

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P357/2022
PERMIT APPLICATION NO.TPA/52612

CATCHWORDS

Section 77 of the *Planning and Environment Act 1987* (Vic); Monash Planning Scheme; General Residential Zone Schedule 2; Neighbourhood Character; Architectural; Design; Site Layout; Boundary to Boundary construction; Visual Bulk; Massing; Landscaping Opportunities; Car Parking Arrangement and Access; Open Space Provision; Internal Amenity; Future Development Opportunities; Design Detail.

APPLICANT	Caddco Pty Ltd
RESPONSIBLE AUTHORITY	Monash City Council
SUBJECT LAND	1282 North Road OAKLEIGH SOUTH VIC 3167
HEARING TYPE	Hearing
DATE OF HEARING	18 November 2022
DATE OF ORDER	21 July 2023
CITATION	Caddco Pty Ltd v Monash CC [2023] VCAT 843

ORDER

1 Pursuant to Clause 64 of Schedule 1 of the *Victorian Civil and Administrative Tribunal Act 1998* (Vic), the permit application is amended by substituting for the permit application plans, the following plans filed with the Tribunal:

- Prepared by: Caddco Pty Ltd
- Drawing numbers: TP01 to TP12 and shadow diagrams Revision B
- Dated: 21 September 2022

And the following landscape plan filed with the Tribunal:

- Prepared by: Keystone Alliance Pty Ltd
- Drawing numbers: Revision A
- Dated: 27 September 2022

Permit granted

2 In application P357/2022 the decision of the responsible authority is set aside.



- 3 In planning permit application TPA/52612 a permit is granted and directed to be issued for the land at 1282 North Road Oakleigh South VIC 3167 in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:
- Construction of four dwellings.
 - Alteration of access to a road in a Transport Zone.

Alison Slattery
Member

APPEARANCES

For applicant	Mr Michael Constantine, town planner of MCo. Town Planning. He called landscaping evidence from Mr John Patrick of John Patrick Landscape Architects Pty Ltd and traffic engineering evidence from Mr Terry Hardingham of O'Brien Traffic.
For responsible authority	Mr Peter English, town planner of Peter English and Associates Pty Ltd.



INFORMATION

Description of proposal	Construction of four dwellings down the length of the lot. Dwellings one to three are all constructed to a three storey scale with dwelling four double storey. The maximum height is proposed at 9.7 metres. Dwellings one through to three have open space by way of east facing balconies with dwelling four having ground level open space. Vehicular access is taken from the existing crossover to the eastern portion of the site, with garages facing the internal accessway. Pedestrian access is provided to the rear at the western elevation.
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
Zone and overlays	General Residential Zone Schedule 2 (GRZ2)
Permit requirements	Clause 32.08-6 construction of two or more dwellings Clause 52.29 Alteration of access to a road in a Transport Zone (as the intensity of the use on the site is to be increased)
Relevant scheme policies and provisions	Clauses 11.01-1S, 11.01-1R1, 11.02-1S, 15.01-1S, 15.01R, 15.01-2S, 15.01-4S, 15.01-4R, 15.01-5S, 16.01-1S, 16.01-1R, 16.01-2S, 21.01-1, 21.04, 21.06, 22.01, 22.04, 22.05, 22.13, 32.08, 52.06, 55, 65 and 71.02.



Multi unit development typology is evident as the emerging typology, such as directly to the east. To the rear of the review suite lots face on to Clarendon Avenue. The northern side of North Road is commercial in nature.

The site is well served with access to schools, parks and open spaces, and shopping facilities (Huntingdale to the east). The site also has good access to community facilities. Public transport is available by way of trains at Huntingdale Station to the east and buses on North Road.

Tribunal inspection

The tribunal undertook an unaccompanied inspection of the site before and after the hearing.



REASONS¹

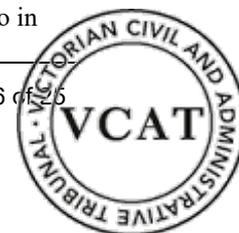
WHAT IS THIS PROCEEDING ABOUT?

- 1 On 11 February 2022 Monash City Council issued a refusal to grant a planning permit for the construction of five triple and double storey dwellings (subsequently amended to four dwellings) at 1282 North Road Oakleigh South.
- 2 The decision was based on Council's view that the design is contrary to the character of the neighbourhood regarding mass, bulk and form and is an overdevelopment of the site, providing insufficient opportunity for landscaping. Council contends that this development also does not comply with the objectives of ResCode with regard to neighbourhood character, site layout and building massing, visual amenity impacts, internal amenity, provision of open spaces in a reverse living arrangement, landscaping, and design detail. Further concerns were held with regard to vehicle access. In addition to these concerns Council held that the development unduly limits future development of the area.
- 3 The review applicants, through Mr Constantine, applied to the Tribunal to review this decision. The applicants disagree with Council and assert that the design has taken into account the constraints of the site and is responsive. Mr Constantine argued that the areas of non-compliance with the standards of ResCode are justified and contends that the proposal meets the objectives of ResCode. It was his contention that the Planning Policy Framework (PPF) and local policies lend support to the proposed development. He suggested that the development allows for opportunity for landscaping in line with the expectation of the planning scheme for a garden city development. In this position he relied on the landscaping evidence of Mr John Patrick of John Patrick Landscape Architects Pty Ltd. Concerns relating to parking and access were addressed through the traffic engineering evidence from Mr Terry Hardingham of O'Brien Traffic.

