 VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

administrative DIVISION

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| planning and environment LIST | vcat reference No. P1379/2018  Permit Application no. TPA/48519 |
| CATCHWORDS | |
| Section 77 *Planning and Environment Act 1987*; Monash Planning Scheme; General Residential Zone Schedule 2; Neighbourhood character; Landscape character; Private open space provision; Two crossovers. | |

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| APPLICANT | Aldo Di Nicolantonio |
| responsible authority | Monash City Council |
| SUBJECT LAND | 29 Evelyn Street, Clayton |
| WHERE HELD | Melbourne |
| BEFORE | Joel Templar, Member |
| HEARING TYPE | Hearing |
| DATE OF HEARING | 13 February 2019 |
| DATE OF ORDER | 22 February 2019 |
| CITATION | Di Nicolantonio v Monash CC [2019] VCAT 283 |

# Order

### Permit granted

1. In application P1379/2018 the decision of the responsible authority is set aside.
2. In planning permit application TPA/48519 a permit is granted and directed to be issued for the land at 29 Evelyn Street, Clayton in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:

* Construction of three dwellings on a lot.

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| **Joel Templar**  **Member** |  |  |

# Appearances

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| For Aldo Di Nicolantonio | Mr Russell Hocking, town planner of Cityshire Planning Pty Ltd |
| For Monash City Council | Mr David De Giovanni, town planner of David De Giovanni Town Planning. |

# Information

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| Description of proposal | The proposal is to demolish the existing dwelling and outbuildings and remove all existing vegetation on the land and to construct three double storey dwellings. Two dwellings would be arranged in a side-by-side configuration facing Evelyn Street with an additional dwelling located to the rear. A new crossover is proposed to provide access to dwelling 1 at the front of the site. The existing crossover is to be retained and leads to a new driveway which provides vehicle access to dwelling 2, also facing Evelyn Street and the proposed rear dwelling. All dwellings are proposed to be double storey in height with a maximum of 8.4 metres. |
| 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  Design and Development Overlay Schedule 15 |
| Permit requirements | Clause 32.08-6 – to construct two or more dwellings on a lot. |
| Land description | The review site is located on the western side of Evelyn Street, approximately 300 metres south of the Princes Highway in Clayton. It is rectangular in shape with a frontage of 19.1 metres, a length of 43.56 metres with an overall area of approximately 832 m². There is little fall across the site and a 1.83 metres wide easement traverses the rear boundary of the site. Is currently occupied by a single storey detached weatherboard dwelling with a garage and other outbuildings to the rear of the site. An existing vehicle crossover is located approximately 4 metres from the southern end of the site frontage.  The broader context review site is that it is located 1 kilometre from the Clayton Activity Centre which includes the Clayton railway station and is located to the south-west, 600 metres from the Monash Medical Centre to the west and 600 metres from Monash University to the north.  Evelyn Street terminates approximately 350 metres to the north at the Princes Highway along which the route 800 bus travels.  There is an industrial and commercial precinct to the east which includes the Springvale Homemaker Centre. |
| Tribunal inspection | 15 February 2019 |

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

## What is this proceeding about?

1. This is an application by Aldo Di Nicolantonio (the **Applicant**) contesting the refusal of the Monash City Council (the **Council**) for the construction of three double storey dwellings on a lot at 29 Evelyn Street in Clayton.
2. The grounds of refusal issued by the Council generally refer to neighbourhood character, site layout and building massing, setbacks, vehicle access and inconsistency with the Monash Housing Strategy (MHS) and adopted amendment C125.
3. The Applicant essentially refutes these grounds and adds that the proposal is consistent with the substantial change themes set out in the MHS and will not have any unreasonable off-site amenity impacts and provides an excellent level of amenity for future residents.
4. Based on the submissions, the key issue for determination in this matter is whether the proposed built form is acceptable in its context.
5. 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 (the **Scheme**), I have decided to set aside the decision of the responsible authority and direct that a permit be granted. My reasons follow.

## what is the policy context?

1. The review site is included in the General Residential Zone (GRZ). The purpose of the zone includes

To implement the Municipal Planning Strategy and the Planning Policy Framework.

