

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P11929/2021
PERMIT APPLICATION NO.TPA/52670

APPLICANT	Sherry Chen
RESPONSIBLE AUTHORITY	Monash City Council
SUBJECT LAND	12 Albert Avenue OAKLEIGH VIC 3166
HEARING TYPE	Hearing
DATE OF HEARING	3 June 2022
DATE OF ORDER	3 August 2022
CITATION	Chen v Monash CC [2022] VCAT 878

ORDER

No permit granted

- 1 In application P11929/2021 the decision of the responsible authority is affirmed.
- 2 In planning permit application TPA/52670 no permit is granted.

Peter Gaschk
Member



APPEARANCES

For applicant

Russell Hocking, Town Planner with City
Shire Planning Pty Ltd

For responsible authority

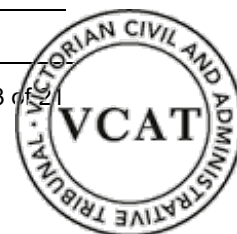
Peter English, Town Planner with Peter
English & Associates Pty Ltd



INFORMATION

Description of proposal	Construction of seven, attached, three storey dwellings on a lot.
Nature of proceeding	Application under section 77 of the <i>Planning and Environment Act 1987</i> – to review the refusal to grant a permit.
Planning scheme	Monash Planning Scheme (the Scheme)
Zone and overlays	General Residential Zone, Schedule 5 – Oakleigh and Wheelers Hill Activity Centres (GRZ5) Design and Development Overlay, Schedule 11 – Oakleigh Major Activity Centre ¹ (DDO11)
Permit requirements	Clause 32.08-6: To construct two or more dwellings on a lot. Clause 43.02-2: To construct a building or construct or carry out works.
Relevant scheme policies and provisions	Clauses 11.01-1S, 11.01-1R, 11.02-1S, 15.01-1S, 15.01-1R, 15.01-2S, 15.01-4S, 15.01-4R, 15.01-5S, 16.01-1S, 16.01-1R, 16.01-2S, 21.01, 21.04, 21.06, 21.15, 22.01, 22.04, 22.05, 22.12, 22.13, 32.08, 43.01, 43.02, 52.06, 55, 65 and 71.02.

¹ The review site is included in Precinct 4 – Residential Periphery in the DDO11



Land description

The review site is located on the southern side of Albert Street, a short distance to the west of the Clyde Street intersection. The land is slightly irregular in shape with a 21.5m frontage to Albert Avenue and rear boundary of 19.9m. Overall site area is approximately 1251sqm.

The subject land comprises three lots with a common driveway along the western side of the site. Each lot currently contains a single storey dwelling and single garage or carport. Council records indicate that the dwellings were built in 1963, while the three lot subdivision occurred in 1985.

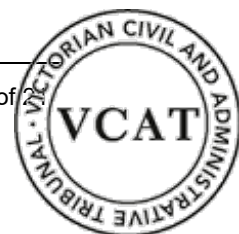
An existing 0.6m high brick fence is located along the front boundary of the site. There is no significant vegetation or easements on the site.

To the east of the review site are residential properties (four dwellings) facing Clyde Street, all in single storey form. These properties are within the Neighbourhood Residential Zone, Schedule 1 and also affected by a precinct based Heritage Overlay, Schedule 92 - Residential, Commercial and Civic Area North of Railway Station.

To the west is 10 Albert Avenue. This site contains a two storey high block of flats containing 12 dwellings. The building was constructed in the mid-1960's.

To the south (rear of the review site) is 89 Atherton Road. This site contains a multi-level apartment style building (seven storeys) under the Commercial 1 Zone. The application was approved by VCAT in 2016. A constructed laneway is located between the review site and this building.

Residential development along Albert Avenue is diverse with a mix of single and double storey detached dwellings, older medium density development, and more contemporary, larger scale medium density development.



Tribunal inspection

Undertaken unaccompanied on 3 June 2022.



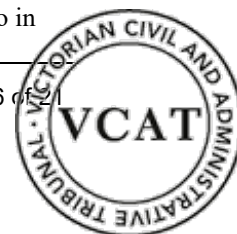
REASONS²

WHAT IS THIS PROCEEDING ABOUT?

