

**1.1 29 BROWNS ROAD, CLAYTON
AMENDMENT TO APPROVED DEVELOPMENT PLAN – REDUCTION IN VISITOR
CAR PARKING PROVISION
(TPA/45209)**

EXECUTIVE SUMMARY

This application proposes to amend the approved Development Plan in accordance with the requirements of Development Plan Overlay 5. The Development Plan allows a multi-dwelling development at the former Clayton Primary School site.

The amendment proposes to remove seven (7) visitor car parking spaces from within the basement of the apartment building. This will result in the total number of visitor car parking spaces for the development reduced from 43 to 36.

The approved Development Plan states parking rates will be provided in accordance with the parking requirements pursuant to Clause 52.06 of the Monash Planning Scheme.

An appeal has been lodged with Victorian Civil and Administrative Tribunal (VCAT) against Council's failure to determine the application within a reasonable timeframe. Council is unable to determine the application but must form a position on the application.

The application to reduce the visitor parking provision was subject to community consultation. The owners and occupants of properties within proximity of the subject site were notified of the proposed amendment. Three (3) community submissions to the amendment have been received.

Key issues to be considered relate to adequacy of visitor car parking provision and impacts on on-street parking within the surrounding road network.

This report assesses the proposal against the provisions of the Monash Planning Scheme including the relevant planning policy framework and issues raised within the submissions received.

The amended Development Plan is considered appropriate and should be supported.

RESPONSIBLE DIRECTOR:	Peter Panagakos
RESPONSIBLE MANAGER:	Natasha Swan
RESPONSIBLE PLANNER:	Jeanny Lui
WARD:	Oakleigh
PROPERTY ADDRESS:	29 Browns Road, Clayton

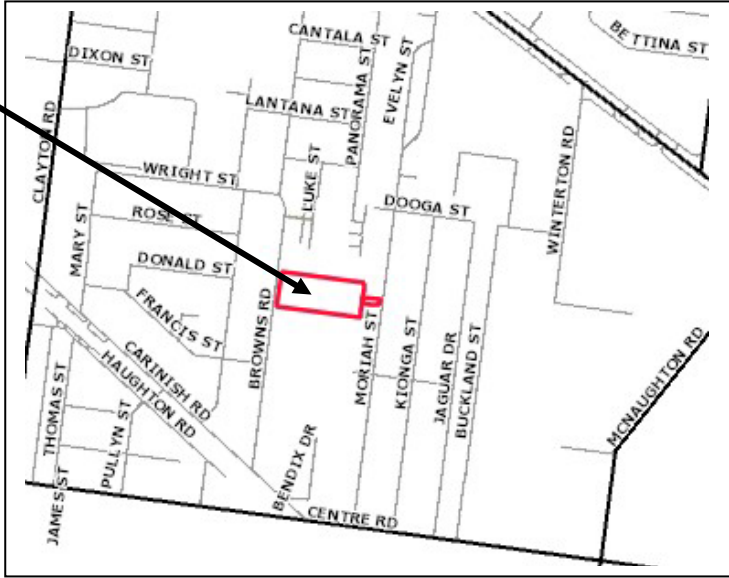
EXISTING LAND USE:	Former Clayton Primary School- currently under construction of 221 dwellings as approved under Planning Permit TPA/47261
PRE-APPLICATION MEETING:	Yes
NUMBER OF OBJECTIONS:	Three (3)
ZONING:	General Residential Zone (GRZ1)
OVERLAY:	Development Plan Overlay (DPO5)
AMENDMENT C125 (adopted)	Policies under Clause 21 & 22.01
RELEVANT CLAUSES: <u>State Planning Policy Framework</u> Clause 15.01-2S – Building Design Clause 18.02-4S – Car Parking	<u>Local Planning Policy Framework</u> Clause 21.04 - Residential Development Clause 21.08 - Transport and Traffic Clause 22.01- Residential Development and Character Policy <u>General & Particular Provisions</u> Clause 52.06- Car parking Clause 65- Decision Guidelines
DEVELOPMENT COST:	\$65,000,000

LOCALITY PLAN



SUBJECT SITE

NEIGHBOURHOOD PLAN



RECOMMENDATION:

1. That should Council have been in a position to decide the application, it would resolve to support the proposed amendment to the Development Plan for 29 Browns Road, Clayton and allow a reduction in the prescribed visitor car parking requirement.
2. Allow the Director City Development, or their delegate, to resolve the current matter before VCAT by consent order.

