VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

planning and environment DIVISION

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| planning and environment LIST | vcat reference No. P1032/2020  Permit Application no. TPA/50815 |

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| APPLICANT | Chin Hom Lim |
| responsible authority | Monash City Council |
| SUBJECT LAND | 6A Salisbury Road, Ashwood |
| WHERE HELD | Melbourne |
| BEFORE | Michael Nelthorpe, Member |
| HEARING TYPE | Hearing |
| DATE OF HEARING | 2 October 2020 |
| DATE OF ORDER | 30 September 2020 |

# Order

1. In application P1032/2020 the decision of the responsible authority is set aside.
2. In planning permit application TPA/50815 a permit is granted and directed to be issued for the land at 6A Salisbury Road, Ashwood in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:

* Alterations to an existing dwelling.

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| Michael Nelthorpe **Member** |  |  |

# Appearances

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| For applicant | Mr Andrew Clarke, town planner of Clarke Planning. |
| For responsible authority | Mr James Turner, Principal Planner/Appeals Advisor |



# Information

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| Description of proposal | A 14 square metre extension on the ground floor and a 12 square metre extension above it at the first floor. |
| Nature of proceeding | Application under section 77 of the *Planning and Environment Act 1987* – to review the refusal to grant a permit. |
| Planning scheme | Monash Planning Scheme |
| Zone and overlays | General Residential Zone Schedule 3 |
| Permit requirements | Clause 32.08-5: to construct a building or construct or carry out works on a lot of less than 500 square metres. |
| Relevant scheme policies and provisions | Clauses 11, 15, 16, 21.04, 22.01, 32.08, 54, 65 & 71.02. |
| Land description | This 185 square metre site is one of three lots created by the subdivision of a townhouse development at the south-west corner of Salisbury Road and Karrin Court, Ashwood.  A two-storey townhouse with south-facing secluded private open space occupies the site. |

# Remarks

1. Chin Hom Lim (‘the applicant’) seeks permission to extend the dwelling at 6A Salisbury Road, Ashwood. The extension would expand the kitchen/dining area at the ground floor (at the expense of a paved area of the rear courtyard) and would provide an additional bedroom at the upper floor.
2. The council refused to grant a permit on grounds relating to neighbourhood character, external amenity and internal amenity.
3. The applicant seeks a review of this decision.
4. After hearing submissions, I found in the applicant’s favour. Accordingly, I have set aside the council’s decision and ordered that a permit is issued.
5. On the issue of neighbourhood character policy, I consider that a site’s existing conditions and its immediate surrounds carry great weight when small extensions are proposed to existing buildings. This leads to general planning policies being viewed differently than would be the case when entirely new developments are proposed.
6. This extension would barely be visible from the public realm and does not reduce the space set aside for landscaping in the original three-townhouse development. As such, it does not offend the preferred future character of this neighbourhood.
7. On the issue of external amenity, the applicant persuades me that all relevant standards of clause 54 are met regarding the extension’s relationship to its neighbour at 4 Salisbury Road. Further to this, the extension faces a service yard and doors and windows to non-habitable rooms. In this way, its external amenity impacts are limited.
8. On the issue of internal amenity, I am satisfied that the revised courtyard is adequately sized to meet the service and recreation needs of residents of the dwelling. I am satisfied that the reduced level of sunlight is adequate for this small dwelling.
9. There is enough space for the planting of a medium size canopy tree in addition to the recently planted tree in this courtyard. It makes sense to remove the shed in the rear corner of the site and to provide above bonnet storage in the garage.

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| Michael Nelthorpe **Member** |  |  |

# Appendix A – Permit Conditions

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| Permit Application No: | TPA/50815 |
| Land: | 6A Salisbury Road, Ashwood |

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| What the permit allows |
| In accordance with the endorsed plans:   * Alterations to an existing dwelling. |

## Conditions:

### No Alterations

1. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority except that:
   1. The storage shed in the dwelling’s area of secluded private open space must be removed and replaced with an over-bonnet storage compartment within the garage. This compartment must have a minimum area of 2m3.

### Landscaping

1. Prior to the occupation of the extension, a canopy tree with a maximum mature height of 7 metres and a minimum height of 1.5 metres at time of planting, must be planted in the south-west corner of the dwelling’s area of secluded private open space to the satisfaction of the Responsible Authority.

### Drainage

1. The extension approved under this permit must be drained to the satisfaction of the Responsible Authority.

### Completion of Buildings and Works

1. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

### Permit Expiry

1. This permit will expire in accordance with section 68 of the Planning and Environment Act 1987, if one of the following circumstances applies:
   1. The development has not started before two (2) years from the date of issue.
   2. The development is not completed before four (4) years from the date of issue.

In accordance with section 69 of the Planning and Environment Act 1987, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within six months of the permit expiry date, where the development allowed by the permit has not yet started; or within 12 months of the permit expiry date, where the development has lawfully started before the permit expires.

**- End of conditions -**