- 1 This is an application for review by Sherry Chen (**applicant**) under s.77 of the *Planning and Environment Act* 1987, against the Monash City Council (**council**) Notice of Decision to Refuse to Grant a Planning Permit (**refusal**) for the construction of seven, three storey, attached dwellings on a lot (**proposal**) at 12 Albert Avenue, Oakleigh (**review site**).
- 2 Council refused the proposal on the following grounds:
 1. The proposal is inconsistent with the preferred character statement contained at Clause 22.01 of the Monash Planning Scheme, as well as the objectives of the Design and Development Overlay Schedule 11 at Clause 32.08.
 2. The proposal does not adequately satisfy the objectives and/or design standards of Clause 55 of the Monash Planning Scheme:
 - Clause 55.02-1 Neighbourhood character
 - Clause 55.03-5 Energy efficiency
 - Clause 55.03-7 Safety
 - Clause 55.03-8 Landscaping
 - Clause 55.05-4 Private open space
 - Clause 55.05-5 Solar access to open space
 - Clause 55.06-1 Design detail
 3. The proposal is an overdevelopment of the site.
 4. The proposal will have an adverse impact on the amenity of adjoining properties.
 5. The proposal will result in a poor level of internal amenity for future residents.
- 3 Council accepts the review site is in a location where residential density is supported by zone, overlay and policy settings. However, it does not support the design response of the proposal, submitting:

Council's concern relates to the extent of building form proposed across and into the site. The proposed building is three storeys in height in an unbroken form, with an upper level which occupies almost as great of a footprint as the ground level. This combined with minimal setbacks, and consequent lack of landscaping opportunity, results in an overly dominant building form when viewed from the street and neighbouring properties. In Council's view the design has

² 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.



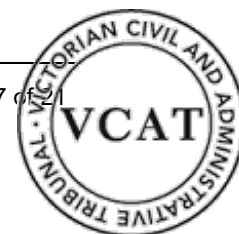
little regard to its transitional location at the edge of the activity centre.

- 4 The applicant does not agree with council, noting the review site sits within the boundaries of the Oakleigh Major Activity Centre, where higher density and more intensive residential development is actively supported by policy. It submits the design response achieves an appropriate residential outcome on the site, exceeding minimum setbacks required through Standard B17. It also notes the proposal is under the maximum four storey height permitted in the zone. It says:

It is respectfully submitted on behalf of the Applicant for Review that this is a development site within an Activity Centre where a three-dimensional envelope is encouraged by the Design and Development Overlay and where the location of the subject site and the interface it has to other properties is not greatly remarkable or even a constraint – it is simply one of many site influences that needs to be carefully considered and resolved – as it has been – through the Design Response.

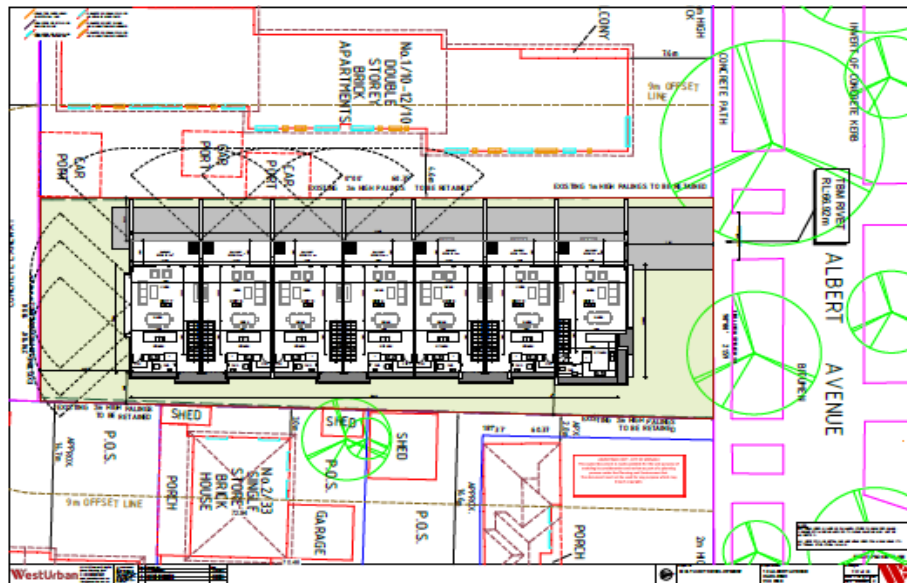
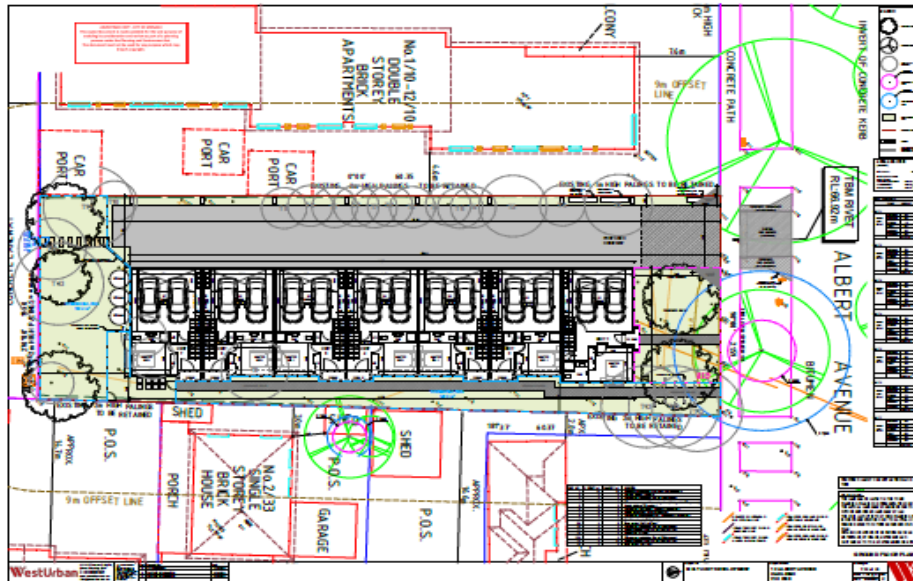
THE PROPOSAL

