

## DELEGATED PLANNING REPORT

**7-9 NICHOLSON COURT, CLAYTON  
CONSTRUCT A FIVE STOREY APARTMENT BUILDING WITHIN A SPECIAL  
BUILDING OVERLAY  
(TPA/53913)**

---

### **EXECUTIVE SUMMARY:**

This application proposes the development of a five-storey apartment building for 32 dwellings and basement car park. The subject land is located within the Clayton Major Activity Centre, in a location designated for residential growth.

The application was subject to public notification. Four (4) objections to the proposal have been received.

Key issues to be considered relate to the building scale and massing of the design, presentation of the building to Nicholson Court and adjoining properties, internal amenity for future residents, the availability of landscaping, amenity impacts on adjoining properties and potential traffic generation from the site.

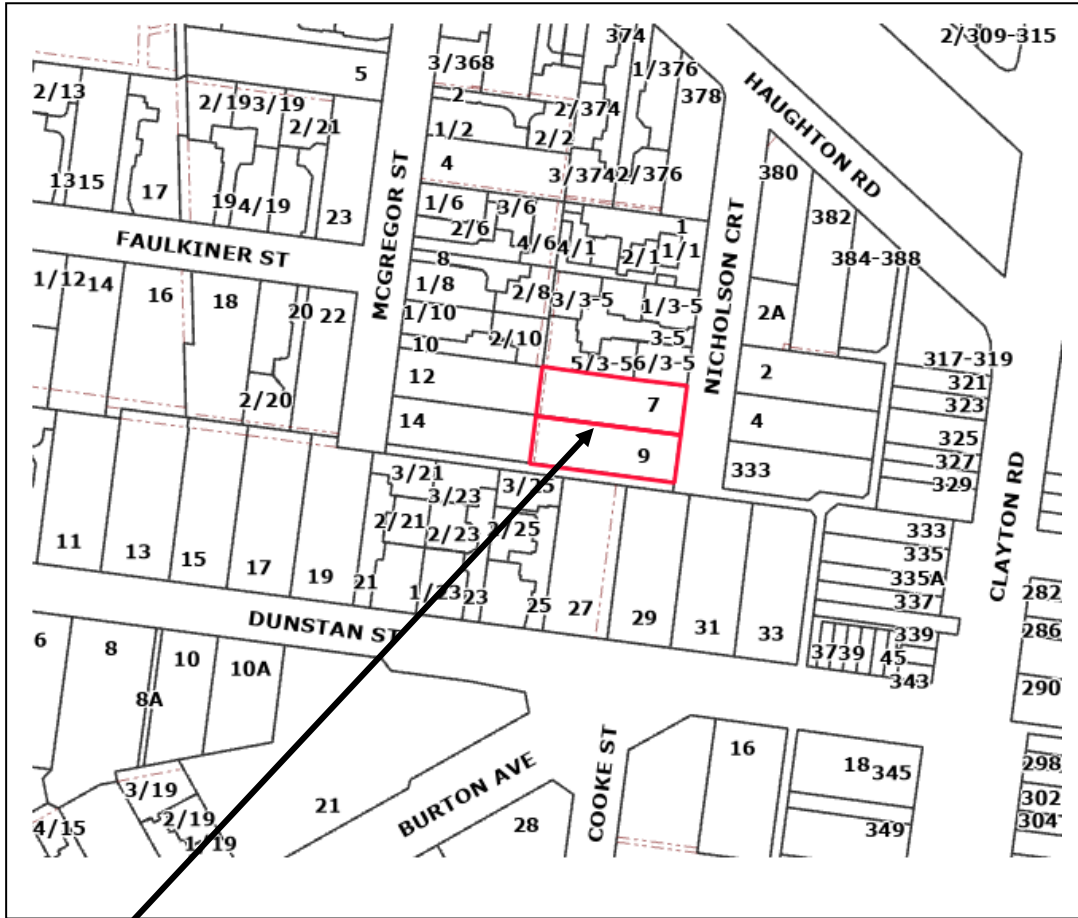
This report assesses the proposal against the provisions of the Monash Planning Scheme including the relevant state and local planning policy framework, Clause 58 and issues raised by objectors.

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

<b>RESPONSIBLE DIRECTOR:</b>	<b>Peter Panagakos</b>
<b>RESPONSIBLE MANAGER:</b>	<b>Catherine Sherwin</b>
<b>RESPONSIBLE PLANNER:</b>	<b>Anne Maree Roberts</b>
<b>WARD:</b>	<b>Oakleigh</b>
<b>PROPERTY ADDRESS:</b>	<b>7-9 Nicholson Court, Clayton</b>
<b>EXISTING LAND USE:</b>	<b>Two single storey dwellings</b>
<b>PRE-APPLICATION MEETING:</b>	<b>No</b>
<b>NUMBER OF OBJECTIONS:</b>	<b>Four (4)</b>
<b>ZONING:</b>	<b>Residential Growth Zone, Schedule 3</b>
<b>OVERLAY:</b>	<b>Special Building Overlay</b>
<b>RELEVANT CLAUSES:</b>	
<b><u>Planning Policy Framework</u></b> Clause 11.01-1R- Settlement –	<b><u>Local Planning Policy Framework</u></b> Clause 21- Municipal Strategic

<p>Metropolitan Melbourne          Clause 11.02-1S- Supply of Urban Land          Clause 11.03-1S – Activity Centres          Clause 13.03-1S – Floodplain Management          Clause 13.07-1S- Land Use Compatibility          Clause 15.01-1S&amp;R- Urban Design          Clause 15.01-2S- Building Design          Clause 15.01-4S &amp; R- Healthy Neighbourhoods          Clause 15.01-5S- Neighbourhood Character          Clause 15.02-1S- Energy and Resource Efficiency          Clause 16.01-1S &amp;R- Housing supply          Clause 16.01-2S- Housing affordability          Clause 17.01-1S&amp;R- Diversified Economy          Clause 17.02-1S- Business          Clause 18.01-1S- Land Use and Transport Planning          Clause 18.02-1S &amp; R- Sustainable Personal Transport          Clause 18.02-3R– Principal Public Transport Network          Clause 19.03-3S- Integrated Water Management</p>	<p>Statement)          Clause 21.04- Residential Development          Clause 21.06 – Major Activity and Neighbourhood Centres          Clause 21.08- Transport and Traffic          Clause 21.13- Sustainability and Environment          Clause 22.01- Residential Development and Character Policy          Clause 22.04- Stormwater Management Policy          Clause 22.13- Environmentally Sustainable Development Policy</p> <p><b><u>Particular Provisions</u></b>          Clause 52.06- Car Parking          Clause 52.34- Bicycle Facilities          Clause 53.18- Stormwater Management in Urban Development          Clause 58- Apartment Developments          Clause 65 – Decision Guidelines</p>
<p><b>STATUTORY PROCESSING DATE:</b></p>	<p><b>25 October 2022</b></p>
<p><b>DEVELOPMENT COST:</b></p>	<p><b>\$9 Million</b></p>

