

**1.2 409 CLAYTON ROAD, CLAYTON
CONSTRUCTION OF A SEVENTEEN (17) STOREY MIXED USE BUILDING
INCLUDING A REDUCTION IN THE APPLICABLE CAR PARKING REQUIREMENT
(TPA/52295)**

EXECUTIVE SUMMARY:

This application proposes a seventeen (17) storey mixed use development comprising retail, office floor space and 152 residential apartments supported by 196 car parking spaces within the building.

The application was subject to public notification. Eleven (11) objections to the proposal have been received.

Key issues to be considered relate to building height and setbacks, internal amenity of the residential apartments, amenity impacts to public realm and adjoining properties, adequacy of car parking provision and vehicle access.

This report assesses the proposal against the provisions of the Monash Planning Scheme including the relevant state and local planning policy framework, Clause 58, the adopted Clayton Activity Centre Precinct Plan and issues raised by objectors.

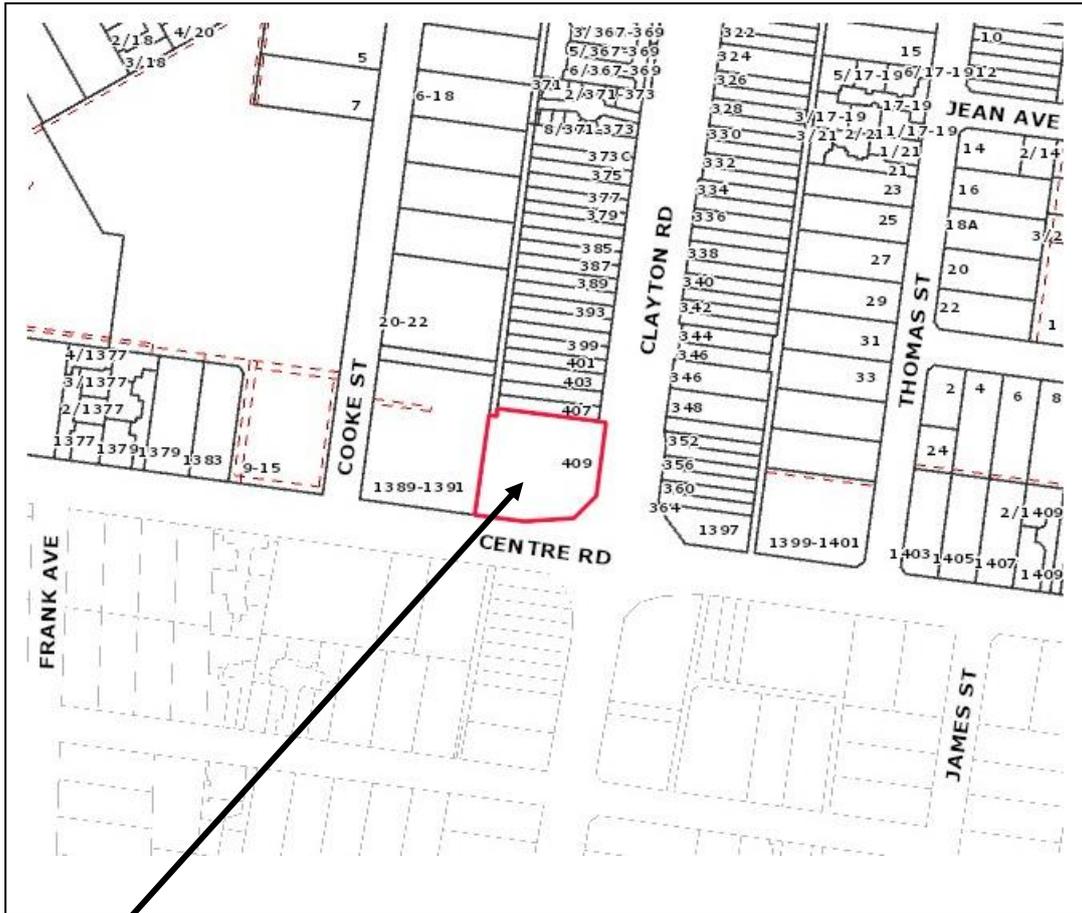
The reason for presenting this report to Council is the proposed development cost of \$67.5 Million.

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:	Jeanny Lui
WARD:	Oakleigh
PROPERTY ADDRESS:	409 Clayton Road, Clayton
EXISTING LAND USE:	Vacant (former Petrol Station)
PRE-APPLICATION MEETING:	Yes
NUMBER OF OBJECTIONS:	Eleven (11)
ZONING:	Commercial 1 Zone
OVERLAY:	N/A

