

# VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

## PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P1012/2022  
PERMIT APPLICATION NO.TPA/52951

### CATCHWORDS

Review the refusal to grant a permit; Two dwellings on a lot; Monash Planning Scheme; General Residential Zone – Schedule 3; Clause 21.04 Residential Development Framework; Category 2 Accessible Areas and Category 8 Garden City Suburbs; Clause 22.01 Residential Development and Character Policy; Garden City Suburbs (Northern) character area; Building mass and visual bulk; Net community benefit.

<b>APPLICANTS</b>	Hui Lu, Jun Ma & Michael Ince
<b>RESPONSIBLE AUTHORITY</b>	Monash City Council
<b>SUBJECT LAND</b>	1/5 & 2/5 Montrose Street ASHWOOD VIC 3147
<b>HEARING TYPE</b>	Hearing
<b>DATE OF HEARING</b>	8 February 2023
<b>DATE OF ORDER</b>	21 February 2023
<b>CITATION</b>	Lu v Monash CC [2023] VCAT 154

### ORDER

#### Amend permit application

1 Pursuant to clause 64 of Schedule 1 of the *Victorian Civil & Administrative Tribunal Act 1998*, the permit application is amended by substituting for the permit application plans, the following plans filed with the Tribunal:

- Prepared by: Origin Square Property Consulting Pty Ltd
- Drawing references: TP101, 102, 201, Basement Floor Plan [unnumbered], 202, 203, 301, 302, 601, 602, 603, 801
- Revision: D
- Dated: 1/12/2022

and

- Prepared by: Contour Design Studio
- Drawing reference: Landscape Plan
- Revision: B VCAT
- Dated: 14/12/22



**No permit granted**

- 2 In application P1012/2022 the decision of the responsible authority is affirmed.
- 3 In planning permit application TPA/52951 no permit is granted.

Sarah McDonald  
**Member**

**APPEARANCES**

For applicant

Daniel Bowden, SongBowden Planning.  
Hui Lu, Michael Ince & Jun Ma attended as  
observers.

For responsible authority

Adrienne Kellock, Kellock Town Planning Pty  
Ltd.



## INFORMATION

Description of proposal	Construct two dwellings (three storeys, including semi-basement garages) in a side-by-side configuration.
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 3 ‘Garden City Suburbs’ (the <b>GRZ schedule 3</b> ); Vegetation Protection Overlay – Schedule 1.
Permit requirements	Clause 32.08-6: To construct two or more dwellings on a lot in the GRZ3.
Relevant scheme policies and provisions	Clauses 11, 15, 16, 21.01, 21.04, 21.08, 22.01, 22.04, 22.05, 32.08, 52.06, 55, 65 and 71.
Land description	<p>The subject land is on the north side of Montrose Street, Ashwood, about 80 metres east of its intersection with Warrigal Road.</p> <p>The subject land forms part of a larger parcel originally known as 5 Montrose Street, which has been developed with three single storey dwellings arranged one behind the other. These dwellings are known as units 1, 2 and 3 and are separate lots. Vehicle access to the front and middle dwelling (units 1 and 2) is provided by a common property vehicle access and driveway in the south-eastern corner. It is these two lots and vehicle access/driveway that form the ‘subject land’ for this application.</p> <p>Access to the rear dwelling (unit 3) is provided by a vehicle access and driveway along the western side of units 1 and 2. That land and driveway does not form part of the subject land.</p> <p>The subject land has a frontage to Montrose Street of 16.21 metres and length along its eastern boundary of 27.71 metres. The western side and northern rear boundaries are staggered/stepped, resulting in an irregular shape. The land area is approximately 570 square metres.</p>



Land description (continued) The land falls from the rear (north) towards the front (south) and from east to the west. It has a maximum fall of approximately 3 metres from the north-west corner to the south-east corner.

The land adjoining to the west is the common property driveway that provides vehicle access to the dwelling at existing unit 3 of the larger land parcel. The land to the west of that driveway is 1-3 Montrose Street. It is currently being redeveloped with eight, double storey dwellings.

The adjoining land to the east is developed with a single storey, detached house that is divided into two dwellings.

