

# VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

## PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P82/2022  
PERMIT APPLICATION NO.TPA/52488

### CATCHWORDS

Section 77 of the *Planning and Environment Act 1987*, neighbourhood character, upper level recession, landscape response

<b>APPLICANT</b>	Doynton Project Pty Ltd
<b>RESPONSIBLE AUTHORITY</b>	Monash City Council
<b>SUBJECT LAND</b>	8 Doynton Parade MOUNT WAVERLEY
<b>HEARING TYPE</b>	Hearing
<b>DATE OF HEARING</b>	26 July 2022
<b>DATE OF ORDER</b>	2 August 2022
<b>CITATION</b>	Doynton Project Pty Ltd v Monash CC [2022] VCAT 855

### ORDER

- 1 Pursuant to 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: Jesse Ant Architects
  - Drawing numbers: TP00-TP10 (all Revision A)
  - Dated: 14/06/22
  
  - Landscape Plan Prepared by: John Patrick Landscape Architects Pty Ltd
  - Dated: June 2022
- 2 In application P82/2022 the decision of the responsible authority is set aside.
- 3 In planning permit application TPA/52488 a permit is granted and directed to be issued for the land at 8 Doynton Parade Mount Waverley in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:
  - Construction of two dwellings



K Birtwistle  
**Member**

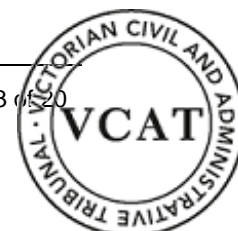
### **APPEARANCES**

For Doynton Project Pty Ltd	Mr A Gray, town planner of GrayKinnane
For Monash City Council	Ms A Kellock, town planner of Kellock Town Planning Pty Ltd



## INFORMATION

Description of proposal	Construction of two, two storey dwellings in a tandem arrangement.
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 2 (GRZ2) Monash Residential Areas
Permit requirements	Clause 32.08-6 – Construction of two or more dwellings on a lot
Land description	<p>The site is located on the eastern side of Doynton Parade at the end of a closed portion of the road approximately 40 metres east of the intersection of Munro Avenue, Mount Waverley. The land is rectangular in shape, with a frontage of 16.8 metres, a depth of 51.8 metres and an overall area of 868.5 sq.m.</p> <p>The land has a fall of 4.4 metres from the front south-west corner to the rear north-east corner, has no easements on the site, and there is no formal existing vehicle crossing along the frontage of the lot. There is no front fencing and there are no nature strip trees. The surrounding land use is characterised by residential dwellings to the north, west and east and commercial development to the east along Blackburn Road consisting of single storey office type development form.</p> <p>To the north, the site abuts No. 6 Doynton Parade, which is developed with two dwellings in a one behind the other format. To the south of the site are four abutting lots. 25 and 27 Morsehead Avenue are developed with two, two storey dwellings, with the remaining lots developed with single storey dwellings. To the east (rear) the site abuts a laneway, opposite which are commercial buildings fronting Blackburn Road. Opposite the site is a small Council treed reserve.</p>
Tribunal inspection	Unaccompanied subsequent to the hearing



## REASONS<sup>1</sup>

### WHAT IS THIS PROCEEDING ABOUT?

- 1 Doynton Project Pty Ltd (the applicant) proposes to develop two, two storey dwellings at 8 Doynton Parade, Mount Waverley. In December 2021, Monash City Council (the Council) determined to refuse to grant a planning permit for the proposed development. The permit applicant has requested the Tribunal to review Council's decision.
- 2 Council refused the proposal on the following grounds:
  - The proposal does not meet the objectives of Clause 15 Built Environment and Heritage, Clause 21.04 Residential Development, Clause 22.01 Residential Development and Character Policy in terms of building bulk and massing, landscaping opportunities and design detail.
  - The proposal fails to adequately meet the provisions of Clause 22.05 Tree Conservation Policy.
  - The proposal does not meet the following objectives of Clause 55 of the Monash Planning Scheme:
    - Clause 55.02-1 Neighbourhood character
    - Clause 55.03-5 Energy efficiency
    - Clause 55.03-8 Landscaping
    - Clause 55.04-1 Side and Rear setbacks
    - Clause 55.04-5 Overshadowing Open Space
    - Clause 55.04-6 Overlooking
    - Clause 55.05-1 Accessibility
    - Clause 55.06-1 Design detail
  - The proposal is an overdevelopment of the site.
- 3 Prior to the commencement of the hearing, the applicant circulated amended plans in accordance with the Tribunal Practice Note PNPE9. In summary, the amended plans:
  - Replace the façade style from “French Provincial” design to a more contemporary design response.

