

**1.2 12-14 JOHNSON STREET, OAKLEIGH
CONSTRUCTION OF A MIXED USE DEVELOPMENT INCLUDING OFFICE AND RETAIL
AND A REDUCTION IN THE STANDARD CAR PARKING REQUIREMENT
(TPA/51498)**

EXECUTIVE SUMMARY:

This application proposes the construction of a six (6) storey building with basement car parking. Two ground floor tenancies are proposed with office use above. A total of 61 car spaces are proposed across the ground floor and basement levels which are accessed via Mill Street.

The application was subject to public notification. Six (6) objections to the proposal have been received.

Key issues to be considered relate to building height and setbacks, provision of parking, traffic generation and equitable development potential for adjoining properties.

This report assesses the proposal against the provisions of the Monash Planning Scheme including the relevant state and local planning policy framework, the Design and Development Overlay, Oakleigh Structure Plan and issues raised by objectors.

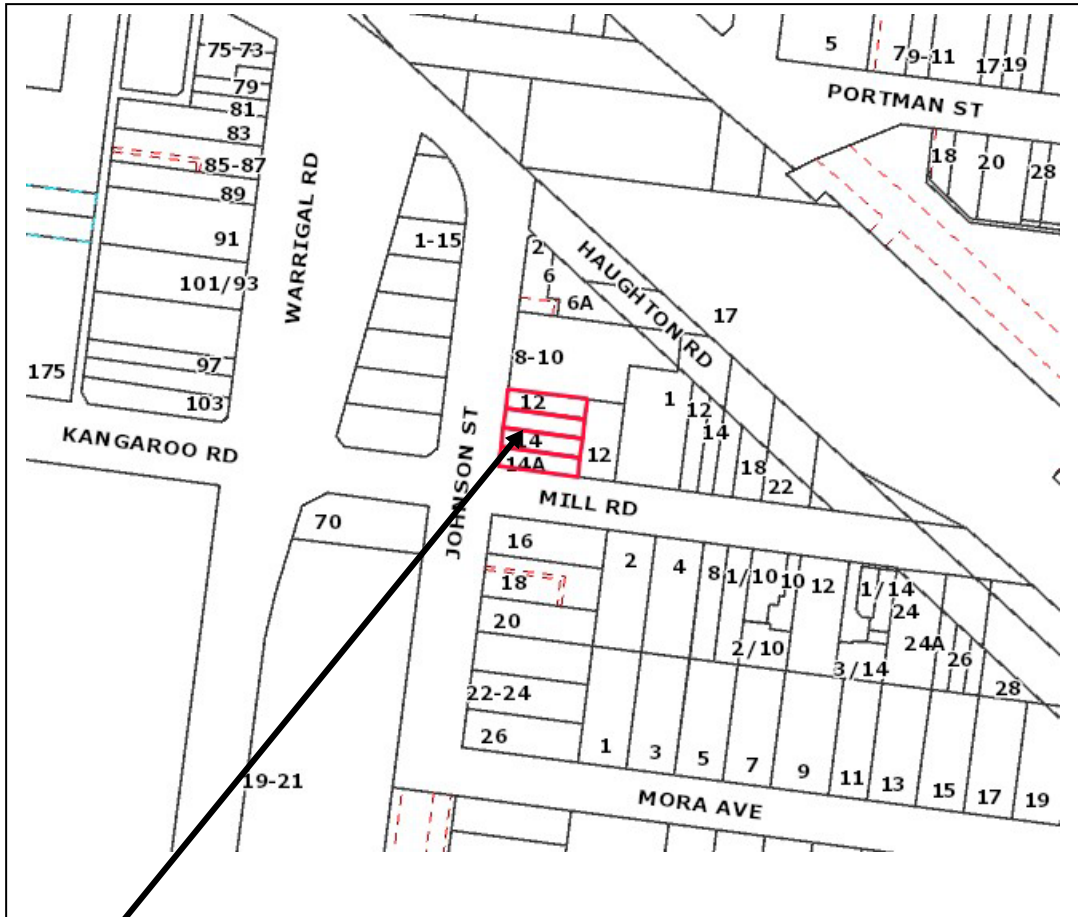
The reason for presenting this report to Council is the proposed development cost of \$9.35 Million.

