

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P1677/2022
PERMIT APPLICATION NO.TPA/54018

CATCHWORDS

Section 77 *Planning and Environment Act 1987* Monash Planning Scheme, dwelling on a lot less than 500 square metres, neighbourhood character, rear setback, General Residential Zone – Schedule 3.

APPLICANT	Pushpakumara Karunaratne
RESPONSIBLE AUTHORITY	Monash City Council
SUBJECT LAND	1/34 Mackie Road MULGRAVE VIC 3170
HEARING TYPE	Hearing
DATE OF HEARING	18 April 2023
DATE OF ORDER	24 April 2023
CITATION	Karunaratne v Monash CC [2023] VCAT 437

ORDER

Amend permit application

1 Pursuant to section 127 and clause 64 of Schedule 1 of the *Victorian Civil and 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: RBi Architects
- Drawing numbers: Job No. 22-22 Drawings:
TP0.00 – Dated June 2022
TP1.01, TP1.02, TP1.03, TP1.04, TP1.04-1,
TP1.04-2, TP1.05, TP1.06 and TP1.07; all
revision C, dated 12 February 2023

Permit granted

- 2 In application P1677/2022 the decision of the responsible authority is set aside.
- 3 In planning permit application TPA/54018 a permit is granted and directed to be issued for the land at 1/34 Mackie Road Mulgrave VIC 3170 in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:



- Construction of a dwelling on a lot less than 500 square metres.

Alison Glynn
Member



APPEARANCES

For Pushpakumara Karunaratne	Mark Walden, town planner of St Wise Pty Ltd
For Monash City Council	Matt Cooper, town planner with Sally Moser, town planner

INFORMATION

Description of proposal	Construction of a new dwelling on a lot less than 500square metres.
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 (GRZ3) No overlays.
Permit requirements	Construction of a single dwelling on a lot less than 500 square metres in GRZ3 with reference to its schedule.
Relevant scheme policies and provisions	Clauses 11, 15.01, 16, 21.04, 22.01, 32.08, 54 and 65.
Land description	<p>The land is irregular in shape with a 10.7 metre curved frontage to Mackie Road and a depth of about 29 metres with an overall area of 397 square metres. It has a single storey brick dwelling occupying the site with a rear, double garage accessed from common property along its south-western side boundary. This common property also provides access to a rear lot at 2/34 Mackie Road.</p> <p>To the west of the common property is a park and to the north-east is a single dwelling. A range of single and double storey dwellings exist in the area. Most date to the 1970s and 1980s with some, newer replacement dwellings emerging.</p>
Tribunal inspection	I inspected the site from the street and adjoining park area before the hearing on 15 April 2023.



REASONS¹

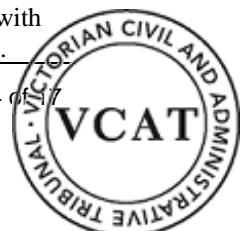
WHAT IS THIS PROCEEDING ABOUT?

- 1 Pushpakumara Karunaratne (**the applicant**) wants to redevelop an existing house at 1/34 Mackie Road, Mulgrave (**the review site**) with a new, double storey dwelling. As the lot has an area of 397 square metres, it requires a planning permit in accordance with the provisions of the Monash Planning Scheme (**the planning scheme**). This scheme directs that in a General Residential Zone – Schedule 3 (**GRZ3**) a planning permit is needed for a single dwelling on a lot less than 500 square metres.
- 2 The existing house has access from an adjoining common drive, also used by 2/34 Mackie Road that sits directly behind the review site. The existing house on the review site has a carport that adjoins a solid wall of the house to the rear, sitting at the boundary on 2/34 Mackie Road. The common drive also includes landscaping that the review site relies on and remains part of a separate planning permit that enabled the construction of the dwelling at 2/34 Mackie Road.
- 3 Monash City Council (**the council**) has refused to grant a planning permit for the new dwelling on the review site principally because it considers the new, double storey, rendered dwelling does not adequately respect the existing or preferred neighbourhood character of the area. This is in relation to its setting to the street, its interface to an adjoining park and, what it says is a lack of separation to the existing dwelling at 2/34 Mackie Road.
- 4 In summary, the key question arising from the council position that I need to determine is whether the proposed dwelling an acceptable response to the neighbourhood character provisions of the planning scheme.
- 5 I address this question below. In summary, I am satisfied the proposal provides an acceptable character response in context of its potential for a landscape setting that can be addressed through planning permit conditions. I am also satisfied that the proposal does not result in any unreasonable off-site amenity impacts. A planning permit is therefore granted. My reasons follow.