BACKGROUND:**History**

The subject land is the former Clayton Primary School located between Browns Road and Moriah Street in Clayton. The land formed part of Amendment GC05 to the Monash Planning Scheme and was rezoned by the Minister for Planning from Public Use Zone 2 (Education) to General Residential Zone (Schedule 1) with a Development Plan Overlay (Schedule 5).

Council at its meeting of 13 December 2016 resolved to approve the Development Plan for this site. Car parking was to be provided in accordance with rates in the Monash Planning Scheme.

Following the approval of the Development Plan, Council at its meeting of 31 October 2017 resolved to grant Planning Permit TPA/47261 to allow the development of this site for 221 dwellings which is generally in accordance with the approved Development Plan. The Planning permit application was not subject to public notice as it was considered broadly consistent with the approved Development Plan, despite the requested variation in car parking. The application did not provide parking in accordance with the rates in the Monash Planning and a condition of the permit required the plan to be adjusted for provision of 7 additional visitor car spaces to the apartments as it was considered that visitors would want to park on the site, not in the nearby street.

The approved development consists of 74 townhouses and an apartment building comprising 147 apartment dwellings. Each dwelling is provided with a single vehicle garage (townhouses) or allocated car spaces within the basement (apartments) in accordance with the applicable planning scheme requirement. A total of 43 visitor car parking spaces are provided on-site at a rate of 1 visitor car spaces to every 5 dwellings. These visitor car parking spaces include 14 at grade car parking spaces located around the internal road network and 29 car spaces within the basement of the apartment building.

The Site and Surrounds

The subject land is located on the east side of Browns Road in Clayton. It is approximately 920 metres south of Dandenong Road and 400 metres north of

Carinish Road. The land is located on the border of but just outside the proposed Clayton Activity Centre Precinct Plan study area. Dwellings located opposite the site to the west of the subject land are located within the Clayton Activity Centre Precinct Plan study area.

The subject land has an overall area of approximately 19,994 square metres, having a frontage of 90.71 metres to Browns Road (western boundary), a 16.6 metres frontage to Moriah Street, and a length along the northern and southern boundary of 212.26 metres. The property has a gradual fall of 5.13 metres from north-west to south-east.

Land to the immediate north and south is located within an Industrial 1 Zone. The property to the immediate north is occupied by a secure staff car park associated with the Monash Medical Centre. Land to the immediate south is occupied by PMP Printing, who have utilised the site for significant commercial printing operations since the late 1950's. Buildings on the site include large scale factory, warehouse and office premises. An at grade car parking is located along the common boundary on the south adjoining site. The PMP site has been identified for redevelopment and potential rezoning.

Beyond the adjoining industrial land, the site is located within an established residential area originally developed in the 1950's. The built form of the surrounding area is distinctly characterised by modest detached dwellings typical of the era in which the neighbourhood was originally developed. More recent development includes replacement of the original housing stock with new large dwellings and some multi-dwelling unit development.

Construction of the approved development has commenced on the subject site.

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

PROPOSAL:

The application proposes to amend the relevant sections of the approved Development Plan by reducing the number of visitor parking spaces for the apartment by seven. This is proposed by removing seven (7) car stackers and replacing them with seven (7) standard parking spaces within the basement of the apartment building. Relevant plans and stated parking rates are proposed to be altered throughout the Development Plan. It is assumed that following, the planning permit would be amended accordingly.

As a result of the proposed amendment, visitor car parking spaces within the basement will be reduced from 29 spaces to 22 spaces, and the total number of visitor car parking spaces overall will be reduced from 43 spaces to 36 spaces.