To encourage development that respects the neighbourhood character of the area.

To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.

To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

1. Clause 22.01 of the Scheme, Residential Character and Development Policy, identifies the review site within Residential Character Area Type B which seeks a preferred character as follows:

The neighbourhood character of this area will, as it develops, retain its modest and unassuming character by ensuring that multi housing developments, including dual occupancies, are appropriate in scale and form to existing dwellings.

1. The review site is included in schedule 2 to the GRZ and there are some variations to the provisions of clause 55. These variations relate to frontage setback (Standard B6), private open space (Standard B28) and front fences (Standard B32).
2. The review site is identified within the Monash National Employment and Innovation Cluster (MNEIC) in the Monash Housing Strategy (MHS) and in *Plan Melbourne* and there was no dispute between the parties about this.
3. The MHS was implemented through Amendment C125 (part 1) to the Scheme. Amendment C125 originally proposed a number of significant changes to the Scheme by introducing new residential zones and policy. C125 has been split into two parts. There have been a number of Tribunal decisions commenting on the confusing nature of this split, as the MHS is now a reference document in the Scheme introduced by C125 (part 1) and refers to preferred housing outcomes, yet there is existing and rather dated policy in the Scheme that conflicts with this.
4. I was referred to the case of *570 Brandys Pty Ltd[[2]](#footnote-2)* by the Applicant. Some extracts of that decision are set out below:

11 However, the changes to the planning controls were not supported by the Panel in these areas subject to further strategic work. The Amendment was split into two parts. Amendment C125 Part 1 included the parts of the overall strategy within the scheme. The zoning change and an associated change to Clause 22.01 has been delayed through inclusion in Part 2 of the Amendment which has been adopted by Council and with the Minister for some time. The outcome of this is currently uncertain and I have to apply the provisions of the zone as they stand.

12 The lack of clarity within the Monash Planning Scheme within and around Monash’s activity centres is discussed in the recent decision of *Makhmalbaf v Monash CC* (Red Dot) [[2018] VCAT 1641](http://www6.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VCAT/2018/1641.html). In that decision, the Tribunal considered the consistencies between parts of the Monash Planning Scheme which placed the review site as being within the boundaries of the Glen Waverley Activity Centre (being the municipality’s higher order activity centre), and other parts of the Monash Planning Scheme, including the zone and the existing and proposed policies at 22.01.

13 In *Makhmalbaf* the Tribunal determines that the weight to be placed on the current policy at Clause 22.01 must be less in the context of the *Housing Strategy 2014*. Given that the strategy (despite the status of Amendment C125 Part 2) reflects more contemporary thinking than the existing policy at Clause 22.01, I agree that less emphasis can be placed on the current Clause 22.01.

14 This area already exhibits a different character to that in the current Clause 22.01. I agree with the submission of Ms Tangalakis that this area has a very strong presence of medium density housing in a variety of built forms. In cases like this the question becomes whether the scale and form of this proposed development appropriately reflects a balance between the existing and preferred character for a site close to the activity centre and medical centre.