The land on the northern side of Montrose Street slopes upwards from the street level, while the land on the south side slopes downwards.

The Council describes the broader neighbourhood context as follows:

“The site is located within a residential area that historically appears to have contained mostly single storey detached houses set on relatively generous sized lots. There has been a reasonable amount of redevelopment in Montrose Street and nearby local streets. Newer housing comprises largely multi-unit developments. Older unit development is often single storey in height but much of the recent development is two storey....”<sup>1</sup>

The subject land is about 670 metres north-east of the Holmesglen neighbourhood activity centre, and about 200 metres south of a supermarket on the corner of Warrigal Road and High Street Road.

Tribunal inspection

I undertook an unaccompanied inspection of the subject land and surrounding area after the hearing.

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<sup>1</sup> Council’s written submission, page 9.

## REASONS<sup>2</sup>

### WHAT IS THIS PROCEEDING ABOUT?

- 1 Hui Lu, Jun Ma, and Michael Ince (the **applicants**) are seeking a planning permit to construct two dwellings (three storeys including semi-basement garages) in a side-by-side configuration (the **proposal**) on the land comprised of lots 1 and 2, 5 Montrose Street, Ashwood (the **subject land**).
- 2 The Monash City Council (the **Council**), as the responsible authority under the *Planning and Environment Act 1987* (Vic), has refused to grant a permit for the proposal.
- 3 The Council's grounds of refusal relate to, in summary, neighbourhood character, objectives and standards of clause 55<sup>3</sup> of the Monash Planning Scheme (the **Scheme**), amenity impacts of visual bulk and scale, landscaping opportunities, garages being a dominating feature, and overdevelopment.
- 4 The applicants' statement of grounds<sup>4</sup> in support of their application for review counter the Council's grounds of refusal.
- 5 There were two objections to the permit application. One of the objectors has filed a Statement of Grounds opposing the application. Their grounds relate to, in summary, structural damage, flooding and soil erosion risks, overlooking, overshadowing, traffic and parking impacts, overdevelopment, and neighbourhood character. Although they are not a party to this proceeding, I have had regard to this statement.
- 6 Before the hearing, the applicant gave notice of an application to amend the permit application by substituting amended plans of the proposal for the permit application plans. The amendments to the plans alter building setbacks, with consequential changes to building and wall heights, areas of private open space and landscaping, and the driveway ramp grades. There being no objection from the Council, I have substituted the amended plans for the permit application plans. It is on these plans that my decision is based.
- 7 The applicants submit, in summary, that:
  - The proposal will sit comfortably within the emerging character of the surrounding area which, by virtue of its inclusion in an 'Accessible Area', is designated for change, housing diversification, and intensification.

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<sup>2</sup> The submissions of the parties, any supporting exhibits given at the hearing and the statements of grounds filed have all been considered in the determination of the proceeding. In accordance with the practice of the Tribunal, not all of this material will be cited or referred to in these reasons.

<sup>3</sup> Specifically, standards B1 Neighbourhood Character, B2 Residential policy, B7 Building height, B13 Landscaping, B17 Side and rear setbacks and B31 Design Detail.

<sup>4</sup> Amended grounds filed with the Tribunal on 22 August 2022.



- There are no unreasonable off-site amenity impacts.
  - The proposed development provides a high level of internal amenity.
  - The proposed development is wholly compliant in respect to the provision of car parking. There are no traffic or landscaping reasons to warrant the refusal of the permit.
  - The proposed development represents an acceptable planning outcome and one which should be supported by the Tribunal.
- 8 Council says that the amended plans represent a minor improvement to the proposal. However, it argues that the modifications are not sufficient to resolve its grounds of refusal. The Council submits that while the proposal satisfies urban consolidation and housing choice objectives in an area that is reasonably well located with respect to services and public transport, it fails to provide a suitable design response to the site context and the preferred character of the neighbourhood.
- 9 The Tribunal must decide whether a permit should be granted and, if so, what conditions should be applied. In doing so I must consider whether the proposal will produce ‘acceptable outcomes’,<sup>5</sup> in relation to the relevant policies and provisions of the Scheme.
- 10 Based on the submissions of the parties and the relevant policies and provisions of the Scheme, I consider the key issues to be decided relate to:
- Neighbourhood character and design response;
  - Building mass and visual bulk; and
  - Landscaping.
- 11 Having considered the submissions, statements of grounds, and relevant policies and provisions of the Scheme, and having viewed the subject land and surrounding area, I have decided to affirm the Council’s decision and direct that no planning permit be issued. My reasons follow.