### LOCALITY PLAN



**SUBJECT SITE**

### NEIGHBOURHOOD PLAN



**RECOMMENDATION:**

That Council's Delegate resolves to issue a **Notice of Decision to Refuse to Grant a Planning Permit (TPA/53913)** for the construction of a five storey apartment building within a Special Building Overlay at 7-9 Nicholson Court, Clayton subject to the following grounds:

1. The proposal is inconsistent with the objectives of Clause 21.04 Residential Development, Clause 22.01 Residential Development and Character Policy and Clause 58 of the Monash Planning Scheme regarding building height and scale, neighbourhood character, landscaping, private open space, front fencing and design detail.
2. The proposal fails to provide for sufficient landscaping opportunities to allow the building to sit in an open garden setting in accordance with the Residential Growth Zone, Schedule 3, Clause 21.04 and 22.01 provisions of the Monash Planning Scheme.
3. The proposal will result in unreasonable bulk impacts to adjoining properties to the north, west and south.
4. The front fence and provision of site services do not allow for an open front garden to soften the presentation to the streetscape.
5. The proposal will result in a poor level of internal amenity for future residents.
6. The proposal does not provide for effective waste management to cater for the scale of the development.
7. The design fails to provide for adequate integrated water and storm water management strategies and does not satisfy the objectives of Clause 22.04 of the Monash Planning Scheme.
8. The proposal is not site responsive and an overdevelopment of the site.

**BACKGROUND:**

**History**

There are no previous planning permits relating to the property.

**The Site and Surrounds**

The Subject Site is located on the western side of Nicholson Court at the terminus of the road, approximately 100 metres west of Clayton Road, Clayton. Nicholson Court is small local road with a length of approximately 120 metres from Haughton Road which terminates with a cul – de sac, with the court bowl adjacent to the subject site. There are four allotments with a frontage along the eastern side and five allotments along the western side of the street.

The site comprises two parcels of land being 7 and 9 Nicholson Court. Both properties currently support single storey dwellings with a garage to the rear. There is a low timber picket fence across the frontage of No 9 Nicholson Court and No 7 Nicholson Court is unfenced. The overall site is rectangular in shape with a frontage of 30.58 metres to Nicholson Court, a depth of 45.72 metres and a combined area of 1,403 square metres.

The land has a slope of approximately 82 centimetres from the northern corner to the southern corner of the site, with an easement (1.22 metres wide) running the length of the rear boundary. There are no covenants or restrictions on Title. There is one street tree to the frontage of No 7 Nicholson Court with scattered vegetation across the two properties as having been assessed as low retention value. One tree at the rear of No 9 has recently been removed by the previous owners.

The site is located within the residential component of the Clayton Activity Centre (MAC). The site is also located within the Monash National Employment and Innovation Cluster. North-east of the site is a public car park associated with Clayton Train Station, and the newly constructed sky rail.

Adjoining properties can be summarised as follows:

**South**

Along the southern boundary is a Right of Way that runs the length of the site and connects Haughton Road, Dunstan Street, Nicholson Court and McGregor Street. The ROW has a width of approximately 3 metres but is blocked to vehicles by a large bollard. Further south of the ROW is the rear of the properties No 25, 27 and 29 Dunstan Street, all supporting modest residential development. The future development of these sites is likely.

**North**

3-5 Nicholson Court currently supports six double storey dwellings with access from a central driveway. The dwellings have a front setback of 6.1 metres.

Three of the six dwellings adjoin the site with secluded open space of No 5/5 Nicholson Court and garages to three of the dwellings located on the boundary.

**West (rear)**

12 and 14 McGregor Street both support a single storey dwelling with a substantial SPOS area facing the rear of the site. Both properties have an outbuilding to the rear of each dwelling approximately 10 metres from the rear boundary.

**East**

Across Nicholson Court to the east, the properties at No 4 and 6-8 Nicholson Court support more recent two and three storey development having a minimum front setback of 7.6 metres. No 6-8 Nicholson Court supports two attached, double storey rendered finished dwellings with pitched corrugated iron roofing. No 4 Nicholson Court is developed with an apartment building for 8 dwellings with undercroft parking located at its centre. The building presents as two storey to the street, with two levels above the undercroft parking. Construction materials include face brickwork, cladding, timber, weatherboard and rendering elements and combination of pitched and skillion roof. Further east is the rear of commercial properties with a frontage to Clayton Road. There is a vehicle crossover in the eastern end of the court bowl that provides vehicle access from Nicholson Court to the rear of the commercial properties via a ROW of approximately 3 metres.

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

**PROPOSAL:**

The application seeks to construct a five storey apartment building comprising 32 dwellings above a basement car park. The main features of the development are as follows:

<b>Development Summary</b>	
<b>Apartment Mix</b>	
1 bed	3
2 bed	24
3 bed	3
<b>Carparking</b>	
Resident	37
Visitor	0
<b>Bicycle spaces</b>	
Resident spaces	7
Visitor	5
<b>Height</b>	
Building height	16.27 metres
Lift Overrun height	17.67 metres

- The basement car park provides 37 car spaces for residents with vehicle access from Nicholson Court via a single crossover in the south east corner of the site. No visitor parking is proposed.
- The development proposes a three storey podium with a setback of 4 metres and 5.1 metres from Nicholson Court at ground floor, with the main entrance projecting a further 1.2 metres into the setback.
- Above ground, first, second and third floors are setback 6.0m to the building and 4.0m to the balcony balustrade enclosed in the podium structure. The fourth floor (level 5) is set back at 11.24 metres.
- The contemporary building is to be finished with a mixture of materials including brick render and metal cladding with substantial areas of glazing and flat roof.
- Communal areas provide a ground floor internal space of 100 square metres at the front of the building and an area of 53 square metres open space within the front setback.
- A rendered fence is located along the frontage of the site. The fence to the area north of the central entrance has height of 1.7 metres to provide SPOS to a ground floor apartment. South of the central entrance, the fence height is reduced to 1.2 metres to the communal open space area. Sitting forward of some sections of fence are planter boxes and a service cabinet adjacent to the entrance of the building.
- The proposed site coverage is 67.7% and permeability of 19.9%.

Setbacks of the building are as follow:

Level	East (frontage)	West (Rear)	North	South
<b>Basement</b>	2.85m- 4.2m	1.5m-7.95m	1.4m-3.9m	Zero
<b>Ground</b>	4m -5.15m	2.5m-3.35m	1.48m-1.5m	1.4m-4.07m
<b>First Floor – Second storey</b>	4m balcony 6m building	3.0m	3.07m	3.04m
<b>Second Floor- third storey</b>	4m balcony 6m building	3m balcony 5m building	3m balcony 4.4m building	3m balcony 4.5m building
<b>Third Floor- fourth storey</b>	4.8m balcony 6m building	5.3 balcony 7.5m building	5.2m balcony 7.5m building	5.2 balcony 7.5 m building
<b>Fourth Floor- fifth storey</b>	11.24m	13.65m	8.3m balcony 11.3m building	9.8m lift overrun 11.3m building

*Image of proposed development*



Attachment 1 details plans forming part of the application.

