VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

planning and environment DIVISION

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| planning and environment LIST | vcat reference No. P1628/2019  Permit Application no. P1304/2018 |
| CATCHWORDS | |
| Section 77 of the Planning & Environment Act 1987; Banyule Planning Scheme; Neighbourhood Residential Zone Schedule 3; Significant Landscape Overlay Schedule 1; Specific Controls Overlay Schedule 12; Development Contributions Plan Overlay Schedule 1; Three dwellings; Massing, Visual bulk, Scale; Siting; Shading; Solar Access; Landscaping opportunities. | | | |

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| APPLICANT | M Group 2 Pty Ltd |
| responsible authority | Banyule City Council |
| Referral Authority | North East Link Project |
| SUBJECT LAND | 118 Avoca Street HEIDELBERG VIC 3084 |
| WHERE HELD | Melbourne |
| BEFORE | Alison Slattery, Member |
| HEARING TYPE | Hearing |
| DATE OF HEARING | 18 February 2020 |
| DATE OF ORDER | 3 April 2020 |
| CITATION | M Group 2 Pty Ltd v Banyule CC [2020] VCAT 259 |

# Order

1. Pursuant to Clause 64 of Schedule 1 of the *Victorian Civil & Administrative Tribunal Act* 1998, the permit application is amended by substituting for the permit application plans, the following plans filed with the Tribunal:

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| * Prepared by: | Tsang Pty Ltd |
| * Drawing numbers: | TP01, TP02, TP03, TP04A, and TP07 |
| * Dated: | 8 December 2019 |

### Permit granted

1. In application P1628/2019 the decision of the responsible authority is set aside.
2. In planning permit application P1304/2018 a permit is granted and directed to be issued for the land at 118 Avoca Street, Heidelberg in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:

* Construction of three dwellings in a Neighbourhood Residential Zone; and
* Construction of buildings and woks exceeding 6 metres in a Significant Landscape Overlay.

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| **Alison Slattery**  **Member** |  |  |

# Appearances

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| For applicant | Mr Mark Waldon, town planner of St Wise Pty Ltd. He called landscaping evidence from Mr Robert Thomson, landscape designer, from Habitat Landscaping Design |
| For responsible authority | Mr Chis McInnes, town planner |
| For referral authority | No Appearance |

# Information

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| Description of proposal | Construction of three dwellings down the length of the lot, with the front two dwellings double storey and the rear dwelling single storey. The dwellings are all detached and no wall is located on the boundary. One driveway and crossover is proposed to the east of the site, with all three garages facing on to the internal driveway. |
| Nature of proceeding | Application under section 77 of the *Planning and Environment Act 1987* – to review the refusal to grant a permit. |
| Planning scheme | Banyule Planning Scheme |
| Zone and overlays | Neighbourhood Residential Zone Schedule 3 (NRZ3).  Significant Landscape Overlay Schedule 1 (SLO1)  Specific Controls Overlay Schedule 12 (SCO12)  Development Contributions Plan Overlay Schedule 1 (DCPO1) |
| Permit requirements | Clause 32.09-6-construction of two or more dwellings  Clause 42.03-2 buildings and works over 6 metres in height |
| Relevant scheme policies and provisions | Clauses 11.02-1S, 12.04-2S, 15.01-1S, 15.01-5S, 16.01-2S, 16.01-3S, 21.02, 21.04, 21.06, 22.02, 22.03, 32.09, 52.06, 55 and 65 |
| Land description | The site is located on the south side of Avoca Street around 80 metres to the west of Louise Street. The current single storey dwelling on site is a weatherboard dwelling which appears to have been constructed mid 20 century.  The site is rectangular in shape with a frontage of 15.24 metres to Avoca Street (north) and a depth of 62.71 metres for a total site area of 954 square metres. The site includes a slope of around 2.5 metres from the rear (SW) to the front (NE). The site contains trees and shrubs which have limited significance (and do not require planning permission for removal). The site is encumbered by a 1.83 metre wide easement traversing the southern (rear) boundary.  Surrounding sites are residential in nature and generally include single and double storey dwellings of varied ages with two storey, often multi unit infill development becoming apparent. Dwellings generally include carports or garages set behind the frontage of the dwellings.  Heidelberg MAC is located around 1.5km from the site (SW) with access provided to the MAC by buses on Rosanna Road. The Heidelberg MAC provides shopping, community services, hospital, school, and bus and train transport with direct access to the CBD.  The site is well served with access to parks and open spaces.  Vegetation in the area is varied with some properties including large trees, with the majority including well cared or gardens. Street Trees contribute to the character of the area. |
| Tribunal inspection | The Tribunal undertook an unaccompanied inspection of the site and surrounds after the hearing. |