## **WHAT ARE THE DETAILS OF THE PROPOSAL?**

- 12 The proposal requires the demolition of the existing dwellings and associated works currently on the subject land.
- 13 The proposed dwellings are to be constructed in an attached form, side-by-side, with each dwelling facing the street. The dwellings each comprise three levels, with a double garage at a semi-basement (lower) level, living areas and one bedroom at the ground floor (middle) level, and three bedrooms and a small living area at first floor (upper) level. Separate vehicle access from a ramped driveway is to be provided to the garage of each dwelling at either side of the street frontage of the land.

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<sup>5</sup> Having regard to the decision guidelines at clause 65 of the Scheme.





## WHAT IS THE RELEVANT PLANNING CONTEXT?

- 15 The subject land and surrounding area are zoned General Residential Zone – Schedule 3 (the **GRZ schedule 3**). Schedule 3 applies to ‘Garden City Suburbs’.
- 16 A planning permit is needed in the GRZ to construct two or more dwellings on a lot.<sup>9</sup>
- 17 The proposed maximum height of 8.52 metres of the proposal complies with the maximum building height requirement under the GRZ of three storeys and 12 metres (as applicable due to the slope of the land).<sup>10</sup> The proposal also meets the minimum ‘garden area’ requirement of 30% under the GRZ, with the proposed garden area being 36.1%.
- 18 The GRZ schedule 3 includes the following neighbourhood character objectives:
- 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.<sup>11</sup>
- 19 Under the GRZ, a development for two or more dwellings on a lot must meet the requirements of clause 55.<sup>12</sup> The GRZ schedule 3 varies the ‘Minimum street setback’ standard B6, ‘Site coverage’ standard B8, ‘Permeability’ standard B9, ‘Landscaping’ standard B13, ‘Side and rear setbacks’ standard B17, ‘Private open space’ standard B28, and ‘Front fence height’ standard B32 at clause 55. The proposal substantially complies with these varied standards, with the exception of the street setback of the balconies and two storey wall between the balconies that form part of the front porches of each dwelling. The dividing wall between the two dwellings balconies extends forward of the front wall of the dwelling by about 1.1 metres.<sup>13</sup>

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<sup>9</sup> Clause 32.08-6.

<sup>10</sup> Clause 32.08-10.

<sup>11</sup> GRZ3 schedule, clause 1.0.

<sup>12</sup> Clause 32.08-6.

<sup>13</sup> At first floor level, as measured from the line of the front wall of the ground floor level below.

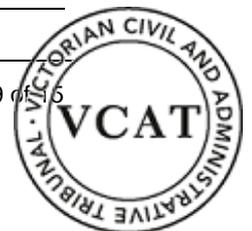


- 20 The GRZ schedule 3 specifies the following decision guidelines that must be considered, as appropriate:
- Whether the development provides an appropriate transition to built form on adjoining sites.
  - The robustness of proposed materials and finishes.
  - The impact of the shape and dimensions 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.<sup>14</sup>
- 21 The decision guidelines at clause 32.08 of the GRZ and at clause 65.01 require consideration of the Municipal Planning Strategy and the Planning Policy Framework, among other things.
- 22 The parties cite various policies including, among others, clauses 11 ‘Settlement’, 15 ‘Built Environment and Heritage’, 16 ‘Housing’, 21.04 ‘Residential Development’, 22.01 ‘Residential Development and Character Policy’, and 22.05 ‘Tree Conservation Policy’.
- 23 The key local planning policies on which the parties rely as relevant to the key issues are:
- clause 21.04 ‘Residential Development’ statement; and
  - clause 22.01 ‘Residential Development and Character Policy’.
- 24 There is general agreement between the parties that the GRZ schedule 3 and planning policies support medium density development in this location.
- 25 Under the Residential Development Framework at clause 21.04 the subject land is within the ‘Category 8 Garden City Suburbs’ overlapped with ‘Category 2 Accessible Areas’. The Category 8 Garden City Suburbs areas are areas identified as being suitable for incremental change, while the Category 2 Accessible Areas are areas identified with future development potential. The Category 2 Accessible Area that applies to the subject land relates to the land’s proximity to the Holmesglen activity centre.
- 26 There is some dispute between the parties as to the relative weight to be given to the development expectations for these different residential development categories. In this regard I note the comments of Senior Member Baird in *LH Group Enterprises Pty Ltd v Monash CC* [2021] VCAT 1046 (**LH Group Enterprises Pty Ltd**), about a similar issue in relation to the applicable residential category, as follows:

The Categories are explained in clause 21.04-1. The clause states that the residential development framework translates the overall aims of

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<sup>14</sup> GRZ3 schedule, clause 7.0.



the housing strategy into a location plan (Map 3) that broadly identifies the preferred location for different types of housing. Map 3 includes a Note – “*Category boundaries to be determine through Planning Scheme amendment process*”. Clause 21.04-3 states zones are applied as follows:

Applying the Residential Growth, General Residential, Neighbourhood Residential and Mixed Use Zones including specific schedules to achieve preferred development outcomes.<sup>15</sup>

and

...my decision must be based on the zone and related character policies that clearly apply.

There is an evident inconsistency that requires resolution by the planning authority. In applying the scheme in the current case, the zone and preferred character carry weight rather than the hatching in the framework plan that, as the plan itself states, is subject to determination. ...<sup>16</sup>

[Tribunal’s emphasis]

- 27 I note that in the application that is before me to consider, the GRZ schedule 3 that applies to the subject land and surrounding area applies to ‘Garden City Suburbs’ areas. Under the Residential Development and Character Policy at clause 22.01, it is also clear that the subject land is in the ‘Garden City Suburbs Northern Areas’ residential character type.
- 28 In this context, in applying the Scheme in the current case, the policies and provisions regarding the Garden City Suburbs areas carry greater weight than the policy expectations for the Category 2 Accessible Areas.
- 29 The preferred character statement for the Garden City Suburbs Northern Areas at clause 22.01 gives guidance as to the expected development outcomes. The preferred future character statement for the ‘Garden Suburban Northern Areas’ that applies to the subject land is:

Although there will be changes to some of the houses within this area, including the development of well-designed and sensitive unit development and, on suitable sites, some apartment development, these will take place within a pleasant leafy framework of well-vegetated front and rear gardens and large canopy trees.

Setbacks will be generous and consistent within individual streets. Building heights will vary between neighbourhoods. Neighbourhoods with diverse topography and a well-developed mature tree canopy will have a larger proportion of two storey buildings. In the lower, less wooded areas, buildings will be mainly low rise unless existing vegetation or a gradation in height softens the scale contrast between buildings. New development will complement the established

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<sup>15</sup> LH Group Enterprises Pty Ltd, [6].

<sup>16</sup> LH Group Enterprises Pty Ltd, [10]-[11].



buildings through consistent siting, articulated facades and use of materials. New development will consider energy efficiency and sustainability principles. Long expanses of blank wall will be avoided, particularly when adjacent to public parks, reserves and other open space areas, where the building should address the public area.

Architecture, including new buildings and extensions, will usually be secondary in visual significance to the landscape of the area when viewed from the street. New development will be screened from the street and neighbouring properties by well planted gardens that will ensure the soft leafy nature of the street is retained.

Gardens will consist of open lawns, planted with a mix of native and exotic vegetation and trees.

Existing mature trees and shrubs will be retained and additional tree planting within streets and private gardens will add to the tree canopy of the area.

Buildings will be clearly visible through these low garden settings, and nonexistent or transparent front fences. Additional vehicle crossovers will be discouraged.