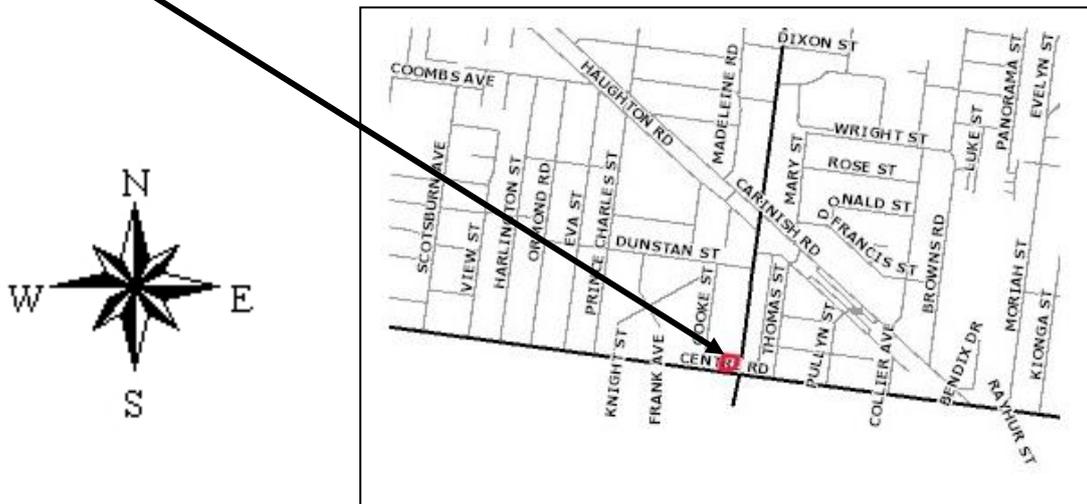
<p>RELEVANT CLAUSES:</p> <p><u>Planning Policy Framework</u></p> <p>Clause 11.01-1S & 11.01-1R-Settlement</p> <p>Clause 11.02-1S – Supply of Urban Land</p> <p>Clause 11.03-1S & R – Activity Centres</p> <p>Clause 15.01-1S & R – Urban Design</p> <p>Clause 15.01-4S & R – Healthy Neighbourhoods</p> <p>Clause 15.02-1S – Energy and Resource Efficiency</p> <p>Clause 16.01-1S & R – Housing Supply</p> <p>Clause 16.01-2S – Housing affordability</p> <p>Clause 18.02-1S & R – Sustainable Personal Transport</p> <p>Clause 18.02-2R – Principal Public Transport Network</p> <p>Clause 18.02-4S – Car Parking</p> <p>Clause 19.03-3S – Integrated Water Management</p>	<p><u>Local Planning Policy Framework</u></p> <p>Clause 21.01- Introduction</p> <p>Clause 21.05 – Economic Development</p> <p>Clause 21.06 – Major Activity and Neighbourhood Centres</p> <p>Clause 21.08 – Transport and Traffic</p> <p>Clause 21.11 – Physical Infrastructure</p> <p>Clause 21.13 – Sustainability and Environment.</p> <p>Clause 22.03 – Industry and Business Development Character Policy</p> <p>Clause 22.04 – Stormwater Management Policy</p> <p>Clause 22.13 – Environmentally Sustainable Development Policy</p> <p><u>General & Particular Provisions</u></p> <p>Clause 52.06 – Car Parking</p> <p>Clause 53.18 – Stormwater Management in Urban Development</p> <p>Clause 52.34 – Bicycle facilities</p> <p>Clause 65 – Decision Guidelines</p>
<p>STATUTORY PROCESSING DATE:</p>	<p>20 April 2021</p>
<p>DEVELOPMENT COST:</p>	<p>\$67.5 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/52295)** for the use of land for accommodation, buildings and works associated with the construction of a multi-storey mixed use building, reduction of the car parking requirement and alteration of access to a road in a Road Zone Category 1, at 409 Clayton Road, Clayton subject to the following grounds:

1. The proposal is inconsistent with the objectives and requirements of the adopted Clayton Activity Centre Precinct Plan having regard to building height and scale, streetscape activation, and impacts to the public realm and adjoining properties.
2. The proposal will result in a poor urban design outcome.
3. The proposal will detrimentally impact on the streetscape of Clayton Road and Centre Road.
4. The proposal fails to achieve high quality design and architectural excellence.
5. The proposal has not been designed to allow for equitable development.
6. The proposed on site car parking and bicycle parking provision is not adequate.
7. The proposed apartments would have a poor level of internal amenity.
8. The proposal provides a lack of dwelling diversity in layout and size.

BACKGROUND:**The Site and Surrounds**

The subject site is located on the north-west corner of the intersection of Clayton Road and Centre Road within the Clayton Activity Centre. It is the most southern property along the commercial strip on Clayton Road. The land was previously used as a petrol station. The use has ceased and the land is currently being decommissioned and remediated. The previous building, services and vegetation have all been removed. There are four existing vehicle crossovers on Clayton Road and Centre Road.

The subject site is irregular in shape with a frontage (eastern boundary) to Clayton Road of approximately 30.5 metres, a curved boundary including a corner splay extending from Clayton Road to Centre Road of approximately 43 metres, a

western boundary of approximately 45.7 metres, and a northern boundary of 48.8 metres, yielding an overall site area of 2,100 square metres.

The site is within the Monash National Employment and Innovation Cluster (MNEIC). The Clayton railway station and the Monash Medical Centre is located approximately 400 and 700 metres to the north of the site.

Details of adjoining properties are as follows:

North: To the north is a row of single storey commercial buildings along Clayton Road, which comprise of shops and restaurants. These properties are zoned Commercial 1.

East: To the east is Clayton Road which is a major arterial road and zoned Road Zone Category 1. The eastern side of Clayton Road contains a row of one to two storey commercial buildings comprising offices, shops and restaurants.

South: To the south is Centre Road which is also a major arterial road and zoned Road Zone Category 1. The southern side of Centre Road is within the City of Kingston. Directly opposite the subject site are two single storey commercial premises occupied by Beaurepaires Tyres and Subway.

West: To the west is an approximately 7 metre high blank wall of the Coles Supermarket. The supermarket fronts the Cooke Street car park and backs onto Centre Road. This property is also zoned Commercial 1.

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 a seventeen storey, mixed use development comprising retail, offices, and residential apartments, with basement and above ground car parking.

Key features of the proposal are as follows:

Proposed Use	Number of car parking spaces/ floor Area (m2)/number of apartments
Basement: Car park	44 car spaces
Ground level and level 1 (and 1A- Mezzanine): Retail tenancy & car park	1,479m ² & 80 car spaces
Levels 2 and 3: Office tenancy & car park	1,197m ² & 72 car spaces
Levels 4-17: Apartments (including 10 dwellings to level 13 and 3 dwellings for the levels above)	152 apartments

- A total of 196 car spaces are proposed. They are accessed via a modified crossing on Centre Road.
- Ground level contains two retail tenancies, one fronting Clayton Road and one fronting the intersection of Clayton and Centre Roads.
- Separated commercial and residential pedestrian entries lead to the respective lobbies on ground level. Commercial entry is accessed from Clayton Road and the residential entry is accessed from Centre Road.
- Level 5 (fourth floor) contains an indoor communal area of 513 square metres and outdoor communal area of 510 square metres. A further 177 square metres of communal open space is located on level 16 (fifteenth floor). These areas are for the exclusive use by the apartment residents.
- Additional private terraces for apartments on level 5 (fourth floor). These terraces are directly accessed within the respective apartments.
- There are three lifts within the building to provide access to the upper levels. Two lifts provide access to the apartments from the residential lobby and the basement car park. One lift provide access to the retail tenancy and offices from the commercial lobby on ground level.
- A maximum building height of 62.13 metres (17 storeys).
- A modern, contemporary building façade is proposed characterised by a defined 4 storey street wall acting as the ‘podium’ with lightweight materials (glazing and power-coated steel vertical blades and horizontal aluminium louvres) and recessed ‘tower’ component with more ‘heavyweight’ materials (render and concrete render; and render/ power-coated metal to balcony balustrades).

