VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

administrative DIVISION

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| planning and environment LIST | vcat reference No. P1517/2018  Permit Application no. TPA/48580 |
| CATCHWORDS | |
| Section 77 *Planning and Environment Act 198*7, Monash Planning Scheme; General Residential Zone Schedule 2; Neighbourhood character; Building Bulk and Scale. | |

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| APPLICANT | Jim Kromidas |
| responsible authority | Monash City Council |
| SUBJECT LAND | 312 Huntingdale Road, Mount Waverley |
| WHERE HELD | Melbourne |
| BEFORE | Jane Tait, Member |
| HEARING TYPE | Hearing |
| DATE OF HEARING | 8 February 2019 |
| DATE OF ORDER | 26 February 2019 |
| CITATION | Kromidas v Monash CC [2019] VCAT 248 |

# Order

### Permit granted

1. In application P1517/2018 the decision of the responsible authority is set aside.
2. In planning permit application TPA/48580 a permit is granted and directed to be issued for the land at 312 Huntingdale Road, Mount Waverley in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:

* Development of three dwellings

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| **Jane Tait**  **Member** |  |  |

# Appearances

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| For Jim Kromidas | Ms Maggie Cusin, town planner, Plans in Motion Pty Ltd |
| For Monash City Council | Ms Andrianne Kellock, town planner, Kellock Town Planning |

# Information

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| Description of proposal | To construct three, two storey dwellings all facing Imperial Avenue. Each dwelling includes a ground floor kitchen, living area, dining room, laundry, bathroom and powder room. The first floor contains two bedrooms, sitting room and bathroom.  The dwellings each have a single garage with access from a single crossover onto Imperial Avenue. |
| 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 (GRZ2) |
| Permit requirements | Clause 32.08-6 – Construct two or more dwellings on a lot |
| Land description | The site is located on the north-east corner of Huntingdale Road and Imperial Avenue, Mount Waverley. It has a 13.72 metre frontage, depth of 40.23 metres and site area of 780 square metres.  The site is occupied by a single storey brick veneer detached dwelling that is set back approximately 10.5 metres from the frontage and a minimum of 3 metres from Imperial Avenue. There is a 1.83 metre wide drainage and sewerage easement along the east (rear) boundary. The site has a slight slope from rear to front.  There is a double garage and crossover with access to Imperial Avenue and separate crossover with access to the rear yard.  There is a 1.8 metre high brick and paling fence along both street frontages. A Liquidambar (10 metres high) and other canopy trees are growing in the frontage setback.  Immediately north is a single storey brick veneer dwelling at 310 Huntingdale Road. This dwelling is set back 10.4 metres from the frontage and has low front fence.  The site abuts the rear yard of a single dwelling at 19 Hillview Avenue. There is a fibro shed located approximately 2 metres from the common boundary. |
| Tribunal inspection | Unaccompanied site inspection on 13 February 2019 and 25 February 2019 |

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

## What is this proceeding about?

1. This is an application to review Monash City Council’s refusal to grant a permit for the construction of three, two storey dwellings at 312 Huntingdale Road, Mount Waverley. The grounds of refusal relate to the impact of the proposal on the neighbourhood character and adverse impacts on the landscape character.
2. Other grounds of refusal include the failure to meet the standards and objectives of Clause 55 relating to integration with the street, site layout, building massing, access, overlooking, private open space, design detail and front fencing. A ground has been included relating to inadequate provision of car parking and the development is inconsistent with the future zoning of the land under the adopted Amendment C125 of the Monash Planning Scheme.
3. The applicant argues the development is a modest development in a strategic location in close proximity to a train station and that respects the existing and emerging neighbourhood character. She submits the development satisfies the objectives and standards of Clause 55.
4. A statement of grounds was received from the adjoining owner/occupier to the rear (east) in Hillview Avenue. The objector raises concerns about overlooking, car parking, overdevelopment and detrimental impacts on future development of the area.

## What are the key issues?

1. Having considered the submissions and inspected the subject land and locality, I find the following key issues in this matter are:

* Has the development responded to its zoning and policy context?
* What weight should be given to the future zoning of the land under adopted Amendment C125?
* Is the development an acceptable response to the preferred neighbourhood character?
* Will the development have adverse amenity impacts on adjoining properties and future residents?
* Is the provision of car parking satisfactory?

