

**1.4 299 HIGH STREET ROAD, MOUNT WAVERLEY
REMOVAL OF TWO (2) TREES IN A VPO
(TPA/52359)**

EXECUTIVE SUMMARY:

This application proposes the removal of two (2) trees at the subject site.

The application was exempt from public notification.

Key issues to be considered relate to the health of the trees and their contribution to the landscape character of the surrounding area.

This report assesses the proposal against the provisions of the Monash Planning Scheme including the relevant state and local planning policy framework.

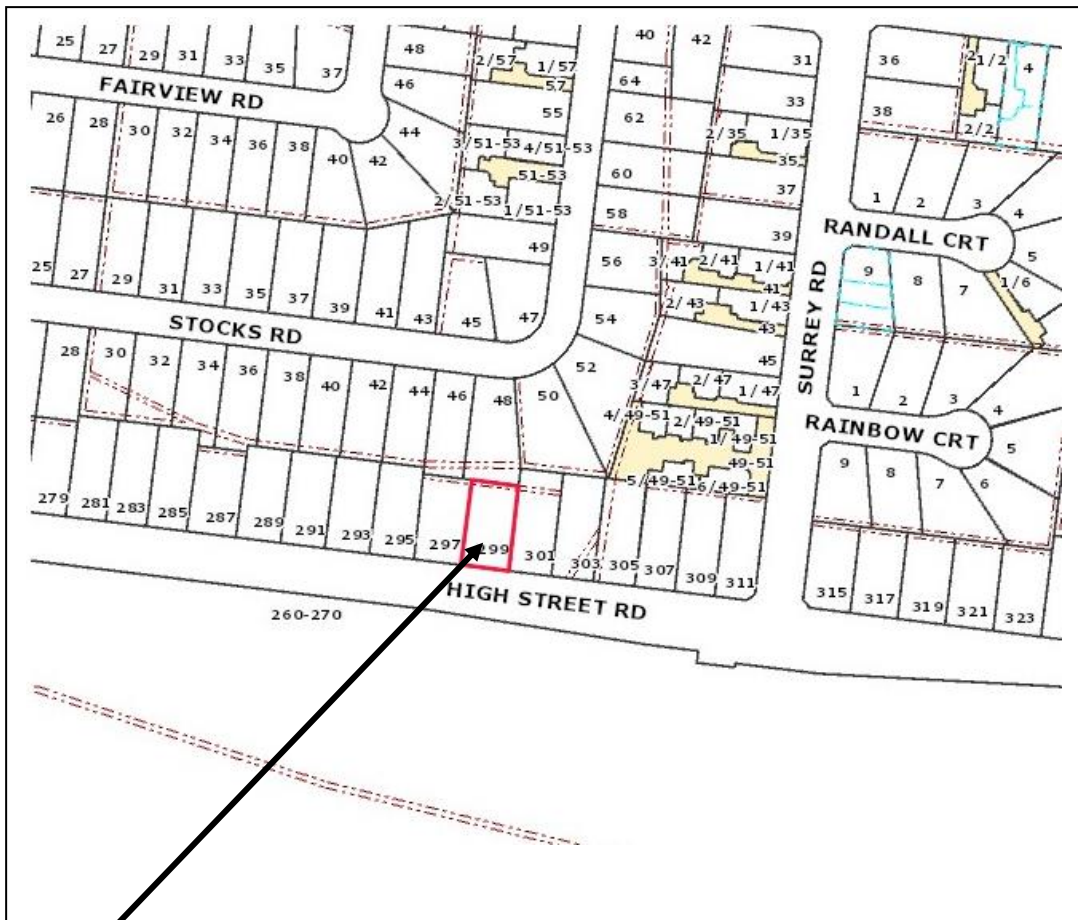
This report is being presented to Council as Officers do not support the proposed removal of the trees.

The proposal is considered inconsistent with the relevant provisions of the Monash Planning Scheme and it is recommended that the application be refused.

