

**1.2 4 BRAND STREET, MOUNT WAVERLEY  
REMOVAL OF TWO (2) TREES  
(TPA/50708)**

**EXECUTIVE SUMMARY**

This application proposes to remove two (2) trees on the subject site.

The application is exempt from public notification.

Key issues to be considered relate to the health of the trees and their contribution to the landscape characteristics of the surrounding neighbourhood.

This report assesses the proposal against the provisions of the Monash Planning Scheme including the relevant state and local planning policy framework.

**The reason for presenting this report to Council is because Officers do not support all the tree removal.**

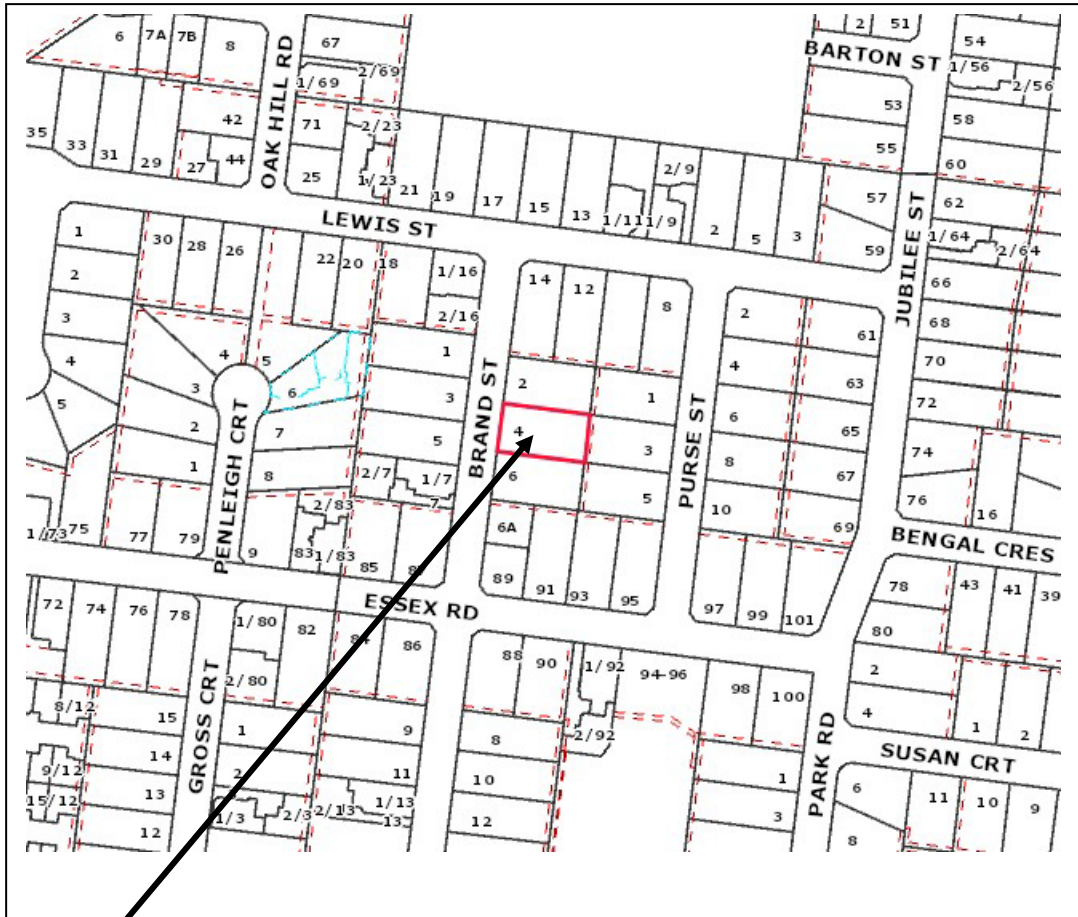
**The proposed removal of two trees is not adequately justified. A permit should be granted to allow the removal of the *Allocasuarina torulosa* - Rose She-oak tree and require the retention of the *Eucalyptus Nicholai* - Narrow-leaved Peppermint tree.**