# Reasons[[1]](#footnote-1)

## What is this proceeding about?

1. M Group 2 Pty Ltd applied to the Banyule City Council for a permit to develop the land at 18 Avoca Street, Heidelberg for the construction of three double storey dwellings, one which would face Avoca Street and two which would face the internal driveway. Amended plans were submitted 10 December 2019 which alter the layout of the dwellings, including significantly, the reduction of dwelling 3 to single storey.
2. Council issued a Notice of Refusal to Grant the Permit on 3 July 2019. The decision was based on Council’s view that the design is contrary to the character of the neighbourhood. Concerns related to the extent of form at both levels, with ground level inhibiting appropriate landscaping opportunities, and first floor being a dominant element on the streetscape. Council contends that this development also does not comply with the objectives of ResCode and fails to meet the objectives of the PPF and local policy.
3. The review applicant, M Group 2 Pty Ltd, through Mr Waldon disagrees with Council and asserts that the design has taken into account the constraints of the site and is site responsive. He argued that the areas of non-compliance with the standards of ResCode are justified and contends that the proposal meets the objectives of ResCode. It was his contention that the PPF and local policies lend support to the proposed development. He submitted that the proposed landscaping scheme responded appropriately to the prevailing character of the area. In this position he relied on the landscaping evidence of Mr Robert Thomson of Habitat Landscaping Design.

## What are the key issues?

1. The key issues for determination are:
   1. Is the proposal consistent with the planning policy framework of the Banyule Planning Scheme?
   2. Does the development achieve a satisfactory level of compliance with Clause 55 (ResCode)?
2. The Tribunal must decide whether a permit should be granted and, if so, what conditions should be applied. Having considered all submissions with regard to the applicable policies and provisions of the Banyule Planning Scheme, I have decided to set aside the Council’s decision. My reasons follow.

## Is the proposal consistent with the planning policy framework of the Banyule Planning Scheme?

### Density

1. The proposal is consistent with the Planning Policy Framework that promotes the consolidation of existing urban areas for the efficient use of existing infrastructure and services.[[2]](#footnote-2) I am satisfied that the site is well located with good access to public transport being buses on Rosanna Road. The site has good access to local shopping (Heidelberg MAC) and excellent access to schools, community facilities and open spaces. In this way, this is a site where the PPF would direct higher density development than currently exists on site.
2. IN addition to density considerations in the PPF, the Banyule Planning Scheme includes a Local policy framework that identifies where medium density housing should occur within the municipality.
3. Clause 21.06 of the scheme seeks to encourage new development, which, amongst other things, responds to the character of existing residential areas. In order to achieve this aim, the policy divides the municipality into six areas, as identified in the Residential Areas Framework. The subject site is located within the Limited Incremental area.
4. It is envisaged that the bulk of higher density development would occur within those areas categorised as Diversity and Accessible, with a more tempered change occurring in the Incremental and Limited Incremental Areas. The proposed development will make the most of its location near public transport on Rosanna Road and community and shopping facilities available in Heidelberg.

### Neighbourhood Character

1. A Neighbourhood Character Study has been referenced into the scheme which identifies the importance of vegetation and the landscaped character of the municipality. This study informs the Policy at Clause 22.02 under which the subject site and the surrounding area are included in Garden Suburban Precinct 2. The policy points to this area as being able to sustain a low to moderate level of change to accommodate future increases in dwelling stock. The policy also seeks to maintain the overall scale character of the area through the implementation of styles and scale that, whilst contemporary, are sympathetic to the area. This includes locating carports or garages behind dwellings and discouraging high front fences.
2. For sites within the Neighbourhood Residential Zone 3 (such as the review site) it is expected that:

*These areas will protect and enhance the garden suburban character of the precinct with an emphasis on protecting trees and creating new opportunities for vegetation throughout sites. They will provide for a mix of well-designed single dwellings and medium density dwellings in garden settings, with space around and between dwellings to create an attractive, treed landscape setting.*

1. I visited the site and the surrounding area and find that there is a consistency of scale in that one and two storey dwellings are readily evident in the wider streetscape. The area is informed by dwellings that date from the middle part of last century and are reaching a stage where they require updating. The lot sizes are generally around 900 square metres and able to accommodate more medium density development whilst maintaining a sense of openness and spacing as sought within local policy. Existing dwellings are gradually being replaced by larger two storey multi single dwellings and unit development. Avoca Street is suburban in nature and moderately vegetated with on street and off street planting playing a role in this landscape. There are a variety of building types and scale in the immediate area with multi unit development the emerging replacement typology. In addition, siting of dwellings on lots is also varied with some built form to side boundaries.
2. Relevantly, the Garden Suburban Precinct 2 (in which the subject site is located) contains objectives which seek:
   * 1. *To ensure new buildings and extensions are sympathetic to the current building form and style.*
     2. *To ensure that household services are not a visually prominent feature.*
     3. *To maintain consistency of current front setbacks, whilst enabling tree planting in front gardens.*
     4. *To ensure buildings and extensions do not dominate the streetscape or the building, and do not adversely affect the outlook and amenity of neighbouring dwellings.*
     5. *To minimise loss of front garden space, and the dominance of vehicle access, storage facilities and built form as viewed from the street.*
     6. *To maintain the openness of front boundary treatments, the view of established front gardens and tree lined street and the presentation of dwellings to the street.*
     7. *To maintain and strengthen the garden dominated streetscape character and the landscaped setting of the precinct.*
     8. *To ensure that developments on or near ridgelines retain existing trees, sit below the tree canopies, minimise excavation, and enable further tree planting to form a continuous canopy, so that the scenic quality is maintained and enhanced.*