- 5 The proposal is summarised in council's submission as follows:
- Demolition of the existing dwellings and outbuildings.
 - Construction of seven three-storey dwellings.
 - Each dwelling will incorporate the main entrance, a double garage, and a bedroom at the ground level.
 - Each dwelling will incorporate four bedrooms:
 - At the first floor level each dwelling will be provided with the principal living areas.
 - At the upper level each dwelling will be provided with a further three bedrooms.
 - The principal private open space will be provided in the form of west facing balconies at the first floor level adjacent to the internal living areas.
 - Unit seven will also be provided with a small ground-level area.
 - A communal open space area comprising 134m² will be situated to the rear of unit seven adjacent to the southern boundary.
 - Vehicle access will be provided in the form of a single vehicle crossing adjacent to the western boundary.
 - Pedestrian access for unit one will be directly via the street. The remaining dwellings will be accessed via a separate pedestrian accessway along the eastern side of the site.



- Materials will incorporate a variety of contemporary finishes including render and cladding of varying colours and textures, and face brick.

6 Layout and elevation plans are provided below.



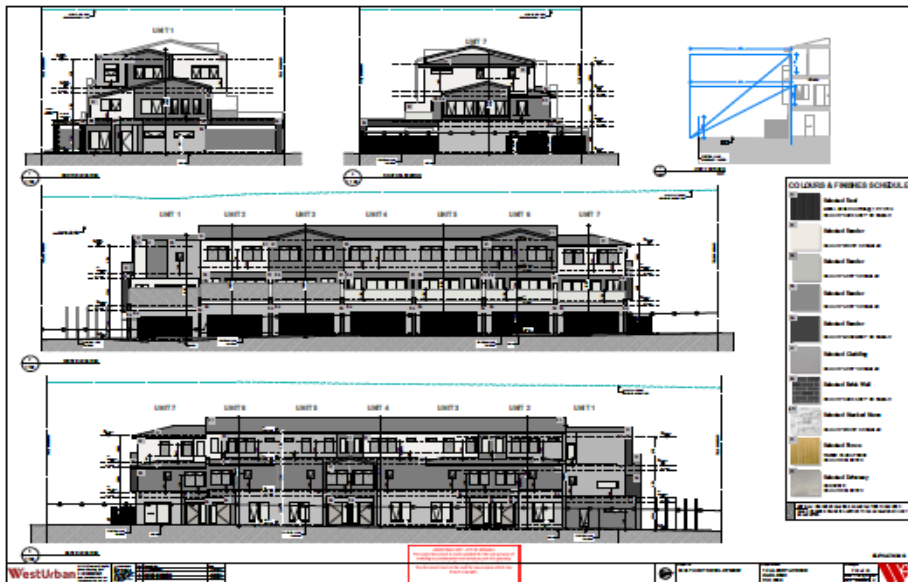
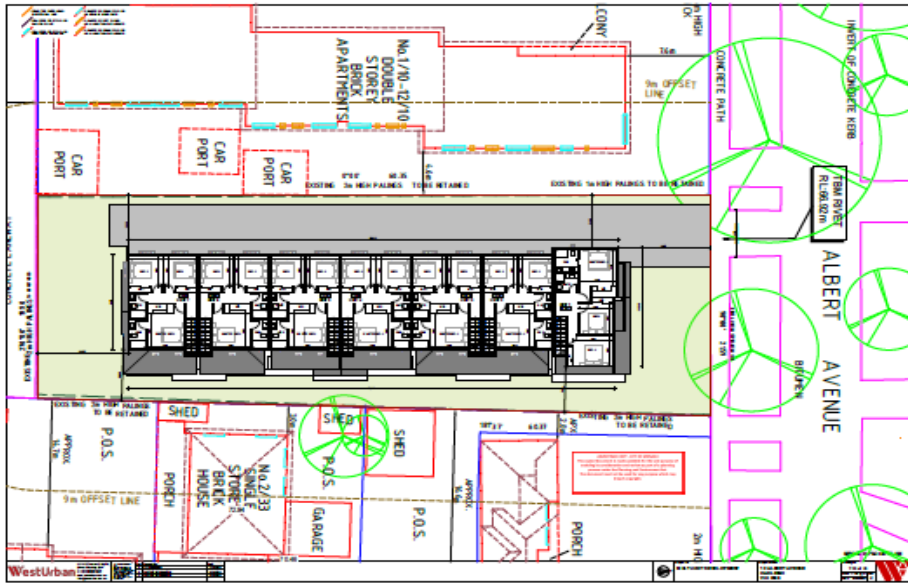


Figure 1: Layout and Elevation Plans (Source - Advertised Plans)

7 An aerial view of the review site is also provided:



Figure 2: Aerial Photograph with site marked in red (Source – Council Delegate Report)

WHAT ARE THE KEY ISSUES?