WHAT ARE THE KEY ISSUES?

- 4 The key issue for determination is:
 - a. Does the development represent an appropriate response to the neighbourhood?
 - b. Does the development achieve a satisfactory level of compliance with Clause 55 (ResCode) and are the vehicle access arrangements reasonable?

¹ 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.



- 5 The Tribunal must decide whether a permit should be granted and, if so, what conditions should be applied. Having considered all submissions with regard to the applicable policies and provisions of the Monash Planning Scheme, I have decided to set aside the Council's decision and order the grant of a permit. My reasons follow.

DOES THE DEVELOPMENT REPRESENT AN APPROPRIATE RESPONSE TO THE NEIGHBOURHOOD?

Urban Consolidation

- 6 The site enjoys strategic policy direction towards a greater level of development and density than currently exists (one dwelling to four dwellings). This position is on the basis that the site is well located as it is :
- Near the junction of two main roads within the Principle Public Transport Network (PPTN);
 - Close to a commercial centre to the east
 - Within 350 metres of fixed rail to the east.
- 7 As such, policy reasonably directs the accommodation of a greater density for the site than it currently does - an increase of three further dwellings on the lot is reasonably described as medium density development.
- 8 However, as always, development must be contextual and of a design that provides reasonable amenity for its future residents. In this regard I have been satisfied that this proposed development has achieved design outcomes that are respectful of neighbourhood character. I also find the development facilitates appropriate levels of internal and external amenity.

Neighbourhood Character

- 9 Within the Monash Planning Scheme, local policy enshrines the importance of the protection of existing neighbourhood character through the promotion of the Garden City Character theme. This Garden City Character element of the Monash Planning Scheme is iterated throughout its local policy, and is reflective of the desires within the Monash community. Any new development needs to be respectful of these character considerations.²
- 10 This Garden City emphasis is reiterated within the Residential Development and Character Policy³ which states:

The City of Monash's residential areas have a garden city character that is highly valued by the community.

The Municipal Strategic Statement recognises that these residential environments are important to the well being of the community and

² Clause 21.04.

³ Clause 22.01-1.



that Monash City Council is committed to the effective management of the ongoing process of change that is occurring in the urban areas of the municipality.

- 11 Clause 22.01 also seeks to encourage new development that responds to the character of existing residential areas, integrating the theme of Garden City with maintenance of a highly vegetated environment. Specifically, Clause 22.01 seeks:

To build upon the important contribution that landscaping makes to the garden city character of Monash.

To encourage new development to achieve architectural and urban design outcomes that positively contribute to neighbourhood character having particular regard to the applicable preferred future character statement for the area.

To encourage the provision of a variety of housing types to accommodate future housing needs and preferences.

To achieve best practice environmentally sustainable development.

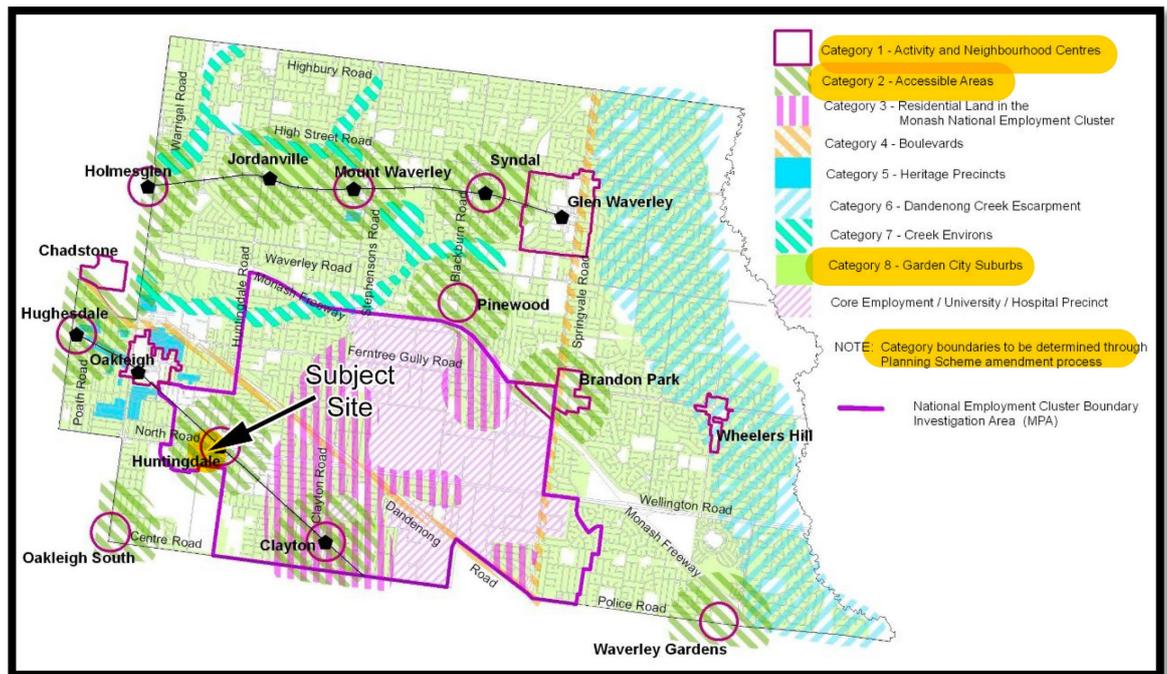
To direct residential growth to neighbourhood and activity centres, the Monash National Employment Cluster and the boulevards (Springvale Road and Princes Highway).