**PERMIT TRIGGERS:**

Zoning

The subject site is located within the Residential Growth Zone Schedule 3 (RGZ3) under the provisions of the Monash Planning Scheme. A planning permit is required to construct two or more dwellings on a lot pursuant to Clause 32.07-5 of the Scheme.

A permit is also required to construct a front fence within 3 metres of the street if the fence exceeds 0.9 metres in height.

Clause 32.07-9 specifies the preferred maximum building height of 13.5 metres. The proposed building has a maximum building height of 16.72 metres and exceeds the preferred height of the zone.

Overlay

The subject site is located within the Special Building Overlay. A planning permit is required to construct a building or to construct or carry out works pursuant to Clause 44.05-2 of the Scheme.

Particular & General Provisions

**Clause 52.06: Car Parking:**

Clause 52.06 requires 37 car spaces to be provided on the land for residents. As the site is located within the Principal Public Transport Network (PPTN) there is



no requirement for visitor parking. As 37 car spaces have been provided, a requirement for a planning permit is not triggered under this provision.

**Clause 52.34: Bicycle Facilities**

For a residential development of 32 dwellings the proposal is required to provide 9 bicycle spaces (6 for occupants plus 3 for visitors.) The requirements of Clause 52.34 have been satisfied as 12 spaces have been provided.

**Clause 58: Apartment Developments.** The development of an apartment building of five or more storeys is required to be assessed under Clause 58 of the Monash Planning Scheme.

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 21 June 2022. In this letter, officers also advised the proposal is considered an overdevelopment of the site after consideration of the following design deficiencies:

- Concern is raised regarding the height and scale of the development within a residential court comprising of predominantly single and double storey development. Although a higher building scale may be appropriate on a consolidated site within the area, this must be balanced with achieving high quality developments within a landscaped and open garden setting as required under the design objectives in the Schedule 3 to the Residential Growth Zone. Furthermore setbacks need to minimise impacts to existing residential properties.
- The presentation and style of the building with the 3 storey podium and the proposed materials and colour palette coupled with a minimal front setback and reduced areas for landscaping will result in unreasonable bulk to the streetscape.
- The size of the basement levels limits opportunities for substantial deep root planting adjacent to the side and rear boundaries of the site. It is recommended that the basement area be reduced to allow for increase in setbacks for landscaping, particularly along the southern boundary.
- The effective area provided for landscaping is further reduced by the placement of the building over the deep soil areas along the rear boundary and the extent of the decks provided within all setback areas, including the frontage. Planting along the rear of the building is further reduced by the existing easement (1.22 m wide) running the length of the rear boundary. A revised landscaping proposal is required providing for a comprehensive landscape treatment incorporating increased canopy tree planting to be generously supplemented with plants and shrubs.

- The height and solid style of the front fencing fails to achieve an open landscaped character and is contrary to the preferred height of 0.9 metres in the Schedule 3 to the Residential Growth Zone and the Standard D5 in Clause 58.
- The location of the communal open space in the front results in a large expanse of decking providing a landscaping strip of 2 metres wide and the need for high fencing for privacy. The fence will cause overshadowing to this space and does not appear to provide the minimum area of sunlight required on June 21 to satisfy Standard D8.
- The rear setback does not meet the minimum 3 m rear setback requirement of the Schedule to the Zone or the “Clayton Activity Centre Draft precinct Plan.” It is considered the setbacks to the rear and side boundaries need to be increased and the building provided with variation to reduce the visual impact and overshadowing to adjoining properties.
- The raised level of the basement will result in overlooking from the ground floor windows and deck of apartments G.05 and G.06.
- The development has a heavy reliance on the use of snorkel windows to bedrooms. This is a poor internal response for future occupants, particularly to occupants of the south facing apartments.
- No justification has been provided on the recent removal of the large tree from 9 Nicholson Street.
- The provision of over bonnet storage for all dwellings is not supported and is not adequate for larger dwellings.

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

The Permit Applicant responded to this letter on 17 August 2022 by providing the requested information. In relation to the preliminary concerns, the Applicant advised of not being prepared to make any changes to the proposal.

The applicant further advised on 11 October 2022 of being open to negotiate on setbacks but is not prepared to concede on the proposed height.

### **Public Notice**

The application was advertised in accordance with section 52 of the *Planning and Environment Act 1987* by way of sent to the surrounding property owners/occupiers, and 2 signs displayed on the Nicholson Court frontage of the site and a further sign displayed on the ROW along the southern side boundary.

Four (4) objections were received. Key issues raised within objections can be summarised as follows:

- Excessive height in comparison to existing buildings – 2-3 storeys recommended.
- Scale and bulk not appropriate in a court location and affect the visual landscape of the court.
- Inadequate setbacks for scale.
- Increase in vehicular and pedestrian traffic with cars using the laneway as short cut to Dunstan Street.
- Satisfying the car parking requirement is not adequate to manage overflow parking
- Further disruptions to residents during construction in addition to the existing inconvenience from SRLA works.
- Request Council redesign the end of Nicholson Court toward Dunstan Street as delivery drivers for restaurants in Clayton Road on scooters create traffic hazards. Additional five storey apartment will exacerbate the traffic and increase danger to pedestrians.
- Overshadowing.
- Overlooking.
- Waste management issues.
- Pest control required with demolition of existing structures as both buildings are neglected and overrun with rodents.

Attachment 4 details the location of objector properties.

## **Referrals**

### **External Referral**

#### **Melbourne Water**

The application was referred to Melbourne Water pursuant to Clause 44.05 as a determining referral authority. Melbourne Water has no objection to the proposal subject to conditions. Whilst the proposed design satisfies the conditions for required finished floor levels for the basement and the building, the recommended conditions include requiring open style fencing. This has implications for the design of the proposed front and internal fencing between ground floor apartments.

#### **Suburban Rail Loop Authority**

As the north east corner of the site adjoins the boundary of the overlay area of the Specific Controls Overlay Schedule 14, the application was referred to the SRLA for information and comment. The Authority is not a determining referral authority in this case and has no comments or conditions to be included with the assessment.

### **Internal Referral**

#### **Strategic Planning**

The proposed development is consistent with the upper end of the building height range for this precinct in the Clayton Precinct Plan at 5 storeys and the aspirations expressed in the plan to encourage well-designed and scaled apartment development.

However, the building located at the end of a court in an area that is predominantly single and double storey in nature and coupled with the minimal setbacks and impact on the open space areas of neighbouring properties it is considered an overdevelopment. The basement is also considered extensive and will limit options for the planting of canopy trees on the site, particularly to the sides and rear.

The Clayton Precinct Plan identifies a future a pedestrian connection from the end of Nicholson Court south to Dunstan Street, but this is not imminent and does not have any bearing on this application.

Property Division

No concerns as the laneway along the southern boundary is not to be used as primary access for the apartments.

Traffic Engineer

No concerns. Vehicle movements are satisfactory and the number of spaces satisfies the requirements of the Planning Scheme. The predicted traffic generation is low and is expected to have a negligible impact on the local area.

Drainage Engineer

No concerns subject to standard conditions including submission of a drainage plan for approval. Due to the easement along the rear boundary conditions include keeping tree planting clear of the easement.

