

**1.4 256 STEPHENSONS ROAD, MOUNT WAVERLEY  
TO REMOVE TWO (2) TREES IN A VPO  
(TPA/52345)**

**EXECUTIVE SUMMARY:**

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

The application was exempt from public notification.

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

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

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

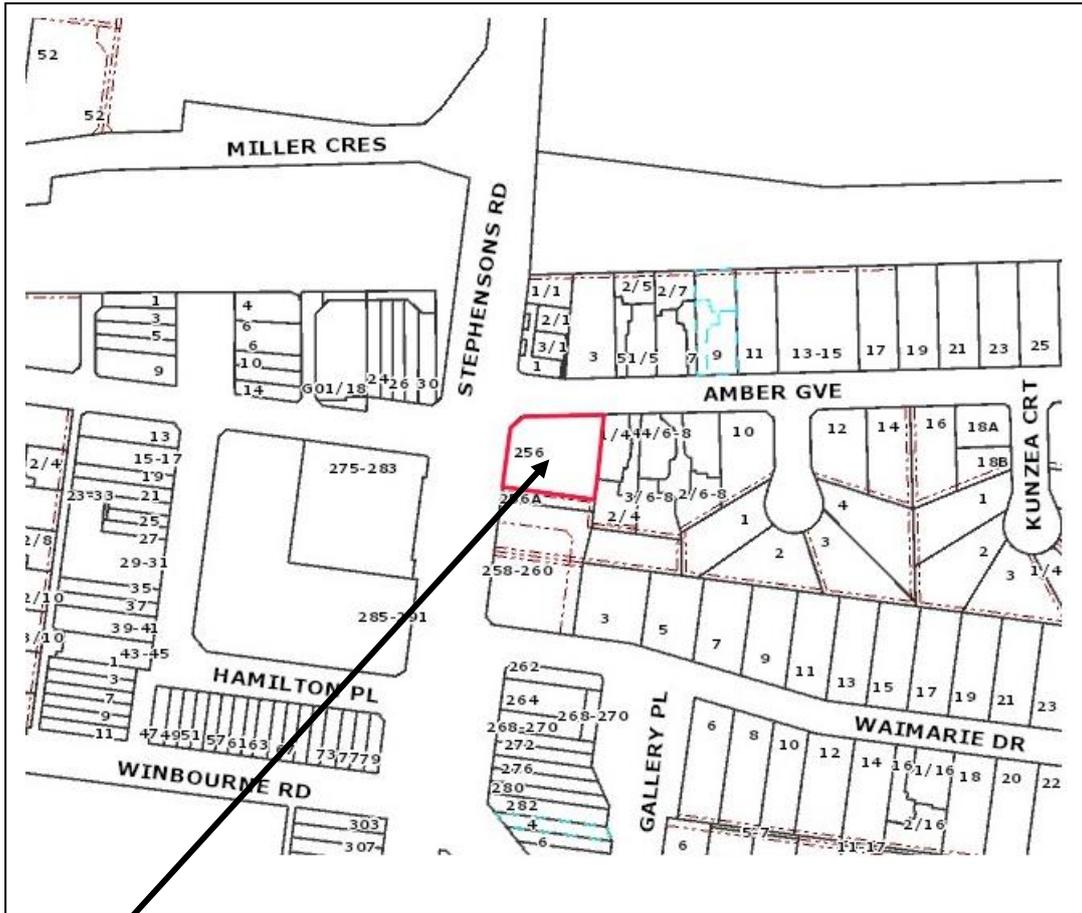
**The proposal is considered inconsistent with the relevant provisions of the Monash Planning Scheme and it is recommended that the application be refused.**

<b>RESPONSIBLE DIRECTOR:</b>	<b>Peter Panagakos</b>
<b>RESPONSIBLE MANAGER:</b>	<b>Natasha Swan</b>
<b>RESPONSIBLE PLANNER:</b>	<b>Christopher Marulli</b>
<b>WARD:</b>	<b>Mount Waverley</b>
<b>PROPERTY ADDRESS:</b>	<b>256 Stephenson's Road, Mount Waverley</b>
<b>EXISTING LAND USE:</b>	<b>Church</b>
<b>PRE-APPLICATION MEETING:</b>	<b>No</b>
<b>NUMBER OF OBJECTIONS:</b>	<b>N/A</b>
<b>ZONING:</b>	<b>General Residential Zone – Schedule 2</b>
<b>OVERLAY:</b>	<b>Vegetation Protection Overlay 1</b>
<b>RELEVANT CLAUSES:</b> <b><u>Planning Policy Framework</u></b> Clause 15.01-5S- Neighbourhood Character	<b><u>Local Planning Policy Framework</u></b> Clause 21- Municipal Strategic Statement) Clause 21.04- Residential Development Clause 21.13- Sustainability and Environment

