VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

planning and environment DIVISION

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| planning and environment LIST | vcat reference No. P369/2020Permit Application no. TPA/50800 |
| CATCHWORDS |
|  Application under section 77 of the *Planning and Environment Act 1987* – to review the refusal to grant a permit.  |

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| APPLICANT | BLK Kingston Pty Ltd |
| responsible authority | Monash City Council |
| SUBJECT LAND | 17 Bales StreetMOUNT WAVERLEY VIC 3149 |
| WHERE HELD | Melbourne |
| BEFORE | Laurie Hewet, Senior Member |
| HEARING TYPE | Hearing |
| DATE OF HEARING | 10 September 2020 |
| DATE OF ORDER | 10 September 2020  |

# Order

1. Pursuant to clause 64 of Schedule 1 of the *Victorian Civil & Administrative Tribunal Act 1998*, the permit application is amended by substituting for the permit application plans, the following plans filed with the Tribunal:

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| * + Prepared by:
 | Fd Architects Pty Ltd |
| * + Drawing numbers:
 | TP01, TP02A, TP03A, TP04A, TP05A, TP06A |
| * + Dated:
 | 15/0620 |

1. The decision of the Responsible Authority is set aside.
2. In permit application TPA/50800 a permit is granted and directed to be issued for the land at 17 Bales Street Mount Waverley in accordance with the endorsed plans and on the conditions set out in Appendix A. The permit allows:
	* *Development of two or more dwellings on a lot in the General Residential Zone(GRZ3)*

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| **Laurie Hewet****Senior Member** |  |  |

# Appearances

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| For applicant | Mr P Rygl, town planner |
| For responsible authority | Mr J Turner, town planner |

# Information

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| Description of proposal | Construction of three double storey dwellings |
| Nature of proceeding | Application under section 77 of the *Planning and Environment Act 1987* – to review the refusal to grant a permit. |
| Planning scheme | Monash Planning Scheme |
| Zone and overlays | Clause 32.08-6: General Residential Zone (GRZ3)Schedule 3 to the zone relates to Garden City Suburbs and includes variations to the standards of Clause 55 with respect to minimum street setback, site coverage, permeability, landscaping, side and rear setbacks, private open space and front fence height.Neighbourhood character objectives are contained within the schedule to the zone.  |
| Permit requirements | Clause 32.08-6: A permit is required to construct two or more dwellings on a lot.  |
| Land description | The site is situated on a corner allotment on the western side of Bales Street and northern side of Oakern Street in the residential area of Mount Waverley. The land is a rectangular shaped allotment with a splay of 4.32 metres, a frontage of 13.715 metres, and a maximum depth of 43.52 metres, yielding an overall site area of 725 square metres. The site slopes approximately 3 metres from the south east corner to north west corner.The site is occupied by a single storey weatherboard dwelling with a garage located at the rear. Access to the site is via an existing crossover adjacent to the southern side boundary on Oakern Street. There is a low brick retaining wall along the frontage including part of the side boundary that steps up to a 1.8 metre high side fence along the southern property boundary. The site contains some trees and shrubs. There are two street trees located within the nature strips, one on both street frontages.The site has direct residential interfaces to the north and west (rear). The site forms part of an established residential area comprising original post war single storey detached dwellings. Medium density housing typically in the form of double storey town houses are increasingly becoming part of the character of the neighbourhood. The site is well located in policy terms and enjoys access to a wide range of services and facilities.  |