- 12 A key issue for the municipality as identified in the local policy at Clause 21.04 includes:

The retention of neighbourhood character and enhancement of garden city character is very important to the Monash community and redevelopment needs to be respectful of these character considerations.

- 13 In assessing the appropriateness of development within its location, Clause 21.04 classifies areas according to their development potential, including, relevantly for the review site, three classifications; within two areas with future development potential- Category 1: Activity and neighbourhood centres, and Category 2: Accessible areas; and within an area suitable for incremental change - Category 8: Garden city suburbs. The site is also located, if not within, close to the Category 3 - Monash Employment Cluster. (As iterated below in the Residential Development Framework Map of Clause 21.04.)

- 14 Mr English for Council noted that due to the site's proximity to the Huntingdale Activity Centre (AC), it is appropriate to conclude that objectives within Clause 21.04 that relate to Categories 1 and 2 are the most relevant to this site, and to this development.



Residential Framework Plan

- 15 Despite this, the site is also located within Category 8, Garden City Suburbs. The emphasis toward Garden City is further reiterated at Clause 21.01 which states:

As the suburban housing stock ages and the size and profile of the community changes, different forms of housing will be needed to address contemporary requirements, expectations and environmental standards.

Monash’s policy of large front setbacks facilitates the retention and enhancement of canopy tree cover which acts to soften the built form and provide shelter and shade. The presence of “greenery” and vegetation within developed areas is visually appealing and results in benefits to the environment in terms of air quality and water balance.

And

Erosion of the garden city character through loss of significant vegetation and tree canopy and inappropriate redevelopment of residential, commercial and industrial areas is a key concern of Council and the community. Council has addressed this through the planting of street trees along arterial roads and consistently applying a decision making process to planning decisions where garden city character is a key consideration. This significant investment will ensure the garden city character continues to dominate the landscape.

- 16 Relevantly, the Monash Planning Scheme seeks to manage the retention of the garden city character through planning strategies as outlined at Clause 21.04-3, which include (amongst others)

Ensure that new residential development enhances the character of the neighbourhood, having regard to the preferred future character statements contained within Clause 22.01.

Ensure that development enhances the garden city and landscaped streetscape character of the neighbourhood, responds to the features of the site and surrounding area and promotes good streetscape design.

Encourage vegetation retention and provision on development sites.

Ensure that new residential development provides a high level of amenity including internal amenity, privacy for occupants and neighbours, access to sunlight, high quality private and public open space, canopy tree cover, and effective traffic management and parking.

Direct more intensive, higher scale development to neighbourhood and activity centres that are well serviced by public transport, commercial, recreational, community and educational facilities.

Provide an appropriate built form transition between activity centres and residential areas through innovative and high quality architectural design, appropriate setbacks and landscaping.

Use best practice environmentally sustainable design to maximise comfort and residential amenity, and minimise the environmental impact and running costs of residential development.

- 17 Council further advised that in addition to being located within Category 8, the site is located within a neighbourhood classified as Garden City Suburbs Southern Areas character area at Clause 22.01. The preferred character statement of this area includes:

Modest dwellings with simple pitched rooflines and articulated facades will continue the prevailing development themes. On larger sites, low rise apartment development may be appropriate, provided the development is sited within generous open space, is well landscaped, retains the ‘open landscape character’ of the garden suburban setting and tapers down in scale closer to the boundaries of the site.

While the housing mix within this area will continue to evolve to meet the changing needs of the community, new development will complement the scale and siting of the original housing within the area. In doing so, it will enhance the generous spacious, open, landscaped character of the area.

This character area will be notable for its spacious garden settings, tall canopy trees, consistency in front setbacks and the maintenance of setbacks from at least one boundary and from the rear of the site. New dwellings will address the street and upper levels will be recessed and/or articulated to minimise the impression of building scale.

Front fences will be low to enable vegetation to be visible from the street, allow clear views of buildings and give the street an open

quality. Fencing will complement the architecture of the building in design, colour and materials.

Existing mature trees and shrubs within properties should be retained and additional tree planting proposed to gradually create a tree canopy in the private domain, including at the rear of properties. This will create a visually permeable buffer between the house and street. The soft quality of the street that is derived from the wide nature strips and street tree planting will be maintained by ensuring that there is only one crossover per lot frontage.