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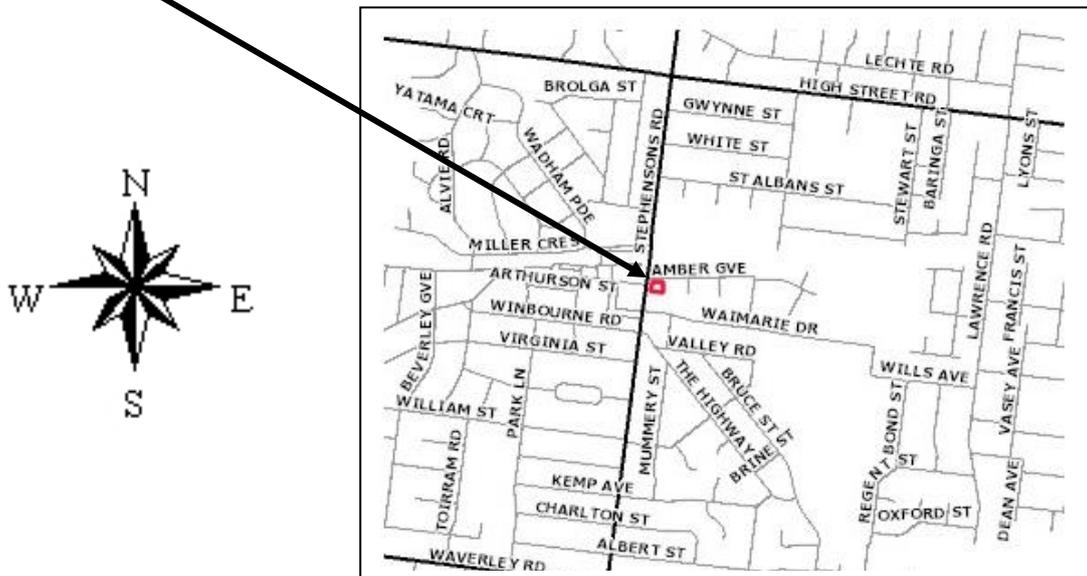
	Clause 22.01- Residential Development and Character Policy Clause 22.05 – Tree Conservation Policy
<b>STATUTORY PROCESSING DATE:</b>	<b>15 June 2021</b>
<b>DEVELOPMENT COST:</b>	<b>Nil</b>

### 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/52345)** for the removal of two (2) trees in a Vegetation Protection Overlay (VPO) at 256 Stephenson's 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 2 and Tree 3 are to be retained, and that:

1. As recommended by the arborist engaged by the applicant
  - A suitably qualified person should be engaged for minor canopy clearance from the building.
  - The bifurcation of tree 2 should be monitored over time to ensure included bark does not develop.
  - The trees should be inspected every 2 years or after any major storms.
  - All work required should be completed by a qualified person in accordance with Australian standards AS4373-1996 - Pruning of Amenity Trees.
2. The owner consider retention of Tree 1 as the roots are intertwined with the remaining two trees. Removal of this tree may compromise the structural integrity of Trees 2 & 3. Should Tree 1 be removed and cause damage to Trees 2 & 3 that leads to them being structurally compromised or to die in the absence of a planning permit having been obtained for their removal it may result in a breach of the Monash Planning Scheme.

**BACKGROUND:****History**

Planning Permit TPA/41255 was approved on 1 May 2013 to allow for the removal of two large gum trees in the north east corner of the land adjacent to the dwelling at 1/4 Amber Grove, Mount Waverley.

The application was supported by an Arborist report that raised concerns about the long term structural stability of the trees and their potential impact on the neighbouring property.

**The Site and Surrounds**

The subject land is located on the eastern side of Stephenson's Road, situated on the corner with Amber Grove, Mount Waverley. The site also sits opposite the Mount Waverley Train Station and Mount Waverley Village Shopping Centre.

The site is irregular in shape, with an approximate area of 1244m<sup>2</sup> and is generally flat.

The site contains reasonably generous landscaping throughout the site including diverse vegetation and significant trees within the front setback areas fronting both Stephenson's Road and Amber Grove.

The subject land is currently developed with a single storey brick building with a tiled pitched roofing. The current land use is a church, occupied by *First Church of Christ, Scientist, Waverley*.

The surrounding land is currently developed with a mixture of single and double storey dwellings and the Shell service station directly to its south. The surrounding area is characterised by well vegetated front yards and existing large canopy tree cover. A Commercial 1 Zone is located across Stephenson's Road to the west, being within the Mount Waverley Village Shopping Centre.

Street trees along this section of Stephenson's Road include distinctive mature native 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 within the front setback of the subject site on the corner of Stephenson's Road and Amber Grove.

The Permit Applicant has submitted an Arboricultural Assessment dated 12 April 2021 in support of their application.

The subject trees are identified as follows:

Tree 2: *Corymbia maculata* (spotted gum)

Height: 20 metres / DBH: 27 centimetres

Location: Tree is growing south of Tree 3, situated on the corner of the site adjacent to the north-west property boundary.

The independent Arborist has described both the health and structure as fair, the retention value as retain and the landscape contribution rating as valuable.

Tree 3: *Corymbia maculata* (spotted gum)

Height: 20 metres / DBH: 74 centimetres

Location: Tree is growing north of Tree 2, situated on the corner of the site adjacent to the north-west property boundary.

The independent Arborist has described both the health and structure as fair, the retention value as retain and the landscape contribution rating at valuable.

