

# VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

## PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P954/2024  
PERMIT APPLICATION NO.TPA/55463

### CATCHWORDS

Section 77 *Planning and Environment Act 1987* (Vic), General Residential Zone – Schedule 3, neighbourhood character, access to a road in Transport Zone, visual bulk, landscape, tree protection, overlooking, amenity.

<b>APPLICANT</b>	Aym Au Pty Ltd
<b>RESPONSIBLE AUTHORITY</b>	Monash City Council
<b>SUBJECT LAND</b>	235-237 High Street Road ASHWOOD VIC 3147
<b>HEARING TYPE</b>	Hearing
<b>DATE OF HEARING</b>	28 and 29 January 2025
<b>DATE OF ORDER</b>	31 January 2025
<b>CITATION</b>	Aym Au Pty Ltd v Monash CC [2025] VCAT 88

### ORDER

#### Amend permit application

- 1 Under clause 64 of Schedule 1 of the *Victorian Civil and Administrative Tribunal Act 1998* (Vic), the permit application is amended by substituting for the permit application plans, the following plans filed with the Tribunal:

Development Plans Alta Architecture Pty Ltd  
prepared by:

- Drawing numbers: Job No. 1061: Drawings TP-01 to TP-06, TP-08 to TP-10 and TP-12; all revision E.
- Dated: 25 November 2024

Landscape plan prepared by: Habitat

- Drawing number: Sheet 1 – issue B
- Dated: December 2024

#### Permit granted

- 2 In application P954/2024 the decision of the responsible authority is set aside.



- 3 In planning permit application TPA/55463 a permit is granted and directed to be issued for the land at 235-237 High Street Road ASHWOOD VIC 3147 in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:

<b>Planning scheme clause</b>	<b>Matter for which the permit has been granted</b>
Clause 34.08-7	Construct two or more dwellings on a lot.
Clause 52.06-3	Reduce the number of car spaces required under clause 52.06-5.
Clause 52.29-2	To create or alter access to a road in a Transport Zone 2.

Alison Glynn  
Senior Member

### **APPEARANCES**

For applicant

Dominic Scally, lawyer of Best Hooper Lawyers. They called the following witnesses:

- Sam D'Amico, town planner
- Leigh Furness, traffic engineer
- Robert Thompson, landscape architect

For responsible authority

David De Giovanni, consultant town planner.



## INFORMATION

Description of proposal	Construction of six, double storey dwellings with access from a new central driveway.
Nature of proceeding	Application under section 77 of the <i>Planning and Environment Act 1987</i> (Vic) – to review the refusal to grant a permit.
Planning scheme	Monash Planning Scheme
Zone and overlays	General Residential Zone – Schedule 3 ('GRZ3').  The land abuts High Street Road that is in a Transport Zone 2 – Principal road network ('TRZ2')  No overlays.
Permit requirements	Clause 32.08-7, construct two or more dwellings on a lot.  Clause 52.29, alterations to an access to a road in Transport Zone 2.
Key relevant scheme policies and provisions	02, 11.01, 15.01, 16, 18.01, 32.08, 52.29, 55, 65.01, 71.02-3.
Land description	The land comprises two lots with a combined frontage of 33.556 metres to the north side of High Street Road, and a depth of 48.3 metres to create a 1,600 square metre site. The site contains two dwellings and slopes up from High Street Road to the rear, northern boundary.  To the east is a single dwelling and then an apartment building at the corner of Huntingdale Road. To the west are two pitched roof dwellings on a lot. To the rear are a series of dwellings and dual occupancies on lots in Leonard Street.
Tribunal inspection	I inspected the site and surrounds from the public domain, prior to the hearing.

