

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P664/2022
PERMIT APPLICATION NO. WH/2021/978

APPLICANTS	Blackburn Village Residents' Group Inc., Michael Hassett & Others
RESPONSIBLE AUTHORITY	Whitehorse City Council
RESPONDENT	Wildwood Nord Pty Ltd
SUBJECT LAND	32 Laburnum Street BLACKBURN VIC 3130
HEARING TYPE	Compulsory conference
DATE OF HEARING	30 September 2022
DATE OF ORDER	3 October 2022

ORDER

- 1 In application P664/2022 the decision of the responsible authority is varied.
- 2 In planning permit application WH/2021/978 a permit is granted and directed to be issued for the land at 32 Laburnum Street BLACKBURN VIC 3130 in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows
 - Tree removal in the Significant Landscape Overlay Schedule 2.
- 3 The hearing scheduled for **6 February 2023 is vacated**. No attendance is required.
- 4 No order as to costs.

Geoffrey Rundell
Member



APPEARANCES

For applicants

Mr David Morrison

Mr Michael Hasset

Ms Dianne Tribe, all in person

For responsible authority

Mr Patrick Sutton, town planner

For respondent

Mr David Scott and Mrs Elizabeth Scott, in person



REMARKS

Full settlement

- 1 This matter involves an application pursuant to section 82(1) of the *Planning and Environment Act 1987* for a review of the decision of Whitehorse City Council to issue a Notice of Decision to Grant a Permit to allow tree removal in a Significant Landscape Overlay Schedule 2.
- 2 At the compulsory conference, the parties reached agreement and request orders by consent. The parties request that a permit is granted, subject to varied conditions].
- 3 This order is made at the request of the parties and with their consent as an outcome of a compulsory conference.
- 4 The Tribunal regards the consent of the responsible authority to be a confirmation to the Tribunal that:
 - the responsible authority is of the opinion that the permit is appropriate having regard to the matters it is required to consider under section 60 of the *Planning and Environment Act 1987* (**Act**), including the balanced application of the strategies and policies of the Whitehorse Planning Scheme (**Planning Scheme**) and is otherwise in conformity with the provisions of the Planning Scheme and the Act;
 - the proposed orders will not result in any change to the proposed development which would materially affect any person other than the parties to the proceeding.
- 5 Based on the information available to the Tribunal, I consider it is appropriate to give effect to the settlement reached by the parties pursuant to section 93(1) of the *Victorian Civil and Administrative Tribunal Act 1998*.

Geoffrey Rundell
Member



APPENDIX A

PERMIT APPLICATION NO:	WH/2021/978
LAND:	32 Laburnum Street BLACKBURN VIC 3130
WHAT THE PERMIT ALLOWS:	
<ul style="list-style-type: none"> • Tree removal in the Special Landscape Overlay Schedule 2 in accordance with the endorsed plans. 	

CONDITIONS

1 Before trees or vegetation are removed, amended plans must be submitted to and approved by the Responsible Authority. The plans must be drawn to 1:100 scale, with dimensions, and be generally in accordance with the plans submitted with the application but modified to show:

- (a) Tree 1 (Lemon-scented Gum - *Corymbia citriodora*) as being dead and not requiring a Planning Permit to remove.
- (b) A Landscape Plan in accordance with Condition 3.

All of the above must be to the satisfaction of the Responsible Authority. Once approved these plans become the endorsed plans of this permit:

2 No vegetation, apart from trees 1 (Lemon-scented Gum - *Corymbia citriodora*); 4; 5 and 7 (Sugar Gums – *Eucalyptus cladocalyx*) as detailed within the Arborist Report prepared by Tretec dated 26 March 2021, as shown on the approved plan as vegetation to be removed may be felled, destroyed or lopped without the written consent of the Responsible Authority.

All practical measures must be taken to protect remaining trees during removal of trees approved under this permit.

3 No trees or vegetation shall be removed until a landscape plan prepared by a suitably qualified and experienced landscape architect firm or person has been submitted to and endorsed by the Responsible Authority. This plan (when endorsed) must form part of this permit. This plan must show:

- (a) Any changes required by Condition 1.
- (b) The front open space of the site contain provision for a complete landscape response preferring native species including ground covers, low to mid-height shrubs and tall canopy plantings which can contribute to the surrounding ‘bush’ character of the landscape and objectives of the bush environment character statement.

(c) Replacement planting of a minimum of at least six (6) trees generally from the document '*Indigenous Plants of Whitehorse*' and/or the below list:

- Yellow Gum (*Eucalyptus leucoxylo*)
- Yellow Box (*Eucalyptus melliodora*)
- Red Box (*Eucalyptus polyanthemos*)

All new trees must be planted at a minimum height of 1.5 metres:

- (d) three of the replacement trees required under condition 3c must be planted within the Laburnum Street front setback of the site.
- (e) Three (3) of the replacement trees required under condition 3c must be planted within the open space to the rear of the dwelling on the site.
- (f) The stumps of trees approved for removal being retained;
- (g) Any recommendations to ensure the retained stumps do not pose a constraint to the proposed replanting must be clearly noted/detailed on the drawings
- (h) To note that the roots of the trees retained will not be 'bored out'.
- (i) All replacement trees must be planted in accordance with the performance standards of Clause 22.04-4 (Tree Conservation).
- (j) The capacity to replace any plantings damaged during the tree removal works
- (k) Replacement canopy trees are to be located a minimum of three (3) metres from buildings and one (1) metre from any boundary fencing.
- (l) A survey of all existing vegetation, abutting street trees, natural features and vegetation.
- (m) 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 No. 1.
- (n) 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.

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

- 4 Replacement planting as required by this permit must be completed within six (6) months of the permitted tree removal.
- 5 The applicant/property owner is required to contact Council's Statutory Planning Enforcement team in writing after the completion of both tree removal and replacement planting to arrange for an inspection.



- 6 The replacement planting must be of good quality, correctly maintained to maturity and planted within loose native soil mix and mulch in a location that supports its long-term retention and growth.
- 7 The ongoing maintenance of the replacement trees must be undertaken to the satisfaction of the Responsible Authority. If the planted tree dies or is removed, they must be replaced within two months and maintained to the satisfaction of the Responsible Authority.
- 8 No other trees on site that are protected by the Planning Scheme may be destroyed, felled, lopped or uprooted without the written consent of the Responsible Authority. All existing trees to be retained and trees required by this permit to be planted shall be maintained to the satisfaction of the Responsible Authority.

This permit will expire if the tree removal is not completed within 12 months from the date of issue of this permit.

- 9 The Responsible Authority may extend the periods referred to if a request is made in writing pursuant to the provisions of Section 69 of the Planning and Environment Act 1987
- 10 Prior to removal of any trees or vegetation on site, a report from a suitably qualified expert (in Zoology or similar) must be submitted to the Responsible Authority that assesses the trees for nesting hollows and areas of habitat, and provides recommendations for how to manage such nesting hollows/habitat and birds/mammals that are nesting or living in the trees:

These recommendations could include methods to ensure birds/mammals are safely relocated, as well as timing for when trees should be removed to be post nesting season.

This report once endorsed forms part of the permit.

--- End of Conditions ---

