

# VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

## PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P319/2024  
PERMIT APPLICATION NO. TPA/55393

### CATCHWORDS

Section 77 of the *Planning and Environment Act 1987* (Vic), Monash Planning Scheme, General Residential Zone – Schedule 3, Garden City Suburb character area; Vegetation Protection Overlay, Dwellings, Neighbourhood Character and landscape response.

<b>APPLICANT</b>	Susan Thwaites
<b>RESPONSIBLE AUTHORITY</b>	Monash City Council
<b>RESPONDENT</b>	Michael John Donnelly & Patricia Meg Donnelly
<b>SUBJECT LAND</b>	49 Edmonds Avenue ASHWOOD VIC 3147
<b>HEARING TYPE</b>	Hearing
<b>DATE OF HEARING</b>	5 February 2025
<b>DATE OF ORDER</b>	27 March 2025
<b>CITATION</b>	Thwaites v Monash CC [2025] VCAT 268

### ORDER

#### Amend application

- 1 Pursuant to section 64 of the *Victorian Civil and Administrative Tribunal Act 1988* (Vic), the permit application is amended by substituting for the permit application plans, the following plans filed with the Tribunal:
  - Prepared by: Madden Building Group
  - Drawing Nos.: A01-18
  - Dated: 09 December 2024
  - Landscape Plan prepared by: Davidson Design Group – 241008
  - Plans Nos.: Revision A Sheet 1 and 2
  - Dated: 10 December 2024

#### No permit granted

- 2 In application P319/2024 the decision of the responsible authority is affirmed.
- 3 In planning permit application TPA/55393 no permit is granted.

Donna D'Alessandro  
Member



## **APPEARANCES**

For Susan Thwaites	Daniel Bowden, town planner, SongBowden Planning.
For Monash City Council	Adrienne Kellock, town planner, Kellock Town Planning Pty Ltd.
For Michael John Donnelly & Patricia Meg Donnelly	In person.



## INFORMATION

Nature of proceeding	Application under section 77 of the <i>Planning and Environment Act 1987</i> (Vic) – to review the refusal to grant a permit.
Planning scheme	Monash Planning Scheme
Zone and overlays	General Residential Zone – Schedule 3 ('GRZ3') Vegetation Protection Overlay – Schedule 1 ('VPO1')
Permit requirements	Clause 32.08-7, construct two or more dwellings on a lot. Clause 42.02-2, remove, destroy or lop any vegetation that has a trunk circumference greater than 500 millimetres (160 millimetres diameter) at 1200 millimetres above ground level and higher than 10 metres.
Land description	<p>The review site is generally a rectangular parcel of land, with a frontage of 13.49 metres to Edmonds Avenue and a depth of 39.14 metres to Morton Road with an overall area of 693 square metres. There is a fall in the land of approximately 2.3 metres from the south-west corner to the north-east corner.</p> <p>There is a 2.44 metre wide easement that runs along the northern boundary (rear) boundary.</p> <p>The review site contains a single storey weatherboard dwelling, set back approximately 7.6 metres from Edmonds Avenue and 2.6 metres from Morton Road. A low timber fence extends along both street frontages.</p> <p>A single vehicle access is located to the northern side of the boundary, accessed to the garage located along the western boundary.</p> <p>The review site is covered by a combination of mature canopy trees, vegetation and shrubs.</p>
Tribunal inspection	7 February 2025



## REASONS<sup>1</sup>

### WHAT IS THIS PROCEEDING ABOUT?

- 1 Susan Thwaites ('applicant') proposes to construct three dwellings on land at 47 Edmonds Avenue, Ashwood. In May 2023, Monash City Council ('council') determined to refuse to grant a planning permit for the proposed development. The applicant has requested the Tribunal to review the council's decision.