Attachment 1 details plans forming part of the application.

PERMIT TRIGGERS:

Zoning

The land is zoned Commercial 1 under the Monash Planning Scheme.

Pursuant to Clause 34.01 a permit is required for the following:

- Clause 34.01-1: Use of accommodation where the frontage at ground level exceeds 2 metres- the proposed residential pedestrian entry is approximately 3.3 metres in width therefore a permit is required.
- Clause 34.01-4: Construct a building.

No permit is required for use of retail premises and offices within the zone. The proposed community centre/common amenities area is limited to residents of the apartments and is in ancillary to the apartment use.

Overlay

The subject land is not subject to any planning overlays.

Particular & General Provisions

Clause 52.06- Car Parking

Pursuant to Clause 52.06-3 (Car Parking), a permit is required to reduce the number of car parking spaces required under Clause 52.06-5.

This proposal seeks to reduce the number of on site car parking provision by a total of 43 spaces including 38 spaces for the retail premises and 5 spaces for the office tenancy.

Clause 52.29: Land adjacent to a Road Zone, Category 1

A permit is required to create or alter access to a Road Zone, Category 1. The existing crossover onto Centre Road near the southwest corner of the site is proposed to be altered; and all other existing vehicle crossovers on site will be removed as part of this application.

Clause 52.34 – Bicycle Facilities

Pursuant to Clause 52.34-2 (Bicycle Facilities), a permit may be granted to vary, reduce or waive any requirement of Clause 52.34-5.

The proposal is required to provide a total of 58 bicycle parking spaces and 62 spaces are provided. As the required bicycle parking has been provided on the site, a Planning Permit is therefore not sought under this provision.

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

CONSULTATION:

The Applicant was verbally advised that this application was coming to the April Council meeting, in addition to a letter that was sent to the Applicant formally advising them of the details of the Council meeting. The Applicant has been verbally advised that this application is recommended for refusal.

Public Notice

The application was advertised in accordance with section 52 of the *Planning and Environment Act 1987* by sending notices to the surrounding property owners and occupiers (including properties within the City of Kingston), and two large signs were displayed at the two frontages of the site.

Objections received for the applications included the following:

- Building height and scale

- The development will set a precedent for other high density developments
- Vehicle access and impacts on traffic volume
- Car parking provision
- Poor internal amenity of the proposed apartments
- Loss of south-facing signage on adjoining property
- Impact to existing business during construction
- The proposal is an overdevelopment

Public information session

In addition to the statutory notice, an online public information session was held on 3 March 2021. One community member participated in the online public information session.

Attachment 4 details the location of objector properties.

Referrals

External Referral

Department of Transport (Ref: PPR 33686/20-A)

The application was referred to the Department of Transport (DOT) on 28 January 2021 as the application includes alteration of access to a road in a Road Zone Category 1; and the proposed residential building (apartments) comprises more than 60 lodging rooms.

Response from the Department of Transport is yet to be received when preparing this report. They have 28 days to respond to Council's referral. As the application is recommended for refusal, it is not essential to obtain their response prior to consideration.

Internal Referral

Traffic Engineer

Concerns were raised in relation to the proposed left-in/left out vehicle access without adequate treatment to the access arrangement to prevent illegal right turn into the site; and that there is not sufficient justification for the proposed reduction of retail parking provision. There are also concerns with the proposed bicycle parking being predominantly made up of hanging bicycle parking device. These will be further discussed in the assessment section.

Drainage Engineering

No concerns subject to standard conditions including a stormwater drainage plan to be submitted and the design of the drainage and civil works is to be approved by Council's Engineering Department prior to drainage works commencing.

Waste Management

Council's Waste Management Team requested further detail of the provision for food organics and separated glass recycling; waste collection times and a dedicated hard waste storage area. A revised provision of site plan is required to show bin storage areas with washing facilities should also be provided.

An amended Waste Management Plan will be required as a permit condition should a permit be issued.

Strategic Planning

- The proposal responds well to the overall strategies in regards to providing good sense of place, providing affordable housing and creating a level of housing diversity (with 1-2 bedroom apartments). However, it exceeds the overall height envisaged in the Clayton Activity Centre Precinct Plan by 7 storeys.
- The proposed street wall includes 4 storeys rather than 3 storeys and is much taller than the anticipation in the Clayton Activity Centre Precinct Plan.
- Weather protection is provided to Clayton Road; the solution of creating a covered setback is supported; no weather protection is provided to the footpath on Centre Road but entrance is recessed and protected.

Urban Design Consultant

Independent urban design comments were obtained by Council to assist in the assessment of the proposal, particularly given its proposed scale.

A summary of their advice is as follows:

- The provision of vehicle access off Centre Road frontage is supported in principle.
- The opportunity to enhance the streetscape out to the kerb line is supported in principle although the configuration requires additional review.
- Basement level parking is supported but above ground podium parking is not supported on urban design and policy grounds.
- The development of a corner building in the round upper level from above a podium scale street interface is supported as a principle though the adopted scale is not considered appropriate in this instance.
- The proposal is for a podium scale and overall building height of over 62 metres is significant. This exceeds the suggested mixed-use scale in the Clayton Precinct Plan by approximately two levels in podium height and the preferred overall building height by over 50% (a ten-storey office building would be 38-40 metres or a ten-storey retail and residential apartments would be approximately 33 metres in overall building height).