# Reasons[[1]](#footnote-1)

1. This is an application to review the decision of the Responsible Authority to refuse grant a permit for the construction of three dwellings at 17 Bales Street, Mount Waverley. The Responsible Authority refused permission for the following reasons:
* The proposal does not meet the objectives of Clause 15 Built Environment and Heritage, Clause 21.04 Residential Development and Clause 22.01 Residential Development and Character Policy as it fails to achieve architectural and urban design outcomes that positively contribute to the neighbourhood character in terms of building bulk, scale and massing, maintain and respect the character of the area including the garden city character and preferred future character for the area.
* The proposal does not adequately satisfy the objectives and design standards of Clause 55 of the Monash Planning Scheme with respect to neighbourhood character, residential policy, setbacks, landscaping, private open space provision and design detail.
* The proposal does not meet the design standards of Clause 52.06 Car Parking of the Monash Planning Scheme in relation to the car parking design.
* The proposed development would adversely affect the landscape character of the area.
* The proposed development is not appropriate for the locality in regard to its adverse impact on the streetscape, adjoining properties and general neighbourhood character.
* The proposed development is considered a poor design outcome for the site.
1. The applicant for review circulated amended plans prior to the hearing and these were substituted for the application plans at the start of the hearing.
2. In response to the receipt of the amended plans, the Responsible Authority advised that it would not pursue ground of refusal 3 and part of ground of refusal 2 relating to the private open space provision.
3. At the end of the hearing I gave oral reasons for my decision to grant a permit.

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| **Laurie Hewet****Senior Member** |  |  |

# Appendix A – Permit Conditions

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| Permit Application No: | TPA/50800 |
| Land: | 17 Bales StreetMOUNT WAVERLEY VIC 3149 |

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| What the permit allows |
| In accordance with the endorsed plans:* + *Development of two or more dwellings on a lot in the General Residential Zone(GRZ3)*
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## 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 submitted with the application but modified to show:
2. A notation that the street trees and adjoining trees are to be protected in accordance with the Arborist Report prepared by Peter Yau from PSY Inv Pty Ltd dated 22 August 2019.
3. The obscured glazed windows on the northern elevation to be ‘fixed non openable obscure glazing (not film) to 1.7 metres above finished floor level’.
4. The northern common boundary fence notation corrected on the north elevation.
5. The location and design of any proposed electricity supply meter boxes. The electricity supply meter boxes must be located at or behind the facade of buildings on the site.

All to the satisfaction of the Responsible Authority.

### No Alteration or Changes

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

### Common Boundary Fences

* 1. 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

* 1. 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:-
1. the location of all existing trees and other vegetation to be retained on site
2. provision of canopy trees with spreading crowns located throughout the site including the major open space areas of the development
3. planting to soften the appearance of hard surface areas such as driveways and other paved areas
4. 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
5. the location and details of all fencing
6. the extent of any cut, fill, embankments or retaining walls associated with the landscape treatment of the site
7. 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.

### Tree Protection

5. Prior to the commencement of any works that are permitted by this permit, all trees that are to be retained, or are located within or adjacent to any works area, shall be marked and provided with a protective barricade.

6. No building material, demolition material or earthworks shall be stored or stockpiled under the canopy line of any tree to be retained during the construction period of the development hereby permitted.

### Landscaping Prior to Occupation

* 1. 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.

### Drainage

* 1. 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.
	2. 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 trench grate (minimum internal width of 150 mm) located within the property boundary and not the back of footpath; and/or
* shaping the internal driveway so that stormwater is collected in grated pits within the property; and or
* another Council approved equivalent.
	1. 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.
	2. The nominated point of stormwater connection for the site is to the south-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 naturestrip 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

* 1. All new vehicle crossings must be a minimum of 3.0 metres in width and constructed in accordance with Council standards.
	2. All vehicle crossings within 1.50 metres of an adjoining crossing shall be converted to a double crossing in accordance with Council standards.
	3. Any works within the road reserve must ensure the footpath and naturestrip are to be reinstated to Council standards.
	4. All new vehicle crossings are to be no closer than 1.0 metre, measured at the kerb, to the edge of any power pole, drainage or service pit, or other services. Approval from affected service authorities is required as part of the vehicle crossing application process.

### Traffic

* 1. 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.

### Permits

* 1. 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 $1,000 is to be paid prior to the drainage works commencing.

### Completion of Buildings and Works

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

### Permit Expiry

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

1. 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. [↑](#footnote-ref-1)