

**1.2 73-75 KINGSWAY, GLEN WAVERLEY
AMENDMENT TO ALLOW FOR THE DEVELOPMENT AND USE OF LAND FOR A SEVEN (7) STOREY BUILDING COMPRISING FOOD AND DRINK PREMISES AND OFFICES, AND A REDUCTION IN THE CAR PARKING REQUIREMENT TO ZERO (TPA/50168/B)**

EXECUTIVE SUMMARY:

Planning Permit TPA/50168 was issued on 22 December 2020 for the development of a six storey mixed use building. The permit allows for a waiving of the car parking requirement.

Amended Planning Permit TPA/50168/A was issued on 7 March 2022 allowing minor modification to meet fire engineering requirements and relocate bicycle spaces.

This current application seeks to amend the existing approval to allow an open terrace on Level 6 (partly under cover) creating a seven level building for use as a food and drink premises. The amendment also seeks to modify the use of Level 5 from office to a food and drink premises. The application continues to seek the waiver of the applicable car parking requirement, consistent with the current approval.

The application for amendment was subject to public notification. No objections to the proposal have been received.

Key issues to be considered relate to height, scale and setback of the additional level, overshadowing, adequacy of car parking provision and additional traffic generation.

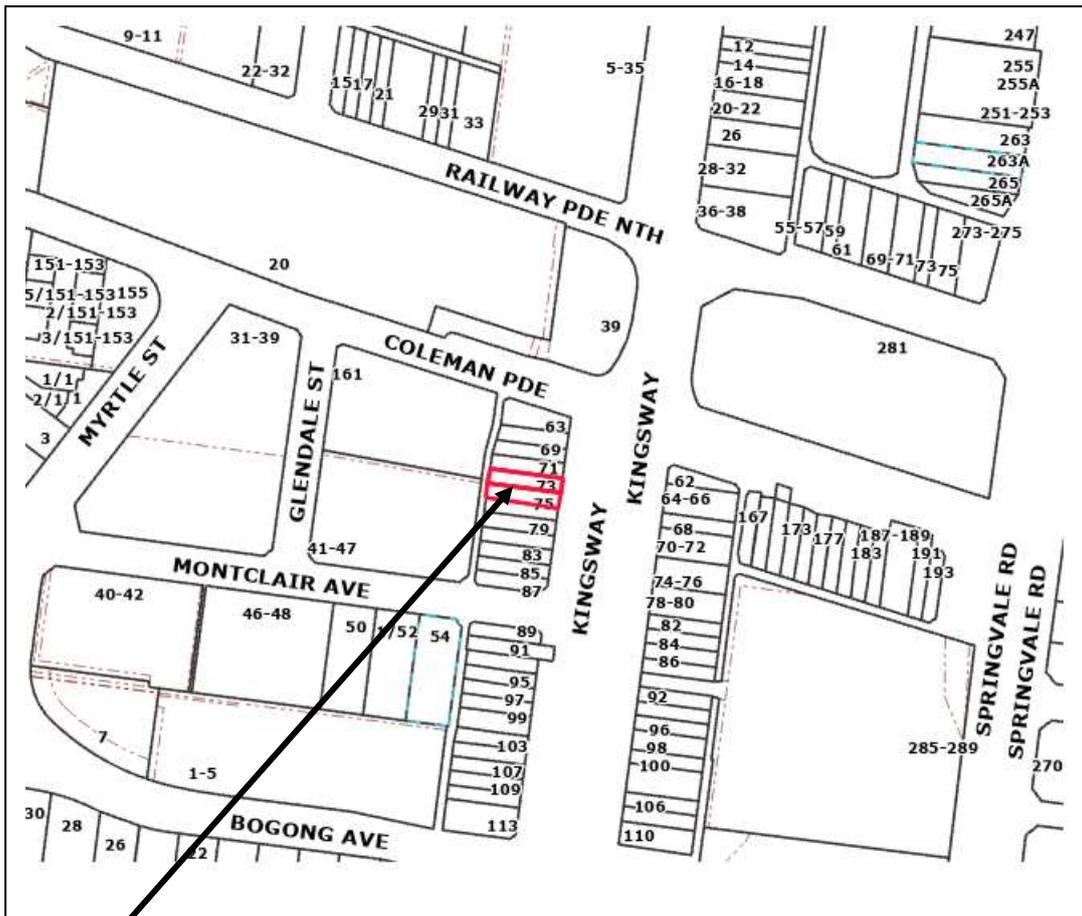
This report assesses the proposal against the provisions of the Monash Planning Scheme including the relevant state, regional and local planning policy framework and the objectives and design guidelines of the Glen Waverley Major Activity Centre Structure Plan (GWAC) which is contained at Clause 22.14 of the Planning Scheme.

