
**1.2 554-558 HIGH STREET ROAD, MOUNT WAVERLEY
THE USE AND DEVELOPMENT OF LAND FOR A RETIREMENT VILLAGE AND FOOD
AND DRINK PREMISES (CAFE)
(TPA/49751)**

EXECUTIVE SUMMARY:

This application proposes the construction of a seven storey mixed use building including basement car parking. The proposed development comprises of 83 lodging rooms and a food and drink premises (café).

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. Nineteen (19) objections to the proposal have been received. Eight (8) objectors have lodged to be part of the VCAT proceedings to date.

Key issues to be considered relate to:

- Height of the development;
- Consistency with the applicable policy;
- Potential discontinuance of use of the building as a retirement village;
- Vehicle access / car parking provision and traffic impact; and
- Impact on adjacent properties and the area.

This report assesses the proposal against the provisions of the Monash Planning Scheme including the relevant state and local planning policy framework, Clause 55, consideration against adopted Amendment C125 and issues raised by objectors.

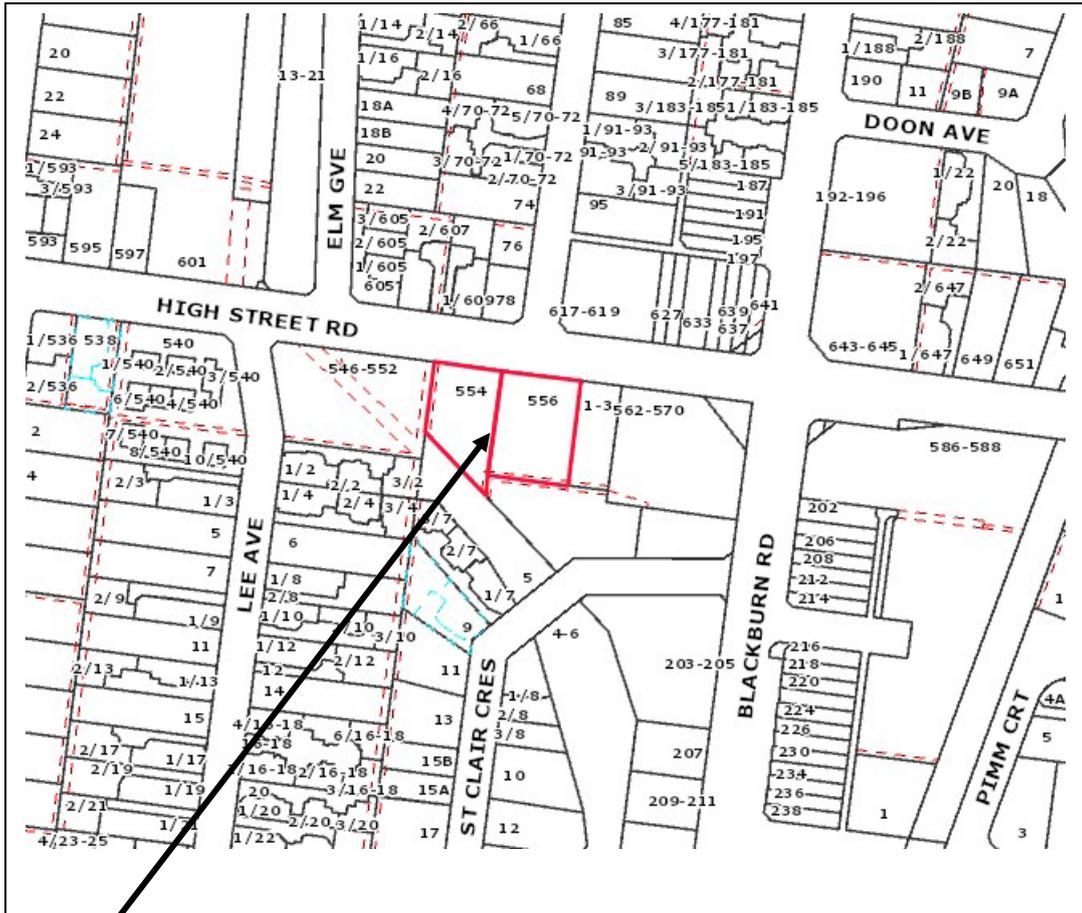
The reason for presenting this report to Council is the proposed development cost of \$25 Million.

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 it be refused.

RESPONSIBLE DIRECTOR:	Peter Panagakos
RESPONSIBLE MANAGER:	Natasha Swan
RESPONSIBLE PLANNER:	Alexandra Wade
WARD:	Mount Waverley
PROPERTY ADDRESS:	554-558 High Street Road, Mount Waverley
EXISTING LAND USE:	Former Car Yard, Gymnasium, Swim School and Yoga Centre
PRE-APPLICATION MEETING:	No
NUMBER OF OBJECTIONS:	Nineteen (19)
ZONING:	General Residential Zone – Schedule 2
OVERLAY:	Special Building Overlay – Schedule 1
AMENDMENT C125 (adopted)	General Residential Zone – Schedule 3
RELEVANT CLAUSES: <u>State Planning Policy Framework</u> Clause 11.01-1R (Settlement – Metropolitan Melbourne) Clause 11.02-1S (Supply of Urban Land) Clause 11.03-1S (Activity Centres) Clause 13.03-1S (Floodplain Management) Clause 13.07-1S (Land Use Compatibility) Clause 15 (Built Environment and Heritage) 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 (Housing) Clause 16.01-1S R (Integrated Housing) Clause 16.01-2S (Location of Residential Development)	<u>Local Planning Policy Framework</u> Clause 21 (Municipal Strategic Statement) Clause 21.04 (Residential Development) Clause 21.08 (Transport and Traffic) Clause 22.01 (Residential Development and Character Policy) Clause 22.04 (Stormwater Management Policy) Clause 22.09 (Non-Residential Use and Development in Residential Areas) Clause 22.13 (Environmentally Sustainable Development Policy) <u>Particular Provisions</u> Clause 52.06 (Car Parking) Clause 52.29 (Land Adjacent to a Road Zone, Category 1) Clause 52.34 (Bicycle Facilities) Clause 53.18 (Stormwater Management in Urban Development)

