

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P11567/2021
PERMIT APPLICATION NO. WH/2020/1225

CATCHWORDS

Section 77 *Planning and Environment Act 1987*; Whitehorse Planning Scheme; Neighbourhood Residential Zone Schedule 1; Significant Landscape Overlay Schedule 2; One dwelling; Bulk; Scale; Massing; Landscaping.

APPLICANT	Rodney Hamilton Tate & Alison Sarah Tate
RESPONSIBLE AUTHORITY	Whitehorse City Council
RESPONDENT	David and Gail Morrison, Blackburn Village Residents Group Inc. Blackburn and District Tree Preservation Society Inc.
SUBJECT LAND	24 Glen Ebor Avenue, BLACKBURN
WHERE HELD	Melbourne
HEARING TYPE	Hearing
DATE OF HEARING	13 May 2022
DATE OF INTERIM ORDER	13 May 2022
DATE OF ORDER	10 June 2022
CITATION	Tate v Whitehorse CC [2022] VCAT 641

ORDER

Permit granted

- 1 In application P11567/2021 the decision of the responsible authority is set aside.
- 2 In planning permit application WH/2020/1225 a permit is granted and directed to be issued for the land at 24 Glen Ebor Avenue, BLACKBURN in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:
 - Construction of one double storey dwelling, front fence, outbuilding and associated works;
 - tree removal and buildings and works within four (4) metres of trees protected under the Significant Landscape Overlay schedule 2.

Joel Templar
Member



APPEARANCES¹

For Rodney Hamilton Tate &
Alison Sarah Tate

Mr Andrew Clarke, town planner of Clarke
Town Planning.

Evidence from the following witness:

- Mr John Patrick, landscape architect of
John Patrick Landscape Architects.

For Whitehorse City Council

Mr David Song, town planner of Song
Bowden Planning.

For David and Gail Morrison
and Blackburn Village
Residents Group Inc.

Mr David Morrison, in person.

For Blackburn and District
Tree Preservation Society Inc.

Ms Dianne Tribe, in person.

¹ All appearances were via an online platform.



INFORMATION

Description of proposal	Construction of one double storey dwelling, front fence, outbuilding and associated works, tree removal and buildings and works within four (4) metres of trees protected under the Significant Landscape Overlay Schedule 2.
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	Whitehorse Planning Scheme
Zone and overlays	Neighbourhood Residential Zone Schedule 1 (NRZ1) Significant Landscape Overlay Schedule 2 (SLO2)
Permit requirements	Clause 42.03-2 – to construct a building or construct or carry out works and to remove, destroy or lop vegetation specified in Schedule 2.
Land description	The subject site is located on the south side of Glen Ebor Avenue, approximately 25 metres west of Gwenda Avenue and approximately 45 metres east of Game Street. The site is rectangular in shape with a width of 23.32 metres to Glen Ebor Avenue, a length of 45.72 metres for a total area of 1,066 square metres. It currently contains a single storey brick dwelling with a gable tiled roof. A crossover is located adjacent to the north-east corner of the lot. The site has a gentle slope of approximately 1 metre falling from the north-east corner to the south-west corner. A 1.83 metre wide easement extends adjacent to the rear boundary of the lot.
Tribunal inspection	27 May 2022



REASONS²

WHAT IS THIS PROCEEDING ABOUT?

- 1 This proceeding concerns the review by the applicant of the council's decision to refuse to grant a planning permit for, broadly, the development of the land for one dwelling and tree removal.
- 2 The applicant lodged a planning permit application to the council for the proposal and as part of the permit application process, the application was advertised and 12 objections were received. The council determined to refuse the application, generally based on the proposal's response to the landscape objectives of the SLO2 and the landscape character of the area.
- 3 The applicant has appealed the decision of the council. Some of the objectors are also party to this proceeding.
- 4 The key issue to be determined in this case is whether the proposal will be an acceptable fit with the landscape character.
- 5 I have found that, subject to some modifications, the proposal will be an acceptable outcome. Following are my reasons for this determination.