The reason for presenting this report to Council is that the application seeks substantive modification to an application previously determined by Council with an overall cost of development of \$5,000,000.

The proposal is generally consistent with the existing approval and on balance is appropriate having regard to the relevant provisions of the Monash Planning Scheme. It is recommended that Council issue an Amended Planning Permit subject to conditions.

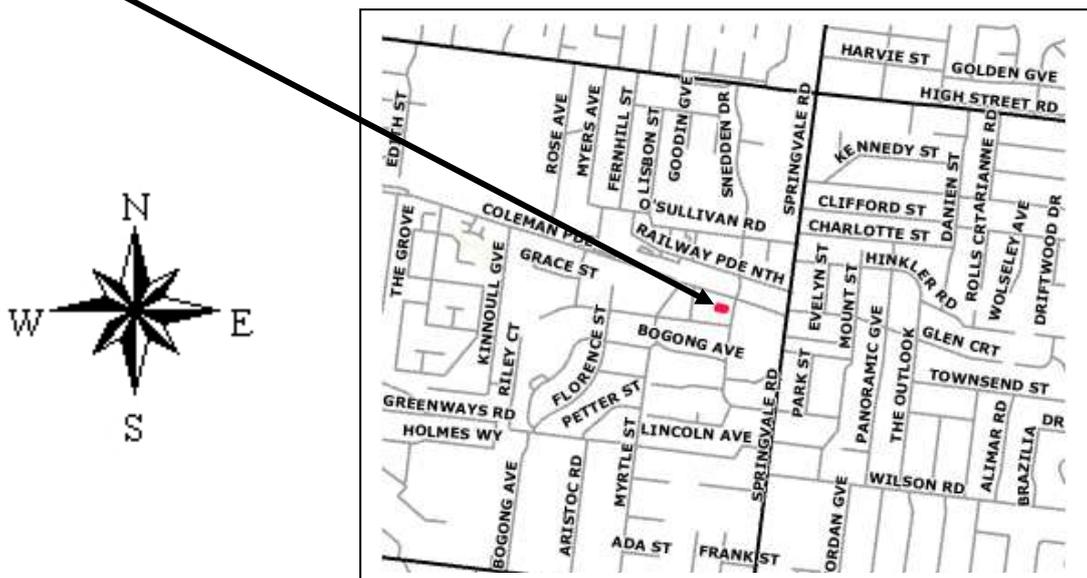
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| RESPONSIBLE DIRECTOR: | Peter Panagakos |
| RESPONSIBLE MANAGER: | Catherine Sherwin |
| RESPONSIBLE PLANNER: | Jeanny Lui |
| WARD: | Glen Waverley |
| PROPERTY ADDRESS: | 73-75 Kingsway, Glen Waverley |
| EXISTING LAND USE: | Shop |
| PRE-APPLICATION MEETING: | No |
| NUMBER OF OBJECTIONS: | Nil (0) |
| ZONING: | Commercial 1 Zone (C1Z) |
| OVERLAY: | Design and Development Overlay Schedule 12 (DDO12) |
| RELEVANT CLAUSES: <u>Planning Policy Framework</u> <ul style="list-style-type: none"> • Clause 11.03-1S (Activity Centres) • Clause 15 (Built Environment and Heritage) • Clause 15.01-1S (Urban design) • Clause 15.01-2S (Building Design) • Clause 17.02-1S (Business) • Clause 18.02-3R (Principal Public Transport Network) | <u>Local Planning Policy Framework</u> <ul style="list-style-type: none"> • Clause 21.05 (Economic Development) • Clause 21.06 (Major Activity And Neighbourhood Centres) • Clause 21.08 (Transport And Traffic) • Clause 21.11 (Physical Infrastructure) • Clause 21.13 (Sustainability And Environment) • Clause 22.03 Industry and Business Development and Character Policy • Clause 22.14 (Glen Waverley Major Activity Centre Structure Plan) • Clause 22.13- Environmentally Sustainable Development Policy <u>Particular Provisions</u> <ul style="list-style-type: none"> • Clause 52.06- Car Parking • Clause 52.34- Bicycle Facilities • Clause 65 – Decision Guidelines |
| STATUTORY PROCESSING DATE: | 4 September 2022 |
| DEVELOPMENT COST: | \$5 Million |

