

**1.5 55-59 PORTMAN STREET, OAKLEIGH
CONSTRUCTION OF A FIVE STOREY BUILDING COMPRISING TWO SHOPS AND
15 APARTMENTS
(TPA/50927)**

EXECUTIVE SUMMARY:

This application proposes the construction of a five storey building comprising two shops and 15 apartments and reduction to the car parking requirements.

The application was subject to public notification. Two (2) objections to the proposal have been received.

Key issues to be considered relate to urban character, car parking and access, internal amenity and reliance on vehicle access through Council owned land.

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 \$4.6 million.

The proposal is considered inconsistent with the relevant provisions of the Monash Planning Scheme and it is recommended that the application be refused.

RESPONSIBLE DIRECTOR:	Peter Panagakos
RESPONSIBLE MANAGER:	Natasha Swan
RESPONSIBLE PLANNER:	Craig Smith
WARD:	Oakleigh
PROPERTY ADDRESS:	55-59 Portman Street, Oakleigh
EXISTING LAND USE:	Shops
PRE-APPLICATION MEETING:	No
NUMBER OF OBJECTIONS:	Two (2)
ZONING:	Commercial 1 Zone
OVERLAY:	Design and Development Overlay 11
RELEVANT CLAUSES: <u>State Planning Policy Framework</u> Clause 11 Settlement	<u>Zone</u> Clause 34.01 Commercial 1 Zone

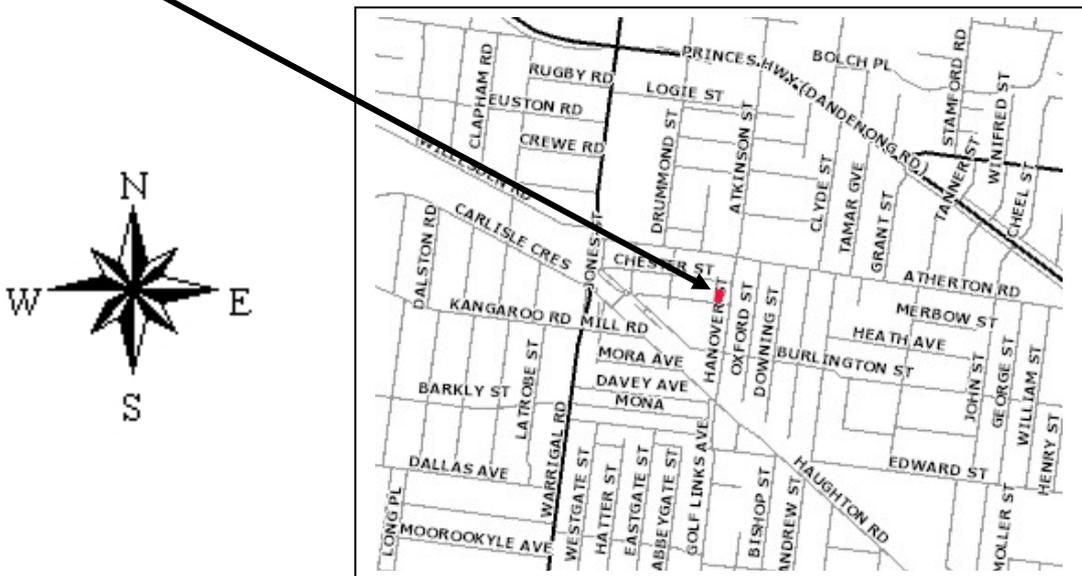
<p> Clause 15 Built Environment and Heritage Clause 16 Housing Clause 17 Economic Development Clause 18 Transport </p> <p> <u>Local Planning Policy Framework</u> Clause 21.04 Residential Development Clause 21.05 Economic Development Clause 21.06 Major Activity and Neighbourhood Centres Clause 21.08 Transport and Traffic Clause 21.15 Oakleigh Major Activity Centre Structure Plan Clause 22.13 Environmentally Sustainable Development Policy </p>	<p> <u>Overlay</u> Clause 43.02 Design and Development Overlay 11 (Oakleigh Major Activity Centre) </p> <p> <u>Particular Provisions</u> Clause 52.06 Car Parking Clause 52.34 Bicycle Facilities Clause 58 Apartments </p> <p> <u>General Provisions</u> Clause 65 Decision Guidelines </p>
<p>STATUTORY PROCESSING DATE:</p>	<p>7 January 2020</p>
<p>DEVELOPMENT COST:</p>	<p>\$4.6 million</p>