RESPONSIBLE DIRECTOR:	Peter Panagakos
RESPONSIBLE MANAGER:	Natasha Swan
RESPONSIBLE PLANNER:	Di Stanley
WARD:	Mount Waverley
PROPERTY ADDRESS:	299 High Street Road, Mount Waverley
EXISTING LAND USE:	Single dwelling
PRE-APPLICATION MEETING:	No
NUMBER OF OBJECTIONS:	N/A
ZONING:	General Residential Zone – Schedule 3
OVERLAY:	Vegetation Protection Overlay 1
RELEVANT CLAUSES: <u>Planning Policy Framework</u> Clause 15.01-5S- Neighbourhood Character	<u>Local Planning Policy Framework</u> Clause 21- Municipal Strategic Statement) Clause 21.04- Residential Development Clause 21.13- Sustainability and Environment

	Clause 22.01- Residential Development and Character Policy Clause 22.05 – Tree Conservation Policy
STATUTORY PROCESSING DATE:	31 May 2021
DEVELOPMENT COST:	Nil

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/52359)** for the removal of two (2) trees in a Vegetation Protection Overlay (VPO) at 299 High Street Road MOUNT WAVERLEY subject to the following ground:
1. The trees make a significant contribution to the landscape character of the area and their 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 Council write to the owner advising that Tree 17 and Tree 18 are to be retained, and that:
1. A tree protection zone (TPZ) should be installed around the Tree 17 with a radius of 4.7 metres and to Tree 18 with a radius of 6.8 metres during construction. The TPZ areas should be mulched and irrigated.
 2. The proposed site cut should be positioned at the dripline of the trees, no less than 4.5 metres from the trunk face of each tree and carried out with hand excavation. Any roots present in these sections are to be cut cleanly. No heavy machinery is to be used to carry out these works.
 3. A professional arborist should be engaged to remove deadwood and undertake routine crown maintenance pruning works of the trees. All pruning must be in accordance with the Australian Standard - AS4373 Pruning of Amenity Trees.

BACKGROUND:**History**

An application to remove three (3) trees in a Vegetation Protection Overlay was received on 11 February 2021.

A site inspection was carried out on 7 May 2021, with Council's Senior Arborist and the Planning Officer. Following the site inspection and a review of the Arborist's comments, it was considered appropriate to support the removal of Tree 20: *Ulmus sp.* (Elm) tree. At the time, Council officers informed the property owner that the removal of tree 17 and tree 18 would not be supported.

An application for the removal of one tree (Tree 20) was submitted to Council on 29 April 2021 (TPA/52580). Subsequently, a permit was issued on 18 May 2021 under delegation.

At the same time and amendment to planning permit application TPA/52359 was submitted, on 28 April 2021, to confine the application to the removal of two (2) trees only.

There are no other planning permits or applications associated with this site.

The Site and Surrounds

The subject land is located on the northern side of High Street Road approximately 590 metres east of Huntingdale Road and opposite the Riversdale Golf Club.

The site is regular in shape, with an area of 724.7 square metres and a fall of 3.75 metres from northern boundary at the rear of the site down to the front boundary adjacent to High Street Road.

The site contains reasonably generous landscaping throughout the site including diverse vegetation and several significant trees at the rear of the site.

The subject land is currently developed by a single storey brick dwelling with an attached garage and a bungalow at the rear of the garage.

The surrounding land is predominantly residential and developed with detached single and double storey dwellings surrounded by generous landscaping. The secluded private open space areas of adjoining properties include medium to large canopy trees.

South of the site on the other side of High Street Road are the extensive grounds of the Riversdale Golf Club, which include a row of densely planted mature native trees.

Street trees along this section of High Street Road include distinctive mature native trees with spreading canopies and several smaller more recently planted street trees.

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

PROPOSAL:

The application proposes the removal of two (2) trees located at the rear of the site adjacent to the northern boundary as follows:

- Tree 17: *Melia azedarach* (White Cedar) tree
Height: 12 metres / DBH: 1.29 metres

Location: Tree is growing in the eastern corner of the back garden adjacent to the northern property boundary.

The independent Arborist has described both the health and structure of the tree as fair, the amenity value as moderate and the retention value as low.

- Tree 18: *Melaleuca styphelioides* (Prickly Paperbark) tree
Height: 12 metres / DBH: 1.79 metres

Location: Tree is growing in the centre of the back garden adjacent to the northern property boundary.

The independent Arborist has described both the health and structure of the tree as fair. The Arborist has noted that both these trees have a low retention value, due to being relatively small specimens that are insignificant to the landscape.

The property Owners have indicated that the dwelling is currently vacant and that they are about to demolish the existing dwelling, remove all other existing vegetation on the site and construct a new double storey dwelling.

One other significant tree was identified in the Arboricultural report identified as Tree 5, a Grey Alder tree with a height of 10 metres. This species of tree is identified in Schedule 1 of the Vegetation Protection Overlay as one of the tree species not requiring a permit for removal as it is considered to be an invasive weed species.

