

# VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

## PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P471/2023  
PERMIT APPLICATION NO.TPA/54394

<b>APPLICANTS</b>	Bernard Gratian & Anusha Leena Gratian
<b>RESPONSIBLE AUTHORITY</b>	Monash City Council
<b>SUBJECT LAND</b>	2 Acol Court MULGRAVE VIC 3170
<b>HEARING TYPE</b>	Hearing
<b>DATE OF HEARING</b>	11 September 2023
<b>DATE OF ORDER</b>	11 September 2023

## ORDER

### Permit granted

- 1 In application P471/2023 the decision of the responsible authority is set aside.
- 2 In planning permit application TPA/54394 a permit is granted and directed to be issued for the land at 2 Acol Court MULGRAVE VIC 3170 in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:
  - Construction of two dwellings on a lot.

Joel Templar  
**Member**

## APPEARANCES

For applicant	Mr Daniel De Fazio, town planner of Human Habitats Pty Ltd.
For responsible authority	Mr Gareth Gale, town planner of Gareth Gale Consulting Pty Ltd.



## INFORMATION

Description of proposal	Construction of two double storey dwellings in a side-by-side arrangement.
Nature of proceeding	Application under section 77 of the <i>Planning and Environment Act 1987</i> – to review the refusal to grant a permit.
Planning scheme	Monash Planning Scheme
Zone and overlays	General Residential Zone Schedule 2
Permit requirements	Clause 32.08-6 – to construct two or more dwellings on a lot.
Land description	<p>The site is located on the northern side of Acol Court in Mulgrave. Acol Court is a short court containing 7 dwellings (including those at the corner with Bertrand Avenue which also have an Acol Court address).</p> <p>The land is irregular in shape, with a frontage of 14.5 metres, a length of 32.50 metres and an overall area of 647 square metres. The land has a fall of 0.5 metres from the northeast corner to the southwest corner. An easement runs along the northern title boundary and returns for a short distance along the western boundary. The easement depth is 2.44m (8 feet).</p>



## REASONS<sup>1</sup>

- 1 Reasons for the decision were provided '*ex tempore*', or verbally, at the hearing.

Joel Templar  
**Member**

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<sup>1</sup> The submissions and evidence 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.

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## APPENDIX A – PERMIT CONDITIONS

<b>PERMIT APPLICATION NO</b>	TPA/54394
<b>LAND</b>	2 Acol Court MULGRAVE VIC 3170

### WHAT THE PERMIT ALLOWS

In accordance with the endorsed plans:

- Construction of two (2) double storey dwellings on a lot.

## CONDITIONS

### Amended Plans

- 1 Before the development starts, amended plans drawn to scale and correctly dimensioned must be submitted to the satisfaction of and approved by the Responsible Authority. When approved, the plans will be endorsed and then form part of the Permit. The plans must be generally in accordance with the plans submitted to Council, but modified to show:
  - (a) The location and design of any proposed electricity supply meter boxes. The electricity supply meter boxes must be located at or behind the setback alignment of buildings on the site, or in compliance with Council's "Guide to Electricity Supply Meter Boxes in Monash".
  - (b) Where practicable, a corner splay or area at least 50 per cent clear of visual obstructions extending at least 2 metres along the frontage road from the edge of an exit lane and 2.5 metres along the exit lane from the frontage, to provide a clear view of pedestrians on the footpath of the frontage road. The area clear of visual obstructions may include an adjacent entry or exit lane where more than one lane is provided, or adjacent landscaped areas, provided the landscaping in those areas is less than 900mm in height.
  - (c) A Landscape Plan in accordance with condition 3 of this Permit.
  - (d) A schedule identifying all materials, finishes and colours to be used on the exterior of the building.

### Layout not to be Altered

- 2 The development and use as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.