- 8 The Tribunal must decide whether a permit should be granted and, if so, what conditions should be applied. The consideration of clause 71.02 is also relevant.
- 9 I consider the key issues for determination are:
 - Does the proposal provide an appropriate response to neighbourhood character and built form transition?
 - Does the proposed design response satisfactorily address amenity impacts?
- 10 Having considered the submissions, Scheme provisions and my site inspection, I find the proposal fails to provide an appropriate built form transition from the GRZ5/DDO11 to the adjoining NRZ1 and HO92 properties located along the eastern interface of the review site. I consider this is a determinative matter and cannot be satisfactorily addressed through permit conditions.
- 11 I acknowledge the design has achieved numerical compliance with Standard B17 and other ResCode standards including private open space. However, the extent of three storey form proposed along the eastern interface is excessive, with minimal opportunity to introduce canopy tree planting into the 2.4 – 2.8m wide setback that would help filter this massing and bulk. I find the boundary construction and unbroken massing of the three storey

form will adversely impact the amenity and outlook of the neighbouring properties. The design does not provide the appropriate and necessary level of transition sought under the GRZ5, DDO11 and supporting policy setting.

PLANNING POLICY FRAMEWORK

Zone and Overlay Controls

- 12 The review site is located within the General Residential Zone - Schedule 5 (GRZ5) (Oakleigh and Wheelers Hill Activity Centres). The maximum building height specified in the schedule is 14.0m and four storeys. The proposal complies with this building height, having a maximum of three storeys.
- 13 Zone schedule variations to ResCode apply to landscaping and private open space. These variations are stated below:

Landscaping

New development should provide:

- A mixture of vegetation including indigenous species;
- Vegetation in the front, side and rear setbacks; and
- Vegetation on both sides of accessways.

Private open space

A dwelling or residential building should have private open space consisting of:

- An area of 75 square metres, with one part of the private open space to consist of secluded private open space at the side or the rear of the dwelling or residential building with a minimum area of 35 square metres, a minimum dimension of 5 metres and convenient access from a living room; or
- A balcony or roof-top area of 10 square metres with a minimum width of 2 metres and convenient access from a living room.

The proposal addresses the varied requirement for private open space through the use of upper level balconies. A communal open space area (134sqm) is also provided to the rear of the site. I make further comment on these matters below.

- 14 Relevant purposes of the GRZ5 include:
- 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.
- 15 The GRZ5 Schedule also includes the following relevant neighbourhood character objectives:



- To promote an increased diversity of housing.
- To support development that provides a transition in scale from the existing commercial precincts to the wider garden city suburban areas.
- To promote a vegetated setting for development through protection of significant vegetation and provision of new tree planting in front, side and rear setbacks.

16 As shown in the zoning map below, surrounding zoning to the east includes a Neighbourhood Residential Zone, Schedule 1 (NRZ1) while to the south is a Commercial Zone, Schedule 1 (C1Z).

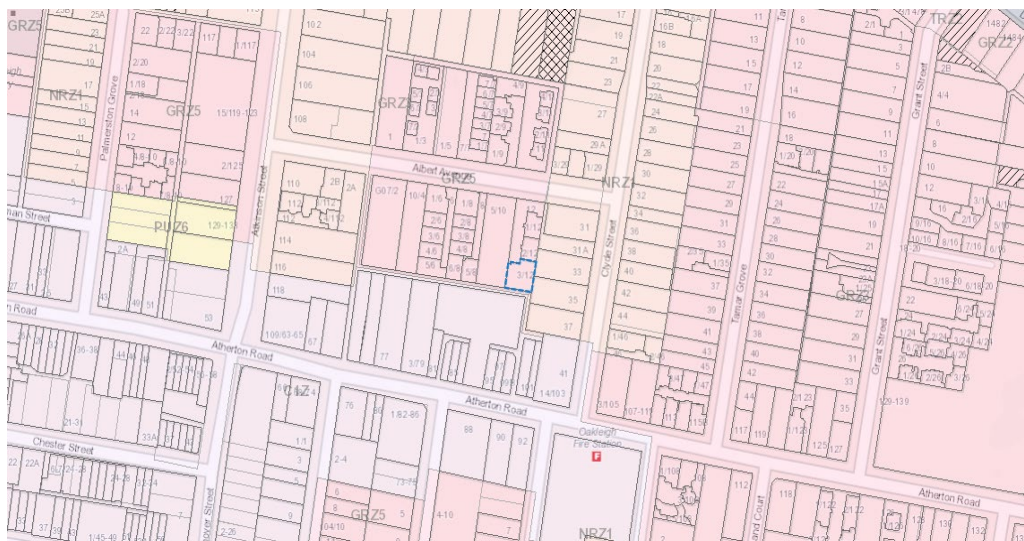


Figure 1: Zoning Map – Source: Vic Plan

17 Overlay controls also apply to the site in the form of a Design and Development Overlay - Schedule 11 (Oakleigh Major Activity Centre) (DDO11). The review site is located within the boundaries of the Oakleigh Major Activity Centre and is subject to relevant structure planning undertaken for the activity centre and surrounds. I agree with the applicant that this is an important planning policy setting that should be given weight in the context of this proposal.