- The project in its current form impacts significantly on properties south of Centre Road until after 1pm and properties and the eastern footpath after 1pm at the September Equinox.
- Upper-level tower form is taller than the height sought by the planning framework and setback less from the podium at the corner of Clayton and Centre roads. The proposed balcony setbacks do not provide for future equitable development.
- The proposal should rely exclusively on basement level parking. A significant proportion of car parking is provided within the podium level between levels 1 to 3. No above-ground un-sleeved parking should be allowed above level 1 to the west and north facades, and none above ground to the street frontages.
- The current development will result in highly visible and un-articulated concreted podium form extending approximately 5 metres or five retail levels above the existing adjoining shop in Clayton Road; or approximately 13 metres above the eastern wall of the west adjoining Coles supermarket.
- Overall, the proposal is excessive in height, footprint and will cause unreasonable offsite amenity impact.

DISCUSSION:

Consistency with State and Local Planning Policies

State Planning Policy Framework (PPF)

Plan Melbourne Refresh identifies places of state significance and places of local significance. Within the City of Monash, the main place of state significance is the Monash National Employment and Innovation Cluster (MNEIC). National employment and innovation clusters are designated geographic areas with concentrations of economic activity that currently make major contributions to the national economy and Melbourne's position as a global city and will be supported into the future.

The subject site is located within the MNEIC and is well serviced by public transport. It is located at the southern edge of the Clayton Activity Centre Precinct, and approximately 400 metres from the Clayton Railway Station. In addition, Stage 1 of the Suburban Rail Loop project is envisaged for commencement in 2022 and proposes a new rail line connecting Melbourne's major employment, health and education precincts and activity centres. There will be a station located near the Clayton Railway Station.

The subject site is an appropriate location for larger footprint residential development to provide increased diversity of housing and supports the continued growth and diversification of the activity centre.

The Planning Policy Framework, including Clause 16.01-2S (Housing Affordability) seeks to increase choice in housing type and deliver more affordable housing closer to jobs, transport and services. The proposed development incorporates a portion of affordable and social housing within the development is considered a positive outcome to the community.

Clause 17.02-1S encourages development that meets the community's needs and locate commercial facilities in existing or planned activity centres, and Clause 17.04-1S encourages the development well-designed facilities including accommodation and retail opportunities.

The proposed mixed use development will make a positive contribution to the Clayton Activity Centre.

Clause 18.02-4S requires land to be set aside for car parking which enable easy and efficient use and achieve a high standard of urban design, protect the amenity of the locality including the amenity of pedestrians and other road users.

The proposed car parking provision is not considered appropriate and Council's Traffic Engineer is concerned with the proposed design of vehicle access which will be discussed in the Assessment section of this report.

Local Planning Policy Framework (LPPF)

Local Planning Policy expands on the State Planning Vision for the local area. The Strategic Framework Plan at Clause 21.06 identifies the site as being located at the edge of the Clayton Activity Centre, just outside of its northern boundary. Clause 21.06 (Major Activity and Neighbourhood Centres) identifies Clayton as a Major Activity Centre with its primary focus being;

- Higher order goods
- Specialty retailing
- Entertainment
- Mixed commercial uses
- Offices
- Apartments
- Hotels
- Community facilities
- Public transport

Table 1 (Hierarchy of Activity Centres in Monash) at 21.06-3 also identifies the Strategic Directions for Major Activity Centres encouraging redevelopment and concentration of activity, providing a range of entertainment, arts and restaurant uses, as well as encouraging office uses where contiguous retail frontage is not compromised.

The MSS also includes local policy vision in relation to Traffic and Transport (Clause 21.08), Physical infrastructure (Clause 21.11), and Sustainability and Environment (Clause 21.13) which all have broad relevance to this proposal.

Clause 22.03 – Industry and Business Development Character Policy is also relevant in the assessment of the proposal. This policy applies to all land within the commercial zones and industrial zones and provides design guidelines to ensure that new development integrates with its context.

In accordance with the map at Clause 22.03, the subject site is located in Business Character Type 2. The desired future character statement indicates that new development should respect the scale and form of development of the relevant Activity Centre, while providing for appropriate change.

Clause 22.04 (Stormwater Management) applies to all land and seeks to ensure that new development considers stormwater management as part of the design.

Clause 22.13 (Environmentally Sustainable Development Policy) applies to all residential and non-residential developments that require a planning permit. This policy was introduced into the scheme on the 29 September 2016 and is relevant to this application. In accordance with clause 22.13-4, a Sustainability management Plan (SMP) is submitted with the application.