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:	Alexandra Wade
WARD:	Oakleigh
PROPERTY ADDRESS:	12-14 Johnson Street, Oakleigh
EXISTING LAND USE:	Retail and Office
PRE-APPLICATION MEETING:	Yes
NUMBER OF OBJECTIONS:	Six (6)
ZONING:	Commercial 1 Zone

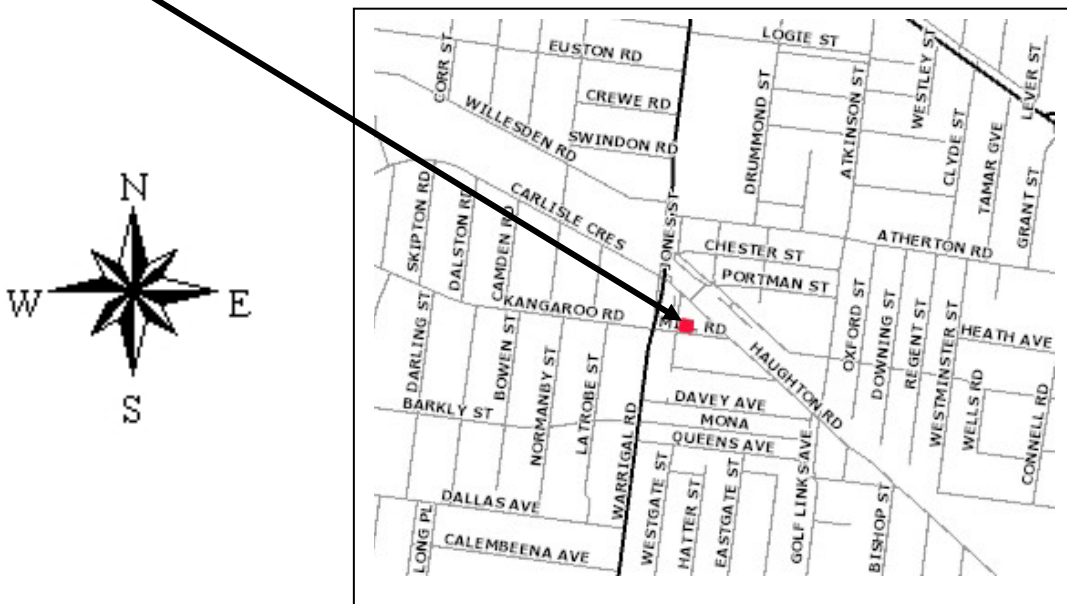
OVERLAY:	Design and Development Overlay, Schedule 11
RELEVANT CLAUSES: <u>State Planning Policy Framework</u> Clause 11.01-1S & R – Settlement Clause 11.02-1S – Supply of Urban Land Clause 11.03-1S & R – Activity Centres Clause 15.01-1S & R – Urban Design Clause 15.01-2S – Building Design Clause 15.01-4S & R – Healthy Neighbourhoods Clause 15.02-1S – Energy and Resource Efficiency Clause 17.01-1S & R – Diversified Economy Clause 17.02-1S – Business Clause 18.02-4S – Car Parking	<u>Local Planning Policy Framework</u> Clause 21.01- Introduction Clause 21.05 – Economic Development Clause 21.06 – Major Activity and Neighbourhood Centres Clause 21.08 – Transport and Traffic Clause 21.13 – Sustainability and Environment Clause 21.15 – Oakleigh Major Activity Centre Structure Plan Clause 22.04 – Stormwater Management Policy Clause 22.13 – Environmentally Sustainable Development Policy <u>General & Particular Provisions</u> Clause 52.06 – Car Parking Clause 52.34 – Bicycle Facilities Clause 53.18 – Stormwater Management in Urban Development Clause 65.01 – Approval of an Application or Plan
STATUTORY PROCESSING DATE:	11 September 2020
DEVELOPMENT COST:	\$9.35 Million

LOCALITY PLAN



SUBJECT SITE

NEIGHBOURHOOD PLAN



RECOMMENDATION:

That Council resolves to issue a **Notice of Decision to Refuse to Grant a Planning Permit (TPA/51498)** for the construction of mixed use development including office and retail and a reduction in the standard car parking requirement at 12-14 Johnson Street, Oakleigh subject to the following grounds:

1. The proposal does not provide for sufficient car parking on the site and fails to meet the objectives of Clause 52.06.
2. The proposal fails to provide an appropriate interface to Mill Road in terms of height, scale, setbacks and massing.
3. The proposal will result in unequitable development potential for the adjoining property to the east at 1 Mill Road Oakleigh.
4. The proposal fails to provide for sufficient waste management on the site.