IS THE PROPOSED NEIGHBOURHOOD CHARACTER RESPONSE ACCEPTABLE?

- 6 The council says the proposed new dwelling does not acceptably respect the existing or preferred neighbourhood character of the area having regard to building's proposed form and design. Specifically, the council's grounds of refusal include that it considers the proposed double-storey development

¹ 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.



has scale and massing impacts; inadequate articulation or materiality/design detailing; and lacks appropriate landscaping.

- 7 The proposal is to establish a rectilinear type, contemporary dwelling with flat roof and sections of sheer double storey wall, but also sections where the upper level steps in from the lower. While the graphic image of the proposed dwelling in figure 1 infers the site and surrounds form part of tropical northern Australia, the general form of the building is consistent with the plans and is a useful tool to explain the design.



Figure 1 - graphic image of proposal forming part of the amended plan package

- 8 The proposed new dwelling is to replace an existing brick dwelling on the land, likely constructed some time in the 1960s or 1970s. Figure 2 below provides some context to this dwelling, behind which is a two storey brick and rendered pitched roof dwelling at 2/34 Mackie Road constructed in 2014. This rear dwelling sits on the boundary of the review site with a solid brick wall at ground level abutting the rear of the review site. Much of the rear yard of 2/34 Mackie Road is encumbered with a high voltage power line.
- 9 This power line also extends across a park that sits to the west of the review site. Other dwellings in Mackie Road mostly comprise 1970s era dwellings, many of which are modest brick constructions. Some have been extended to include double storeys. A number of sites in the area, including 18 and 48 Mackie Road, along with others in adjoining streets, have seen recent double storey rendered dwellings constructed.

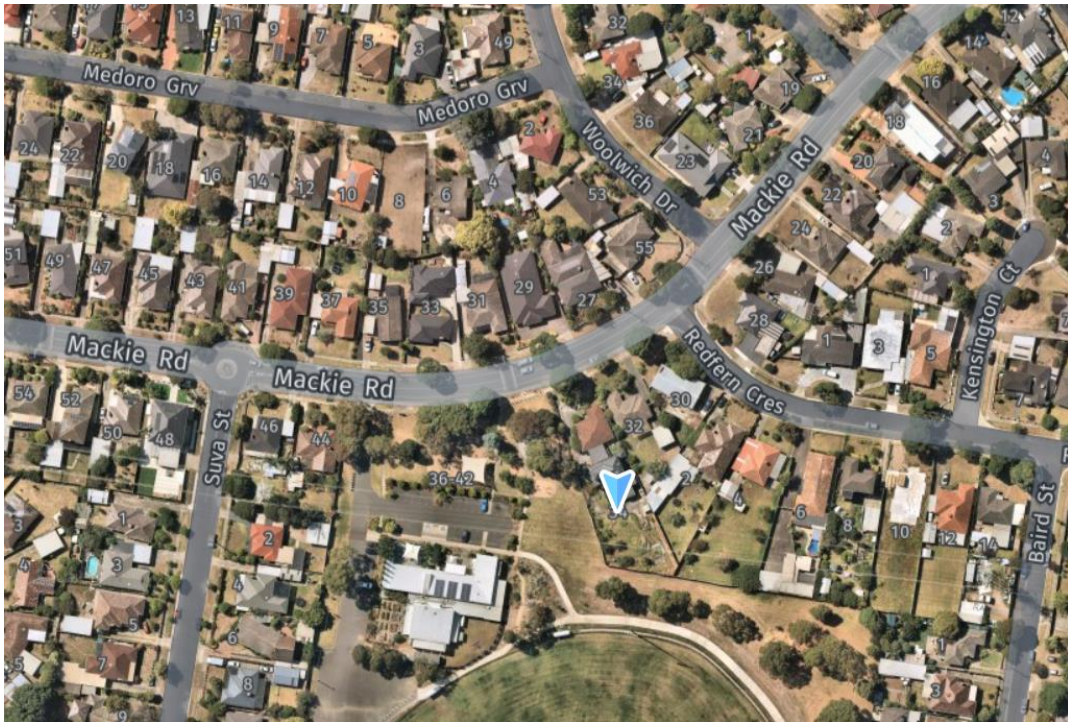


Figure 2 - Aerial image of the site and surrounds - image date 16 February 2023

- 10 The council submits that the proposed dwelling lacks articulation, with limited recession at the upper level and is too stark a contrast to the existing dwelling to the rear and the surrounding dwellings. The council also says that while there are some examples of newer dwellings with render and flat roofs, these are single dwellings on larger lots that do not trigger a planning permit.
- 11 I must address the planning scheme provisions that trigger a planning permit. These are directed by GRZ3.