Permit requirements

- 6 The requirement for a permit in this instance is triggered by the provisions of SLO2. Clause 3.0 to the Schedule specifies a number of requirements which, if met, exempt a development from the need for a permit. These requirements relate to height, boundary setbacks, site coverage, hard surface/impervious areas and setbacks from vegetation.
- 7 If a development were to comply with these requirements, the effect is that such a development would be exempt from a permit and it would be deemed to achieve the nominated landscape character objective.
- 8 In this case, the development requires a permit for the following reasons:
 - The western setback of the first floor bedroom 3 and ensuite 2 walls not meeting the minimum side setback requirement. The requirement in this instance is 4.675 metres and the walls are proposed to be set back 3.25 metres.
 - The height of the building exceeding 9 metres, as dimensioned on the east elevation at 9.2 metres.
 - Site coverage exceeding 33% (approximately 45%).³
 - Impervious surfaces exceeding 50% (approximately 57%).

² The pre-filed written submissions and material, and pre-filed evidence of the parties, oral submissions at the hearing and any supporting exhibits 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.

³ There was some disagreement between the council and the applicant as to the exact figure but it was common ground that the permit trigger is exceeded.



- 9 Therefore, in this case, the matter to determine is whether, as a consequence of the above non-compliances, the development satisfies the landscape character objectives of the SLO2.

Planning policy context

- 10 The Municipal Strategic Statement (MSS) of the Whitehorse Planning Scheme details the strategic directions for the provision of housing⁴. These are structured around the division of the municipality into three categories of change: Substantial Change, Natural Change and Minimal Change. The review site is located within a Minimal Change Area⁵, being a location which has recognised environmental and landscape value.
- 11 Clause 22.03, Residential Development policy, applies to all applications for development within the NRZ. Relevant objectives of this policy include encouraging development that contributes to preferred neighbourhood character and ensuring development minimises the loss of significant trees.
- 12 According to this policy, minimal change areas have been identified for their distinct vegetation and landscape qualities. In addition, under clause 22.03, the site is located within the 'Bush Environment' area. The Preferred Character for this area is:

The streetscapes will be dominated by vegetation with subservient buildings frequently hidden from view behind vegetation and tall trees. The buildings will nestle into the topography of the landscape and be surrounded by bush-like native and indigenous gardens, including large indigenous trees in the private and public domains.

Buildings and hard surfaces will occupy a very low proportion of the site. They will be sited to reflect the prevailing front, rear and side setbacks. The larger rear setbacks will accommodate substantial vegetation including large canopy trees. The bushy environs are complemented by street trees and a lack of front fencing. Properties abutting and close to creeks and lake environs will contain more indigenous trees and shrubs that act in part as wildlife corridors.

This precinct is identified for the lowest scale of intended residential growth in Whitehorse (Limited Change area) and the preservation of its significant landscape character and environmental integrity is the highest priority.

- 13 This preferred outcome is also reinforced through the application of the SLO2. The 'Statement of nature and key elements of landscape' under the SLO2 are:

The significance of the area is attributed to the quality of the environment, which includes vegetation notable for its height, density, maturity and high proportion of Australian native trees.

⁴ Clause 21.06.

⁵ As defined in clause 22.03 Residential Development Policy.



This in turn contributes to the significance of the area as a valuable bird and wildlife habitat.

- 14 The 'Landscape character objective to be achieved' under the SLO2 includes:
- To retain the dominance of vegetation cover in keeping with the bush character environment.
 - To encourage the retention and regeneration of native vegetation for the protection of wildlife habitat.
 - To ensure that a reasonable proportion of a lot is free of buildings to provide for the planting of tall trees in a natural garden setting.
 - To encourage the development of sympathetic buildings within an envelope, which ensures the maintenance of a tree-dominated landscape.
 - To ensure that buildings and works retain an inconspicuous profile and do not dominate the landscape.
 - To ensure that development is compatible with the character of the area.
- 15 The relevant policies, provisions and decision guidelines recognise the importance of this area's landscape qualities and encourage development that is designed so as to protect and enhance this character. Particular focus is on the retention and planting of trees and subservience of built form to the landscape.

WILL THE PROPOSED DEVELOPMENT ACHIEVE THE LANDSCAPE CHARACTER OBJECTIVE OF SLO2?