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<sup>1</sup> The submissions and evidence of the parties, any supporting exhibits provided to 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.



- Dwelling 1 Finished Floor Level (FFL) raised by 0.89 metres to reduce the extent of cut into the site, reduce steps in from street and reduce retaining walls.
  - Increase the overall height of Dwelling 1 above natural ground level to a maximum of 7.52 metres (north elevation) (was previously 6.85 metres).
  - Amend the floor to ceiling heights of Dwelling 1 with the ground floor reduced to 2.7 metres and the first floor reduced to 2.55 metres.
  - Lower the theatre to Dwelling 1 to lower the parapet of the dwelling.
  - Lower the parapet of Dwelling 1 along the southern boundary to avoid overshadowing.
  - Move the southern wall of the upper floor of Dwelling 1 to provide a setback of 3.84 metres from the common boundary (previously 3.18 metres) to avoid overshadowing the secluded private open space (spos) of the adjoining dwelling.
  - Amend the floor to ceiling heights for Dwelling 2 with the ground floor reduced to 2.7 metres and first floor reduced to 2.55 metres.
  - Increase the first floor southern wall setback of Dwelling 2 by 0.6 metres to provide a setback of 3.90 metres from common boundary (previously 3.3 metres) to avoid overshadowing the spos of the adjoining dwelling.
  - Update the elevations and shadow diagrams to match.
  - Provide additional shadow diagrams for each hour from 9.00 am-3.00 pm.
- 4 A Landscape Concept Plan, prepared by John Patrick Landscape Architecture is also provided in the amended plans package.
- 5 Council acknowledges that the amended plans contain a number of improvements from those that it considered when it refused the application. These changes resolve its concerns in relation to Clause 55.03-5 and Clause 55.04-5, and address its concern in relation to the proposed Georgian/French Provincial style architecture, which was considered to be out of keeping with the existing neighbourhood character.
- 6 However, the amended plans do not resolve its remaining concerns with the proposal. There being no objection, I allowed the amended plans to be substituted and these now form those on which my decision is reached.
- 7 The applicant says the development will provide for additional housing in a strategically appropriate location, that the proposal responds well to the neighbourhood character objectives of the Planning Scheme, minimises off site amenity impacts, provides for an appropriate level of onsite amenity of



future occupiers and provides for new landscaping to be provided to enhance the landscape setting of the proposal.

- 8 No party disputes, and I agree, that the site is located within an area and a streetscape where medium density infill housing is evident (including a number of abutting sites) and could be accommodated. The site is in close proximity to the Syndal activity centre and train station, with the commercial area to the rear of the site (separated by an intervening laneway) that fronts Blackburn Road and Syndal train station approximately 330 metres north-east. The site is therefore well located with respect to delivering increased housing densities on well located sites.
- 9 The issue in dispute is whether the particular design response is appropriate based on the specific neighbourhood character and the policy framework that applies to the site.
- 10 I consider that the key questions for determination are:
  - Is the proposal respectful of the neighbourhood character of the area?
  - Are there any other matters?
- 11 I must decide whether a permit should be granted and, if so, what conditions should be applied. Having considered all submissions presented with regard to the applicable policies and provisions of the Monash Planning Scheme, I have decided to set aside the decision of the responsible authority and direct that a permit be granted.
- 12 My detailed reasons follow.