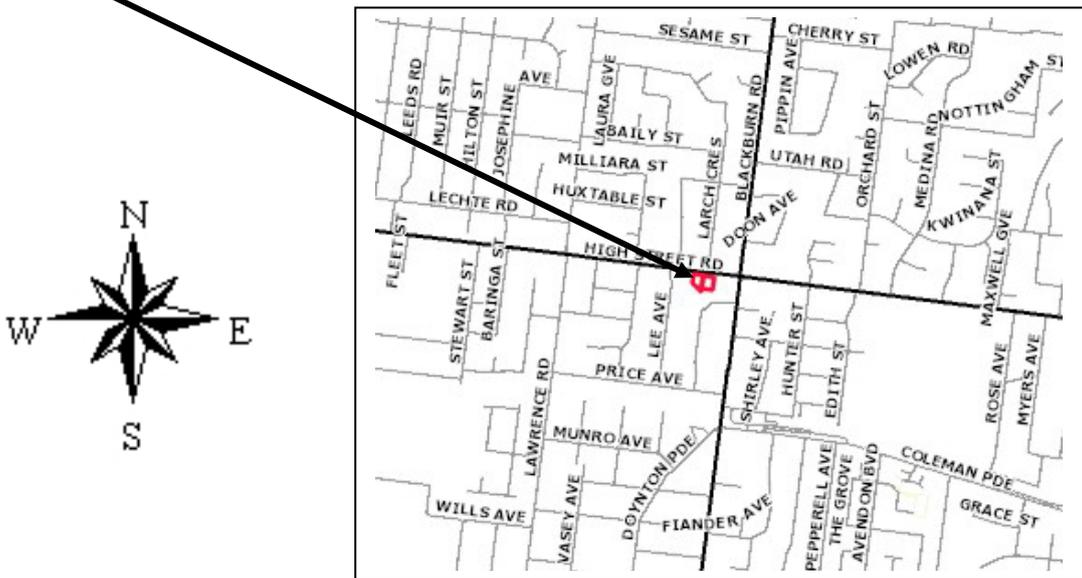
Clause 16.01-2R (Housing Opportunity Areas – Metropolitan Melbourne) Clause 16.01-3S & R (Housing Diversity) Clause 16.01-4S (Housing Affordability) Clause 17 (Economic Development) Clause 17.01-1S & R (Diversified Economy) Clause 17.02-1S (Business) Clause 18.02-1S & R (Sustainable Personal Transport) Clause 18.02-4S (Car Parking) Clause 19.03-5S (Waste and Resource Recovery)	
STATUTORY PROCESSING DATE:	17 February 2019
DEVELOPMENT COST:	\$25,000,000

LOCALITY PLAN



SUBJECT SITE

NEIGHBOURHOOD PLAN



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/49751)** for the construction of a seven storey mixed use development; use of the land for a food and drinks premises (café) and retirement village; buildings and works within the Special Building Overlay; alteration and creation of access to a Road Zone, Category 1; subject to the following grounds:
1. The proposed height and scale of the development does not appropriately respond to the General Residential Zoning of the land and the context of the Syndal Neighbourhood Activity Centre in addition to the Residential Development and Character Policy at Clause 22.01.
 2. The proposed architectural detailing and rear setbacks will not provide for substantial canopy tree planting to respond to the 'garden character' of the area as reflected in the Housing Strategy 2014.
 3. The proposal would have a poor level of internal amenity for future residents with respect to the provision of secluded private open space.
 4. The proposal is contrary to policy and does not provide a good planning outcome.
- B.** That Council advise VCAT and all submitters of its position on this application.

BACKGROUND:**History**

An application was sought for the construction of a mixed use apartment building ranging in height from four to eight storeys; use of a convenience shop, café and medical centre; and reduction in the car parking requirement (TPA/46857).

At the time that the application was lodged (21 November 2016), the site was located within the General Residential Zone, Schedule 2 however there were no mandatory height controls or garden area provisions set under the zone. These additional requirements were introduced on 27 March 2017 as part of Amendment VC110.

Whilst the application was determined after this amendment was introduced, the amendment includes transitional provisions which thereby made these provisions not applicable to this application.

The application was refused by Council at its meeting on 25 July 2017 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 is inconsistent with the Monash Housing Strategy 2014.
3. The proposal is out of character with the existing development in the area in particular with regard to design detail, building mass, bulk and scale.
4. The proposal is considered an overdevelopment of the land.
5. The proposal would have a poor level of internal amenity for future residents.
6. The application does not provide for sufficient car parking.
7. The proposal would have a detrimental impact on the amenity of surrounding land.
8. The proposal does not satisfy the requirements of Melbourne Water (determining referral authority) having regard to the requirements of the Special Building Overlay.

Melbourne Water (ref: MWA-1014263) objection/refusal grounds:

9. The proposed development is inconsistent with State and Local Planning Policy relating to drainage and floodplain management.
10. The proposed development is inconsistent with the purpose and decision guidelines set out in the Special Building Overlay (SBO) within the Monash Planning Scheme.
11. The proposed development is contrary to Melbourne Water's 'Guidelines for Development in Flood Prone Areas'

Council's decision was appealed to VCAT (Pace Development Group Pty Ltd v Monash CC [2017] VCAT 1812) and the Tribunal determined to refuse the application. Specifically, the Tribunal found:

“47. The upper levels of the tower element as shown in the VCAT Alternative Plans are stepped away from the frontage with a setback of 6.6 metres to the upper level. The overall height would be perceived as 6 storeys. We consider that the location and design of the tower element as perceived from High Street Road is acceptable.”