- 16 There is no doubt there are some substantial examples of dwellings in the immediate context of the review site. There are also some very modest, or at least concealed, dwellings in the surrounding area, where vegetation substantially screens built form.
- 17 Submissions were made with respect to the imposing appearance of the proposed dwelling on the character of the surrounding area. The character assessment is to be guided by the permit trigger in this case, which is the SLO2 and what that control seeks to achieve. In my view, this relates to how a proposal fits with the landscape character and whether it can protect and enhance that landscape character.
- 18 What is proposed could not be described as a small dwelling. It is substantial both in area, height and expanse across the site, as will be seen from the Glen Ebor Road streetscape. This is exacerbated by the relatively steep roof pitch proposed.





Figure 1: North elevation (Facing Glen Ebor Avenue).

- 19 In my view, given the SLO2 seeks that development be subservient to the landscape character, the built form should be dealt with first, before turning to the landscaping. However, in broad terms, I find that the landscaping proposal by Mr Patrick is generally acceptable in the context of the SLO2, preferred character and the proposed dwelling, subject to the modifications to the dwelling as discussed below.
- 20 The applicant submitted that the relevant parts of the proposal that do not meet the permit exemptions, are not fatal and in substance, the real question relates to the site coverage and permeability requirements. It said that in the context where all ground floor setback requirements under the SLO2 are met, in particular the front and side setback requirements, it is a matter of whether the rear portion of the dwelling will unacceptably impose on the landscape character, and if part of that were reduced, what this would actually achieve in pursuit of the SLO2 objectives.
- 21 As stated above, the footprint of the proposed dwelling is substantial and, in my view, will have some impact on the landscape character, particularly as seen from Glen Ebor Avenue. To this end, I find that given its height, expanse across the site and the steep roof pitch, the proposal should be made to comply with the preferred side setback and maximum height set out under the SLO2. This will mean the height will need to be reduced and the upper floor footprint will need to be reduced, with an increased side setback to the western wall of bedroom 3 and ensuite 2. I have included a condition accordingly.
- 22 This then leaves the site coverage and permeability as the key matters of whether the proposal presents an acceptable response.
- 23 It is conceivable that any given proposal could comply with all of the requirements of the SLO2 except the site coverage and/or the permeability desired under the SLO2. This doesn't necessarily mean the proposal is acceptable or unacceptable. If it were found that a proposal was still unacceptable because of its site coverage being excessive, then this could mean that a reduction in the ground level footprint might need to be made to make it acceptable. A consequence of this in such a circumstance, would be even greater setbacks than what the SLO2 sets out as its 'deemed to

comply' setback provisions, even though all setbacks might be complied with. In my view, this could still be a correct application of the SLO2 provisions in the event the decision maker finds the level of site coverage to be excessive.

- 24 In this case, I find that the proposal presents a high degree of built form to the streetscape, and the SLO2 seeks that built form be subservient to the landscape character.
- 25 I find that the proposal does not meet this objective but that minor modifications could be made to achieve this. This then begs the question, which part of the dwelling is the offending element that should be modified?
- 26 The dwelling is constructed to the eastern boundary by virtue of the garage location. Even though the garage is exempt from setback requirements, it still forms part of the overall ground level footprint and, in my view, is the most prominent element of the built form at ground level. It is set forward more than any other part of the proposed dwelling, constructed to the boundary and also includes a relatively steep roof pitch, matching that of the dwelling. It also has a relatively generous internal width of 6.54 metres.



