

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P1546/2023
PERMIT APPLICATION NO.TPA54702

CATCHWORDS

Application under section 80 of the *Planning and Environment Act 1987* (Vic) – Review the conditions contained in the permit – Monash Planning Scheme – General Residential Zone (Schedule 3) – Clause 22.01 Residential Development and Character Policy – Location of electrical meter box – Width of landscaping along driveway – Setback of garage.

APPLICANT	Amri Singh
RESPONSIBLE AUTHORITY	Monash City Council
SUBJECT LAND	8 Banksia Street CLAYTON VIC 3168
HEARING TYPE	Hearing
DATE OF HEARING	13 March 2024
DATE OF ORDER	19 March 2024
CITATION	Singh v Monash CC [2024] VCAT 228

ORDER

Conditions changed

- 1 The decision of the responsible authority is varied.
- 2 The Tribunal directs that planning permit TPA54702 must contain the conditions set out in planning permit TPA54702 issued by the responsible authority on 17 October 2023 with the following modifications:
 - (a) Conditions 1a), 1b) and 1c) are deleted.
 - (b) New conditions are included as follows:
 - 1a) The dimensions (height, length and width) and details of the design of the electrical meter box structure for units 2 and 3.
 - 1b) Landscaping along the northern and western sides of the electrical meter box structure for units 2 and 3.
 - (c) New conditions are included as follows:
 - 5c) landscaping along the sides of the communal driveway to units 2 and 3 to include small to medium sized shrubs and/or creeping/climbing plants, in addition to grasses;
 - 5d) landscaping along the northern and western sides of the electrical meter box for units 2 and 3, including small to medium sized shrubs and/or creeping/climbing plants sufficient



to minimise the visibility of the electrical meter box from the street.

- (d) Conditions in the planning permit are renumbered accordingly.
- 3 The responsible authority is directed to issue a modified planning permit in accordance with this order.

Sarah McDonald
Member

APPEARANCES

For applicant	Simon Skinner, planning consultant, Planning Sense
For responsible authority	Aurora Jin, statutory planner, Monash City Council



INFORMATION

Description of proposal	Construction of three, double storey dwellings.
Nature of proceeding	Application under section 80 of the <i>Planning and Environment Act 1987</i> – to review the conditions contained in the permit.
Planning scheme	Monash Planning Scheme (‘Scheme’)
Zone and overlays	General Residential Zone – Schedule 3 (‘GRZ3’).
Permit requirements	Clause 32.08-7: To construct two or more dwellings on a lot in the GRZ3.
Land description	The land is on the eastern side of Banksia Street, Clayton. It has a street frontage width (west) of 17.07 metres, a depth of approximately 41 metres (north and south), and an overall area of 712 square metres.



REASONS¹

Oral reasons for this decision were given at the conclusion of the hearing. The following are the oral reasons in written form, with minor editing and refinements.²

WHAT IS THIS CASE ABOUT?

- 1 This is an application under section 80 of the *Planning and Environment Act 1987* (Vic) ('PE Act'), to review the conditions of planning permit TPA/54702 for the construction of three double storey dwellings on the land at 8 Banksia Street, Clayton ('site').
- 2 The permit conditions in dispute are, in summary:
 - Condition 1a) which requires the common electrical meter box for units 2 and 3 to be relocated;
 - Condition 1b) which requires a 500 millimetre wide landscaping buffer along either side of the common driveway for units 2 and 3; and
 - Condition 1c) which requires the setback of the unit 1 garage from the front facade to be increased.
- 3 The applicant submits that:

...the proposed three dwelling development has been appropriately designed to ensure that it respects the existing neighbourhood/landscape character without requiring the physical outcomes sought under Conditions 1a), 1b) and 1c).³

WHAT ARE THE RELEVANT FACTS AND CIRCUMSTANCES OF THE CASE?

- 4 The key facts of the case relevant to the conditions in dispute are as follows:
 - i Proposed units 1 and 2 are arranged side by side facing the street. Proposed unit 3 is at the rear. Unit 1 has its garage adjoining the northern side boundary. Units 2 and 3 share a communal driveway along the southern side boundary.
 - ii The land is in the General Residential Zone – Schedule 3 (GRZ3). The GRZ3 schedule includes neighbourhood character objectives to be achieved and local variations to various standards at clause 55.

¹ The submissions 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.

² When giving my oral reasons at the hearing, I reserved the right to elaborate on, add to, or refine my oral reasons in my written reasons. These reasons include refinements and additions that do not change the substance of my findings in my oral reasons.

³ Applicant's written submissions, [1.4].



- iii The Council's Residential Development and Character Policy at clause 22.01 includes general policies and preferred future character statements. The site is in the Garden City Suburbs (Southern) character area.
- iv The maintenance and enhancement of the Garden City Character is a key outcome sought by the local policy framework in Monash.