1. I have decided to set aside the decision of council and direct that a permit be granted subject to amendments. Whilst the development will provide for housing diversity in this area, it requires modification to respond to the preferred neighbourhood character. This can be addressed by permit conditions. My reasons follow.

### Zoning

1. The review site is located within a General Residential Zone 2 (GRZ2). This zone has purposes including:

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

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.[[2]](#footnote-2)

1. The GRZ2 contains three variations to Clause 55 including Standard B6 that specifies a frontage setback of 7.6 metres. Standard B28 varies the private open space requirements to consist of an area of 75 square metres, with one part of the private open space at the side or the rear of the dwelling with a minimum area of 35 square metres, a minimum width of 5 metres and convenient access from a living room and Standard B32 is varied to specify a maximum front fence height of 1.2 metres, regardless of whether or not it is on a main road.
2. Council included a ground of refusal that the development fails to meet the open space (Standard B28) and front fence (Standard B32) requirements. It says the total provision of open space for Dwelling 2 is slightly less than that required in the schedule.
3. Council conceded at the hearing that the total open space provision of Dwelling 2 is likely to meet the varied standard given the dimensions of the frontage setback of this dwelling. I accept that the provision of open space meets the requirements of the zone and adequate space has been provided for the reasonable recreational needs of the occupants of this dwelling.
4. I will discuss the front fence requirements further as part of the neighbourhood character assessment below.

### Planning Policy Framework

1. The Planning Policy Framework (PPF) at Clauses 11 and 16 promotes urban consolidation and encourages housing diversity in locations that are well serviced with public transport and community facilities.
2. The applicant argues that given the site’s strategic location near a railway station, its location on a main road and its proximity to the Mount Waverley Activity Centre, there is strong policy support for multi-dwellings on this site.
3. Council acknowledges the proposal satisfies the objectives of the PPF as it contributes to urban consolidation and housing diversity in an area that is reasonably well located to services and facilities. It argues the proposal fails to provide a suitable design response to the preferred built form and landscape character of the neighbourhood.

### Local Planning Policy Framework

1. The Local Planning Policy Framework (LPPF) reiterates the PPF objectives relating to urban consolidation. Clause 21.03 has a vision for Monash that acknowledges the municipality must cater for changing household sizes and structure whilst also complementing and enhancing the Garden City Character that is identified in Clause 21.02-2 of the Monash Planning Scheme. This vision identifies setbacks of buildings, mass and scale of building envelopes, quality of materials, location of car parking and canopy tree planting as important contributors to achieve the Garden City character.
2. Clause 21.04 identifies the review site is within Type C Character Area that is derived from the Post World War to 1965 development. Some of the contributory elements to this character include the variety of architectural styles, consistent building setbacks, well planted front gardens and low front fencing.
3. The objectives for housing at Clause 21.04-3 are to recognise the treed environment and have regard to a particular neighbourhood character and amenity. It also has objectives to encourage a diversity of housing styles to cater for different family lifestyle preferences, including the needs of an ageing population.
4. The desired future character encourages new buildings to be secondary in visual significance to the landscape of the character type in the street. However, this clause acknowledges that in neighbourhoods that currently have a large proportion of two storey houses, the architecture will gradually become more dominant but will be buffered from the street by a well planted front garden.
5. The Residential Development and Housing Policy at Clause 22.01 implements the Municipal Strategic Statement and zone objectives and provides the policy basis for the neighbourhood character areas. It contains objectives to build on the contribution that landscaping makes to the Garden City Character and encourage design responses that contribute positively to the neighbourhood character. I will discuss this policy further below.