1. The Applicant submitted that the review site sits within a substantial change area as identified through relevant State and local policy, including plan Melbourne and the MHS. Both of these documents identify that the review site is located within the MNEIC.
2. The Applicant submitted that the PPF and MSS as well is the locational attributes recognise that this site is a suitable candidate for the development proposed. In terms of the locational attributes, these include its proximity to the Clayton Activity Centre to the south-west, Monash Medical Centre to the west, and Monash University approximately 500 metres to the north-east.
3. Although the Applicant also submitted that state and local policy identifies the site as being an area of substantial change, it recognised the zoning of the land as GRZ and the resultant need to take a contextual approach to the design response. In doing so, the Applicant submitted that whilst double storey development on the review site might differ from some development in the street being mainly single storey original housing stock, there is an abundance of more recent unit development nearby, much of which is similar in nature and form to that which is proposed on the review site.
4. In relying on the state and local policy provisions, the Applicant submitted that the existing clause 22.01 is outdated in its entirety and should be afforded little weight. The Council submitted that whilst the residential precinct descriptions are perhaps outdated, the general policy provisions at pages 1 to 5 of this clause are still applicable and relevant.
5. In support of its submissions, the Council relied on the decision of *SGA Design[[3]](#footnote-3)* where it was found that the first parts of clause 22.01 were still relevant as they reflect general urban design principles. The Applicant sought to refute this and urge reliance upon the decisions of *Makhmalbaf* and *570 Brandys Pty Ltd* that placed less emphasis on the existing clause 22.01 given the directions of the MHS and the fact that this strategy is referred to in the scheme.
6. Although the site in *Makhmalbaf* is located in the Glen Waverley Activity Centre in the MHS and within a different category (Category 1 – Activity and Neighbourhood Centres) I find that *Makhmalbaf* is a more applicable decision than *SGA Design*, given the locational attributes of the review site in the matter before me. In *SGA Design*, the review site was located in Category 2 – Accessible Areas, which, whilst still envisaging some higher density development, does not have the same standing in the MHS as the MNEIC.
7. The review site is identified in the MHS as being in Category 3 ‘Residential Land in the Monash National Employment Cluster’, where housing change and diversification is expected and development will respond to the broader context.
8. I adopt the same approach that was taken in *570 Brandys Pty Ltd* in respect of the question of whether the scale and form appropriately balances the existing and preferred character on a site which has positive locational attributes for a medium density development including its proximity to the Clayton Activity Centre, Monash Medical Centre and Monash University. Indeed, the Council conceded that “This case is really about the form of development, and the manner it responds to the policy and physical context of this locality...”[[4]](#footnote-4)

## IS the proposed built form acceptable?

1. The primary concerns of the Council in relation to the built form relate to its presentation to the streetscape, whether a greater rear setback is required and whether there is sufficient space on site for appropriate landscaping.

### Presentation to the street

1. The Council submitted that the location of the site within the MNEIC does not mean that character considerations can be cast to the side. It submitted that the balancing act between that of facilitating development and respecting neighbourhood character still needs to be undertaken.
2. It is relevant that there is a significant amount of change occurring in the surrounding area. Original, low-scale, modest housing stock is being replaced by newer multi-dwelling, double storey development. This includes in Evelyn Street and the nearby surrounding area.
3. With the direction that the MHS envisages for this area and the locational attributes of the review site that I have already set out, it cannot be expected that the level of change between the existing character and new development will be at the lower end of the spectrum. That is not to say that more significant and more intense development such as apartments is necessarily appropriate, but that with any new medium density development there will be change between the form, scale and siting of new development.
4. The Council’s concern primarily related to the size of the central roof area and the size of the upper levels and what the Council described as a lack of setbacks to side boundaries at the upper level.
5. I find that the proposal is not dissimilar to other development in the surrounding area, including that immediately to the north and also on the opposite side of Evelyn Street. Whilst there are some differences, including perhaps more breadth at the upper level of the proposal compared with some of the other new development, the Scheme does not necessarily seek replication. In any case, the proposal does provide setbacks at the upper level from the adjoining property to the north, albeit the extent of separation might not be exactly replicating other, newer development.
6. The upper floor as presented to the street provides articulation. It includes different vertical planes including a recessed central element, different roof planes with three distinct hip sections, the use of different materials from the ground floor facade and the inclusion of a number of windows across the front facade. The upper floor is also recessed from the ground floor facade which will aid in the integration of this proposal within a mixed streetscape.
7. On this basis, I find that the proposal presents an acceptable outcome with respect to the existing character, and the change expected in this area as envisaged through the MHS.