The built-form will be visually unified by well-planted front gardens that contain large trees and shrubs and street tree planting. Trees within lots to be redeveloped will be retained wherever possible to maintain the established leafy character.

Landscape elements such as remnant indigenous vegetation and the large old coniferous wind-rows will be retained until trees are no longer healthy or safe.<sup>17</sup>

[Tribunal's emphasis]

- 30 The Vegetation Protection Overlay – Schedule 1 (the **VPO schedule 1**) also applies to the subject land. Although the existing vegetation, including trees, is to be removed from the subject land, the Council considered the application on the basis that no permit is triggered for vegetation removal under the VPO schedule 1 provisions.
- 31 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.<sup>18</sup>
- 32 In having regard to the planning policy framework, clause 71.02-3 seeks, in summary, for planning decisions to integrate the relevant planning policies and balance conflicting objectives in favour of net community benefit and sustainable development.

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<sup>17</sup> Clause 22.01-4 'Preferred future character statements'.

<sup>18</sup> Clause 52.06-5 'Number of car parking spaces required under Table 1'.



## WHAT ARE THE TRIBUNAL'S FINDINGS?

- 33 The subject land is well located in respect to public transport, the Holmesglen activity centre, shops, schools and public parkland. Its location is well suited for development that will support the planning policy objectives<sup>19</sup> of increasing the supply, diversity and affordability of housing in existing urban areas close to jobs and services.
- 34 What is in dispute is whether the proposal is a suitable design response to the site context and preferred neighbourhood character for this area.
- 35 The proposal performs well against the prescriptive standards of clause 55 provisions and the local variations to some of these standards under the GRZ schedule 3. However, in addition to the residential development provisions at clause 55 of the Scheme, the GRZ schedule 3 and preferred future character statement at clause 22.01 provide the most specific local guidance of the expected development outcomes for this area.
- 36 Having regard to the neighbourhood character objectives and decision guidelines of the GRZ schedule 3, and the preferred future character for the Garden City Suburbs Northern Area, I make the following findings:
- i Despite the articulation of the building elevations through variations in building setbacks and materials/finishes, I am not persuaded this is sufficient to minimise the impact of the building mass and visual bulk of the building along the front and the eastern side.
  - ii In relation to the front part of the building, I consider the detailed design and articulation accentuates the building mass and visual bulk. This is due to the three storey building form, the elevated ground floor level and the extent and height of the steps leading to the dwelling entries, the width of the upper storey in combination with its minimal setback from of the level below, the two storey 'nib' wall protruding at right angles from the face of the building to divide the entries and balconies of the two dwellings, and the balconies of the upper level projecting forward of the front wall and roof of the level below.
  - iii In relation to the eastern side, the development does not provide an appropriate transition to the built form on the adjoining property to the east. The front part of the proposed building is elevated, with the ground and first floor levels elevated above the garages that protrude above the natural ground level. Along the eastern side, unit 2 is elevated so that most of the height of the ground floor level is above the height of the 2.0 metre fence along the eastern side boundary (see Figure 3). The existing single storey building on the adjoining property is set well back (approximately 9 metres) from the side boundary with the subject land for a distance more than 20 metres.

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<sup>19</sup> For example, clauses 16.01-1S Housing supply, 16.01-1R Housing supply – Metropolitan Melbourne, and 16.01-2S Housing affordability.



This will result in the eastern side of the building being highly visible when viewed from within the Montrose Street streetscape and the adjoining property. Due to the height of the building, the building will be visually dominant within the streetscape.