Waste Services

The submitted Waste Management Plan provides for private collection within the basement which is a preferred outcome for adjoining residents. Council's Waste Services division have advised that the submitted Waste Management Plan requires substantial revision to meet Council's requirements and cater for the number of occupants. The WMP refers to redundant waste strategies (2013) and does not provide for organics / food waste recycling, separated glass recycling, e-waste and textiles recycling. Waste generation rates provided need to be revised to accord with current state government strategies for waste minimisation and reducing waste to land fill.

In addition, the swept path diagram provided suggests difficulty in manoeuvring and potential conflict between the rubbish truck and residents vehicles during collection times. Due to the collection point located at the base of the driveway, the truck will be required to park in front of spaces allocated to at least three apartments for the driver to access the bin storage area. This will also block all vehicles from entering and existing the basement during collection times.

### Sustainable Monash

Concerns have been raised with the submitted Sustainable Management Plan as the design fails to provide for adequate integrated water and storm water management strategies as required under the Standards of Clause 58 for Apartment Developments. This will be discussed in the assessment section of this report.

### **DISCUSSION:**

#### **Consistency with State and Local Planning Policies**

##### **Planning Policy Framework (PPF)**

*Plan Melbourne: Metropolitan Planning Strategy 2017-2050* is the Metropolitan Strategy that planning authorities must consider when assessing applications for planning permits. The key directions that are of particular relevance to the proposal are to:

*“Understand and plan for expected housing needs.”*

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

*“Facilitate the supply of affordable housing.”*

The Strategy is a reference document to the Monash Planning Scheme and encourages these initiatives by seeking housing growth in and around activity centres. This plan identifies the Clayton Activity Centre as a Major Activity Centre (MAC). 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 approximately 100 metres west of the Clayton Road commercial strip, and approximately 250 metres from 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 seeks to provide for sufficient supply of housing (Clause 11.02-1S), in established areas which are located to services and public transport (Clause 16.01-1S).

Clause 11.03-1S (Activity Centres – Metropolitan Melbourne) reiterates the objectives of Plan Melbourne and seeks to support the development and growth of Metropolitan Activity Centres by ensuring they:

- *Are able to accommodate significant growth for a broad range of land uses.*
- *Are supported with appropriate infrastructure.*
- *Are hubs for public transport services.*
- *Offer good connectivity for a regional catchment.*
- *Provide high levels of amenity.*

Housing policy at Clause 16 seeks:

*“Planning should provide for housing diversity, and ensure the efficient provision of supporting infrastructure.*

*Planning should ensure the long term sustainability of new housing, including access to services, walkability to activity centres, public transport, schools and open space.”*

Increased residential density and dwelling diversity is sought by State and Local policies. The proposed development of apartments located within the Clayton Major Activity Centre with a mixture of dwelling types is consistent with the planning policy framework in respect of increased density and housing diversity objectives. However, this density must not be at the cost of the character and amenity.

The proposal raises concerns regarding building height, built form and scale, private open space, landscaping provision, internal amenity for future occupants and amenity impacts to adjoining properties. These issues will be further discussed below.

#### **Local Planning Policy Framework (LPPF)**

Clause 21.04 (Residential Development) identifies the site within the Clayton Activity Centre, located within the residential land within the Monash National Employment and Innovation Cluster and within an accessible area. This policy clearly notes that residential growth should be located within neighbourhood and activity centres, the MNEIC and the boulevards to increase proximity to employment, public transport, shops and services. This will assist to preserve and enhance the garden city character and special character in the balance of the Municipality. It is an expectation that buildings should be designed with high architectural quality, environmentally sustainable design and providing a diversity of housing needs whilst complementing and enhancing the garden city character of the area.

Clause 22.01 (Residential Development and Character Policy) It is envisaged in the Future Character Statement at Clause 22.01-4 that the scale of new residential development will generally comprise *“larger footprint apartment*

*developments of a high-quality design and finish. Some infill town house and unit development will also occur”.*

In addition, the Statement seeks that *“where possible on larger sites, developments will be multi-level, and set in open gardens. Although setbacks from all boundaries will be less than is common in other parts of Monash, the developments will ensure the incorporation of well-maintained landscaping to address the garden city character, albeit in a more urban form”.*

Clause 21.06 (Major Activity and Neighbourhood Centres) identifies Clayton Activity Centre as a Major Centre. Strategic directions for the centre include encouraging medium rise residential development within the centre, encouraging redevelopment and concentration of activity as well as maintaining the existing historical / cultural resources of the centre and to ensure parking is provided to meet the needs of the centre.

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 was prepared by “Energy Water Environment” dated 3 August 2022 which included a BESS assessment. Although the report concludes that the proposal achieves best practice, concerns have been raised and will be discussed in the assessment.

### **Residential Growth Zone**

The site is located in the Residential Growth Zone, Schedule 3 which has the following objectives (among other things):

- *To provide housing at increased densities in buildings up to and including four storey buildings.*
- *To encourage a diversity of housing types in locations offering good access to services and transport including activity centres and town centres.*
- *To encourage a scale of development that provides a transition between areas of more intensive use and development and other residential areas.*
- *To ensure residential development achieves design objectives specified in a schedule to this zone*

The schedule to the zone identifies the following Design Objectives:

- *To facilitate housing growth in the form of apartment developments of a high quality design and finish.*
- *To ensure developments are constructed within an open garden setting through the retention and planting of vegetation, including canopy trees.*

- *To ensure that the height, scale and form of development respects any sensitive residential interfaces and minimises the appearance of visual bulk.*

The schedule to the zone provides variations to Clause 55 with respect to front setback, landscaping, side and rear setbacks, private open space and front fence height. However, as the application is not subject to Clause 55, the only applicable variation to consider relates to setbacks as all other requirements of Clause 58 apply. Clause 58 states:

*“If a zone or a schedule to a zone, or a schedule to an overlay specifies a requirement different from a requirement of a standard set out in Clause 58 (excluding Clause 58.04-1), the requirement in Clause 58 applies.”* However, for Clause 58.04-1 (Building Setback), *“if a zone or a schedule to a zone specifies a building setback requirement different from a requirement set out in Clause 58.04-1, the building setback requirement in the zone or a schedule to the zone applies”*

	Schedule Variation	Assessment
<b>Minimum Street Setback (B6)</b>	Minimum setback from front street – 4 metres	<u>Complies</u> The proposal provides a minimum setback of 4 metres, providing a setback of 4.0 -5.1 metres at ground, first and second floor levels, with the third and fourth floor setback 6.0 metres and 11.2 metres.
<b>Side and rear setbacks (B17)</b>	Side setbacks – 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.  Rear setback – 3 metres for the first 2 storeys plus 2 metres for the third storey.	<u>Does not Comply</u> Side setbacks comply for Ground to third floors but does not comply for fourth and fifth floors: <ul style="list-style-type: none"> <li>• Setback of 7.5m provided at fourth floor when 8.33m is required. Setback reduced to 5.2m with balconies with 1.7m screens.</li> <li>• Setback of 11.3 provided for fifth floor complies as 11.3m required. Setback reduced to 8.35m with balconies projecting into the setback</li> </ul> The rear setback at ground floor of 2.5 metres does not satisfy the standard of 3 metres. At third storey 5m setback complies but balconies with 1.7m screening reduces setback 3 to metres. Fourth storey does not comply as setback 7.5m provided and 8.3 m required and with balconies with 1.7m screening reduces the setback



		to 5.3m. Fifth floor setback 13.6m complies and 11.47m required
--	--	--

**Draft Clayton Activity Centre Precinct Plan**

The Clayton Activity Centre Precinct Plan 2019 was adopted by Council on 28 January 2020 to provide a long-term framework to guide development in and around the Clayton Activity Centre. The Precinct Plan aims to locate taller buildings to locations within the commercial core of Clayton, on larger development sites and in prominent locations to contribute to creating a stronger entrance to Clayton. However, as the Plan has not been incorporated into the Planning Scheme, it has the status of a reference document.