18 Schedule 11 to the DDO relates to the Oakleigh Major Activity Centre. A range of design objectives apply including:

- To ensure that the Oakleigh Major Activity Centre is developed in accordance with preferred built form outcomes.
- To avoid underdevelopment of sites.
- To maintain the prevailing streetscape rhythm and building scale of the Oakleigh Village.
- To develop the centre in a way that conserves and enhances its valued urban character and heritage places.
- To encourage a range of housing types and forms.

- To encourage environmentally sustainable design in the Oakleigh Major Activity Centre.
- To protect the economic viability of businesses by designing and constructing commercial premises to prevent unreasonable off-site amenity impacts on adjoining and nearby residential uses.
- To ensure new housing provides a high level of on-site amenity for residents.
- To improve pedestrian and access between key destination points.
- To ensure public spaces including key pedestrian streets have good solar access and weather protection.
- To ensure that new development contributes to safe and active streets.

19 Unsurprisingly, a number of these objectives are focused on commercial development outcomes for the activity centre. Nevertheless, key residential outcomes sought under the DDO11, seek to encourage increased housing density and diversity opportunities within the activity centre. Importantly, new residential development is to ‘*avoid underdevelopment of sites*’ under this overlay. Council and the applicant do not contest this policy outcome.

20 Under the DDO11, the review site is also identified in Precinct 4B - Residential Periphery. This is shown in the following map.

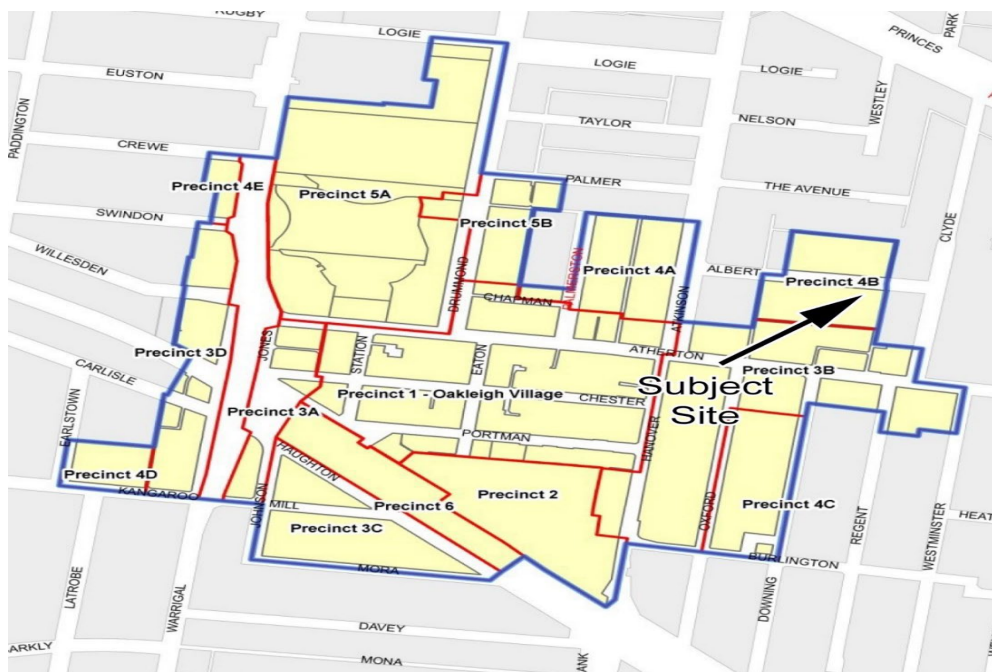


Figure 2: Precinct B (Source: Council Submission)

21 As detailed below, relevant Precinct B objectives reinforce the zone and overlay purposes that seek to increase residential diversity and choice and encourage higher density development within the precinct.

22 However, the following precinct objectives and guidelines are also relevant:

Precinct Objectives

- To create transitional heights around the core of the Activity Centre to protect the amenity in surrounding residential neighbourhoods.
- To encourage high standards of architectural design, incorporating environmentally sustainable design principles.