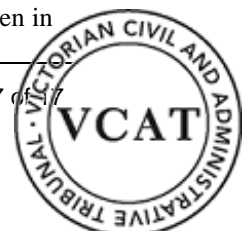
Zone considerations

- 12 GRZ3 has several objectives. These include implementing State and local policy, including neighbourhood character policy. This correlates with the specific objective of the zone to ‘encourage development that respects the neighbourhood character of the area.’ Separately the zone has an objective to ‘encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.’
- 13 The proposal replaces a single dwelling with another single dwelling so is not an intensity of dwellings, but presents a more modern type of housing than the existing house and can accommodate modern household needs. As a two storey 6.9 / 7.8 metre high dwelling it sits well within the mandatory

height of the zone, which allows three storeys or 11 metres maximum height.²

- 14 The GRZ3 has a varied schedule of clause 54 requirements and neighbourhood character objectives that are:
- 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.
- 15 The proposal meets the varied GRZ3 front setback requirement of 7.6 metres. This contributes to the first two of the character objectives to be met. The proposal's utilisation of an existing shared driveway to its west and replication of the location of car parking to the rear of the dwelling is also consistent with the neighbourhood character objectives.
- 16 The proposed plans includes retaining part of a circular drive that exists on the site. I agree with the council submission that this needs to be removed in order to provide better landscaping into the front of the dwelling, consistent with the character objectives in the zone and also in local policy at clause 22.01 as I return to below. The applicant also acknowledged that while it is their preference to retain this drive for visitor parking they accept the space is not necessary. On-site visitor parking is not required for a single dwelling. Removing the drive space to maximise landscaping is important to achieving the character objectives. Removing the existing crossover can also accommodate an additional on-street car space that has a broader community benefit than retaining an on-site visitor space as proposed.
- 17 The proposal includes front and side setbacks that are similar to the existing dwelling. The proposed dwelling sits forward of the existing dwelling for its western part, but is then recessed back to its east to allow for a courtyard to this side of the house. This means the facade presentation to the street is of a narrower, smaller form. The upper level to the street is also recessed behind the lower form. These elements, combined with the curved lot frontage means that the streetscape presentation of the proposed house will

² The main roof is 6.8 metre high. It has a small section over a central upper level corridor that has a higher roof with a clerestory window arrangement. This section of the roof is unlikely to be seen in any substantive way from the street or from a close view from the adjoining park.

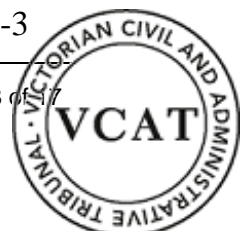


generally be viewed from an angled perspective, revealing the recessions in the building. The design avoids an overly wide, flat, dominating presentation to the street. Provided there is good landscaping in front of the dwelling I find the GRZ3 objectives for the streetscape presentation are met.

- 18 The proposal meets the other varied requirements of the GRZ3 schedule other than that the site coverage is 52%, slightly exceeding the 50% standard and the rear setback does not meet the standard 5 metres sought in the schedule. The site coverage requirement could be met with minor change, but I see this is unnecessary. Importantly the proposal can include significant landscaping in its front setback to accommodate landscaping, provided the front drive element is removed.
- 19 The council is particularly critical that the proposal does not meet the 5 metre rear setback requirement. I am satisfied it is not necessary for it to be met in this instance as:
- The ‘rear’ setback is to the adjoining dwelling at 2/34 Mackie Road that has a solid ground floor wall to the review site where much of what could be described as an existing rear setback is occupied by a carport. There is no immediately adjacent sensitive open space to the rear of the review site.
 - At upper level, there is a 4 metre separation between buildings of 1/34 and 2/34 Mackie Road. This is a conventional and reasonable separation between two dwellings for their setting.
 - The main ‘backyard’ character of the area is to the south of the dwelling at 2/34 Mackie Road. The proposal does not change this character.
 - The existing dwelling on the review site does not meet the setback requirement with it already having a carport located adjacent to the boundary wall of 2/34 Mackie Road. This is in a general location of where the proposed double garage is to be located.
 - There is no adverse amenity impact arising from the dwelling placement in terms of unreasonable overshadowing, overlooking or visual bulk due to the position of the existing dwelling at 2/34 Mackie Road. There is also opportunity to place some landscaping in the service yard to the south-east corner of the proposed dwelling to provide some landscape interface to the adjoining neighbour at 32 Mackie Road. This is noting that this neighbour, or any other neighbour has provided written objection to the proposed dwelling.

