

**1.3 1 JACKSONS ROAD, MULGRAVE  
USE AND DEVELOPMENT OF A CHILDCARE CENTRE AND REDUCTION IN THE CAR PARKING  
RATE FOR THE UNOCCUPIED WAREHOUSE ON THE SITE  
(TPA/48276)**

**EXECUTIVE SUMMARY:**

This application proposes to construct a double storey childcare centre at the south east corner of the property accommodating up to 200 children. The child care centre will replace the existing childcare centre which operates from within an existing office building on the land.

The application also seeks to reduce the number of car spaces to be provided to the warehouse on this site, which is currently unoccupied.

The application was subject to public notification. Five (5) objections to the proposal have been received.

Key issues to be considered relate to impact of proposal on adjoining residential properties, street setback and car parking.

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

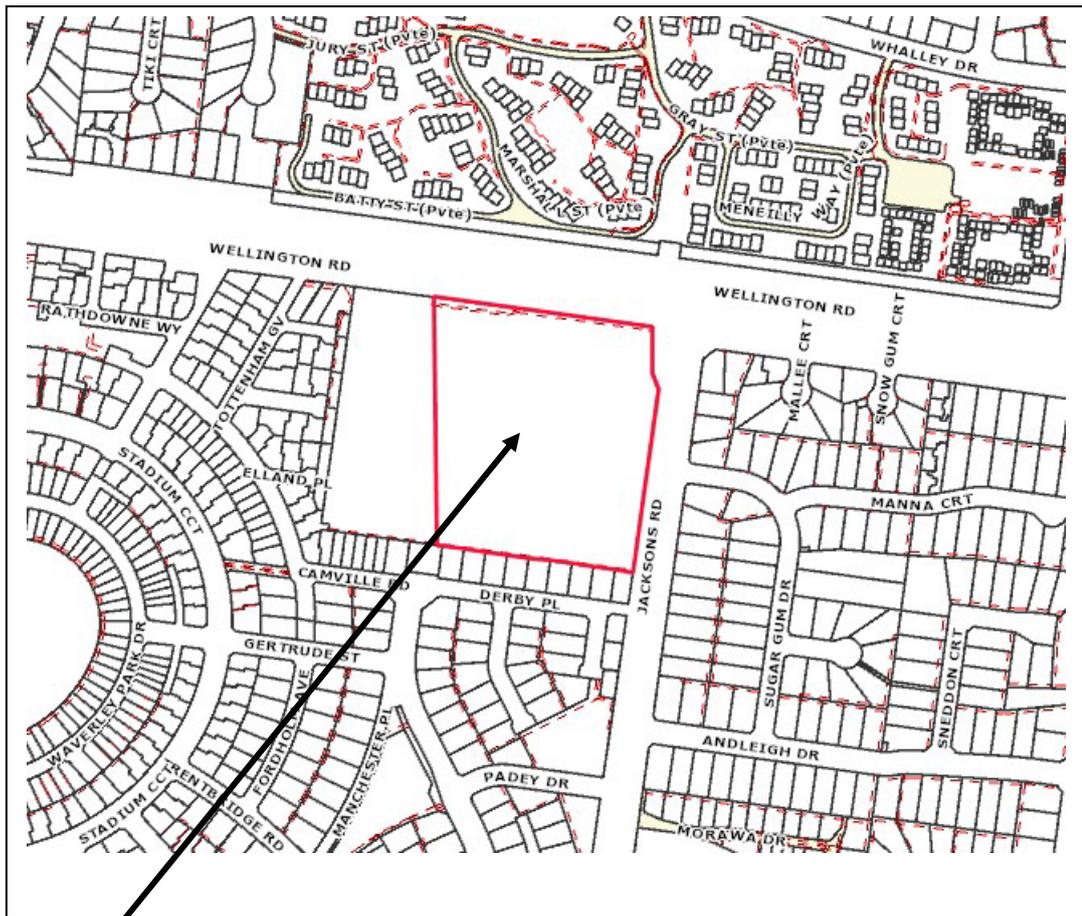
**The reason for presenting this report to Council is the proposed development cost of \$3.9 million dollars.**

**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.**

<b>RESPONSIBLE DIRECTOR:</b>	<b>Peter Panagakos</b>
<b>RESPONSIBLE MANAGER:</b>	<b>Angela Hughes</b>
<b>RESPONSIBLE PLANNER:</b>	<b>Sue Monagle</b>
<b>WARD:</b>	<b>Mulgrave</b>
<b>PROPERTY ADDRESS:</b>	<b>1 Jacksons Road, Mulgrave</b>
<b>EXISTING LAND USE:</b>	<b>Industrial site (former Body Shop site)</b>
<b>PRE-APPLICATION MEETING:</b>	<b>Yes</b>
<b>NUMBER OF OBJECTIONS:</b>	<b>Five (5)</b>
<b>ZONING:</b>	<b>Commercial 2 Zone</b>
<b>OVERLAY:</b>	<b>Design and Development Overlay 1 (DDO1)</b>
<b>AMENDMENT C125 (adopted)</b>	<b>N/A</b>
<b>RELEVANT CLAUSES:</b> <u><b>State Planning Policy Framework</b></u> <ul style="list-style-type: none"> <li>• Clause 11: Settlement</li> <li>• Clause 11.06: Metropolitan Melbourne</li> <li>• Clause 11.06-1 – Jobs and Investment</li> <li>• Clause 11.06-5 Neighbourhoods</li> </ul>	<u><b>Local Planning Policy Framework</b></u> <ul style="list-style-type: none"> <li>• Clause 21.05 - Economic Development</li> <li>• Clause 21.07 - Business Parks and Industry</li> <li>• Clause 21.08- Transport and Traffic</li> </ul>