## REASONS<sup>1</sup>

### WHAT IS THIS PROCEEDING ABOUT?

- 1 Aym Au Pty Ltd ('applicant') is seeking a planning permit to construct six, double storey dwellings across two lots at 235–237 High Street Road, Ashwood ('site') where there is currently two single storey dwellings across two lots.
- 2 Monash City Council ('council') has refused to grant a permit for the proposal, principally because it considers the proposal is contrary to the preferred neighbourhood character policies applying to the land, including policy to retain existing canopy trees and plant new landscaping on the site.
- 3 The council also submits the access to proposed garages and to High Street Road is unacceptable. The proposal was referred to the Department of Transport as the proposal creates a new access to High Street Road that is in a Transport Zone. The department is not opposed to the grant of a permit, subject to conditions.
- 4 One statement of grounds from an owner of an apartment at the corner of Huntingdale Road and High Street Road also submits that the proposal may lead to unreasonable overlooking and overshadowing to their apartment.
- 5 The Tribunal must determine if a permit should be granted having regard to the relevant provisions of the Monash Planning Scheme ('scheme') having regard to the site context, submissions and evidence provided. Having reviewed the relevant issues raised I find the proposal acceptable, subject to some changes that can be addressed by conditions to a permit. The decision of the council is set aside and a permit is directed to be issued. My reasons follow.

### WHAT ARE THE KEY ISSUES?

- 6 From the submissions and evidence I find there are several issues I need to determine:
  - a Is the proposed design an acceptable response to the preferred neighbourhood character of the area?
  - b Are the access arrangements acceptable?
  - c Is the reduction in on-site visitor parking acceptable?
  - d Are there other unreasonable off-site or on-site impacts?
- 7 I address these issues below.

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<sup>1</sup> The submissions and evidence 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.



## IS THE RESPONSE TO THE PREFERRED NEIGHBOURHOOD CHARACTER ACCEPTABLE?

- 8 The site is approximately 800 metres walking distance of the Jordanville Train Station and on an arterial road with a bus route. Its proximity to the train station means it is located in an accessible area as set out in council's Municipal Planning Statement at clause 02.03-5. This is one of a number of areas identified as having 'future development potential'. The site, however, is in General Residential – Schedule 3: Garden City Suburbs ('GRZ3'). The council submits this zoning recognises that while it is relatively close to public transport, it remains relatively isolated from an activity centre and is not directly adjacent to the train station where greater change in housing capacity is sought by the scheme. It is therefore categorised as part of the Garden Suburban (northern) area identified in character policy of the scheme.
- 9 The council submits that the proposal fails to meet the GRZ3 neighbourhood character objectives as it:
- Does not contribute to the preferred garden city character through the use of well landscaped, spacious gardens or sufficiently articulated buildings.
  - Does not provide accessways and open space areas that accord with character policy.
  - Does not provide 'generous front and side setbacks, landscaping in the front setback and breaks and recesses in the built form' as sought by the character objectives.
- 10 The council does not dispute that the proposal locates garages and carports behind the front walls of buildings, as sought by the GRZ3 objectives.

### Building form

- 11 The site is located in an area identified as 'Garden City Suburbs (northern)' in clause 15.01-5L when read in conjunction with the Monash Residential Character areas map within the clause. There are strategies specific to this area, although the area itself encompasses a broad area of the municipality. Of the strategies:
- There is no dispute that the proposal includes a transparent front fence sought by the strategies.
  - The proposal addresses the street and public open space to the south of High Street Road.
  - The proposal uses one vehicle crossover, where currently two exist across the site, and I am satisfied it 'limits' vehicle crossovers as sought by the character policy and the GRZ3 character objectives.