The subject site is identified within an area of residential intensification or “Precinct 3: Surrounding Residential” which aims to provide a diverse range of housing types within the Activity Centre that caters for the needs of existing and future residents and meets expected population growth.

It is envisaged the residential development will provide for low scale apartment buildings and town houses with landscaped front gardens that will sit comfortably next to detached dwellings and define a high quality and contemporary character for the precinct.

The Precinct Plan identifies development requirements and outcomes including a preferred building height in the range of 3-5 storeys. It is anticipated that development will have a 4 metre front setback from the street up to 9.9 metres, with an additional 3 metre setback for levels above. Development outcomes seek to avoid unarticulated façades that give a bulky appearance, especially from oblique views and avoiding repetitive stepped/Wedding cake’ profile. Rear setbacks are proposed to be 3 metres up to a height of 9.9 metres with an additional 1 metre setback for every metre of height over 9.9 metres up to 16.5 metres

The proposed rear setback of 13.65 metres from the boundary for the fifth floor would satisfy the required setback of 9.9m. The Plan also provides for a height of between 5- 6 storeys for a property with a frontage greater than 30 metres. The development site has a frontage of 30.48 metres making a proposed development of 5 storeys possible under the strategy.

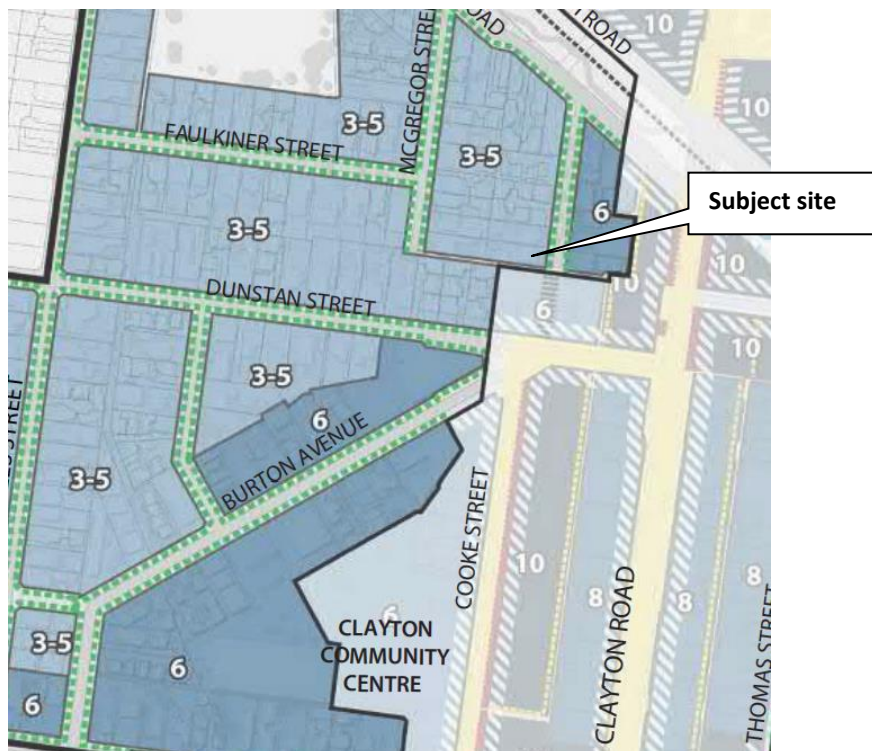
	<b>Precinct Plan Setbacks</b>	<b>Assessment</b>
<b>Front setback</b>	4 metres landscape setback from the street for developments up to 9.9 metres. 3 metres additional upper level setback for development above 9.9 metres.	<b>Variation sought</b> The building has front setback of 4 metres for 3 storeys and complies. Fourth floor setback of 6 metres (with balconies encroaching) does not comply and should be 7 metres.

<p><b>Rear Setback</b></p>	<p>3 metres rear setback for development up to 9.9 metres, plus 1 metre additional setback for every meter of height over 9.9 metres up to 16.5 metres.</p>	<p><b>Variation sought</b> Minimum ground floor setback of 2.5 metres does not comply but 3 metres complies for first and second floors up to height of 9.9m. Fourth and fifth floors comply</p>
<p><b>Side setback</b></p>	<p>1 metre setback, plus 0.3 metres for every metre of height over 3.6 metres up to 9.9 metres, plus 1 metre for every metre of height over 9.9 metres, up to 16.5 metres</p>	<p><b>Variation sought</b> Fifth floor balcony setback 8.28 metres from northern boundary and setback of 9.6 metres required.</p>

Whilst setback provisions technically apply only to walls, it is considered that the proposed balcony encroachments still represent building bulk and should be able to achieve the relevant setbacks.

Although conceptually, a higher density development is supported on a consolidated site, the concern with the current proposal is due to its building height, its impact on the surrounding court location and residential neighbourhood and the urban design outcomes which will be discussed below in this report.

***Extract of Clayton Activity Centre Built Form Plan***



## **Neighbourhood Character and Built Form**

### **Building Height and Scale**

The proposed building has a maximum building height of 16.72 metres and exceeds the preferred height of the zone of 13.5 metres. Although a consolidated site allows the opportunity for an increase in building form, it would be expected that such developments are site responsive and sit comfortably on the site without impacting the streetscape. This must also be balanced with achieving high quality developments within a landscaped and open garden setting as required under the design objectives in the Schedule 3 to the Residential Growth Zone.

The scale of the design does not take into account the court location with the presentation of the building more suited to a major road where more robust development is more common. Of further concern is that the design does not attempt to reduce the height and impact, or respond appropriately to the site. This is demonstrated with the basement being raised above natural ground level up to 790mm resulting in additional height and raised floor levels. The setbacks and lack of variation in the building do not provide for a transition or minimise the visibility to the court or adjoining properties.

### **Front Setback**

Although local policy suggests that the site is earmarked for higher densities, the future character statement at Clause 22.01 identifies that front setbacks should continue to be well landscaped to ensure that 'garden character' of the area is maintained. Walls and fencing within the front setbacks are encouraged to be low or non-existent, allowing views to planting within these spaces.

