VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

administrative DIVISION

|  |  |
| --- | --- |
| planning and environment LIST | vcat reference No. P1572/2018Permit Application no. TPA/48873 |

|  |  |
| --- | --- |
| APPLICANT | Rohit Kumar |
| responsible authority | Monash City Council |
| SUBJECT LAND | 2 Beauford StreetHUNTINGDALE VIC 3166 |
| WHERE HELD | Melbourne |
| BEFORE | E A Bensz, Member  |
| HEARING TYPE | Hearing |
| DATE OF HEARING | 4 February 2019 |
| DATE OF ORDER | 13 February 2019 |

# Order

1. Pursuant to section 127 and 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:

|  |  |
| --- | --- |
| * Prepared by:
 | Cultured House Building & Design |
| * Drawing numbers:
 | Sheets 3-7 Rev A |
| * Dated:
 | 25 October 2018 |
| * Prepared by:
 | Habitat |
| * Drawing numbers:
 | Landscape Plan |
| * Dated:
 | December 2018 |

### Permit granted

1. In application P1572/2018the decision of the responsible authority is set aside.
2. In planning permit application TPA/48873 a permit is granted and directed to be issued for the land at 2 Beauford Street, Huntingdale in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:
* The construction of two x double storey dwellings in a General Residential Zone - Schedule 2;

|  |  |  |
| --- | --- | --- |
| **E A Bensz****Member**  |  |  |

# Appearances

|  |  |
| --- | --- |
| For applicant | Mr Mark Waldron, town planner of St Wise Pty Ltd |
| For responsible authority | Ms Adrianne Kellock, town planner |



# Information

|  |  |
| --- | --- |
| Description of proposal | The construction of two (2) 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 | General Residential Zone - Schedule 2 |
| Permit requirements | Clause 32.08-6: to construct more than one dwelling on a lot |
| Relevant scheme policies and provisions | Clauses 11, 14, 15, 16, 21, 22, 55 and 65 |
| Land description | The lot, of area 527m2 currently contains a single storey weatherboard house and detached garage. There is little vegetation on the land that has a high timber front fence and a large street tree located on the nature strip. Large street trees are a feature of the area. To the east, south and west are detached single storey dwellings with associated out-buildings. A number of large two storey detached dwellings and some dual occupancies are evident in the locality. |

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

What is this application about?

1 The permit applicant is appealing the decision of Monash City Council to refuse the application for two double storey dwellings in Huntingdale. Council refused the application on a range of grounds that included neighbourhood character, amenity impacts on neighbours and compliance with clause 55 (Rescode) requirements. At the conclusion of the hearing I gave an oral decision setting aside Council’s decision and directing that a permit subject to conditions be granted. Here is that oral decision in written form.

2 Amended plans were substituted at the commencement of the hearing that sought to make a number of changes including front setbacks, changes to the porch façade treatment, increased articulation of side setbacks and reduction in the height of building. Council considered that these changes did not go far enough to address its concerns, however a number of grounds of refusal were deleted.

## Policy Compliance

3 Both parties agree that the site in a General Residential Zone is in an area where overriding consolidation redevelopment and intensification of existing urban areas that applies. This is so given that the site is within easy walking distance of Huntingdale Village Activity Centre, Huntingdale Railway Station and is located within an employment corridor.

4 I am satisfied that there is policy compliance for this proposal, particularly when one considers clause 16 of the planning scheme in the Housing section that seeks a diversity of housing choice, particularly in areas where predominantly single dwellings on larger blocks to make better use of existing infrastructure. I further consider that two story dwellings in this location is appropriate as the area is undergoing incremental growth and change. I consider side-by-side development to be suitable use the land that minimises overshadowing of secluded private open space and limits the extent of driveways and should not be refused on this basis, despite Council’s preference for a single crossover to 2 dwellings on a lot.

5 Given that the site is suitable in the policy sense for two dwellings to be constructed, I now turn to the matters of concern to Council.

## Matters to be addressed by condition

6 To address the front facade appearance of the dwelling and improve its articulation, I will require that the garages to Dwellings 1 and 2 are to be setback 500 mm with stepping of the roof form to match this setback. The amended plans showed removal of the high porch elements but I consider the entry points need some form of identification and will require re-inclusion of these porch elements to the satisfaction of the responsible authority. While it is noted that at first floor elements of separated, they still present as a sheer two storey wall, so I will require the first floor bedrooms to be setback from the front facade of the ground floor by 300 mm.