The table below provides a summary of the proposed amendment of the Development Plan:

<i>Approved Development Plan</i>	<i>Amended Proposal</i>	<i>Variation</i>
Visitor parking (at-grade): 14 car spaces Visitor parking (basement): 29 car spaces TOTAL Visitor parking: 43 car spaces	Visitor parking (at-grade): 14 car spaces Visitor parking (basement): 22 car spaces TOTAL Visitor parking: 36 car spaces	No change Reduced (-7) Reduced (-7)
No. of Townhouses: 74 No. of Apartments: 147 TOTAL Dwellings: 221	No. of Townhouses: 74 No. of Apartments: 147 TOTAL Dwellings: 221	No change No change No change

Resident car parking spaces will continue to be provided within individual garages for the townhouses, and allocated within the basement car park for the apartments. The number of residential parking spaces for both the townhouses and the apartments, and the at-grade visitor car parking spaces will remain unchanged.

No other changes are proposed in this amendment.

Attachment 1 details plans forming part of the application.

VCAT Proceeding

Council officers had been liaising with the applicant over several months regarding concerns relating to:

- the proposed visitor car parking reduction sought;
- potential for visitor car parking provision in alternate locations;
- extent of community consultation required to amend the Development Plan;
- extent of documentation provided to amend the Development Plan; and
- alternate method of application as an amendment to the relevant planning permit.

Ultimately parties were not in agreement on these matters and an application was lodged with VCAT.

An initial request to amend the Development Plan was received in October 2018. The applicant was advised in November 2018 that Council officers' preference would be for the request to be made as an amendment to the applicable planning permit and that initially the request was unlikely to be supported as it was preferred the parking be provided. Council officers suggested alternate car park layout solutions which may not necessitate modification to the apartment visitor car parking rate specified by the development plan. The application was put on hold pending further investigations and discussions with the owner and applicant.

The developer pursued endorsement of project documentation (as originally approved) in November-December 2018. Construction works commenced in February 2019.

The applicant further advised in May 2019 that they wished to pursue the amendment to the Development Plan. Council officers reiterated prior concerns and that the preferred approach would be to consider the variation to visitor car parking as an amendment to the relevant planning permit which was likely to be refused and could be subject to appeal provisions at VCAT. The applicant was advised that any Development Plan amendment request would be subject to community consultation as per the requirements of DPO5.

Council officers met with the applicant in July 2019 to further discuss the request. Officers restated the preference for the provision of visitor parking on site rather than a reduction, and though alternate design options were discussed, no suitable outcome was resolved. Officers advised that the application would progress with the available information.

The applicant was advised that the extent of community consultation would necessitate notification to properties within a 1km radius of the subject land (as per the original community consultation), and that preparation of the required material would need a lead time of approximately 4 weeks. Council officers were optimistic that a suitable outcome and application process could be mediated with the applicant. The applicant indicated that they would seek further instructions and explore alternate options.

An application was lodged with VCAT on 5 August 2019 under section 149 (1) of the *Planning and Environment Act 1987* in relation to Council's failure to make a decision within a reasonable time. VCAT has listed the matter for a merits hearing on 28 January 2020.

DEVELOPMENT PLAN REQUIREMENT

The land is subject to Development Plan Overlay Schedule 5 (DPO5).

Clause 43.04-4 of the Monash Planning Scheme allows the Development Plan to be amended to the satisfaction of the Responsible Authority.

The Access and Parking section, traffic management report and car parking plan that form part of the approved Development Plan are sought to be amended in this application. The Access and Parking states that parking be provided at the rate of 1 visitor space per 5 dwellings. The proposal is to amend this to state;

- *0.2 visitor spaces per townhouse* (equivalent to 1 visitor space per 5 dwellings); and
- *0.15 visitor space per apartment* (equivalent to 0.75 visitor space per 5 apartments).

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

CONSULTATION:

Display of the Amended Development Plan

The proposed amendment to the development plan was subject to community consultation. The owners and occupants of properties within 400 metres of the subject land on Browns Road, and properties adjoining the subject land on Moriah Street were notified of the proposed amendment.

The formal consultation period ran from 25 September 2019 to 23 October 2019. Under the provisions of the DPO5, no third party appeal rights are available to persons whom make a submission as part of the consultation process.

Documentation submitted with the proposed amendment to the Development Plan was made available on Council's website throughout the consultation period.

Attachment 4a details the extent of properties notified (owners and occupiers) as part of the community consultation process.

Community Submissions

Three (3) written submissions to the proposed amendment were received following the conclusion of the consultation period.