5 In deciding this application, I have considered:

- the statements of grounds filed;
- the submissions of the parties;
- the supporting exhibits given at this hearing;
- the relevant provisions and policies of the Scheme; and
- all the relevant matters as directed under of the PE Act.

In accordance with the practice of the Tribunal I will not refer to all this material in my reasons.

6 I have not viewed the site and surrounding area. However, I have been provided with a range of photographs, aerial photographs, and plans, which enable me to arrive at a decision about the matters in dispute.

WHAT ARE THE TRIBUNAL'S FINDINGS?

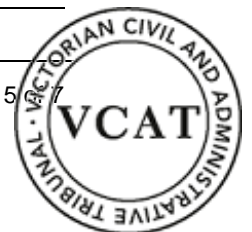
Condition 1a)

7 Condition 1a) requires:

The common electricity meter box for Unit 2 and 3 to be relocated to be in-line or behind the front façade of Unit 2 and in within common property.

- 8 The meter box for units 2 and 3 is to be located in a structure in the front setback of unit 2, adjacent to the northern side of the communal driveway.
- 9 The Council argues that the meter box will be highly visible from the street and goes against the neighbourhood character of 'open garden settings' sought by its policies. It also argues that it is inconsistent with the Council's 'Guide to Electricity Supply Meter Boxes in Monash'⁴ ('Guide for Electricity Meter Boxes') that has been in use and adopted since 2000.
- 10 The applicant has explained that the meter box will be a small utility structure measuring 1m in length, 500 millimetres wide and approximately 1.2 metres high. It is to be set back about 3.5 metres from the front boundary.
- 11 I am satisfied that a structure of this size and setback from the front boundary will not have an unacceptable impact on the open garden setting.

⁴ City of Monash, 16 November 2000.



The majority of the front garden areas of units 1 and 2 will remain available for landscaping that will contribute to the open garden setting of the development and the streetscape.

- 12 The extent to which the meter box will be visible from the street can be minimised if landscaping is provided along the northern and western sides of the structure. This can be addressed by a permit condition.
- 13 I am not persuaded by the Council's reliance on its Guide for Electricity Meter Boxes. That document is not incorporated into or a policy reference in the Scheme. I can place little to no weight on that document.
- 14 For these reasons, I find that condition 1a) should be deleted, and replaced with a new condition that requires the dimensions and details of the design of the meter box structure to be provided as part of the amended plans. I will also include a permit condition to require landscaping to be provided along the northern and western sides of the structure.

Condition 1b)

- 15 Condition 1b) requires:

A minimum 500mm width of landscape buffer to be provided on either side of the common driveway of Unit's 2 and 3.

- 16 The plans currently show a 300 millimetre landscaping strip along the southern side and a 330 millimetre landscaping strip along the northern side of the communal driveway.
- 17 The Council argues that these are inadequate for meaningful landscaping to soften the hard surfaces and enhance the visual appeal of the development.
- 18 Both the local variation to the landscaping standard B13 (at clause 55.03-8) under the GRZ3 schedule, and the Residential Development and Character Policy at clause 22.01, seek for landscaping to be provided on both sides of driveways.
- 19 Neither the local variation to standard B13 or the policy specify a minimum width for landscaping areas along driveways for vegetation to be provided.
- 20 I am satisfied that the proposed landscaping along the driveway, in combination with the wider sections of landscaping along the northern and southern sides of this driveway, the landscaping in the front setback, the landscaping 'corridor' between the rear of units 1 and 2, and the rear of unit 3, overall provides an acceptable landscaping outcome for this site in its context.
- 21 I am not persuaded by the Council that increasing the landscaping strips by 200 millimetres and 170 millimetres will make any meaningful difference to the landscaping outcome that will be achieved holistically across the site.
- 22 However, it would be appropriate for the landscaping plan to include a range of plants with different heights, including small to medium sized



shrubs and/or creeping/climbing plants, rather than simply the tussock grasses shown in the landscape plan.

- 23 For these reasons, I find that condition 1b) should be deleted, and replaced with a new condition that requires the landscaping along the driveway to include small to medium sized shrubs and/or creeping/climbing plants, in addition to tussock grasses.

Condition 1c)

- 24 Condition 1c) requires:

Unit 1's garage to have an increased setback of 500mm from 480mm from the front façade of Unit 1.

- 25 The Council argues that the policy at clause 22.01 and the GRZ3 schedule states that garages and carports should recess from the facades or front walls of buildings.
- 26 Neither the policy nor the GRZ3 schedule specify the distance a garage should be set back from a front wall of a building.
- 27 I am not persuaded by the Council that increasing the setback of the unit 1 garage by 20 millimetres will make any meaningful difference to the visual impact of the garage within the front facade of the building or within the streetscape.
- 28 I am satisfied that the front of the unit 1 garage will be a minor and unobtrusive element in the combined facades of units 1 and 2.
- 29 For these reasons I will require that condition 1c) be deleted.

CONCLUSION

- 30 For the reasons I have given, the permit conditions will be varied.

Sarah McDonald
Member