Precinct Guidelines

- Development should recognise and respect any heritage places located adjacent to the Precinct.
- Development should provide a high level of amenity, including privacy for occupants and neighbours, high quality private and public open space, canopy tree cover and effective management of parking.
- For sites which are located on the edge of the activity centre, new development should be designed to provide a transition in scale between the built form within the activity centre and the residentially zoned land outside the activity centre.

23 Clause 55 (ResCode) provisions apply to the proposed development. I agree with the applicant that the design response has generally responded in a positive manner to many of the numerical standards that apply. This includes a compliant front setback of 7.6m, with side and rear setbacks also satisfying Standard B17.

24 However, despite these numerical compliances, I find the proposal falls short in satisfying an appropriate built form transition and landscape setting sought under the GRZ5, DDO11 and local policy, particularly to the eastern interface. It is significant in my findings that the four properties abutting the eastern boundary of the review site are also under the HO92 and NRZ1. I agree with council that this combination of zone and overlay raises the design bar in respect to this interface treatment. I deal with this in more detail under Key Issues below.

Planning policy

25 Residential development policy is addressed at clause 21.04 of the Scheme. Clause 21.04-1 notes:

Monash is committed to managing residential growth to ensure it is directed to neighbourhood and activity centres that are well serviced by public transport, retailing, community facilities and employment opportunities. A significant opportunity exists to increase residential densities around the Monash National Employment Cluster to provide housing close to jobs.

26 Parties agree that two categories apply to the review site under the Framework Plan in this clause, being Category 1 – Activity and



Neighbourhood Centres and Category 8 – Garden City Suburbs. However, council and the applicant agree that policies applicable to Category 1 would take precedence in respect to the proposal on the review site.

- 27 As expressed in the purposes of the zone and overlay that apply, a key objective of Category 1 identifies the importance of *'housing change and diversification appropriate to the site context'*. A higher standard of architectural design and landscaping also features strongly under the design objectives expressed at clause 21.04-3, where the concept of built form transition is also highlighted in the following strategy:
- Provide an appropriate built form transition between activity centres and residential areas through innovative and high quality architectural design, appropriate setbacks and landscaping.
- 28 Clause 21.15 applies to land within the Oakleigh Major Activity Centre. As highlighted above, the review site is identified through the relevant structure plans that apply under this clause. I agree with council that the objectives and strategies under this clause also appear within the relevant requirements of the DDO11. It is therefore not necessary to reiterate these here.
- 29 Clause 22.01 - Residential Development and Character Policy - is relevant to the proposal. Objectives in this clause highlight the need for high quality landscaping and appropriate built form to address preferred neighbourhood character.
- 30 The relevant Preferred Neighbourhood Character Statement that applies to the review site is the Oakleigh and Wheelers Hill Activity Centres. The notion of residential growth, housing diversity and choice, while also ensuring a transition from the centre's commercial precincts, is again highlighted in the following extract of this character statement:
- This will be achieved by ensuring that building heights and side and front setbacks are appropriate, that upper floor levels of buildings within the precinct are recessed and well articulated from rear and side boundaries which abut or are opposite residential properties, and that new buildings or additions reflect the key architectural elements within the centre (including, where appropriate, pitched, hip and/or gable roof forms).
- 31 Other relevant policy settings that apply to the proposal are addressed at clauses 22.04 (Stormwater Management Policy), clause 22.05 (Tree Conservation Policy) and clause 22.13 (Environmentally Sustainable Development Policy) and clause 52.06 (Parking and traffic). I have considered these matters in my assessment.
- 32 In summary, the parties do not contest the review site is appropriately located to a range of services and facilities and is set under planning controls and policy that actively encourages increased housing density and dwelling diversity. This outcome is expressed in the DDO11 that



specifically encourages higher density development within the precinct and seeks that *'underdevelopment is to be avoided'*.

- 33 I am also satisfied the proposal is appropriately located within the zone, overlay and policy setting purposes and objectives that encourages higher density development outcomes. However, this policy outcome must also be balanced against the need to provide an appropriate built form transition to more sensitive residential interfaces that surround the activity centre.
- 34 I address this matter below.

DOES THE PROPOSAL PROVIDE AN APPROPRIATE RESPONSE TO NEIGHBOURHOOD CHARACTER AND BUILT FORM TRANSITION?

- 35 The relevant preferred character statement for the Oakleigh residential areas is described in the following extract:

The residential areas within the activity centre will be developed to increase residential diversity and choice, while creating a transition from the centre's commercial precincts to protect the amenity of surrounding residential areas.

This will be achieved by ensuring that building heights and side and front setbacks are appropriate, that upper floor levels of buildings within the precinct are recessed and well articulated from rear and side boundaries which abut or are opposite residential properties, and that new buildings or additions reflect the key architectural elements within the centre (including, where appropriate, pitched, hip and/or gable roof forms). Development will provide a high level of amenity, including privacy for occupants and neighbours, high quality private and public open space and canopy tree cover.