<ul style="list-style-type: none"> <li>• Clause 11.06-6- Sustainability and resilience</li> <li>• Clause 13: Environmental Risk</li> <li>• Clause 13.04-1 – Noise abatement</li> <li>• Clause 15: Built Environment and Heritage</li> <li>• Clause 17 – Economic Development</li> <li>• Clause 17.01-1 Business</li> <li>• Clause 18: Transport</li> <li>• Clause 18.02-5 Car parking</li> </ul>	<ul style="list-style-type: none"> <li>• Clause 21.13- Sustainability and Environment</li> <li>• Clause 22.03- Industry and Business Development and Character Policy</li> <li>• Clause 22.03- Stormwater Management Policy</li> <li>• Clause 22.05- Tree Conservation Policy</li> <li>• Clause 22.13- Environmentally Sustainable Development Policy</li> </ul>
<b>STATUTORY PROCESSING DATE:</b>	<b>13 January 2018</b>
<b>DEVELOPMENT COST:</b>	<b>\$3.9 million</b>

### LOCALITY PLAN



**SUBJECT SITE**

### NEIGHBOURHOOD PLAN



**RECOMMENDATION:**

That Council resolves to issue a Notice of Decision to Grant a Planning Permit (TPA/48276) for the use and development of a childcare centre and a reduction in the Statutory car parking rate for the unoccupied warehouse on the site, at 1 Jacksons Road, Mulgrave subject to the following conditions:

1. Before the development starts, three copies of amended 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) A minimum front setback to the building of not less than 7.6 metres.
  - b) All on site car parking spaces allocated for childcare centre use to be increased in width to not less than 2.6 metres. Any resulting changes to the layout of the carpark, and/or reduction in the number of car parking spaces must be to the satisfaction of the Responsible Authority.
  - c) Landscape Plan required by condition 7 of this permit.
  - d) Details, including plans if applicable of proposed acoustic screening to roof top plant.
  - e) Detailed plans of proposed front fencing along Jacksons Road. Elevation plans must include height of fence and construction material.
2. The development and use as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
  3. Once the development and use has started it must be continued and completed to the satisfaction of the Responsible Authority.
  4. Prior to the commencement of the childcare centre use hereby permitted, the owner of the land must enter into an agreement under section 173 of the Planning and Environment Act 1987 in which the owner agrees that the warehouse use approved by planning permit 61/04/2985(b) will not operate in any manner unless sufficient on site car parking is first provided in accordance with clause 52.06 of the Monash Planning Scheme and to the satisfaction of the Responsible Authority.

The agreement must also provide that the building must not be used for any other use unless written confirmation has been obtained from the Responsible Authority.

The agreement must also provide for the owner to pay Council's costs of preparing, registering and then upon its ending, deregistering the agreement.

5. Prior to the commencement of development for the usage of the land to be changed for a sensitive use permitted by this permit for the land, you are required to provide to Council either:
  - a) A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970; or
  - b) An environmental auditor appointed under the Environment Protection Act 1970 must make a Statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.

Three copies of the Certificate of Environmental Audit or the Statement of Environmental Audit and the audit area plan must be submitted to the Responsible Authority.

The development/use allowed by this permit must strictly comply with the directions and conditions of the Environment Protection Act 1970 and also with the conditions on the Certificate or Statement of Environmental Audit.

A section 173 Agreement under the Planning and Environment Act 1987 may need to be entered into with the Responsible Authority depending on the conditions of the Statement of Environmental Audit issued for the land. Any amendment must be approved by the Responsible Authority prior to the commencement of any works, use and development and may require further assessment of the land.

Prior to the use of the land permitted by this permit a letter must be submitted to Council prepared by an Environmental Auditor appointed by the Environment Protection Authority under the Environment Protection Act 1970 to verify that the conditions of the Statement of Environmental Audit issued for the land have been satisfied.

- A copy of the certificate or statement of Environmental Audit issued for the land must be provided to each owner, under a covering letter which draws attention to any conditions or directions on the Certificate or Statement of Environmental Audit.
- The land owner and all its successors in title or transferees must upon release for private sale of each of the lots created (if any) by the subdivision include in the Vendor's Statement pursuant to Section 32 of the Sale of Land Act 1962 annexed to the Contract of Sale for the sale of the land, a copy of the planning permit and relevant plans, Certificate or Statement of Environmental Audit for the land and any management plans or other documentation required to be prepared and adhered to in respect of the land.

Note:

Should the land be unable to be remediated or the Environmental Audit Certificate or Statement conditions seek change to the form of development approved under this permit or extensive statement conditions for the future management of the site, the Responsible Authority may seek cancellation or amendment to the permit pursuant to Section 87 of the Planning and Environment Act, 1987.

6. Outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.
7. The use may only operate between the hours of 7.00 and 6.30 pm Monday to Friday, without the further written consent of the Responsible Authority.
8. Not more than 200 children may be cared for on site at any one time.
9. A landscape plan prepared by a Landscape Architect or a suitably qualified or experienced landscape designer, drawn to scale and dimensioned must be submitted to and approved by the Responsible Authority prior to the commencement of any works. The plan must show the proposed landscape treatment of the site and be generally in accordance with the landscape masterplan prepared by Tract Ref: Drawing number 0316-0868-D004 Rev 03 dated 26.09.2017 including:-

- a) the location of all existing trees and other vegetation to be retained on site
- b) provision of canopy trees with spreading crowns located throughout the site including the major open space areas of the development
- c) planting to soften the appearance of hard surface areas such as driveways and other paved areas
- d) a schedule of all proposed trees, shrubs and ground cover, which will include the size of all plants (at planting and at maturity), their location, botanical names and the location of all areas to be covered by grass, lawn, mulch or other surface material
- e) the location and details of all fencing
- f) the extent of any cut, fill, embankments or retaining walls associated with the landscape treatment of the site
- g) details of all proposed hard surface materials including pathways, patio or decked areas

When approved the plan will be endorsed and will then form part of the permit

10. Prior to the commencement of any works that are permitted by this permit, all trees that are to be retained, or are located within or adjacent to any works area shall be marked and provided with a protective barricade and verified by an authorised officer of the Responsible Authority.
11. No building material, demolition material or earthworks shall be stored or stockpiled under the canopy line of any tree to be retained during the construction period of the development hereby permitted
12. All work within the dripline of any tree to be retained shall 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 those trees.
13. 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;
14. No goods must be stored or left exposed outside the building so as to be visible from any public road or thoroughfare.

#### Waste Management Plan

15. The use must not commence until a Waste Management Plan is prepared for the collection and disposal of garbage and recyclables for all uses on the site has been endorsed. The Waste Management Plan shall provide for:
  - a) The method of collection of garbage and recyclables for uses;
  - b) Designation of methods of collection utilizing private services;
  - c) Appropriate areas of bin storage on-site and areas for bin storage on collection days;
  - d) Measures to minimize the impact upon local amenity and on the operation, management and maintenance of car parking areas;

- e) Litter management.

The plan must be prepared and implemented to the satisfaction of the Responsible Authority. Once approved the Waste Management Plan will be endorsed to form part of this permit.

16. 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.
17. 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.
18. Any waste storage rooms must be constructed so to prevent the entrance of vermin and must be able to be easily cleaned. The floor must be graded to a sewer connection located within the waste storage room.

#### Traffic

19. Before the use hereby permitted is commenced, areas set aside for parked vehicles 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.

Parking areas and access lanes must be kept available for these purposes at all times.

20. The loading and unloading of goods from vehicles must only be carried out on the land.
21. The development must be drained to the satisfaction of the Responsible Authority.
22. No equipment, services, architectural features or structures of any kind, including telecommunication facilities, other than those shown on the endorsed plans shall be permitted above the roof level of the building unless otherwise agreed to in writing by the Responsible Authority.
23. Any required fire services, electricity supply, gas and water meter boxes must be discreetly located and/or screened to compliment the development to the satisfaction of the Responsible Authority. Any required services must be cleared detailed on endorsed plans forming part of this permit.

#### Construction Management Plan

24. Before the development starts, a construction management plan must be prepared and submitted to the Responsible Authority for approval. The plan must be to the satisfaction of the Responsible Authority. Once approved, the plan must be implemented to the satisfaction of the Responsible Authority. The plan must address the following issues:

- a) measures to control noise, dust and water runoff;
  - b) prevention of silt or other pollutants from entering into the Council's underground drainage system or road network;
  - c) the location of where building materials are to be kept during construction;
  - d) site security;
  - e) maintenance of safe movements of vehicles to and from the site during the construction phase;
  - f) on-site parking of vehicles associated with construction of the development;
  - g) wash down areas for trucks and vehicles associated with construction activities;
  - h) cleaning and maintaining surrounding road surfaces;
  - i) a requirement that construction works must only be carried out during the following hours:
    - Monday to Friday (inclusive) – 7.00am to 6.00pm;
    - Saturday – 9.00am to 1.00pm;
    - Saturday – 1.00pm to 5.00pm (Only activities associated with the erection of buildings. This does not include excavation or the use of heavy machinery).
25. The owner and management of the premises must ensure that any noise emanating from the premises, during and post construction, must not exceed the standards of the State Environment Protection Policies No. N1 and N-2 must on request provide evidence to Council of Compliance with the policies.
26. Mechanical plant noise must at all times comply with State Environment Protection Policy No. N-1 (SEPP N-1)
27. No external loudspeakers shall be used in the general operation of the childcare centre (excluding emergencies).
28. Air-conditioning and other plant and equipment installed on or within the buildings must be so positioned and baffled that any noise emitted complies with the appropriate Australian Standards and EPA requirements.
- At the immediate request of the Responsible Authority noise testing must be taken to demonstrate compliance with EPA noise requirements. Noise testing is to be undertaken at no cost to the Responsible Authority.
29. Motors for equipment and air-conditioning/heating units to be located where no noise nuisance created to neighbours or insulated/sound proofed
30. This permit will expire in accordance with section 68 of the Planning and Environment Act 1987, if one of the following circumstances applies:
- The development is not started before 2 years from the date of issue.
  - The development is not completed before 4 years from the date of issue.
- 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 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.

