

# VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

## PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P859/2023  
PERMIT APPLICATION NO.TPA/54246

### CATCHWORDS

Section 77 of the *Planning and Environment Act 1987* (Vic); Monash Planning Scheme; General Residential Zone Schedule 6, Construction of 12 dwellings, planning policy, high quality design, landscaping.

<b>APPLICANT</b>	One Studio Melbourne Pty Ltd
<b>RESPONSIBLE AUTHORITY</b>	Monash City Council
<b>SUBJECT LAND</b>	39 & 41 Dennis Street CLAYTON VIC 3168
<b>HEARING TYPE</b>	Hearing
<b>DATE OF HEARING</b>	29 November 2023
<b>DATE OF INTERIM ORDER</b>	29 November 2023
<b>DATE OF ORDER</b>	16 February 2024
<b>CITATION</b>	One Studio Melbourne Pty Ltd v Monash CC [2024] VCAT 120

### ORDER

#### No permit granted

- 1 In application P859/2023 the decision of the responsible authority is affirmed.
- 2 In planning permit application TPA/54246 no permit is granted.

Katherine Paterson  
**Member**



## APPEARANCES

For applicant	Paul Little, Town Planner, Planning and Property Partners
For responsible authority	David de Giovanni, Town Planner

## INFORMATION

Description of proposal	Construction of 12 dwellings. The dwellings will be constructed into two rows of six dwellings, with car parking for each dwelling accessed via a central driveway which will utilise the existing crossovers. The architectural style of the dwellings is contemporary with flat roof forms. Dwellings 11 and 12 will contain three bedrooms, with the other dwellings containing two. A reverse living layout has been provided for each dwelling. Private open space for each dwellings is in the form of balconies which will be supplemented by ground level private open space.
Nature of proceeding	Application under section 77 of the <i>Planning and Environment Act 1987 (Vic)</i> – to review the refusal to grant a permit.
Planning scheme	Monash Planning Scheme
Zone and overlays	General Residential Zone Schedule 6
Permit requirements	Clause 32.08-6 – Construct two or more dwellings on a lot
Land description	The subject site consists of two lots which have a combined area of 1450 square metres. Both lots are occupied single detached dwellings and associated outbuildings and gardens.
Tribunal inspection	29 November 2024



## REASONS<sup>1</sup>

### WHAT IS THIS PROCEEDING ABOUT?

- 1 One Studio Melbourne Pty Ltd (**'applicant'**) wish to construct 12 dwellings on land at 39 and 41 Dennis Street Clayton. Following Monash City Council's (**'Council'**) decision to refuse to grant a planning permit for the development they have requested that the Tribunal review this matter.
- 2 Whilst Council agreed that this site is in an area that planning policy would support housing change, they consider that the design of the proposed development is inconsistent with the high quality design outcomes sought for the area and will lead to a poor internal amenity outcome for the future occupants of the dwellings. These are the key issues with respect to this application which I will consider in turn.

### IS THE DESIGN OF THE DEVELOPMENT AN ACCEPTABLE RESPONSE TO THE MONASH PLANNING SCHEME?



PERSPECTIVE VIEW

Figure 1 – Extract from Plan TP08 Rev B prepared by One Studio dated 9 February 2023

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<sup>1</sup> The submissions and evidence of the parties, any supporting exhibits given at the hearing and the statements of grounds filed have all been considered in the determination of the proceeding. In accordance with the practice of the Tribunal, not all of this material will be cited or referred to in these reasons.

- 3 The subject site is located within the General Residential Zone 6, the purposes of which include:
- To implement the Municipal Planning Strategy and the Planning Policy Framework.
  - To encourage development that respects the neighbourhood character of the area.
  - To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.
- 4 The schedule to the zone contains the following neighbourhood character objectives:

To facilitate housing diversity in the form of units, townhouses and apartment developments of high quality design and finish.

To provide an interface between the Clayton Activity Centre, the Monash Employment and Innovation Cluster, the housing growth area and the lower scale surrounding garden city suburban areas.

To encourage development that respects sensitive residential interfaces and minimises building mass and visual bulk in the streetscape through landscaping in the front setback and breaks and recesses in the built form.

To promote the preferred garden city character by minimising hard paving throughout the site by limiting the length and width of accessways and limiting paving within open space areas.