### Policy Findings

1. The purposes of the GRZ2, PPF and LPPF are to encourage a diversity of housing types and growth at accessible locations. The site is located approximately 300 metres from Jordanville railway station and bus services operate along Huntingdale Road. It is also located 1.5 kilometres from Mount Waverley neighbourhood activity centre.
2. There was no dispute between the parties that there is policy support for medium density development at this location. I also agree this site is suitable for medium density development given its proximity to the train station and other services. I find the development will diversify housing in an area that is currently undergoing regeneration.
3. The policy expectation is that development must respond to its context and desired future character whilst also having proper regard for the amenity and functionality of development and future residents. The main issue is whether the proposal is a suitable design response to the desired built form and landscape character of this neighbourhood, as expressed in the neighbourhood character statements in the LPPF.
4. I find the development of three dwellings responds, in part, to emerging character of this area. However, amendments to the layout and design of the dwellings are required to respect the preferred neighbourhood character. This includes re-orientation of Dwelling 1 to face Huntingdale Road and alteration of the location of front fencing. I will discuss these neighbourhood character findings further below.

## Amendment C125

1. Council refused this application on the ground the proposed development is inconsistent with the Monash Housing Strategy and the objectives of the future zoning of the land under the Amendment C125.
2. The Monash Housing Strategy was adopted by Council in 2014. It contains a revised Residential Development Framework Map that indicates the review site is within a Category 2: Accessible Areas. These areas are designed to accommodate moderate housing change and diversification serving as a transition between commercial and residential areas whilst also respecting neighbourhood character and amenity. The residential outcomes include lower density unit and townhouse style development, at the interface with surrounding residential areas.
3. Amendment C125 (Part 1) was gazetted on 19 May 2018. This included the deletion of Clauses 21.02 and 21.03 of the Municipal Strategic Statement (MSS) as the policies were consolidated into Clause 21.01. It also reiterated the existing policy directions and provided greater emphasis on the need to provide enough space for the planting of canopy trees.
4. The exhibited Amendment C125 (Part 2) identifies the review site and surrounding land is to be zoned GRZ3. It also revises Clause 21.04 to include the Residential Development Framework Plan which shows the review site is within an ‘Accessible Area’. This clause also identifies the site is within Residential Character type ‘Garden City Suburbs Northern Area’.
5. The proposed GRZ3 zone maintains a frontage setback requirement of 7.6 metres, site coverage of 50%, maximum front fence height of 1.2 metres, permeability of 30%, rear setback of 5 metres and requires a minimum of 35 square metres private open space to be clear of water tanks and outdoor storage sheds. It also includes building heights and the following neighbourhood character objectives:

* To ensure development is consistent with the desired future character statement for the area set out in Clause 22.01-4.
* To ensure that development enhances the existing garden city character.
* To ensure development has generous and consistent setbacks and respects the height, scale and massing of existing dwellings in the neighbourhood.

1. The proposed development generally meets the above requirements of Schedule 3 including the rear setback, site coverage and open space provision but fails to meet the front fence requirement. The decision guidelines acknowledge that variations to standards will be considered where a proposal demonstrates it contributes to the ‘Garden City’ character.
2. The issue is what weight I give this planning scheme amendment. The applicant argues that greatest weight should be given to the planning scheme as it is at the time of its decision. She tabled a number of other Tribunal decisions that raise concerns about the uncertainty of gazettal of Amendment C125 (Part 2) in its current form[[3]](#footnote-3).
3. Given the amendment has been submitted to the Minister for approval, I will give it some weight in my decision. This amendment emphasises the importance of the maintaining the preferred neighbourhood character and includes neighbourhood character objectives in the new zone.

## neighbourhood character

### Preferred Neighbourhood Character

1. Clause 22.01-4 identifies contributory elements of Residential Character Type C area include the undulating topography, variety of architectural styles including two storey houses, consistent building setbacks, well planted front gardens, street trees of varying spacing and low fences.
2. Clause 22.01-4 describes the desired future character as:

The neighbourhood character of this area will develop within a pleasant leafy framework of well-planted front gardens and large canopy trees. Architecture, including new buildings and extensions, will, in the majority of cases, be secondary in visual significance to the landscape of the Character Type from the street. However, in neighbourhoods that currently have a large proportion of two storey houses, the architecture will gradually become more dominant, although it will always be buffered from the street by a well planted front garden that will ensure the soft leafy nature of the street will be perpetuated.

Setbacks will be generous and consistent within individual streets. Building heights will vary between neighbourhoods. Those neighbourhoods where the diverse topography and well developed mature tree canopy provide a framework within which redevelopment can occur will have a larger proportion of two storey houses. In the lower, less wooded areas, buildings will be mainly low rise unless existing vegetation or a gradation in height softens the scale contrasts between buildings.