BACKGROUND:**The Site and Surrounds**

The site is located on the north-east corner of Johnson Street and Mill Road, Oakleigh. The land is generally flat. The site is square in shape with a frontage of 24.38 metres to Johnson Street and 36.58 metres to Mill Road.

The existing land includes four single storey buildings currently used for retail / office and a common car parking area (including nine car spaces) to the rear of these buildings. Vehicle access to the site is via Mill Road.

The buildings front Johnson Street with ground floor glazed frontages and a pitched, tiled roof form. The glazed windows and entries for each of these premises' are recessed from the title boundary. The building interface to Mill Road is relatively benign with covered windows and an indented side service access.

The site is located within the Oakleigh Major Activity Centre. The site is located within the south-west corner of the Activity Centre, within a small triangular pocket which is bounded by Warrigal Road to the west and the Cranbourne and Pakenham railway line (and Oakleigh Train Station) to the north and east.

Whilst the Activity Centre extends south to Mora Avenue, the commercial component of the Activity Centre terminates at Mill Road, with land to the south of Mill Road (with the exception of properties fronting Haughton Road) being zoned General Residential Zone, Schedule 5.

More specifically with respect to adjoining properties:

North

No. 8-10 Johnson Street is located north of the site which supports a two storey medical centre. The building is constructed to the northern and southern boundaries of the site, with a car park located to the rear of the site which is accessed via Haughton Road.

East

No. 2 Mill Road supports a single storey building which is set back behind car parking fronting Mill Road. The property is currently used as a place of assembly (Royal Antediluvian Order of Buffaloes lodge- RAOB). A high brick wall with metal gates is located along Mill Road.

The site has a small frontage to Haughton Road, however a high brick wall is located along this frontage with no access.

South

Mill Road is located south of the site which is a two-directional local road which allows for parking on both sides of the road. The northern side of the road allows for 2 hour restricted parking Monday to Friday, whilst parking on the southern side is Permit parking between 3pm and 7pm Monday to Friday.

On the opposite side of Mill Road is a residential zone which primarily supports residential dwellings. A mixture of single and double storey detached dwellings and multi-unit developments are present.

Directly opposite the site is No. 16 Johnson Street which supports a single storey residential dwelling which fronts Johnson Street with vehicle access located to the rear of the site via Mill Road. High timber fencing is located along the Mill Road frontage.

South-West of the site on the south-west corner of Johnson Street and Mill Road is Sacred Heart Catholic Church and Primary School.

West

Johnson Street abuts the site to the west. Two parallel parking spaces are located adjacent to the site (2 hour parking permitted), with 45 degree parking further north.

On the opposite side of the street is a public car park which is owned by VicTrack (southern portion of the land) and the City of Monash (northern portion of the land). This land is earmarked for future development.

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

PROPOSAL:

The proposal seeks to develop the land with a six (6) storey mixed use development. More specifically:

- Two ground floor retail tenancies are proposed which front Johnson Street.
- Office use is proposed for levels 1-5.
- The building is designed with a three storey podium wall with the remaining three storeys set back from the street.
- The proposed height of the development is 23.2 metres (23.8m to lift overrun and 24.9m to the top of the plant screen).
- A 1.8m wide canopy is proposed over the footpath for weather protection to both Johnson Street and Mill Road.
- The building is proposed to have a mixture of finishes including aluminium sheet cladding, a mixture of glass tinting and precast concrete.
- A total of 61 car spaces are proposed which are located over the ground floor and two basement levels. Car spaces proposed at the ground level are within dependant car stackers, meaning the vehicle at the bottom has to be removed before the vehicle at the top of the system can exit. Five (5) motorcycle spaces are also proposed within the basement.
- Vehicle access to the site is proposed via Mill Street. The existing vehicle crossover is proposed to be widened to 6.1 metres. A garage door is proposed to be set back 2.1 metres from the street.
- A total of fifteen (15) bicycle spaces are proposed at the ground floor for staff and six (6) spaces for visitors.
- Waste collection is proposed via a private contractor, to collect from within the site at the ground level.

