

## **Implications of VCAT decision**

**The purpose of this report is to provide a summary of the community's interpretations of the Victorian Civil and Administrative Tribunal's findings in their review of the Macedon Ranges Shire Council's refusal to grant a planning permit for application no. PLN/2013/404.**

### **General**

#### **Need to respect landscaped semi-rural character of Macedon**

The developer's case was essentially about claiming that the CZ1 meant that they could put up the same kind of development that would be acceptable in the middle suburbs of Melbourne in Macedon. It was about undermining the idea of Macedon as having any special character.

Macedon was viewed according to one of their expert witnesses as a town with no heart. Their case attempted to excise the development block from its relation to the whole of Macedon so they could put into it a heart mass-produced in the suburbs. Hence the developer tried to argue that the commercial zone was only defined by shops in Macedon and not by the residences and home occupation businesses in the commercial zone.

The developer certainly did not allow that the Low Density Zone had any bearing on what was allowable in the commercial zone. To argue that they were making an acceptable transition to the LDZ, the developer even invented a zone A and B distinction within the block. For the purposes of fire risk the developer also tried to draw lines around 19 Victoria St separating it from the rest of Macedon.

It needs to be made very clear that all of these sophistic arguments failed.

The Tribunal's decision affirms that the Macedon township has a special character which is valued by residents and by visitors to Macedon and that this special character needs to be addressed by future development proposals and needs to be protected (11).

Macedon township is seen as having a distinctive character that is defined by both commercial and residential uses in the centre. Importantly adjoining low residential zones characterised by their bush setting, native

and exotic gardens are also seen as a crucial part of that character (41). Bushfire risk and the resultant need for limited future growth is also acknowledged as a contextual factor.

Macedon is defined in terms of its openness, low density, spaciousness, treed bush setting and varied building styles, and this is seen as a desirable character that includes the commercial part of the town (43).

Due to its location and prominence in Macedon the Tribunal was clear that 19 Victoria is seen as having a special role in bringing all of these elements which are part of Macedon's character together (32).

As a result the Tribunal's decision defines important conceptual characteristics for future development of the site. A future proposal needs to address these characteristics, which are distinctively Macedon.

It is not just that the site needs a development that does not say Melbourne. Even a development that might be appropriate in Gisborne or Riddell's Creek may not be suitable. The vision behind the proposal must say Macedon (44). What this decision does is give planning relevance to Macedon's special character and the values that underpin it.

The question of a proposal's vision for Macedon and how that addresses the elements of Macedon's character cannot be brushed aside but is central to the planning process now.

Many of the design implications of the Tribunal's report seem to flow and simply articulate further this acknowledgement of Macedon's distinctive character, which is the key aspect of their rebuttal of the developer's proposal.

This report will mention some of these, on the following pages, briefly.

### **Need for low site coverage, intensity on subject site**

Because of specific contextual circumstances of Macedon's environmental value and need for limited growth strategy due to bushfire risk, the Tribunal affirmed that the normal expectation of intensive development of CZ1 is not applicable in Macedon (45, 50, 52).

As a result, the Tribunal affirms the need for low to moderate site coverage, and significantly reduced intensity of built form (50). Low to moderate site coverage would have to mean less than 50%. The issue here is not so much numbers of houses but site coverage i.e. how much land is allocated to landscape and built form (including roads).

### **Need for detached buildings both retail and residential**

The Tribunal refers to detached building designs with spaces between buildings as a feature of the Macedon township that should be incorporated in a new design (43, 44, 45, 47 and 49). This is also an implication of its rejection of urban design solutions, and its requirements to break up building lines especially re. southern border. It is also an implication of its concerns regarding internal amenity of the rejected design.

Terrace housing inevitably creates problems of solar access and overlooking. The Tribunal regarded access to light from habitable windows and space as desired features for a location like Macedon (54, 55 and 58). This requirement can best be met from detached buildings. The Tribunal noted that such designs are also a feature of existing built form and of the existing character of Macedon.

### **Bushfire risk, need to allow more space for landscaping**

The Tribunal gave special attention to the lack of provision for landscaping and space for landscaping in the rejected proposal. Since landscape values and spaciousness are seen as part of the distinctive character of Macedon then these issues must be dealt with in any future proposal.

Specifically the Tribunal's view was that the provision of landscaping and trees in a way that meets CFA requirements for minimum distance between tree canopies and housing (2m) cannot not be met without providing more space (51).