51. *While we accept that this site has characteristics that may allow consideration of an alternative design response including additional height, we agree with Council and the respondents that the tower element is too tall when viewed from the rear. We consider that the proposal does not respond to the sloping topography and does not transition to the residential hinterland in an acceptable manner.*

52. *We accept that the tower element does not otherwise result in any direct amenity impacts to the neighbouring residential properties as set out in the evidence of Mr Bastone. In particular we find that visual privacy is acceptably addressed and that there is no significant overshadowing at the equinox. It is telling that there is no shadowing of Mrs Hall's property at any time of the year.*

57. *The overall composition and architectural expression has merit and is worthy of support. It is well arranged in a classical alignment of external presentation and internal spatial function. However, as far as the quality of the architecture put forward by the applicant of being high quality, it does not result in a built form that is consistent with the planning scheme. It will not transition to the rear and will be highly visible from the residential hinterland. For this reason we do not agree that the quality of design should permit a height that exceeds the expectation of the planning scheme as we find it.*

65. *While these arrangements [on the lower level of the southern and eastern elevations] do provide good passive surveillance of the car park, we find that the amenity of these lower level dwellings due to the limited setbacks will be poor both in the interim and particularly if redevelopment was to occur on the Council land.*

Since this application was lodged, there have been changes to the Planning Policy Framework (PPF). It is also noted that there have been changes to planning policy with respect to particular provisions including car parking.

The Site and Surrounds

The subject land is located on the southern side of High Street Road in Mount Waverley approximately 100 metres west of its intersection with Blackburn Road. The land comprising of two Titles, is irregular in shape and has a combined overall area of 2,619 square metres including a frontage of 61.55 metres to High Street Road. The land has a fall of 5.06 metres from north-east to south-west. A 1.83 metre wide drainage and sewerage easement spans the southern boundary of the land. The land is currently developed with various single and double storey brick buildings. Long established use of the land has included motor vehicle sales, fitness gymnasium, swim school and yoga centre, albeit the land currently remains unoccupied. Buildings include an undercroft/semi-basement car park accessed via the adjoining public car park to the south.

The land is located on the periphery of the Syndal neighbourhood activity centre.

Land to the immediate south and east is a public car parking accessible from Blackburn Road and St Clair Crescent.

A passive open space reserve (St Claire Crescent Reserve) spans the south-western boundary within the overland flow flood path.

Land to the west is occupied by *Greenmount Nursery* and is utilised for plant sales. Shops forming part of the Syndal neighbourhood activity centre are located opposite to the north-east. Established residential areas are located to the north-west and south-west of the subject land and typically comprise of single and double storey dwellings including unit development.

The immediate surrounding area has been subject to relatively limited development and change in recent times. Council at its meeting of 28 January 2016 granted a permit the development of a four storey building including associated car parking, use of the premises for short stay serviced apartments at 613-625 High Street Road (diagonally opposite to the north-east). This Permit has now lapsed. The site is located within the Commercial 1 Zone.

Established residential areas to the west and south have been developed with single and double storey townhouse forms with generous open space and landscaping areas. These properties are also located within the General Residential Zone, Schedule 2.

The Syndal Activity Centre is identified by the planning scheme as a neighbourhood centre providing for a range of small shops, offices, services and community activities. The Syndal Activity Centre is generally defined as the commercial zoned areas surrounding the intersection of Blackburn Road and High Street Road extending south to Coleman Parade adjacent to the Syndal Railway Station. Strategic directions applicable to the centre seek to encourage development that is of a moderately higher scale than surrounding residential areas.

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

PROPOSAL:

It is proposed to demolish the existing buildings on-site (no Permit required) and to construct a seven storey Retirement Village building with a food and drink premises on the ground floor with basement car parking.

Details of the proposal can be summarised as follows:

- 83 residential retirement village apartments, comprising of:

- 19 x one bedroom apartments; and
 - 64 x two-bedroom apartments.
- Two levels of basement car parking accessed from a varied crossover located central to the High Street Road frontage of the site. The basement provides for a total of 93 car spaces and includes:
 - 88 car spaces for residents;
 - 5 x car spaces for café staff (including 1 x DDA car space);
 - 1 x drop off / pick up / emergency car space;
 - 31 bicycle spaces;
 - 89 storage cages;
 - Residential and commercial waste storage areas;
 - Provision of a gymnasium (with consultation rooms), pool and communal private open space area for residents.
 - A food and drink premises (café) located on the ground floor with an area of 191sqm.
 - Pedestrian access from High Street Road, and two lifts and stairwells within the development.
 - Six (6) bicycle spaces for visitors within the ground floor lobby.
 - Overall maximum height of 23.3 metres above natural ground level, with a maximum of seven storeys. The building will present to High Street Road with a three storey street wall height, with three recessed upper levels (total of 6 storeys) and will present to the rear of the site as seven storeys. Built form within the south-west of the site is reduced to a two storey form with communal open space above.
 - Contemporary materials and finishes including rendered pre-cast concrete, metal cladding, brickwork and metal screening features are proposed.

Attachment 1 details plans forming part of the application.

PERMIT TRIGGERS:

Zoning

The Subject Site is located within the General Residential Zone, Schedule 2 (GRZ2) under the provisions of the Monash Planning Scheme.