The Owners have submitted an Arboricultural Assessment prepared by Taylor's Trees dated 27 July 2020, in support of their application.

Attachment 1 details plans forming part of the application.

PERMIT TRIGGERS:

Zoning

The land is zoned General Residential Zone - Schedule 3.

Overlay

The land is affected by Vegetation Protection Overlay - Schedule 1.

- Pursuant to the Vegetation Protection Overlay, a permit is required to remove or destroy any vegetation that:
 - Has a trunk circumference greater than 500mm (160mm diameter) at 1200mm above ground level and
 - Is higher than 10 metres.

Attachment 3 details the zoning and overlays applicable to the subject site and surrounding land.

CONSULTATION:

Further information was requested of the Permit Applicant on 11 March 2021 to assist in the consideration of the proposed removal of the trees. Information requested included; a copy of Covenant A794723, a statement to justify the removal of the trees, a tree removal plan and additional photos of the trees to support their proposed removal. In this letter, officers also raised the following preliminary concerns and outlined the process for assessing the removal of several tree in a Vegetation Protection Overlay:

- Tree 20: *Ulmus species* (Elm) tree has a height of 10 metres and the DBH of full trunk area is greater than 160mm, as detailed in the Arboricultural report provided with the application. This tree requires a planning permit for removal.
- With regard to proposed development in the Vegetation Protection Overlay, it is expected that a proposed design of a new dwelling is arranged to accommodate the retention of significant trees at the site where viable and practical.
- Council's Senior Arborist will need to visit the site and assess the trees to prepare comments for the Council meeting.

Council did not consider that the information provided in the Arboricultural report submitted by the Applicant, adequately justified the removal of the trees or fully describe the condition of the trees.

The applicant provided further supporting information on 8 April 2021 however, the layout of the proposed dwelling and position of the site cut in relation to the tree protection zones of tree 17 and tree 18 remained unchanged. The Owner maintains that the justification for the removal of these trees is due to the encroachment of the proposed dwelling and the impact of the associated site cut.

Covenant A794723 identified no relevance to the tree removal application.

Officers advised the Applicant on 28 April 2021, in writing that the removal of Tree 20 (Elm Tree) is likely to be supported and that a separate Vic Smart application to remove this tree could be made should they want an earlier decision. Officers also advised that this current application to remove the remaining two trees would be listed for the June Council meeting.

The Applicant was verbally advised at the time of the site visit on 7 May 2021 and in previous phone conversations that the removal of Tree 17 and Tree 18 would be unlikely to be supported.

Public Notice

Tree removal is exempt from public notification requirements of Section 52 of the *Planning and Environment Act 1987* pursuant to clause 3.0 of the Vegetation Protection Overlay controls.

Referrals

The application was referred to Council's Horticulture department and a site visit was carried to assess the trees.

Following the site visit, Council's Arborist provided the following comments:

- The White Cedar tree (T17) is in good condition.
- The structure of this tree includes a lean towards the south of the property. The tree exhibits suitably developed buttress flare which indicates that the lean has not caused a root plate failing.
- The Prickly Paperbark tree (T18) exhibits good vigour and foliage volume throughout the tree canopy and has an anticipated life expectancy of 15 to 20 years.
- The canopy has been pruned on the northern side where it extended over the neighbouring property however, there is no evidence that these works have undermined the health and structure of the tree.
- The proposed site cut could be positioned at the dripline of the trees, no less than 4.5 metres from the trunk face of each tree and carried out with hand excavation. Any roots present in these sections are to be cut cleanly. No heavy machinery is to be used to carry out these works.

Council's Arborist reviewed the submitted report and considers it lacks appropriate arboricultural information to support the removal of these trees.

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, which is characterised by leafy suburbs throughout the City of Monash.

Clause 21.13 – Sustainability and Environment needs to be considered, ensuring that there is incorporation of environmentally sustainable design principles when a new building is being designed, and that conservation, landscape, or recreational values, are maintained and managed in response to pressures from development.

Clause 21.01 - Municipal Strategic Statement makes reference to the Garden City Character in the City of Monash which is represented by extensive treed residential areas that create leafy suburbs.

Clause 22.01 – Residential Development and Character Policy makes reference to the Garden City and streetscape character of the neighbourhood, being maintained and enhanced where possible. This policy provides guidance to ensure

that new development is designed *‘to achieve outcomes that enhance the garden city character of the area’* and to *‘ensure that development is adequately setback from existing and proposed trees to ensure their protection and longevity.’*

This subject site is within the Garden City Suburbs (northern areas), which includes a preferred future character statement for *‘trees within lots to be redeveloped will be retained wherever possible to maintain the established leafy character.’*

Clause 22.05 – Tree Conservation Policy. The objective of this policy is to promote the 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.