One other tree (Tree 1) is also proposed for removal. It is a 9 metre tall *Corymbia maculata* (spotted gum). Pursuant to the Schedule of the Vegetation Protection Overlay, as the tree is under 10 metres in height, a planning permit is not required for its removal.

The purpose of the tree removal is due to concern over limbs falling on the footpath and church building. Additionally, concern with the amount of gum nuts the tree drops onto the footpath.

Attachment 1 details plans forming part of the application.

#### **PERMIT TRIGGERS:**

##### Zoning

The land is zoned General Residential Zone - Schedule 2.

##### 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.

A permit is not required to remove or destroy dead vegetation, certain weed species or a tree that presents an immediate risk of personal injury or damage to property. In the case of an immediate risk, only that part of the vegetation that presents the immediate risk may be removed, destroyed or lopped under this exemption.

Further a permit is not required to prune or lop a tree.

The subject trees do not meet the exemption from permit for removal in their entirety.

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 2 March 2021 to assist in the consideration of the proposed removal of the trees. In this letter, Council requested further supporting information in regards to the health of the subject trees, due to the supporting evidence provided with the application dating back to 2019.

Following an initial preliminary assessment the Applicant was also advised that based on the submitted information submitted it was unlikely that Council would support the removal of the trees.

The Permit Applicant responded to this letter on 15 April 2021 providing an Arboricultural report dated 12 April 2021.

On 5 May 2021 the applicant was advised in writing that the removal of Tree 1 (Spotted Gum) did not require a planning permit pursuant to the Vegetation Protection Overlay, albeit the issue of impact on the retention of Trees 2 and 3 was raised.

The Applicant was verbally advised that this application was coming to the July Council meeting, in addition to a letter that was sent to the Applicant formally informing them of the details of the Council meeting. The Applicant has been verbally advised that this application is recommended for refusal on the basis that the trees are deemed valuable to the broader landscape, do not pose any health or structural risks and should be retained.

**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 not referred.

**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 Municipal Planning Strategy and the Planning Policy Framework. The statement of the nature and significance of the vegetation to be protected and the vegetation protection objective contained in a schedule to this overlay.
- Whether provision is made or is to be made to establish and maintain vegetation elsewhere on the land. Any other matters specified in a schedule to this overlay.
- 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.

The trees proposed for removal are considered to make a significant contribution to the landscape character of the area. Their value and therefore their retention is consistent with the Monash Planning Scheme policies that seek to ensure that *'existing mature trees and shrubs will be retained and additional tree planting within streets and private gardens will add to the tree canopy of the area'*.

The area is generally characterised by a blend of both larger, prominent native trees on private land and along roadsides. The subject trees contribute more broadly to the Garden City Character of the area and fulfil the purpose of the VPO. They are prominent in the Stephenson's Road streetscape.

The application has been made on the basis of concerns regarding potential limb failure over Council's footpath or onto the church building. In support of this application, the applicant has provided an arborist report.

The report's conclusions confirm that each of the three trees located in this corner of the property make a valuable contribution to the landscape in the area. The trees show evidence of proper maintenance through pruning and show no signs of any imminent failure that could cause concern, ruling out any potential safety risks at this time.

The Arborist has described the health and structure of both Trees 2 and 3 as fair. There are minor pest issues within the three trees including sooty mould and lerps. The report states that these are only minor and have not drastically affected the health of the trees.

The Arborist identifies that Tree 2 has *a large bifurcation at approximately 4 metres above ground. Limbs extending over the roofline of the church building.* The branches are not over extended or unbalanced and do not require pruning for safety. It is however recommended that they could be pruned back to assist in reducing leaf litter in the gutters of the building. Such pruning would not require planning permission.

Tree 3 has been noted as a *good specimen with good trunk flare and only minor signs of pest and disease.* The tree has good trunk flare showing a very stable root base. The tree does lean out towards the street and powerlines but has grown in this manner and is stable. The report notes a wound has been caused due to previous pruning cuts to the tree, but this has not caused any problems to the health or structural safety of the tree.

The useful life expectancy of both trees is rated as 30+ years.

Whilst Tree 1 does not require a planning permit for removal due to the height of the tree being under 10 metres, it is recommended that the Owner's consider retaining this tree. The Arborist report notes that the tree is of *fair* health and structure. Further, the tree plays a vital part of the stability of the three trees. The tree has grown in unison with Trees 2 and 3, causing canopy protection and root entanglement.

The independent Arborist report also comments that more than likely the roots of all three trees are entangled giving great stability. As such, it is considered appropriate to recommend that the owner undertake pruning of all trees by a qualified person to ensure that the trees are maintained in the long term and not compromised as the tree roots are intertwined.

**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 256 Stephensons Road, Mount Waverley.

The submitted independent Arboriculture report found the trees make a valuable contribution to the landscape and their health and structure are 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 are considered appropriate for retention.

Accordingly, it is recommended that the application should be refused.

**LIST OF ATTACHMENTS:**

Attachment 1 – Proposed Development Plans and Arboricultural Report.

Attachment 2 – Aerial Photograph (January 2021).

Attachment 3 – Zoning and Overlays Map.