

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P849/2023
PERMIT APPLICATION NO. TPA/54540

APPLICANTS Sanjay Chopra & Suman Kumar Nagpal
RESPONSIBLE AUTHORITY Monash City Council
SUBJECT LAND 13 Bennett Avenue
MOUNT WAVERLEY VIC 3149
HEARING TYPE Hearing
DATE OF HEARING 13 December 2023
DATE OF ORDER 28 February 2024

ORDER

Permit granted

- 1 In application P849/2023 the decision of the responsible authority is set aside.
- 2 In planning permit application TPA/54540 a permit is granted and directed to be issued for the land at 13 Bennett Avenue, Mount Waverley in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:
 - The construction of two double story dwellings on a lot.

Karina Shpigel
Member



APPEARANCES

For applicant

Andrew Clarke, Town Planner, Clarke
Planning Pty Ltd.

For responsible authority

Gerard Gilfedder, Currie & Brown.



INFORMATION

| | |
|-------------------------|---|
| Description of proposal | The construction of two double storey dwellings, sited in a tandem 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 3. Vegetation Protection Overlay, Schedule 1. |
| Permit requirements | Clause 32.08-7 to construct two or more dwellings on a lot. |
| Land description | <p>The land is located on the northern side of Bennett Avenue. It is a regularly shaped allotment with a total area of 725.5 square metres.</p> <p>The land is currently developed with a single storey brick dwelling.</p> |



REMARKS

- 1 At the conclusion of the hearing, I delivered an Oral Ruling and provided the parties with the reasons for my decision.
- 2 A without prejudice discussion concerning the permit conditions was conducted at the conclusion of the hearing. The applicant produced a revised version of the draft conditions following the hearing. I have had regard to those discussions in the conditions I have imposed in Appendix A to this determination.

Karina Shpigel
Member



APPENDIX A – PERMIT CONDITIONS

| | |
|-------------------------------|--|
| PERMIT APPLICATION NO: | TPA/54540 |
| LAND: | 13 Bennett Avenue MOUNT WAVERLEY VIC 3149 |

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, plans drawn to scale and dimensioned must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans prepared by R Architecture dated 15 March 2023, but modified to show:
 - (a) The Dwelling 2 bedrooms numbered.
 - (b) Dwelling 1's internal bifold door connecting the dining area and garage to be changed to a standard hinged door.
 - (c) Letter boxes no greater than 900mm in height convenient to the dwellings.
 - (d) The location and design of any proposed electricity supply meter boxes. The electricity supply meter boxes and any associated infrastructure must be located at a distance from the street which is at or behind the setback alignment of buildings on the site. Alternatively, the facility must be setback a minimum of 3 metres from the front title boundary, be no greater than 1.4 metres in height and must be adjacent a side boundary fence where the most minimal level of visual impact arises.
 - (e) The bin storage area for Dwelling 2 relocated adjacent to the ground floor bathroom on the eastern boundary.
 - (f) The provision of an additional canopy tree in the north western corner of the site, being the secluded private open space area for Dwelling 2.
 - (g) The landscape plan required in Condition 3.
 - (h) Specification sheets for the proposed car-stacker model.



No Alterations

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

Landscaping

- 3 Concurrent with the endorsement of any plans requested pursuant to Condition 1 a landscaping plan, generally in accordance with the 'Landscape Concept Plan, dated 20/03/2003 drawn by S.V.' must be 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 plan;
 - (b) The provision of canopy trees with spreading crowns located throughout the site including the major open space areas of the development. The trees are to grow to any minimum height specified in the Schedule to the applicable zone. A canopy tree is to be provided in the rear private open space of Dwelling 2 inside the rear west boundary;
 - (c) The provision of shrubs throughout the site. The Kangaroo Paw Cultivar plants proposed inside the west boundary at the side of both dwellings changed to a hedging shrubs that will grow 1 metre above the fence line. Planting is to be provided forward of the service metres on the east side of the driveway at the front of the site. Dwarf Lilly Pilly or Orange Jessamine are to be provided on the east side of the driveway extending to a point approximately in line with the front of Dwelling 1.
 - (d) A mix of shrubs and lower plantings are to be provided both sides of the central footpath.
 - (e) The location of any fencing internal to the site;
 - (f) Planting to soften the appearance of hard surface areas such as driveways and other paved areas;
 - (g) The location of any retaining walls associated with the landscape treatment of the site;
 - (h) Details of all proposed surface finishes including pathways, accessways, patio or decked areas;
 - (i) The location of Tree Protection Zones and Tree Protection Fencing;
 - (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) Planting required by any other condition of this permit; and

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

Landscaping Prior to Occupation

- 4 Before the occupation 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 then maintained to the satisfaction of the Responsible Authority.

Drainage

- 5 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.
- 6 All stormwater collected on the site is to be detained on site to the predevelopment level of peak stormwater discharge. The design of any internal detention system is to be approved by Council's Engineering Department prior to drainage works commencing and is to be to the satisfaction of the Responsible Authority.
- 7 No polluted and/or sediment laden stormwater 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.
- 8 Stormwater is to be detailed on-site to the pre-development. All stormwater collected on the site from all hard surface areas must not be allowed to flow uncontrolled into adjoining properties or the road reserve.
- 9 A plan detailing the stormwater drainage and civil works must be submitted to and approved by the Engineering Department prior to the commencement of any works. The plans are to show sufficient information to determine that the drainage and civil works will meet all drainage requirements of this permit. Refer to Engineering Plan Checking on www.monash.vic.gov.au
- 10 Tree Planting is to be kept clear of the easement.

Car Parking

- 11 Prior to occupation, areas set-aside for parked vehicles and access lanes as shown on the endorsed plans must be:
 - (a) Constructed to the satisfaction of the Responsible Authority.
 - (b) Properly formed to such levels that they can be used in accordance with the plans.



- (c) Surfaced with an all weather sealcoat or surfaced with crushed rock or gravel to the satisfaction of the Responsible Authority.
- (d) Drained and maintained to the satisfaction of the Responsible Authority.
- (e) Kept available and maintained for parking and vehicular access purposes at all times.

Completion of Buildings and Works

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

Permit Expiry

- 13 This permit will expire in accordance with section 68 of the Planning and Environment Act 1987, if one of the following circumstances applies:
- The development has not started before two (2) years from the date of issue.
 - The development is not completed before four (4) years from the date of issue.

In accordance with section 69 of the Planning and Environment Act 1987, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within six months of the permit expiry date, where the development allowed by the permit has not yet started; or within 12 months of the permit expiry date, where the development has lawfully started before the permit expires.

- End of conditions -