Vegetation Protection Overlay

The VPO provides a clear objective and decision guidelines for the removal and protection of significant vegetation, to preserve existing trees and enhance the character of neighbourhoods;

To conserve significant treed environments and ensure that new development complements the Garden City Character of the neighbourhood.

In assessing an application the Responsible Authority has considered as appropriate:

- 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.

The application was assessed against the relevant State and Local Planning policies with particular regards to the Clause 22.05 - Tree Conservation Policy and Clause 42.02 - Vegetation Protection Overlay of the Monash Planning Scheme. As stated in Clause 22.05 new development should enhance and extend the Garden City Character of the City of Monash by ensuring retention of existing semi-mature and mature canopy trees wherever possible. Additionally, the purpose of VPO is to ensure developments minimise the loss of vegetation and to preserve existing significant trees, which has not been considered in this proposal.

In support of this application, the applicant has provided an arborist report. The Arboricultural report submitted with the application provides an assessment of the health and structure of the trees proposed for removal, as outlined above.

- Tree 17: *Melia azedarach* (White Cedar) tree
- Tree 18: *Melaleuca styphelioides* (Prickly Paperbark) tree

The independent Arborist has described the health and structure of both trees as fair and the amenity value as moderate.

The Arborist also noted that both trees have a low retention value, due to them being relatively small specimens that are insignificant to the landscape. This Arborist's description of 'fair' health for these trees includes the following:

'The tree is in reasonable condition and growing well for the species; the tree should exhibit an adequate canopy of foliage.'

The structure of both trees has also been described as 'fair' which includes the following description:

'The tree has some minor problems in the structure of the crown...if the tree has a single trunk this may be on a slight lean or exhibit minor defects. Probability of significant failure is low.'

The Arborist has concluded that both trees have a low retention value which is defined in the report as:

'The tree offers very little in the way of screening or amenity and may have significant structural defects.'

Council's Arborist considers both trees to be in good condition and tree 18 to have a life expectancy of 15-20 years.

The applicant intends to construct a new double storey dwelling on the site and the plans were submitted with the application. The plans indicate that the proposed location of a major site cut would encroach the tree protection zones of both trees, particularly tree 18. The level of encroachment to the tree protection zone of tree 18 has been noted as 40.3% and 34% of the structural root zone. Officers consider that the retention of Tree 17 and Tree 18 would not hinder the general prospects of redeveloping the site however, a modification to the current design would be required to reduce the impacts on these trees.

As discussed above, Council's Arborist has outlined measures that could be undertaken to minimise the impact of the excavation of a site cut and the construction of the new dwelling, on both trees. A modification to the proposed design of the new dwelling to allow the successful retention of these trees, will support policy for *'trees within lots to be redeveloped will be retained wherever possible to maintain the established leafy character.'*

Whilst there are a moderate number of large canopy trees adjacent to the rear of the subject site, the surrounding area does include significant vegetation. The trees proposed for removal are considered to make a significant contribution to the landscape character of the area and with regard for policies to *'ensure that new development complements the Garden City Character of the neighbourhood'*, their retention is supported.

This is generally characterised by a blend of both larger, prominent native vegetation on private land and smaller, moderate sized canopy trees along roads and in public areas of open space. The subject trees contribute more broadly to the garden city character of the area and fulfil the purpose of the VPO.

It is considered appropriate to recommend that the owner undertake pruning of both trees by a qualified Arborist to ensure that the trees are maintained in the long term.

CONCLUSION:

Based on the above assessment, it is recommended that Council resolves to refuse to permit the removal of two (2) trees within the vegetation protection overlay 1 (VPO1) at 299 High Street Road, Mount Waverley.

The information provided by the applicant does not sufficiently justify the removal of the two (2) trees. Council's Arborist found the health and structure of the trees to be good and did not detect any significant defects or decay.

The trees make a positive and significant contribution to the garden character of this area, and the proposed development could be modified to effectively incorporate these trees into the design.

LIST OF ATTACHMENTS:

Attachment 1 – Proposed Development Plans and Arboricultural Report.

Attachment 2 – Aerial Photograph (February 202).

Attachment 3 – Zoning and Overlays Map.