Whilst the proposed front setback meets the prescriptive measure in the schedule, the proposal fails to provide a comprehensive streetscape presentation with respect to fencing, services and provision of landscaping. The area for landscaping within the front setback, will be significantly impacted by the solid high front fencing ranging in height from 1.2 metres to 1.7 meters, services and hard paving. There are a number of separate entry points including the provision of decks within the setback. The decks effectively reduce the depth of the setback to 1.5 and 2 metres and due to the number of intrusions, results in small pockets of the frontage being available to potential landscaping rather than a dedicated landscaped frontage. This approach will not provide a suitable transition with the building sitting forward of the adjoining dwelling to the north and other properties in the street and is a poor outcome.

### **Detailed Design**

With respect to the building interface to Nicholson Court the design response proposes a contemporary building with a "civic" or "public building" presentation more suited to a university or civic precinct. The façade treatment lacks adequate visual interest for residential use and is dominated by the three-storey

podium form with uniform setbacks at all levels and a lack of variation or any significant breaks in the building layout. Further concerns relate to the following:

- The solid, vertical podium columns provided around the perimeter of the street facing balconies at the second and third storey are dominant and exacerbate the sheer height of the building at street level. The columns effectively encase the second and third floors and result in a sheer three storey presentation.
- Other than the section of the ground floor setback of 5.1 meters (south of the entrance) the building will present with a uniform 4 metre front setback without any break in the building for three levels. It is noted that the sectional diagrams show the podium sitting slightly forward of the building line by approximately 500mm, and although this is not dimensioned, it would appear to further reduce the front setback of the podium to less than 4 metres.
- The fourth floor has a uniform setback of 6 metres with an extended balcony across the frontage with a length of approximately 20 metres and a setback of 4.8 metres. This is not a satisfactory response in recessing the fourth level as it will sit forward of the adjoining building.
- The overall design is reliant on the potential height considerations under the Precinct Plan but does not satisfy the front setback requirement for the fourth floor. The minimum front setback required for the fourth floor should 7 metres for development above 9.9 metres in height.
- Although the fifth floor is setback 11.24 metres from the frontage, the apartment has been located to the rear of the lift and stairs enclosure that has not been centered on the building or integrated with the single apartment on this level. This results in an unbalanced façade and the elevation to the street and unnecessary, additional floor area. The building proposes a basic palate of materials and finishes with the building finished in similar shading of light and dark greys, and whites contrasting with black metal window framing and balcony balustrading all adding to the commercial appearance of the development. It is considered that the built form would need to introduce some softer architectural treatments and higher quality and array of materials (such as timber look cladding or brick) to improve the presentation of the building to both the street and adjoining properties.
- The high solid fencing across the frontage does not satisfy the design requirements of Standard D5 for providing a development with low and visually permeable front fences and limiting high front fences unless this is consistent with the existing urban context. The fence will be out of character in Nicholson Court as existing front fencing is low and transparent.
- It is also noted that the solid front fence does not satisfy the requirements of Melbourne Water that has specified lower levels of the site are to have open style fences. Due to the differences in levels across the frontage, the

section of fencing to the southern end of the site will not satisfy this requirement.

Overall, it is considered that the development does not respond to its sensitive interface to residential land and court location through setbacks, façade detailing and overall building scale. The development does not provide a “*high quality design and finish*” and “*open garden setting*” as required by the objectives of the zone.

### **External Amenity Impacts**

#### **Visual Bulk**

The proposal will result in unreasonable bulk impacts to the adjoining properties to the rear (12 and 14 Mc Gregor Street), the north (5/3-5 Nicholson Court) and the south, (particularly to 3/25 Dunstan Street). Although the ROW along the length of the southern boundary assists in providing additional separation from the rear of the properties in Dunstan Street, the setbacks and lack of variation along all elevations are inadequate to existing residential interfaces.

Standard D14 of Clause 58 does not prescribe setbacks from side or rear boundaries, but requires the “*built form of the development must respect the existing or preferred urban context and respond to the features of the site.*” However, under Clause 58.04-1 assessment of setbacks is to be undertaken with the requirements of the Schedule to the Zone which includes variations to B17 of Rescode.

The proposal generally complies with side and rear setbacks for ground to third floors with the exception of two areas of non-compliance of 0.5m at ground floor along the rear boundary with apartments G.04 and G.06 partially setback 2.5 metres and not 3 metres as required under the Schedule or the Precinct Plan.

At third floor while the rear setback of the building complies, the balconies to apartments 2.04 and 2.05 encroach within the setback and are provided with 1.7 metre high screening. As the balconies are attached for a continual length of length of 25 metres, the setback is effectively reduced to 3 metres without any variation.

This approach is also provided at level four with balconies encroaching 2.2 metres into the rear setback of 7.5 metres and reducing the setback to 5.3 metres for a building with a height 13.7 metres. Under the Standards of B17 a setback of 8.3 metres is required. This results in a continual length of building of approximately 20 metres adjacent to existing areas of secluded private open space and result in unreasonable bulk impacts to properties in Mc Gregor Street. It is considered that the excessive balcony encroachments across the building represent additional building bulk when viewed from adjoining properties.

The side elevations of the building results in a large span of building with limited articulation due to the lack of variation and setbacks or thoughtful planning of materials and fenestration along these boundaries to reduce the massing. The design of the building provides for only one small break at all levels up to the fourth floor on both side elevations. Along both elevations this break has not been located opposite the main area of SPOS of the adjoining property to the north at 5/3-5 Nicholson Court and to the south at 3/25 Dunstan Street to assist with reducing the visual impact demonstrating that the design is not site responsive to the sensitive interface.

#### Overshadowing

Overall, the overshadowing of the development to adjoining properties is considered acceptable, but with a more responsive design the overshadowing impacts could be reduced.

Although the application is not subject to the overshadowing requirements of Standard B21 of Clause 55.04-5 (Rescode), the same criteria can be applied as a guide to assess the impact on the amenity of the adjoining dwellings. This requires that *“where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September. If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.”*

The development will result in an increase in overshadowing to the SPOS of both properties to the rear (west) at No 12 and 14 Mc Gregor Street at 9.00am but by midday there is no shadowing. Compliance is achieved due to the large areas of SPOS at the rear of both properties.

Overshadowing at midday is to the south and largely falls over the subject site and ROW with some additional shadow to the rear of the properties along Dunstan Street. This will not have a significant impact to adjoining properties after consideration of existing shadows cast by boundary fences.

Afternoon shadows will fall across the front of the subject site and over Nicholson Street with no impact to the properties to the east.

#### Daylight to Windows

The adjoining property to the north at 5/3-5 Nicholson Court has several habitable room windows facing the site and setback 2.2 metres from the boundary. Allowing for the development being setback 3 metres at ground floor a minimum separation of 5.2 metres is provided and is sufficient to address loss of daylight.