- 12 The council submits the design does not complement the established buildings through consistent siting, articulated facades and use of materials. It submits that rather, the design is essentially ‘boundary-to-boundary’ construction across the 33.56 metre wide site in an area where walls on boundary are rarely seen. The council submits that when combined with the use of flat roof and flat parapet forms for the two buildings facing the street, the proposal is not sufficiently respectful of the character of other dwellings in the area.
- 13 The development will be different to the two pitched roof dwellings adjacent to either side of the site, that form part of the main 1950/60s dwelling stock of the area. The use of flat roof with fins and parapet walls, however, is more consistent with many newer buildings occurring in the area, including the three storey apartment building at the corner of Huntingdale Road and other developments further west.
- 14 The site has no direct character impact on land south of High Street Road, with this land forming a park, across a four lane arterial road. In this broad, somewhat robust and evolving context I see no need to replicate a pitched roof modest form of the mid-20<sup>th</sup> century building stock.
- 15 The development includes a front dwelling to each side boundary of the site but I agree with Mr D’Amico’s planning evidence that this is not particularly different to what could have occurred if the site had developed as two, individual developments on the two lots, each with one side boundary and a drive to the other side.
- 16 Both the directly adjoining sites also have some elements of building either at one side boundary or close to boundary. As I discuss below the use of the central drive also means there is good opportunity for new landscaping to be planted across the frontage as sought by character policy at clause 15.01-5L.



Figure 1 - Streetscape elevation of site and two properties either side.

- 17 The building is modern in form and includes a flat roof, but also has a mix of render and brick, along with vertical fin treatments to upper level windows to create visual relief. Combined with landscaping proposed in the front yard I am satisfied that its modern appearance is not so overt as to unreasonably impact on the area’s character in context of its main road setting and other newer buildings emerging in the area. I also note that

neither immediate neighbour is a party to the hearing or lodged a statement of grounds opposing the proposal.

## Landscaping

- 18 The council submits the proposal fails the objectives and policy for character at clause 15.01-5L, tree conservation strategies across the municipality at clause 15.01-1L-02, and the objectives of GRZ3 to:
- Provide well vegetated front and rear gardens with shrubs and large canopy trees.
  - Provide rear setbacks that support a green corridor of open space along adjoining backyards.
  - Retain existing semi-mature and mature canopy trees, wherever possible, to maintain the existing tree canopy.
  - Design and site development to retain and conserve existing street trees.
  - Incorporate landscaping that reinforces the garden city character in all development, including by planting semi-mature canopy trees with spreading crowns in open space areas, along boundaries adjacent to neighbouring open space and in front setbacks.
- 19 The council is critical of a number of elements associated with the proposed landscaping.
- 20 Firstly, the council is critical that the proposal includes removing a relatively large *Grevillia Robusta* (Silky Oak) from the front yard of 237 High Street Road. The council submits that insufficient justification has been provided to remove this tree when it currently contributes to the landscape character of the area. Policy guidelines at clause 15.01-1L-02 – Tree conservation discourages the removal of trees that are higher than 10 metres high or have a trunk circumference of more than 500 millimetres, measured 1.2 metres above the ground. An arborist report submitted with the planning application identifies this tree is 18 metres high and has a diameter of 450 millimetres, measured 1.4 metres above ground level.
- 21 The arborist report identifies this tree as having moderate value and is likely to live for a number of years if left in place. The tree, however, is set back about 9.5 metres from the site frontage, so would require a significant alteration to a proposal, in context where the GRZ3 provisions seek a front setback of at least 7.6 metres on the basis that this is the conventional building setback of the area.
- 22 The tree is not protected by any local law or planning overlay. Altering the design to accommodate the tree would require a significantly greater setback over and above the 7.6 metre minimum setback set by the GRZ3 provisions to retain the tree. Mr Thompson’s landscape evidence is that

while the tree may be viable for a number of years it will require extensive maintenance due to the nature of this tree species. His evidence is that it is better to accommodate a new tree, more appropriate to the setting, as part of a comprehensive landscape proposal for the site. As I explain below, I am satisfied this alternate, new landscape response is acceptable and find no compelling reason to retain the existing tree that would significantly compromise any new housing development on the land.