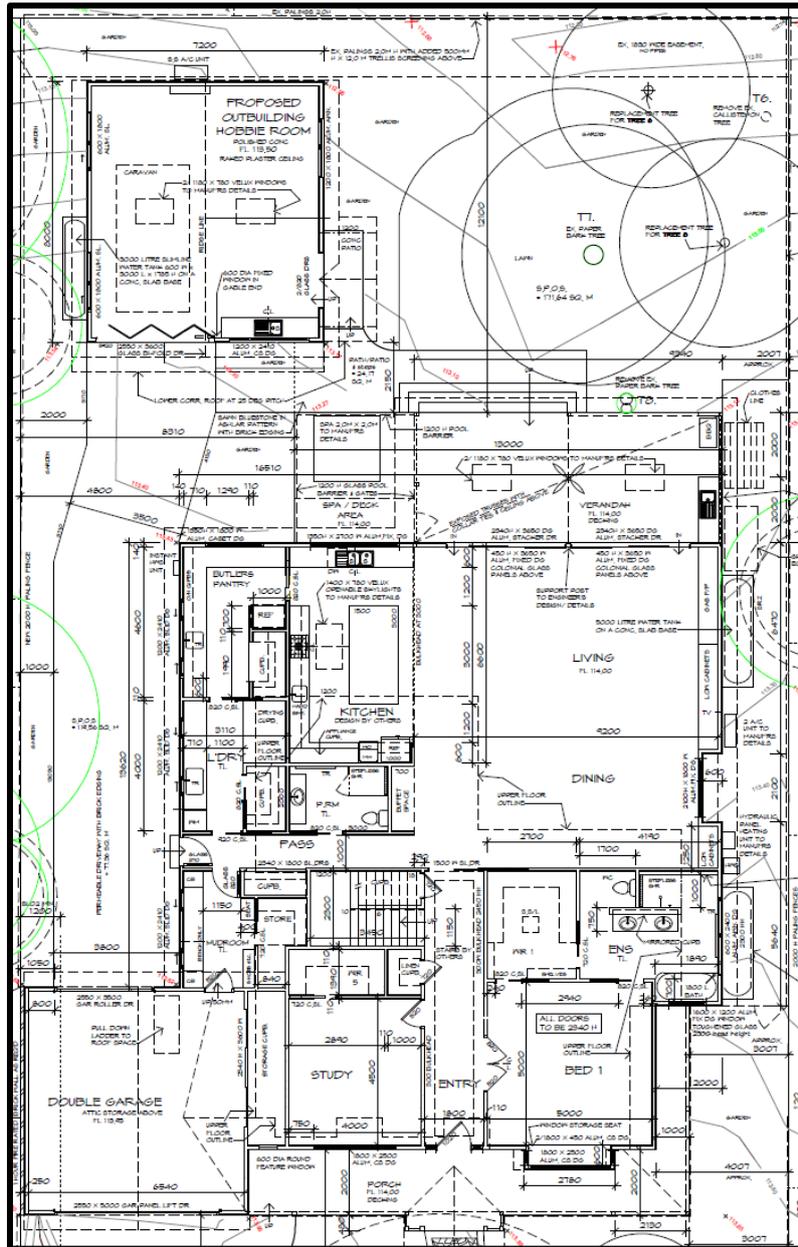


Figure 2: Ground floor layout plan.

- 27 At the hearing, I asked the applicant whether any alterations could be made to the garage to provide a setback on its eastern side. The applicant agreed the internal storage area on the western wall of the garage could be deleted. Whilst I accept that there is often a desire and need for generous amounts of storage in new dwellings, it could not be said that this proposal is short on storage. There are generous areas for storage inside the dwelling as well as a detached outbuilding at the rear measuring 8 x 7.2 metres. Accordingly, I will require that the garage be set back an additional 1 metre from the eastern boundary and have included a condition accordingly.
- 28 With respect to the western setback of bedroom 3 and the ensuite of bedroom 2, the council submitted that the overall breadth of the proposed dwelling would result in an imposing built form. The respondents agreed with this submission.



- 29 The applicant said in response, that any compliance with the preferred outcomes of the SLO2 with respect to set backs must be in pursuit of the objectives of the SLO2.
- 30 I agree. The SLO2 seeks development that retains "...an inconspicuous profile". This is then manifested through the permit triggers, which include set backs sought to be achieved as a set of deemed to comply provisions.
- 31 The applicant also submitted that just because a permit is triggered under the SLO2 by a development, does not mean it is unacceptable. However, in my view, the proposed dwelling is rather substantial and a reduction of the upper floor, along with the other modifications I have set out above, would achieve an acceptable response. Given the western wall of bedroom 3 and ensuite to bedroom 2 are the elements that do not comply with the SLO2, I will require that these comply with the setbacks set out in the SLO2. I have included a condition accordingly.
- 32 As alluded to above, I find that the landscape proposal by Mr Patrick is generally acceptable.
- 33 Two existing trees are to be retained at the front of the site; a Camphor Laurel and a Silver Stringybark. The planting theme comprises mainly native and indigenous species of trees with two existing and recently planted Silver Stringybarks planted in either front corner and a Black Wattle, capable of growing to 7 metres in height, planted more centrally in the front setback. Three Sweet Bursaria's (to 6 metres) are also proposed along the western side of the front setback area.
- 34 A Long Leaf Box (to 12 metres), another Black Wattle and two Coast Banksia's (to 12 metres) are proposed in the backyard.
- 35 A Yellow Box (to 10 metres) is proposed along the eastern boundary, just in front of the proposed outbuilding, with a series of Sweet Bursaria's planted along the side boundary, between the rear of the garage and the outbuilding.
- 36 Other lower storey plantings are also included throughout, with a gravel front yard instead of lawn, which Mr Patrick stated is more akin to bushland character.
- 37 Along with the other trees proposed to be removed,⁶ Mr Patrick suggested that tree 7, a Prickly leaved Malaleuca, should also be removed. He said that as the name suggests, the leaves are prickly and not conducive to a domestic scenario.
- 38 Tree 6 is a Calistemon 'Kings Park Special' and is located in the south-western corner of the site. The arborists report notes this as having 'Fair'