Pursuant to Clause 32.08-2, a Permit is required to use the land for a food and drinks premises. A Retirement Village (Accommodation) is a Section 2 Use – Permit required.

It is noted that the provisions of Clause 32.08-4 (Minimum garden area requirement) and Clause 32.08-10 (Maximum building height requirement for a dwelling or residential building) apply only to a 'residential building' or 'dwelling'. The proposal is for a retirement village which is not classified as a residential building.

Clause 32.08-8 (Residential Aged Care Facility) does not apply to this application (which requires a development to meet the requirements of Clause 53.17 including a height limit of 16.0 metres) as the proposal is for a retirement village and not a residential aged care facility.

A residential aged care facility is defined as 'land used to provide accommodation and personal nursing care for the aged. It may include recreational, health or laundry facilities and services for residents of the facility'. A retirement village is defined as 'Land used to provide permanent accommodation for retired people or the aged and may include communal recreational or medical facilities for residents of the village'.

It should be noted that Council made a submission to the Minister for Planning regarding the proposed 16 metre height cap of aged care facilities. Council expressed that a similar height limit should apply to a retirement village as it is a similar use and would create a departure from the traditional three storey built form in the General Residential Zone. It was disappointing that this did not eventuate.

Pursuant to Clause 32.08-9, a Permit is required to construct a building or construct or carry out works for a Section 2 Use (prescribed within Clause 32.08-2).

Overlays

The south-west corner of the site is subject to the Special Building Overlay (SBO). Pursuant to the requirements of Clause 44.05 a Permit is required to construct a building or construct or carry out works.

Particular & General Provisions

Clause 52.06-3 (Car Parking) – A Permit is required to reduce the number of car parking spaces required under Clause 52.06-5. The proposal provides car parking in accordance with this policy and a reduction is not sought.

Clause 52.29 (Land Adjacent to a Road Zone, Category 1) – A Permit is required to create or alter access to a road in a Road Zone, Category 1. The application is required to be referred to VicRoads.

Clause 53.18 (Stormwater Management in Urban Development) – This policy specifies that an application to construct a building or construct or carry out works

must meet all of the objectives of Clause 53.18-5 and 55.18-6 and should meet all of the standards of Clauses 53.18-5 and 53.18-6. An application must be accompanied by details of the proposed stormwater management system.

Clause 52.34 (Bicycle Parking Spaces) – Pursuant to Clause 52.34-3, a total of 0 bicycle spaces are required for the food and drink premises. A total of 16 bicycle spaces are required for the retirement village. The proposal meets this requirement and a reduction is not sought.

Clause 66.02 (Integrated Transport Planning) – An application for a residential building comprising 60 or more lodging rooms is required to be referred to Public Transport Victoria.

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 14 November 2018. In this letter, officers also raised the following preliminary concerns:

- *The height and scale of the proposed development is excessive having regard to its interface with established residential areas surrounding vicinity and the scale of development within the Syndal Neighbourhood Activity Centre. The proposal should be reduced in height to achieve a built form outcome which appropriately integrates the site with development and land use in the surrounding area and provides for building scale appropriate to the surrounding context.*
- *Architectural detailing of the proposed development is at odds with the built form of development within the surrounding area. New development should be designed to suitably integrate and complement the surrounding context.*
- *Poor regard for “buildings-in-landscape” and “garden city character” design outcomes sought by applicable policy.*

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

The Permit Applicant responded to this letter on 19 December 2018 by providing the requested information. In relation to the preliminary concerns, the Applicant advised:

- *The proposal has a maximum height of 6 storeys fronting High Street Road and a maximum of 7 storeys to the rear. Given the fall of the land, the overall building height at the maximum point is consistent from the front to the rear. To the rear of the site, only part of the development has a maximum height of 7 storeys, with the development designed to transition to a height of a similar*

scale to the nearby residential land. The height in the proposal has been strategically positioned toward the nearby retail / commercial land uses, away from residential land, and toward High Street Road. The proposed height is considered to be consistent with the recommendations of VCAT for the previous mixed-use development proposed on this site. In their commentary, VCAT considered a 6- storey height fronting High Street Road to be appropriate as well as a height of 7 storeys to the rear to be appropriate.

- *The proposal has been designed generally consistent with the original application for the mixed-use development of the site. The Tribunal considered the composition and architectural expression as having merit and worthy of support.*
- *The proposal helps activate High Street Road and is within the activity centre area. It is considered that activity centres and the uses within have differing landscaping requirements to residential land and that the response to the preferred Garden City Character is appropriate in this instance.*

The Applicant has been verbally advised that the application will be recommended for refusal. A letter was sent to the Applicant formally informing them of the details of the Council meeting.

An appeal was lodged with VCAT on 20 February 2019. The appeal is against Council's failure to determine the application within the prescribed time (60 days from the receipt of further information). The appeal was lodged 61 days following receipt of further information, and while the application was still on public notice.

Public Notice

The application was advertised in accordance with section 52 of the *Planning and Environment Act 1987*. Four (4) large signs were displayed on the site during the notification period and letters sent to properties within the surrounding area.

Nineteen (19) objections were received to the proposal.

Key issues raised within the objections can be summarised as:

- excessive height of the development;
- inconsistency with the applicable policy;
- potential discontinuance of use of the building as a retirement village;
- vehicle access / car parking provision and traffic impact;
- construction impacts;
- Overshadowing to No. 546-552 High Street Road (Nursery to west of subject site);
- Flooding impacts; and
- Overlooking impacts.

Eight (8) statements of grounds have been received for the VCAT proceedings, with one objector having requested to become a party to the appeal.

Attachment 4 details the location of objector properties.

Internal Referrals

The application has been referred to Council's Traffic and Drainage Engineers for comment. Comments are discussed as relevant later in this report.