## NOTES:

1. Building approval must be obtained prior to the commencement of the above approved works.
2. Premises used for the sale or storage of food in any manner whatsoever are to be registered under the Food Act and require Council approval before occupation.
3. Unless no permit is required under the planning scheme, no sign must be constructed or displayed without a further permit.
4. Any new drainage connections onto a Council easement drain and work within the road reserve requires the approval of the City of Monash's Engineering Division prior to the works commencing. One printed copy of the plan (A3-A1 size) for the drainage works must be submitted to and approved by the Engineering Division. The plans are to show sufficient information to determine that the drainage works will meet all drainage conditions of the permit.
5. The layout of the development shall follow the Design Standards for car parking set out in Clause 52.06-9 of the Monash Planning Scheme to the satisfaction of the Responsible Authority.
6. Accessible parking spaces on site must be designed in accordance with the Australian Standards for off-Street Parking for people with disabilities, AS/NZS 2890.6.
7. Any future subdivision of the approved development must provide the requisite number of car spaces required by Clause 52.06-5 of the Monash Planning Scheme for the childcare centre hereby approved, or by any future amendments.
8. All on-site stormwater is to be collected from hard surface areas and must not be allowed to flow uncontrolled into adjoining properties. The on-site drainage system must prevent discharge from the driveway onto the footpath.
9. Stormwater discharge is to be detained on-site to the predevelopment level of peak stormwater discharge. Approval of any detention system is required from Council prior to works commencing.
10. Direct the entire site's stormwater drainage to the north-east corner of the property where it must be collected and free drained via a pipe to the Council pit within the property. (A new pit is to be constructed if a pit does not exist or is not a standard Council pit).
11. Engineering permits must be obtained for new or altered vehicle crossings and civil works within the road reserve and these works are to be inspected by Council (tel. 9518 3690).
12. 'Building over easement' approval is required.

**BACKGROUND:****History**

A planning scheme amendment (C136) was submitted to Council on 17 August 2017 proposing to rezone the application site and 634-648 Wellington Road from Commercial 2 Zone to Mixed Use Zone. A new Design and Development Overlay Schedule is proposed to be applied together with the application of an Environmental Audit Overlay.

The amendment application is in its early stages with further information being requested from the applicant. The proposed amendment has no statutory weight and cannot be considered as a 'seriously entertained' planning policy at this point.

It is noted that a childcare centre use would remain as a 'permit required use' under a Mixed Use Zone.

**The Site and Surrounds**

The subject site is located at the other western corner of Jacksons Road and Wellington Road in Mulgrave. The land is square in shape with a street frontage to Jacksons Road of approximately 208 metres, frontage to Wellington Road of approximately 184 metres and a total site area of 3.67 hectares.

The land rises significantly from its north east corner (adjacent to intersection) to both the south and west, with a level change of approximately 14 metres between the north-east and north-west corners of the property and 6 metres between the north east and south east corners of the property.

A large double storey office building and connected single storey warehouse occupies the site, however only the office building is currently in operation. Included within the office building is an existing childcare centre which caters for 115 children.

Surrounding these buildings are extensive areas of at grade car parking set within a treed garden setting containing approximately 150 trees. The Mulgrave Farmers Market operates from the carpark area each Sunday.

Vehicle access to the site is from Jacksons Road with left out only access also available from Wellington Road.

No covenants are registered on title.

Features of adjoining land are as follows:

- North:** Wellington Road (Category 1 Road) extends along the northern frontage of the site. The siting of the proposed childcare centre adjacent to the southern boundary of the site means that the centre will not be visible from Wellington Road.
- South:** Backyards to residential dwellings fronting Derby Place adjoin the site on its southern boundary. All adjoining dwellings are double storey in scale and generally setback from the common boundary within 3-7.5 metres.
- East:** Jacksons Road extends along the eastern frontage to the site. Land on the opposite side of Jacksons Road is zoned General Residential (GRZ2) and comprises a mix of single and double storey homes.

**West:** Land directly abutting the subject site is also zoned Commercial 2 and is developed with warehouse/office development.

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

**PROPOSAL:**

The proposal is to develop the south east corner of the site with a two storey childcare centre. The remainder of the site will remain is. The total area proposed to be occupied by the childcare centre and associated car parking is 6736 square metres or approximately 18% of the total site area. The child care centre itself (including buildings and playgrounds) will occupy approximately 900 square metres of this area.