⁶ Trees number 6 and 8 in the Arborist's Report by Greenscene, dated 13 November 2020. Tree C was also proposed to be removed, but it became apparent at the hearing that this tree had already been removed as permitted under a separate planning permit.



Health and 'Fair' structure with a useful life expectancy of greater than 10 years.

39 Tree 8 is also a Prickly leaved Malaleuca and is proposed to be within the footprint of the dwelling at the rear. The arborists report notes this as having 'Fair' health and 'Poor' structure.

40 Mr Patrick said⁷:

Tree 6 appears to be proposed for removal though its presence retains some canopy in the rear garden, valuable whilst new planting becomes established.

41 Tree 6 is well away from any proposed development and given Mr Patrick's evidence on this tree, I find that it should be retained. I have included a condition accordingly.

42 Otherwise, I am satisfied that the removal of trees 7 and 8 would be an acceptable outcome. The retention of other trees, the removal of trees 7 and 8 and the overall planting concept of Mr Patrick will provide a complimentary and balanced outcome with respect to how the proposed dwelling will sit in the existing context and the landscape and built form outcomes sought by the SLO2.

CONDITIONS

43 During the hearing, it became apparent that there needed to be some further clarification around the 'without prejudice' draft conditions circulated by the council. I issued an interim order providing an opportunity for the parties to make further submissions on these. The applicant and the council both made further submissions, including the council providing a copy of its arborists report, which makes reference to Trees A, B and C, as mentioned above.

44 I have taken into account this further correspondence in my determination and the conditions as set out in Appendix A.

CONCLUSION

45 For the reasons given above, the decision of the responsible authority is set aside. A permit is granted subject to conditions.

Joel Templar
Member

⁷ At paragraph 9.27 of his evidence statement.



APPENDIX A – PERMIT CONDITIONS

PERMIT APPLICATION NO	WH/2020/1225
LAND	24 Glen Ebor Avenue, BLACKBURN

WHAT THE PERMIT ALLOWS

In accordance with the endorsed plans:

- Construction of one double storey dwelling, front fence, outbuilding and associated works;
- tree removal and buildings and works within four (4) metres of trees protected under the Significant Landscape Overlay schedule 2.

CONDITIONS

- 1 Before the development starts, or vegetation removed, amended plans must be submitted to and approved by the Responsible Authority in a digital format. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn scale, and be generally in accordance with the plans by JED Design, dated 15 March 2022 but modified to show:
 - (a) The garage set back a minimum of 1 metre from the eastern boundary, with no reduction of any other setbacks. Consequential internal rearrangement may be undertaken.
 - (b) The maximum height of the proposed dwelling at its highest point to be no higher than 9 metres.
 - (c) The western wall of bedroom 3 and ensuite to bedroom 2 set back so that they comply with the minimum side setback distance as set out in the SLO2 with no reduction of any other setbacks. Consequential internal rearrangements may be undertaken.
 - (d) Tree 6, as identified in the arborist report by Greenscene dated 13 November 2020, to be retained.
 - (e) Tree 7, as identified in the arborist report by Greenscene dated 13 November 2020, to be removed.
 - (f) The locations of the Structural Root Zone and Tree Protection Zones described in Condition 5, with all nominated trees clearly identified and numbered on both the site and landscape plans and the requirements of Conditions 5 and 6 to be annotated on the development plan and landscape plan.



- (g) The location of all service trenches to serve the dwelling (for example: gas, water, electricity, stormwater, sewerage, telecommunications), the location of protected trees within four (4) metres of these trenches (if any). The service trenches must be located, hand dug or bored to ensure the protected trees are not damaged, to the satisfaction of the Responsible Authority.