The built-form will be visually unified by well-planted front gardens that contain large trees and shrubs and street tree planting. Neighbourhoods that are influenced by the naturalistic landscape of the creek valleys or on highpoints and ridges will have a predominance of native trees in both the public and private realm. Trees within lots to be redeveloped will be retained wherever possible in order to maintain the established leafy character. [[4]](#footnote-4)

### Physical Context

1. The context of this neighbourhood includes a mixture of single and two storey dwellings and intermittent multi-dwelling development. The original housing stock in the area is generally single storey detached brick dwellings with visible front gardens. Fencing along Huntingdale Road is predominately low but there are examples of higher fencing such as at 307 and 308 Huntingdale Road.
2. There is some multi-dwelling development nearby including a three storey apartment building at 303-305 Huntingdale Road that contains 26 dwellings. Council advised that this development was approved by the Tribunal in 2012[[5]](#footnote-5). Other multi-dwelling housing in the wider area are located at 24 Imperial Avenue (two dwellings) and 26 Imperial Avenue (three dwellings).
3. Due to the age of housing stock, this area is experiencing incremental change as there are also examples of replacement larger infill dwellings in the surrounding residential streets.
4. Gardens in this area include a mixture of mature exotic trees and shrubs in front and rear gardens. The street trees contribute to the garden character of the neighbourhood and include Lemon Scented Gums (approximately 10 metres high) along Huntingdale Road.

### Building Height, Scale and Design

1. Clause 22.01-3 states that it is policy to minimise the impact of the bulk and scale of development, where possible. The policy contains a number of recommendations including providing articulated and graduated elevations to avoid ‘box-like’ designs.
2. Council argues the development fails to provide a suitable design response and will be overly prominent when viewed from Imperial Avenue. This is due to the minimal frontage setbacks, attached continuous built form that extends for over 30 metres and the limited recession of the upper floors, with almost sheer walls.
3. I am not persuaded by Council’s arguments and find the scale, height and design of the dwellings satisfactory for the following reasons:

* The dwellings are set back a minimum of 3 metres from Imperial Avenue. This set back meets the Clause 55.03-1 (Standard B6 – Street Setback) and provides sufficient spacing for the planting of at least one canopy tree in the front garden of each dwelling.
* The garages are proposed to be setback 4 metres from Imperial Avenue. This articulation, in conjunction with the projecting windows to the living room and porches, provide visual interest in the streetscape.
* There is a 5.05 metre gap between the first floors of Dwellings 1 and 2 and a 2 metre gap between Dwellings 2 and 3. This spacing breaks up the built form in the streetscape.
* The dwellings propose a maximum height of approximately 7.6 metres. This height is in accordance with Clause 32.08-10 and is consistent with the height of other two storey dwellings in the wider area.
* The use of varying materials such as face brickwork at ground floor level and render and timber look screens at first floor level break up the built form between the levels.
* The first floors are partially recessed back from the ground floor for all elevations, with the exception of the en-suite for Dwelling 2 and bathroom for Dwelling 1.
* The ground floor of Dwelling 3 is set back 5.01 metres from the east boundary and provides space for landscaping adjacent to the adjoining rear yard. This reflects the spacing of other dwellings in Imperial Avenue.

1. Council argues the aluminium timber-look slat screening will not ameliorate the overall visual mass as the first floor habitable room windows are obscured by the screen. Whilst the elevation plans show a dark block of screen over the first floor bedroom windows, I am satisfied this feature is a suitable design response that will provide articulation and visual interest in the streetscape.