### Landscaping

1. Concerns were raised by Council with regard to the scale, massing and bulk of the dwellings. Mr McInnes argued that the siting of the dwellings would not allow for appropriate landscaping of the site. I am satisfied that the development is appropriately located and designed so as not to present as a dominant form in the streetscape whilst offering good opportunities for reasonable planting in the front, side and rear setbacks.
2. I find the development is positioned on the site so as to respond to the predominant siting and scale characteristics of the area in allowing adequate spacing for the planting of larger trees that contribute to the treed canopy of the site and the area. I find the scale of the development represents a good transition to the one to two storey surrounding built form, and note there is a generous front setback allowing adequate spacing to the frontage (north) and private open spaces of the proposed dwellings to accommodate the planting of canopy trees.
3. In this position I am persuaded by the Landscape Plan prepared by Mr Thomson of Habitat Landscape Design that shows the frontage to Avoca Street including the planting of two canopy trees (Brushbox 10m) supplemented with planting of canopy trees within the site including: 2 Banksia (5m), 2 Pencil Pine (5m), 1 Eumundi Quandong (7M), 4 Blueberry As (7m), 2 Ornamental Banana (5m), 16 Pittosporum (3.5m), 2 Upright Pear (8m), 3 Ornamental Pear (10m), 6 Giant Bird of Paradise (5m), 4 Upright Lilypilly (5m), 1 Kanooka (7m) and 4 Lilypilly (9m). This planting is located throughout the site, in rear open spaces, in the driveway and between dwellings. I am satisfied that the private open spaces will not be impeded through the inclusion of these canopy trees. Rather, they will be enhanced by them, including the opportunity for lower order planting in concert with these larger trees. This offers good opportunity to soften the appearance of the new dwellings in both the Avoca Street streetscape and in the private realm in conjunction with the provision of backyard and intervening planting that is both in line with that sought within policy for the Garden Suburban area, and in line with the prevailing provision of planting in the area.
4. I am satisfied that reasonable planting opportunities are available to each elevation, especially to the sensitive residential interfaces to the south, east and west. I find that there is reasonable opportunity for the planting of meaningful vegetation in order to both soften the appearance of the buildings and promote a garden setting. I say this having had regard to the landscaping plan prepared by Mr Thomson of Habitat Landscape Design.
5. I find there is sufficient space around the proposed dwellings for appropriate planting of canopy trees and understorey planting.

### Built Form

1. Mr McInnes submitted that the proposed development was inappropriate in that the upper levels elements dominated the ground floor levels and resulted in walls that were close to being sheer from ground to first floors. He submitted that inadequate articulation was included to the dwellings with the first floor setback, particularly to the east offering inappropriate view of form from the Avoca Street streetscape. He argued that the proposed planting opportunities were insufficient to the task of minimising the appearance of sheer walls within the streetscape and from the private realm.
2. I am persuaded that the massing and visual bulk of the proposed development includes articulation that is in keeping with the character of the area. I note that older dwelling stock in the area is generally one to two storey in scale with infill development more often than not built to two storeys.
3. The dwellings have been sufficiently articulated and broken up through material choices (face brick at ground levels and render finishes and timber cladding at first floor), interspersed with porches at ground level so that the upper levels do not appear as a dominant element in the streetscape, despite the inclusion of flat roof elements a ground level. The first floors are appropriately set back from the ground floors so that they will be recessive in nature. I am satisfied that the proposed front two, double storey dwellings represent a good response to the prevailing built forms in the area and will not detrimentally impact on the streetscape or the wider character of the neighbourhood. Additionally, the reduction in height of dwelling 3 to a single storey level ameliorates amenity impacts and reduces the visual impact of form in the rear yard.
4. The setbacks to Avoca Street are generous, well-articulated at the upper level and similar to those found in the streetscape. At ground level setbacks to Avoca Street range from 8.3 to 8.4 metres. At first floor these setbacks are increased to between 8.8 and 9.4 metres. This provides opportunity for a well vegetated frontage as sought within local policy.
5. Similarly, the spacing between dwellings serves to site them in a manner that provides opportunity for intervening planting and appreciation of corridors of space. Setbacks between dwellings 1 and 2 range from 3.0 metres at ground level to 5.6 metres at first floor. These setbacks provide opportunity for planting of trees ranging from 7-8 metres in height. An additional 3 metres is provided between dwellings 2 and 3 at ground level, providing opportunity for planting of trees to a height of 5-8 metres. I am satisfied that the setbacks between dwellings provides for appropriate breaks between the dwellings as envisaged in policy. This provides the opportunity for planting of vegetation that would complement the proposed canopy tree planting.
6. In these ways, I find that the proposal represents an appropriate response to the objectives within Clauses 21.06 and 22.02.