- 23 Secondly, the council submits that the proposal may impede the continued growth of a street tree and adjoining trees to the west of the site. Tree 19 on plans is a street tree just west of the proposed new crossover. With changes to retaining walls and site cut as set out in the amended plans and amended landscape plan, the impact on this tree is nominated as a 10 percent encroachment from the new accessway and crossover. Ten percent is the point at which arboricultural guidance in Australian Standards states further investigation is warranted to manage works within a nominated tree protection area. The council submits that some landscape works, such as proposed entry steps and front fencing will add to encroachment beyond the 10 percent.
- 24 All of the proposed works in the tree protection area are either at the surface or require modest excavation. Provided there are relevant tree management provisions put in place through permit conditions I am satisfied this tree can be comfortably managed. This is noting that the tree is one that already tolerates its location in a road reserve with overhead powerlines and is poorly located adjacent to an existing power pole. With the removal of other crossovers associated with the site, a longer term solution may be to plant new street tree/s away from this existing power pole. This is a matter for the council to consider in its longer term street tree management.
- 25 The tree group (tree 22 on plans) to the west of the site abuts an existing concrete drive on the western side boundary of the site. The group comprises a variety of older fruit trees. I accept Mr Thompson's evidence that these trees are already likely to have reduced root growth under the drive. Again provided tree management provisions are in place to manage construction near these trees I am satisfied the response is acceptable.
- 26 Thirdly, the council submits that the proposal lacks sufficiently generous space for, and planting of, new trees. The GRZ3 schedule varies the clause 55 requirement for landscaping to state that new development 'should provide or retain' at least one canopy tree plus at least one canopy tree per 5 metres of site width, as well as a mix of vegetation in the front, side and rear setbacks. The schedule states 'a canopy tree should reach a mature height at least equal to the maximum building height of the new development'. The proposed maximum building height is 7.5 metres, with much of the building less than 7.0 metres.



- 27 For a site width of just under 34 metres, a minimum of eight trees with a mature height of at least 7.5 metres needs to be provided or retained on the site. A landscape plan, forming part of the amended plans, includes 11 new canopy trees with a mature height of over 8 metres and another seven trees or shrubs with a mature height of seven metres. This provision well exceeds the clause 55.03-8 requirements with the varied GRZ3 schedule. In addition, the proposal includes a screen hedge across the front of the site that can assist in the direction to ‘screen new development from the street and neighbouring properties with well-planted gardens’.<sup>2</sup> Providing a hedge will also provide some visual and noise protection for residents of the proposed dwellings from the arterial road.
- 28 The secluded private open space (‘SPOS’) areas of all dwellings meet the clause 55.05-4 requirements for SPOS, noting that the GRZ3 schedule requires this to be at least 35 square metres in area with a minimum dimension of 5 metres. The council remains critical that the spaces are not sufficiently large to also accommodate canopy planting. The council also comments that two of the dwellings lack the composite 75 square metres of private open space.
- 29 Mr Thompson’s landscape plan includes a canopy tree in each SPOS and I am satisfied that the spaces are sufficient to provide both landscape and open space outcomes. While two of the dwellings lack the total 75 square metres of space, other dwellings well exceed the minimum and the development as a whole has less than 50 percent site coverage and 39 percent permeability. Overall, I am satisfied the design provides for front side and rear setbacks that can accommodate canopy planting as sought by the character and landscape policies of the scheme.
- 30 Finally, the council is critical that the rear setback of dwellings 3 and 4 does not, in part, meet the minimum rear setback of five metres as required by clause 55.04-1 when read with the GRZ3 schedule. When combined with the location of a sewer easement in this rear setback, the council submits there is insufficient landscaping and space to create a green spine as sought by the character objectives.
- 31 The rear setback includes a bedroom to each of dwelling 3 and 4 that is set back only four metres from the rear boundary. In reviewing the rear setback the council submits that a small section of the upper level is also within five metres. The remainder of the development is setback the standard five metres.

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<sup>2</sup> Clause 15.01-5L, Garden City Suburbs (northern) strategies.