External Referrals

Melbourne Water

The application was referred to Melbourne Water in accordance with the requirement of Clause 44.04-5. Melbourne Water did not object to the proposal subject to conditions. A condition required the additional setback of the basement levels from the western boundary a minimum of 2 metres. The applicant has responded to this condition providing without prejudice plans to Melbourne Water and Council showing a revised basement layout. This alteration results in the deletion of 4 car spaces for residents. The plans also show reconfiguration of Apartment 007 and Apartment 109, reducing their setback to the western boundary of the site while maintaining the same number of bedrooms.

Public Transport Victoria

The application was referred to Public Transport Victoria pursuant to the requirements of Clause 66.02. Public Transport Victoria have no objection to the proposal subject to standard conditions.

VicRoads

The application was referred to VicRoads pursuant to the requirements to Clause 52.29. The authority has no objection to the grant of a Planning Permit for the proposed development subject to standard conditions.

DISCUSSION:

Monash Housing Strategy 2014 & Amendment C125

The Monash Housing Strategy 2014 (MHS) was developed to review Council's current housing and residential policy. The MHS was based on an assessment of key State and Local Strategies including research from all tiers of Government and other research bodies. The MHS provides an update to existing residential policy and urban character statements along with clear residential development policy framework to inform further strategic planning policy work and planning scheme amendments such as C125 (Monash Housing Strategy Stage 1 – New Residential Zones).

The housing strategy identifies that a key issue for Monash will continue to be the management of household growth and change while at the same time preserving valued neighbourhood character and enhancing sustainability. It specifically notes

that residents aged 70-84 are likely to increase therefore encouraging additional aged care services and suitable housing is available for residents.

The subject land is located within a “Garden City Suburb” and “Accessible Areas” precinct where housing objectives seek:

“Moderate housing change and diversification serving as a transition between commercial and residential areas.

Development will be respectful of neighbourhood character and amenity, with greater emphasis placed on these objectives in proportion to the distance from commercial zones and transport nodes.

Provision of opportunities for modest housing growth and diversification with emphasis on preserving and enhancing Monash’s Garden City Character.”

The subject land is identified as a “Garden City” suburb setting and not earmarked for substantial change in terms of on-going policy development which would encourage more intensive development outcomes on this site. Whilst the land is located within an “Accessible” precinct within the residential development framework, further policy work and structure planning is yet to be done for these areas which will guide the future scale and form of development within these localities.

Council at its meeting of 28 February 2017 resolved to adopt a General Residential Zone (Schedule 3) forming part of Amendment C125 to the Monash Planning Scheme. The General Residential Zone - Schedule 3 differs from the existing General Residential Zone 2 in setting different discretionary siting, rear setback and site coverage standards to better respond to garden character. The maximum building height of 3 storeys is the same (for residential buildings). The panel report identified the potential of more intensive development on the land given its proximity to the Syndal Activity Centre subject to further strategic work yet to be undertaken. The panel recommended retaining the existing General Residential Zone applicable to the land.

Further to this, the amendment was subsequently split with Part 1 approving the introduced Neighbourhood Residential Zone and Residential Growth Zone. Part 2 was put on hold and contains the General Residential Zone. Alongside this, the Housing Strategy (2004) was incorporated as a reference document into the Monash Planning Scheme.

It is noted that at the Council meeting of 26 February 2019, Council considered a report outlining the progress of Amendment C125, the ongoing discussions with DEWLP officers, and the further strategic work undertaken since the amendment was submitted to the Minister for Planning for approval in 2017.

At the time the original request to approve Amendment C125 was made Council indicated to the Minister that further strategic work, as identified in the Housing

Strategy would be undertaken for Accessible Areas, Activity Centres and Boulevards. However, this work would take several years and in the interim it was appropriate to establish a consistent approach to garden character across Monash.

Given the delays in approving Amendment C125 – Part 2, further strategic work for the Accessible Areas and Boulevards identified in the Monash Housing Strategy implementation plan has progressed. Although there remains further work on planning provisions and ultimately a potential future separate planning scheme amendment process for these areas, it is agreed that it is no longer appropriate to include these areas in Amendment C125 – Part 2. On this basis it was determined that Council request the approval of Amendment C125 - Part 2 with the removal of the Accessible Areas and Boulevards.

The future character of “Garden City” precincts envisages low scale residential development comprising of single and double storey detached dwellings, units and townhouses with generous setbacks, landscaping provision and architectural styling complementary to the surrounding area. Apartment development where appropriate within these localities should be in the form of lower to medium scale (2-3 storeys in height), be carefully designed having regard to the surrounding context and including substantial landscaping setbacks.

The Monash Housing Strategy amongst other items has identified the lack of greenfield land supply within the municipality. While the proposal would result in a modest addition to the housing supply, the combined bulk and mass of the development is not appropriate given the context. The housing strategy does not provide any policy justification for a seven storey residential building scale within this locality which is typified by modest, detached, single and double storey dwellings, and low scale commercial buildings.

The design response has little regard for the surrounding context in terms of built form outcomes, design objectives of the housing strategy and neighbourhood character. The Housing Strategy envisages development of a much lesser scale. The seven storey scale of the proposed development and lack of integrated landscaping will be visually dominant on the neighbourhood and landscape character of the surrounding area. The scale and massing impact of the development will be visually imposing on adjoining properties including adjoining public open space and car park areas to the south.

Whilst the precinct is identified for some increased density and more intensive development, the design response must appropriately integrate with surrounding development in scale and form and provide for better transition with surrounding residential areas. The seven storey scale of the proposal does not suitably achieve these objectives.