Response to existing and preferred character policy

- 20 The council submits that the proposal fails to provide a design response that addresses policy for neighbourhood character as set out in clauses 15.01-3



and 22.01 of the planning scheme. This is sitting within a context that the proposed dwelling requires design and siting that considers the provisions of clause 54 of the planning scheme that has purposes:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To achieve residential development that respects the existing neighbourhood character or which contributes to a preferred neighbourhood character.
- To encourage residential development that provides reasonable standards of amenity for existing and new residents.
- To encourage residential development that is responsive to the site and the neighbourhood.

- 21 The context of the site is of mostly mid to late 20th century dwellings but also of some more modern dwellings occurring on lots larger than 500 square metres. Some of these include rendered walls and flat roofs. These form part of the evolution of the existing character of the area as some of the mid to late 20th century dwellings are replaced.
- 22 As a question of existing character, the proposal includes a front setback consistent with the street. It utilises the existing side driveway that the site shares as common property to 2/34 Mackie Road and includes space around the dwelling that is similar to the existing dwelling on the site. It will be a more modern form and materials than many other nearby sites but simply because the new house will be a different form does not make the proposal inappropriate to the existing character that is evolving. With this it is noteworthy that an earlier iteration of the plans for the proposal was advertised by the council to neighbours with no objections being received. Notice of the amended proposal was given through the Tribunal proceeding before the hearing, with again no opposition made to the proposal through the submission of statements of grounds to the Tribunal.
- 23 The new dwelling will be more pronounced in the streetscape than the existing dwelling, but it follows some of the elements of other new buildings in the area including the use of lighter toned materials. Render can be found on other dwellings. The Mulgrave library building found at the reserve to the direct west of the site also uses light render and timber cladding. I am satisfied that a light tone can be used, but will impose a permit condition that it is not highly reflective, or glaring. I have adopted a commonly used benchmark of no more than 40% reflectivity in the rendered finish.
- 24 The council submits the proposed dwelling will sit incongruously with the existing dwelling to the rear that includes a pitched roof and a variation in materials. The new dwelling will be different, but the two dwellings will not be read together in the street. They will be more exposed on side view, but the new dwelling has a roof height slightly lower than the adjoining



dwelling pitch due to its flat roof form. It therefore will be not much higher than the wall height of the adjoining dwelling. There will only be a limited view of reading the two dwellings together, either from over the fence of the adjoining park, or from the rear yard of 32 Mackie Road. I am satisfied the difference in the dwellings in these limited views is acceptable.

- 25 I have already addressed the neighbourhood character objectives of the GRZ3 above. In addition to these objectives found in the zone schedule, there is character policy set out in clause 22.01. Elements of this policy interlink with clause 54.06-1 of the planning scheme that encourages design detail that respects the existing or preferred neighbourhood character.
- 26 Clause 22.01 includes some general directions that apply across the municipality. This includes policy for built form and scale to:
- Ensure taller buildings incorporate sufficient articulation, including recessed upper levels, to respect the prevailing scale of the adjoining dwellings and the neighbourhood.
 - Incorporate higher degrees of articulation for double storey development in streetscapes where the prevailing built form is single storey.
 - Retain human scale, and by the inclusion of significant breaks and recesses in building massing, avoid large block like structures dominating the streetscape
 - Respect the roof forms and pitches of existing dwellings in the neighbourhood.
 - Discourage reproduction or mock-historic building styles incorporating superficial detailing whilst promoting contemporary designs of the present era.
 - Complement the landscape setting of adjoining public open space areas and the creek environs by minimising the scale and massing of the development, and incorporating landscaping, which ensures vegetation is the dominant element when viewed from the public open space, the creek reserve, the street and adjoining properties.
- 27 Clause 22.01 sets out different residential character types for the municipality with the review site located in ‘Garden City Suburbs – Northern Areas’. This area encompasses a large area of the municipality, from north to south. The preferred character for this northern area includes direction that there will be some changes to housing in the area, but these will take place within a pleasant leafy framework of well-vegetated front and rear gardens and large canopy trees. This emphasises the need for a landscaped front yard and the deletion of the crossover and driveway in the front yard. I remain satisfied that in this proposal the need for a leafy ‘rear’ yard is not necessary as it forms a break to the dwelling of 2/34 Mackie