## **PROPOSAL**

- 13 The proposal seeks the construction of two, two storey dwellings in a tandem configuration. While there is some question about the exact garden area proposed, during the hearing the Council agreed on the basis of plan corrections provided by the applicant, that the mandatory garden area is met.
- 14 A new 3 metre wide crossover is to be constructed to serve both dwellings. Each dwelling is provided with a double garage and a turning area is provided to enable vehicles to exit the site in a forward direction.
- 15 Due to the slope of the land, the rear part of the ground level of Dwelling 1 (containing the laundry and theatre) has a lower finished floor level than the remainder of the ground floor. Each dwelling is provided with four bedrooms, and spos at its rear. Dwellings 1 and 2 have maximum height of approximately 7.5 and 8.1 metres respectively.
- 16 The development is contemporary in style, with walls constructed of a combination of face brickwork and rendered cladding. The first floor roof is pitched with eaves and it is to be constructed of charcoal coloured tiles.



Front fencing will have a height of 900mm and be constructed of rendered brick piers with metal infill.

## **PLANNING SCHEME PROVISIONS**

- 17 The site is located within the GRZ2 (Monash Residential Areas). Development that respects neighbourhood character is encouraged within the zone, as well as a diversity of housing types in locations offering good access to services and transport. Schedule 2 to the zone has no specific neighbourhood character objectives.
- 18 The provisions of Clause 55 (ResCode) apply to the application. There are three variations in GRZ2 to the standards of Clause 55, being:
- the front setback standard of Standard B6. This variation requires a 7.6 metre front setback, which is met by the proposal.
  - the spos standard of Standard B28. This variation requires, as relevant to this proposal, an area of 75 square metres, with one part of the private open space at the side or the rear of the dwelling or residential building with a minimum area of 35 square metres, a minimum width of 5 metres and convenient access from a living room. The proposal satisfies this varied Standard.
  - The front fencing standard of Standard 32. This variation requires that a front fence within 3 metres of a street should not exceed 1.2 metres. This is met by the proposal.
- 19 Clause 21.04: Residential Development provides a residential framework plan which comprises eight categories classified according to their development potential. The review site is located within Category 2: Accessible areas which is one of four categories identified with future development potential.
- 20 The objectives and strategies of clause 21.04 include to encourage the provision of a variety of housing types and sizes that will accommodate a diversity of future housing needs and preferences that complement and enhance the garden city character of the city, to recognise the need to conserve treed environments and revegetate new residential developments to maintain and enhance the garden city character of the municipality and to encourage a high standard of architectural design in buildings and landscaping.
- 21 With respect to Clause 22.01 (Residential Development and Character policy) of the scheme, the site is located within the Garden City Suburbs (Northern) character area. Development should respond to the preferred future character statement for the area.
- 22 The preferred future character statement for this area provides:

Although there will be changes to some of the houses within this area, including the development of well-designed and sensitive unit



development and, on suitable sites, some apartment development, these will take place within a pleasant leafy framework of well-vegetated front and rear gardens and large canopy trees.

Setbacks will be generous and consistent within individual streets. Building heights will vary between neighbourhoods. Neighbourhoods with diverse topography and a well-developed mature tree canopy will have a larger proportion of two storey buildings. In the lower, less wooded areas, buildings will be mainly low rise unless existing vegetation or a gradation in height softens the scale contrast between buildings. 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.

Architecture, including new buildings and extensions, will usually be secondary in visual significance to the landscape of the area when viewed from the street. New development will be screened from the street and neighbouring properties by well planted gardens that will ensure the soft leafy nature of the street is retained.

Gardens will consist of open lawns, planted with a mix of native and exotic vegetation and trees. Existing mature trees and shrubs will be retained and additional tree planting within streets and private gardens will add to the tree canopy of the area.

Buildings will be clearly visible through these low garden settings, and nonexistent or transparent front fences. Additional vehicle crossovers will be discouraged.

The built-form will be visually unified by well-planted front gardens that contain large trees and shrubs and street tree planting. Trees within lots to be redeveloped will be retained wherever possible to maintain the established leafy character.