LOCALITY PLAN



SUBJECT SITE

NEIGHBOURHOOD PLAN



73-75 Kingsway, Glen Waverley - Development And Use Of Land For A Seven (7) Storey Building Comprising Food And Drink Premises, Offices, And A Reduction In The Car Parking Requirement To Zero

RECOMMENDATION:

That Council resolves to issue an **Amended Planning Permit (TPA/50168/B)** for the development and use of land for a ~~six (6)~~ **seven (7)** storey building and a reduction in the car parking requirement to zero, at 73-75 Kingsway, Glen Waverley subject to the following conditions (**changes underlined**):

AMENDED PLANS REQUIRED

- 1 Before the development starts, amended plans drawn to scale and dimensioned must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans prepared by Triten Constructions Pty Ltd, dated 26/07/2019 and plan numbers ~~02.1-G, 02.4-G, 02.11-G, 02.15-G, 02.19-G~~ and dated ~~13/07/2019~~ and plan numbers ~~02.12-G, 02.14-G~~ 02.1-I, 02.4-K, 02.05 to 02.09-L, 02.10 to 02.15-B, 02.16 to 02.20-G but modified to show:
 - (a) the following changes generally in accordance with the sketch included in the Urbis evidence prepared by Mr Pagliaro of Urbis P/L and dated September 2020:
 - i Amended- Reduction in height of the gas meter and hydrant booster and meets the relevant Fire Engineering Requirements.
 - ii Amended- Relocation of the bicycle hoops to the basement.
 - iii Extension of the restaurants so that they are 1.5m from the western title boundary.
 - iv Expansion of the rear glazing at ground floor to reflect the above changes.
 - (b) details of the screening associated with the duct in the rear elevation;
 - (c) details of the external cladding, trim and colour scheme of the proposed development;
 - (d) bicycle parking facilities to generally follow the design and signage requirements set out in Clause 52.34 of the Monash Planning Scheme;
 - (e) changes required to satisfy recommendations in the Sustainable Management Plan in accordance with Condition 5; and
 - (f) details of the waste rooms to accord with the Waste Management Plan in accordance with Condition 7.
 - (g) Finishing material and façade details of the proposed walls on level 6 to complement the architecture of the building.

All of the above must be done to the satisfaction of the Responsible Authority.

- 2 The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
- 3 Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
- 4 As part of the ongoing consultant team, Triten Constructions Pty Ltd or an architectural firm which has comparable skills and expertise to the satisfaction of the Responsible Authority, must be engaged to:
 - (a) oversee design and construction of the development; and
 - (b) ensure the design quality and appearance of the development is consistent with the proposal as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.