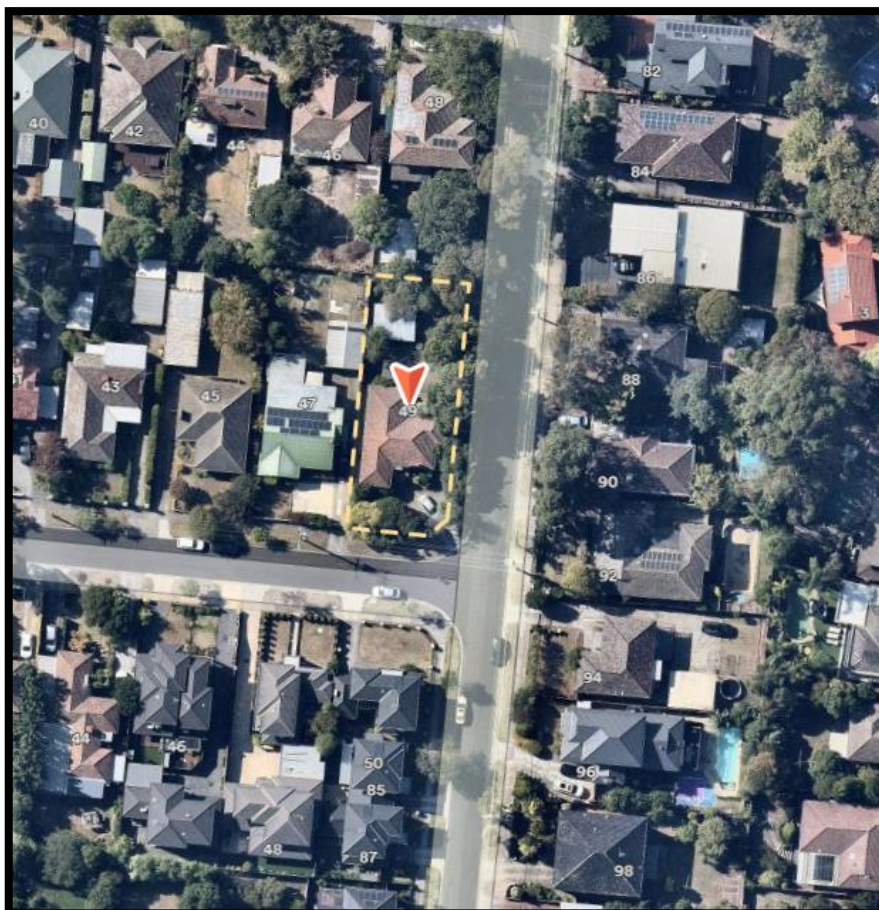


Figure 1 – aerial map of review site and surrounding area.<sup>2</sup>

- 2 Council refused the proposed development on the following grounds:
  - The proposal is inconsistent with the preferred character statement at clause 22.01 of the Monash Planning Scheme ('Scheme').
  - The proposal fails to meet clause 55 objectives regarding neighbourhood character, energy efficiency, landscaping, solar access to open space and design detail.
  - The proposed development has been designed to meet minimum standards and as such presents as an overdevelopment of the site.

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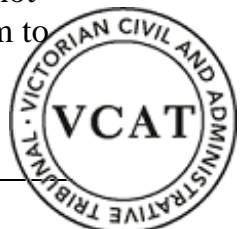
<sup>1</sup> The submissions and, any supporting exhibits given at the hearing and the statements of grounds filed have all been considered in the determination of the proceeding. In accordance with the practice of the Tribunal, not all of this material will be cited or referred to in these reasons.

<sup>2</sup> Nearmap March 2025.

- The proposed development is out of character with the existing development in the area, in regard to mass, bulk and scale.
  - The proposal will have an adverse impact on the amenity of the adjoining properties.
  - The proposed development would adversely affect the landscape character of the area.
- 3 There are two objectors to this proceeding, who resides the rear of the review site. The objectors are concerned that the proposal is an overdevelopment of the site, especially the three storey built form, and does not respond to the neighbourhood character. They are also concerned about amenity impacts such as overlooking. They are concerned about the number of crossovers proposed and the impact the development will have on their tree within their property.
- 4 The applicant disputes council's refusal, saying the development sits comfortably on the review site, is consistent with policy, promotes urban consolidation and provides housing diversity. They argue the development is responsive to the neighbourhood character and is not an overdevelopment of the site.

### **Amended Plans**

- 5 Prior to the commencement of the hearing, the applicant circulated amended plans in accordance with the Tribunal Practice Note PNPE9. In summary, the plans:
- Updated landscape plan.
  - Detached dwelling 1 from dwelling 2 and the height reduced from 9.65 metres to 9 metres.
  - Dwelling 1 front setback includes landscaping and reduced paving.
  - The upper level to Dwelling 1 reduced, the roof form revised to include roof pitch.
  - Roof pitch of dwelling 2 and 3 increased resulting in increase in building height from 7.2 metres to 7.8 metres.
  - Retention of trees 26 and 29.
- 6 Despite the amended plans, council continues to maintain its opposition to the proposal. The council acknowledges the changes are generally an improvement from those it considered when it made its decision on the application. They have provided a detailed assessment of the changes to the plans which I find helpful.
- 7 Based on the amended plans, the respondent acknowledges some of the revisions are an improvement to the original scheme, but say they have not gone far enough. They still raise concern with the three storey built form to dwelling 1.



- 8 There being no objection, I have allowed the amended plans to be substituted, and these now form those on which my decision is reached.

## WHAT ARE THE KEY ISSUES?

- 9 Based on the submissions of the parties and the relevant policies and provisions of the Monash Planning Scheme ('Scheme'), I consider the key issues in this matter are:
- Neighbourhood character and design response.
  - Building mass and visual bulk.
  - Landscaping and response to garden suburb setting.
  - Response to clause 55.
- 10 I must decide whether a permit should be granted, and if so, what conditions should be applied. Having considered all submissions presented regarding the applicable policies and provisions of the Scheme and undertaken a site inspection of the review site and wider area, I have decided to affirm the decision of the council and direct that no permit issue.
- 11 My detailed reasons are outlined below.

## DETAILS OF THE PROPOSAL

- 12 The proposed development includes the total demolition of the existing single storey dwelling and garage, and the construction of three dwellings, one triple storey dwelling and two, double storey attached dwellings. The review site will be cleared of most of the trees, vegetation and shrubs, all of which do not require a planning permit for their removal except for one tree. This tree meets the size criteria of Vegetation Protection Overlay 1 ('VPO1') and a permit is required for its removal.
- 13 This tree, a *Grevillea robusta* (silky oak) is over 14 metres high.<sup>3</sup>
- 14 The proposed dwellings are to be constructed one behind the other, with the two dwellings facing Morton Road, in an attached side-by-side arrangement with the garages central to each dwelling.
- 15 The front dwelling, facing Edmonds Avenue, will include three storeys, with the garage built on the western boundary.
- 16 The following is a summary of the proposed development:
- Dwelling 1 four-bedroom dwelling.
  - Dwellings 2 and 3, three bedroom dwellings.
  - Each dwelling to have a single garage with tandem car space contained within the driveway.
  - Site coverage 46.32%.
  - Permeable area 50%.