Landscape elements such as remnant indigenous vegetation and the large old coniferous wind-rows will be retained until trees are no longer healthy or safe

## **IS THE PROPOSAL RESPECTFUL OF THE NEIGHBOURHOOD CHARACTER OF THE AREA?**

### **Summary of parties' positions**

- 23 The Council says the proposal fails to provide an acceptable design response to the site context and the preferred neighbourhood character. Its specific concerns are that the buildings are bulky and that the mass is excessive in the neighbourhood context. It says that the visual bulk of the development is inappropriate as it will adversely affect the amenity of the streetscape and neighbouring properties.
- 24 Whilst Council recognises that the upper level of each dwelling is now largely inset from the ground floor, it says that the setbacks provided are



insufficient to ameliorate the overall visual mass of the built form. In particular, it notes that the northern façade of Dwelling 1 is bulky due to a combination of the high ground floor parapet and minimal recession of the upper floor wall and the southern first floor walls of both dwellings are lengthy and contain no ‘stepping’ or variation in alignment.

- 25 While Council acknowledges that the amended proposal satisfies the minimum prescriptive requirements of Standard B17 in relation to side and rear setbacks, it says that the overall cumulative visual mass impact of the development is excessive with the built form prominent when viewed from neighbouring properties, particularly to the south, due to a combination of minimal ground floor setbacks, lengthy first floor walls, limited articulation and lack of landscaping space to screen the development.
- 26 Further, Council says that the proposal provides insufficient space for landscaping to maintain the garden city character and insufficient space for suitable replacement canopy planting. It says that:
- that landscaping space alongside the dwellings, other than in proximity to the rear boundary, is very constrained as both dwellings are set back 1.2 metres from the southern boundary and Dwelling 1’s garage is located abutting this boundary.
  - whilst the landscape strip alongside the northern side of the driveway has a width of 1 metre, a retaining wall is to be constructed along the majority of its length and this necessarily reduces the effective width of planting space.
  - the rear yard of Dwelling 1 is relatively small in size and it will be partly occupied by an elevated decking area and associated landing/access stairwell.
  - there is only a narrow gap of 1.2 metres at ground level between the two dwellings.
  - proposed fencing along parts of the north and south boundaries is to have a height of 2 metres. Due to the extent of cut required, these fences will however be located on top of 0.5 to 1.3 metre high retaining walls within the front half of the site. This results in excessive boundary retaining wall heights which do not appropriately respond to the topography of the site.
  - the pedestrian entry to Dwelling 1 essentially bisects the front yard and impacts on the amount of landscape space provided within the frontage.
- 27 In rebuttal, the applicant says the application proposes a building scale which responds to the surrounding character of the streetscape, as well as providing sufficient space for the provision of canopy trees, in order to

respond to the ‘soft’ garden quality of the street, as encouraged within the policy.

- 28 It says that the emphasis in local policy is the appearance of development from the street and the manner in which the landscaping to the front setbacks and the development itself will appear in the streetscape setting. It says that the application proposes two, well-articulated double-storey dwellings, with first floors footprints that are generally recessed from the lower floor to avoid a “box-like” development. It says that the proposal provides a contemporary response to the surrounding context, through incorporating pitched roofing, materials and architectural features that are complementary of the surrounding character.
- 29 It says that the development will respect the rhythm of development in the street by providing a front setback of 7.6 metres to Doynton Parade, which meets the requirement of the varied Standard B6, presents as one dwelling to the street and provides only one crossover that is characteristic of the character of the area. It says that the proposal provides appropriate landscaping throughout the site and includes adequate space to accommodate canopy trees within the front and rear setbacks along with modest landscaping to the side boundaries.