<b>RESPONSIBLE DIRECTOR:</b>	<b>Peter Panagakos</b>
<b>RESPONSIBLE MANAGER:</b>	<b>Natasha Swan</b>
<b>RESPONSIBLE PLANNER:</b>	<b>Dianne Stanley</b>
<b>WARD:</b>	<b>Mount Waverley</b>
<b>PROPERTY ADDRESS:</b>	<b>4 Brand Street, Mount Waverley</b>
<b>EXISTING LAND USE:</b>	<b>Double storey dwelling</b>
<b>PRE-APPLICATION MEETING:</b>	<b>No</b>
<b>NUMBER OF OBJECTIONS:</b>	<b>N/A</b>
<b>ZONING:</b>	<b>General Residential Zone – Schedule 3</b>
<b>OVERLAY:</b>	<b>Vegetation Protection Overlay 1</b>
<b>RELEVANT CLAUSES:</b> <b><u>Planning Policy Framework</u></b> <b>Clause 15.01-2S – Building Design</b>	<b><u>Local Planning Policy Framework</u></b> <b>Clause 21.01 – Municipal Strategic Statement</b> <b>Clause 21.13 – Sustainability and Environment</b>

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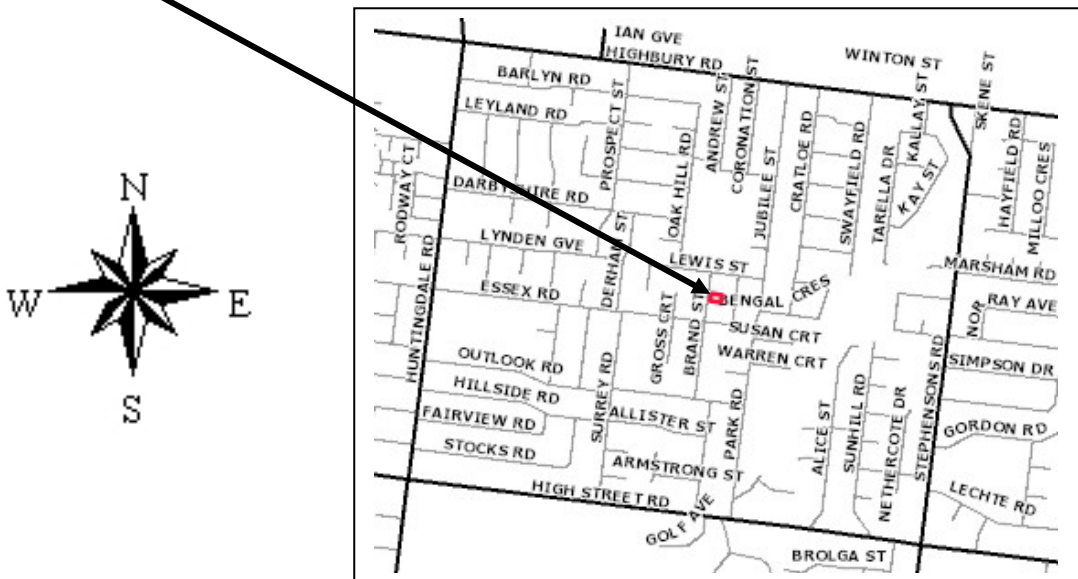
	<b>Clause 22.01 – Residential Development and Character Policy Clause 22.05 - Tree Conservation Policy</b>
<b>STATUTORY PROCESSING DATE:</b>	<b>8 November 2019</b>
<b>DEVELOPMENT COST:</b>	<b>Nil</b>

### LOCALITY PLAN



**SUBJECT SITE**

### NEIGHBOURHOOD PLAN



**RECOMMENDATION**

- A. That Council resolves to issue a **Planning Permit (TPA/50708)** to remove vegetation in a Vegetation Protection Overlay, at 4 Brand Street, Mount Waverley subject to the following conditions:

**Amended Plan**

1. Prior to the removal of Tree 2, a plan is to be submitted detailing one (1) replacement canopy tree to be planted. Details to be provided include:
  - a) Retention of Tree 1 – Narrow-leaved Peppermint tree at the rear of the existing dwelling.
  - b) Removal of Tree 2 – Rose She-oak tree located in the front setback area, adjacent to the southern property boundary.
  - c) Location of one (1) replacement tree within the front setback of the site, including details of the species, height of the tree at planting and expected height at maturity (minimum 7 metres).