Attachment 1 details plans forming part of the application.

PERMIT TRIGGERS:**Commercial 1 Zone**

Pursuant to Clause 34.01-4, a Permit is required to construct a building or construct or carry out works.

A Permit is not required for the use of the land for an office or retail premises.

Design and Development Overlay

Pursuant to Clause 43.02-2, a Permit is required to construct a building or construct or carry out works.

The schedule relates to the Oakleigh Major Activity Centre and includes discretionary controls relating to height and setbacks.

Particular Provisions

Pursuant to Clause 52.06-3, a Permit is required to reduce the number of car parking spaces required under Clause 52.06-5.

The site is located within the Principal Public Transport Network, and therefore Column B rates apply within Table 1 to Clause 52.06-5.

Pursuant to Clause 52.34, a Permit may be granted to vary, reduce or waive any requirement for bicycle parking prescribed within Clause 52.34-5. The proposed number of bicycle spaces meets the requirement and therefore a Permit is not required.

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 11 May 2020. In this letter, officers raised the following preliminary concerns:

- The proposal exceeds the height prescribed in the structure plan and Design and Development Overlay;
- The setbacks of the upper levels fail to meet the prescribed setbacks in the structure plan and Design and Development Overlay;
- The proposed car parking reduction will not be supported;
- The light court within the north-east corner of the site will not provide for equitable development potential; and
- The eastern wall associated with level 5 of the building will result in unequitable development potential.

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

The Permit Applicant responded to this letter on 7 July 2020 by providing the requested information. In relation to the preliminary concerns, the Applicant advised that they had amended the plans to address concerns relating to the size of the light court, but that they do not agree with the remainder of the preliminary concerns.

Following the completion of advertising, the applicant advised that they did not wish to make any amendments to the proposal.

The Applicant was advised on 6 August 2020 that this application was coming to the August Council meeting, in addition to a letter that was sent to the Applicant formally informing them of the details of the Council meeting. The Applicant has been verbally advised that this application is recommended for refusal.

Public Notice

The application was advertised in accordance with section 52 of the *Planning and Environment Act 1987* by way of letters sent to the surrounding property owners/occupiers, and signs displayed on both the Johnson Street and Mill Road frontages of the site.

A total of six (6) objections received for the applications included the following concerns:

- Impact of overflow car parking and traffic congestion;
- Amenity impacts to residential properties on the southern side of Mill Road including overshadowing and overlooking;
- Height of the proposed development;
- Setbacks proposed to upper levels of development;
- Lack of setback to the 'rear';
- Large wall on northern and eastern interfaces with lack of articulation; and
- Street closures as a result of construction.

Attachment 4 details the location of objector properties.

Referrals

The application was referred to the following internal departments:

- Traffic Engineering – concerns regarding the reduced car parking rate sought and the proposed dependant car stacker system, in addition to the location of visitor bicycle spaces. Comments are further discussed in the assessment section of this report.
- Drainage Engineering – No concerns subject to standard conditions.
- Waste Management – The Waste Management Plan must be revised to include details of waste generation rates, further detail regarding food and e-waste management and planning for separated glass recycling. As a result the bin store area may need to be increased in size.

DISCUSSION:**Planning Policy Framework**

The Planning Policy framework seeks to encourage the concentration of major retail, residential, commercial, administrative and cultural developments into activity centres that are highly accessible to the community (Clause 11.03-1S). In doing this, growth of activity centres are encouraged to provide for local employment and to support local economies and improve access to jobs closer to where people live (Clause 17.01-1S).

It is also specifically encouraged to provide for sufficient office and retail development that meets the community's needs (Clause 17.02-1S) by planning for adequate supply of commercial land within activity centres which provide for net

community benefit in relation to their viability, accessibility and efficient use of infrastructure.

The proposed use and development for the land for an office building with ground floor retail uses meets the objectives of these policies. However in doing this, the development must be tempered to respond to the context of the site in its design.