### **What are my findings?**

- 30 The immediate area has a mix of original dwellings and a high proportion of newer housing comprising a combination of large new single dwellings (many of which are two storey with double garages) and 2-3 unit developments. Many unit developments are two storey and the vast majority are configured in a tandem arrangement with vehicle access via a shared driveway and car parking that is recessive in the streetscape.
- 31 On my inspection of the immediate area around the review site, I agree with the applicant that new infill dwellings (both single and multi dwellings) do not have a consistent pattern of façade articulation, with many examples evident of large upper level footprints. This is an area in which taller dwellings with higher site coverage is the emerging dominant built form. This is entirely consistent with policy for an accessible area.
- 32 The Monash Planning Scheme has a focus on the retention and enhancement of its garden city character. While Council was critical that a number of mature canopy trees have historically been removed from the land, this did not require a planning permit. The imposition of varied side and front setback standards in the GRZ2 is one method to achieve space for landscape planting to deliver on its garden city aspirations. There are no variations to Standard B13 in the GRZ2.
- 33 The plans provide a front setback of 7.6 metres and a rear setback of 5.0 metres. The Landscape Concept Plan now substituted provides for the planting of two large canopy trees within the front setback, one large

canopy tree in the spos of Dwelling 1 and two large canopy trees in the rear spos of Dwelling 2. The plan also details understorey and lower scale planting within the site.

34 I am satisfied that the proposal is consistent with the preferred neighbourhood and landscape character as:

- Front and rear setbacks (consistent with the GRZ2 varied standards) allow opportunities for the planting of new canopy trees to enhance the landscape character of the area.
- Only one wall (to the garage of Dwelling 1) is proposed to be built on the boundary, which ensures that development will maintain the pattern of setbacks and spacing found within the street.
- The extent of hard paving is minimised through the use of a single shared driveway.
- Landscaping is provided along the driveway in a one metre wide landscape strip along the northern property boundary.
- The provision of a 1.5 metre high brick pier fence with metal infill panels will ensure that the openness of the streetscape is maintained.
- The height of the proposed front fence is less than the varied Standard B29 in the GRZ2, and such fencing is consistent with other examples evident in the streetscape.
- The proposal including an articulated front façade that avoids a box like form.
- The proposed design response complements the established dwellings through the use of articulated facades.
- The proposal avoids the use of long expanses of blank wall.
- Generally, upper levels are recessed from the ground floor footprint in locations closest to adjoining properties to assist in graduating building height.
- While at the rear, the upper level of Dwelling 2 has minimal recession from the ground level, this elevation faces the commercial area and therefore has less sensitivity.
- Where the upper level of Dwelling 1 has minimal recession along its northern elevation, this elevation abuts the shared driveway and is set back more than 8.56 metres from the street. I am satisfied that this will not result in unreasonable visual bulk impacts when viewed from the street or the abutting properties.
- Existing built form in the immediate area either includes two storey built form or split level built form to address the sloping landform. In

a similar manner, the proposal has been designed to generally follow the contours of the site.

- Due to the changes in topography, potential overlooking opportunities are reduced through a combination of screened/highlight windows or high side and rear fencing. While Council was critical of the (necessary) use of retaining walls along the side and rear boundaries, I am satisfied that these retaining walls are located within the site boundary and therefore the natural ground level at the fence location is unaltered and therefore fencing heights on the boundary are not excessive.
- The proposal constitutes a well-designed and sensitive unit development as evidenced by its degree of compliance with the prescriptive standards of Clause 55.

35 While Council was critical that significant canopy trees have been removed from the site within the past 12 months, the removal of the trees did not require planning approval or a local law permit. While Council was critical of the site layout with respect to the proposed landscape response, I agree with the applicant that recent medium density developments near by the site have not provided significant canopy tree planting as part of the landscaping of those developments.

36 Despite this, I am satisfied that landscaping opportunities within the site appropriately respond to relevant policy and zoning of the land and provides appropriate space to provide for canopy tree and understorey vegetation. The Landscape Plan prepared by John Patrick Pty Ltd provides for:

- two canopy trees in the front setback of Dwelling 1;
- one canopy tree in the rear setback of Dwelling 1;
- two canopy trees in the rear setback of Dwelling 2; and
- vegetation in the side setbacks and along the driveway.

37 With respect to building bulk, numerous divisions of the Tribunal have previously held that compliance with the Standard B17 setback requirements do not necessarily demonstrate that a development will not cause unreasonable visual bulk when viewed from neighbouring properties.