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<sup>3</sup> Arborist report.





- Garden area 43.3%.
- SPOS in form of balcony area to Dwellings 1 and 2 – 21 and 22 square metres respectively.
- SPOS for Dwelling 3, contained to the rear of the dwelling, to the north of the site, 67 square metres.
- Dwelling 1 set back from Edmonds Avenue by 7.6 metres and 2 metres from Morton Road.
- The height of Dwelling 1 is 9 metres and Dwellings 2 and 3, 7.8 metres.
- The dwellings are contemporary in design, wall materials include face brick (white), metal cladding (colourbond monument) and timber look composite cladding (dark finish).

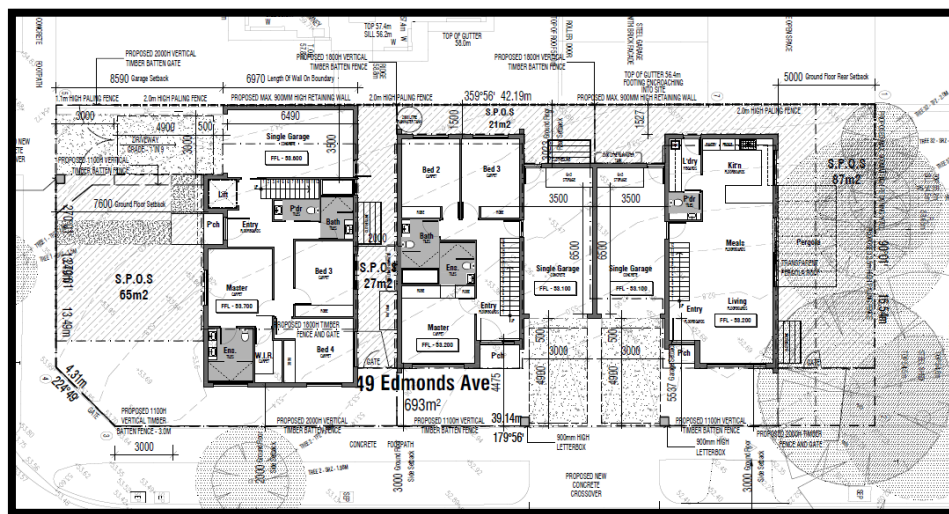


Figure 2 – Ground Floor Plan.<sup>4</sup>

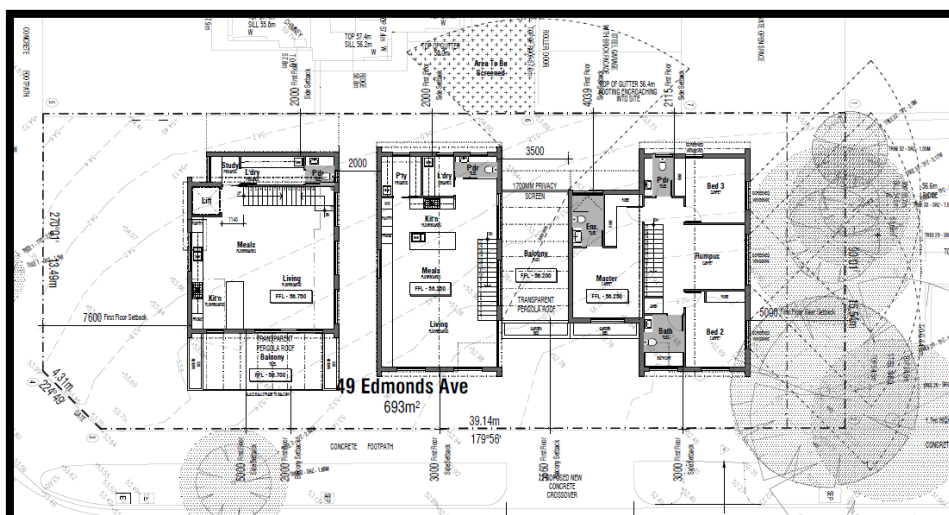


Figure 3 – First Floor Plan.

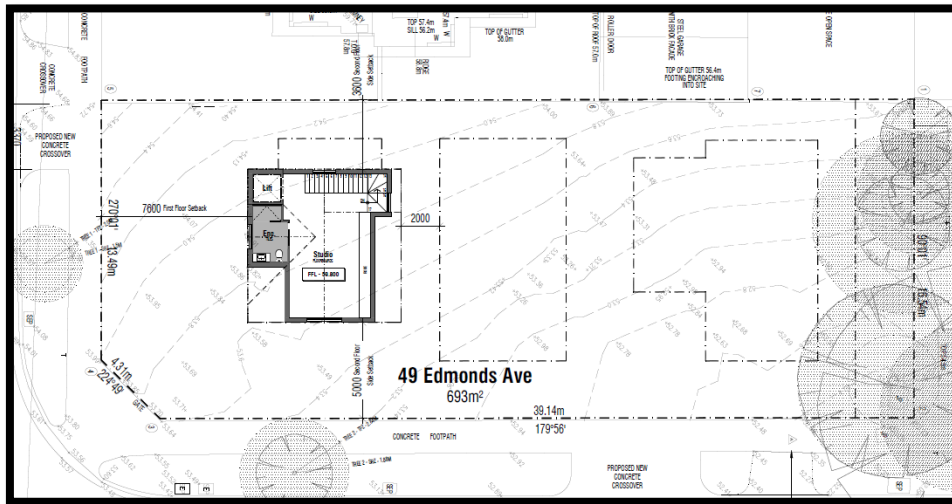


Figure 4 – Third Floor Plan (Dwelling 1).