Expanses of blank, or continuous, walls will be avoided, particularly when adjacent to public parks or creating the appearance of a continuous building mass. The character of existing public open space within the area will be protected by ensuring that buildings directly adjacent are set back and buffered with planting that complements that within the public open space.

Sympathetically designed architecture is encouraged in preference to imitations of historic styles.

- 18 Mr English also provided details of the *Huntingdale Precinct Plan* which is a document that has been adopted by Council on 27 March 2020 limiting height to three storeys and retaining the same setbacks as currently exist. This document is as yet finalised and is within its early stages. Its use is limited to illustrative purposes, illustrating the desire for the future of this area. Further, the expectations for future development are similar to current expectations.
- 19 Having regard to the local policy and the GRZ2, Mr English submitted that the proposed development did not appropriately respond to the policy nor zone and its schedule. The policy seeks to enhance the valued low scale character of the area through the implementation of sympathetic styles and scale whilst maintaining and enhancing the landscaped streetscape, and the zone is essentially silent on promoting more density in this location. He submitted that the development fails to respect the quality and style of surrounding development and is discordant with the neighbourhood character of the area. Mr English submitted that the policy seeks to maintain and enhance the streetscape character of 'Garden City' through the inclusion of appropriate building forms and opportunity for landscaping that reduces the impact of new development. He noted that the extent of built form across the frontage of the lot needs to be designed so it maintains the opportunity for built form to be comprehended in a garden setting. He put that the extent of site coverage and the limited setbacks, in conjunction with the three storey height and limited opportunity for placement of bins and bikes are indicative of overdevelopment within this particular context. Further, Mr English relayed concerns with the extent of form both down the lot at a three storey scale, and across the frontage. This, he submitted, in conjunction with the unbroken nature of the form, would result in a



dominant building form in the streetscape and as it relates to adjoining properties.

- 20 I agree that the site context and the PPF and local policy points to this area as being able to sustain a greater level of change to accommodate future increases in dwelling stock. I also agree that the policy also seeks to enhance the valued low scale character of consistent streetscapes in the area through the implementation of styles and scale that are sympathetic to the area. However, I do not agree with the submissions that the proposed development offends against these local policies having regard to the massing of the buildings across the frontage of the site such that they appear as extending well across the site. I find the following setbacks serve to allow an appreciation of break in form across the frontage of the site. At ground level to the west the development is set back between 1.0 metres (at the rear) and 1.985 metres. To the east, the ground level is set back 7.1 metres from the boundary, catering to the vehicle accessway. At the first floor the built form is cantilevered over the vehicle accessway and is set back 4.8 metres from the eastern boundary, into which the balconies intrude by 3.0 metres (including planters). To the west, at the first floor, the development is set back at least 2.075 metres from the boundary. At the upper level, built form is oriented towards the frontage of the site and does not interact significantly with the rear open spaces of dwellings to the east and west, or to the south. Setbacks here are between 3.0 and 4.8 metres to the east and 2.0 and 21.7 metres to the west. I am satisfied that these setbacks serve to limit the appearance of boundary to boundary construction and appropriately orient higher form away from sensitive interfaces. During my site visit, I noted the built form in this particular part of North Road is highly varied, with newer contemporary buildings replacing older stock, and at a scale of two to three storey. I am satisfied that the proposed scale and massing responds well to this context and agree with Mr Constantine that the experience of the balconies above the columns to the east are a reasonable response, providing respite from appreciation of form.
- 21 I am satisfied that these setbacks respond appropriately to emerging multi unit form and provide, in conjunction with the generous front setback to the street of 7.6 metres, opportunity for reasonable planting, including canopy tree planting. I find that these setbacks, in line with the expressed form both vertically and horizontally, results in built form that sits comfortably on the site and within the streetscape without impacting unreasonably on the character of the area or the reasonable opportunities for planting. In this way, I find that the building form proposed is reasonable, and reflective of the character of built form in the area where a setback to at least one boundary is generally provided. In this way I find that the proposed development appropriately “respect(s) the character of surrounding development, including the maintenance of consistent setbacks” as is sought within local policy at Clause 22.01-3.



- 22 I find that the site coverage at 55% is reasonable as is the permeability of the site. I share Mr English's concerns relating to the inclusion of storage within the driveway area, and questioned Mr Hardingham as to the ability to provide over bonnet storage within the garage. He agreed this was possible, and as it relates only to one dwelling, I am satisfied that this response is appropriate, rather than including storage in the common area. I will include a condition of permit that requires all storage to be located either within the ground level secluded private open space, or within the garages⁴.
- 23 I have not been persuaded that the height of the development is inappropriate at 9.7 metres in a GRZ2 where 11 metres is contemplable. I do not take succour from the dearth of language within the schedule to this zone that actively supports apartment typology or higher density form at a higher scale. As always, the basis for assessment as a first principle is whether or not the development fits well into its context. For the reasons stated above, and due to the robust nature of North Road, I find the development to be an appropriately thoughtful response to the character of the area. I accept that the proposed dwellings satisfy the policy at Clause 22.01 with regard to minimising the scale and massing of the development by way of a reasonable maximum height of 9.7 metres. I am satisfied that this height responds well to the scale of the buildings on the immediately adjoining properties to the east and west where dwellings are constructed to a one and two storey scale, and in the case of the eastern elevation, include multi unit development. I noted during my site visits that the streetscape is clearly experiencing change by way of multi unit developments of up to three storeys replacing older dwellings. I am satisfied that the height of the building will not dominate the streetscape as the three storey scale responds well to the inconsistent built form scale in the streetscape, with dwellings ranging from one to three storeys, and with multi unit development the emerging form.
- 24 I find that reasonable opportunity for planting that might soften the appearance in the streetscape has been provided, in addition to the retention of the Jacaranda tree to the frontage. I have reviewed the arborist report with regard to the Jacaranda tree and note that whilst an encroachment of 25% is estimated, that the ameliorations suggested for protection of the tree are reasonable and sufficient to the task of maintaining its health. I have reviewed the landscaping plan of Mr Patrick and find that appropriate levels of landscaping, in appropriate areas, and with good levels of canopy trees can be included such that the development will appear within a landscaped setting in the streetscape and will further the local policy which seeks to