Key issues raised within the submissions are summarised as follows:

- Increase in on-street parking.
- Increase in traffic volume, traffic jam and safety hazard.

Attachment 4 details the location of objector properties.

Referrals

Internal Referral

The amended application including the accompanying traffic engineering submission was referred to Council's Traffic Engineer for review and comment.

Engineering advised that the proposed removal of seven (7) visitor parking spaces is supported. The following relevant comments were provided:

- The apartment component of the development proposes to reduce the visitor parking provision to 0.75 visitor spaces/5 dwellings. This results in a reduction of 7 spaces from 29 to 22 spaces. This enables the removal of 7 car stackers (containing 14 resident car parking spaces) which were required to achieve the visitor space requirements. It is noted that the site is not within the Principal Public Transport Network (PPTN) identified on the *Principal Public*

Transport Network Maps (State Government of Victoria, August 2018), however it is about 800 metres to Clayton Station.

- The parking occupancy surveys undertaken between 11am and 8pm on Friday 24 August 2018 and Saturday 25 August 2018, indicated a low level of utilisation of on-street parking in the vicinity of the site. A total of 17 spaces are available on the development frontage with a mix of 30 minute and 2 hour restrictions during business hours Monday-Friday. A minimum of 15 spaces were available on the development frontage (Browns Road) at all times during the Friday and Saturday parking surveys.
- It is considered that there is sufficient overflow parking along the development frontage to accommodate any additional visitor demand.

External

There is no requirement to refer the amended development plan application to external referral authorities.

DISCUSSION:

Consistency with State and Local Planning Policies

Planning Policy Framework

Plan Melbourne Refresh is the Metropolitan Strategy that planning authorities must consider when assessing applications for planning permits. The key direction that is of particular relevance to the proposal is to *“reduce the cost of living by increasing housing supply near services and public transport.”*

The subject site is located just outside the proposed Clayton Activity Centre, where its boundary finishes on the west side of Browns Road. It is approximately 150 metres outside the PPTN and approximately 800 metres from Clayton Train Station. Relevant considerations for the proposed amendment rely on the impacts of the reduced on site visitor car parking provision, and management of traffic on the local street network.

Clause 18.02-4S (Car Parking) is to ensure adequate supply of car parking that is appropriately designed and located. Relevant strategies include design the local car park to protect the function of nearby roads, enable easy and efficient use, achieve high standard of urban design and protect the amenity of pedestrians and other road users, and create a safe environment.

Critical in assessing the proposed amendment is if the reduction in visitor car parking spaces will detrimentally impact on the public realm and adjoining properties with overflow car parking on nearby streets, and if the development still provides for a safe environment for vehicles, pedestrians and cyclists.

The Local Planning Policy Framework in Clause 21.04 (Residential Development Policy) seeks to ensure new residential development *provides a high level of amenity including personal privacy...effective traffic management and parking.*

Clause 21.08 (Transport and Traffic) aims to ensure that adequate vehicle parking is provided for all new uses and developments.

Clause 22.01 (Residential Development and Character Policy) emphasises sufficient on site car parking, in convenient locations and designed for safe and efficient vehicle movement be provides in new developments.

Assessment against Development Plan Overlay Schedule 5 (DP05)

Car Parking, Access and Traffic Impact

Clause 43.04-4 of the Monash Planning Scheme allows the Development Plan to be amended to the satisfaction of the Responsible Authority. The amended Development Plan includes an amended Traffic Engineering Assessment.

The amended proposal is to reduce seven (7) visitor car parking spaces within the basement of the apartment building, and provides the requisite number of car parking spaces for the remainder of the development pursuant to Clause 52.06 as detailed in the following table:

DWELLING TYPE	NUMBER OF DWELLINGS	CLAUSE 52.06 REQUIREMENT	CAR SPACES REQUIRED	CAR SPACES PROVIDED
2 bedroom townhouses	34	1 space per dwelling	34	34
4 & 5 bedroom townhouses	40	2 spaces per dwelling	80	80
1 & 2 bedroom apartments	147	1 space per dwelling	147	147
Visitor Parking	74 townhouses	1 space per 5 dwellings	14	14
	147 apartments		29	22 (basement)
TOTAL REQUIRED			304	
TOTAL PROVIDED				297

Parking surveys submitted with the application in the traffic report indicates that the on-street parking along Browns Road, Francis Street, Moriah Street, and within the surrounding local road network experiences low demands throughout the day. The surveys indicate the average parking occupancy on Saturday 25 August 2018 (between 11am to 8pm) is between 16% to 21%; the peak parking occupancy is 21% at 1pm and 19% in the evening.