Features of the proposal are as follows:

- Construction of a two storey childcare centre with associated car parking and access modifications.
- The ground floor level comprises 8 separate care areas for differing age groups ranging from 0-1 year olds, through to 4 year olds. Two separate outdoor play areas are proposed at ground level, the main areas being located on the northern side of the building and orientated towards the remainder of the site, and the second small area located within the front setback to Jacksons Road. The main pedestrian entry to the building is located at its rear, adjacent to the carpark. The kitchen area and store are also located at ground level.
- The first floor level comprises ancillary type rooms comprising of an art room music room, exercise room and multi-purpose area. Staff facilities and amenities are also located on this floor level.
- An enclosed under-croft play area storage is proposed at the north west corner of the building.
- The building will be setback from the Jacksons Road frontage between 6 metres and 19.13 metres.
- The southern (side) façade of the building will be setback for the most part, 4 metres from the adjacent boundary to residential properties, with a 20 metre section of wall (adjacent to service ramp) proposed to be constructed along the boundary however will not extend above the existing fence height.
- The building will have a maximum building height of 9 metres, but a maximum height above natural ground level of 9.22 metres. Along the southern boundary, the building has a maximum height of 6.13 metres above natural ground level.
- The building adopts a modern appearance and form, its façade a mix of textured brick and timber cladding elements. Outdoor play areas have been orientated towards the north or east with a first floor roof terrace located at the north-eastern end of the building.
- The development has been designed to retain of one of the high value Algerian Oaks (located in playground area), with the remaining high retention value Algerian Oak to be retained within the carpark to the west of the building.
- Four other trees of lower retention value will be retained within the carpark, with the remaining trees within the childcare centre location proposed for removal.
- A total of 44 car spaces are proposed to service the childcare centre within the rear western carpark (along with a loading bay) of which 16 car spaces are proposed to be dedicated to staff spaces. Minor alterations are proposed to the layout of this carpark.

Attachment 1 details plans forming part of the application.

**PERMIT TRIGGERS:**

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

Commercial 2 Zone Provisions

- Clause 34.02-1 – Use of land for the purpose of a childcare centre.
- Clause 34.02-3 – construction of a building and construct or carry out works

DDO1 Provisions (Industrial and Commercial Design and Development Area).

- Clause 43.02-2 – construction of a building or construct or carry out works.

Car parking – Clause 52.06

- Clause 52.06 -5 – reduce the number of car parking spaces required under Clause 52.06-5.

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 2017. This related to clarification of the number of car spaces to be provided on the site in relation to the warehouse and resulted in the application being amended to include a proposed reduction in car parking to the warehouse on the site.

The Applicant was verbally advised on 26 February 2018 that this application was coming to the March Council meeting, in addition to a letter that was sent to the Applicant formally informing them of the details of the Council meeting. The Applicant has been verbally advised that this application is recommended for approval subject to conditions.

**Public Notice**

The application was advertised in accordance with section 52 of the *Planning and Environment Act 1987* by way of notices sent to the surrounding property owners/occupiers, and signs displayed at the Jacksons Road and Wellington Road frontages of the site.

Five objections were received to the application.

Objections received for the applications included the following:

- Impact on health of adjoining residents and pets to the south.
- Change of outlook from backyards from trees to building.
- Construction noise/dust will be detrimental.
- Concerns with excavation next to residential properties.
- Removal of trees and habitat to accommodate development.
- Noise impact resulting from outdoor playground close to residential boundaries.
- Unjust to construct commercial building along residential boundary.
- Waste removal twice a week is not sufficient.
- Commercial kitchen requires industrial equipment such as fans and ovens and this raises concerns given proximity of kitchen to residential properties.

- The site should have a masterplan.
- Impact on further development of residential properties.
- Concerns raised with how the construction phase of the development will be managed.
- Question need for another childcare centre in the area.
- Loading ramp abuts rear fence and noise will cause detriment.
- Impact of lighting and noise on amenity of adjoining backyards.
- Overshadowing.
- Concerns with drainage along common boundary to residential properties.
- Loss of outlook.
- Impact on privacy

Attachment 4 details the location of objector properties.

### **Referrals**

#### Internal referrals

##### Traffic

The application was referred to Council's Traffic Engineers and their comments have been considered in the assessment of the proposal and discussed in more detail in 'Car parking provision' section of this report

##### Drainage

The application was referred to Council's drainage Engineers who have no concerns regarding the proposal subject to conditions.

#### External Referrals

##### VicRoads

The application was referred to VicRoads. They have advised that they have no objection and do not require any conditions to be included if a planning permit were to issue.

### **DISCUSSION:**

#### Zoning

The site is zoned Commercial 2 Zone the purposes of which are:

- To implement the State Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods, retailing, other retail uses, and associated business and commercial services.
- To ensure that uses do not affect the safety and amenity of adjacent, more sensitive uses.

Clause 34.02-7 sets out the decision guidelines for the use and development of land within this zone. These have been considered as part of the assessment of the application.

### DDO1 – Design and Development Overlay 1 (DDO1)

The site is covered by the Design and Development Overlay 1 (DDO1) (Industrial and Commercial Design and Development Area) which sets out a number of design and built form parameters for the development of land affected by this overlay, including building and carpark setbacks, fencing, services and road/street setbacks.

On balance, the proposal shows a high degree of compliance with the DDO1 controls, with variations requested in relation to the front setback.

This will be discussed in more detail in the 'Assessment' section of the report.

### Consistency with State and Local Planning Policies

#### Plan Melbourne 2017-2050

Plan Melbourne 2017-2050 is the current Metropolitan Planning Strategy designed to guide the growth and development of Melbourne over the next 30 years. Of relevance to this application are the overarching principals which seek the creation of strong and healthy communities, appropriate infrastructure, investments and the notion of living locally through the creation of 20 minute neighbourhoods.