## PLANNING SCHEME AMENDMENT

- 17 Since the council determined the application, Amendment C166mona to the Scheme was gazetted on 23 May 2024. Among other things, the amendment replaced the Local Planning Policy Framework of the Scheme with a new MPS at clause 02, a modified PPF at clauses 11-19, and a selected number of operational provisions of the Scheme. The changes that are of relevance to this proposal are policy neutral.

## PLANNING CONTEXT

- 18 The review site and its surrounding area is zoned General Residential Zone ('GRZ') - Schedule 3. Schedule 3 applies to the 'Garden City Suburbs' ('GRZ3').
- 19 A planning permit is required under the GRZ3 to construct two or more dwellings on a lot.
- 20 The proposed maximum height of Dwelling 1, being three storeys, is 9 metres and complies with the maximum building height requirement under the GRZ of three storeys and 11 metres (with various exemptions). The proposal also meets the minimum garden area requirement of 35% under the GRZ, with the proposed garden area being 43.3%.
- 21 The GRZ has several purposes. Of relevance is to encourage development that respects the neighbourhood character of the area and support a diversity of housing types and housing growth, particularly in locations offering good access to services and transport. In addition to considering the Municipal Planning Strategy ('MPS') and Planning Policy Framework ('PPF'), other relevant decision guidelines include purpose of the zone, any objectives and other decision guidelines set out in a schedule to the zone and the objectives, standards and decision guidelines of clause 55.
- 22 Schedule 3 to the GRZ applies to 'Garden City Suburbs' and includes neighbourhood character objectives as detailed below:





To support new development that contributes to the preferred garden city character through well landscaped and spacious gardens that include canopy trees.

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

To support new development that minimises building mass and visual bulk in the streetscape through generous front and side setbacks, landscaping in the front setback and breaks and recesses in the built form.

To support new development that locates garages and carports behind the front walls of buildings.

23 As noted above, a development of two or more dwellings on a lot must meet the requirements of clause 55. The GRZ3 varies clause 55 as follows:

- Minimum street setback at standard B6 – at least 7.6 metres from the front street. No change to the side setback.
- Site coverage at standard B8 – 50%.
- Permeability at standard B9 – at least 30%.
- Landscaping at standard B13 – at least one canopy tree, plus at least one canopy tree per 5 metres of site width, mixture of vegetation, to be planted within the setbacks and both sides of accessways.
- Side and rear setbacks at standard B17 – at least 5 metres to the rear boundary.
- Private open space standard B28 – 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 with a minimum area of 35 square metres, conveniently off a living room and at least 5 metres wide. A balcony area of 10 square metres with a minimum width of 2 metres and conveniently accessed from a living room.
- Front fence height standard B32 – should not exceed 1.2 metres.

24 Council is satisfied that the above clause 55 requirements are met.

25 The GRZ3 specifies the following decision guidelines that must be considered, as appropriate:

Whether the development provides an appropriate transition to built form on adjoining sites.

The robustness of proposed materials and finishes.

The impact of the shape and dimensions of the lot on the ability of the development to meet any requirements of this schedule.

The location and number of vehicle crossovers.

The impact of the development on nature strips and street trees.

The location, quantity and species of vegetation provided.



- 26 The Vegetation Protection Overlay – Schedule 1 (‘VPO1’) also applies to the review site. Although the existing vegetation, including trees, are proposed to be removed from the review site, only one tree, tree 23 requires a planning permit for its removal. Council has only considered this one tree to be removed.
- 27 Clause 52.06 of the Scheme sets out the requirements for car parking. The proposal to provide two car parking spaces for each of the proposed dwellings complies with the applicable requirement for two car parking spaces to each dwelling of three or more bedrooms.

## **NEIGHBOURHOOD CHARACTER AND DESIGN DETAIL.**

- 28 The MPS provides a high-level statement or framework to guide future land use planning in the municipality.
- 29 Clauses 02.01 and 02.02 set out the context and vision for the municipality. Amongst other matters, Monash is an established, residential and business region in Melbourne. It has suburban characteristics with mature canopy treed environments throughout the municipality, identified heritage areas and an urban garden character enjoyed by the community.
- 30 Clause 02.03 sets out the strategic direction for Monash with greater detail provided in clauses 02.03-1 (settlement), 02.03-2 (environmental and landscape values), 02.03-3 (environmental risks and amenity), 02.03-4 (built environment and heritage), 02.03-5 (housing), 02.03-6 (economic development), 02.03-7 (transport), 02.03-8 (infrastructure), 02.03-9 (gaming).
- 31 Clause 02.03-4 recognises the important value of Monash’s Garden city and neighbourhood character, of particular relevance to this review includes;

Monash is known for its garden city character, leafy, low-rise suburbs with well vegetated gardens and wide streets with street trees.