(Tribunal emphasis added)

- 36 The applicant submits the design response has achieved an appropriate character transition to all residential interfaces that adjoin the review site. It says this is demonstrated by the high level of compliance with ResCode standards such as Standard B17.
- 37 It also notes the maximum four storey height permissible under the GRZ5 has not been applied to the development and that appropriate levels of articulation and increased upper level recession has been achieved along all interfaces.
- 38 In regards to the eastern interface, it submits the level of sensitivity along this interface has been overstated by council. It says:
- this interface to the east is actually not as the Council suggests – it is not really as “sensitive” as the Council would want to make it out to be, it still remains a statement of fact and a feature of the adopted Design Response that these townhouses have a built form where setbacks from side boundaries are often more than double the minimum setbacks required for example through Standard B17.

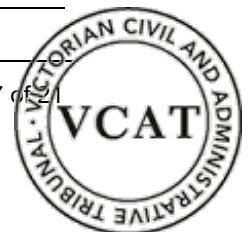
39 It also notes that while the heritage overlay (HO92) applied on the adjoining properties to the east needs to be acknowledged, it says:

.... heritage controls are more of a “streetscape control” than an assessment mechanism that affects all parts of a residential lot’.

My Findings

- 40 As I noted above, increased density within the activity centre environs is not unfettered. I agree with council that there is repeated policy emphasis that seeks appropriate transition of built form from the commercial precincts into adjoining residential precincts. I note this also includes respecting heritage places located adjacent to the precinct, as is the case here.
- 41 I therefore do not agree with the applicant’s proposition that the heritage overlay simply implies consideration of streetscape appearance alone. Clause 43.01 defines the scope of a heritage overlay includes both the listed heritage item and its associated land. Clause 21.12-2 (Heritage) also notes that new development adjacent to heritage precincts and properties, has the potential to adversely impact these places. In this regard, I consider the HO92 adjoining the review site, raises the design bar to ensure that the proposed development on the review site does not adversely impact the identified heritage places that front Clyde Street.
- 42 The preferred character policy setting outlined for Precinct B also seeks to utilise and encourage the use of meaningful side and rear setbacks, separation between upper levels of dwellings constructed on the same lot, landscape treatment with opportunity for screening trees, to ensure that adverse impacts arising from the scale and massing of development is minimised.
- 43 I accept the southern (rear) interface of the review site has been appropriately addressed in terms of character transition. The proposed 8.0m ground floor and 8.1m upper level setbacks to the rear interface all exceed ResCode provisions. In addition, 134sqm communal open space has been provided for future occupants that gives an opportunity for some important canopy tree planting into this interface.
- 44 In physical terms, there is also a greater level of robustness to the rear interface, that includes a constructed laneway setting, with a larger multi storey apartment style building that fronts Atherton Road, constructed under the CIZ that applies to that property³. The applicant also sought to distinguish this interface character by pointing to the visibility of the seven storey apartment style building on Atherton Road, that is located to the rear of the review site.

³ This seven storey building was approved by VCAT (VCAT Ref P242/2016).



- 45 I agree the presence of this larger built form is relevant in one's overall assessment of the character of the area. However, based on my site inspection, I consider this building being in a CIZ setting, acts more as visual backdrop setting to the review site, rather than directing character setting.
- 46 I am satisfied the proposed 7.6m front ground level setback, combined with a hipped roof form and contemporary architectural style and materials, provides an appropriate design response to the preferred streetscape character outcomes sought under Precinct B.
- 47 Council is concerned the upper level front setbacks of 7.7m and 8.2m respectively, do not provide enough articulation and recession, resulting in unnecessary upper level building massing to the street. I agree these upper level setbacks are minimal to the existing street setting. A proposed pergola structure over the common driveway, will also introduce the appearance of additional building massing across the frontage.
- 48 However, I consider these design concerns could be addressed by way of permit condition to increase the upper level street setback and remove the pergola structure over the common driveway.
- 49 The western interface of the review site also has a more robust setting than the eastern interface. The property to the west contains an older style, double storey block of walk up flats, with a common driveway adjoining the review site. There are also a number of older style vehicle carports along the driveway area of this site. I agree with the applicant these carports help create some physical separation between the block of flats and the review site proposal.
- 50 The design response proposes a building setback along the western interface of up to 7.0m at ground level. However, this setback is dominated by the hard stand vehicle access way, combined with a narrow 1.0m wide landscape strip. I do not think this will enable any meaningful landscape treatment along this boundary. I am also concerned the proposed cantilever form of the first floor level places the balconies 4.1m closer to that common boundary, with the second level set back increased by a further 1.0m to the level below. This built form cannot be screened or visually filtered by any meaningful canopy tree landscaping due to the narrow landscape strip proposed along that boundary.
- 51 The design response therefore seeks to rely solely on the physical separation between the built form on the review site and the property to the west. I do not think this design approach satisfies the preferred character statement that also seeks to include the use of landscaping to soften built form.