The rejected design only met CFA requirements by eliminating most landscaping.

To allow for CFA requirements and allow for trees, at least 8 metres are needed between houses to allow for even small trees.

This is another factor that must limit site intensity. This would limit the number of residences to 4 approx.

### **Transition to adjoining zone, buffers, setbacks**

Because the character of LDZ is seen as part of the character of Macedon, the Tribunal was very critical of the way the rejected proposal mishandled the transition of the development to adjoining zones.

The Tribunal indicated the need to avoid site cut and retaining wall solutions for site except for Victoria St frontage (51).

It indicated the need to reduce intensity, and continuous built line, as well as substantially increasing the size of vegetative buffer to south (69).

Given that the rejected design has a 10-metre setback, this buffer should not be less than this, and in fact, it should mirror the buffer of 26 Margaret St from boundary.

This is a direct implication and is consistent with the Tribunal's view that a buffer to Margaret St of 3.8 metres was adequate.

This setback mirrors the setback of the properties on the east side of Margaret St from boundary.

For this same reason a buffer of 3.8 from the Western boundary would also be appropriate.

## **Building height, need for single storey**

The Tribunal notes that the current character of the commercial centre is defined largely by single storey buildings with variations of height (32).

The need to consider single storey as part of a future design proposal is also an implication of the Tribunal's support for the community's arguments against the 'draconian' site cut underpinning the development.

The Tribunal has ruled that, except for Victoria St where building should be flush to the footpath, there should be no site benching and that buildings should follow the topography (51). This has implications for building height.

The Tribunal indicated support for existing height of rejected drawings (53), but because of the implications of no site cut except to Victoria St, this means that effectively residences would need to be single storey (1.5 to 2 metres less).

If limited double story were allowed (e.g. 2 of the 4-5) limited site benching should only allow for loft style designs, which is an existing design characteristic. Victoria St frontages could be double storey. Pitched roofs, which complement rural character, are quoted from the MVCS as a desirable design characteristic (22).

## **Documentation requirement**

As part of a new application the Tribunal is not just requiring a completely new design. The Tribunal has accepted that bushfire risk is an issue for the site that has not been properly handled or resolved. It has rejected the adequacy of a site-specific BAL assessment (62, 65, and 67).

A proper bushfire management plan needs to be provided. A proper photomontage to show how built form impacts and relates to existing environment would also be necessary this time.

## **Specific design implication**

### **Victoria St retail**

The Tribunal's rejection of a continuous line of shops, and the need for a reduced retail offer, indicates that the best solution is two shop top residences addressing the shops to the north side of Victoria St with spaces in between for landscaping or alfresco.

The Tribunal also indicated the need for a garden, to address the lack of appropriate transition to public space and landscape features, similar to that outside the Macedon pub (48).

The Tribunal regarded the pub's hedge as a desirable element of the streetscape and want something similar incorporated into a new proposal.

This is also consistent with the Tribunal's regard for the special character of Macedon.

The garden could be sited on the corner of Victoria and Margaret and incorporate Mr Holdsworth's suggestion for community hub – where perhaps Ash Wednesday memorial could be moved.

This garden could also provide an opportunity to save the large manna gum.

### **Residential (Margaret St to E and S)**

The need for an open spacious landscape meeting CFA requirements, plus the Tribunal's preference for avoiding back of house presentation (i.e. buildings lined up in serial fashion) suggests the need for a clustered informal, group of residences comprising largely single storey within landscaped treed spaces, in between.

This would allow for a more natural informal buffered edge to the south and east.

## **Conclusion**

It should be noted the implications of the Tribunal ruling significantly support and are very consistent with the recommendations of the '*Keep the Village Feel*' community report last year.

The Tribunal decision provides strong planning justification and relevance to the community's recommendations.

Crucially the Tribunal's decision gives important conceptual focus for what an acceptable design should achieve.

The Tribunal affirmed the distinctive character of Macedon, but it also indicated that a new proposal should not just address but above all should integrate and bring together the different parts that make up the character of Macedon. In the community's opinion, this is the most critical part of the ruling.

It means that as residents look south and east, the development should incorporate similar building setbacks, landscape use and buffers that reflect these interfaces.

It means that the development as it looks north should include detached buildings with similar ample space between them.

This is why as it looks west the development should incorporate the garden into the Victoria St frontage to complement what has been done outside the pub, and underpin the distinctive character of Macedon.