The property to the south at 3/25 Dunstan Street has several north facing habitable room windows facing the site and setback approximately 3.3 metres from the boundary. Due to the ROW a separation of 7.3 metres is provided at ground floor and would satisfy Rescode daylight calculations

#### Overlooking

Standard D14 (building setbacks) in Clause 58 requires that *“buildings should be set back from side and rear boundaries, and other buildings within the site to....avoid direct views into habitable room windows and private open space of new and existing dwellings. Developments should avoid relying on screening to reduce views.”*

Although the application is not subject to the overlooking requirements of Standard B22 of Clause 55.04-6 (Rescode), the design has applied the same criteria in addressing overlooking into adjoining properties. Standard B22 requires that habitable room windows and balcony spaces should be located and designed to avoid direct views into the secluded private open space of an existing dwelling within a horizontal distance of 9 metres. Views should be measured within a 45 degree angle from the plane of the window or perimeter of the balcony from a height of 1.7 metres above floor level.

The proposed development generally complies with the overlooking requirements of Clause 55.04-6. Screening and provision of obscure glazing has been provided to respond to overlooking of the adjoining properties. Screening measures have been provided to protect adjoining habitable room windows and secluded private open space within 9 metres of the boundary from the upper storeys.

However, due to the basement being raised above natural ground level there is the potential for overlooking from the decks and habitable room windows at ground floor along the southern elevation and the majority of the windows along the rear elevation. The design is relying on 2m high boundary fences along the southern and rear boundaries but these will not be adequate as the ground floor level is raised as high as 920mm with impact to the properties at the rear in McGerogor Street and the properties along Dunstan Street. Although this is not an issue along the northern elevation, the fact that screening is required to ground floor areas is a further indication that the design is not site responsive.

#### Wind Impacts

Standard D17 of Clause 58 requires that developments of five or more storeys, (excluding a basement) should not cause unsafe wind conditions to public land, publicly accessible areas on private land, private open space and communal open space. Developments should also achieve comfortable wind conditions in public land and publicly accessible areas on private land.

The assessment provided by Mel Consultants investigated the wind environment around the proposed development by considering its form and exposure, the

nearby existing residential developments and some taller commercial buildings along Clayton Road to the east, the local wind climate and the proposed use of ground level areas in and adjacent to the proposed development.

The assessment found the development is not expected to produce an unsafe or uncomfortable wind environment. The desktop assessment and findings conclude that design of the building will satisfy the recommended criteria to provide a safe and comfortable environment around Nicholson Court and for resident use of upper floor balconies within the development. The report has not recommended any changes to the design.

### **Internal Amenity**

The layout of the development demonstrates that the design has achieved compliance with the majority of the minimal standards of Clause 58 as outlined below:

- Standard B16 (Noise Impacts) - An Acoustic Report was provided with the application, prepared by Acoustic Logic Pty Ltd due to the location of the site within 110 metres of the Pakenham/Cranbourne Metropolitan railway line that carries freight trains. The report concludes that the proposed design will satisfy noise requirements of Standard D16 in protecting residents from external and internal noise sources subject to specific construction recommendations including providing 6mm glass and acoustic seals to windows and doors. The recommendations of this report could be introduced as a condition if a Permit were to be issued.
- Standard D18 (Accessibility) - 25 of 32 apartments have an adaptable bathroom and all apartments have a clear path with minimum width of 1.2 metres and maximum depth of 1.5 metres as required.
- Standard D19 (building entry and circulation) - The development provides for a main pedestrian entry and foyer leading into the ground floor communal area with a light court provided for all floors. However this does not provide for natural ventilation. It is considered that an external window to the corridors should be provided.
- Standard 21 (storage) - The provision for storage has been satisfied. However, it is noted that the over bonnet storage is proposed in the basement. This approach, whilst suitable for single bedroom dwellings, is generally not supported as it is not a practical storage area for larger apartments.
- Standard 22 (Common Property) - Common property areas will be able to be managed by the relevant owner's corporation as required.
- Standard 23 (Site Services) - Although the design has been made for site services, the placement and location results in numerous intrusions in the front setback and resultant hard surfacing as discussed and is not a satisfactory outcome.
- Standard 24 (Waste and Recycling) - The submitted Waste Management Plan has been assessed as not satisfactory. However, if Council was of a



view to support the proposal, it is considered this could be managed via permit conditions.

- Standard 28 (Windows) - The design satisfies the dimensions for snorkel window of a providing a minimum width of 1.2 metres and a maximum depth of 1.5 metres. However, it is the placement of these windows that will discussed below.
- Standard 29 (Natural Ventilation) - 15 of the 32 apartments (47%) are provided with effective cross ventilation.

The following are areas where it is considered that the standards and objectives have not been met:

#### Internal Layouts

Whilst Standard 26 and 27 (Functional Layout and Room Depth) is met with respect to the internal dimensions of spaces, the following apartments have poor internal layouts resulting in poor internal amenity:

- Six (6) south facing apartments have a snorkel window to a bedroom (Apartment G.07, G.08, 1.07, 1.08, 2.07 and 2.08.). These apartments do not satisfy the daylight criteria for a bedroom.
- Apartment 2.05 proposes a south facing living and dining spaces, whilst this could be reconfigured to be western facing to improve access to daylight.
- The following apartments G.02, G.03, 1.02, 1.03 do not satisfy the light criteria for both living room and second bedroom.
- Apartments G.07 and G.08 do not satisfy the daylight criteria for both the bedroom and the living area.
- The windows to living areas of apartments on the ground, first and second floors area affected by affected by balcony overhangs.

Apartments 2.04 and 2.05 have an area of unallocated/dead space leading on to the rear facing balcony.

#### Open Space

- Balconies generally comply with the minimum standards however the open space area for apartments on the fourth level is above the podium and therefore requires an area with a minimum dimension of 3 metres. In addition, the primary area for Apartment 301 provides access from the south facing living room rather than utilising a northern aspect.
- The open space associated with Apartment G.01 is within the front setback and relies on a high solid 1.7 metre high fence for privacy.
- The large decking areas and minimal side setbacks provide an inadequate landscaping response resulting in a poor outlook for residents dominated by timber paling fences.

- The conditions of Melbourne Water will require amendment of internal fencing between the balconies of some ground floor apartments to be modified to be open fencing and reducing privacy to future occupants.

#### Communal Open Space

The apartments will be provided with two areas of communal space including an indoor room at ground floor of 100 square metres and an area within the front setback of 53 square metres. This satisfies the Standard of D7 that requires and an overall area of 110 square metres with a minimum area of 30 square metres of outdoor space.

The concern with the location of the outdoor area is that is it within the front setback with a dimension of approximately 4.5 metres with the layout affected with the location of a service cabinets, bicycle racks and a planter above the basement encroaching into the space. This effectively reduces the area to approximately 43 square metres that is to provide a deck with a depth of 2.2 metres and a strip of 2.3 metres. This area will not allow adequate space for the placement of communal facilities such as a BBQ and outdoor seating to accommodate the number of occupants on the site.

Further to this, the location of the communal open space area does not meet Standard D7 which requires the space to be located to provide outlook for as many dwellings as practicable and will compromise the ability to provide for adequate landscaping to soften the visual impact of the development to the street

#### Landscaping

Landscaping proposed with the development is considered unsatisfactory. Due to the size of the basement and building footprint, the landscaping opportunities along the front, side and rear boundaries are poor. The design and area of the proposed basement car park is excessive, extending to nearly the full length of the southern boundary, a setback of 1.5 metres for nearly the full length of the northern boundary, 1.5 metres from the majority of the length of the rear boundary and to within 2.85m for the majority of the frontage.