To ensure developments are constructed within an open garden setting through the retention and planting of vegetation, including canopy trees.

- 5 Map 1 of Clause 22.01-4 divides the municipality into various character types, with the subject site located within the Monash National Employment Cluster ('NEIC') and Clayton Activity Centre – Housing Diversity Area. The preferred character statement for this precinct is:

The Clayton Activity Centre and the cluster more broadly are expected to experience major redevelopment, as one of the key areas for employment growth within Melbourne. As such, the core of the activity centre and the cluster are anticipated to accommodate growth and more diverse housing needs. This area also forms an interface to the surrounding garden city suburbs. New development should provide a transition between these areas.

New housing will generally comprise multi dwelling developments such as units and, where appropriate, low rise apartments. Front and rear setbacks will be less than those preferred in the garden city areas, however will still provide the opportunity for landscaping.

Landscaping and open space within developments will remain an important feature for this character area. Canopy trees within developments and separation between buildings will provide visual and environmental amenity for occupants and the residents of existing



dwellings. New developments will be designed and constructed to a high standard, ensuring they provide a positive architectural impact.

- 6 The schedule to the GRZ6 has varied requirements for street setback, landscaping, side rear setbacks, private open spaces and front setbacks. Council submit that the proposal does not comply with the landscape requirements of the scheme as landscaping is not provided on both sides of the driveway. More fundamentally, they submit that the proposed layout and design is not of a 'high quality design' as desired by the schedule to the zone and the preferred character statement.
- 7 When assessing whether the design of a proposal is of high quality, I consider that this does not mean that the design of the building has to be a notable or of ground breaking design. The subject site is a mid block site on a side street within the Monash NEIC, where you would not expect the provision of a landmark building. A development of high quality design on this site is one which provides an acceptable response to the preferred character of the area, responds to the constraints and opportunities of the site, provides an acceptable level of amenity the future occupants of the building and limits impacts on the amenity of the surrounding properties.
- 8 A key focus within Monash, even in areas designated for change, is the achievement of the Garden city character. This is reflected in the schedule to the zone which requires the provision of front and rear setbacks, as well as the provision of landscaping.
- 9 Council was critical of the layout of the proposed development, the choice to use a central driveway and cantilevered forms which they submitted would not enable the provision of landscaping as designed by the Monash Planning Scheme for this site.
- 10 The schedule to the GRZ3 requires the provision of 8 canopy trees for this site. A landscape plan was submitted with the application which indicates that this will be achieved with this site, with 8 canopy trees planted which will range in height from 7 to 12 metres. I have provided an extract of the landscape plan below:



Figure 2 – Extract from landscape plan prepared by Justin Hutchinson dated 25 January 2023

- 11 The landscape plan illustrates the concerns raised by Council with respect to the central driveway. Landscaping along the access way is limited to small ‘hoops’ which can only contain landscaping to a height of 1.2 metres. I agree with Council that these ‘hoops’ will do little to minimise the extent of hard paving down the centre of the site, which is at odds with the outcome sought to be achieved in the schedule to the zone.
- 12 I also agree with Council that whilst the rear setback meets the varied standard of the schedule to the GRZ6, the design has responded poorly to this interface. Instead of taking advantage of this area at the rear by providing a north facing rear garden that is easily accessible via a living

room for these dwellings, the rear dwellings have been designed with the same reverse living layout as the other dwellings. The design has been designed without thought at this interface, as if it was a one metre setback, rather than the provision of a generous garden at the rear of the dwellings. The failure of the design to respond to the rear, as well as the presence of a large amount of hardstand are both indications that this design is not one of high quality.

- 13 I also share Council's concerns with the presentation of dwellings 1 and 2 to the street. The choice to use a reverse living layout for the front dwellings means that the interface with the street is limited to small windows to the garages and the ground floor bedroom of each dwelling.

## **CONCLUSION**

- 14 On this site within Monash NEIC it should be possible to have a development of up to three storeys which achieves the high quality design outcome desired by the Monash Planning Scheme for this site. Unfortunately this design has failed to respond to the requirements of the GRZ6 or the opportunities of the site.
- 15 For the reasons given above, the decision of the responsible authority is affirmed. No permit is granted.

Katherine Paterson  
**Member**