Road that in turn has a large rear setback, consistent with other dwellings in the area.

- 28 The council submits that the proposal does not appropriately address that part of the character statement that states:
- new development will complement the established 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.’
- 29 The use of a render material is not new to the area and is found in newer buildings, even single storey dwellings such as at nearby 23 Mackie Road. The council submits that particularly to the west, the building will be an unarticulated and dominating mass to the adjoining park. The proposed dwelling will be more visually exposed to the adjoining park due to its height. However, it will be set back over 4 metres from the boundary at ground level and over 5 metres at first floor. The upper level is 18 metres long where it interfaces with the park, across a property length of about 29 metres to the park. The setbacks to the park are more than sufficient for the height and length of upper storey form to ensure that the building will not overwhelm the park. Nor are there any unreasonable shadow impacts identified.
- 30 The windows to the west of the dwelling enable good passive surveillance to the park. This is a positive attribute having regard to general urban design principles encompassed in clause 15.01 of the planning scheme. The proposal also includes good use of northern orientation as sought by energy efficiency considerations in the character provision.
- 31 The council is critical that this western elevation will be too close to the shared driveway so will lack room for landscaping. On the western elevation the building includes an element of sheer two storey wall, but in context of a modern rectilinear form as is common in contemporary architectural language. Much of this western elevation includes a recess of 1 metre between the upper and lower level, above which is a proposed planter box. The council questions how the planter box will work. The applicant advised that it will be accessible for maintenance from the upper windows. Planter boxes assist breaking down the design and relevant permit conditions can ensure it is established and maintained in an appropriate manner. It may be that the planter area is ultimately not as substantive as depicted in the elevation drawings given not all of it may be easily or safely accessed. I do not rely on the planter box as a key consideration to the interface. It is the upper level 1 metre setback that creates shadow line and variation in building form, combined with ground floor landscape that are the important elements to this western setback.



- 32 The existing ground level landscaping on the review site ‘bleeds’ out into the common property of the two lots forming 34 Mackie Road. There is a need for landscaping in the common area to be retained or replaced with the development on the review site. This common property is the subject of a separate existing planning permit that enabled the development at 2/34 Mackie Road, and is not before me. I was, however, provided a copy of the endorsed plans for this permit³ that confirms the landscaping along the shared driveway is sitting in both the common property and 1/34 Mackie Road, that forms the review site.
- 33 I am satisfied that landscaping along the drive edge as it interfaces the proposed dwelling can be provided. It may require an amendment to the existing permit and this is something the applicant will need to address. It is a separate matter that is not before me. Based on the landscaping that can be provided on the review site and what forms part of the endorsed plans for the adjoining common property I am satisfied that the western elevation as it presents to the park to the west and to the common drive is an acceptable response to its specific site context.

Character conclusions

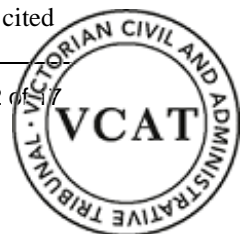
- 34 The proposed new dwelling does not replicate older style dwellings in the street but this is not a site in a heritage overlay, or a neighbourhood character overlay directs a specific material or roof form to be protected.
- 35 The proposal seeks to establish a new dwelling, that meets the needs of future occupants with a modern lifestyle on a smaller lot where the planning scheme directs a need to consider siting and design. The applicant referred to an old decision of the former Administrative Appeals Tribunal, that in turn referred to the pre-cursor to clause 54, through the Good Design Guide, commenting that being respectful of neighbourhood character, does not require a ‘slavish repetition of what already exists’⁴. While the planning scheme provisions have changed, the intent of this commentary remains in the current Planning Practice Note 43 – Understanding Neighbourhood Character. Notably that:

Respecting character does not mean preventing change. The neighbourhood character standard is not intended to result in the replication of existing building stock or stop change.

