

**1.7 14 PENINGTON STREET, GLEN WAVERLEY
REMOVAL OF ONE (1) TREE IN THE VEGETATION PROTECTION OVERLAY
(TPA/48664)**

EXECUTIVE SUMMARY:

This application proposes to remove (1) one tree in the Vegetation Protection Overlay 1 (VPO1).

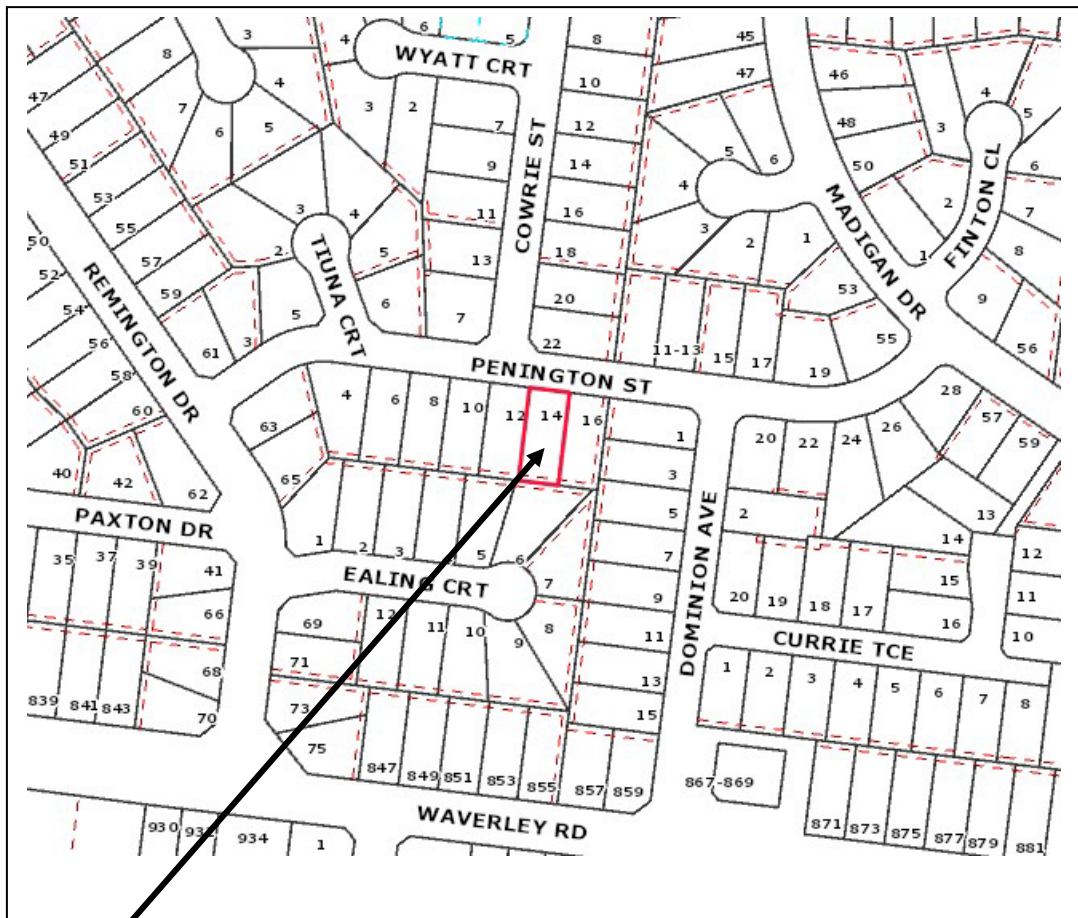
This application is exempt from public notice.

Key issued to be considered relate to the health of the tree and its contribution to the wider site and area.

This report assesses the proposal against the provisions of the Monash Planning Scheme including the relevant state and local planning policy framework, Clause 42 – Vegetation Protection Overlay. It is recommended that this application be refused.