### Rear setback

1. The Council submitted that amendment C125 (part 2), which has not yet been approved by the Minister for Planning, includes the review site in schedule 3 to the GRZ. This schedule varies standard B17 of clause 55.04-1 of the scheme to require a five metre rear setback.
2. The Council submitted that the introduction of this schedule into the scheme is caught up in delays with this Amendment that are disassociated with the implementation of the GRZ3 and its associated variations to clause 55. However, the Council submitted that whilst this Amendment has not yet been approved, the variation to the rear setback was uncontroversial insofar as the C125 Panel Report was concerned and therefore consideration should be given to application of it in this case.
3. The Applicant submitted that in order for something to be considered as a seriously entertained planning document, it should have undergone a process whereby the amendment was exhibited, a panel made recommendations, the planning authority adopted the recommendations of the panel and it was then put forward to the Minister for approval.
4. In respect of what can constitute a seriously entertained planning proposal, principles were explored in *Double LZ Development Pty Ltd:*

23 The principles applying from *Lyndale and Black[[5]](#footnote-5)* address the weight to be given to change to operative planning controls and policy. This can be a relevant consideration to be taken into account, whether or not it is in the form of an adopted amendment. The weight to be given to such a planning proposal varies according to a number of factors, such as:

a The form of the planning proposal – a formal planning scheme amendment will be given much more weight than a planning proposal of a less formal nature.

b The stage which the planning proposal has reached in the planning process – greater weight will be given to a planning proposal which has reached an advanced stage in the planning process than to a proposal of an embryonic nature.

c The seriousness with which the responsible authority or state government is pursing the implementation of the planning proposal.

d Whether the grant of a permit would impair the objectives of the planning proposal and not merely be inconsistent with the strict letter of the planning proposal.

e The nature of the development or use for which a permit is sought – for example a planning proposal will generally have greater weight when a permit is sought to develop vacant land or to subdivide land than when a permit is sought to use an existing building especially for temporary purposes.

This list is not intended to be an exclusive list of relevant factors that may determine the weight that should be given to a planning proposal.

24 In my view, it is not sufficient to rely only on the step in the process at which an amendment is and thereby conclude that the amendment must carry very influential weight.

25 *Lyndale & Black* is not exhaustive. Other principles or potentially relevant factors can affect the weight to be given to the planning proposal such as:

* Where the adopted proposal/policy as a whole, or parts of it relevant to the application in question, have been the subject of an adverse independent Panel report and/or depart from the recommendations of the Panel in a material way.
* The time at which the adopted policy was prepared and, potentially, the lapse of time between an adopted amendment being forwarded to the Minister and the consideration of an application (wherein the planning context may have further changed or evolved).

26 These factors mean that the outcome of the amendment has a level of uncertainty in terms of the likelihood it will be approved and gazetted at all or in the form adopted by the planning authority. That in turn reduces the weight it can fairly be given when compared with, for example:

* An amendment that has been exhibited, the subject of a favourable Panel report, and the adopted version is consistent with the findings and recommendations of a Panel.
* An amendment that has been exhibited, received no submissions, and is adopted in the same form by the planning authority and submitted to the Minister for approval.

1. Having regard to these, it is acknowledged C125 (part 2) is a formal amendment, is with the Minister for approval and has been for some considerable time, including the time at which the Minister split this Amendment into two parts.
2. In the hearing, the Council tendered a letter from the Minister dated 25 February 2018 advising that amendment C125 had been split into two parts with the approval of part one but not part two. There was no material presented, or submissions put to me that the Council or Minister has in anyway progressed this Amendment beyond the approval of part 1 almost 12 months ago.
3. Whilst the Panel may not have been critical of the proposed rear setback to be included in schedule three of the GRZ, I am not persuaded that there is adequate certainty regarding the implementation of this variation to clause 55. This is based on the elapse of time between both the original amendment being lodged with the Minister and also the approval of part 1, the associated lack of material and information before me to suggest that part 2 of the amendment has been progressed in any meaningful way and the fact that the proposed variation is a specific provision within the schedule to which changes could easily be made at the Minister’s discretion.
4. I must apply the Scheme as it stands and there is no provision currently in the Scheme that requires a 5 metre setback, as is being sought through proposed schedule 3 to the GRZ and I therefore give the greatest weight to the Scheme as it currently stands.
5. The Council submitted that a 5 metre rear setback would provide benefits of a better interface with the private open space and windows of the dwelling abutting the rear of the review site, providing greater opportunities for the planting of canopy trees and reducing bulk at the rear of the site.
6. Whilst there may be benefits not dissimilar to those set out by the Council, the proposal exceeds the setback requirements of Standard B17 of clause 55.04-1 and as the Scheme currently sits and there is nothing prescriptive that requires rear corridors of open space to be maintained. Notwithstanding, I find that the setback proposed is an acceptable response to the existing neighbourhood character with particular reference to the emerging character of multi-dwelling development that is set closer to rear boundaries than original housing stock but which still maintains some level of open space at the rear of properties.
7. In respect of the interface with the dwelling abutting the review site to the west, the Council, when it described attributes of the surrounding area in its submissions, identified that the primary area of secluded private open space of this adjoining dwelling was to its north and did not identify the primary area of secluded private open space being to its east, directly abutting the review site.
8. The proposal maintains a minimum 3 metre setback from the rear boundary and although there is an existing easement within this setback, I find that this area provides adequate separation from the rear boundary and adjoining properties and will also enable landscaping to be incorporated. The proposed built form displays articulation and a level of visual interest through the rebates and recesses and with variation in the upper floor setback between 3.61 metres and 5.53 metres. This assists in ensuring that no unacceptable visual bulk impacts will result to this adjoining property.
9. For these reasons, I find that the proposed rear setback at a minimum of 3 metres is acceptable.