- 36 The practice note goes on to comment that ‘it is important that respecting character is not taken too literally, as a new character will emerge in response to these new social and economic conditions’. It refers to then fitting in through either or both; the scale and form of the proposed

³ Permit Number 39373 – plans endorsed 2 October 2012 and landscape plan endorsed 21 September 2012.

⁴ See *Australand Holdings Pty Ltd v City of Boroondara and Crow and Other* (1997/47741) as cited in 21 AATR, 1998 – Page 3.



development to the surrounding area; and respecting the architectural style of the area.

- 37 In this location the architectural style of dwellings is evolving as new dwellings replace older ones. The neighbourhood character policy and objectives in GRZ3 and 22.01 emphasise the need for setbacks and space for landscaping as its core. The proposal, with an amended front garden setting, can achieve this.

ARE THERE ANY OTHER REASONS WHY THE PERMIT SHOULD NOT BE GRANTED?

- 38 The council acknowledges that the proposal does not result in any unreasonable overlooking or overshadowing to adjoining properties. In discussion of draft permit conditions the council identified that the garage to the dwelling may need to be widened or moved slightly east to accommodate a sufficient turning circle for vehicles. I expect this may lead to a minor change in the garage layout, but this can be accommodated in the dwelling design without any undue impact on character or the amenity of neighbours due to the location of the garage.
- 39 The council also questioned the quality of the plans, noting that in places, the plans lack dimensions. I am satisfied that the plans before me have sufficient detail to determine a permit can be granted. Some additional dimensions can assist in endorsing plans to ensure that the ultimately constructed dwelling accords with the endorsed plans.

CONCLUSION

- 40 Provided permit conditions are put in place to ensure that plans are correctly notated, and that the front of the dwelling is softened by new landscaping, I am satisfied that the contemporary look of the proposed dwelling can fit comfortably into the evolving character of Mackie Road.
- 41 For the reasons given above, the decision of the responsible authority is set aside. A permit is granted subject to conditions as set out in Appendix A.

Alison Glynn
Member



APPENDIX A – PERMIT CONDITIONS

PERMIT APPLICATION NO	TPA/54018
LAND	1/34 Mackie Road MULGRAVE VIC 3170

WHAT THE PERMIT ALLOWS

In accordance with the endorsed plans:

- Construction of a dwelling on a lot less than 500 square metres.

CONDITIONS

- 1 Before the development starts, amended plans drawn to scale and correctly dimensioned must be submitted to the satisfaction of and approved by the Responsible Authority. When approved, the plans will be endorsed and then form part of the Permit. The plans must be generally in accordance with the plans submitted to Council prepared by RBi Architects, Job no. 22-22, Revision C dated February 2023, but modified to show:
 - (a) Replacement of the existing footpath/driveway in the front setback area of the dwelling with landscaping and pavers to provide for a central pedestrian (only) access to Dwelling 1.
 - (b) Removal of the north-east crossover and reinstatement of nature strip, curb and channel in accordance with Council requirements.
 - (c) Details of external materials and finishes to demonstrate they have less than 40 percent reflectivity.
 - (d) The clothesline in the rear open space off the laundry relocated to the wall of the 'theatre' and a 1 metre strip of screen planting provided including the provision of a medium height tree in this location along the boundary with No. 32 Mackie Road.
 - (e) The 'refuse bins' located in an appropriate location that is not visible to the street.
 - (f) The ground level front façade on the elevations (behind the brush hedge fence) with glazing/door to this perspective to improve the open space connection.
 - (g) Water tanks (if provided) in locations that will not restrict the provision of landscaping.
 - (h) Air-conditioning/cooling units, condensers and the like located on roofs, external walls or on balconies in discrete locations that minimise noise impacts to abutting properties.



