VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

|  |  |
| --- | --- |
| planning and environment LIST | vcat reference No. P125/2021Permit Application no. TPA/40163/A |

|  |  |
| --- | --- |
| **Applicant** | Elie Helou |

|  |  |
| --- | --- |
| **Responsible Authority** | Monash City Council |

|  |  |
| --- | --- |
| SUBJECT LAND | 36 George StreetASHWOOD Vic 3147 |
| HEARING TYPE | Hearing  |
| DATE OF HEARING | 17 May 2021 |
| DATE OF ORDER | 21 May 2021 |

# Order

1. In application P125/2021 the decision of the responsible authority is set aside.
2. Planning permit TPA/40163 is amended and an amended permit is directed to be issued for the land at 36 George Street, Ashwood. The permit is amended as follows.
	1. Condition 1 is deleted and replaced with the following:
		* 1. Within three (3) months of the date of the amended permit, three copies of amended plans drawn to scale and dimensions, must be submitted to and approved by the Responsible Authority. When approved the plan will be endorsed and will them form part of the permit. The plans must generally be in accordance with the plans submitted with the application to amend the permit (drawing numbers A0.02, A1.01, A1.02, A2.01 and A2.02 all dated June 2020 prepared by Chris Viola Architects and the landscape plan prepared by Monarch Garden Design dated 7 June 2020 but modified to show:

The decks for dwellings 1 and 2 reduced in size in accordance with the plan prepared by the Responsible Authority and contained in an email to Planning Vision dated 23 July 2020.

Planting between the meter box and the front fence with species selected not to exceed 1.2 metres in height at maturity.

Planting in areas available for landscaping in the secluded private open space of dwellings 1 and 2 not occupied by decking including at least one small canopy tree in each area.

An additional canopy tree in the front setback of dwelling 1.

* 1. A new Condition 2 inserted as follows:

2 Within three months of the plans required by Condition 1 being approved and endorsed by the Responsible Authority, the modifications to the decks and the landscaping required by the condition must be completed to the satisfaction of the Responsible Authority.

* 1. Condition 11 is deleted.
	2. All conditions of the permit renumbered accordingly and inclusion of a note to describe the amendment included on the amended permit.

|  |  |  |
| --- | --- | --- |
| Cindy Wilson**Member** |  |  |



# Appearances

|  |  |
| --- | --- |
| For applicant | Mr Spiro Neofitou, town planner of Planning Vision Pty Ltd  |
| For responsible authority | Mr Gerard Gilfedder, town planner of Currie & Brown  |

# Information

|  |  |
| --- | --- |
| Description of proposal | Retrospective approval for decking, front fence, meter box and other changes to an existing two dwelling development. |
| 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 3Vegetation Protection Overlay, Schedule 1 |
| Permit requirements | Amendment to an existing permit in relation to conditions and endorsed plans.  |
| Land description | The review site is located on the south side of George Street, Ashwood. It is rectangular with a frontage of 16.76 metres, a depth of 47.07 metres and a site area of 789 square metres. Two double storey dwellings exist on the land.  |
| Tribunal inspection | I inspected the site and surrounds prior to the hearing.  |

# Reasons

1. A permit was issued by Monash City Council in 2012 for two dwellings at 36 George Street, Ashwood. Plans submitted in accordance with condition 1 of the permit were endorsed in June 2013.
2. The construction of the development has occurred and the dwellings are occupied.
3. A permit application for retrospective approval of decking, front fencing, a meter box and other matters was made to Council. Council refused the application and an application to review this decision has been made.
4. Having inspected the review site and surrounds, heard the submissions of the parties, considered the material provided including photos and plans and had regard to the Monash Planning Scheme, I have decided to set aside he decision of Council. I am satisfied the amendments sought in relation to the front fence, meter box and other uncontested matters are acceptable but consider the decks are not acceptable and require reduction in size.
5. Oral reasons for the decision of the Tribunal were given to the parties on 17 May 2021.

|  |  |  |
| --- | --- | --- |
| Cindy Wilson**Member** |  |  |