## ARE THE ACCESS ARRANGEMENTS ACCEPTABLE?

### Accessway width

- 37 The council submits that the proposed central drive in the front setback and at the crossover is only 5.5 metres wide, below the 6.1 metre standard set in clause 52.06 of the scheme. The council submits this will make entering and exiting the site potentially difficult if cars need to pass another in the opposite direction.
- 38 The proposal was referred to the Department of Transport, given the site abuts a road in a transport zone. The department does not oppose the proposal subject to conventional conditions about crossover construction and removal of redundant crossovers. Traffic evidence of Mr Furness explained that the Australian Standard for a driveway of sufficient width for passing is 5.5 metres and then accommodates a 0.3 metre wide curb to either side, equating to the 6.1 metres in the scheme. With no curb proposed, he is satisfied the driveway is sufficiently wide. His evidence is that while the swept path analysis shows a B85 and B99 vehicle as being close to each other if needing to pass, they can still achieve such a monoverse.
- 39 The traffic evidence indicates that the development is likely to generate four vehicles entering and exiting the site at peak hour, (three vehicles out and one in, or vice versa). The likelihood of vehicles needing to manage a passing manoeuvre will therefore be very small. As the road is separated, the only access manoeuvre out is to the left, that generally requires less wait time than a right hand turn onto a busy road. This further reduces the potential of a car entering while another is waiting to exit the site. If it does occur it will be between vehicles of the same development familiar with the access. Based on the traffic evidence and the acceptance of the proposal by the Department of Transport as the road manager I am satisfied the access is acceptable.
- 40 I note that the applicant questioned Mr Furness as to whether a wider angle of the eastern side of the crossover may assist in manoeuvring out of the site. Mr Furness's evidence is that a widening of the curb to the east of the driveway is not needed, but could be put in place if considered desirable to assist in easier exit. On Mr Furness's expert evidence I find no reason to impose a wider curb to the east of the drive as a permit condition.

### Visibility of the accessway

- 41 The council submits that the central driveway will be visually dominant due to the topography of the land, rising up. All of the driveways in the area, including the existing two driveways on the site rise up so that their pavement is seen from the street. This is part of the character of the area.

- 42 The proposed driveway terminates in a landscape area with canopy planting to soften the overall form of the driveway. As a driveway accessing a road in a transport zone, the driveway is required to be wide enough to accommodate passing vehicles. This is the nature of development on a main road and I am satisfied the design has acceptably balanced the need for access and passing, while also providing landscaping commensurate with its GRZ3 and clause 15.01-5L character objectives and guidelines.

### **Access into garages**

- 43 The council submits that the turning circles into some of the garages is tight and requires correction manoeuvres of vehicles to enter or exit the garages. The council also questions the usability of rear or side pedestrian doors to the garages where cars will park close to the doors.
- 44 The swept path analysis shows that for a larger car a correction manoeuvre may be required to enter some of the on-site car spaces. I agree with Mr Furness's evidence, however, that in a low volume residential environment this is acceptable. Occupants of the dwellings will be familiar with the turning requirements. I find this is not a fatal flaw in the proposal. Whether the pedestrian entries to the rear or side of the garage doors should swing out or in is a matter for the applicant to confirm in finalising plans for endorsement and construction. I am satisfied the conventional dimensions provided in the garages can provide for pedestrian circulation.

### **IS THE REDUCTION IN ON-SITE VISITOR PARKING ACCEPTABLE?**

- 45 Clause 52.06 of the scheme sets standard requirements for the provision of on-site car parking. The standard requirement for parking associated with the dwellings is met. The proposed six dwelling development requires one on-site visitor car space and none is provided. Varying the standard to nil can be achieved with planning permission as directed by clause 52.06-3.
- 46 The evidence of Mr Furness is that there is more than adequate on-street parking available in the nearby area to accommodate visitors and therefore the reduction is acceptable. The council submits that while it is legal to park in front of the site, the geometry of the road and designated lanes discourage people from parking in this immediate area. This may be so, but it is an existing condition that the site and adjoining sites already contend with. There is no evidence that it has led to a parking demand issue in the area. I am satisfied that the reduction of the one visitor space is acceptable when there is parking in the general area.