Management Plans

Sustainable Management Plan

- 5 Before the plans required by Condition 1 are endorsed, a Sustainable Management Plan [**SMP**] must be submitted to and approved by the Responsible Authority. Upon approval, the SMP will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the SMP to the satisfaction of the Responsible Authority. The report must include, but is not limited to the following:
 - (a) demonstration of how ‘best practice’ sustainability measures have been addressed, having regard to the relevant aspects of Clause 21.13 of the Monash Planning Scheme.
 - (b) identification of relevant statutory obligations, strategic or other documented sustainability targets or performance standards.
 - (c) documentation of the means by which the appropriate target or performance is to be achieved.
 - (d) identification of responsibilities and a schedule for implementation, and ongoing management, maintenance and monitoring.
 - (e) demonstration that the design elements, technologies and operational practices that comprise the SMP can be maintained over time.

All works must be undertaken in accordance with the endorsed SMP to the satisfaction of the Responsible Authority. No alterations to the endorsed SMP may occur without written consent of the Responsible Authority and (to the extent material and necessary) any relevant flow-on

changes to the design response must be also incorporated into the endorsed plans.

Waste Management Plan

6 Before the plans required by Condition 1 are endorsed, a Waste Management Plan [**WMP**] must be submitted and approved by the Responsible Authority. The plan must be substantially in accordance with the Waste Management Plan prepared by Leigh Design and dated 16 July 2019 (supersedes report dated 21 June 2019) but revised to the satisfaction of the Responsible Authority to:

- (a) reflect the revised development plan layout.
- (b) include sewer/ water facilities connected to the waste room for bin washing and ventilation for odour control.
- (c) include details of the building operator.

Waste collection must be undertaken in accordance with the approved WMP to the satisfaction of the Responsible Authority.

Construction Management Plan

7 Prior to the commencement of works on the site (including demolition and excavation), a Construction Management Plan (CMP) must be submitted and approved by the Responsible Authority. No works are permitted to occur until the CMP has been endorsed by the Responsible Authority. Once endorsed, the CMP will form part of the permit and must be implemented to the satisfaction of the Responsible Authority. The CMP must address the following issues:

- (a) hours for construction activity in accordance with any other condition of this permit;
- (b) measures to control noise, dust and water and sediment laden runoff;
- (c) prevention of silt or other pollutants from entering into the Council's underground drainage system or road network;
- (d) measures relating to removal of hazardous or dangerous material from the site, where applicable;
- (e) a plan showing the location and design of a vehicle wash-down bay for construction vehicles on the site;
- (f) cleaning and maintaining surrounding road surfaces;
- (g) a site plan showing the location of any site sheds, on-site amenities, building waste storage and the like, noting that Council does not support the siting of site sheds within Council road reserves;

- (h) public safety and site security;
- (i) a plan showing the location of parking areas for construction and subcontractors' vehicles on and surrounding the site, to ensure that vehicles associated with construction activity cause minimum disruption to surrounding premises. Any basement car park on the land must be made available for use by sub-constructors/tradespersons upon completion of such areas, without delay;
- (j) a Traffic Management Plan showing truck routes to and from the site;
- (k) swept path analysis demonstrating the ability for trucks to enter and exit the site in a safe manner for the largest anticipated truck associated with the construction;
- (l) measures to ensure that sub-contractors/tradespersons operating on the site are aware of the contents of the CMP;
- (m) contact details of key construction site staff;
- (n) any other relevant matters, including the requirements of Head, Transport for Vitoria or Public Transport Victoria.
- (o) except with the prior written consent of the Responsible Authority, a requirement that construction works must only be carried out during the following hours:
 - Monday to Friday (inclusive) – 7.00am to 6.00pm;
 - Saturday – 9.00am to 1.00pm;
 - No works are permitted on Sundays or Public Holidays;

Note: Hours for demolition and construction condition to be used in conjunction with this condition. Check EPA website for standard construction hours.

- 8 The provisions, recommendations and requirements of the endorsed Management Plans related to in Conditions 5-8 inclusive must be implemented and complied with to the satisfaction of the Responsible Authority.