### Site Layout and Access

1. The layout includes all three dwellings facing Imperial Avenue, each with a separate driveway and crossover.
2. Council argues this layout fails to satisfactorily integrate with the predominant pattern of development due to the lack of a dwelling entry to Huntingdale Road and high fencing. It says that it recognises that vehicle access is required to be from Imperial Avenue to avoid traffic impacts on Huntingdale Road (i.e. Road Zone Category 1) but the layout ‘turns its back’ on the primary street frontage. This presentation is exacerbated by the high front fence which is inconsistent with the lower front fencing in the area.
3. The applicant says the existing dwelling has no relationship with Huntingdale Road as the frontage is enclosed by a 1.8 metre high fence and the pedestrian and vehicle access is currently from Imperial Avenue. The applicant submits the existing 1.8 metre high fence is to be removed and the site will be opened up as an open garden is to be provided in the south-west corner of the site. She argues this will be an improvement to the existing conditions.
4. I find that Dwelling 1 will not satisfactorily integrate with the layout of other dwellings on Huntingdale Road as it has no entry facing the primary street frontage. I observed this area contains dwellings, including those on corner lots that generally face the primary street frontage. Whilst I acknowledge that there is a 1.8 metre high fence around the frontage of the existing dwelling, this does prevent any new development being designed to include a dwelling facing Huntingdale Road.
5. Given the layout of the dwellings, it is evident the ground floor of Dwelling 1 can be amended to relocate the front entry to Huntingdale Road. When questioned about this possibility, the applicant agreed it can be accommodated in the design. I will therefore require this amendment as a condition on the permit.
6. This amendment will also require relocation of the 1.8 metre metal fence across the frontage setback be clear of the entry door and to facilitate pedestrian access from the south-west corner of the site. This will also be included as a condition on the permit.
7. Council is also concerned about the pattern of three vehicle access points on Imperial Avenue and the loss of the street tree. It says this is inconsistent pattern of crossovers and landscaping in the streetscape.
8. I do not share Council’s concerns as there is already an existing double and single crossover onto Imperial Avenue. I consider the extent of paving for the three new crossovers is consistent with the existing conditions in the street.

### Fencing

1. The GRZ2 requires a front fence within 3 metres of a street to not exceed 1.2 metres. The plans indicate removal of the existing 1.8m high brick pier and paling fence and replacement with a 1.8 metre high fence that comprises low bricks and metal pickets.
2. I find the proposed fencing is an improvement to the existing conditions as it is 25% permeable and does not fully enclose the frontage. This will open up the south-west corner of the site and is similar in fencing layout to the dwelling to the south at 314 Huntingdale Road.

### Landscaping

1. Council argues the proposal fails to respond to the landscape character of the neighbourhood. It says the siting of the dwellings does not allow sufficient space for landscaping along the side street boundary.
2. I find the Garden City character of this neighbourhood will be enhanced as there is enough space for landscaping as the dwellings are set back a minimum of 3 metres from Imperial Avenue. The indicative planting on the ground floor plan demonstrates at least one medium height canopy tree and low level planting can be planted in the frontage of each dwelling. There is also space for a larger canopy tree in the secluded open space of each dwelling.
3. The proposed relocation of the dwelling entry for Dwelling 1 that is to be included as condition on the permit will also increase landscaping in Imperial Avenue.
4. There is a Liquidambar (Tree 6 – 10 metres), Monterey Cypress (Tree 8 – 4 metres) and Coast Banksia (Tree 9 – 8 metres) in the frontage that are to be retained. This response will maintain the canopy tree presence in Huntingdale Road.
5. Council expressed concern about the loss of a street tree in Imperial Avenue to accommodate the vehicle crossings for Dwellings 1 and 2. This is a Melaleuca (Tree 2 – 2 metres high). The plans indicate there is sufficient space on the nature-strip for replacement planting to maintain the landscape character of the street.

### Design Detail

1. Council is concerned about the contemporary design of the dwellings. It says the dwellings incorporate some features that are out of keeping with predominant built form, including a roof profile that lacks wide eaves and the screen panels at first floor level.
2. I am satisfied the contemporary design of the dwellings will complement the range of dwelling styles found in this area. I have come to this conclusion as there are dwellings with skillion roofs located nearby, including directly opposite at 314 Huntingdale Road. Whilst there were no dwellings with timber panelling/slats over the windows, I find this acceptable in a neighbourhood that contains a variety of dwelling styles.

## amenity impacts

### Overlooking

1. The adjoining owner/occupier to the east at 19 Hillview Avenue is concerned about potential views from Dwelling 3 into his rear yard, dining room, kitchen, lounge room and back porch of his dwelling.
2. I find the design of Dwelling 3 meets the requirements of Clause 55.04-6 (Standard B22) as the plans show there is a 1.8 metre high paling fence along the east (rear) boundary and two highlight windows to a bathroom and toilet facing in the east elevation. I am satisfied the dwelling has been designed to ensure there is no unreasonable overlooking of the objector’s property.