- iv Due to the siting of the building, there is no opportunity for landscaping along the eastern side at the point where the building height and mass will be dominant in views from the streetscape and the adjoining property. Although the proposed landscape plan includes hedge planting along the eastern side of the driveway, I am not persuaded this is sufficient to screen the substantial form of the building from the street and neighbouring property.
- v The vehicle crossovers and driveways will result in excessive paving in the front setback area of the proposed dwellings. The extent of paving and hard surfaces in the front setback will be accentuated by the driveways widening out from a single width to a double width, the retaining walls along the sides of the ramped driveways, and the steps leading to the dwelling entries. The extent of the paving and hard surfaces in the front setback area limits the area available for landscaping.
- vi The landscaping areas within the front setback will be limited to a central wedge between the two driveways, and narrow strips along the other side of each driveway (see Figure 1). Landscaping in the central wedge area will be further limited by the paths and steps leading to the front entries of each dwelling.
- vii The paving and hard surfaces within the front setback will be further accentuated by the need to provide a balustrade along the top of the retaining walls either side of the centre wedge between the two driveways along which pedestrian access is provided to the front entries.<sup>20</sup>
- viii Even though the combined width of the vehicle crossovers/driveways (accessways) along the frontage complies with the requirements of standard B14 at clause 55.03-9, I am not persuaded it achieves the associated Access objective that seeks ‘To ensure the number and design of vehicle crossovers respects the neighbourhood character’. Although there are examples of other properties within the streetscape with two vehicle crossovers, they are on properties with wider street frontages. In conjunction with the common property vehicle access to unit 3/5 Montrose along the western side of the land, the proposal will result in three vehicle crossovers along the equivalent width of street frontage.

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<sup>20</sup> The applicants clarified at the hearing that balustrading around the retaining walls that is not shown on the plans will be required to meet the relevant building regulations.



37 For these reasons I find that the proposal is inconsistent with:

- i the neighbourhood character objectives of the GRZ3 that seek–
- 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.

and

- ii the preferred future character statement, which seeks that–
- New development will complement the established buildings through consistent siting.
  - Architecture, including new buildings and extensions, will usually be secondary in visual significance to the landscape of the area when viewed from the street.
  - New development will be screened from the street and neighbouring properties by well planted gardens that will ensure the soft leafy nature of the street is retained.
  - Additional vehicle crossovers will be discouraged.

38 I acknowledge that the applicants have advised that some of the design detailing of the front elevation can be altered. Even if the two storey nib wall dividing the front porches and balconies of the two dwellings is deleted, I am not persuaded this alone will make a meaningful difference to the impact of the overall building mass and visual bulk of the proposal within the streetscape or as it will be viewed from the adjoining property to the east.

39 I am not persuaded that the building mass and visual bulk, or extent of paving and hard surfaces in the front setback of the proposal is reflective of the development currently underway on the adjacent property to the west (1-3 Montrose Street). The ground and first floor levels of that development are not elevated above the natural ground level to the extent of the proposal. The vehicle crossovers and driveways of that development occupy a lesser proportion of a wider site frontage than the proposal. The width and area of space available for landscaping within the front setback of that development is greater than in the proposal. The site context of that development is different to that of the subject land; it has buildings within proximity to its side boundary interfaces unlike the subject land's eastern interface.

40 I have had regard to the principles of 'integrated decision making' set out at clause 71.02-3 in reaching my findings. I have considered whether the subject land's inclusion in a Category 2 Accessible Area in addition to the

Category 8 Garden City Suburbs area, tips the balancing of the policy objectives in favour of the future development potential in an area in proximity to a range of services and facilities, rather than in favour of neighbourhood character outcomes. In doing so I have had regard to the findings of Member Rundell in the Tribunal decision *Karagiannis v Monash CC* [2018] VCAT 790, which approved the development of eight double storey dwellings (some with basement garages) currently being constructed on the adjacent property at 1-3 Montrose Street. In that decision Member Rundell found that development would integrate into the emerging character of Montrose Street. Member Rundell also commented that:

Additional dwellings would make an incremental contribution to several broad housing objectives. It would add to the diversity of the dwelling stock and housing choice in an area that was developed with a highly homogenous housing stock.

- 41 In the current proposal, I find that the replacement of two modest dwellings with two substantially larger dwellings does not support the planning policy objectives relating to increasing housing, as well as housing diversity and affordability, in such locations. By providing the same number of dwellings on the land, which must logically be less affordable than the current dwellings due to their substantially larger size, but with a built form and landscaping outcome that is inconsistent with the neighbourhood character policy and objectives for this area, the proposal does not provide a net community benefit.

## **CONCLUSION**

- 42 For the reasons given above, the decision of the responsible authority is affirmed. No permit is granted.

Sarah McDonald  
**Member**