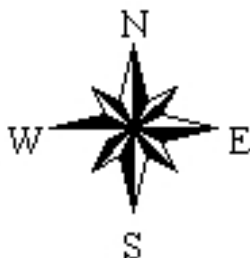
RESPONSIBLE DIRECTOR:	Peter Panagakos
RESPONSIBLE MANAGER:	Angela Hughes
RESPONSIBLE PLANNER:	Luisa Canales
WARD:	Glen Waverley
PROPERTY ADDRESS:	14 Penington Street, Glen Waverley
EXISTING LAND USE:	One Dwelling
PRE-APPLICATION MEETING:	No
NUMBER OF OBJECTIONS:	N/A
ZONING:	General Residential Zone 2 (GRZ2)
OVERLAY:	Vegetation Protection Overlay (VPO1)
AMENDMENT C125 (adopted)	Neighbourhood Residential Zone 4 (NRZ4)
RELEVANT CLAUSES: <u>State Planning Policy Framework</u>	<u>Local Planning Policy Framework</u> Clause 21.01 – Municipal Strategic Statement Clause 21.13 – Sustainability and Environment Clause 22.01 – Local Planning Policies – Residential Development and Character Policy Clause 22.05 – Tree Conservation Policy Clause 22.13 Environmentally Sustainable Development Policy
STATUTORY PROCESSING DATE:	30 March 2018
DEVELOPMENT COST:	N/A

LOCALITY PLAN



SUBJECT SITE

NEIGHBOURHOOD PLAN



RECOMMENDATION:

- A.** That Council resolves to issue a **Notice of Decision to Refuse to Grant a Planning Permit (TPA/48664)** for the removal of one (1) tree in the Vegetation Protection Overlay at 14 Penington Street, Glen Waverley on the following grounds:
- a) The tree makes a significant contribution to the landscape character of the area and its removal does not accord with the objectives of Clause 22.05 (Tree Conservation Policy) and Clause 42.02 (Vegetation Protection Overlay) of the Monash Planning Scheme.
- B.** That the Director City Development or his delegate write to the Permit Applicant to advise that:
- a) The independent arborist assessed the tree as follows:
 - The tree is healthy and appears structurally sound
 - The tree's canopy is quite low and contains some deadwood. Ivy was growing up its trunk
 - The tree is growing hard up against the southern (common) boundary fence and consequently damaging it.
 - Tree is growing over an easement and the owner was concerned that roots may be damaging the pipes.
 - b) Routine maintenance such as pruning, as well as removal of the ivy, will reduce the likelihood of limbs dropping from this tree. Routine maintenance such as this should be undertaken throughout the remaining life of the tree.

BACKGROUND:**History**

Planning Application TPA/48280 proposed the removal of one (1) tree in the Vegetation Protection Overlay. As this application was a VicSmart application, it was refused by officers acting under delegation on 15 November 2017.

The Site and Surrounds

The subject land is located on the southern side of Penington Street in Glen Waverley. The land is a regular shaped allotment. The site contains a single dwelling and established vegetation existing on the site. There is a 2.44 metre wide easement located on the rear boundary. The land appears to be levelled and is relatively flat across site.

The surrounding area has been developed in the 70's and vegetation and canopy trees form part of the character of this area.

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

PROPOSAL:

The applicant proposes to remove a *Eucalyptus polyanthemos* (Red Box) located towards the rear (southern) boundary of the site. The tree is approximately 15 metres in height.

The applicant submits that the tree is damaging her boundary fence and her rear neighbour's property and may injure a person if the tree is not removed. In support of this application, the applicant has provided:

- A letter dated 15 August 2017, from the owner/occupant at 6 Ealing Court, Glen Waverley the adjoining property to the rear, which states that the tree has damaged the southern (common) boundary fence and retaining wall. The letter also submits that the tree roots have damaged paving. The letter also submits that the crown of the tree significantly overhangs their residence.
- Photographs showing the area of secluded private open space of 6 Ealing Court Mt Waverley, which shows damage to the backyard paved area.
- A letter from the owner/resident at 6 Ealing Court, dated 6 January 2018, which expresses concerns regarding safety of his house and family as a result of the size of the tree and its close proximity to the common boundary fence and his house. The letter reiterates the damage the roots of the tree have caused and that the canopy of the tree extends over their residence.

Attachment 1 details plans, photographs and the previously mentioned letter part of the application.

PERMIT TRIGGERS:

Pursuant to Clause 42.02-2, a permit is required to remove or destroy any vegetation that has a trunk circumference greater than 500 mm at 1200 mm above ground level and has a minimum height of 10 metres.

CONSULTATION:

No further information was requested of the Applicant in relation to this application.