### **OTHER ISSUES**

- 47 There are no significant off-site amenity impacts identified. A statement of grounds from an occupant of the apartment building to the east questions overlooking and overshadowing of their property. The council submits that there may be a small increase in shadow to the SPOS of a dwelling to the

west, although it acknowledges the extent of additional shadow at the equinox is minor. No submission was made that the additional shadow results in non-compliance with the standard set at clause 55.04-5.

- 48 My review of the plans and documents is that the relevant provisions of the scheme are met in relation to overshadowing. The proposal also appears to meet relevant overlooking requirements. This can be clarified through permit conditions that are unopposed by the applicant.
- 49 The council questioned the safe and legible entry of some of the dwellings that are not well seen from the street. During the hearing I noted that the entries to dwellings 2 and 5, and more particularly 3 and 4 lack passive surveillance due to the entry doors being behind alcoves with no windows.
- 50 This can be addressed through the provision of glazing in the doors to provide passive surveillance to both visitors and occupants. There is also an opportunity to increase windows to bedroom 1 of dwellings 3 and 4, although I will not mandate this specific outcome as a permit condition. The council is critical that the windows to these bedrooms sit above potential bin storage and therefore a poor outcome. Given these are highlight windows I am satisfied their placement is acceptable. An additional small window to each of these bedrooms, or a replacement window, to face south, could provide better dwelling entry treatment. Provided some additional surveillance through glazing in or near the entry doors is provided I am satisfied the dwelling entries are acceptable.
- 51 The council acknowledges that the standard at clause 55.05-5 of the scheme for solar access to SPOS is met, but still questions if its relevant objective to allow solar access into SPOS areas is met given the need for canopy planting in these spaces. Mr Thompson explained that he has proposed deciduous trees in the SPOS areas to maintain solar access during winter months, while providing shade in the summer months. The site also has access to parkland south of High Street Road, providing an alternative area of open space for residents to use if needed. I am satisfied that both the standard and objective of clause 55.05-5 is met.
- 52 The proposal includes storage sheds, some of which require relocation or alteration to accord with the landscape plan. This can be addressed by permit condition. The amended plans also include above bonnet storage in garages that appears unworkable as they conflict with side and rear pedestrian access out of the garages. The applicant acknowledged these garage storage areas could be removed and I will require by permit condition they be removed due to their potential conflict. Some additional storage may be possible in the garages, but not in the form shown on the application plans.
- 53 The council submits that the proposal does not include appropriate provision for waste collection as it is likely to require 12 bins put on the street on collection day. As Mr Furness commented, the site at 33.5 metres

wide, with about 29 metres retained a nature strip, has ample room to accommodate 12 bins. I find the capacity of the site to accommodate waste collection by conventional on-street collection acceptable.

## **CONCLUSION**

- 54 For the reasons given above, the decision of the responsible authority is set aside. A permit is granted subject to conditions.
- 55 The conditions reflect the draft, without prejudice conditions provided by the council but with some changes for reasons set out above and some minor editorial changes discussed at the conclusion of the hearing. This includes changing condition 7 to refer to a sustainability design ‘assessment’ and some minor wording changes to the condition requiring a tree management plan. I have also changed the order of tree management conditions for clarity of reading.
- 56 Finally, I have accepted the applicant’s request to amend the time for permit commencement and completion to address the ongoing complex nature of transforming permits to completed development.

Alison Glynn  
**Senior Member**



## APPENDIX A – PERMIT DESCRIPTION AND CONDITIONS

<b>PERMIT NO</b>	TPA/55463
<b>PLANNING SCHEME</b>	Monash Planning Scheme
<b>RESPONSIBLE AUTHORITY</b>	Monash City Council
<b>ADDRESS OF THE LAND</b>	235-237 High Street Road ASHWOOD VIC 3147

### THE PERMIT ALLOWS:

<b>Planning scheme clause</b>	<b>Matter for which the permit has been granted</b>
Clause 34.08-7	Construct two or more dwellings on a lot.
Clause 52.06-3	Reduce the number of car spaces required under clause 52.06-5.
Clause 52.29-2	To create or alter access to a road in a Transport Zone 2.