This characteristic is highly valued by the community.

The retention of garden city neighbourhood character is important to the community and an essential component of Monash’s residential areas. Council has undertaken significant work to identify Monash’s preferred neighbourhood character throughout the municipality in order to ensure development does not erode neighbourhood character.

- 32 Clause 02.03-5 sets out the strategic direction for housing in the municipality. This policy refers to housing needs, recognising to meet the population growth, housing diversity is necessary to facility different types of housing development. Policy directs more intensive, diverse higher density development to activity centres that provide access to a wide range of goods, services, facilities and transport. This approach allows for the retention of neighbourhood character and the enhancements of garden city character.
- 33 The Residential Framework Plan at clause 02.04-3 identifies the location for future residential development. The review site is located within areas suitable for incremental change, ‘Garden city suburbs’. Furthermore, the



Framework recognises that housing stock ages and the size and profile of the community changes, different forms of housing will be needed to address contemporary requirements, community expectation and environmental standards.

- 34 There is no doubt that the site enjoys strategic policy direction towards a greater level of development and density than currently exists. This position is on the basis that the site is well located as it is:
- Approximately 2 kilometres north-east of the closest neighbourhood activity centre being Holmesglen.
  - Approximately 60 metres north-east of the commercial edge to the local activity centre, located near the corner of High Street and Warrigal Road.
  - Holmesglen train station is approximately 2 kilometres away.
- 35 No doubt the proposal, with the benefit of being a corner site, and its locational attributes can accommodate more than one dwelling. However, in this instance, the proposed development concentrates on the strategic direction of the review site, more intensive housing and housing diversity. As always development must be contextual and of a design that provides reasonable amenity for its future residents. In this regard I am not satisfied that the proposed development has achieved design outcomes that are respectful of neighbourhood character. I also find the proposed development does not facilitate appropriate levels of internal and external amenity.
- 36 The Council contested that the proposed development is considered intensive housing and not supported by policy because the review site is in an area that has been identified for incremental change. They rely on clause 15.01-5L (Monash preferred neighbourhood character).
- 37 Clause 15.01-5L applies to applications for development in residential zones on land as shown on the Monash preferred neighbourhood character areas map. The objective states:
- To build upon the important contribution that landscaping makes to the garden city character of Monash, and preserve and enhance the treed character.
- To protect and enhance the special character of the heritage precincts, the creek environs and the Dandenong Valley Escarpment.
- 38 The strategies provide ‘an overall strategies’ across the precincts, and include site layout, landscaping, private open space, vehicle access, and detailed design.
- 39 Council further advised that the site is located within a neighbourhood classified as ‘Garden City Suburbs Northern Areas’.<sup>5</sup> There are strategies

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<sup>5</sup> Clause 15.01-5L.



specific to this area, although the area itself encompasses a broad area of the municipality and seeks:

Provide well-vegetated front and rear gardens with shrubs and large canopy trees.

Design new development to complement the established buildings through consistent siting, articulated facades and use of materials.

Design buildings adjacent to public parks, reserves and other open space to address the public area.

Screen new development from the street and neighbouring properties with well-planted gardens.

Provide a mix of native and exotic vegetation and trees, and retain remnant indigenous vegetation and coniferous wind-rows.

Provide no or transparent front fences.

Limit vehicle crossovers.

- 40 The photographs and descriptions of the neighbourhood context provided in submission and with the benefit of a site inspection of the review site and surrounding area, I agree with Council's description of the neighbourhood context as follows:<sup>6</sup>

The original housing in the vicinity of the site comprises mostly single storey detached post-war dwellings, noting that some of the land on the east side of Edmonds Avenue further south seems to have been developed more recently (and it contains a number of two storey dwellings). Newer development comprises a mixture of unit development (mostly two dwellings) and single detached dwellings (some single storey, some double storey). Much of the recent unit development is two storey in height. Unit developments are often attached at ground level but mostly appear to be provided with some upper level separation.

The original dwellings are mostly constructed of brick or weatherboard. Newer housing is often constructed of a combination of face brickwork at the lower level and lightweight cladding (either timber or rendered) at the upper level. Roofs of both the original housing and newer housing are mostly pitched with eaves and constructed of tiles.

- Mid-block unit development mostly comprises two (2) dwellings in a tandem configuration. Unit developments on corner allotments in the vicinity of the site include:
- Three (3) double storey dwellings at 50 Edmonds Ave & 85 & 87 Morton Road (located opposite the site and described above).
- Two single storey dwellings at 89 Morton Ave & 2 George Street.

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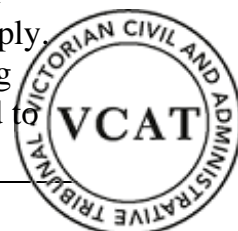
<sup>6</sup> Neighbourhood context as outlined in council's submission at 2.4.



- An original single storey dwelling fronting 457 Warrigal Road and a newer double storey dwelling facing Edmonds Avenue (457A Warrigal Road).

The area has an attractive landscape character in an overall sense, noting that the extent of vegetation necessarily varies on individual lots. Some front yards contain shrubs, lawn and low level vegetation only, whilst others contain large canopy trees. Many properties also contain canopy vegetation in rear yards that is visible from the public domain.