⁴ I note some errors on the plans that include storage for dwelling 4 both within the secluded private open space and within the garage. This may have been a hangover from the five dwelling development plans, and may need to be addressed.



include built form and landscaping that enshrines the importance of the following:

- a. Providing sufficient and well located private open space, primarily unencumbered by easements, to provide for vegetation and large trees to be planted within front, side and rear setbacks and secluded open space areas.
- b. I am satisfied that the trees to the frontage, including but not limited to the Lightwood (10m) and Dwarf Snow Gum (7m) are located in an area with sufficient soil volume in an area where built form will not unreasonably impede their growth, with trees growing in an opportunistic manner, with canopy meshing resulting.
- c. In addition to the frontage planting 15 Coastal Rosemary (2m) are proposed along the driveway with a Native Frangipanni (10m) and Dwarf Yellow Gum (7m) as a back drop to the driveway in the open space of dwelling 4.
- d. To the west Native Bush Cherries of 7 metres are proposed.
- e. To the rear, southern elevation, the Dwarf Yellow Gum as mentioned above is supplemented with a line of compact Lilly Pillies (3m).
- f. I am satisfied that in concert, these areas are enough to maximise the landscaping opportunities that enhance the Garden City Character of the streetscape. This is entirely in line with planning provisions and policy that seeks to include planting of canopy trees in open space areas, along boundaries adjacent to neighbouring open space and in front setback areas to reinforce the Garden City Character of the area.
- g. Avoiding environmental weeds and artificial grass.
- h. Ensure development is adequately set back from existing and proposed trees to ensure their protection and longevity.
- i. Plant canopy trees, particularly within front setbacks to soften the appearance of the built form and contribute to the landscape character of the area.
- j. Plant canopy trees in rear setbacks to screen built form from adjoining backyards ... and contribute to garden character.
- k. Provide trees and vegetation that improve the environmental sustainability of buildings. Providing canopy trees to the north creates shade that improves the air temperature in the dwellings and the open spaces. Dense evergreen shade up to 7 metres will be provided by the Native Bush Cherries to the west. The general level of planting around the dwellings will create a microclimate



that is more even and pleasant. Species chosen are drought tolerant, and either indigenous or native.

1. No street trees are impacted.

25 I am also generally satisfied that the proposal represents an appropriate response to the broader objectives and policy in Clause 22.01 Neighbourhood Character Policy. I say this for the following reasons:

- The location is appropriate for medium density due to the close vicinity of Huntingdale shopping precinct, which caters to daily shopping and community needs, including providing good public transport options.
- The existing building is not an intact heritage dwelling and its loss will not impact on the character of the street.
- There is no impact on places of environmental or heritage significance
- The development will not detract from the character of the area where built form typology is inconsistent ranging from single and multi-unit dwellings from one to three storeys.
- The emerging character of the area is one where development is often two or three storeys and often includes substantial upper level footprints.
- No front fence is proposed, avoiding the need for high front fencing to the street frontage.
- Appropriate provision of car parking is provided with a double garage provided for each dwelling. The garages are not overly visible in the streetscape. This ensures car parking facilities do not dominate or visually disrupt the streetscape.
- Building materials include brick, timber panelling and rendered finishes (ground level), tiled and metal roofing, and timber panelling and rendered finishes (first floor) which reflect the emerging built form in the area. These external surfaces include low reflectivity materials.
- Continuous building lines and blank walls are avoided. Walls to each elevation include reasonable levels of fenestration, which, in combination with the use of brickwork at ground and lightweight cladding at upper levels creates an impression of articulation. This serves to minimise the appearance of sheerness in walls. I have not been persuaded that the location of the stairway to the frontage of the site is unrenamable and I note Mr Constantine's submission that the stairway is open in its nature, allowing for views through the front glazing.



- No wall is proposed to be located on the boundary, minimising unreasonable impacts on habitable windows and open spaces.
- 26 In these ways, the proposal represents an appropriate response to local policy requirements at Clauses 21.04, 22.01 and 22.05 along with state policy requirements in that the bulk scale of the development respects the predominant built form character of the neighbourhood whilst providing opportunity for reasonable landscaping.