38 In this case, the proposal fully satisfies Standard B17. I am satisfied that the proposed building height and setback of the upper levels of the proposed development is consistent with recent approved developments to the south of the site that form a strong element of the existing character of the area.

39 I am satisfied that the combination of setbacks and materiality mean that the buildings bulk is minimised and that there are no unreasonable amenity impacts in terms of overshadowing and visual bulk to properties to the south of the site.

## OTHER ISSUES

- 40 The design has sought to minimise overlooking into the secluded private open space areas and habitable room windows of adjoining properties by providing screening treatment to various habitable room windows and to part of the Dwelling 2 balcony. Council identified other areas of the proposal that may require screening (particularly some ground level windows) due to the slope of the land. The applicant did not oppose conditions requiring that the proposal demonstrate that the overlooking standards are satisfied, via the submission of supplementary plans showing the relevant finished floor level.
- 41 I am satisfied that subject to this detailed analysis being provided by condition, that overlooking has been appropriately addressed through the use of raised sill heights or obscure glazing to 1.7 metres for all upper level habitable room windows along the side and rear elevations consistent with Standard B22.
- 42 While Council acknowledges that amended plans have improved ease of access from the street, as the finished floor level of the ground floor of Dwelling 1 has increased. However, it says this raised floor level now negatively impacts on convenient access from within the dwelling to the rear spos and from within the garage to the southern side yard as 12 steps are now required to provide access between the rear deck and the ground level spos. Further, the number of steps required to provide access from the garage to the southern side yard is 10.
- 43 The applicant says that Standard B25 requires that the dwelling entries of the ground floor of dwellings and residential buildings be accessible or able to be easily made accessible to people with limited mobility and this Standard does not require immediate access from the dwelling into spos. It notes that each dwelling is provided with a bedroom and bathroom at ground floor level to accommodate someone of limited mobility who may be a resident of the dwellings.
- 44 I am satisfied that in so far as possible on a sloping site, that the proposal provides some opportunity for persons of limited mobility to access each of the dwellings. Given the fall of the land there is a need to provide for raised terraces with steps down to the remainder of the spos. I agree that these elevated terraces provide the opportunity for persons of limited mobility to access external open space areas albeit they are not at ground level.
- 45 Finally, Council says the proposal is an overdevelopment of the land based on the cumulative impacts identified above.
- 46 The applicant says that in responding to the perceived “overdevelopment” of the site, no specific tests are prescribed within the Monash Planning Scheme. Instead, a balanced interpretation of policies and standards is necessary. It notes that the proposal easily meets the key quantitative standards of Clause 55 including building height (B7), site coverage (B8),

site permeability (B9), side/rear setbacks (B17), walls on boundaries (B18), daylight to existing windows (B19), overshadowing open space (B21) and private open space (B28).

- 47 While a ground of refusal was that the proposal was an overdevelopment of the land, I see no symptoms of such. Common symptoms of such include, but are not limited to, excessive site coverage, limited permeability, minimal setbacks, the overshadowing or overlooking of nearby properties, minimal areas of private open space and the like.
- 48 The proposal has a site coverage of 45.8%, and 36.5% permeability, satisfying the relevant Clause 55 standards (Standards B8 and B9). The front setbacks satisfy the varied standards in the GRZ2, and the side and rear setbacks satisfy Standard B17. The development also provides a garden area in excess of the mandatory 35%. The dwellings are separated at ground level, and the building height is less than that allowable under the zone.
- 49 The spos provision also satisfied the varied GRZ2 Standard 28. Over 153 sq.m. of private open space is provided for Dwelling 1 and 84 sq.m. provided for Dwelling 2. The areas of spos have minimum depths of 5.0 metres.
- 50 Finally, there is no dispute that there are any unacceptable overshadowing impacts to adjacent properties.