- (i) Any required fire services, electricity supply, gas and water meter boxes to be discreetly located and/or screened to compliment the development. Any required services must be clearly detailed.
- (j) A swept path assessment demonstrating satisfactory access in accordance with clause 52.06-9 of the planning scheme, prepared by a suitably qualified traffic engineer to the satisfaction of the Responsible Authority, and any required modifications to the plans as a result of the assessment.
- (k) On the elevation plan, reduction of the upper level component of the southern party wall above the garage roof to the minimum height required.
- (l) A Landscape Plan in accordance with condition 2 of this Permit.

Landscaping

- 2 Concurrent with the endorsement of any plans requested pursuant to Condition 1, a landscape plan prepared by a Landscape Architect or a suitably qualified or experienced landscape designer, drawn to scale and dimensioned must be submitted to and approved by the Responsible Authority. When endorsed, the plan will form part of the Permit. The Landscape Plan must be generally in accordance with the Landscape Concept Plan submitted with the application except that the plan must be modified to show:
- (a) A survey and location of all existing trees, using botanical names to be retained and of those to be removed. The intended status of the trees shown on the landscape plan must be consistent with that depicted on the development layout plan;
 - (b) A planting schedule of all proposed trees, shrubs and ground cover, which will include the size of all plants (at planting and at maturity), pot / planting size, location, botanical names and quantities;
 - (c) Removal of the existing tree in the front setback and replacement with a tree that will grow to at least the height of the dwelling. The tree must be at least 1.5 metres at the time of planting and have an upward growth habit with a minimum 4 metre canopy spread.
 - (d) Provision of a medium height canopy tree in the south-west planting bed (next to the driveway within the title boundary of the land);
 - (e) Shrubs and plantings forward of the dwelling including a mix of native and exotic species to the front and side of the dwelling (driveway);
 - (f) The provision of a medium height tree in the service yard next to 32 Mackie Road and the private secluded open space of the dwelling.
 - (g) Any internal fencing internal to the site;



- (h) planting to soften the appearance of hard surface areas such as driveways and other paved areas. This can include planting along the edge to the common property driveway. Such planting should be consistent with the endorsed landscaping plan of planning permit 39373, being the plan dated 21 September 2012, or as otherwise amended with the approval of the responsible authority.
- (i) details of all proposed surface finishes including pathways, accessways, patio or decked areas; and
- (j) An in-ground, automatic watering system linked to rainwater tanks on the land must be installed and maintained to the common garden areas to the satisfaction of the Responsible Authority.

When approved the plan will be endorsed and will then form part of the permit.

Landscaping Before occupation

- 3 Before the occupation of any of the buildings allowed by this permit, landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority and thereafter be maintained to the satisfaction of the Responsible Authority.

Tree Protection Fencing and Material near Trees

- 4 Tree Protection Fencing is to be erected around the nature strip and allow for visibility for vehicles accessing and egressing the land. The fence is to remain in place until the development is fully completed.
- 5 No building material, demolition material, excavation or earthworks shall be stored or stockpiled on the nature strip during the demolition, excavation and construction period of the development hereby permitted without the prior written consent of the Responsible Authority.
- 6 All plantings along the common property are to be protected during the construction period. Any plants damaged are to be replaced to the satisfaction of the Responsible Authority.

Stormwater Drainage

- 7 The site must be drained to the satisfaction of the Responsible Authority. Stormwater must be directed to the Point of Connection as detailed in the Legal Point of Discharge report. Stormwater must not be allowed to flow into adjoining properties including the road reserve.

On-Site Detention of Stormwater

- 8 Stormwater is to be detained on site to the predevelopment level of peak stormwater discharge. The design of any internal detention system is to be approved by Council's Engineering Department prior to any stormwater drainage works commencing.

Sediment Laden Stormwater Run-off

- 9 No polluted and/or sediment laden stormwater runoff is to be discharged directly or indirectly into Council's drains or watercourses during and after development, to the satisfaction of the Responsible Authority.

Engineering Approval Required

- 10 A plan detailing the stormwater drainage and civil works must be submitted to and approved by the Engineering Department prior to the commencement of any works. The plans are to show sufficient information to determine that the drainage and civil works will meet all drainage requirements of this permit. Refer to Engineering Plan Checking on www.monash.vic.gov.au.

Satisfactory Continuation and Completion

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

Permit Expiry

- 12 This permit will expire if one of the following circumstances applies:
- (a) The development is not started within two (2) years of the issue date of this permit.
 - (b) The development is not completed within four (4) years of the issue date of this permit.

In accordance with section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

– End of conditions –