LOCALITY PLAN



SUBJECT SITE

NEIGHBOURHOOD PLAN



RECOMMENDATION:

That Council resolves to issue a **Notice of Decision to Refuse to Grant a Planning Permit (TPA/50927)** for the construction of a five storey building and associated works comprising 2 shops and 15 apartments and reduction to the car parking requirements of Clause 52.06 of the Monash Planning Scheme at 55-59 Portman Street, Oakleigh on the following grounds:

1. The proposal does not meet the objectives of Clause 15 Built Environment and Heritage, Clause 21.04 Residential Development, Clause 21.06 Major Activity and Neighbourhood Centres, Clause 21.15 Oakleigh Major Activity Centre Structure Plan, Clause 22.01 Residential Development and Character Policy, Clause 43.02 Design and Development Overlay 11 in relation to building height and scale.
2. The proposal does not provide a satisfactory design response and façade presentation to the public realm.
3. The proposal does not meet the objectives of Clause 58 Apartment Developments of the Monash Planning Scheme with regard to solar access to many of the apartments and balconies.
4. The proposal does not meet the requirements and objectives of Clause 52.06 Car Parking of the Monash Planning Scheme in relation to the provision of on-site car parking spaces and an overreliance on corrective manoeuvres and inappropriate basement ramp width and location.
5. The location of the basement ramp at the east end of the site would unreasonably encumbered Council owned land.

BACKGROUND:**History**

Planning permit TPA/28501 was issued on 11 July 2002 for the development of three dwellings above the existing shops. The permit was not acted on and has expired.

The Site and Surrounds

The site is located within the central part of the Oakleigh Activity Centre on the north side of Portman Street, approximately 17 metres west of Hanover Street.

The site comprises three separate land parcels being 55, 57 and 59 Portman Street. The site has a total area of 420 square metres and contains three single storey shops with a combined floor area of 324 square metres. The shops front Portman

Street and have access at the rear to the Council owned car park. The following was observed on inspection of the site:

- 55 Portman Street – Deli with customer pedestrian access at the rear.
- 57 Portman Street – Bridal shop with staff pedestrian access at the rear.
- 59 Portman Street – Australia Post with crushed rock rear yard and double gated fence at the rear boundary.

The surrounding land comprises the following:

North: Council owned car park at grade.

South: Single storey shops.

East: Council owned car park at grade.

West: Single storey shops with lane behind. The lane is common property with the exception of the eastern most section which is owned by Council. The shops on the south side of the lane front Portman Street and on the north side of the lane front Chester Street.

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

PROPOSAL:

This application proposes the construction of a five storey building comprising two shops, 15 apartments and a two level basement car park with 15 car spaces. The application seeks a reduction to the car parking requirements of the planning scheme for the shops.

The proposed shops are located at the ground floor with frontages to Portman Street. Shop 1 and 2 has a floor area of 176 square metres and 73 of square metres respectively with a combined floor area of 249 square metres. Additionally, a ground floor lobby is proposed with a floor area of 106 square metres to service the shops and apartments.

The apartments occupy the second, third, fourth and fifth storeys. 14 apartments have two bedrooms and one has one bedroom. Each of the apartments has a living room, kitchen, dining room and bathroom. Lift access to the apartments is provided via the common lobby and from both levels of the basement.

At the ground floor the development is proposed to be constructed to the front, side and rear boundaries. The upper storey apartment front setbacks range from 3.9 metres to 6 metres, with balcony widths ranging from 2.7 metres to 11.6 metres. The upper storey apartment rear setbacks range from zero to 2 metres, with balcony widths ranging from 2 metres to 2.4 metres.

Pedestrian access for the apartments and shops is located at the front and rear boundaries. Vehicle access to the basement is via a ramp at the rear boundary and would require access through the Council car park. Bins are stored at ground level

at the rear of the site and would be accessed via a roller door through the Council car park. Six bicycle spaces are provided in the ground floor common area and accessed from the front and rear pedestrian entrances.

Attachment 1 details plans forming part of the application.

PERMIT TRIGGERS:

The land is zoned Commercial 1 Zone and affected by the Design and Development Overlay 11.