### Internal Amenity

1. I am concerned the design and layout of the dwellings does not provide a satisfactory level of internal amenity for future occupants. This includes the lack of connectivity between the ground floor of Dwelling 1 and the frontage setback. The plans show there is no direct connection between the family room and the frontage that is enclosed by 1.8 metre high fencing.
2. I will require the west elevation family room windows to be converted to a glazed sliding door to provide some connectivity to the frontage as a condition on the permit. The applicant indicated this amendment can be incorporated into the design.
3. The first floor master bedroom of Dwelling 2 includes screening to the north elevation window and the en-suite and robe windows face Imperial Avenue. I consider this layout lowers the level of amenity of this room as it fails to have any outlook to the street and relies on daylight from a narrow north facing window that is screened up to 1700mm. The applicant was unable to explain why the dwelling had been designed this way and why the master bedroom had not taken advantage of the street frontage.
4. To improve the amenity of this dwelling, I will require the master bedroom to be relocated to face Imperial Avenue. The redesign will avoid screening of this window and provide the master bedroom with an outlook to the street.

### Is the provision of car parking satisfactory?

1. Council argues the development does not adequately satisfy the requirements of Clause 52.06 with regard to car parking and vehicle access. It acknowledges that the provision of a single garage satisfies the scheme requirements for a two bedroom dwelling but is concerned there is the potential for the ground floor living room to be converted an additional bedroom.
2. The plans show the garage is setback 4 metres from Imperial Avenue and there is no potential to park a car in the driveway without the vehicle overhanging the pavement.
3. I agree with the applicant that it is unreasonable to assume the applicant will act against what is allowed in the permit.

## conditions

1. Other conditions were discussed at the hearing and any changes to the permit conditions contained in Appendix A of this order reflect those discussions plus further consideration by the Tribunal.

### 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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| **Jane Tait**  **Member** |  |  |

# Appendix A – Permit Conditions

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| --- | --- |
| Permit Application No | TPA/48580 |
| Land | 312 Huntingdale Road, Mount Waverley |

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| What the permit allowS |
| In accordance with the endorsed plans:   * Development of three dwellings; |

## 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 advertised plans but modified to show:
   1. Conversion of the two separate vehicle crossings serving dwellings 1 and 2 into a double width crossing.
   2. Removal of the notations on the ground floor plan that refer to relocation of the existing street tree between the crossovers serving dwellings 1 and 2.
   3. The Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) of Tree No[s. 6 and 8 within the Huntingdale Road front setback,](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/paea1987254/s1.html) as per the Tree Arboricultural Impact Assessment prepared by Treemendous Consulting Pty Ltd dated 21 March 2018.
   4. The changes (if any) required by Condition 5(a).
   5. Details of the timber-look slats to the first floor north and south facing windows located within the sections of walls described as “aluminium slat look screening” clearly shown on the elevations. The windows are to be visible through the slats.
   6. A notation that the external screens to the north facing first floor windows serving Dwelling 2 sitting area and Dwelling 3 bedroom must be fixed, permanent and no more than 25% transparent.
   7. The removal of the entry porch for Dwelling 1 in Imperial Avenue.
   8. The provision of an entry door and porch in the west elevation of Dwelling 1 with access from the living room.
   9. The pedestrian path to the front entry for Dwelling 1 extending from the south-west boundary.
   10. Relocation of the picket and brick fence across the frontage (western) setback of Dwelling 1 to accommodate the path and porch entry required in Condition 1 (h) and (i).
   11. The conversion of the two ground floor west elevation living room windows of Dwelling 1 into a glazed sliding door.
   12. Relocation of the first floor master bedroom of Dwelling 2 to include a window (without timber slat screening) facing Imperial Avenue.
   13. Relocation of the bathroom and robe for the master bedroom of Dwelling 2 to accommodate the change in layout required in Condition 1 (l).

### No Alteration or Changes

1. The development as shown on the endorsed plans must not be altered without the written consent 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.