GENERAL CONDITIONS

- 9 The walls on the boundary of adjoining properties must be cleaned and finished in a manner to the satisfaction of the Responsible Authority.
- 10 No equipment, services, architectural features or structures of any kind, including telecommunication facilities, other than those shown on the

endorsed plans must be permitted above the roof level of the building unless otherwise agreed to in writing by the Responsible Authority.

- 11 All waste receptacles must be stored on the property except during waste collection to the satisfaction of the Responsible Authority.

TIME FOR STARTING AND COMPLETION

- 12 In accordance with section 68 of the *Planning and Environment Act 1987*, this permit will expire if one of the following circumstances applies:

- (a) The development is not started before two (2) years from the date of issue.
- (b) The development is not completed before four (4) years from the date of issue.

In accordance with section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

BACKGROUND:

History

Planning Permit TPA/50168 was issued on 22 December 2020 at the direction of VCAT for the development of a six storey mixed use building and a reduction of the car parking requirement to zero. Development plans were endorsed on 4 August 2021.

In granting Planning Permit TPA/50168 VCAT determined:

- The increase of 2.3 metres in height from the preferred height of DDO12 will not be visually discernible from the street or surrounding area.
- The proposed development is consistent with the design objectives that seek buildings that contribute to active and engage frontages, support a high level of pedestrian amenity and retain the fine grain character of commercial buildings along the traditional strip area such as Kingsway.
- The setback is consistent with the preferred setback and to Kingsway. The proposed 1.5 metre setback to the laneway at the ground level to a height of 4.5 metres is acceptable.
- The reduction of car parking to zero is acceptable for the following reasons:
 - There is policy support for the provision of zero car spaces as the site is located within an activity centre, a place that encourages a mix of land uses and more intensive development; and,
 - Activity centres generally attract people to an area with a sharing of trips. The peak demands would be during the evening on a Friday and

Saturday, where demand surveys indicate there is sufficient car parking available within the centre.

Amended Planning Permit TPA/50168A was later issued on 7 March 2022 allowing amendments to site services to satisfy the requirements of fire Engineers and relocate bicycle spaces. The amendment was determined under delegation as the changes were not material to the decision and did not change or remove any condition of approval.

Condition 12 of the permit allows the development to commence before 22 December 2022 and complete before 22 December 2024. The existing buildings on site have been demolished at the time of preparing this report, and Council records show that a Registered Building Surveyor has been appointed for the construction of the development.

The Site and Surrounds

The site is located on the west side of Kingsway in the Glen Waverley Major Activity Centre (GWMAC). The subject site comprises of two allotments located central to a group of twelve shops. The site is bounded to the west by a laneway connecting Coleman Parade and Montclair Avenue.

The combined land is rectangular in shape, with an east (frontage) and west (rear) boundary of 12.19 metres to Kingsway and a north and south boundary of 30.48 metres, resulting a total site area of 371.5 square metres.

The hair salon and optometrist shop previously occupying the site have vacated and existing buildings demolished.

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

PROPOSAL:

The application seeks to amend the approved development as follows:

- Modification to the use of Level 5 (the sixth storey) from office to food and drink premises (bar).
- Construction of a seventh storey (shown as Level 6 on the plans), having a total floor area 202 square metres and to be a continuation of the food and drink premise use on the Level 5 immediately below.
- Further reduction of the car parking requirement associated with the additional floor space to zero.

Attachment 1 details plans forming part of the application.

PERMIT TRIGGERS:

An application for amendment to a planning permit (including plans) is subject to the provisions of Section 72 of the *Planning and Environment Act, 1987*.

Sections 47 to 62 of the Act (with any necessary changes) apply to an application as if the application were an application for a permit.

Zoning

The subject site is located within the Commercial 1 Zone under the provision of the Monash Planning Scheme.

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

A planning permit is not required to use land for a food and drink premises in the Commercial 1 Zone. The definition of food and drink premises includes a bar.

