

# VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

## PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P143/2022  
PERMIT APPLICATION NO. TPA/52597

### CATCHWORDS

<b>APPLICANT</b>	Thanh Vu Nguyen
<b>RESPONSIBLE AUTHORITY</b>	Monash City Council
<b>SUBJECT LAND</b>	161 Wanda Street MULGRAVE VIC 3170
<b>HEARING TYPE</b>	Hearing
<b>DATE OF HEARING</b>	12 August 2022
<b>DATE OF ORDER</b>	12 August 2022

### ORDER

- 1 In application P143/2022 the decision of the responsible authority is set aside.
- 2 In planning permit application TPA/52597 a permit is granted and directed to be issued for the land at 161 Wanda Street, Mulgrave, in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:
  - Construction of three double storey dwellings

Laurie Hewet  
**Senior Member**



## APPEARANCES

For applicant

Ms Helen Ho

For responsible authority

Mr Peter English, town planner



## INFORMATION

Description of proposal	Construction of three double storey dwellings
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	Clause 32.08: General Residential Zone (GRZ3)
Permit requirements	Clause 32.08-6: A permit is required to construct two or more dwellings on a lot. A development must meet the requirements of Clause 55.
Land description	<p>The review site is located on the western side of Wanda Street, one property to the north of the Police Road intersection.</p> <p>The land is rectangular in shape, with a frontage to Wanda Street of 17.55 metres and a depth 48.73 metres. The land has an overall area of 854m<sup>2</sup>.</p> <p>The site is currently occupied by a single storey brick dwelling.</p> <p>The topography of the area is relatively flat, with the site having a very slight fall from the north down to the south.</p> <p>Surrounding residential development comprises predominantly original single-storey post-war housing. Some infill development is present.</p> <p>Abutting the site to the north is a single-storey dwelling with an open rear yard. To the west there is a single storey dwelling which is used as a medical centre.</p> <p>To the south there is a single-storey building with outbuildings to the rear. The site has frontages to both Wanda Street and Police Road. A planning permit for three dwellings on this site was approved by the Tribunal on 7 February 2018. The permit has been extended and expires on 27 August 2023.</p>



## REASONS<sup>1</sup>

- 1 This is an application to review the decision of the Responsible Authority to refuse permission for the construction of three dwellings at 161 Wanda Street, Mulgrave. The Responsible Authority issued a Notice of Refusal to Grant a Permit for the following reasons:
  1. The proposal fails to respect the existing and preferred future residential character of the area having regard to building form and design.
  2. The proposal does not meet the following objectives of Clause 55 of the Monash Planning Scheme:
    - Clause 55.02-1 Neighbourhood Character
    - Clause 55.03-8 Landscaping
    - Clause 55.03-10-Parking Location objective
    - Clause 55.05-2 Dwelling Entry
  3. The proposal represents a poor design outcome for the site.
  4. The proposal does not provide for adequate residential amenity for future occupants.
  5. The proposal is not deemed a site responsive design taking into consideration the opportunities and constraints that the subject site offers.
  6. The proposal is an overdevelopment of the site.
- 2 At the end of the hearing, I provided reasons orally for my decision to set aside the Council decision and to grant a permit.

Laurie Hewet  
**Senior Member**

---

<sup>1</sup> 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.



## APPENDIX A – PERMIT CONDITIONS

<b>PERMIT APPLICATION NO:</b>	TPA/52597
<b>LAND:</b>	161 Wanda Street MULGRAVE VIC 3170

### WHAT THE PERMIT ALLOWS

In accordance with the endorsed plans:

- Construction of three double storey dwellings

### CONDITIONS:

#### Amended Plans

- 1 Before the development starts, plans drawn to scale and dimensioned must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans by Callen Bray Building and Design, Drawing Nos. 1 to 10 , Revision 12 dated 16-9-2021 but modified to show:
  - (a) Provision of a corner splay or area at least 50% clear of visual obstruction (or with a height of less than 1.2m) extending at least 2.0 metres long x 2.5 metres deep (within the property) on both sides of the proposed vehicle crossing to provide a clear view of pedestrians on the footpath of the frontage road, to Council’s satisfaction.
  - (b) The location and design of any proposed electricity supply meter boxes. The electricity supply meter boxes must be located at a distance from the street, which is at or behind the setback alignment of buildings on the site or in compliance with Council’s “Guide to Electricity Supply Meter Boxes in Monash”.
  - (c) Consistency between the floor plans and elevations to demonstrate compliance with Standard B22 of Clause 55.05-6.

#### No Alterations

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

#### Common Boundary Fences

- 3 All common boundary fences are to be a minimum of 1.8 metres above the finished ground level to the satisfaction of the Responsible Authority. The fence heights must be measured above the highest point on the subject or adjoining site, within 3 metres of the fence line.



## **Landscaping**

- 4 Before the commencement of buildings and works, 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 prior to the commencement of any works. The plan must show the proposed landscape treatment of the site including:-
- (a) the location of all existing trees and other vegetation to be retained on site
  - (b) provision of canopy trees with spreading crowns located throughout the site including the major open space areas of the development
  - (c) planting to soften the appearance of hard surface areas such as driveways and other paved areas
  - (d) a schedule of all proposed trees, shrubs and ground cover, which will include the size of all plants (at planting and at maturity), their location, botanical names and the location of all areas to be covered by grass, lawn, mulch or other surface material
  - (e) the location and details of all fencing
  - (f) the extent of any cut, fill, embankments or retaining walls associated with the landscape treatment of the site
  - (g) details of all proposed hard surface materials including pathways, patio or decked areas

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

- 5 Before the occupation 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 then maintained to the satisfaction of the Responsible Authority.

## **Stormwater**

- 6 All stormwater collected on the site from all hard surface areas must not be allowed to flow uncontrolled into adjoining properties or the road reserve.
- 7 The private on-site drainage system must prevent stormwater discharge from the/each driveway over the footpath and into the road reserve. The internal drainage system may include either:
- (a) a trench grate (minimum internal width of 150 mm) located within the property boundary and not the back of footpath; and/or
  - (b) shaping the internal driveway so that stormwater is collected in grated pits within the property; and or
  - (c) another Council approved equivalent.



- 8 All stormwater collected on the site 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 drainage works commencing.

The nominated point of stormwater connection for the site is to the east of the property where the entire site's stormwater must be collected and free drained via a pipe to the kerb and channel in the naturestrip via a Council approved kerb adaptor to be constructed to Council standards.

- 9 Engineering permits must be obtained for new or altered vehicle crossings and new connections to kerb and channel and these works are to be inspected by Council's Engineering Department. A refundable security deposit of \$1,000 is to be paid prior to the drainage works commencing.
- 10 All new vehicle crossings must be a minimum of 3.0 metres in width and constructed in accordance with Council standards.
- 11 The vehicle crossing is to be reconstructed to align with the internal driveway.
- 12 Any works within the road reserve must ensure the footpath and naturestrip are to be reinstated to Council standards.

### **Urban Design**

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

### **Completion of Buildings and Works**

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

### **Permit Expiry**

- 15 This permit will expire in accordance with section 68 of the *Planning and Environment Act 1987*, if one of the following circumstances applies:
- (a) The development has not started before two (2) years from the date of issue.
  - (b) 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 -**