The current proposal is consistent with the broad principal, outcomes and directions promoted by Plan Melbourne 2017-2050.

#### State Planning Policy Framework

Relevant state planning policies to this application include:

- Clause 11: Settlement
  - Clause 11.02- Supply of Urban Land.
  
- Clause 11.06: Metropolitan Melbourne
  - Clause 11.06-1 – Jobs and Investment
  - Clause 11.06-5 Neighbourhoods
  - Clause 11.06-6- Sustainability and resilience
  
- Clause 13: Environmental Risk
  - Clause 13.04-1 – Noise abatement
  
- Clause 15: Built Environment and Heritage
  - Clause 15.01-1 Urban Design
  - Clause 15.01-2 Urban design principles
  - Clause 15.01-4 Design and safety
  - Clause 15.01-5 Cultural Identity and neighbourhood character
  - Clause 15.02-1 Energy and resource efficiency.
  
- Clause 17 – Economic Development
  - Clause 17.01-1 Business
- Clause 18: Transport
  - Clause 18.02-5 Car parking

The proposal is considered generally consistent with these relevant State Planning policies.

#### Local Planning Policy Framework

The Local Planning Policy Framework is set out at Clause 21 (municipal Strategic Statement (MSS) and Clause 22 (Local Planning Policies) of the Monash Planning Scheme. These policies provide local context to the broader state planning policy objectives. Relevant clauses are:

- Clause 21.05 - Economic Development
- Clause 21.07 - Business Parks and Industry
- Clause 21.08- Transport and Traffic
- Clause 21.13- Sustainability and Environment

Local Policies relevant to this application are:

- Clause 22.03- Industry and Business Development and Character Policy
- Clause 22.03- Stormwater Management Policy
- Clause 22.05- Tree Conservation Policy
- Clause 22.13- Environmentally Sustainable Development Policy

The proposal is considered generally consistent with the objectives of these policy clauses. This is discussed in more detail in the 'Assessment' section of the report.

#### Assessment

##### Is the proposed use appropriate?

The concept of developing a section of the site for the purpose of a childcare centre is considered appropriate in both the broader strategic sense and more specifically the zoning purpose.

The proposed child care centre will replace the existing smaller childcare centre located within the existing office building on the site. The existing office will continue to operate from the site, however both uses should continue to co-locate harmoniously from the site supported by adequate on site car parking and good separation between the two uses.

The warehouse use of the site ceased in August 2016, however could recommence under planning permit 61/04/2985(B) as the use has not stopped for a period of two or more years. However the current owner does not intend for this use to recommence. A condition of permit will require that the owner enter into a 173 agreement with Council agreeing not to recommence the use. This will ensure the harmonious relationship between uses continues on the site, whilst also ensuring adequate on site car parking remains available.

As the site has also previously been used for industrial/warehouse type uses in the past, it is appropriate to consider any potential contamination on the site, especially for a sensitive land use like a childcare centre. In its written submission, the applicant advises the following in this regard to this issue.

*'The previous uses of the site for industrial/warehouse purposes means the site may have a high potential for land contamination. In assessing the likelihood of land contamination it is noted that the area where the childcare centre is proposed is in an area removed from the former warehouse building (approximately 12 metre separation distance) and therefore is less likely to be situated on contaminated land. It is considered therefore to be more appropriate for a planning permit condition to be applied requiring a site assessment from a suitably qualified professional to be undertaken in the first instance to determine whether an environmental audit is required.'*

This approach is considered reasonable and is recommended by officers.

The balance of the land will continue to operate in its current manner, including the operation of the Sunday market.

#### Does the development sit comfortably in its neighbourhood setting?

The site is zoned for commercial purposes and is bound by busy roads along its northern and eastern boundaries. The proposed childcare centre is located at the south east corner of the site and will not be visible from the Wellington Road frontage. The centre will front Jacksons Road, however due to the sloping topography of area, will not be visible to north bound traffic along Jacksons Road, with the most exposed views of the childcare centre being from the residential land on the opposite side (east side) of Jacksons Road and from vehicles travelling south along Jacksons Road. Abutting residential development to the south (part of the Waverley Park Estate) which back directly onto the development site represent the most sensitive interface to the development and this aspect will be discussed in more detail later in the report.

Clause 22.03 (Industry and Business Development Policy) is applicable to this application and seeks to ensure that new development in Industrial and Commercial areas enhances the streetscape and respects the amenity of these areas. In this instance, the subject site is not identified as having a specific character type. However the application has been assessed against the various design guidelines set out at clause 22.03-3 and the relevant DDO1 provisions, as well as consideration of objections. The main issues for consideration with this application are identified as follows:

- Is the use appropriate for the site and area?
- Is the proposed childcare centre setback sufficiently from Jacksons Road?
- Has the proposed childcare centre been sited and designed to respect the amenity of adjoining residential dwellings to the south? And will it operate in a manner that respects the amenity of residents?
- Does the proposal retain trees where possible?
- Is there sufficient car parking available on site for future users of the childcare centre?

#### Setback to Jacksons Road

The proposal has a varied setback to Jacksons Road ranging from 6 metres at its northern end adjacent to the site entrance from Jacksons Road and steadily increasing to 19.13 metres at its southern end, where it interfaces with the backyards of residential properties facing Derby Place (part of Waverley Park Estate).