A planning permit is required for the following:

- Commercial 1 Zone – building and works
- Design and Development Overlay 11 – building and works
- Clause 52.06 Car Parking – reduction to the car parking requirements

The site is located within the Principle Public Transport Network (PPTN) and therefore no visitor parking is required. The use of a shop and dwelling do not require a permit in the Commercial 1 Zone in this instance.

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

CONSULTATION:

Further information was requested of the Applicant on 25 October 2019. In this letter, officers raised preliminary concerns relating to building height, car parking and vehicle access. Officers advised the Applicant in writing that should these concerns not be addressed, that this application was unlikely to be supported. The Applicant provided the further information on 7 November 2019 but did not propose any changes to the proposed plans.

The Applicant was advised on 31 January 2020 that this application was not supported and on 20 February 2020 the advice was re-affirmed. The applicant has been advised that the application is coming to the April meeting. A letter was also sent to the Applicant formally informing them of the details of the Council meeting.

Public Notice

The application was advertised in accordance with section 52 of the *Planning and Environment Act 1987* by way of letters sent to the surrounding property owners/occupiers, and signs displayed at the Portman Street frontage of the site and the rear boundary facing the Council owned car park.

Council has received two objections to date. The grounds of objection can be summarised as follows:

- Building height is excessive.
- Car parking is inadequate.

Attachment 4 details the location of objector properties.

Referrals

The application was referred to the following internal departments:

Traffic

The application is not supported for the following reasons:

- The proposed shops have a car parking requirement of 8 spaces. Provision of 3 staff parking spaces (two for Shop 1 and one for Shop 2) should be provided on the site to alleviate trader parking demand on the nearby streets as this is an ongoing issue of concern in this area.
- There is an overreliance on corrective manoeuvres within the basement with 12 of the 15 or 80% of car spaces requiring corrective manoeuvres.
- The basement ramp is proposed to be located at the east end of the site. The ramp should be located at the west end of the site (55 Portman Street rear boundary) in order to minimise encumbrance to the Council owned car park.
- The basement ramp has an internal width of 3.6 metres which is not satisfactory. The basement ramp must have a minimum internal width of 5.5 metres to allow vehicle passing.
- The building is proposed to be constructed to the rear boundary. A laneway access width of 6 metres is required to be provided to enable access to this property into the future. This can be achieved by allocating 3 metres of land on the north boundary to become a road vested in Council or as a carriageway easement with an overhead clearance of 4.5 metres to accommodate medium rigid vehicles.

Drainage

No issues raised subject to standard conditions relating to stormwater drainage.

Property

Not supportive of the application in its current form as the proposed vehicle access in this location through the Council car park may be restrictive and detrimental should Council consider it appropriate to seek to do something with this land in the future.

DISCUSSION:**Consistency with State and Local Planning Policies**

A key element of the State Planning Policy Framework is the encouragement of growth in and around Activity Centres. Specifically:

- Clause 11.03-1S & 1R seeks to provide for different types of housing, including forms of higher density housing located within close proximity to public transport and is within walking distance to shopping, working, leisure and community facilities, and to support development and growth of Metropolitan Activity Centres by ensuring they accommodate significant growth and provide high levels of amenity.
- Clause 11.01-1R-1MM identifies the development of the Suburban Rail Loop through Melbourne's middle suburbs to facilitate substantial growth and address the needs to Melbourne's rapidly growing population.
- Clause 15.01-4R seeks to create a city of 20 minute neighbourhoods that give people the ability to meet most of their everyday needs within a 20 minute walk, cycle or local public transport trip from their home.
- Clause 16.01-2S seeks to locate new housing in designated locations that offer good access to jobs, services and transport.
- Clause 16.01-2R seeks to identify areas for housing growth which are located within Major Activity Centres, areas near existing railway stations and areas designated for residential growth.
- Clause 16.01-3S & R seeks to provide for a range of housing types to meet diverse needs and varying densities that offer more choice in housing.

Plan Melbourne 2017-2050, a reference document to the Monash Planning Scheme also encourages these initiatives by seeking housing growth in and around activity centres.

Clause 21.15 Oakleigh Major Activity Centre Structure Plan seeks to provide a range of employment opportunities, a diverse range of services and a diverse range of residential buildings to enable greater choice of housing. It seeks to achieve high quality built form and public realm design that conserves and enhances the valued urban character of the Oakleigh Village and to encourage an appropriate mix of residential and commercial development to support the economic and social sustainability of the activity centre.