The report concludes that due to the location of the site, a rate of 0.1 spaces per apartment provides a suitable estimate of the visitor parking demand, and it increases to 0.15 spaces per apartment on weekends which is deemed to be the

peak period for visitors. The proposed 22 visitor parking spaces for the 147 apartments (at a rate of 0.15 spaces per apartment) satisfies the expected peak demand.

Short term parking restrictions are in place along Browns Road to mitigate long term parking issues within the area. Parking surveys submitted with the amendment indicates a 29% occupancy rate on the east side of Browns Road with a minimum of 15 parking spaces available during the survey period. It is noted that historically there had been parking pressures in Browns Road but these have ceased.

Residents of the development are not be eligible for resident parking permits under Council's Residential Parking Permit Scheme, which is noted on the planning permit. This will remain.

Council's officers, including Council Traffic Engineers, are supportive of the proposed reduction in visitor car parking as justified. Given the availability of on street parking within close proximity of the subject site, overflow car parking for visitors could be adequately accommodated on the street within the frontage of the subject site with no adverse impact on the surrounding road network. It is not expected that overflow car parking will add significant pressure to on street parking in other nearby streets.

The proposed visitor car parking space for apartments at a rate of 0.15 spaces per apartment will capture the 'higher' demand of visitor car parking during the weekend. It is considered appropriate. It is noteworthy that the apartment building will provide for 36 visitor car parking spaces to be located within common property for the benefit of all residents. Peak demand for these car spaces on weekends is not expected to exceed capacity or availability of car spaces.

It is further noted that as the visitor spaces need to be also accommodated within a car stacker system, they would likely not have been as attractive as the at grade options provided throughout the site and within the street.

Access to the basement car park will be via the vehicle crossover on Browns Road. Vehicles within the development do not have access to the Moriah Street frontage, except the two townhouses (Townhouses No.73 & 74) that face Moriah Street. The proposed amendment will not cause any amenity impact to Moriah Street.

The townhouse component of this development is not affected with this amendment.

Subsequent amendment of Planning Permit TPA/47261

Should the amendment be approved to the Development Plan, an application to amend the Planning Permit TPA/47261 will be required. The required changes will

include adjusting conditions contained within the permit and the endorsement of amended plans and documents. This process would be relatively procedural.

CONCLUSION

The proposal to amend the Development Plan with a reduced car parking rate for visitors for the apartment component is considered appropriate having regard to the availability of on street parking in front of the subject site.

While it may be considered that this request has previously been considered with the planning permit application TPA/47216, the expectation of the community at the time was that parking would be provided in accordance with the approved Development Plan, i.e. at the required rates of the Monash Planning Scheme. The planning permit previously was exempt from notice.

This application has been put to the community with few objections received. Further the updated traffic report provides data that shows an increased availability of on street car parking from previous surveys. Council's Traffic Engineers considers will be adequate on-street parking for any visitor demand without unreasonable detriment to the surrounding residents or the street network.

The proposed visitor car parking rate of 0.15 spaces per apartment is consistent with the result of the car parking assessment report. Council's Traffic Engineer also advises that there is sufficient space along the frontage of the subject site on Browns Road to accommodate any additional visitor demand.

Overall, the proposed amendment is not expected to cause a detrimental amenity impact to the nearby local streets with overflow car parking, and will not create safety hazards to vehicles, pedestrians or cyclists.

It is recommended that the amendment to the Development Plan be supported.

LIST OF ATTACHMENTS:

Attachment 1 – Proposed Amended Development Plans.

Attachment 2 – Aerial Photograph (January 2019).

Attachment 3 – Zoning and Overlays Map.

Attachment 4 – Objector Properties Location Map.

Attachment 4a - extent of properties notified (owners and occupants).