The front setback to the building will be fenced with open style fencing and utilised as an outdoor play area. A detailed landscape master plan has been prepared by Tract Consultants for all outdoor play areas and incorporates high quality landscaping and play areas for the childcare centre.

In relation to building setbacks, Clause 22.03-3 policy seeks the following;

- *'Buildings be setback from street frontage in context with the surrounding environment and to create open and spacious streetscapes.*
- *Development be set back from street frontages to visually unify diverse types of buildings and to enhance the quality of industrial and business areas.*
- *The Garden City Character be maintained and enhanced by providing space in setback areas for appropriate landscaping including the planting of semi mature canopy trees with spreading crowns.'*

These policy statements must be read in conjunction with the existing DDO1 preferred setback requirement to Jacksons Road of 20 metres. This is not a mandatory requirement and therefore a reduced setback may be considered if it can be reasonably justified. In this instance, it is considered that a reduced setback is appropriate for the following reasons:

- The southern section of the front façade tapers in its setback as it approaches the adjoining residential boundary, with the south east corner of the building setback to 19.130 metres. This is considered appropriate and generally consistent with both the policy objectives of 22.03-3 and DDO1 provisions. It is noted that the area forward of this will be utilised for outdoor play space, and therefore fencing will be required across the front of the site, however an attractive fencing/landscaping theme which enhances the street at this location can be achieved.
- The northern end of the building is proposed to be setback 6 metres from the Jacksons Road frontage for a length of approximately 16 metres. The landscape master plan proposes timber decking across most of this setback with a garden bed containing small canopy trees extending along the front of the decked area. This section of the building is not considered to be setback sufficiently to ensure an open and spacious streetscape feel is maintained, as required by the policy statements of Clause 22.03-3. It is considered that a larger setback of 7.6 metres for this section of the building would be a more sympathetic design response, striking a good balance between the larger 20 metre setback promoted by DDO1, whilst maintaining the opportunity for meaningful landscaping/garden setting to continue to be accommodated across the front of the site. It is considered that given that this part of the building is single storey in scale the impact on the streetscape at 7.6 metres is fairly benign, and meaningful landscaping of this area can still be achieved.
- The building has been designed to wrap around and retain the significant Oak Tree (proposed in central playground area) which is a notable landscape feature of this part of the southern section of the site. As such, it is reasonable that a lesser front setback be considered for this section of the site to allow a functional building layout to be achieved, however it is noted that any future development of the site (north of the childcare centre) may require a larger front setback to Jacksons Road.

- The increased setback may also provide the opportunity for fencing to be setback off the front boundary of the site (along this section of the building) allowing softening above the existing retaining wall which extends across the site frontage at this location. The changes to the front setback will be required via a condition of permit. It is noted that the outdoor deck at first floor level sits above this section of the building, so there should be no issue with ground/upper level articulation continuing.

It is considered that with the increase in setback to this section of the building to 7.6 metres, the building will sit comfortably within its streetscape setting and maintain an open garden feel, consistent with the existing and preferred character.

Has the proposed childcare centre been sited and designed to respect the amenity of adjoining residential dwellings to the south?

The site has always been zoned for commercial use and has operated as such for many years. It is also acknowledged that the siting of the new building will replace an open at grade car parking area which is fairly well landscaped which by its nature, has provided a pleasant northerly outlook for adjoining residential properties to the south. However, the subject site is a large commercial site and it would be unrealistic to expect that the southern half of the site would not be redeveloped at some stage.

Built form interface

In terms of the built form, the southern facade of the building will be setback from the adjoining residential boundary 4.160 metres at ground floor level and 4.228 metres at first floor level. Boundary wall construction is also proposed at ground floor level adjacent to the back yards of 13 Derby Place, and to a lesser extent, 15 Derby Place (south west corner of building accommodating kitchen). Although constructed to the boundary, this section of the building will sit almost entirely below the height of the existing fence line, and as such, its impact will be minimal. It is also noted that this section of building is proposed across a drainage easement encumbering the title, however, Council's Drainage Engineers have advised that there are no assets within the easement and that the kitchen construction in this location will first require approval to build over the easement or preferably apply to expunge the easement. The applicant has been made aware of this.

The proposed 4.160 metre setback at ground floor level will allow for perimeter planting to adjacent backyards. This level of the building will be constructed of textured brick (white), however will be barely visible from adjoining backyards as a result in the differing ground levels between adjacent backyards and the subject site.

The upper floor level of the southern facade will be finished with a mix of charred dark coloured timber battens and charcoal coloured powder coated aluminium cladding. The façade is fairly lengthy, extending for 46 metres before curving towards the north where it sits adjacent to 17 Derby Place. However, the building has been well set back. The setback to the southern boundary, coupled with the high quality of architecture and façade finishes should not result in unreasonable amenity impacts to adjoining residential properties.

### Overlooking

Four high sill windows to the toilet amenities and hallway exist along the southern façade, along with one large window adjacent to the multi-function room. It is proposed that this window be eternally screened to limit its impact – real and perceived on the adjoining residential properties.

### Overshadowing

Shadow Plans prepared by the project architect show that additional shadow will be generally confined to within the shadow of the existing fence line and will not cause unreasonable detriment to adjacent backyards.