- 52 In this regard I find the design response has missed an opportunity to provide an appropriate design response that transitions built form to the residential interface to the west.
- 53 In contrast to the western interface, some of the existing single storey dwellings located along the eastern interface of the review site, will be located closer to the proposed three storey form building than along the western interface. A 2.4m to 2.8m setback is proposed along the eastern interface at ground floor level.
- 54 I consider this setback will offer little visual relief of the three storey form given the extent of unbroken upper levels and what I consider to be minimal upper level articulation. The narrow side setback along this interface will also restrict opportunity for meaningful canopy tree planting in this setback that could help screen the built form to the adjoining heritage buildings.
- 55 I consider the design response has not sought to temper the amount of built form massing and scale along this more sensitive eastern interface. Rather, it has provided narrower setbacks and introduced an unbroken 45.0m length of building wall, up to three storeys in height, to this boundary.
- 56 Apart from the increased second level setback proposed behind Dwelling 1, there is also little discernible *stepping in* of the first floor level proposed along this boundary. This is not consistent with the transition techniques I have described under the DDO11 and supporting local policy.
- 57 I find the lack of meaningful built form transition is a critical factor along this sensitive eastern interface. Particularly given the review site is located immediately abutting the NRZ1 and HO92 to its eastern boundary. Greater not smaller setbacks are required here. I therefore agree with council that the emphasis on built form transition has not been achieved along this interface.
- 58 I accept submissions from the applicant that the location of the review site within the activity centre environs calls for greater density outcomes. However, this increased density is not to come at the expense of poor interface transition treatment.
- 59 As I highlighted above, the design treatment required here is not simply a numerical exercise against ResCode Standards. It requires further thought around the appropriate scale and transitioning of new built form, greater setbacks and mature landscaping, to appropriately deal with sensitive interfaces such as the eastern boundary.
- 60 The design shortcomings I have noted above cannot be addressed by way of permit conditions. I find this is a determinative matter and requires a redesign of the proposal as lodged.

DOES THE PROPOSED DESIGN RESPONSE SATISFACTORILY ADDRESS AMENITY IMPACTS?

- 61 Having made a determinative finding in respect to the lack of meaningful built form transition and landscape treatment along the eastern boundary, I do not intend to address in detail my assessment of the proposal against relevant ResCode provisions.
- 62 I acknowledge the applicant's detailed ResCode assessment and conclusions contained within its written submission. I have made some comments above on the varied ResCode matters contained in the Schedule 5 to the GRZ.
- 63 The varied requirements around secluded private open space (SPOS) for each dwelling is to be provided by way of balconies at first floor level. I accept this outcome is provided for in the schedule variation. I also note that the council delegate report indicates the proposed balconies satisfy the minimum dimensional requirements under the varied schedule and will provide for a level of solar access from 12 noon through to evening. I accept this assessment.
- 64 However, the issue of excessive screening treatment for the balconies raised by council should be considered as part of any future application. Noting the applicant submitted the amount of screening treatment could be reduced under Standard B22 given the distance and location of the existing building on the adjoining property to the west. Some balconies could also be repositioned to address these concerns around screening.
- 65 I support the provision of some form of communal open space to be located to the rear of Dwelling 7, particularly where a reverse living design is used. I note the council has some reservations around security measures associated with this communal space area. I am satisfied this matter could be appropriately addressed through permit conditions.
- 66 As I have indicated above, I consider the design response has missed important opportunities to provide adequate side setbacks to both side boundaries that could accommodate some meaningful canopy tree planting. This type of design outcome would be consistent with the Preferred Character Statement and needs to be reconsidered as part of any future application for the review site.

Parking & traffic

- 67 Clause 52.06 (Parking) of the Scheme applies to the proposal. A key purpose under the clause is:

To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.

- 68 The application proposes seven attached dwellings on the review site. Each dwelling contains more than three bedrooms. The carparking requirement under clause 52.06 is therefore two spaces for each dwelling. Each dwelling is provided with a double garage containing two spaces at ground level in accordance with the requirements of the clause.
- 69 Access to the garages will be by a common driveway located along the western boundary. I have commented above that a wider landscape strip is required along the length of the driveway to reduce the amount of hard stand.
- 70 In relation to visitor parking, the site is situated in an area which is covered by the Principal Public Transport Network Area Maps. As such there is no requirement for a visitor space for the proposal.
- 71 I was not presented with any substantive submissions that indicated the additional amount of traffic from this proposal would be detrimental to the efficiency and safety of the local road network. I note that the proposal was referred internally to council's traffic engineers who did not oppose the development subject to conditions. Other issues around stormwater management and environmentally sustainable design can be appropriately dealt with in any future redesign and permit conditions as appropriate.

CONCLUSION

- 72 I find the proposed design response has not achieved an appropriate built form transition along the site's eastern boundary, and to a lesser degree along the western interface. These design shortcomings require a redesign of the proposal as lodged.
- 73 For the reasons given above, the decision of the responsible authority is affirmed. No permit is granted.

Peter Gaschk
Member