Local Planning Policy Framework

Clause 21.6 identifies that major activity centres provide a convenient and accessible service to residents, and the centres need to attract and retain local business. Clause 21.06-3 seeks to enhance and promote the Oakleigh Major Activity Centre as a key focus for convenience, multi-cultural and culinary shopping and community services. More specifically, retail uses are encouraged with development of shop-top housing and offices located above ground level.

Clause 21.15 refers to the Oakleigh Major Activity Centre Structure Plan, which identifies the site for commercial development. The site is identified as being located within Precinct 3C 'Commercial Periphery'. It is noted that the car park to the west of the site, and the VicTrack land north-east of Haughton Road are identified within different precincts to the subject site.

The objective of this precinct is:

"To encourage an appropriate mix of higher density residential development and commercial uses in the precinct. High quality contemporary architecture will mark the passage to and past the Oakleigh Village".

Strategies for Precinct 3 include:

- *"Encourage high quality, contemporary architecture that promotes the Oakleigh Major Activity Centre.*
- *Encourage larger retail premises fronting Hanover Street in Sub-Precinct 3B.*
- *Discourage retail shop uses in Sub-Precincts 3C and 3D.*
- *Encourage urban design improvements that enhance the existing built form and the public realm.*
- *Encourage an enhanced pedestrian environment within the Precinct that integrates with the surrounding Precincts, particularly Precinct 1 and the Oakleigh Railway Station and Bus Interchange area."*

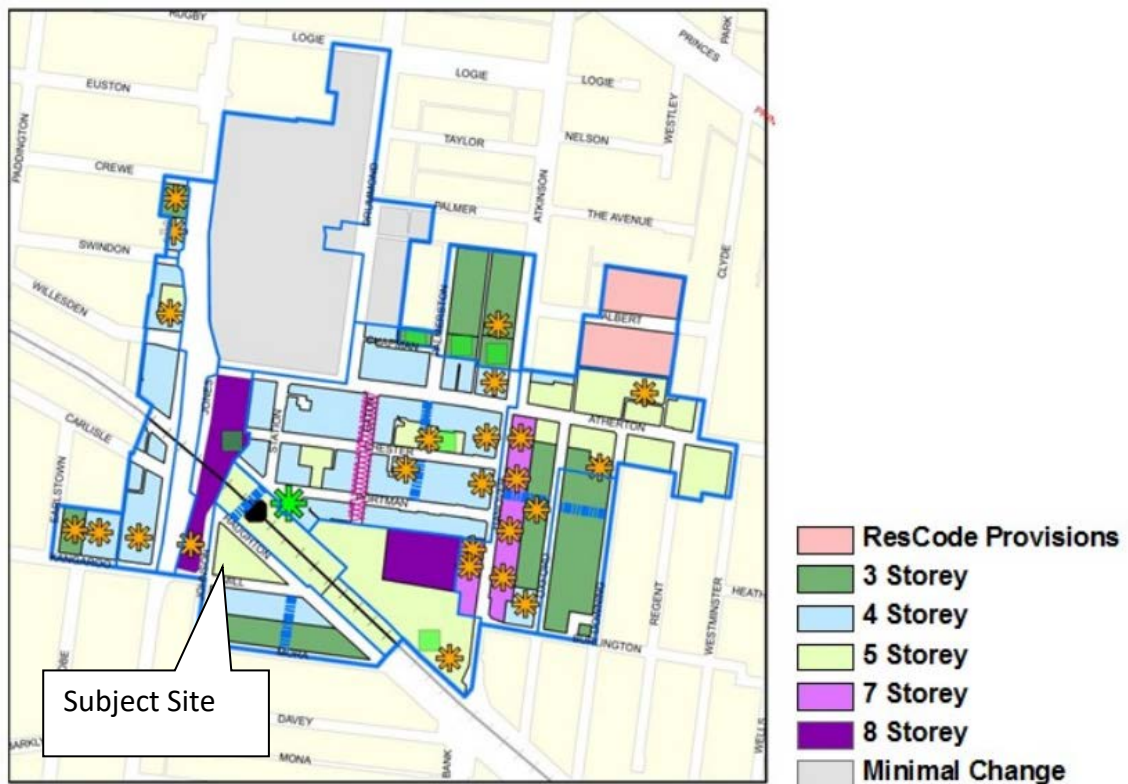
It is considered that the office and retail uses are appropriate on this site. Whilst Clause 21.15 suggests that retail uses are discouraged within Precinct 3C, it is evident that this may have been based on the previous Business 2 Zoning of the land, which required a Permit for retail uses. The current zoning of the land permits retail use as of right, and is reflective of the existing environment on Johnson Street.