Overlay

The site is affected by the Design and Development Overlay Schedule 12 (DDO12). Pursuant to Clause 43.02, a Permit is required to construct a building or construct or carry out works.

Buildings and works must be in accordance with any requirements in a schedule to the overlay. A permit may be granted to construct a building or carry out works which are not in accordance with any requirements in the schedule, unless the schedule specifies otherwise.

Particular & General Provisions

Clause 52.06 *Car Parking* and Clause 52.34 *Bicycle Facilities* apply to the proposal. Pursuant to Clause 52.06-3, a permit is required to reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5.

Clause 52.34 *Bicycle Facilities* does not specify any bicycle parking requirements for the proposed food and drink premises. The proposed amendment does not generate any additional bicycle parking requirements.

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

Public Notice

The application was advertised in accordance with section 52 of the *Planning and Environment Act 1987* by way of letters to the surrounding property owners/occupiers, and the display of 4 signs on the front and rear laneway boundaries the site.

No objections to the amendment application were received.

Referrals

External Referral

There are no statutory referral authorities.

Internal Referral

Traffic Engineer

The application was referred to Council's Traffic Engineers, who have no concerns with the proposal including the reduction of car parking to zero, subject to the existing conditions on the permit being maintained.

DISCUSSION:

Consistency with State, Regional and Local Planning Policies

State Planning Policy Framework (PPF)

The proposal is in keeping with the objectives of the Planning Policy Framework. The proposal allows for the supply of commercial premise, and positively contribute to the employment opportunities and jobs within the activity centre, where it has great accessibility to public transport.

Local Planning Policy Framework (LPPF)

The proposal is consistent with the Local Planning Policy Framework aspirations which seek to enhance the mix of retail, entertainment, office, residential and medical services to meet the needs of residents, workers and visitors within the Glen Waverley Major activity Centre as it is one of the most significant Major Activity Centres in Monash.

The amendment proposes an additional level to the approved 6 storey commercial building, which marginally exceeds the 15-22 metre (4-6 storey) building height envisaged by the Glen Waverley Activity Centre (GWAC) Structure Plan. The proposed additional level will predominantly be an outdoor terrace space and will not be visible from the footpath on Kingsway and will not result in any adverse visual impact on the Kingsway streetscape. This will be further discussed in the assessment below.

Assessment

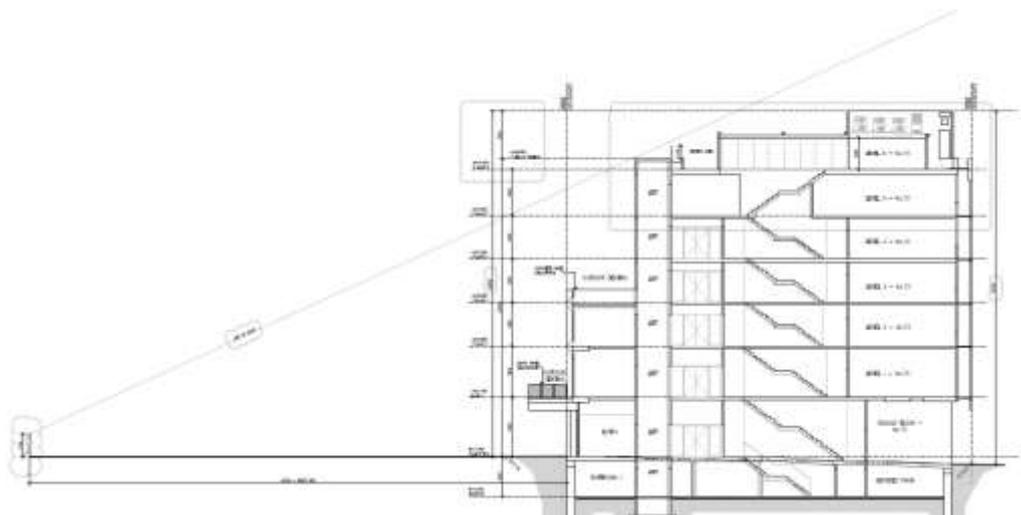
Streetscape character & Built Form

The proposed seventh storey comprises of an open roof top area with outdoor seating and pergolas above. The pergolas are setback 5.1 metres from the front

boundary to Kingsway. An indoor area is constructed behind an outdoor seating area, this area is setback over 21 metres from the boundary to Kingsway.