#### **WHAT CONDITIONS ARE APPROPRIATE?**

- 51 The Council provided a set of draft conditions that were discussed at the conclusion of the hearing. In this respect I have considered the submissions made regarding the conditions and where I have considered appropriate have either deleted, added or amended conditions.
- 52 I have not required the deletion of the pedestrian path that provides access from the site frontage to Dwelling 1 which Council sought to increase the space available for landscaping, as I am satisfied that the setback is sufficient to accommodate the landscaping as shown on the Landscape Concept Plan.
- 53 While Council sought the provision of three canopy trees within the front setback of Dwelling 1 (two are shown) and three within the rear yard of Dwelling 2 (two are shown), I am satisfied that the landscaping as proposed is acceptable. The immediate area does not have a strong landscape character, and there are no local variations to Standard B13 that warrant this extent of canopy planting.

#### **CONCLUSION**

- 54 In conclusion and having regard to the requirements of Clauses 65 and 71.02, I consider that the proposal is an acceptable outcome, and that when assessed against all relevant policies, it does, on balance, achieve a net community benefit. For the reasons given above, the decision of the

responsible authority is set aside, and a permit is granted subject to conditions.

K Birtwistle  
**Member**

## APPENDIX A – PERMIT CONDITIONS

<b>PERMIT APPLICATION NO</b>	TPA/52488
<b>LAND</b>	8 Doynton Parade MOUNT WAVERLEY

### WHAT THE PERMIT ALLOWS

In accordance with the endorsed plans:

- Construction of two dwellings in the General Residential Zone – Schedule 2

## CONDITIONS

### Amended Plans Required

- 1 Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale and dimensioned. When the plans are endorsed, they will then form part of the Permit. The plans must be generally in accordance with the amended plans served by the permit applicant prior to the VCAT hearing, prepared by Jess Ant Architects, labelled TP00 to TP10 Revision A and dated 14.06.22, but modified to show:
  - (a) The garden area plan corrected to comply with the garden area definition set out at Clause 73.01 of the Monash Planning Scheme (e.g. decks, steps and landings that have a height of 800mm or more are to be removed from the calculation, as are any first floor cantilevered elements).
  - (b) Revisions to the height/location of boundary fencing shown on the elevations so that it is consistent with that already shown on the ground floor plan (i.e. proposed 2m high boundary fencing is shown along the south boundary abutting 2/27 and 29 Morshead Avenue, along the north boundary abutting 1/6 and 2/6 Doynton Parade and along the entire rear boundary).
  - (c) Deletion of the 500mm high trellis proposed to part of the southern boundary fence (eastern end).
  - (d) The maximum finished floor level above natural ground level at the building line shown for all ground floor habitable room windows that face side and rear boundaries.
  - (e) Screening treatment to the following areas, in accordance with the requirements of Standard B22 of Clause 55 of the Monash Planning Scheme, unless it is satisfactorily demonstrated (e.g. by cross-section





or other diagrams) that no screening is required to satisfy Standard B22, to the satisfaction of the Responsible Authority:

Dwelling 1: South facing window serving ground floor dining room **and** north side of deck landing/stairwell

Dwelling 2: Easternmost south facing window within the living/dining room **and** southernmost east facing window within the living/dining room

All screening treatment must be provided to the window/deck, rather than by requiring the installation of higher boundary fencing/trellis.

- (f) Fixed obscure glazing to the northern part of the eastern edge of the balcony serving Dwelling 2, to the extent required to address overlooking within 9 metres, at a 45 degree angle into the rear yard of 2/6 Doynton Parade.
- (g) Minimum sill heights of 1.7m above FFL on the relevant elevations for the following windows, so as to be consistent with the “HLW” already shown on the floor plans:
  - i Dwelling 1: north facing windows serving Bedroom 1, the living room, Bedroom 2 (Master) and Bedroom 3.
  - ii Dwelling 1: South facing window serving Bedroom 4 (Master).
- (h) The south facing retreat window of Dwelling 2 clearly labelled on the elevation as being constructed of fixed obscure glass to a minimum height of height of 1.7m above FFL.
- (i) The retaining walls along the driveway must be constructed of materials that present a naturalistic appearance and details of the materials/colours provided as part of the materials legend.
- (j) The location and design of any proposed electricity supply meter boxes. The electricity supply meter boxes must be located 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”.
- (k) A corner splay or area at least 50% clear of visual obstructions (or with a height of less than 1.2 metres), which may include adjacent landscaping areas with a height of less than 0.9 metres, extending at least 2.0 metres long x 2.5 metres deep (within the property) both sides or from the edge of the exit lane of each vehicle crossing to provide a clear view of pedestrians on the footpath of the frontage road.
- (l) A Landscape Plan in accordance with condition 3 of this Permit.