### CONDITIONS TO APPLY TO THE PERMIT:

#### Amended plans

- 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 drawing numbers TP-01 to TP-12 (inclusive), prepared by Alta Architecture, Revision E, all dated 25 November 2024, but modified to show:
  - (a) Compliance with Standard B22 of clause 55 of the planning scheme for the north facing windows to the master bedrooms and rumpus rooms of units 3 and 4.
  - (b) Improvements to wayfinding and passive surveillance of the entries to dwellings 2, 3, 4 and 5 through the use of glazing in the entry doors and / or insertion of other ground floor windows toward the driveway entry.
  - (c) Deletion of the above car bonnet storage areas from inside all of the garages.
  - (d) The location of storage sheds in rear yards that do not conflict with planting in the landscape plan.



- (e) Retaining walls to align with the locations shown in the landscape plan.
- (f) A sustainable design assessment in accordance with Condition 7 of this permit.
- (g) A landscape plan in accordance with Condition 9 of this permit.
- (h) A tree management plan in accordance with Condition 11 of this permit.

All the above to the satisfaction of the Responsible Authority.

### **Layout not to be Altered**

- 2 The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

### **Compliance with documents approved under this permit**

- 3 At all times what the permit allows must be carried out in accordance with the requirements of any document approved under this permit to the satisfaction of the responsible authority.

### **Conditions by Department of Transport and Planning**

- 4 Prior to the occupation of the development, the new crossover and driveway must be constructed to the satisfaction of the Responsible Authority and at no cost to the Responsible Authority and Head, Transport for Victoria.
- 5 Prior to the occupation of the development, the redundant crossovers must be removed, and the area reinstated to the satisfaction of the Responsible Authority and at no cost to the Responsible Authority and Head, Transport for Victoria.
- 6 Vehicles must enter and exit the site in a forward direction at all times.

### **Sustainable Design Assessment**

- 7 Concurrent with the endorsement of plans requested pursuant to Condition 1, a Sustainable Design Assessment (SDA) must be submitted to and approved by the responsible authority, except that the plan must be modified to show any changes required by Condition 1 of this planning permit.

Upon approval the SDA will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the SDA to the satisfaction of the Responsible Authority.

- 8 The provisions, recommendations and requirements of the endorsed SDA report must be implemented and complied with to the satisfaction of the Responsible Authority.



## **Landscape Plan**

- 9 Concurrent with the endorsement of the amended development plans required by Condition 1 of this permit, an amended landscape plan prepared by a Landscape Architect or a suitably qualified or experienced landscape designer, drawn to scale and dimensioned must be approved by the Responsible Authority prior to the commencement of any works. The plan must be generally in accordance with the landscape plan prepared by Habitat, Drawing No. Sheet 1 of 1, Issue B and dated December 2024, but modified to show the following:-
- (a) The extent of any cut, fill, embankments or retaining walls associated with the landscape treatment of the site.
  - (b) 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.
  - (c) The location of external lighting (if any).
  - (d) Details of all proposed hard surface materials including pathways, patio or decked areas.
  - (e) Storage shed for dwelling 1 relocated to the west of the bins in north east corner of the secluded private open space

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

## **Landscaping Prior to Occupation**

- 10 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 Management Plan**

- 11 Concurrent with the submission of amended plans required by Condition 1 and prior to any demolition or site works, a Tree Management Plan (TMP) must be submitted to and approved by the Responsible Authority. The TMP must be prepared by a suitably qualified and experienced Arborist.