The Applicant verbally indicated on 28 February 2018 that she is willing to replant a semi-mature tree of suitable species on this site, if a planning permit is granted for tree removal.

The planning officer rang and spoke to the Applicant on 1 March 2018 to advise that this application was coming to the March 2018 Council meeting for a decision, as the officer's recommendation is to refuse the application.

Public Notice

Tree removal is exempt from public notice requirements of Section 52 of the Planning and Environment Act 1987

DISCUSSION:

Consistency with State and Local Planning Policies

State planning policies provide guidance with regard to the development of urban areas. In particular, the importance of landscaping and vegetation is considered to contribute positively to the local urban character. Development is to respond to its context in terms of urban character, natural features and surrounding landscape. This is particularly notable within the City of Monash, which is characterised by its leafy suburbs.

Clause 21.01 of the Monash Planning Scheme – Municipal Strategic Statement provides guidance in relation to the development of urban areas, and in particular emphasises the importance of the garden city character that is represented by the extensive treed residential areas that create leafy suburbs. Furthermore, the task of conservation is embedded into Clause 22.05 of the Monash Planning Scheme – Tree Conservation Policy. The objective of this policy is to promote retention of mature trees to maintain, extend the Garden City character throughout the Monash municipality; as well as meet criteria in the schedule to the VPO.

Assessment under Clause 42

The VPO provides clear objectives and decision guidelines for the removal, relocation and vegetation of significant vegetation, to preserve existing trees and enhance the character of neighbourhoods.

Purpose

The purpose of the VPO is (amongst other things):

- *To protect areas of significant vegetation.*
- *To ensure that development minimises loss of vegetation.*
- *To preserve existing trees and other vegetation.*
- *To recognise vegetation protection areas as locations of special significance, natural beauty, interest and importance.*

Prior to lodging, this application, in September 2017, the Applicant requested an assessment of this tree by Council in order to ascertain its health and whether or not a planning permit is required for its removal. In response, Council engaged an independent arborist to inspect the tree, and this occurred in the same month.

Following this inspection, it was ascertained that due to the height of the tree (15 metres) and its trunk circumference, that a planning permit is required for its removal.

In terms of the health of the tree, the arborist assessed it as follows:

- The tree is healthy and appears structurally sound
- The tree's canopy is quite low and contains some deadwood. Ivy was growing up its trunk
- The tree is growing hard up against the southern (common) boundary fence and consequently damaging it.
- Tree is growing over an easement and the owner was concerned that roots may be damaging the pipes.
- Crown modification pruning to lift the canopy (particularly over the roof of the neighbour's dwelling) is recommended, as is the removal of the ivy growing up the tree.

There are not many large trees in the vicinity and consequently, the subject tree makes a significant contribution to tree canopy in the area. Given this, combined with the health of the tree, it is not considered appropriate to allow its removal. The tree is located to the rear of the subject site, appears to have existed on this site since the early 1990s. Similarly, the dwelling at No. 6 Ealing Court – to the rear of the subject site – is, and has always been, sited in reasonably proximity to the rear common boundary.

In terms of the Applicant's (and neighbour's) concerns regarding the likelihood of limbs dropping from the tree, routine maintenance such as pruning, as well as removal of the ivy as suggested by the arborist engaged by Council will reduce the likelihood of limbs dropping from this tree. Routine maintenance such as this should be undertaken throughout the remaining life of the tree.

The VPO contains the following decision guidelines, which must be used in assessing an application for vegetation removal:

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

Given the existing condition of the tree, it is considered that there is insufficient reason to justify the removal of the tree. It is recommended that appropriate management actions be undertaken, in accordance with the advice provided by the independent Arborist engaged on behalf of Council.

CONCLUSION:

The proposal removal of the *Eucalyptus Polyanthemos* (Red Box) is not consistent with the purposes of the Vegetation Protection Overlay or the Tree Conservation Policy. The tree has been assessed by an independent arborist as being of good health and structure. The tree makes a positive and significant contribution to the garden character of this area, and particularly the extend of tree canopy covered in this area.

LIST OF ATTACHMENTS:

Attachment 1 – Proposed Development Plans.

Attachment 2 – Aerial Photograph (December 2016).

Attachment 3 – Zoning and Overlays Map.