All of the above must be to the satisfaction of the Responsible Authority. Once approved these plans must always accord with the endorsed plan and must not be altered or modified without the further written consent of the Responsible Authority.

- 2 The layout of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plan and must not be altered or modified without the further written consent of the Responsible Authority.
- 3 Concurrent with the plans required under condition 1, a landscape plan prepared by a suitably qualified and experienced person or firm must be submitted to and endorsed by the Responsible Authority. This plan must be generally in accordance with the plan by John Patrick Landscape Architects Pty Ltd dated 22 March 2022. When endorsed, this plan shall form part of this permit. This plan shall show:
 - (a) Tree 6, as identified in the arborist report by Greenscene dated 13 November 2020, to be retained.
 - (b) Tree 7, as identified in the arborist report by Greenscene dated 13 November 2020, to be removed.
 - (c) A schedule of the botanical name of all trees and shrubs proposed to be retained and those to be removed incorporating any relevant requirements of Condition 1.
 - (d) A planting schedule of all proposed vegetation (trees, shrubs and ground covers) which includes, botanical names, common names, pot size, mature size and total quantities of each plant.

Landscaping in accordance with this approved plan and schedule must be completed before the development is occupied.

Once approved these plans become the endorsed plans of this permit.

- 4 The garden areas shown on the endorsed plan must only be used as gardens and must be maintained in a proper, tidy and healthy condition to the satisfaction of the Responsible Authority. Should any tree or shrub be removed or destroyed it must be replaced by a tree or shrub of a similar size and variety.
- 5 Prior to commencement of any building or demolition works on the land, Tree Protection Zones (TPZs) must be established on the subject site and nature strip and maintained during, and until completion of, all buildings and works including landscaping, around the following trees in accordance



with the distances and measures specified below, to the satisfaction of the Responsible Authority:

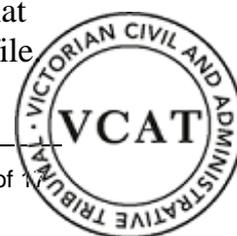
- (a) Tree Protection Zone distances:
- i Tree 2 – 2.1 metre radius from the centre of the tree base.
 - ii Tree 3 – 5.6 metre radius from the centre of the tree base.
 - iii Tree 4 – 2.1 metre radius from the centre of the tree base.
 - iv Tree 5 – 13.2 metre radius from the centre of the tree base.
 - v Tree 7 – 8.0 metre radius from the centre of the tree base.
 - vi Tree 9 – 6.1 metre radius from the centre of the tree base.
 - vii Tree 10 – 4.8 metre radius from the centre of the tree base.
 - viii Tree 11 – 2.8 metre radius from the centre of the tree base.
 - ix Tree A – 2.0 metre radius from the centre of the tree base.
 - x Tree B – 7.2 metre radius from the centre of the tree base.
- (b) Tree Protection Zone measures are to be established in accordance with Australian Standard 4970-2009 and are to include the following:
- i Erection of solid chain mesh or similar type fencing at a minimum height of 1.8 metres in height held in place with concrete feet.
 - ii Signage placed around the outer edge of perimeter the fencing identifying the area as a TPZ. The signage should be visible from within the development, with the lettering complying with AS 1319.
 - iii Mulch across the surface of the TPZ to a depth of 100 millimetres and undertake/ provide supplementary watering/ irrigation within the TPZ, prior and during any works performed.
 - iv No excavation, constructions works or activities, grade changes, surface treatments or storage of materials of any kind are permitted within the TPZ unless otherwise approved within this permit or further approved in writing by the Responsible Authority.
 - v All supports and bracing should be outside the TPZ and any excavation for supports or bracing should avoid damaging roots where possible.
 - vi No trenching is allowed within the TPZ for the installation of utility services unless tree sensitive installation methods such as boring have been approved by the Responsible Authority.
 - vii Where construction is approved within the TPZ, fencing and mulching should be placed at the outer point of the construction area.



- viii Where there are approved works within the TPZ, it may only be reduced to the required amount by an authorized person only during approved construction within the TPZ, and must be restored in accordance with the above requirements at all other times.

Trees referred to in this condition are those referenced in the arborists report by Greenscene dated 13 November 2020 for numbered trees and for trees A and B, as referenced in the council's arboricultural assessment dated 16 February 2021.