Design and Development Overlay

The Design and Development Overlay provides guidance surrounding building heights, setbacks and general built form.

The figure below shows the preferred building heights within the precinct, and shows the strategic planning for the centre as a whole.

Oakleigh Major Activity Centre Preferred Building Heights

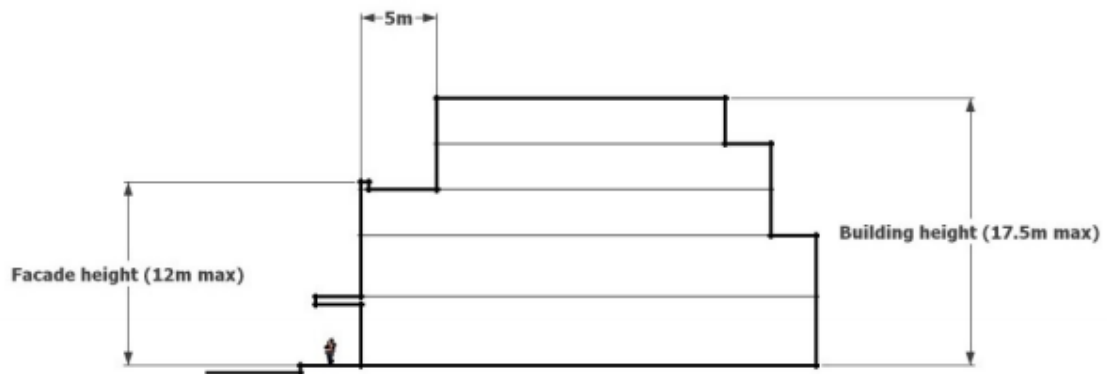


The evolution of this structure plan includes a central retail core which retains an intimate pedestrian environment and highly walkable village character, and the identification of a ‘growth belt’ which forms a U shape south of the central retail core, characterised by higher forms with the greatest opportunity for development consolidation. Transition areas then radiate out from these precincts which aim to step down in built form to a domestic format and scale (being the subject site).

The figure identifies that the car park to the west of the site is a strategic opportunity site, allowing for greater heights (up to 8 storeys) whilst the subject site is the commencement of transition down to the residential area to the south, with a preferred building height of 5 storeys.

For the subject site, the Overlay seeks zero street setback up to a façade height of 12 metres, with building above set back 5 metres from the street up to a height of 17.5 metres (5 storeys).

Precinct 3C Precinct Requirements



The application seeks to vary all aspects of these preferred design requirements as discussed below.

Façade / podium height

The proposal seeks to provide a podium of 3 storeys, with a height of 11.8 metres to the building form, however 12.8 metres to the top of the balcony balustrade, which slightly exceeds the 12 metres sought by the Overlay. The proposed balustrade is to be constructed of a grey tinted glass, and will be a lightweight element. It is therefore considered that the proposed presentation of the podium meets the intention of this requirement and will provide for a strong three storey form.

Overall Height

The proposal seeks construction of a six (6) storey development with a height of 23.2 metres (measured to the roof form) which exceeds the preferred height within the Overlay by 1 storey and 5.7 metres.

It is considered that the height of the building fails to provide an appropriate transition to the adjoining residential area to the south which has a maximum mandatory height of 4 storeys, 14 metres (as prescribed within the General Residential Zone, Schedule 5) for any residential building. It is considered that this storey, in addition to the setbacks proposed fails to provide for an appropriate transition to this adjoining precinct.

Setback from Podium

The Overlay prescribes a recommended setback of 5 metres from the podium of the upper levels. Variations are sought for both the Johnson Street and Mill Road interfaces.