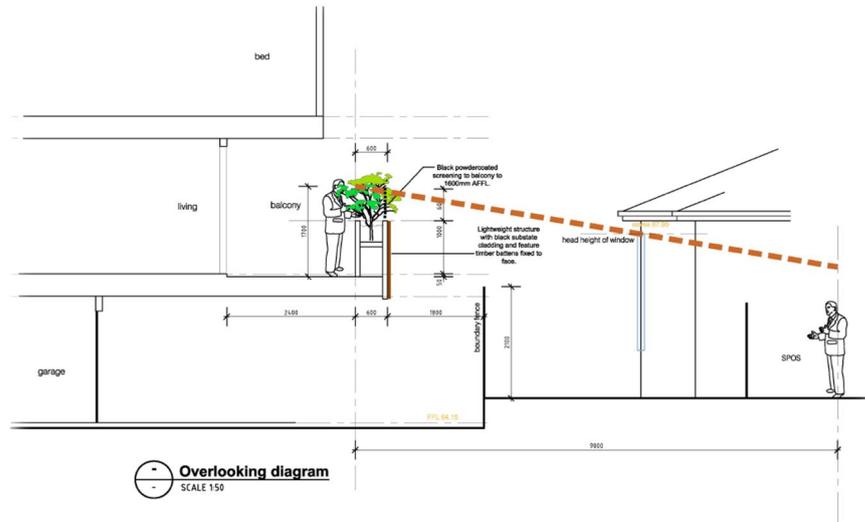
Does the development achieve a satisfactory level of compliance with Clause 55 (ResCode) and are the vehicle access arrangements reasonable?

- 27 Several areas of ResCode compliance were raised as being of concern to the Council. These include as discussed above landscaping and neighbourhood character, in addition to height, visual bulk, setbacks, vehicular access to car spaces, secluded private open spaces, design detail, and impacts on existing trees.
- 28 I am satisfied that the preferred future character of the area will be properly respected within the proposed development. I am satisfied that the scale of the development reinforces the character of the streetscape in that the two to three storey form is appropriately responsive to the emerging double storey typology (with some three storey) in the wider area, and side and rear setbacks are sufficient to the task of providing for the planting of medium to larger trees. The development responds to the garden character of the area and includes modest planting around the dwellings. The proposal will allow for the planting of trees in line with the character of the area. In this way, the proposed development represents an appropriate response to PPF and Local Policy objectives
- 29 I am satisfied that the proposed development complies with the remainder of the objectives of Clause 55 (ResCode). I say this for the following reasons
- a. The maximum height of the dwellings is 9.7 metres and responds appropriately to the preferred character for North Road as sought within state and local policy. This height responds well to the adjoining double storey dwellings and form in the wider area.
 - b. The front setback to North Road (at ground level) of 7.6 metres responds appropriately to the character of the area where setbacks are often 7.6 metres.
 - c. The development provides an active frontage to the street frontage with an easily identifiable pedestrian access point and glazing to the front elevation
 - d. Infrastructure is readily available.
 - e. The site coverage is reasonable at less than 60%.



- f. The permeability is well above 20%. I have not been persuaded that the extent of hard surfacing for the driveway is unreasonable.
- g. No new wall on the boundary is proposed.
- h. I am satisfied that Standard B17 has been appropriately addressed and find that the setbacks to the rear respects the existing and preferred neighbourhood character and limits the impact on the amenity of existing dwellings surrounding the site.
- i. Reliance on borrowed light is avoided.
- j. Development potential for adjoining sites is retained so that equitable access to direct sunlight is achieved. No north facing windows are impacted upon and other windows of adjoining properties are properly protected and receive adequate light in line with setback standards.
- k. Adequate provision is made for storage and bins, subject to a condition of permit as iterated previously.
- l. Mailboxes are appropriately located to the frontage of the site.
- m. Parking spaces have reasonable access to dwellings from the car garages. I have reviewed the swept path diagrams provided by Mr Hardingham and I am satisfied they comply with the Australian Standard.
- n. Car parking provided on site accords with Clause 52.06.
- o. A ground level bedroom and living areas is provided for dwelling 4 providing opportunities for those of limited mobility.
- p. Secluded private open spaces for dwellings are provided by way of a garden at ground level for dwelling 4 and screened balconies for dwellings 1 to 3. Whist Mr English relayed concerns with the screening of the balconies for dwellings 1 to 3, I find that the screening is reasonable in that it provides a balustrade of 1.0 metre and planters beyond that to limit overlooking. this provides a reasonable level of internal amenity for future residents (as per the image below).





- q. I am satisfied that the private open space areas for the dwellings are practical and useable with reasonable depth and dimensions and have good access to living areas. This ensures open spaces satisfy the objective which seeks “to provide adequate private open space for the reasonable recreation and service needs of residents.”
- r. Shading of windows and private open space is minimised with the level of shade falling within the reasonable limits as enshrined by Clause 55.
- s. I see no sources of noise that are located close to boundaries, such as mechanical devices.
- t. Overlooking has been addressed within reasonable limits and complies with standard B22.
- u. Solar access to open spaces are generally appropriate. .
- v. I have not been provided with evidence to suggest that the impact on existing trees from the proposed development will be unreasonable as noted previously.