The proposed additional level will increase the maximum building height by 3.6 metres (from 23.185 to 26.795 metres). Although the building exceeds the preferred building height of 22 metres (6 stories) envisaged in the DDO12, the additional level including the open pergolas will not be highly visible from Kingsway as it is well setback from the property frontage.

The diagram below shows the visual sight line from the footpath of Kingsway, opposite the subject site:



East-West Section looking South provided by Applicant

The diagram shows that the sightline from the opposite side of Kingsway will be 'blocked' by the existing lift overrun and the additional level will cause minimal visual impact to the street.

Side Interface

The proposed walls on the seventh storey should be designed to complement the architecture of the building. As no detail is shown on the plans, this can be required via the inclusion of a new Condition 1 permit condition.

Rear laneway Interface

The proposed building remains at a setback of 1.5 metres to the rear laneway on ground level, which satisfies the requirement of the DDO12.

Overshadowing and Solar Access

The DDO12 specifies that buildings should be designed to ensure solar access is maintained within the following area:

- Within 10 metres of the western property boundary of Kingsway, between Bogong Avenue and Railway Parade North, between 9am and 12pm on 21 September.

Shadow plans prepared by the project architect demonstrate that given the significant street setback the amended proposal remains consistent with the DDO12 provision in relation to overshadowing.

There are no concerns regarding overshadowing to the laneway. Whilst there will be some overshadowing cast by the proposal to the rear, the shadow is considered acceptable as it starts to move away from the laneway after 9am.

Car Parking, traffic and access

The amended proposal generates the following additional requisite car parking spaces having regard to Clause 52.06 of the Monash Planning Scheme:

| | Floor Area | Clause 52.06 Requirement (PPTN Area) | Car Spaces Required | Car parking credits associated with existing approval |
|----------------------------------------------------------------------------------------------|-------------------|-------------------------------------------------------------|---------------------|-------------------------------------------------------|
| Proposed- Food and Drink Premises (Levels 5 & 6) | 405m ² | 3.5 spaces to each 100m ² of leasable floor area | 14 car spaces | 0 |
| Car parking credit associated with existing office use of Level 5 (Original Approval) | | | | 6 car spaces |
| Car parking requirement generated and sought to be waived | | | 8 car spaces | |

A traffic report was submitted with the application. The report notes that a large proportion of customers to the proposed food and drink premises (bar) will be generated from those who have already dined at a restaurant within the activity centre, and will also service existing employees and residents of the nearby area who can access the site via alternate transport modes. Consequently, the traffic demand generated directly from patrons attending the bar is likely to be low.

The report also discussed that the peak time for the operation of the bar is on Friday and Saturday evenings, with parking demands during the day expected to be much lower. The expected peak demand would be 7 spaces (2 staff and 5 customer).

Council's Traffic Engineer have advised that they support the assessment of the report and conclude that the proposed reduction of car parking requirement is satisfactory.

CONCLUSION:

The proposed amendment is appropriate given the location of the site in the Glen Waverley Major Activity Centre and the overall Policy direction of the Monash Planning Scheme.

The additional level, with substantive setbacks is unlikely to cause any adverse amenity impact to the street or adjoining properties.

The further reduction of the car parking requirement is also supported given the subject site is located within the GWAC.

Overall, the proposal is considered appropriate, and it is recommended that an Amended Planning Permit be issued.

LIST OF ATTACHMENTS:

Attachment 1 – Proposed Development Plans.

Attachment 2 – Aerial Photograph (February 2022).

Attachment 3 – Zoning and Overlays Map.