- 6 During construction of any buildings, or during other works, the following tree protection requirements are to be adhered to, to the satisfaction of the Responsible Authority:
 - (a) A project arborist must be appointed by the applicant or builder. Project arborist qualifications must read 'Arboriculture' for example 'Diploma in Horticulture (Arboriculture)'. The project arborist must have a minimum Diploma qualification in arboriculture to be appointed as the project arborist.
 - (b) The Project Arborist must supervise all approved works within the TPZs of Trees 2, 3, 4, 5, 7, 9, 10, 11, A and B. The project Arborist must ensure that all buildings and works (including site demolition) within the TPZs of the trees do not adversely impact their health or stability now or into the future.
 - (c) The dwelling where within the TPZ of Tree 3, must be constructed on tree sensitive footings, such as post footings or screw piles, with no grade change within the TPZ. The postholes are to be hand dug no roots and are to be cut or damaged during any part of the construction process. No strip footings are to be used within the TPZ of this Tree. A Geotechnical Engineer must assess the soil type and provide the results to a Structural Engineer so that appropriate footings and foundations can be designed so that they are not affected by soil movement.
 - (d) The outbuilding / hobby room where within the TPZ of Tree 5, must be constructed on tree sensitive footings, such as post footings or screw piles, with no grade change within the TPZ. The postholes are to be hand dug and no roots are to be cut or damaged during any part of the construction process. No strip footings are to be used within the TPZ of this Tree. A Geotechnical Engineer must assess the soil type and provide the results to a Structural Engineer so that appropriate footings and foundations can be designed so that they are not affected by soil movement.
 - (e) The driveway where within the TPZs of Trees 2, 4, 5 and A must be constructed above the existing soil grade using porous materials that allows water to penetrate through the surface and into the soil profile



There must be no grade change within the TPZs, and no roots are to be cut or damaged during any part of the construction process.

- (f) The path where within the TPZ of Tree 3 must be constructed above the existing soil grade using porous materials that allows water to penetrate through the surface and into the soil profile. There must be no grade change within the TPZs, and no roots are to be cut or damaged during any part of the construction process.
- (g) The paved areas within the TPZs of Trees 7 and 9 must be constructed above the existing soil grade using porous materials that allows water to penetrate through the surface and into the soil profile. There must be no grade change within the TPZs, and no roots are to be cut or damaged during any part of the construction process.
- (h) The front fence where within the TPZs of Trees 9, 10, 11 and B must be constructed on tree sensitive footings, such as post footings, with no grade change within the TPZs. The postholes must be hand dug and no roots are to be cut or damaged during any part of the construction process and no strip footings are to be used within the TPZs. If any roots are located within a posthole, the hole is to be filled in and re-located so that the root(s) is not affected.
- (i) The builder / site manager must ensure that TPZ Fencing Conditions and the Tree Protection Measures for Trees 2, 3, 4, 5, 7, 9, 10, 11, A and B are being adhered to throughout the entire building process, including site demolition, levelling, and landscape works.

Trees referred to in this condition are those referenced in the arborists report by Greenscene dated 13 November 2020 for numbered trees and for trees A and B, as referenced in the council's arboricultural assessment dated 16 February 2021.

- 7 The applicant is required to contact Council's Planning Enforcement Officer in writing within three (3) months of planting to allow a site inspection of the replacement canopy trees.
- 8 The existing street trees must not be removed or damaged except with the prior written consent of the Responsible Authority.
- 9 All stormwater drains and on-site detention systems are to be connected to the legal point of discharge to the satisfaction of the Responsible Authority prior to the occupation of the building/s.
- 10 Stormwater that could adversely affect any adjacent land must not be discharged from the subject site onto the surface of the adjacent land.
- 11 The Applicant/Owner is responsible to pay for all costs associated with reinstatement and/or alterations to Council or other Public Authority assets as a result of the development. The Applicant/ Owner is responsible to obtain all relevant permits and consents from Council at least seven (7) days prior to the commencement of any works on the land and is to obtain



prior specific written approval for any works involving the alteration of Council or other Public Authority assets. Adequate protection is to be provided to Council's infrastructure prior to works commencing and during the construction process.

- 12 The subject land must be drained to the satisfaction of the Responsible Authority.

Expiry of permit for development

- 13 This permit as it relates to development 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 –