Syndal Structure Plan

The Subject Site is located on the periphery of the Syndal Neighbourhood Activity Centre as defined in the Syndal Structure Plan 1996. This document is included as a reference document within the Monash Planning Scheme. The areas identified as office / commercial within the structure plan have been rezoned over time for commercial land use.

An amended structure plan for the Syndal Activity Centre is to be prepared. In the intervening time new development should have proper regard for the surrounding context and applicable policy objectives.

State Planning Policy Framework

Plan Melbourne is the Metropolitan Strategy that planning authorities must consider when assessing applications for planning permits. The key directions that are of particular relevance to the proposal are:

“Understand and plan for expected housing needs.”

“Reduce the cost of living by increasing housing supply near services and public transport.”

“Facilitate the supply of affordable housing.”

Initiatives seek to locate a substantial proportion of new housing in or close to locations that offer good access to services and transport and employment areas.

Plan Melbourne also encourages varied types of housing such as low cost rental properties and aged care centres, providing a greater choice and diversity of housing.

Development should be appropriately located and minimise its impact on residential amenity of established residential areas. Development of the scale proposed is considered to be more appropriate to a Major Activity Centre.

Increased residential density and dwelling diversity is sought by state and local policies. Whilst the proposal satisfies increased density and housing diversity objectives, the design response fails to provide for built form outcomes having regard to the surrounding context and applicable residential development policy.

The close proximity of the Syndal Neighbourhood Activity Centre and limited sensitive interface given its main road location might provide some modest opportunity for increased scale and density, however the detail, form and scale of the proposal must be appropriate to the context and respond to applicable residential development policy.

Any redevelopment of the site needs to respond to the context of the area with a built form that sits comfortably within the streetscape and surrounding neighbourhood. Development within the commercial precinct of the Syndal Activity Centre typically has a maximum two storey street edge interface. Given

the location of the land on the outer periphery of the Syndal Activity Centre and residential zoning of the site, greater emphasis should be provided on transition and integration within the built form of residential areas to the west. This should include reduced overall height to a scale of 5-6 storeys.

Clause 15 aims to ensure that all land use and development appropriately responds to its surrounding character. Specifically, Clause 15.01-5S seeks to recognise, support and protect neighbourhood character, cultural identity and sense of place. Clause 15.01-1R and Clause 15.01-2S seeks to ensure that building design outcomes contribute positively to the local context and enhance the public realm and provides a high quality design.

Clause 17.02-1S seeks to:

Encourage development that meets the community's needs for retail, entertainment, office and other commercial services.

In achieving this objective, it is encouraged to locate commercial facilities in existing activity centres, providing small scale shopping opportunities that meet the needs of local residents and workers in convenient locations. It is considered that the scale and location of the proposed food and drink premises is appropriate in this regard.

Local Planning Policy Framework

Urban Design Principles & Neighbourhood Character

In assessing residential development of the scale proposed, Council must have consideration of the development's appropriateness having regard to context, public realm, safety, views and vistas, pedestrian spaces, empty sites, light and shade, energy and resource efficiency, architectural quality and landscape architecture outcomes.

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 Municipal Strategic Statement at Clause 21 identifies the Garden City Character of the municipality as a core value held by the community and Council as a significant and important consideration in all land use and development decisions.

It also encourages appropriate accommodation for the ageing population such as small, single storey units and purpose built housing. The Urban Character Map found in Clause 21.4 specifically excludes the site. The Tribunal found at the hearing for the previous application that it would not be appropriate to apply the preferred character outcomes given the exclusion of this site from the map. The built form outcome still needs to be appropriate to the context of the established residential area to the north and west. In this respect the scale of the development is substantially excessive and not appropriate.

Clause 21.06 (Major Activity and Neighbourhood Centres) is a recently introduced policy (January 2018) which identifies Syndal Activity Centre as a Neighbourhood Centre. The primary focus of Neighbourhood Activity Centres includes:

- *Primary focus for weekly convenience shopping, generally with a supermarket as the main drawcard of the Centre.*
- *Accessible by local public transport services with links to one or more Major Activity Centres*
- *Important community focal point, ideally close to schools, libraries, child care, health services, police stations and other facilities that benefit from various modes of public transport*

Strategic Directions for this centre include encouraging development within the centre that is of a moderately higher scale than the surrounding residential area. It is considered that the departure of the three storeys allowable in the surrounding General Residential Zone with the proposed seven storey building is too great and is not appropriate in this context.

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 submitted proposal is inconsistent with this policy guidance which seeks a more modest design response.

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. 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.

Whilst the architecture of the development has improved since the previous design to appear more residential in nature, the scale is not appropriate in this instance.

The Housing Strategy, recognised as a reference document, identifies the site as being within a garden city environment. The rear setback of the site provides for landscaping of between 1.83m – 3.0m in width. The previous application proposed setbacks of 1.83m-2.04m to the rear of the site for landscaping. The Tribunal in its previous decision determined that:

62. We consider that where this proposal abuts the reserve, it can and should contribute to the Garden City Character. We find that the setbacks from the reserve are not sufficient to achieve this.

Whilst the proposed setbacks will provide for a landscape buffer to be provided, it will not provide for substantial canopy tree planting to assist in softening the

upper levels of the building form except for the triangular area to the rear of 554 High Street Road.

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 scale and massing has improved since the previous proposal, by recessing the eastern and western interfaces above the third floor. The materiality has also improved by providing a more residential feel to the development. The amended proposal has also responded appropriately to the Council car park east of the site with ensuring that equitable development opportunities are maintained.