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

2. The tree removal as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority
3. The replacement tree must be planted, and in a healthy state, within six (6) months of the removal of the tree and the Responsible Authority must be notified within fourteen (14) days of the replacement tree(s) being planted.
4. This permit will expire in accordance with section 68 of the Planning and Environment Act 1987, if the tree is not removed before two (2) 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.

- B. That Council write to the Owner advising that for the tree to be retained that crown maintenance pruning be undertaken by a qualified Arborist to reduce the outer canopy.
- Remove deadwood and undertake crown modification pruning as recommended by Council’s Arborist, John Faulkner. All pruning must be in accordance with the Australian Standard – AS4373 Pruning of Amenity trees.

## **BACKGROUND**

### **History**

There are no previous planning applications for this site and there has been no enforcement activity.

### **The Site and Surrounds**

The subject site is located on the eastern side of Brand Street in Mount Waverley and is approximately 365 metres west of the Damper Creek Reserve and 700 metres west of Stephenson’s Road. The land in the reserve is owned by Monash City Council and includes dense native vegetation and a generous number of mature native trees.

The subject site is regular in shape with an approximate area of 737 square metres and a street frontage width of approximately 20 metres.

The site and surrounding land is General Residential Zone 3 (GRZ3) and is subject to the Vegetation Protection Overlay (VPO1). The site is currently occupied by a double storey brick dwelling with an attached garage.

The front setback area contains generous landscaping including two large trees, one of which is a 13 metre high Rose She-oak tree proposed for removal and other medium sized shrubs.

The primary secluded private open space area contains several large to medium sized trees, including a 12 metre high Narrow leaf peppermint tree to the north of the dwelling, also proposed for removal.

The front setback areas of surrounding properties mostly contain generous landscaping, including medium to large trees and shrubs.

Street trees in Brand Street are predominantly medium to large native trees and also include several smaller exotic deciduous trees.

The surrounding lots include;

**North:** No. 2 Brand Street contains a recently constructed large, double storey dwelling with an open space area located adjacent to the northern boundary of

the subject site and reasonably close to the location of Tree 1; Narrow-leaved Peppermint tree.

East: The secluded private open space area at the rear of No. 3 Purse Street. This area includes several mature trees adjacent to the rear boundary of the subject site.

South: No. 6 Brand Street contains a single storey brick and weatherboard dwelling and a separate garage behind the dwelling. The accessway for this property is located immediately adjacent to the southern property boundary of the subject site. Tree 2, a Rose She-oak tree is located immediately adjacent to this shared boundary and overhangs the driveway at No. 6 Brand Street.

West: One of the properties opposite the subject site, No. 3 Brand Street is developed with a single storey brick dwelling and the front setback area includes modest landscaping. The other property, No 5. Brand Street is developed with a brick and rendered single storey dwelling and the front setback of this property includes minimal landscaping and a relatively wide driveway area.

An aerial photograph of the subject site and surrounding land can be found attached to this report (Attachment 2).

## **PROPOSAL**

The proposal is to remove two (2) existing trees.

1. *Eucalyptus Nicholai* - Narrow-leaved Peppermint tree located to the north side of the dwelling, behind the garage. This tree is situated to the rear of the garage, approximately 2 metres from the upper floor balcony and approximately 1.5 metres from the side northern boundary fence.
2. *Allocasuarina torulosa* - Rose She-oak tree growing within the front setback area immediately adjacent to the southern property boundary and the driveway of neighbouring property No. 6 Brand Street.

The Owner has provided the following in support of the application:

- *Eucalyptus Nicholai* - Narrow-leaved Peppermint tree (Tree 1) is growing reasonably close to the dwelling and branches hang over the roof and have dropped into the rear garden and onto the roof breaking roof tiles. This poses a potential risk to the occupants of the dwelling and may cause damage to his dwelling or the neighbouring dwelling, over time.
- *Allocasuarina torulosa* - Rose She-oak tree (Tree 2) has a section of the crown overhanging the driveway of the neighbouring property and may result in damage to this neighbouring property.

The applicant relied upon feedback from Council's tree service regarding the condition of the trees.

Attachment 1 details plans forming part of the application.

### **PERMIT TRIGGERS**

The land is zoned General Residential Zone - Schedule 3 and is affected by Vegetation Protection Overlay - Schedule 1.

- Pursuant to the Vegetation Protection Overlay, a permit is required to remove or destroy any vegetation that:
  - Has a trunk circumference greater than 500mm (160mm diameter) at 1200mm above ground level; and
  - Is higher than 10 metres

Attachment 3 details the zoning and overlays applicable to the subject site and surrounding land.