### Operation of centre

The childcare centre will accommodate up to 200 children and operate between the hours of 7.30am and 6.00pm Monday to Friday. Children will range between the ages of 0 and 4 years old.

For the most part, the centre turns its back on adjoining residential properties, with two of the three outdoor play areas located away from residential properties, in the large central playground on the northern side of the building, and the upper floor deck, located at the north east corner of the building. The only outdoor play area adjoining residential land is located in the front setback adjacent to 19 Derby Place. This playground sits well below the level of the adjoining backyard.

It is considered that the management of noise levels in this area can be dealt with via permit conditions. In particular, the acoustic report submitted as part of the application concludes that the expected noise impacts are considered to be reasonable and recommends that the permit could include the following conditions.

- Noise emissions from the subject land shall comply with State Environment Protection Policy No. N-1.
- Noise emissions from the subject land shall comply with State Environment Protection Policy No. N-2 and no external loudspeakers shall be permitted on the land.
- The child care centre shall implement a noise management plan. This plan shall include a requirement that in the event of a child crying/yelling within outdoor play areas, a staff member should take them inside to comfort them.

Council Officers support the inclusion of these conditions.

Objectors have also raised concern about the potential for roof top plant noise and conditions on the permit have been included to address these concerns. It is noted that roof top plant is located above the Planning and Art rooms at first floor level and are proposed to be enclosed. A condition of permit will require further details of how the plant will be screened and require general compliance with State Environmental Protection Policy No 1 (SEPP N.1)

### Have trees been retained where possible?

The siting and form of the building has clearly been influenced by the desire to retain the high value Oak Tree which will form a central feature of the main playground. The building has been designed to wrap around its Tree Protection Zone, and has been able to achieve a functional layout whilst respecting the valued Oak.

In total, 15 trees are proposed to be removed from this section of the site to accommodate the development. All of these trees have been examined by an Arborist and all are in a fair/poor condition. It is noted that six other trees ranging of poor/fair and good condition will be retained around the childcare centre component of the site.

The site is not covered by VPO controls and these trees could be removed without Council consent.

The landscape masterplan proposes a high quality landscape theme for this section of the site, which will create a pleasant landscaped setting, comprising a mix of canopy trees and shrubs which will enhance the development and streetscape going forward.

The level of tree removal/retention and the proposed landscape master plan for the site is considered appropriate.

#### 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	Number of children	Clause 52.06 Requirement	Car spaces required	Car spaces provided
Childcare centre	200	0.22 to each child	44	Provision within shared 150 spaces

The existing office building on the site will remain operational following the proposed childcare centre development. The anticipated car parking requirement for the existing office is as follows:

Use	Floor area	Clause 52.06 Requirement	Car spaces required	Car spaces provided
Existing office	2239 m2	3.5/100m2 floor area	78	Provision within shared 150 spaces

#### On site car parking provision

Following the development of the proposed childcare centre, the entire site will have a statutory car parking requirement of 122 spaces, including 44 spaces for the new childcare centre and 78 spaces for the existing office building.

The applicant advises that following the development, there will be a total provision of 150 on-site car parking spaces, representing an excess car parking provision for those two uses of 28 spaces.

The existing warehouse on the site is not operational and the owner has no plans to recommence operations. If operational, the warehouse which is approximately 6000 square metres in floor area would generate a car parking requirement of approximately 92 car spaces, hence the description of the proposal refers to reduced car parking provision. However it is acknowledged that it will not generate an on-site car parking demand when it is not operating.

However, the warehouse use could recommence without further planning permission under its current planning permit due to the use not having ceased for a period of two more years. Although the warehouse is not operating, and the owner does not intend to recommence operations, the applicant has proposed that a condition be placed on the planning permit requiring the owner to enter into a section 173 agreement with Council agreeing that the warehouse use is not able to operate unless sufficient parking is first provided in accordance with Clause 52.06 of the Monash Planning Scheme to the satisfaction of the Responsible Authority. Officers recommend that any permit issued contain a condition to this effect.

#### Traffic Engineering comments

The application was referred to Council's Traffic and Transport Team and the following comments were provided.

- The provision of on-site car parking is supported, however the spaces are narrow and should be relined to have a minimum width of 2.6 metres. As the proposal is for a childcare centre, narrowed spaces are not considered appropriate as parents would need a minimum of 2.6 metres to get children in and out of the car.
- It is considered that the existing road network and connections can facilitate the additional traffic that is likely to be generated by the proposed new childcare centre, provided that the existing child care centre ceases operation and the existing warehouse remains vacant.

#### **CONCLUSION:**

The concept of developing a childcare centre on the site is supported by both the zoning objectives and broader state and local policy framework. With the recommended increase to the street setback, coupled with its high quality façade detailing and form, the development is expected to sit comfortably within its streetscape setting.

The building is setback sufficiently from adjacent residential dwellings to the south to allow for perimeter planting to be accommodated along the length of the building, and boundary wall construction is, for the most part below the existing fence level as a result of the variation in site level between the subject site and adjoining residential properties. No issues of overlooking or overshadowing arise. The development is self-sufficient in regard to on-site car parking provision and the proposed childcare centre use will operate harmoniously with the existing office use on the land.

The application is considered worthy of Council approval subject to conditions.

#### **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.