- 41 Council submitted that the proposed development is excessive due to the bulk and mass and that it will be overly prominent when viewed from the public realm and surrounding properties due to:
- triple storey element of dwelling 1 due to its height. They argue it is higher than the nearby dwellings.
  - the walls are set back in line with the levels below.
  - southern facade contains limited articulation.
  - same wall materials as the levels below which leads to a vertical built form.
  - the excessive upper-level areas of all three dwellings, limited articulation.
  - top floor of each dwelling is sited largely over the building envelope of the level below.
  - 2 metre separation between dwellings 1 and 2.
  - the reverse living arrangement provided for dwellings 1 and 2, results in the need to rely upon secluded open space in the form of large balconies.
  - the balconies necessarily add to the overall building mass and raise amenity concerns.
  - the roof form adds to overall visual bulk of the built form and increase wall heights of the dwellings.
- 42 The applicant acknowledges that a three storey development is not a common feature of this location and argues this is not an area where the Scheme has sought to restrict development to two storey maximum, given the strategic direction of the review site. The applicant acknowledges the review site is in an incremental change area, however, its location in proximity to facilities responds well to the zone purposes and the specific neighbourhood character objectives.
- 43 The applicant argues in locations such as this there is an expectation that changes in built form will occur. Change in a character sense is part and parcel of residential areas where these planning controls and policies apply. He contends the proposed development responds well to the surrounding context of Edmonds Avenue and Morton Road and is sufficiently varied to





accommodate further change in the form proposed. The variations in style type and building placement and in particular the layout of the two abutments are such that the introduction of the proposal will sit comfortably in this context in character terms.

- 44 I agree with the applicant that the site context of the review site can accommodate more than one dwelling on the lot. I also agree that the locational attributes of the review site allow for medium density development, as outlined in state and local policies. I accept that the site's corner location provides opportunity to allow for higher built form, varying setbacks, more intense development and perhaps more than one crossover. However, I have not been persuaded that the proposed development responds to the neighbourhood character.
- 45 I agree with the submissions of council and find that the proposed development does not respond appropriately to the site context and neighbourhood character as outlined in the Scheme. It is the cumulative effect of the shortcomings of the proposed development due to a number of design flaws that has led me to agree with council.
- 46 I accept that the corner location can provide for a higher contemporary built form. As I observed on my site inspection, the area is experiencing change (as outlined above). However, I am not persuaded that the proposed dwelling 1, due to the internal layout, has driven a design that results in a built form that does not address the street. The reverse living arrangements, the location of the lift and the reliance on the balcony area as the main secluded private open space has led to a built form that is at odds with the preferred neighbourhood character.
- 47 I am also concerned about the façade details. The front elevation is dominated by solid blank walls, with no separation between the floor levels, resulting in sheer walls. I am also concerned about the lack of fenestration and no elements of a recessive built form, to break up the building bulk and mass. The lack of articulation and window proportions will result in a poor streetscape character. Furthermore, the lack of canopy trees, landscaping and 2 metre high walls results in a poor public realm outcome.