### Street Tree

1. Prior to the commencement of any works an offset cost must be paid to the responsible authority by the permit holder for the removal of the westernmost street tree within the Imperial Avenue frontage (*Melaleuca linariifolia*) and the planting/establishment of a new street tree in a suitable location. Upon request to the responsible authority an inspection of the street tree will be conducted and a determination of the offset cost will be provided.

### Tree Management Plan

1. Before the commencement of the development (including demolition) a Tree Management Plan, prepared by a qualified Arborist, must be submitted to and approved by the responsible authority. The report and plan must be to the satisfaction of the responsible authority and must include:
   1. Changes (if required) to the design, location and siting of the proposed fence within the Huntingdale Road setback area of dwelling 1 and/or any particular construction techniques required for the fence, to protect Tree Nos. [3](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/paea1987254/s1.html), 6 and 8.
   2. A management regime for Tree Nos. 1, 3, 6 and 8 during the demolition, construction and post-construction phases of the development. Matters to be addressed, as appropriate, may include the location/design of tree protection fencing, mulching/ watering requirements, arborist supervision of works/root pruning and requirements regarding trenching and materials/goods storage.

When approved, the Tree Management Plan will be endorsed and form part of the permit. The tree protection measures outlined in the report must be complied with to the satisfaction of the responsible authority.

### Landscape Plan

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 prior to the commencement of any works. The plan must show the proposed landscape treatment of the site including:-

* the location of all existing trees and other vegetation to be retained on site;
* provision of canopy trees with spreading crowns located throughout the site including the major open space areas of the development;
* 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;
* the Tree Protection Zone (TPZ) of Tree No’[s 1, 3, 6 and 8,](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/paea1987254/s1.html) as per the Tree Arboricultural Impact Assessment prepared by Treemendous Consulting Pty Ltd dated 21 March 2018;
* the location of any tree protection fencing required in accordance with the recommendations of the approved Tree Management Plan required by Condition 5;
* any recommendations of the Tree Management Plan in accordance with Condition 5(a);

Tree planting should be kept clear of the drainage easement.

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.

### Drainage Engineering

1. All on-site stormwater is to be collected from hard surface areas and must not be allowed to flow uncontrolled into adjoining properties. The on-site drainage system must prevent discharge from each driveway onto the footpath. Such a system may include either:
   1. a trench grate (150 mm minimum internal width) located within the property; and/or
   2. shaping the driveway so that water is collected in a grated pit on the property; and/or
   3. another Council approved equivalent.
2. Stormwater discharge is to be detained on-site to the predevelopment level of peak stormwater discharge. Approval of any detention system is required from Council prior to works commencing. Please refer to the notes section of this permit for additional details.
3. The nominated point of stormwater connection for the site is to the south-west corner of the property where the entire site's stormwater drainage must be collected and free drained via a pipe to the kerb and channel on Imperial Avenue to Council Standards. Note: - If the point of discharge cannot be located then notify Council's Engineering Division immediately.
4. Any new drainage work within the road reserve requires the approval of the Council’s Engineering Division prior to the works commencing. Please refer to the notes section of this permit for additional details.
5. Engineering permits must be obtained for new or altered vehicle crossings and for new connections to the kerb and channel and these works are to be inspected by Council (telephone 9518 3555).

### Transport Engineering

1. The new crossing for Dwelling 3 must be a minimum of 3.0 metres in width.
2. The existing redundant crossings are to be removed and replaced with kerb and channel. The footpath and nature strip are to be reinstated to the satisfaction of Council.

### Time Limit

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 is not started before two years from the date of issue*.*
* The development is not completed before four 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 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. Monash Planning Scheme [cl 32.08]. [↑](#footnote-ref-2)
3. Cited decisions include *IPIA Pty Ltd v Monash CC* [2018] VCAT 1290, *Makhmalbaf v Monash CC* (Red Dot) [2018] VCAT 1641. [↑](#footnote-ref-3)
4. Monash Planning Scheme [cl 22.01-4]. [↑](#footnote-ref-4)
5. No details of this Tribunal decision were tabled at the hearing but a copy of the Council report was submitted by the Applicant. [↑](#footnote-ref-5)