The proposal is located within the Oakleigh Activity Centre and is within walking distance of the Oakleigh railway station. The proposal makes a positive contribution to the supply and diversity of housing in the municipality to meet the growing population and changing needs of the local community. The proposal maintains an active retail frontage at ground level and pedestrian access at the front and rear property boundaries. There are significant internal amenity issues with the layout of the dwellings which are discussed in detail later in the report.

The proposal is not consistent with the policies in relation to urban character due to the five storey building height and presentation to the public realm at its east facade. This is discussed in more detail below.

Clause 22.13 (Environmentally Sustainable development Policy) provides a framework for early consideration of environmental sustainability at the building design stage. For a development of 10 or more dwellings, a Sustainability Management plan is required to be prepared and submitted. A Sustainability Management Plan has not been submitted with the current application.

Design and Development Overlay 11 – Oakleigh Major Activity Centre

The Design and Development Overlay 11 has the following precinct objectives:

- To retain and enhance the pattern of urban development in the core centre that is characterised by small lot frontages, two storey federation and inter-war buildings, steeply pitched roofs and architecturally detailed upper storeys.
- To encourage, where possible, the retention of the existing facades.
- To further improve and encourage active street frontages to create interest and vitality at the pedestrian level.
- To encourage an appropriate mix of residential and commercial uses to develop within the Precinct, in addition to the existing retail development.
- To encourage an enhanced pedestrian environment within the Precinct. To support the continued improvement of the public realm.

The site is located within Precinct 1 of the Oakleigh Structure Plan. The relevant objectives are to retain the existing strong sense of identity and culture of the precinct and ensure that the form and scale of buildings respect the context and village character.

The proposal maintains an active retail frontage to Portman Street at ground floor. Pedestrian access is maintained at the front and rear property boundaries. Pedestrian access to the car park is considered positive as it contributes to the pedestrian activation of the car park and in doing so enhances safety and activity centre walkability. The widths and presentation of the shops fronts are in keeping with the streetscape. The pedestrian entry is easily identifiable from the street as it directly faces the street, is emphasised with a frame, located in the centre of the front facade and is not obscured or isolated from the street. . A canopy is proposed over the footpath. Canopies over footpaths form part of the streetscape of Portman Street and are important to provide shelter for patrons and to encourage walkable activity centres in all weather conditions.

However, the current shop fronts align with the shop buildings to the west. This proposal opts to bring the buildings to the property line which is approx. 1.0m forward. The canopy would also be 1.0m forward. This does not support retention of the pattern of development nor the intent of retaining existing facades.

One of the design requirements of the Structure Plan is that a building should not exceed the preferred building height unless particular site conditions warrant an alternative design response and that the design response significantly contributes to preferred character.

The overall height of the building is 5 storeys or 16.8 metres. The height exceeds the preferred height of the policy of 4 storeys or 14 metres. Furthermore, the policy seeks a height of 2 storey or 10 metres at the Portman Street frontage with the remainder of the building recessed. The proposal is three storeys or 10 metres at the frontage, which complies with the height in metres but not in storeys. This has been achieved by locating the ground floor retail space to the street frontage and the first and second levels of the building recessed from Portman Street. All three levels are encased in a two storey steel framed pergola. As the three storey format and presentation to the street is in keeping with the preferred building envelope, this is satisfactory.

However, there has been no justification for the additional height exceeding the preferred height limit of the primary retail core of the activity centre. The site does not present particular conditions to warrant a deviation from the structure plan with surrounding existing low scale buildings; typically single and double storey. The Structure Plan nominates a preferred height of 4 storeys to retain a “highly walkable village character” within the central core and allows for the opportunities for higher building forms around the fringes. The applicant is relying on examples of larger scale developments having been approved in the vicinity of the site, however these are within different precincts of the structure plan with different preferred height limits or of a land size to accommodate higher built forms and still achieve the objectives of the Structure Plan.