Specifically, the rear setbacks of the development have been revised as follows:

	Previous	Proposed
Basement		
South (554 High Street)	0m	3.0m
South (556 & 558 High Street)	2.0m	2.0m
Ground Floor		
South (554 High Street)	2.04m	3.0m
South (556 & 558 High Street)	4.5m	4.5m
First Floor		
South (554 High Street)	2.14m	3.0m
South (556 & 558 High Street)	4.5m-4.85m	4.2m
Second Floor		
South (554 High Street)	1.5m (balconies) - 3.5m (façade)	3.0m (rooftop garden) - 8.67m minimum to facade
South (556 & 558 High Street)	4.5m	4.2m
Third Floor		
South (554 High Street)	~7.2m minimum	8.67m minimum
South (556 & 558 High Street)	4.5m (balconies) - 6.51m (façade)	4.2m (balconies) - 7.31m (façade)
Fourth Floor		
South (554 High Street)	18 metres minimum	11.1m minimum
South (556 & 558 High Street)	6.51m – 7.53m	7.0m
Fifth Floor		
South (554 High Street)	N/A	20.15 minimum
South (556 & 558 High Street)	6.67m	7.0m (balconies) - 9.2m (façade)
Sixth Floor		
South (554 High Street)	N/A	20.12m
South (556 & 558 High Street)	6.67m	7.3m (balcony) - 9.3m (façade)

Seventh Floor		
South (554 High Street)	N/A	N/A
South (556 & 558 High Street)	6.67m (balconies) – 8.675m (façade)	N/A

The overall height of the development has reduced by 2.9 metres.

Previously, the presentation to High Street Road included a seven (7) storey interface with setbacks ranging from 0m to 6.5m at the upper level. The proposed development has an interface with six storeys, with setbacks ranging from 0m to 3.88m.

With respect to the High Street Road interface, the Tribunal found that a street wall height of three to four storeys reflects a pedestrian scale for the main road and is responsive to the built form found within the activity centre. It was found by the Tribunal that a setback at the lower levels to this interface was not required given the context of the site in an Activity Centre, on a main road and opposite Commercial Zoning.

With respect to the upper levels above the podium, the Tribunal found that the presentation to High Street was acceptable given the upper level setback of 6.6 metres allowed the building to be read as a 6 storey building from High Street.

The proposal has varied in its presentation to High Street with reduced setbacks proposed at the fourth and fifth levels from 4.5 metres to 4.18 metres, and the width of the upper levels has increased.

Given the width of the built form of the upper levels and the reduced setbacks proposed, the six storey presentation to High Street Road is not considered appropriate given the context of the site and the hierarchy of the activity centre. It is considered that a lower presentation to High Street Road would be more appropriate and in keeping with the character of the area.

The significant natural fall of the land to the south results in a seven storey building scale when viewed from the south. Built form outcomes to a scale of the proposal are substantially greater than the established form of the surrounding area and that envisaged by applicable policy. VCAT previously noted that *“while we accept that this site has characteristics that may allow consideration of an alternative design response including additional height, we agree with Council and the respondents that the tower element is too tall when viewed from the rear. We consider that the proposal does not respond to the sloping topography and does not transition to the residential hinterland in an acceptable manner”*. It is considered that this has not changed with the minimal overall height reduction.

Whilst the design response provides for reasonable facade articulation and elements of height graduation, the overall height and massing impact is still unacceptable given the surrounding context. Any revised design response should

pay attention to the substantial fall of the land, with the massing of the development graduated having regard to site levels and the interface with adjoining properties.

External Amenity Impacts

Whilst ResCode / Clause 58 is not specifically applicable in this case, it is a useful tool to assess external amenity impacts to adjoining residential properties. With respect to the setbacks to the rear, the rear (southern) interface provides a three storey wall height presentation setback between 3 metres and 4.2 metres from the rear boundary of the site. Given the wall heights of between 9.35m and 10.73 metres above natural ground level, these setbacks do not comply with this standard. Notwithstanding this, the location of the Council car park and St Claire Crescent Reserve abuts the land to the rear providing some relief to the residential properties to the rear. It is considered from an amenity point of view for the residential properties that the setbacks to the lower levels of the building is appropriate.

The remaining levels also fail to meet this standard with respect to rear setbacks. If the development is limited to 6 storeys to the rear of the site, the setbacks of the lower levels would be considered to be appropriate.

The proposed walls located on the eastern and western boundary of the site would not comply with Clause 55 with respect to height if this were applicable. Clause 58.04-1 (Building Setback Objectives) requires:

- *Buildings should be set back from side and rear boundaries, and other buildings within the site to:*
 - *Ensure adequate daylight into new habitable room windows.*
 - *Avoid direct views into habitable room windows and private open space of new and existing dwellings.*
 - *Developments should avoid relying on screening to reduce views.*
 - *Provide an outlook from dwellings that creates a reasonable visual connection to the external environment.*
 - *Ensure the dwellings are designed to meet the objectives of Clause 58.*

Abutting the site to the east is Council's car park. To this interface, it is considered that the response is appropriate to ensure equitable future development of this land should it ever be proposed. The Tribunal in its decision raised concerns regarding setbacks of apartments facing the eastern boundary of the site. These apartments have been set back further from the boundary, with windows being set back a minimum of 4.8 metres from this boundary therefore allowing equitable future development of the car park.

To the west of the site is the Greenmount Nursery, also located within the General Residential Zone. The proposed wall on the boundary is considered to be an acceptable response in this case given a three storey building height could be anticipated for any future development of this land in accordance with the

mandatory height provisions of the General Residential Zone. The Tribunal in their previous VCAT decision determined that this response was appropriate.

The proposal will not result in any unreasonable overshadowing of adjoining secluded private open space and daylight impact to adjoining existing habitable room windows given the separation of the site from adjoining residential properties.

No buildings are proposed within 9 metres of adjoining habitable room windows or secluded private open space and therefore there will be no unreasonable overlooking to adjoining residential properties.