A key outcome with apartment developments is that proposals provide a landscape layout that maximise deep soil areas for planting of canopy trees. In this case a total of 7.5% of the site area (105m<sup>2</sup>) of deep root planting is to be provided and 130 m<sup>2</sup> of canopy cover. The plan nominates an area of 216 m<sup>2</sup> of deep soil areas, and numerically has met the Standard. However, there are effectively no areas to sustain canopy trees of commensurate height to the scale of the development after considering:

- Of the three deep soil planting areas provided on the site with a combined area of approximately 82m<sup>2</sup>, all will be largely built over by ground floor building and decking areas to apartments G.01 in the frontage, G04 in the north west corner and G.06 in the south west corner.

- The other areas nominated along the side and rear setbacks have a dimension of between 1.4 and 1.5 metres along the northern and rear boundary with no area along the southern boundary.
- The balance of the area along the frontage has a dimension of 2.85 metres but as discussed proposes substantial hard surfacing to accommodate the main entry and further entry into the communal ground floor area, bicycle parking, mail boxes and service cabinets. These intrusions result in small pockets of areas be available for planting for a property with a frontage of 30 metres.
- The submitted landscaping plan proposes the planting of canopy trees adjoining deck areas which is not practical.



Further concerns with the limited areas for planting and overall inadequate landscaping response include:

- The nominated trees have an effective canopy height of between 7-8m and would not satisfy the criteria of the Schedule that requires a mature height of least equal to the maximum building height of the new development.
- The setbacks of the building at ground floor from all boundaries are insufficient to provide complementary shrubs and ground covers resulting in a poor outlook to open space areas for future occupants and insufficient to assist with reducing the visual impact when viewed from adjoining properties.
- The planting of trees within the rear easement is not supported by Council's Drainage Engineers. Along the southern boundary adjoining the driveway to the basement there is there is strip of approximately 700 mm between the driveway and a new 2 metre high paling fence extending to the front boundary. In this space it is nominated to provide hedge

planting with a height of 3.5 metres at maturity a row of shrub planting with a height of 700mm. However, the nominated species for the hedge “*Pittosporum tenuifolium*” is regarded as an environmental weed and has also been proposed above the basement.

- The setback for remainder of the southern boundary is reduced to approximately 300mm with decks for three apartments extending to close to the side boundary fence.

Overall, the landscaping treatment does not satisfy the objectives of Standard D10 of Clause 58, the garden city character objectives in local policy outlined in Clauses 22.01 and 22.05 and also the Schedule to the zone that strives “*To ensure developments are constructed within an open garden setting through the retention and planting of vegetation, including canopy trees.*”

### **Traffic Generation**

The Traffic Impact Assessment provided by the applicant concludes the proposal is projected to generate in the order of 19 traffic movements during peak periods. The predicted traffic generation is low and expected to have a negligible impact on the local traffic network.

Several objectors have raised concern with ongoing traffic concerns, particularly with delivery vehicles using the ROW at the rear of Nicholson Court as a short cut to the commercial properties in Clayton Road. Although this is not related to the development, this matter is known to Council and the feasibility of introducing control measures are being investigated.

### **Sustainable Design**

Concerns have been raised with the submitted Sustainable Management Plan as the design fails to provide for adequate integrated water and storm water management strategies as required under the Standards of Clause 58 for Apartment Developments.

Standard D13 notes that the stormwater management system should be ‘*designed to maximise infiltration of stormwater, water and drainage of residual flows into permeable surfaces, tree pits and treatment areas.*’ The development proposes the installation of a 12,000 litre rainwater harvesting tank for 32 dwellings. Council’s Water Sensitive Urban Design Officer has advised the proposal fails to meet this requirement as the rainwater tank will only provide water for toilet flushing and not irrigation of the landscape. This also fails to integrate water into the landscape to facilitate cooling, local habitat improvements and provision of attractive and enjoyable spaces for community use (CI 19.03-3S Integrated Water Management). In addition:

- There is a substantial increase in impervious surface area with the conversion of two single storey dwellings with gardens and garages into the 32 dwelling apartment development.

- The rainwater tank sized at 12,000 litres to supply toilet flushing is not expected to retain all roof runoff, nor continuously meet the demand, requiring potable water top up for toilets.
- The proposal does not provide enough information to demonstrate that there will be no detrimental effect on overall stormwater quality within the municipality (as required under CI22.04-3 and CI65.01).
- The application does not outline how stormwater discharge will be maintained at pre-development levels and hence how waterways will be protected from the impacts of inappropriate development and a consequent decline in their water quality (Objectives under CI 22.04).

In the event that a permit was to issue for the development, these issues most likely could be dealt with as permit conditions, however, the proposal as submitted fails to satisfy the requirements of the Planning Scheme.

#### **Closed Landfill Buffer**

The site is not within the identified buffer of a post closure landfill.

#### **Objections not previously addressed**

- Noise during construction – In the event a permit was to issue a Construction Management Plan would be required and would restrict construction to be during specified hours. Noise experienced from works associated with the construction of the Suburban rail Loop works are not part of this consideration.
- Pest Management – This is not a relevant planning consideration.

#### **CONCLUSION:**

The development of the land for a multi-storey residential building is consistent with relevant urban consolidation and increased density objectives as envisaged by relevant provisions of the State and Local Planning Policy Framework. However, there is significant concern that the proposed development does not respond to its sensitive residential interface within a court location and is not site responsive.

The proposal provides limited opportunities for landscaping due to the large building envelope along all boundaries and the extensive size of the basement and raises concerns with relevant objectives including, height, built form and scale, private open space, landscaping provision, internal amenity for future occupants and amenity impacts to adjoining properties.

The proposal as submitted is considered an overdevelopment.

**RECOMMENDATION**

I, as the Planning Officer responsible for the consideration of this application, declare that the above report is based on a comprehensive assessment of the proposal against the relevant provisions of the Monash Planning Scheme and issues raised.

And based on this assessment recommend the application should be refused.

*Anne Maree Roberts*

**PLANNING OFFICER**

**Date: 09.11.2022**

**OFFICER NAME:**

**Anne Maree Roberts**

As a Council Delegate, I have reviewed/considered the above officer's report and I agree with the recommendation made.

*Mariela Llopart*

**DELEGATE NAME Mariela Llopart**

**Date: 09.11.2022**

**ACTING MANAGER CITY PLANNING**

**Mariela Llopart**

**DECLARATION OF CONFLICT OF INTEREST**

No officers involved in the preparation of this report have any direct or indirect conflict of interest in this matter.

**LIST OF ATTACHMENTS:**

Attachment 1 – Proposed Development Plans.

Attachment 2 – Aerial Photograph (February 2022).

Attachment 3 – Zoning and Overlays Map.

Attachment 4 – Objector Properties Location Map.