30 I find that the development incorporates a reasonable design that adequately responds to the character of the area, takes into account the more robust streetscape of North Road and adequately protects the amenity of the surrounding properties. I am satisfied the standards and objectives of ResCode are met. This ensures that the design will not have an unreasonable impact on the amenity of surrounding dwellings nor the internal amenity of the proposed dwellings.

What conditions are appropriate?

31 I was asked to review the condition relating to the Construction Management Plan, to ascertain if it was required in its entirety. I have reviewed the condition and find that the measures required therein are



reasonable and have a demonstrated nexus to the development. I have retained the condition and have not amended it.

CONCLUSION

- 32 For the reasons given above, the decision of the responsible authority is set aside. A planning permit is granted for four dwellings on the lot.

Alison Slattery
Member



APPENDIX A – PERMIT CONDITIONS

PERMIT APPLICATION NO	TPA/52612
LAND	1282 North Road OAKLEIGH SOUTH VIC 3167

WHAT THE PERMIT ALLOWS

In accordance with the endorsed plans:

- Construction of four dwellings.
- Alteration of access to a road in a Transport Zone.

CONDITIONS

- 1 Before the development starts, amended plans drawn to scale and correctly dimensioned must be submitted to the satisfaction of and approved by the Responsible Authority. When approved, the plans will be endorsed and then form part of the Permit. The plans must be generally in accordance with the plans prepared by Caddco Pty Ltd (Revision B dated 21 September 2022) but modified to show:
 - (a) Storage to be provided either at ground level within secluded private open space or within the garage.
 - (b) The provision of a double width vehicle crossing to North Road.
 - (c) The garden bed on the eastern side of the driveway adjacent to dwelling four be reduced in width to facilitate an increased turning area.
 - (d) An amended Landscape Plan prepared in accordance with Condition 3;
 - (e) An amended Waste Management Plan prepared in accordance with Condition 4; and,
 - (f) A Sustainable Management Plan in accordance with Conditions 5.All to the satisfaction of the Responsible Authority.

Layout not to be Altered

- 2 The development and use as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

Landscape Plan

- 3 Concurrent with the endorsement of any plans required pursuant to Condition 1, a landscape plan prepared by a Landscape Architect or a



suitably qualified or experienced landscape designer, drawn to scale and dimensioned must be submitted to and approved by the Responsible Authority. The Landscape Plan must be generally in accordance with the Landscape Concept Plan prepared by Keystone Alliance dated 27 September 2022.

Waste Management Plan

- 4 Concurrent with the endorsement of plans required pursuant to Condition 1, a Waste Management Plan must be approved by the Responsible Authority.

Sustainable Design Assessment

- 5 Concurrent with the endorsement of plans required pursuant to Condition 1, a Sustainable Design Assessment must be submitted to and approved by the Responsible Authority.

Construction Management Plan

- 6 Prior to the commencement of any site works (including any demolition and excavation), a Construction Management Plan (CMP) must be submitted to and approved by the Responsible Authority. No works are permitted to occur until the Plan 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) Appropriate measures to control noise, dust and water and sediment laden runoff;
 - (b) Appropriate measures for the prevention of silt or other pollutants from entering into the Council's underground drainage system or road network;
 - (c) Appropriate measures relating to removal of hazardous or dangerous material from the site, where applicable;
 - (d) A plan showing the location and design of a vehicle wash-down bay for construction vehicles on the site so as to prevent material leaving the site and being deposited on Council's road network;
 - (e) A program for the cleaning and maintaining surrounding road surfaces;
 - (f) 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;
 - (g) Measures to provide for public safety and site security;
 - (h) A plan showing the location of parking areas for construction and sub-contractors' vehicles on and surrounding the site, to ensure that vehicles associated with construction activity cause minimum

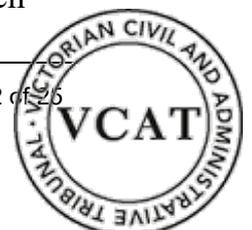


disruption to surrounding premises. Any basement car park on the land must be made available for use by sub-constructors/tradespersons upon completion of such areas, without delay;

- (i) A Traffic Management Plan showing truck routes to and from the site;
- (j) A 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;
- (k) Appropriate measures to ensure that sub-contractors/tradespersons operating on the site are aware of and adhere to the requirements of the CMP;
- (l) The provision of contact details of key construction site staff; and
- (m) Include a requirement that except with the prior written consent of the Responsible Authority, a requirement that demolition, excavation or 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;
 - Saturday – 1.00pm to 5.00pm (Only activities associated with the erection of buildings that does not exceed the EPA guidelines)
 - No works are permitted on Sundays or Public Holidays.

