercial 1 Zone is preferred over residential and industrial zones. It provides advantages such as the grouping of services and multi-purpose trips, limits amenity impacts to residents and avoids conflicting land uses.

Land is too small for child care centre – The planning scheme does not prescribe a minimum land size for child care centres. The sufficiency of the land size to accommodate a childcare centre is determined by meeting the various policies of the planning scheme. They are required to meet the applicable Children’s Services Regulations to ensure the child care centre meets the required standards.

Lack of outdoor play areas and play areas exposed to weather – Outdoor play areas are provided at the first and second floors. The first floor play area is under roof and a shade structure is proposed at the second floor. Requirements for outdoor play areas are regulated by the Children’s Services Regulations which must be achieved to receive registration.

CONCLUSION:

The proposal is consistent with the relevant policies and objectives of the Monash Planning Scheme. The proposal is consistent with the planning objectives to develop vibrant activity centres and to provide services to the local community. The proposal is sympathetic to the character of the area in terms of building scale with some minor modification. The proposal provides adequate car parking and traffic generated will not exceed the capacity of the local road network.

Overall, it is considered the proposed childcare centre is an appropriate use for this site and location.

LIST OF ATTACHMENTS:

Attachment 1 – Proposed Development Plans.

Attachment 2 – Aerial Photograph (December 2016).

Attachment 3 – Zoning and Overlays Map.

Attachment 4 – Objector Properties Location Map.