Internal Amenity

Access for the development is provided for car and bicycle parking. Provision of a drop off / pick-up area is also provided within the basement which can be used for emergency vehicles and deliveries.

Vehicles can enter and exit the site in a forwards direction.

The main pedestrian entry has convenient access from High Street Road and is sheltered from the weather.

No ground floor habitable room windows are located adjacent to the accessway which may be impacted by noise generation.

Windows will receive appropriate access to daylight as all windows are located to face an outdoor space clear to the sky with a minimum area of 3sqm and minimum dimension of 1 metre clear to the sky.

A communal rooftop area to the rear of level 1 of 339sqm is provided for residents in addition to a gymnasium and pool located on the ground floor.

The internal corridors running east – west at levels above the ground floor are provided with appropriate light and ventilation.

Balcony spaces to apartments should be a minimum of 8 metres square in area with a width greater than 2.0 metres providing for reasonable recreational amenity. In some cases, balcony widths and calculations have been taken from the external side of the balustrade. Some apartments do not meet this minimum requirement including Apartments 007, Apartment 006 and 109.

Whilst some apartments rely on battleaxe / 'snorkel' light corridors, the width and depth of these are appropriate with no overhang from the building above. Therefore these are considered to be appropriate.

Internal overlooking has been treated using highlight windows and blade screening. It is noted that whilst the detailed floor plans show fin walls between the snorkel bedroom windows proposed, this is not reflected on the floor plans. If a Permit were to be issued, a condition of the Permit would require this to be clarified.

Car Parking, traffic and access

The requisite car parking spaces required under Clause 52.06 would be provided as shown in the following table:

Use	Clause 52.06 Requirement	Floor Area / No. of dwellings	Car spaces required	Car spaces provided
Retirement Village	1 sp / one and two bedroom dwelling	83 lodging rooms	83 car spaces	88 Car Spaces
Food and Drink Premises	3.5 spaces / 100sqm of net floor area	191sqm	5 car spaces	4 car spaces plus one DDA compliance space
Total Required			88 Car Spaces	
Total Provided				93 Car Spaces

The site is located within the PPTN and therefore there is no requirement for visitor parking for the retirement village use.

As 93 car spaces are proposed on the site, a surplus of 5 car spaces is provided and therefore meets the requirements of Clause 52.06 of the Monash Planning Scheme.

It is noted that the without prejudice plans provided to Melbourne Water to satisfy their requirements has resulted in the deletion of 4 car spaces, resulting in a total of 89 car spaces which still satisfies the requirements of Clause 52.06.

Council's Transport Engineering Department had no concerns with the proposal subject to the relocation of the accessible space to be relocated in closer proximity to the lift well.

Bicycle Parking

Bicycle parking is provided in accordance with the requirement specified by Clause 52.34-3 of the Monash Planning Scheme. The table below details the number of bicycle parking spaces required:

Use	Clause 52.06-5 Requirement	Floor Area / No. of dwellings	Bike parking requirement generated
Retirement Village (Residential Building other than specified in this table)	1 space / 10 lodging rooms for residents	83 Lodging Rooms	8 bike spaces
	1space / 10 lodging rooms for visitors		8 Bike spaces
Food and drink premises (retail premises other than specified under Table 1 to Clause 52.34)	1 space / 300sqm of leasable floor area for residents	191sqm	0 bike spaces
	1 space / 500sqm of leasable floor area for visitors		0 bike spaces
TOTAL REQUIRED			16 bike spaces
TOTAL PROVIDED			37 bike spaces

As a total of 37 bicycle spaces are provided on the site, no reduction is sought.

Retirement Village and Food and Drink Premises Uses

As noted above, there is support from both state and local policies for the provision of retirement village in this location. The development includes a gymnasium at the ground floor including a pool area. The gymnasium also includes four consulting rooms and female and male changing rooms.

Whilst there is a door to the street, this is identified for emergency access. However, this could be potentially used for individual access to and from the gymnasium. Given the layout of the facilities, if the development were to be approved a condition of the Permit would require a Section 173 Agreement to be prepared which requires these facilities are only used by residents to ensure that the ancillary nature of this use is maintained.

The site's location within the Syndal Activity Centre makes it appropriate for a food and drink premises of this scale to be located at the ground floor. The premises is proposed to operate from 7:30am-4pm Monday to Sunday and 5pm-10pm Friday to Sunday with 3-4 staff and 50-60 patrons.

Given that no outdoor areas are proposed for the food and drinks premises, and is provided with its own entrance to the building, it is not considered that this tenancy will result in any unreasonable impacts to the future residents of the building or existing residential properties in the surrounding area.

Environmentally Sustainable Development

Clause 22.13 (Environmentally Sustainable Development Policy) requires the Submission of a Sustainability Management Plan. A report was prepared by Sustainable Development Consultants which includes a BESS assessment and daylight modelling. The assessment has been undertaken to meet minimum sustainability policy provisions contained within the Planning Policy Framework and Local Planning Policy.

CONCLUSION:

Whilst the proposal would support the broad increased density objectives of the Monash Planning Scheme, it is considered it would do so at the expense of the competing neighbourhood character policy within the Scheme and the Zoning provisions of the land.

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, landscaping and future amenity outcomes for residents.

Whilst heights greater than three storeys can be anticipated on this site, the height and scale of the development must respond appropriately to the classification of the Neighbourhood Activity Centre and the residential properties to the rear of the site. The use of the land for a retirement village is not mere justification for development of increased density and scale of the extent proposed. Whilst these attributes might provide for some opportunity, the excessive form and scale of the proposal is inappropriate. The proposal is inappropriate 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 not be supported.

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.