In this case the design response does not warrant exceeding the preferred height as limited attention has been paid to the presentation of the eastern and western facades and proposes a basic, contemporary palate of materials and finishes of coloured concrete and steel framing. Both elevations comprise large expanses of pre-cast concrete wall and metal cladding and will be highly exposed to the wider public realm particularly when viewed from Portman and Hanover Streets and the Council car park. Whilst longer term the lower level of the western facade may be screened given adjacent development, upper floors will remain visually prominent in the immediate locality. This lack of detail presents a blank wall to the eastern facade failing to provide satisfactory visual presentation or visual interest to the public realm, including to the Council car park. Typically, a facade should include design features and a variety of colours and materials when facing the public realm. The prominence of this facade is exacerbated by substantial and inappropriate scale of the development. While redevelopment may occur on adjoining land, the timeframe is uncertain. In the interim the built form needs to achieve the high quality design envisaged in the Structure Plan.

Amenity Impacts

The proposal would not overlook other apartments as none currently exist adjacent to the subject site. Windows face Portman Street, the rear car park and light courts and would not unreasonably prejudice future developments in terms of overlooking.

The proposal does not overshadow any adjacent secluded private open space or unreasonably reduce solar access to existing habitable room windows. Shadows cast to Portman Street are considered reasonable within the context of the activity centre.

On Site Amenity and Accessibility

All apartments have a balcony with a width of at least 2 metres and an area of at least 10 square metre in compliance with the relevant standard. The Dwelling 2, 3, 6, 7, 10, 11 and 14 living rooms and balconies face north providing good solar access. The Dwelling 1, 4, 5, 8, 9, 12, 13 and 15 living rooms and balconies face south providing poor solar access. Whilst it is reasonable to expect a portion of the apartments within a building to have a south orientation, 8 of 15 (53%) apartments with poor solar access is not considered satisfactory.

Room sizes and dimensions are sufficient, providing reasonable internal amenity and are considered satisfactory. All bedrooms have sufficient access to daylight via external windows. Some bedrooms rely on a light well for daylight, none of the habitable rooms rely on borrowed light and the apartments have opportunity for sufficient ventilation. Most of the bathrooms do not have solar access or direct access to daylight but this is not required under the planning scheme as bathrooms are not habitable rooms. Ventilation is required to the bathrooms but this can be achieved through mechanical ventilation in accordance with Building regulations.

The dwellings have reasonable access to people with limited mobility considering each apartment is single level, lift access is provided to all floors and the location and widths of lobby and other circulation areas.

Adequate storage is provided to each apartment within the basement car park.

Car Parking, Traffic and Access

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

Use	Number of dwellings/ floor area	Clause 52.06 requirement	Car spaces required	Car spaces provided
One or two bedroom dwelling	15	1 space per 2 bedrooms	15	15
Proposed Shops	249 m ²	3.5 spaces for every 100 m ²	8	0
Total			23	15

The site is located within the Principle Public Transport Network (PPTN) and therefore no visitor parking is required. The proposal meets the car parking requirement for the apartments however no car spaces are provided to the shop use resulting in a shortfall of 8 car spaces.

The applicant's traffic study is relying on the proposed shops with a floor area of 249 square metres generating a lesser parking requirement than the existing commercial use. The existing three shops have a combined floor area of 324 square metres and would generate a requirement for 11 spaces. Presently there is informal parking for 2-3 spaces comprising a concrete paved area at the rear of 57 Portman Street and a crushed rock rear yard and double gated fence at the rear of 59 Portman Street. Aerial photographs indicate the rear of both properties has been used for parking for up to 3 spaces and therefore a parking credit of 8 spaces would apply.

The traffic study concludes that the parking credit associated with the removal of the existing use of the site offsets the anticipated demands for the proposed retail tenancies and that the proposed development is therefore projected to generate a net reduced demand for public parking in the area. However, Councils Traffic Engineers have raised the concern the waiver of 8 spaces for the retail use has not been justified. Despite the existing parking credit, 3 long term spaces should be provided on the site for the retail tenancies to alleviate trader parking demand on the nearby streets as this is an ongoing issue of concern in this area.

Further, the design of the basement does not provide safe and convenient movement for the vehicles. The overreliance on corrective manoeuvres within the basement (80% of car spaces) is reflective of tight arrangements designed to minimum standards. This is not consistent with the objective of Clause 52.06 to ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

The basement ramp is proposed to be located at the east end of the site. While Traffic Engineers recommend the ramp should be located at west end of the site (55 Portman Street rear boundary) in order to minimise impact to the Council owned car park, the matter of appropriate access needs to be resolved before support for development of the site can be given. This is critical to any redevelopment of the site. To date, this issue has not been resolved.