Clayton Activity Centre Precinct Plan

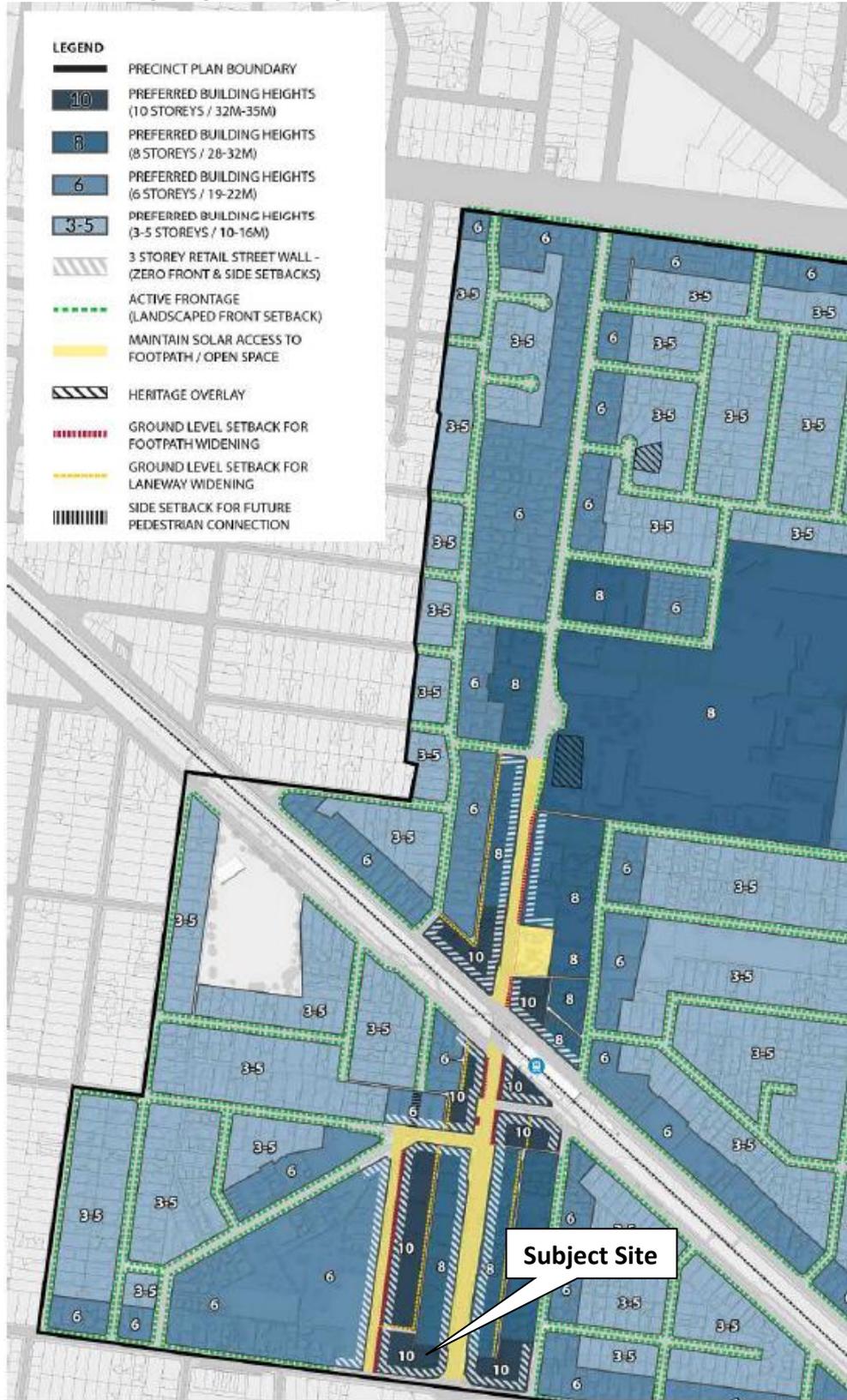
At its meeting on 28 January 2020, Council adopted the Clayton Activity Centre Precinct Plan, dated January 2020. The plan is yet to proceed to a Planning Scheme Amendment, but the Precinct Plan articulates what Council would consider as “appropriate change” for the centre as identified in Clause 22.03.

The subject site is located on the southern end of the activity centre, in an area identified for ‘retail/ commercial and mixed use’ (*Figure 8- Clayton Activity Centre Activities and Land Use Plan*). It is within *Precinct 1- Central Retail*, and is identified as a ‘key redevelopment site’ which is suggested to accommodate a greater density of development. This site is earmarked for development with a preferred maximum building height of 10 storey or 32-35 metres, whereas the adjoining properties (not being identified as ‘key redevelopment sites’) are earmarked with preferred building heights of 6 and 8 storeys.

The proposed development with maximum building height of 62.13 metres (17 storeys) significantly exceeds the preferred maximum building height of the Precinct Plan.

Although conceptually, a higher density development is supported on the subject site given it is a key redevelopment site, the concern with the current proposal surrounds its building height, its impact on the surrounding street network and residential neighbourhood and the urban design outcomes which will be discussed below in this report.

Figure 1 - Extract of Clayton Activity Centre Built Form Plan



The adopted Precinct Plan includes details of preferred built form outcomes including setbacks. The plan seeks the following development outcomes:

- *Provides for additional hospitality, retail and commercial uses within the lower levels of development*
- *Reinforces key activity nodes and entries into the Activity Centre with higher scale and exemplar built form*
- *Promotes visual interest and variation in the Activity Centre skyline*
- *Orinates a sense of enclosure and continuity in built form*
- *Establishes a pedestrian scale environment at street level*
- *Avoids unarticulated facades that give a bulky appearance*
- *Does not overwhelm existing residential properties and is articulated to minimise visual bulk when viewed from residential properties*
- *Provides an overall scale that is compatible with adjoining low-scale residential areas*
- *Maintain solar access to Clayton Road, Cooke street, Dunstan Street and the future Cooke Street Plaza*
- *Provides shade and shelter to footpaths in key retail areas*
- *Development should avoid ‘wedding cake’ built form outcomes*

The Clayton Activity Centre Precinct Plan envisages buildings within this precinct to have street walls (zero front and side setbacks) up to three storeys (generally 12-13 metres high), with the upper levels setback a minimum of 5 metres from the front boundary.

The proposed development provides a four storey street wall of maximum 20 metres in height, which is at least two storeys (7-8 metres) higher than the preferred street wall height of the Clayton Activity Centre Precinct Plan. This will be further discussed later in the report.

Despite the excessive street wall height, the proposal provides a ground and first floor setback of 3.7 metres from the Clayton Road boundary. This will allow the footpath on Clayton Road to be widened and straighten from the existing footpath to the northern shops. This will be a positive outcome and the concept is supported.

In considering any development of this scale, design excellence is critical in determining its appropriateness. The proposed ground level setback will provide an opportunity for landscaping in front of the building and ‘establish a pedestrian scale environment at street level’.

Although conceptually, the redevelopment of the site for higher density is supported, the concern with the current proposal surrounds its scale, and its impact on the public realm and adjoining properties. These matters are explored in more detail below.