### **No Alteration or Changes**

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

### **Landscape Plan**

- 3 Concurrent with the endorsement of any plans 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 Plan prepared by John Patrick Landscape Architects Pty Ltd dated June 2022 but modified to show:

- (a) any changes required by condition 1;
- (b) 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;
- (c) the location and details of all fencing;
- (d) the extent of any cut, fill, embankments or retaining walls associated with the landscape treatment of the site;
- (e) details of all proposed hard surface materials including pathways, patio or decked areas; raingarden(s) referred to with the STORM report detailed on the landscaping plan; and areas of driveway / grades indicated.

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

### **Landscaping and Tree Retention**

- 4 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.
- 5 All landscaping works shown on the endorsed landscape plan(s) must be maintained and any dead, diseased or damaged plants replaced, all to the satisfaction of the Responsible Authority.

### **Car Parking and Accessways**

- 6 Before the use starts or any building is occupied, areas set aside for parked vehicles and access lanes as shown on the endorsed plans must be:
  - (a) constructed to the satisfaction of the Responsible Authority;
  - (b) properly formed to such levels that they can be used in accordance with the plans;



- (c) surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority;
- (d) drained, maintained and not used for any other purpose to the satisfaction of the Responsible Authority.

Parking areas and access lanes must be kept available for these purposes at all times.

- 7 Low intensity / baffled lighting must be provided to ensure that car park areas and pedestrian accessways are adequately illuminated without any unreasonable loss of amenity to the surrounding area, to the satisfaction of the Responsible Authority.

#### **Privacy screens**

- 8 Prior to the occupancy of the development, all screening and other measures to prevent 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 to the satisfaction of the Responsible Authority. The use of obscure film fixed to transparent windows is not considered to be 'obscure glazing' or an appropriate response to screen overlooking.

#### **Services and Plant Equipment**

- 9 All pipes (except down-pipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from external view, to the satisfaction of the Responsible Authority.
- 10 No equipment, services, architectural features or structures of any kind, including telecommunication facilities, other than those shown on the endorsed plans shall be permitted above the roof level of the building unless otherwise agreed to in writing by the Responsible Authority.
- 11 Any required fire services, electricity supply, gas and water meter boxes must be discreetly located and/or screened to compliment the development to the satisfaction of the Responsible Authority. Any required services must be clearly detailed on endorsed plans forming part of this permit.

#### **Stormwater**

- 12 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.
- 13 The private on-site drainage system must prevent stormwater discharge from the/each driveway over the footpath and into the road reserve
- 14 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.



- 15 The nominated point of stormwater connection for the site is to the north-east corner of the property where the entire site's stormwater must be collected and free drained via a pipe to the Council pit in the Right of Way (ROW) to be constructed to Council standards. *(A new pit is to be constructed to Council standards if a pit does not exist, is in poor condition or is not a Council standard pit)*. Note: If the point of connection cannot be located then notify Council's Engineering Department immediately.

**Road Infrastructure**

- 16 All new vehicle crossings must be a minimum of 3.0 metres in width and constructed in accordance with Council standards.
- 17 Any works within the road reserve must ensure the footpath and naturestrip are to be reinstated to Council standards.

**Permits**

- 18 Engineering permits must be obtained for new or altered vehicle crossings and new connections to Council pits and these works are to be inspected by Council's Engineering Department. A refundable security deposit of \$5,000 is to be paid prior to the drainage works commencing.

**Time for Starting and Completion**

- 19 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 issue date of this permit.
  - (b) The development is not completed within five (5) 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 –**