

Case Note: John Cranston and Shire of Serpentine-Jarrahdale

Visual amenity impacts on a locality and adjoining property

In [John Cranston and Shire of Serpentine-Jarrahdale](#) [2019] WASAT 19, the Tribunal considered the visual amenity impact of a proposed development on its general locality and on adjoining property within that locality.

The Tribunal noted that while “there is no absolute right to a view, that does not mean that the impact on views cannot be a relevant planning consideration.” Design principle 5.1.6 and 6.1.2 of the R-Codes refer “to the maintenance of 'access to views of significance' as a relevant consideration” (117), indicating that views can “be considered as an element of amenity” (116). Further, “the definition of amenity in the deemed provisions is not restricted to only the amenity of land in the public realm” (134) and a development “can be refused based on the amenity impacts on one property” (124).

The Tribunal found that taking account of how the proposed development will be viewed in terms of the general locality, “there is no basis for it to be refused” (140). However, the Tribunal found that the proposed development had been “sited with insufficient sensitivity” (121), is “overbearing in terms of its impact” on the visual amenity of an adjoining property (120) and that this impact was unacceptable (141).

The tribunal affirmed the Shire's decision to refuse the proposal. Therefore, while a proposed development may be acceptable from the viewpoint of the general locality, it may be unacceptable in terms of its impact on adjoining property.