7 Some effort has been made to create articulation of the side elevations however, I will require further articulation by stepping in ‘study’ elements to both dwellings by 500 mm to improve the articulated appearance of dwellings when viewed from the adjoining sites.

8 I consider these changes will address the areas of non-compliance with Rescode and create a more articulated design and minimise bulk. Overlooking and overshadowing have been dealt with satisfactorily. I note the front setback is compliant and there is sufficient space for one canopy tree to be planted in each front garden and one in each area of secluded private open space area.

9 Another issue was the proposal to have front gates to the driveways for security purposes as well as pedestrian gates. I have no issue with this proposal provided they are of metal picket style and transparent to maintain visual connection to the street. The dividing fence between the two dwellings should also be no more than 1.2 metres in height for the same reasons.

## Conclusion

10 For the reasons given above, the decision of the responsible authority is affirmed. A permit is granted subject to conditions.

|  |  |  |
| --- | --- | --- |
| **E A Bensz****Member**  |  |  |

# Appendix A – Permit Conditions

|  |  |
| --- | --- |
| Permit Application No: | TPA/48873 |
| Land: | 2 Beauford StreetHUNTINGDALE VIC 3166 |

|  |
| --- |
| What the permit allows |
| In accordance with the endorsed plans:The construction of two (2) double storey dwellings in a General Residential Zone - Schedule 2; |

## Conditions:

1. Before the development starts, three copies of amended plans drawn to scale and dimensioned, must be submitted to and approved by the Responsible Authority. The submitted plans must clearly delineate and highlight any changes. When approved the plans will be endorsed and will then form part of the permit.

The plans must be generally in accordance with the amended plans circulated by the permit applicant prior to the VCAT hearing (prepared by Cultured House and Building Design, numbered TP01 to TP07 inclusive Revision A, dated 25.10.2018) but modified to show:

* 1. A notation to confirm to indicate that there will be no excavation within 2.2 metres of the face of Council Street tree identified as *Melaleuca stypheliodes.* Tree roots must be cut cleanly at that point.
	2. Northern master bedroom walls of Units 1 and 2 to be setback a minimum of 0.5 metres from northern ground floor walls with stepping of the roof form to match this setback.
	3. Clear delineation and articulation to facades by addition of porch features to both dwellings.
	4. Inset the first floor study elements to both dwellings by 500 mm from the side walls below.
	5. Front driveway and pedestrian gates are to be metal picket in form to a max height of 1.2 metres.
	6. The front dividing fence between the two dwellings should also by no more than 1.2 metres in height.
	7. All glazing is to be fixed and obscure where screening is required and no removeable film is to be used.
	8. A minimum of 4 canopy trees.
	9. 5 metre rear setback to have permeable paving only to allow for canopy trees in the open space
	10. The modified location and design of 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”.*

### 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.

### Landscape Plan

1. A landscape plan prepared by a Landscape Architect or a suitably qualified or experienced landscape designer, generally in accordance with the Habitat Plan dated December 2018, 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:-
	* Provision of 4 canopy trees with spreading crowns located throughout the site including the major open space areas of the development in accordance with Condition 1e).
	* Planting to soften the appearance of hard surface areas such as driveways and other paved areas.
	* 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.
	* The location and details of all fencing.
	* The extent of any cut, fill, embankments or retaining walls associated with the landscape treatment of the site.
	* 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.

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.

### Tree Protection

1. 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 and verified by an authorised officer of the Responsible Authority.
2. 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.

### Stormwater

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
3. 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. Further information regarding the design of the on-site detention system is provided in the notes section of this permit.
4. The nominated point of stormwater connection for the site is to the south-west 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 rear easement of 1 Hargreaves Street 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. 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.
4. Any works within the road reserve must ensure the footpath and nature strip are to be reinstated to Council standards.

### Permits

1. 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 $1000 is to be paid prior to the drainage works commencing

### Urban Design

1. 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

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:
	1. The development has not started before two (2) years from the date of issue.
	2. 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)