## Landscape Plan

- 3 Concurrent with the endorsement of any plans requested pursuant to Condition 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. The Landscape Plan must show:
- (a) A survey and location of all existing trees, using botanical names to be retained and of those to be removed. The intended status of the trees shown on the landscape plan must be consistent with that depicted on the development layout plan;
  - (b) A planting schedule of all proposed trees, shrubs and ground cover, which will include the size of all plants (at planting and at maturity), pot / planting size, location, botanical names and quantities;
  - (c) A minimum of four canopy trees (minimum 1.5 metres tall when planted), with one each of those in the each respective rear private open space areas. The canopy trees must have a minimum height of 7 metres and must have a spreading crown with a minimum width of 4 metres at maturity, or as otherwise agreed by the Responsible Authority;
  - (d) the location of any fencing internal to the site;
  - (e) provision of canopy trees with spreading crowns located throughout the site including the major open space areas of the development;
  - (f) planting to soften the appearance of hard surface areas such as driveways and other paved areas;
  - (g) Canopy Trees / Significant Planting on adjoining properties within 3 metres of the site;
  - (h) the location of any retaining walls associated with the landscape treatment of the site;
  - (i) details of all proposed surface finishes including pathways, accessways, patio or decked areas;
  - (j) An in-ground, automatic watering system linked to rainwater tanks on the land must be installed and maintained to the common garden areas to the satisfaction of the Responsible Authority;
  - (k) The location of external lighting (if any);
  - (l) The location of electricity supply meter boxes. The electricity supply meter boxes must be located at or behind the setback alignment of



buildings on the site, or in compliance with Council’s “Guide to Electricity Supply Meter Boxes in Monash”

- (m) Landscaping and planting within all open areas of the site.

When approved the plan will be endorsed and will then form part of the permit.

- 4 Before the occupation of any 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 thereafter maintained to the satisfaction of the Responsible Authority

### **Tree Protection**

- 5 Before any development (including demolition) starts on the land, a tree protection fence must be erected around all trees that are to be retained, or are located within or adjacent to any works area (including trees on adjacent land). The tree protection fence must remain in place until all construction is completed on the land, except with the prior written consent of the Responsible Authority.
- 6 No building material, demolition material, excavation or earthworks shall be stored or stockpiled within the Tree Protection Zone (TPZ) of any tree to be retained during the demolition, excavation and construction period of the development hereby permitted without the prior written consent of the Responsible Authority.

### **Landscaping Prior to Occupation**

- 7 Before the occupation of any 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 thereafter maintained to the satisfaction of the Responsible Authority.

### **Drainage**

- 8 The site must be drained to the satisfaction of the Responsible Authority. Stormwater must be directed to the Point of Connection as detailed in the Legal Point of Discharge report. Stormwater must not be allowed to flow into adjoining properties including the road reserve.
- 9 A plan detailing the drainage works must be submitted to the Engineering Division prior to the commencement of works for approval. The plans are to show sufficient information to determine that the drainage works will meet all drainage requirements of this permit. Refer to Engineering Plan Checking on [www.monash.vic.gov.au](http://www.monash.vic.gov.au).
- 10 Stormwater discharge is to be detained on site to the predevelopment level of peak stormwater discharge. Approval of any detention system is



required by the City of Monash prior to works commencing; or any alternate system.

- 11 No polluted and/or sediment laden runoff is to be discharged directly or indirectly into Council's drains or watercourses during and after development, to the satisfaction of the Responsible Authority.
- 12 The full cost of reinstatement of any Council assets affected by the demolition, building or construction works, must be met by the permit applicant or any other person responsible for such damage, to the satisfaction of the Responsible Authority.

### **Vehicle Crossovers**

- 13 All disused or redundant vehicle crossovers must be removed and the area reinstated with footpath, naturestrip, kerb and channel to the satisfaction of the Responsible Authority.
- 14 Any new vehicle crossover or modification to an existing vehicle crossover must be constructed to the satisfaction of the Responsible Authority.
- 15 Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose, to the satisfaction of the Responsible Authority. All disused or redundant vehicle crossovers must be removed and the area reinstated with footpath, naturestrip, kerb and channel to the satisfaction of the Responsible Authority.

### **Privacy Screens**

- 16 Prior to the occupancy of the development, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained ongoing to the satisfaction of the Responsible Authority. The use of obscure film fixed to transparent glass or windows is not considered to be 'obscure glazing' or an appropriate response to screen overlooking.

### **Boundary Walls**

- 17 The walls on the boundary of adjoining properties shall be cleaned and finished in a manner to the satisfaction of the Responsible Authority.

### **Satisfactory Continuation and Completion**

- 18 Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

### **Expiry of permit for development**

- 19 This permit as it relates to development (buildings and works) will expire if one of the following circumstances applies:

- (a) The development is not started within two (2) years of the issue date of this permit.
- (b) The development is not completed within four (4) years of the issue date of this permit.

In accordance with section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

– **End of conditions** –