### Landscaping and on site amenity

1. Council’s concerns with respect to the proposed landscaping response were focused on the central part of the review site around the porch and front entrance of dwelling 3 and the south-western corner of the secluded private open space at the rear of dwelling 2. It submitted that there was insufficient space to provide an appropriate landscape response as well as serve the recreation purposes of future residents.
2. The Council also raised concerns with the size of the rear secluded private open space of dwellings 1 and 2 being commensurate with the five-bedroom size of these dwellings, in particular noting the living area of dwelling 2 being rather compact. Part of Council’s concern related to the private open space of dwelling 2 not complying with standard B28 of clause 55.05-4. This area does not meet the minimum area required under varied Standard B28 in the GRZ2 which currently applies to the site, owing to the 5 metre dimension only applying to approximately 25 m², rather than to 35m2 as the varied Standard requires.
3. The surrounding area does not currently support a strong landscape character. There is some evidence of canopy trees, however, these tend to be in frontage setbacks and within the road reserve, rather than at the rear of properties.
4. However, I find that there is sufficient provision of private open space throughout the proposal that could accommodate canopy trees and other vegetation to complement the proposed built form.
5. There is ample provision throughout the site in which to incorporate landscaping and canopy trees. This includes within the frontage setback, along the southern side of the proposed driveway for dwellings 2 and 3, as well as the secluded private open space of dwellings 1 and 2 and also at the rear of dwelling 3.
6. I accept the Council’s submission with respect to what I would describe as a lesser ability to provide landscaping at the rear of dwellings 2 and 3 and for these spaces to serve the recreation and servicing needs of future residents. However, I am not concerned if there was less ability to incorporate landscaping within these spaces in order to provide for greater emphasis on the recreation and servicing needs of future occupants. This is because I find there is no particular landscape character or theme of canopy trees in the surrounding area.
7. Whilst I agree with the Council that the secluded private open space at the rear of dwelling 2 does not meet the varied standard, the decision guidelines of clause 55.05-4 allow the consideration of any nearby public open space to be taken into account. The area directly opposite the review site is a relatively large area of public open space that could be utilised by future residents in addition to the secluded private open space provided at the rear of this dwelling.
8. Whilst the proposed dwelling 2 includes five separate bedrooms and a relatively small living area, the location of the public open space directly opposite the site provides justification for the variation in this instance. Had this not been the case, I may have been of a different view.
9. For these reasons, I find that the proposal will provide an acceptable response in relation to landscaping opportunities and provision of secluded private open space.

