

Assessing an Application for One or More Dwellings in a Residential Zone

Planning Practice Note 15

JANUARY 2018

The purpose of this practice note is to give guidance to responsible authorities assessing a planning application for one or more dwellings on a lot and for residential buildings.

Putting the application in context

When assessing applications for residential development council must consider:

- the relevant state, regional and local strategic objectives contained in the State Planning Policy Framework (SPPF) and Local Planning Policy Framework (LPPF)
- the purpose and requirements of the zone and schedule
- the purpose and requirements of any overlay and schedule
- the relevant particular provisions (Clause 54 or Clause 55)
- the relevant general provisions
- any objection or comment from interested parties.

Pre-application meetings between council and the applicant are useful. Council can use these meetings to explain the emphasis on policy in the planning scheme and how this will affect its consideration of the application. Council can also ensure that the applicant is aware of all the provisions of the planning scheme that apply to the land. An information kit for applicants can be a useful aid. This meeting is a good time to agree on the extent of the neighbourhood that needs to be described in the neighbourhood and site description.

How to assess applications under Clause 54 and Clause 55

Clause 54 of the planning scheme contains the requirements that apply to a planning application for one dwelling on a lot.

Clause 55 of the planning scheme contains the requirements that apply to a planning application for two or more dwellings on a lot and a residential building.

Assessing applications under Clauses 54 and 55 involves making two key decisions:

1. Is the neighbourhood and site description satisfactory?
2. Does the development meet all of the objectives of the clause?

Is the neighbourhood and site description satisfactory?

An application must include a neighbourhood and site description. A neighbourhood and site description must accurately describe the features or characteristics of the neighbourhood and the site. It may use a plan, photographs or other techniques.



A neighbourhood and site description is not a justification for a preconceived design. It is a factual record of the physical features of the neighbourhood and the site. Therefore, the description should be impartial and describe both the positive and negative features of the neighbourhood and the site.

Council must decide if the neighbourhood and site description is satisfactory before considering the application further or requiring notice of the application to be given.

The neighbourhood and site description must be satisfactory because it provides the basis for:

- the applicant to develop a design that meets the objectives of the scheme
- council's assessment of the design.

A site inspection before deciding on the neighbourhood and site description is the best way to ensure that all of the key neighbourhood and site features have been described.

In deciding whether a neighbourhood and site description is satisfactory, council needs to consider:

- Does it describe all of the key neighbourhood and site features?
- Is the area covered by the description sufficient to determine neighbourhood character?
- Is the description accurate?

Planning Practice Note 43: Understanding Neighbourhood Character provides detailed information about the key physical features that contribute to neighbourhood character.

For each application, council and the applicant will need to determine the area of the neighbourhood that needs to be described, as this provides the context for decisions about the design. In most cases, about five sites or buildings up and down the street, across the street and behind the application site should be sufficient to identify the features of the neighbourhood, if any, that should influence the design.

Council can reduce or waive a requirement of the neighbourhood and site description if it considers that the information is not relevant to the evaluation of the application. The information is being gathered to inform the design process and not for the sake of gathering it. If council decides that not all of the information is needed, it should advise the applicant of this early in the assessment process, preferably at the pre-application stage.

If council decides that the neighbourhood and site description meets the requirements of the scheme and is satisfactory, the application can then continue to be considered.

If council decides that the neighbourhood and site description does not meet the requirements of the scheme and is not satisfactory, it may request more information from the applicant under section 54 of the *Planning and Environment Act 1987*.

The request should set out clearly the reasons why the description is not satisfactory and the additional information required. Councils can ask for information more than once, however it is good practice to ensure that all information requirements are included in one request within 28 days from lodgement of the application.

Using the design response when assessing an application

An application must be accompanied by a **design response**. The design response must explain how the proposed design:

- derives from and responds to the neighbourhood and site description. It requires the applicant to evaluate the influence that features identified in the description should have on the design
- meets the objectives of the clause. This does not mean that the applicant must provide a detailed written explanation of how every objective is met. In some cases it will be evident in the design response how an objective is met and no further explanation is required. However, where this is not so clear, the applicant should include brief notes on the plan or provide a short written statement explaining how the design response achieves the objectives
- responds to the neighbourhood character features for the area identified in the LPPF, a Neighbourhood Character Overlay or other relevant overlay.

When considering a design response, council should:

- decide what features of the neighbourhood character the design should respond to
- decide what features of the site and neighbouring sites the design should respond to
- decide whether the design has responded to these features and any other issues identified, taking into account the objectives and any relevant Local Planning Policy (LPP)



- test the design response against the neighbourhood and site description and any features identified for the area in an LPP, a Neighbourhood Character Overlay or other relevant overlay. Has the design adequately responded to the key features? How?
- test the design response against the objectives. Does it meet the objectives? How?

Many of the decision guidelines require council to consider the design response before deciding on an application. This is because any decision about whether the objective is met will depend on the design approach that has been taken to respond to the particular neighbourhood and site features identified in the description and the LPPF, Neighbourhood Character Overlay or other relevant overlay.

Does the development meet all of the objectives?

A new development must meet all of the objectives of the clause. The objectives aim to achieve residential development that:

- respects neighbourhood character
- protects amenity
- is sustainable.

The objectives describe the desired outcome to be achieved in the completed development. There can be no 'trading off' of objectives.

Deciding if an objective is met requires forming a judgement about whether the design will achieve the desired outcome described in the objective. If council decides that the outcome will not be achieved, it should either require the design to be changed or it should refuse the application.

If a planning application does not meet one or more objectives, council must refuse the application. However, it will usually be useful to assess the application in full before issuing a refusal so that all unsatisfactory aspects of the application are identified in the grounds of refusal and in any subsequent review by the Victorian Civil and Administrative Tribunal (VCAT).

In deciding whether the development meets the objectives, council must consider the standards and decision guidelines.

A **standard** contains the requirements to meet the objectives. A standard should normally be met. However, if the responsible authority is satisfied that an application for an alternative design solution meets the objectives, the alternative design solution may be considered.

If a zone or an overlay specifies a requirement of a standard different from a requirement set out in the clause, the requirement in the zone or the overlay applies.

The **decision guidelines** set out matters that will help council decide if the objective will be met if an alternative design solution is used.

All of the decision guidelines must be considered, as appropriate. This does not mean that council needs to document its consideration of each individual decision guideline. A general statement in council's report on the application that it has considered all of the objectives and decision guidelines will usually be sufficient.

Further reading

More information about the assessment of planning applications is available in *Using Victoria's Planning System*.

Other practice notes about residential development:

- *PPN16: Making a Planning Application for One or More Dwellings in a Residential Zone*
- *PPN27: Understanding the Residential Development Standards (ResCode)*
- *PPN40: Using the Residential Subdivision Provisions – Clause 56 – Residential subdivision*
- *PPN43: Understanding Neighbourhood Character*
- *PPN37: Rural Residential Development*
- *PPN78: Applying the Residential Zones.*



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