Building Height and Built Form

Overall building height

The scale of building proposed is significantly higher than the prevailing single and double storey commercial and residential developments in the immediate and broader area. In the broader strategic sense, the site is considered suitable to a more intense built form as recommended in the Clayton Activity Centre Precinct Plan. However this does not mean that ‘anything goes’ in terms of building scale. Any development proposed for this site must take account of its immediate context and the outcome envisaged in the Clayton Activity Centre Precinct Plan.

In particular, the proposed overall building height of seventeen (17) storeys with a total height of 62.13 metres is almost 70% higher than the preferred maximum building height (10 storey or 32-35 metres) recommended in the Clayton Activity Centre Precinct Plan. It is excessive in the existing surrounding context and beyond the expectations of the Precinct Plan. As previously discussed, the subject site is identified as a ‘key redevelopment site’ which allows a higher built form (10 storeys) as opposed to other adjoining properties (6-8 storeys). The proposal with 17 storeys will be essentially at least 100% taller than the other properties in the immediate context. This is not considered an appropriate response without any compelling design rationale for the scale proposed; and is also not supported from the Urban Design perspective.

In addition, the proposal will excessively overshadow the Clayton Road footpath on the eastern and western footpath after 1pm, and there are also overshadowing impacts to the south adjoining commercial and residential (currently used as a dental surgery) properties on Centre Road. The shadow significantly exceeds the shadow of a 10 storey building envisaged in the Clayton Activity Centre Precinct Plan.

As such, the proposed building height should be substantially reduced to a height more consistent with the outcome envisaged in the Clayton Activity Centre Precinct Plan, as well as having the necessary regard for the suitability of the proposed design response, including the off-site impacts that are created.

Street wall

The proposed building contains a 4 storey street wall including a mezzanine level resulting in a street wall height of maximum 20 metres. The proposal significantly exceeds the street wall height envisaged in the Clayton Activity Centre Precinct Plan and will dominate over the existing scale of built form in the immediate context. Whilst this site is expected to accommodate a taller building, its street wall height should be reduced to in line with the requirements in the Clayton Activity Centre Precinct Plan to ensure the taller built form will not overpower the streetscape.

The proposed above-ground car parks within the podium levels is also not considered an appropriate design. It will poorly integrate with the streetscape of Clayton Road and Centre Road, resulting in poor visual and pedestrian amenity.

Similar concerns were also raised in the Urban Design advice.

Building setbacks and interfaces

Details of the proposed and required front setbacks are shown in the table below:

Levels	Setbacks to front (Clayton Road) boundary	Recommended setbacks in the Clayton Activity Centre Precinct Plan
<i>Ground level</i>	<i>3.7 metres</i>	<i>Zero setback</i>
<i>Level 1</i>	<i>3.7 metres</i>	<i>Zero setback</i>
<i>Level 2</i>	<i>0.9 metres</i>	<i>Zero setback</i>
<i>Level 3</i>	<i>0.9 metres</i>	<i>5 metres</i>
<i>Level 4</i>	<i>9.94 metres</i>	<i>5 metres</i>
<i>Levels 5-15</i>	<i>8.4-11.56 metres</i>	<i>5 metres</i>
<i>Level 16</i>	<i>8.4-11.56 metres</i>	<i>5 metres</i>
<i>Level 17</i>	<i>8.4-11.56 metres</i>	<i>5 metres</i>

Ground level to level 3 form the street wall /podium

Clayton Road (front) & Centre Road (southern) setbacks

The proposed 'tower' is setback between 8.4-11.5 metres from the Clayton Road boundary which satisfies the recommended setback in the Clayton Activity Centre Precinct Plan. The proposed setbacks of 5.7 - 10.6 metres to the Centre Road boundary is also considered adequate. The proposed setbacks to these boundaries are sufficient to avoid a sheer wall facing the streets, and provide a good level of articulation to the tower component.

Northern and Western setbacks

The proposal provides a 4.46 - 9 metre setback to the northern and western boundaries and is sufficient to avoid a sheer interface. However the majority of the apartment balconies are setback less than 4.5 metres from these boundaries and fail to provide for an equitable development opportunity if the adjoining properties were developed in the future. This concern was also raised in the Urban Design referral response. The balconies should be setback a minimum 4.5 metres to resolve this issue.

Architectural excellence

The adopted Clayton Activity Centre Precinct Plan identifies the objective to *create a contemporary and exciting identity for the Clayton Activity Centre through high quality design and architectural excellence*. It contains the following strategies:

- *Excellence in building design so that development responds to the characteristics of the site and its context;*
- *Maximise building height on larger sites where interface issues can be minimised;*

- *Strengthen the sense of place in the Clayton Activity Centre by providing buildings of exemplary architectural quality on prominent sites and in locations adjacent to existing and proposed public space;*
- *Ensure buildings do not overshadow key public spaces such as key commercial areas, street, parks and plazas;*
- *Ensure buildings do not overwhelm the footpaths of retail areas with taller element recessed from the street;*
- *Ensure buildings integrate with and contribute positively to streetscapes and public spaces;*
- *Strengthen the presence of buildings along the entire length of Clayton Road to promote increased interaction between the street, future retail, health and office uses;*
- *Ensure a transition in building height between commercial and residential areas;*
- *Ensure that all development supports a sustainable activity centre thought high ESD standards.*

Façade detailing along the edge of the podium level car parking includes extensive use of precast concrete panels which will be clearly visible from the public realm. This is considered a minimalist and inappropriate architectural response. Further, the proposed architecture and car parking uses at the podium levels will be poorly integrated with the Clayton Road streetscape interface, given the limited façade activation and solid materiality of part of the building. Taking into consideration the prominence of the building to the corner this is considered to be a poor response in regards to streetscape activation.

The Urban Design advice also suggests that the proposed commercial and residential lobbies should provide more generous waiting areas within the lobbies. The residential lobby should also include an area for delivery scooters and bicycles to park.