### **CONSULTATION**

Further information was requested of the Permit Applicant on 22 August 2019 to assist in the consideration of the removal of the trees. Information requested included:

- A full copy of title
- Additional information to justify the removal of vegetation
- Photos of the trees proposed for removal

The Permit Applicant responded to this letter on 11 September 2019 by providing the requested information.

Following consideration by Council's Arborist, the applicant was contacted advising removal of the Narrow-leaved Peppermint tree was not supported, and an independent arborist report would be required if they wanted Officers to give it further consideration. The applicant advised they would not engage an arborist.

The Applicant has been formally advised that this application is coming to the December Council meeting and a letter has been sent advising them of the details of the Council meeting.

### **Public Notice**

Tree removal is exempt from public notification requirements of Section 52 of the *Planning and Environment Act 1987* pursuant to clause 3.0 of the Vegetation Protection Overlay controls.

### **Referrals**

Given the lack of supporting information provided by the applicant, Council's Senior Arborist was requested to provide comment.

The advice received from Council's Vegetation Protection Overlay Tree Assessment Service, Tree Logic was provided to assist their consideration. This advice included the following observations:

Tree 1: *Eucalyptus Nicholai* - Narrow-leaved Peppermint tree located within the backyard of the subject site.

- Health: Healthy
- Structure: Sound
- Amenity / Significance: High
- The tree's canopy contained deadwood, overhung the roof of the dwelling and the neighbouring property to the north.
- Lower branches have been removed previously.
- A large sucker is growing from the base of the tree.
- Crown maintenance pruning by a qualified Arborist is suggested to remove deadwood and the sucker and to reduce the outer canopy.

Tree 2: *Allocasuarina torulosa* - Rose She-oak tree growing within the front setback area.

- Health: Healthy
- Structure: Sound
- Amenity / Significance: High
- The tree's canopy contained small sized deadwood
- The tree's canopy overhung the neighbouring property to the south.
- The tree is multi-stemmed at 1.5 metres above ground level.
- Crown maintenance pruning by a qualified Arborist is suggested to remove deadwood.

Council's Horticulture Department considers that there is currently insufficient evidence to support the removal of the Narrow-leaved peppermint tree and that a detailed Arborist's Report should be provided for further review to support the removal of the tree. This tree has been assessed as being in a healthy condition with a sound structure and its retention is warranted.

Overall, Council's Arborist considers that both trees make a strong contribution to the landscape character of the area.

However, the Arborist noted that the location of the Rose She-oak tree is not ideal and could potentially lead to problems in maintaining this tree in the future, given the extent of the tree's canopy hanging over the driveway of the adjoining property.

It would be necessary to regularly prune the section of tree interfering with the access to the neighbouring property and this work is likely to contribute to the tree developing a poor structure over time.



This tree has also developed a multi-stemmed structure at 1.5 metres above ground level, which in some cases can undermine the useful life expectancy of a tree with this type of structure, into the future.

Multi-stemmed trees often present additional challenges with respect to their maintenance, particularly where weak stem junctions have developed.

## **DISCUSSION**

### **Consistency with State and Local Planning Policies**

State planning policies provide guidance with regard to the development of urban areas. In particular, the importance of landscaping and vegetation is considered to contribute positively to the local urban character, which is characterised by leafy suburbs throughout the City of Monash.

Clause 21.13 – Sustainability and Environment needs to be considered, ensuring that conservation, landscape, or recreational values, are maintained and managed in response to pressures from development.

Clause 21.01 - Municipal Strategic Statement makes reference to the Garden City Character in the City of Monash which is represented by extensive treed residential areas that create leafy suburbs.

Clause 22.01 – Residential Development and Character Policy makes reference to the Garden City and streetscape character of the neighbourhood, being maintained and enhanced where possible.

Clause 22.05 – Tree Conservation Policy. The objective of this policy is to promote the retention of mature trees to maintain, extend the Garden City character throughout the Monash municipality, as well as meet criteria in the schedule to the VPO.