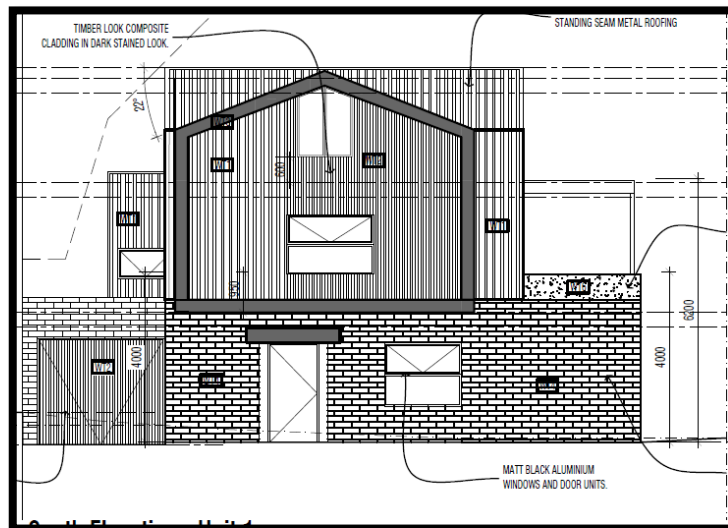


Figure 6 – front elevation.<sup>7</sup>

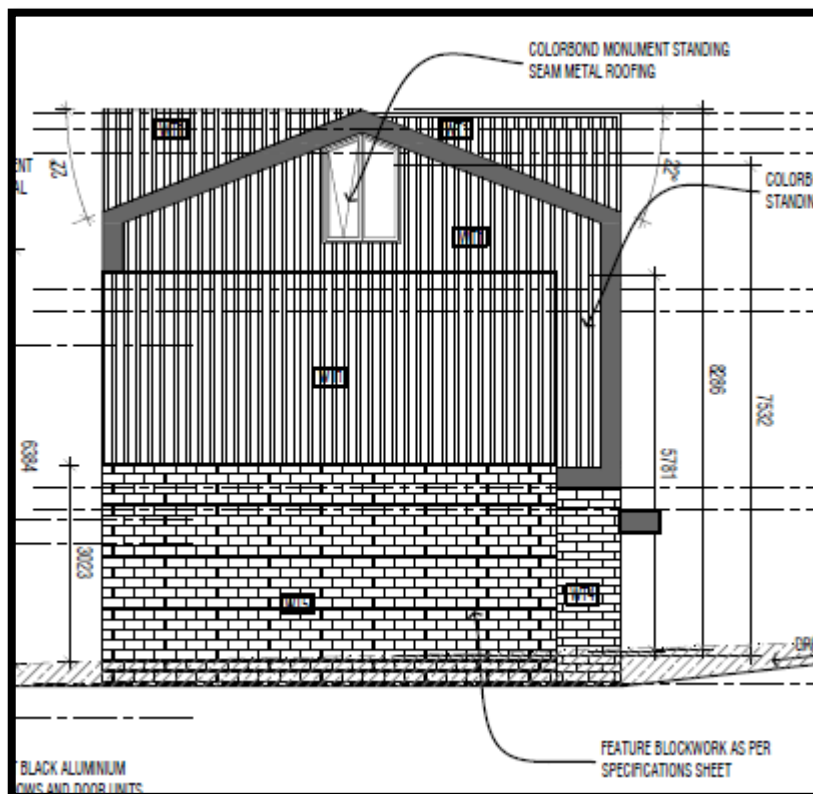


Figure 7 – eastern elevation.<sup>8</sup>

<sup>7</sup> Application plans – north elevation.

<sup>8</sup> Application plans – west elevation.

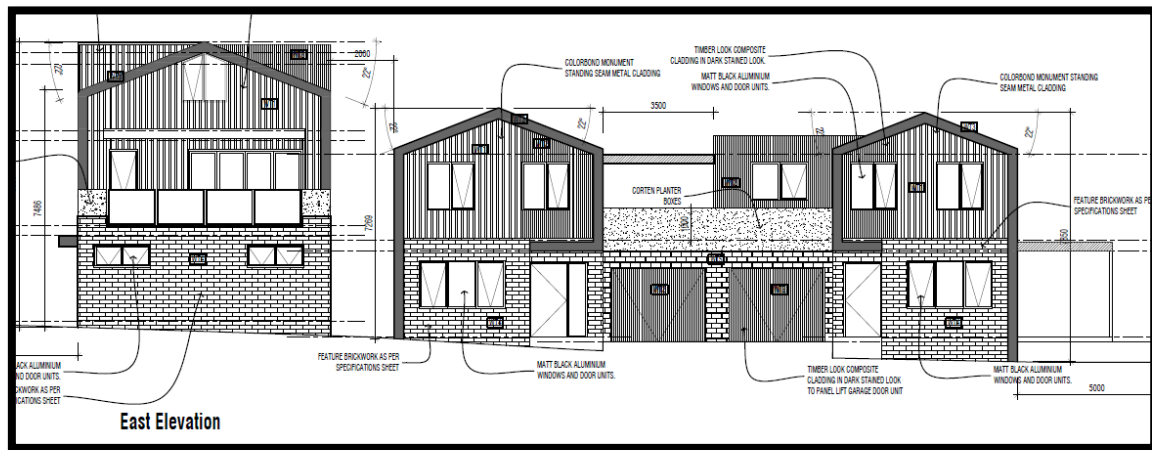


Figure 8 – Morton Road elevations.<sup>9</sup>

- 48 Turning to Morton Road, I am not persuaded that the proposed development responds appropriately to the streetscape context as follows:
- the separation of 2 metres between dwellings 1 and 2.
  - the inclusion of a 2 metre high vertical timber batten fence.
  - solid wall at ground level with high level windows not addressing the street (dwelling 1).
  - lack of setbacks at the upper level to reduce building mass, solid walls.
  - balconies facing the street, more so because this is their main private open space which is at odds in this neighbourhood context.
  - no setback at the upper level and present as sheer walls.
  - lack of separation between dwellings 2 and 3, lack of design detail where the proposed balcony at dwelling 2 is built against the bedroom wall to dwelling 3.
  - dwelling 2 balcony is enclosed by pergola and 1.7-metre-high wall to the eastern elevation, resulting in a poor amenity outcome for the future residence.
- 49 The proposed reverse living arrangements for dwellings 1 and 2 have driven a poor design outcome. This has resulted in the need to rely upon balcony areas for private open space.
- 50 I also share the council's concerns regarding the lack of meaningful landscaping and the dominance of hard surfacing throughout the development due to the side-by-side garages facing Morton Road, the limited setback to the western boundary, 2 metre setback to the eastern boundary and lack of at-grade private open space. The proposed landscape plan is not responsive to clause 15.01-1-5L and fails to respond to the neighbourhood character strategies relating to landscaping, as it relates to this review, as follows:

<sup>9</sup> Application plans – east elevation.

Minimise hard paving throughout the site, particularly in street setbacks.

Provide landscaping on both sides of driveways.

Retain and plant canopy trees, in front and rear setbacks to soften the appearance of the built form from surrounding properties and any creek environments and contribute to the landscape character of the area.

Avoid environmental weeds and artificial grass.

Avoid front fences where that is a characteristic of the immediate neighbourhood.