A setback of 3.7 metres – 4.975 metres is proposed to Johnson Street, which fails to meet the preferred setback requirement. However, the proposed setback will provide a book-end to the Johnson Street interface which is the commercial interface of the site. The northern end of the interface proposes a setback of 4.9 metres which will allow for an appropriate transition from the adjoining property

which will have a set back of 5 metres. The staggered setback allows for a variation in the form at the upper level with varied materials which also provide a transition in tone to the corner location.

The interface to Mill Road is more sensitive and policy seeks to provide a moderated interface to scale down to the residential area on the opposite side of Mill Road. A setback of 4 metres is proposed. The development plans suggest that the adjoining property would also provide for a setback of 4 metres to this interface at the upper levels. The Overlay requires a setback of 5 metres to provide an appropriate transition to this interface, and also provide for a strong three storey form with recessed upper levels. The applicant has also relied on this decreased setback to help mask the appearance of the sixth floor and the excess height proposed. Therefore this variation is not supported for both reasons.

Urban Design

The proposed development utilises a mixture of aluminium sheet cladding and a mixture of varied glass tones which provides for a high quality palette of materials. The design of the podium whilst providing a high proportion of glazing, provides for a robust frame for the building with lightweight levels above.

The design of the building will allow for retail activation to Johnson Street and a wrap around to part of the Mill Street frontage at the ground level, with weather protection over the footpath. Services are minimised on Mill Road with most services located internal to the building which provides a good design outcome to Mill Road.

Whilst it is anticipated that the adjoining properties to the north and east will be developed with buildings of a similar scale and have walls matching on the boundary, these walls are likely to be visible for some time until these properties are redeveloped. The walls are to be constructed of precast concrete with horizontal painted indented banding at each level which assists with breaking up the form. The precast concrete panels will also provide vertical lines which assist with providing articulation to the wall. It is therefore considered that the presentation of these walls is acceptable.

Equitable Development

The proposed building is constructed on the northern and southern boundaries with the exception of a light court at the first floor measuring 4.5m x 4.5m, and a setback at the sixth floor (level 5) from the eastern boundary of 2.6 metres.

The principle of equitable development is the consideration of the lost development potential of adjoining land by a development going first next door and creating an imposition for amenity reasons such as overlooking or overshadowing protection that do not allow development to a similar level. This could be in the form of greater setbacks.

The proposed light court located within the north-east corner of the site is located centrally to what is likely to be a combined development at 8-10 Johnson Street and 1 Mill Road. The courtyard is sufficient to provide appropriate amenity to the office, and should the adjoining property provide for a 4.5m setback in this location also, there would be no requirement for screening of windows. The remainder of levels 1 to 4 are constructed on the boundary which allows for any future development on the adjoining property to be constructed to the boundary also.

The sixth floor seeks a roof terrace located on the eastern boundary of the site with a setback of 2.62 metres. This limits potential future development at 1 Mill Street given a fire rated wall will need to be provided at this level between the properties if 1 Mill Road is constructed to the same height. This will result in a poor development outcome as viewed from the street. As noted above, it is recommended that this floor be deleted and therefore there would be no unequitable development potential caused.

Car Parking, traffic and access

The requisite car parking spaces required under Clause 52.06 and the car parking provided are shown in the following table:

Use	Floor Area	Clause 52.06 Requirement	Car spaces required	Car spaces provided
Retail	272sqm	3.5 spaces to each 100sqm of leasable floor area	9 spaces	2 spaces
Office	2,990sqm	3 spaces to each 100sqm of net floor area	89 spaces	59 spaces
Total			98 spaces	61 spaces

The proposal therefore seeks a reduction of 37 spaces - 7 for the retail premises and 30 for the office component.

The car parking rate of 3 spaces per 100sqm of net floor area for an office is a reduced rate in itself as it takes into account the location of the site within the Principal Public Transport Network.

It is considered that a reduction for the retail component is acceptable, given these tenancies are likely to rely heavily on traffic from the offices above and surrounding properties. Therefore the retail premises are likely to only generate a parking demand for staff.

Office parking demand typically requires long term parking. There are no long term parking spaces within the vicinity of the area which could accommodate this overflow.