## Loss of on-street parking

1. Council submitted that the provision of a second crossover would reduce the amount of on street parking by one space. It submitted that the review site is not located a short walk from Monash University or the Clayton Activity Centre and that 16 bedrooms across the whole proposal would significantly increase demand for on street parking and such demand should not be exacerbated by the loss of an on-street car space.
2. It should be noted that the proposal provides the required number of car parking spaces pursuant to clause 52.06. The Council’s submission in relation to car parking was linked to policy at clause 22.01 which discourages second crossovers and encourages the number of vehicle crossings to be minimised in order to maintain existing curb side parking.
3. The policy within the Scheme to discourage additional crossovers where one is already provided, is a long-standing policy in this Scheme.
4. Whilst I recognise that there may be increased demand for on street parking as a result of this proposal and the possible number of future occupants, given the proposal complies with the requirements of the scheme in terms of car parking provision, I’m not able to make findings against the proposal in this regard.
5. Insofar as policy encourages the retention of on street parking, I am sympathetic to this position and recognise that where possible on street parking should be maintained.
6. However when balancing all relevant policies and provisions of the Scheme, as clause 71.02-3 requires, I find that this one negative aspect of the proposal as a whole, is not enough to tip the balance in favour of refusal.

## Conclusion

1. For the reasons given above, the decision of the responsible authority is set aside. A permit is granted subject to conditions.

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| Joel Templar  **Member** |  |  |

# Appendix A – Permit Conditions

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| Permit Application No | TPA/48519 |
| Land | 29 Evelyn Street, Clayton |

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| What the permit allowS |
| In accordance with the endorsed plans:   * Construction of three dwellings on a lot. |

## Conditions

1. Before the development starts, two copies of amended plans drawn to scale and dimensioned, must be submitted to and approved by the Responsible Authority. When approved the plans will then form part of the permit. The plans must be generally in accordance with the decision plans but modified to show:
   1. A plan demonstrating how the garden area is calculated and showing 35% of the land set aside as garden area as per the definition of garden area contained in the Planning Scheme. In the event that less than the required area is provided, the proposal must be amended to provide a minimum of 35% garden area without reducing any setbacks or otherwise changing any window locations.
   2. Provide a corner splay or area at least 50% clear of visual obstructions (or with a height of less than 1.2m), which may include adjacent landscape areas with a height of less than 0.9m, extending at least 2.0m long x 2.5m deep (within the property) to both sides of each vehicle crossing to provide a clear view of pedestrians on the footpath of the frontage road.
   3. The driveway of dwelling 1 to have a width of 3.0m in both dimension and when scaled.
2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. 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. The planting provision is to include tall trees that when grown will positively contribute to the upper level tree canopy of the area.
   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 (semi-mature plant species are to be provided).
   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.
   8. coloured concrete, paving or the like is to be utilised in the driveways.

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.
2. The walls facing the boundary of adjoining properties shall be cleaned and finished in a manner to the satisfaction of the Responsible Authority.
3. The driveway and parking area is to be constructed to the satisfaction of the responsible authority.
4. All on-site stormwater is to be collected from hard surface areas and must not be allowed to flow uncontrolled into adjoining properties or the road reserve.
5. 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.
6. 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 300mm Council drain in the rear easement via a 900mm x 600mm junction pit to be constructed to Council standards.
7. All new vehicle crossings must be a minimum of 3.0 metres in width and constructed in accordance with Council standards.
8. All vehicle crossings within 1.50 metres of an adjoining crossing shall be converted to a double crossing in accordance with Council standards.
9. 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.
10. Any works within the road reserve must ensure the footpath and naturestrip are to be reinstated to Council standards.
11. Once the development has started it must be continued, completed and then be maintained to the satisfaction of the Responsible Authority.

### Expiry of permit for development

1. This permit as it relates to development (buildings and works) will expire if one of the following circumstances applies:
   1. The development is not started within two (2) years of the issue date of this permit.
   2. The development is not completed within four (4) 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 –**

1. The submissions and any 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)
2. *570 Brandys Pty Ltd v Monash CC* [2018] VCAT 1759 [↑](#footnote-ref-2)
3. SGA Design v Monash CC [2019]VCAT 135 [↑](#footnote-ref-3)
4. Paragraph 78, Council submission. [↑](#footnote-ref-4)
5. *Lyndale & Black Pty Ltd & I O Black v MMBW* 1 PABR 207. [↑](#footnote-ref-5)