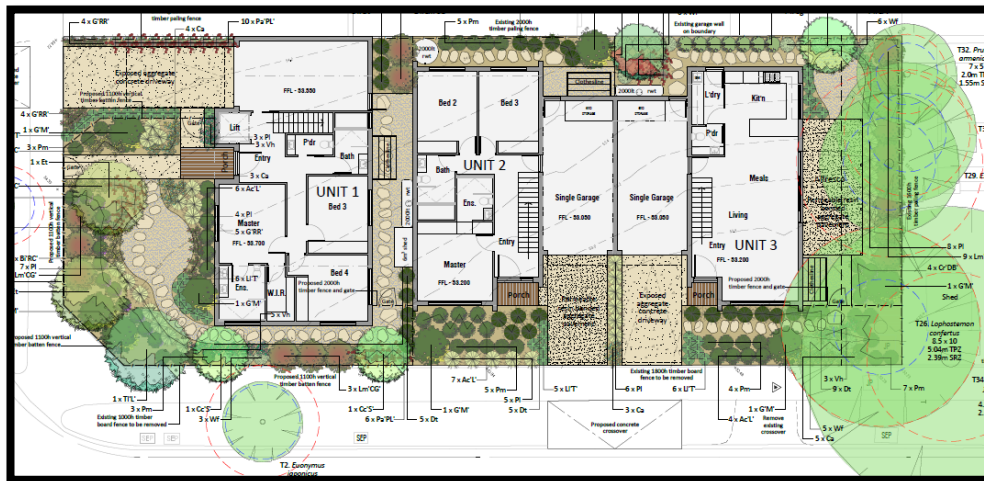


Figure 9 – landscape plan

- 51 The proposed landscape plan includes the retention of the two trees located along the northern boundary. I am not satisfied that the proposal has gone far enough to respond to the garden character. It will undermine the vegetated character that currently exists.
- 52 Fundamentally, I find this proposal unacceptable because of the decision to design the dwellings with reverse living which has resulted in a built form that compromises the internal amenity for the future residents. The lack of window proportion to bedroom windows, high level windows to kitchen areas and awkward open floor plan to the kitchen/dining and meals areas, results in a poor outlook and internal amenity.
- 53 I also consider that there needs to be an improvement to the detailed design. There needs to be better separation amongst the dwellings, to alleviate the dominance of built form and to allow sufficient space for the planting of larger canopy trees between and around the dwellings. I also find the design aspect regarding the fencing around and between the dwellings is unresolved. There is a lack of details as to the 2 metre high fences along the boundaries including the street boundaries.

## **CLAUSE 55 (RESCODE) RESPONSE.**

- 54 The council's ground of refusal included detailed failing of the following standards at clause 55:

- Standard B1 – neighbourhood character objective
  - Standard B6 – design detail
  - Standard B13 – landscape design
  - Standard B10 – energy efficiency
  - Standard B29 – solar access to open space
  - Standard B22 – overlooking
- 55 I have already addressed the matters related to neighbourhood character, detailed design and landscape design.
- 56 I agree with council in regard to the matters raised in Standard B10 and Standard B29. These matters add to the cumulative effect of concerns that I have raised above in my findings.
- 57 I do not share the same view as the applicant that the proposed development has been designed to provide a high level of internal amenity for the future residents. I am not satisfied that the proposed development has appropriately been designed to provide good solar access to each dwelling, given the orientation and corner site location.
- 58 I find the design of the internal layout to dwelling 2, is poor. This is because the dwelling is located between the two dwellings, with reverse living has provided shortcomings to the internal amenity for the future occupants. The location of the stairs against the balcony area, reduces any window/sliding door openings along this northern façade, which is adjacent to the proposed balcony. This is the main secluded private open space for this dwelling and results in a poor amenity outcome. The balcony is hard against the master bedroom wall of dwelling 3 and will be in shade. This is further exacerbating by adjoining walls and pergola over.
- 59 I am also not satisfied that the interaction between dwelling 2 and 3 provides acceptable internal amenity for future residents given the conflict between the balcony and the master bedroom between the two dwellings. Whilst not raised as a concern by council, the amenity for the future residents is compromised as outlined in Standard B24, Noise impacts.
- 60 I agree with council and the respondent regarding Standard B22, overlooking. If I was minded to approve the proposal conditions would be included to ensure the standard is met.

## **OTHER MATTERS**

- 61 The respondent has raised concern about car parking arrangements proposed for the review site. They consider there will be an overflow of car parking from the future residents. They consider this will make it dangerous for road users given the location of the review site on a corner.
- 62 I note the proposed on-site car parking provisions for each dwelling satisfies the car parking requirements of clause 52.06. I also note that council did not raise issue with traffic safety and parking standards.





- 63 I accept that future owners and their visitors may park in the street, but I cannot require more parking than the rates set out in clause 52.06.
- 64 If I was minded to approve the development, I am satisfied with the matters relating to traffic and parking.

## **CONCLUSION**

- 65 I agree with the applicant that the site has strategic support in the MPS and PPF policy for increased housing yield in a well serviced, established residential area. However, as is so often the case, it is not a question of whether a site can be developed for a medium density development. Instead, it is more usually a question of whether the intensity of a proposal is acceptable having regard to the site context and the particular planning controls and policies applying to any given site.
- 66 Based on my assessment of the proposal having regard to the submissions presented at the hearing, undertaken a site inspection of the review site and the wider area, I have not been persuaded that the proposal is an acceptable response to the physical site context or the broader policy outcomes sought for this neighbourhood and that it does not provide a net community benefit in its current form.
- 67 For the reasons given, the decision of the responsible authority is affirmed. No permit is granted.

Donna D'Alessandro  
**Member**