Overall, the applicant heavily relies on the strategic support within the Clayton Precinct Plan for the intensified built form rather than the existing site context or preferred character sought in the Precinct Plan. Consequentially the current proposal does not meet the relevant design guidelines and fails to achieve the outcome envisaged in the Precinct Plan. Given the strategic prominence of the site, a building of better architectural quality is warranted with better resolved forms, greater façade activation and more refined materials and finishes.

Wind Impact Assessment

The proposed building is more than double of the building height of the adjoining properties and will potentially generate significant wind impacts. A Wind Impact Assessment has not been provided to detail the relevant wind comfort criteria for the footpath, podium terrace and balconies to demonstrate these areas are suitable and safe for sitting, standing and walking.

Accommodation

As identified earlier in the report, a planning permit is required to use the land for accommodation (apartments) as the residential pedestrian frontage at ground level exceeds 2 metres. The subject site being located within the core of the Clayton Major Activity Centre with excellent access to public transport and is close to existing services, represents an appropriate location where accommodation should be located.

The proposal includes a total of 152 apartments consisting 105 one bedroom apartments, 46 two bedroom apartments and 1 three bedroom apartment. Among these apartments, a total of 13 apartments are allocated as affordable housing or social housing which takes approximately 8.5% of the total apartments.

The proposed apartments containing a mixture of bedroom numbers will assist in providing a diversity of housing which is sought in Clause 21.04 (Residential Development). All apartments are designed to meet the requirements of Clause 58 (Apartment Developments) to provide good level of internal amenity. Details of assessment against Clause 58 are as follows:

- The ground and first level setbacks with pedestrian canopy over the Clayton Road front satisfies the objective of Clause 58.02-5 to integrate with the street and improve public realm.
- Clause 58.03-1 requires developments to be designed to achieve energy efficiency. The proposal has maximised north facing windows to the apartments and the horizontal architectural features will serve as solar protection to the windows, while the full size window/ sliding door provided to each bedroom and living room maximises solar access within the apartments.
- Clause 58.03-2 requires the provision of communal open space of 2.5 square metres per dwelling or 250 square metres, whichever is lesser. The proposal consists of 152 apartments and therefore is required to provide a minimum of 250 square metres of communal open space. The proposed development contains an indoor communal area of 513 square metres and a total outdoor communal areas of 687 square metres, exceeding the requirement. However with the absence of wind assessment it is uncertain if the outdoor communal areas on Levels 5 (fourth floor) and 16 (fifteenth floor) are suitable for outdoor activities.
- The proposal will significantly reduce the number of vehicle crossovers and car parking has been designed to allow convenient parking and minimise impacts of vehicular noise.
- At least 50 per cent of dwellings have been designed to achieve the accessibility standards.
- Each apartment has been provided with a private terrace or balcony of over 9 square metres with a width of 2 metres which exceeds the relevant requirement of Clause 58.05-3.

- Given the scale of the development more prominent and separate pedestrian entrances at ground level should be provided to the commercial and residential uses.
- Clause 58.07-4 requires a minimum of 40% of the dwellings to be provided with effective cross ventilation. Only 30% of the proposed apartments allow for cross-ventilation which does not satisfy the requirement.

Dwelling Diversity

The residential development comprises the following breakdown of apartments:

No. of 1 bedroom apartments	No. of 2 bedroom apartments	No. of 3 bedroom apartments
103	48	1

A significant proportion (67% of all dwellings) of the development is comprised of 1 bedroom apartments. Whilst the proposed apartment layout provides for reasonable variation in apartment layouts, composition and orientation, the development does not provide for adequate diversity.

Development of this scale should provide for reasonable dwelling diversity including. Opportunity exists within the development to provide for greater diversity of housing choices to cater for varied housing choices for families, singles, older people and multi-generational families. Given the large number of residents anticipated to be local and some downsizing, the product mix should incorporate some larger apartments with 3 (or more) bedrooms and larger balcony spaces.

The design response should provide for flexibility and adaptability to provide a proportion of three bedroom apartments and opportunities for consolidation of adjoining one and two bedroom apartments to form larger apartments.

Social/ Affordable Housing

The proposed development will facilitate approximately 8.5% of social and affordable housing over a total of 152 apartments. This includes 10 apartments for affordable housing and 3 apartments for social housing.

UrbanXchange has prepared an affordable housing report outlining the need of affordable and social housing, and proposed that the social housing will be delivered through a Section 173 Agreement under the Planning and Environment Act 1987, with details of such arrangement to be confirmed through planning permit conditions. This recommendation is consistent with the common practice of Council.

A letter of support from the Women's Housing Ltd (social housing provider) was provided with the application for the proposed development. The letter specifies the offer from the developer for the Women's Housing Ltd to purchase one (1) 2 bedroom & two (2) 1 bedroom apartments for the purpose of affordable housing.

However, Women's Housing Ltd highlights in the letter that their purchase would need to be free of a Section 173 Agreement which contradicts to the recommendation of UrbanXchange and Council's common practice.

The proposal providing social and affordable housing component is a positive outcome to the community however the proposed social and affordable housing component only takes up a small percentage (8.5%) of the overall development and is not sufficient to justify the additional building height (almost 70%) above the preferred maximum building height recommended in the Clayton Activity Centre Precinct Plan.

Car Parking, traffic and access

The subject site is located within the Principal Public Transport Network (PPTN). The requisite car parking spaces required under Clause 52.06 is shown in the following table:

Proposed Use	Clause 52.06 requirement (PPTN)	Floor area	Car spaces required	Proposed car parking allocation	Car parking reduction sought
Retail tenancy	3.5 spaces per 100m ² of leasable floor area	1,479m ²	51 spaces	13 spaces allocated (0.88 spaces per 100m ²)	38 space
Offices	3 spaces per 100m ²	1,197m ²	35 spaces	30 spaces (2.5 spaces per 100m ²)	5 spaces
Apartments	1 space for 1-2 bedrooms; 2 spaces for 3 or more bedrooms No requirement for visitor car parking	152 apartments	153 spaces	153 spaces	-
Total			239 spaces	196 spaces	43 spaces

A total of 196 car parking spaces are provided within the car park. The above table indicates that the proposal seeks to reduce the required car parking provision by 43 spaces. Most of the proposed car parking reduction comes from the retail tenancy (38 spaces) with the proposed car parking rate of 0.88 spaces per 100 square metres.