The basement ramp has an internal width of 3.6 metres which is not satisfactory. The basement ramp must have a minimum internal width of 5.5 metres to allow vehicle passing. This is important to enable cars to not queue within the public car park and to minimise vehicle hazard or conflict within the basement. The application proposes signalling as an alternative to a compliant ramp width but this is not considered a satisfactory alternative in this instance.

Access through Council Owned Car Park

The site appears to currently enjoy a level of access through the Council owned car park. The following was observed on inspection of the site:

- 55 Portman Street – Customer pedestrian access at the rear. There is no vehicle access from the car park.
- 57 Portman Street – Staff pedestrian access at the rear. There is a concrete paved area at the rear of the site which provides parking onsite. There is no vehicle access from the car park.
- 59 Portman Street – Crushed rock rear yard and double gated fence at the rear boundary with area to provide for one car space.

It is unclear if loading and unloading of goods or waste collection has occurred from the Council car park and if so, to what duration and frequency.

The proposal would intensify the existing access arrangements through the Council car park by introducing a basement via a ramp at the rear boundary servicing 15 apartments. Waste collection is also proposed through the Council car park and would intensify if the development was to go ahead.

As previously mentioned, the matter of vehicle access arrangements need to be resolved prior to supporting any redevelopment of the site. Discussions with Council as the land owner of the adjacent car park, confirmation of right of use of the laneway at the rear, and consideration of safe and convenient vehicle movements with Council's Traffic Engineer all need to occur. It stands to reason that Council may be open to some form of access across its land, but this would need to be negotiated with Council as land owner not simply dealt with under a planning permit application.

In response to discussions about redesigning the access, the applicant considers the only alternative vehicle access possible would be to provide access from Portman Street which would be an outcome at odds with the development overlay and the character of the street. In the circumstances it is not possible to consider all the ramifications of requiring a different access point on the site as it would require an extensive re-design and it is not possible to address by condition of permit.

Waste Management

A Waste Management Plan was submitted with the application. Bins would be stored in the ground floor common area at the rear of the site. Private waste collection is proposed from within the Council car park. Collection would occur weekly. The report states that the private waste contractor would be responsible for regular bin cleaning or bin swapping if required. It is not clear where bin cleaning would occur.

All waste collection arrangements would need to gain approval from Council's Waste Management department and could form a condition of permit, should one

issue. The proposed arrangements will require further discussion and approval from Council as land owner as collection within Council land is generally not supported.

Bicycle Parking

Clause 52.34 Bicycle Facilities requires bicycle parking at a rate of one space per 5 dwellings for residents and one space per 10 dwellings for visitors. This equates to a requirement of 4 bicycle spaces for the apartments. 6 bicycle spaces are provided, meeting the requirements. The bicycle spaces are located within the building at the ground floor, are accessible from the pedestrian entrances at the front and rear of the site and cannot be viewed from the street. As such, the spaces are conveniently accessed and will not impact the streetscape. No bicycle parking is required for the shops as they have a floor area less than 1,000 squares metres.

Loading and Unloading

Clause 65 Decision Guidelines of the Monash Planning Scheme identifies that "Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate: The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts."

No loading or unloading facilities are provided on site. Loading and unloading is proposed to utilise the existing on-street parking area. Considering there is no increase to the floor area of the shops, and therefore no increase to the frequency or intensity of loading and unloading, the proposed loading and unloading arrangements are considered appropriate.

CONCLUSION:

The proposal is inconsistent with the relevant policies and objectives of the Monash Planning Scheme, including the State and Local Planning Policy Framework. The proposal is not sympathetic to the urban character of the area in terms of building height and presentation of a blank wall at its east facade, failing to provide satisfactory visual presentation or visual interest to the public realm. Solar access (not to be confused with daylight) to balconies and the apartments is not satisfactory.

Access arrangements to the site need to be resolved. The current proposal also fails to provide car parking, and vehicle access and movements within the site that are designed of a high standard for a safe and efficient environment for users.

LIST OF ATTACHMENTS:

Attachment 1 – Proposed Development Plans.

Attachment 2 – Aerial Photograph (January 2019).

Attachment 3 – Zoning and Overlays Map.

Attachment 4 – Objector Properties Location Map.