If the proposed changes were taken into consideration with respect to the built form as discussed earlier in this report, i.e. deletion of the sixth floor and additional setback to Mill Road, this would result in a reduced floor area for the office of approximately 448sqm. The total car parking spaces required would then be 76 spaces. The proposal would therefore still seek a reduction of 15 spaces which is not supported.

Car parking within the area is of high demand, including the public car park on the western side of Johnson Street. This site is identified as a key redevelopment site and is likely to be redeveloped in the future, therefore reducing available car parking relied upon in the area.

The design of access for vehicles to and within the site is considered acceptable. However, the car stackers proposed at the ground floor is a dependant system, requiring the vehicle at the bottom to be removed before the vehicle at the top of the system can exit. This is not an appropriate arrangement for an office use. A pit would be required to allow for these stackers to operate independently which may cause design impacts to the basement levels below.

Council's Traffic Department have also advised that car spaces 20, 21, 43 & 44 are required to be a minimum width of 2.8 metres in width. It appears that this could be achieved with the current design.

As the applicant's traffic report suggests, the proposed office component will generate a total of 0.5 vehicular trips per car space in the morning peak and again in the afternoon peak. It is estimated that 27 vehicles will arrive in the morning peak, and depart in the evening peak with a variance of 3 vehicles departing in the morning peak and arriving in the evening peak.

Mill Road and the surrounding road network have the ability to accommodate the proposed increase in traffic volume associated with the proposed development.

Clause 52.34-3 outlines the requirement for bicycle parking for the proposal. This results in a generation of 1 space per employee and 1 space per customer for the retail component, and 10 spaces for employees and 3 spaces for visitors for the office component. The proposal seeks to provide the required fifteen (15) spaces within the site at the ground floor for staff, and six (6) spaces for visitors adjacent to the vehicle entry on Mill Road meeting the statutory requirement. The applicant is also proposing two bicycle rings on Johnson Street for public use.

It is considered that the proposed bicycle loops adjacent to the vehicle access are not ideal, as they are located directly adjacent to sight lines for vehicles entering and exiting. This relies on a visitor to perfectly align the bicycles on the hoop to

avoid any impact. It is considered that the number of visitor spaces proposed on the site could be reduced to two (2), and allowing for the provision of two new public bicycle loops on Johnson Street at the applicant's expense. The loops should be located further south than shown on development plans, within the no stopping section on Johnson Street.

Waste collection is proposed via a private contractor vehicle internal to the site, which is acceptable. Council's waste department has advised that revisions are required to the waste store arrangement to allow for food, glass and e-waste and therefore may require this waste store area to be increased in size.

Objections not previously addressed

- **Overshadowing to properties on the southern side of Mill Road** – Shadowing diagrams have been prepared for each hour from 9am until 3pm on 22nd September, being the equinox date which is an appropriate measurement for a development. The diagrams show that no additional overshadowing will occur into the residential properties on the opposite side of Mill Road.
- **Overlooking into properties on the southern side of Mill Road** – The site is separated from the properties on the opposite side of Mill Road by approximately 15 metres. The appropriate 'yardstick' to assess overlooking is 9 metres and therefore the windows are not required to be screened.
- **Lack of setback to the 'rear'** – Given the site is located within a commercial zone, traditional setbacks prescribed in ResCode are not applicable. The Design and Development Overlay prescribes setbacks of the tower element above the podium to the street, and to any abutting residential uses. As the adjoining properties are not residential, a setback is not required. However, consideration must be made with respect to equitable development potential of these adjoining properties.
- **Street closures as a result of construction** – If approved, a Construction Management Plan and Traffic Management Plan would be required as a condition of the Permit which would address truck access requirements.

CONCLUSION:

The development of the land for a mixed use building with office and retail use is consistent with the relevant objectives of the State and Local Planning Policy Framework.

The proposed development presents as a high quality development, however the proposal fails to meet the objectives of the Design and Development Overlay and the Oakleigh Structure Plan whilst also providing insufficient car parking on the site.

Accordingly, the application should be refused.

LIST OF ATTACHMENTS:

Attachment 1 – Proposed Development Plans.

Attachment 2 – Aerial Photograph (February 2020).

Attachment 3 – Zoning and Overlays Map.

Attachment 4 – Objector Properties Location Map.