Car Parking

- 7 Approval of each proposed crossing, and a permit for installation or modification of any vehicle crossing is required from Council's Engineering Department.
- 8 The proposed crossing is to be constructed in accordance with the City of Monash standards.
- 9 All new crossings are to be no closer than 1.0 metre measured at the kerb to the edge of any power pole, drainage or service pit, or other services. Approval from affected service authorities is required as part of the vehicle crossing application process.
- 10 A detailed plan of the access arrangements to North Road must be submitted to the Responsible Authority for approval. A Road Opening Permit, with associated refundable security bond, will be required from Council's Engineering Department prior to the roadworks commencing.
- 11 Provide a corner splay or area at least 50% clear of visual obstructions (or with a height of less than 1.2 metres), which may include adjacent landscaping areas with a height of less than 0.9 metres, extending at least 2.0 metres long x 2.5 metres deep (within the property) both sides of each



vehicle crossing to provide a clear view of pedestrians on the footpath of the frontage road.

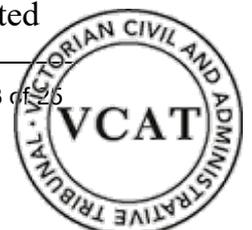
- 12 The layout of the development shall follow the Design Standards for car parking set out in Clause 52.06-9 of the Monash Planning Scheme as detailed below:
- Driveway to be at least 3 metres wide.
 - Driveway to have an internal radius of at least 4 metres at changes of direction or intersection.
 - Driveway to provide at least 2.1m headroom beneath overhead obstructions.
 - Driveway gradient to be no steeper than 1 in 10 (10%) within 5 metres of the frontage to ensure safety for pedestrians and vehicles.
 - Clearance to car parking spaces to be in accordance with Diagram 1 at clause 52.06-9 in relation to the placement of a wall, fence, column, tree, tree guard or any other structure that abuts a car space.
 - Garages or carports must be at least 6 metres long and 3.5 metres wide for a single space and 5.5 metres wide for a double space measured inside the garage or carport.

Drainage & Stormwater

- 13 All stormwater collected on the site from all hard surface areas must not be allowed to flow uncontrolled into adjoining properties or the road reserve.
- 14 The private on-site drainage system must prevent stormwater discharge from the/each driveway over the footpath and into the road reserve.
- 15 All stormwater collected on the site is to be detained on site to the predevelopment level of peak stormwater discharge. The design of any internal detention system is to be approved by Council's Engineering Department prior to drainage works commencing.
- 16 The nominated point of stormwater connection for the site is to the south-west corner of the property where the entire site's stormwater must be collected and free drained via a pipe to the 375 mm Council drain in the rear easement via a Council approved saddle adaptor to be constructed to Council standards. Note: If the point of connection cannot be located then notify Council's Engineering Department immediately.

Road Infrastructure

- 17 Any works within the road reserve must ensure the footpath and naturestrip are to be reinstated to Council standards.
- 18 Engineering permits must be obtained for new or altered vehicle crossings and new connections to Council drains and these works are to be inspected



by Council's Engineering Department. A refundable security deposit of \$2,000 is to be paid prior to the drainage works commencing.

Department of Transport

- 19 Prior to the occupation of the development, the crossover and driveway are to be constructed to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria.
- 20 Prior to the occupation of the development hereby approved, the disused/redundant vehicle crossing on North Road must be removed, and the area reinstated to kerb and channel, to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria.
- 21 Vehicles must enter and exit the land in a forward direction at all times.

General Conditions

- 22 Before the occupation of the buildings allowed by this permit, landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority and then maintained to the satisfaction of the Responsible Authority.
- 23 All landscaping works shown on the endorsed landscape plan(s) must be maintained and any dead, diseased or damaged plants replaced, all to the satisfaction of the Responsible Authority.
- 24 Prior to the occupancy of the development, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority. The use of obscure film fixed to transparent windows is not considered to be 'obscure glazing' or an appropriate response to screen overlooking.
- 25 Air-conditioning and other plant and equipment installed on or within the buildings must be so positioned and baffled that any noise emitted complies with the appropriate Australian Standards and EPA requirements.
- 26 Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

Tree Protection

- 27 All existing vegetation (including trees on adjacent land and naturestrips) shown on the endorsed plans must be suitably identified before any development starts on the site and that vegetation must not be removed, destroyed or lopped without the written consent of the Responsible Authority.
- 28 Before any development (including demolition) starts on the land, a tree protection fence must be erected around all trees that are to be retained, or



are located within or adjacent to any works area (including trees on adjacent land and naturestrip). The tree protection fence must remain in place until all construction is completed on the land, except with the prior written consent of the Responsible Authority.

- 29 The owner and occupier of the site must ensure that, prior to the commencement of buildings and works, all contractors and tradespersons operating on the site are advised of the status of trees to be retained (including trees on adjacent land and naturestrip) as shown on the endorsed plans and are advised of their obligations in relation to the protection of those trees.
- 30 No building material, demolition material, excavation or earthworks shall be stored or stockpiled within the Tree Protection Zone (TPZ) of any tree to be retained during the demolition, excavation and construction period of the development hereby permitted without the prior written consent of the Responsible Authority.

Time for Starting and Completion

- 31 In accordance with section 68 of the *Planning and Environment Act 1987 (Vic)*, 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, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or:

- i within six (6) months afterwards if the development has not commenced; or
- ii within twelve (12) months afterwards if the development has not been completed.

– End of conditions –