The TMP must make specific recommendations in accordance with the Australian Standard AS4970: 2009 - Protection of Trees on Development Sites and detail the following to the satisfaction of the Responsible Authority ensuring the two street trees in front of the site and the neighbouring trees (i.e. Trees 7, 8, 11, 12, 13, 18, 19, 20 and 22 marked in the arboriculture assessment and report dated 13 October 2023) remain healthy and viable during construction:

- (a) A Tree Protection Plan drawn to scale that shows:

- i Tree Protection Zones (TPZ)s and Structural Root Zones (SRZ)s of Trees 7, 8, 11, 12, 13, 18, 19, 20 and 22;
  - ii All tree protection fenced off areas and areas within the subject site where ground protection systems will be used;
  - iii The type of footings within any tree protection zones, which for Trees 11 and 19 must be in accordance with the footing systems specified in the memorandum of Kelvin Lui consultant arborist of Tree Logic dated 17th December 2024 filed in VCAT proceeding P954/2024;
  - iv Any services to be located within the tree protection zone and a notation stating all services will either be located outside of the tree protection zone, bored under the tree protection zone, or installed using hydro excavation under the supervision of the Project Arborist; and
  - v A notation to refer to the TMP for specific detail on what actions are required within the tree protection zones.
- (b) Details of how the root system of any tree to be retained will be managed. This must detail any initial non-destructive trenching and pruning of any roots required to be undertaken by the Project Arborist;
  - (c) Supervision timetable and certification of tree management activities required by the Project Arborist to the satisfaction of the responsible authority; and
  - (d) Any remedial pruning works required to be performed on tree canopies located within subject site. The pruning comments must reference Australian Standards 4373:2007, Pruning of Amenity Trees and a detailed photographic diagram specifying what pruning will occur.

The recommendations contained in the approved TMP must be implemented to the satisfaction of the Responsible Authority.

### **Tree Protection**

- 12 Before any development (including demolition) starts on the land, a tree protection fence must be erected in accordance with the approved TMP. The tree protection fence must remain in place until all construction is completed on the land, except with the prior written consent of the Responsible Authority.
- 13 No building material, demolition material, excavation or earthworks shall be stored or stockpiled within the TPZ of any tree to be retained during the demolition, excavation and construction period of the development hereby permitted without the prior written consent of the Responsible Authority.



## **Drainage and Stormwater**

- 14 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.
- 15 No polluted and/or sediment laden 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.
- 16 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.
- 17 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.
- 18 The full cost of reinstatement of any Council assets affected by the demolition, building or construction works, must be met by the permit applicant or any other person for such damage, to the satisfaction of the Responsible Authority.

## **Vehicle Crossovers**

- 19 All disused or redundant vehicle crossovers must be removed and the area reinstated with footpath, naturestrip, kerb and channel to the satisfaction of the Responsible Authority.
- 20 Any new vehicle crossover or modification to an existing vehicle crossover must be constructed to the satisfaction of the Responsible Authority.
- 21 Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose, to the satisfaction of the Responsible Authority.

## **Privacy Screens**

- 22 Prior to the occupancy of the development, all screening and other measures to restrict overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained ongoing to the satisfaction of the Responsible Authority. The use of obscure film fixed to transparent glass or windows is not considered to be 'obscure glazing' or an appropriate response to screen overlooking.

### **Boundary Walls**

- 23 Any walls proposed on the boundary of adjoining properties shall be cleaned and finished in a manner to the satisfaction of the Responsible Authority.

### **Reticulated Gas Service Connection**

- 24 Any new dwelling allowed by this permit must not be connected to a reticulated gas service (within the meaning of clause 53.03 of the relevant planning scheme). This condition continues to have force and effect after the development authorised by this permit has been completed.

### **Satisfactory Continuation and Completion**

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

### **Time for Starting and Completion**

- 26 This permit as it relates to development (buildings and works) will expire if one of the following circumstances applies:
- (a) The development is not started within three (3) years of the issued date of this permit.
  - (b) The development is not completed within five (5) years of the issued date of this permit.

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

**– End of conditions –**