Council's Traffic Engineer advised that the proposed car parking rate of 2.5 spaces per 100 square metres for office is considered reasonable given the subject land is located within the Clayton Activity Centre and there is excellent public transport access.

The proposal provides 13 spaces for the retail premises and requires a reduction of 38 spaces. The traffic report provided by the Permit Applicant notes that *'the reduction for the retail component is likely to be associated with customers'*. The report suggests that the actual demand of the retail customers may be lower due to multi-purpose trips. Council's Traffic Engineer advised that the multi-purpose trip consideration is a reasonable consideration however this does not fully justify the proposed car parking reduction which is significant.

Council's Traffic Engineer is also concerned about the capacity of nearby public parking areas to accommodate the retail customer demand as anecdotally there is high parking demand at various times in this area of the Activity Centre. Since a review of parking occupancy has not been undertaken for the site as part of the traffic report, consequently it is not considered that there is sufficient justification for the proposed reduction.

Bicycle facilities

Under clause 52.34 of the Monash Planning Scheme a total of 58 spaces is required, including 30 resident spaces, 9 employee/staff spaces and 19 visitor spaces. A total of 62 bicycle parking spaces are proposed, with 44 space within the ground level car park for residents, employee and residential visitors. Additional 18 spaces are provided along the street frontage for visitors of the retail tenancy and offices.

Although the proposal meets the total number of bicycle parking spaces required in Clause 52.34, it fails to provide at least 20% of the residential/ staff parking spaces on-ground for riders who are unable to lift a bicycle to a hanging bicycle parking device. 42 of 44 spaces are on hanging bicycle parking devices .

Waste Management

Private waste collection is proposed, however the Waste Management Plan and Development Plans are lacking in detail with respect to the provision of waste storage allowance and collection. More specifically,

- The proposed development fails to allow for food organic recycling and separated glass recycling.
- Bins collection time restrictions have not been provided as per the City of Monash Local Law No.3 and EPA Guidelines.
- The proposal does not provide a designated hard waste storage area within the development. Storage of hard waste within individual apartments is unacceptable.
- Details of e-waste bin, cleaning/ washing bin facilities, drainage to sewer and ventilation have not been provided.
- Process to ensure the Owners Corporation is aware of its responsibilities regarding the implementation of the Waste Management Plan has not been provided.

- Referral documents of ‘The Toward Zero Waste Strategy (2005) and Getting Full Value (2013)’ are redundant strategic documents. The Waste Management Plan should refer to the current waste policy of ‘Recycling Victoria Policy 2020’.

An amended Waste Management Plan would be required via permit conditions should one be issued.

Environmental Sustainability Assessment

An Environmental Sustainability Assessment was submitted as part of the application. The assessment shows that the proposed development will achieve an overall energy performance of the building 10% better than the minimum permitted and attain the Best Practice standard for urban stormwater quality.

Overall, the report concluded that the proposed development achieves an appropriate performance outcomes for a mixed use development and is consistent with the objectives set out in Clause 19.03-3S (*Integrated water management*) and 22.13 (*Environmentally Sustainable Development Policy*).

Soil Contamination

AECOM Australia Pty Ltd has prepared an environmental remediation advice for the site (dated 17 November 2020) as the subject site was a former Caltex Clayton Service Station.

The report suggests that additional tasks may need to be undertaken to progress the site towards a residential development and further auditing tasks may be required. Permit conditions would require reports to be provided after further investigation of the additional tasks as suggested in this report if a permit was to issue.

Objections not previously addressed

- The development will set a precedent for other high density developments

The application itself will not set a precedent as each application will be assessed on its merit. Further the Clayton Activity Centre Precinct Plan encourages higher density development. The height is however considered excessive and inconsistent with this plan.

- Loss of south-facing signage on north adjoining property

Concerns regarding loss of signage opportunities on the southern façade of adjoining property is not a relevant planning consideration. However it is not unexpected that should the subject site be developed, it would contain a built form higher than the previous single storey building given its location.

In addition, the existing business identification sign on the southern façade of the north adjoining property (occupied by Chemist Warehouse) does not appear to have planning approval and Council's investigation team will look into this issue.

- Impact to existing business during construction

If this proposal was supported, a permit condition would require a Construction Management Plan and Traffic Management Plan to be submitted to Council prior to commencement of any construction works. This will ensure that traffic will be managed properly during construction and minimise impacts to the local area.

Some disruption is inevitable during construction in relation to noise, dust or inconvenience caused by hoarding structures on the footpath. This does not warrant the proposal to be refused given they are not long term impacts.

CONCLUSION:

The concept of developing the site for a mixed use commercial and residential development meets the relevant strategic policies and is supported. The proposed retail and office uses are 'as of right' within a Commercial 1 Zone, and the proposed accommodation use is considered appropriate to this location.

The issues with this application relate to the design details and the scale of development. A minimum 40% of the apartments should provide for cross-ventilation to achieve a reasonable level of internal amenity.

The height of the building and its street wall substantially exceeds the preferred maximum height envisaged in the Clayton Activity Centre Precinct Plan, which is not justified with any additional social or urban design benefits nor through existing policies. Although the area is identified in the Clayton Activity Centre Precinct Plan to undergo significant changes in built form, the proposed building is significantly out of scale with the immediate context and will excessively dominate the anticipated built form in the surrounding area. The proposed car parking within the podium levels fails to achieve a quality streetscape activation and results in poor pedestrian amenity to the Clayton Road frontage.

In addition, the overshadowing impact to the Clayton Road footpath and adjoining properties to the south is significant and the overall impacts on the vicinity are considered unreasonable.

The application in its current form should be refused.

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.