### **Vegetation Protection Overlay (VPO)**

The VPO provides a clear objective and decision guidelines for the removal and protection of significant vegetation, to preserve existing trees and enhance the character of neighbourhoods;

*To conserve significant treed environments and ensure that new development complements the Garden City Character of the neighbourhood.*

In assessing an application, the Responsible Authority is to consider as appropriate:

- The reason for removing or destroying the vegetation and the practicality of alternative options which do not require removal or destruction of vegetation.
- The practicality and benefits of relocating significant vegetation.
- The condition and quality of the vegetation.

The application was assessed against the relevant State and Local Planning policies with particular regards to the Clause 22.05 - Tree Conservation Policy and Clause 42.02 - Vegetation Protection Overlay of the Monash Planning Scheme. As stated in Clause 22.05, Planning should promote the retention of mature trees and encourage the planting of new canopy trees with spreading crowns throughout Monash.

The Owner has concerns that Tree 1 is growing too close to his dwelling and overhangs the neighbouring property, he also reports that fallen branches have contributed to broken roof tiles and that this poses an unacceptable risk to the occupants of the subject property and of the adjacent property. Council Officers consider that these occurrences alone, do not justify the removal of a healthy and substantial tree that makes a considerable contribution to the landscape character of the surrounding neighbourhood. It is considered appropriate to undertake pruning by a qualified Arborist to reduce the outer canopy which would reduce the amount of leaves and small branches falling onto the roof and guttering at the subject site and into the private open space at the adjoining property. Well managed pruning will allow the tree to be maintained in a safe and attractive condition.

Following a site inspection on 17 July 2019, the independent Arborist from Tree Logic observed that Tree 1 - Narrow-leaved Peppermint tree is healthy and structurally sound and he considers that this tree has a high visual significance to the tree-scape of the surrounding area.

Council's Planning Officer also observed at a site visit on 25 October 2019, that the Peppermint Tree is clearly visible from the street and makes a significant contribution to the landscape character of the area and provides a substantial landscape buffer between the dwelling at the subject site and the recently constructed, large double storey dwelling at No. 2 Brand Street which is desirable.

Despite the concerns of the resident, the removal of the Narrow-leaved Peppermint tree would undermine the Garden City Character sought for residential areas in Monash. It is considered reasonable to undertake crown maintenance pruning by a qualified Arborist to reduce the outer canopy of the tree where it overhangs the dwelling. Overall, there is insufficient justification for the removal of this tree and given the purpose of the Vegetation Protection Overlay includes the preservation of existing trees, it is considered reasonable to retain this tree.

The structure and form of Tree 2 - Rose She-oak tree was observed to be compromised by its location close to the shared boundary and the multi-stemmed form of this tree. The tree overhangs the driveway of the adjoining property and the occupants of this property have indicated that they are very concerned about the ongoing intrusion to their driveway and have experienced scratching on their vehicle on multiple occasions, when accessing their property.

The proximity of this tree to the boundary fence and its multi-stemmed structure are considered to result in ongoing problems in maintaining the tree. Council Officers consider that efforts to contain the spread of the tree may impact on the stability of this tree over time, particularly if there are weak stem junctions within the tree. Given these conditions, it is considered reasonable to support the removal of this tree.

The wide frontage of the property will allow a more appropriate species of tree to be planted in a more suitable location within the front setback of the site. Over time, the replacement tree will compensate for the loss of the She-oak tree to the streetscape and surrounding area and have greater opportunity to develop a healthy structure.

**CONCLUSION:**

The purpose of the Vegetation Protection Overlay is to ensure minimal loss of vegetation and to preserve existing significant trees.

Based on the above assessment, it is recommended that Council grant permission for the removal of the Rose She-oak tree within the front setback and require the retention of the Narrow-leaved Peppermint tree within the secluded private open space. The Narrow-leaved Peppermint tree makes a significant contribution to the landscape character of the area and should be retained. Removal of the Narrow-leaved Peppermint tree is not consistent with the purposes of the Vegetation Protection Overlay or the Tree Conservation Policy and there is insufficient justification for the removal of this tree. It is considered that the removal of this tree would have a detrimental impact on the landscape character of the area.

An amended plan is required to show the retention of the Narrow-leaved Peppermint tree and provision of replacement planting for the Rose She-oak tree to be removed.

**LIST OF ATTACHMENTS:**

Attachment 1 – Proposed Development Plans.

Attachment 2 – Aerial Photograph (January 2019).

Attachment 3 – Zoning and Overlays Map.