# Does the development achieve a satisfactory level of compliance with Clause 55 (ResCode)?

1. Several areas of ResCode compliance were included as grounds of refusal. These include Neighbourhood Character Landscaping Objective, Overshadowing and Solar Access. Mr McInnes advised that subsequent to the submission of amended plans, concerns relating to shading and solar access were no longer pursued.
2. I am satisfied that the proposed development complies with Clause 55 (ResCode) objectives and does not represent an overdevelopment of the site. I say this for the following reasons
   1. As noted in the previous section, I am satisfied that the proposed development responds well to the character for this area as sought in local policy. In addition, as previously stated, landscaping opportunities are appropriately provided in line with the policy direction for this area.
   2. The front setback varies from 8.3 metres at ground level to 9.4 metres at first floor. This represents and appropriate transition in the streetscape where dwellings are set back 8-9 metres.
   3. The maximum height of the buildings is 7.5 metres
   4. The site coverage is 37.45%
   5. The permeability is 39.48%
   6. Dwelling entries are highly visible with dwelling 1 facing Avoca Street and dwellings 2 and 3 facing the internal driveway.
   7. Infrastructure is readily available
   8. The side and rear setbacks are reasonable and comply with the standard
   9. No new wall on the boundary is proposed.
   10. Provision is made for storage (via sheds), water tanks, clothes lines and mailboxes.
   11. The existing crossover will be reinstated to kerb and channel with one new crossover constructed to the eastern portion of the Avoca Street frontage. I am satisfied that this level of parking access maintains the rhythm and character of the streetscape in Avoca Street.
   12. Parking spaces for dwellings have direct access to dwellings.
   13. Overlooking will be minimised via screening that is in line with Standard B22.
   14. Shading of windows and private open space is minimised with the level of shade falling within the reasonable limits as enshrined by Clause 55.
   15. Windows of adjoining properties are properly protected and receive adequate light.
   16. Private open spaces provided are reasonable in that at between 72.07 and 135.08 square metres of open space is provided, of which at least 27 square metres with a minimum dimension of 3.0 metres has been provided as secluded private open space.
   17. The open spaces are located to the western boundary and have reasonable access to daylight in line with Standard B29
   18. I see no sources of noise that are located close to boundaries, such as mechanical devices
   19. I find that the development incorporates a reasonable design that adequately protects the amenity of the surrounding properties.
3. I find that compliance with the objectives of ResCode are justified as above and are sufficient to ensure that the design will not have an unreasonable impact on the amenity of surrounding dwellings.

## Conclusion

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

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| **Alison Slattery**  **Member** |  |  |

# Appendix A – Permit Conditions

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| Permit Application No | P1304/2018 |
| Land | 118 Avoca Street HEIDELBERG VIC 3084 |

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| What the permit allowS |
| In accordance with the endorsed plans:   * Construction of three dwellings in a Neighbourhood Residential Zone; and * Construction of buildings and woks exceeding 6 metres in a Significant Landscape Overlay. |

## Conditions

1. Before the development permitted by this permit starts, amended plans to the satisfaction of the Responsible Authority 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 drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the amended plans circulated by the permit applicant prior to the VCAT hearing (prepared by Tsang Pty Ltd and numbered TP01 through TP07, dated 8 December 2019 and labelled “Rev C”) but modified to show:
   1. Engineering plans showing a properly prepared design with computations for the internal drainage and method for of disposal of stormwater from all roofed areas and sealed areas including;

(i) The use of an On-site Stormwater Detention (OSD) system;

(ii) The outfall drainage works necessary to connect the subject site to the Council nominated Legal Point of Discharge;

(iii) The integration, details and connections of all Water Sensitive Urban Design features in accordance with the advertised Sustainable Design Assessment and STORM report and include drainage details as a result of landscaping;

Please note the Engineering plans must show all protected and/or retained trees on the development site, on adjoining properties where tree canopies encroach the development site and along proposed outfall drainage and roadway alignments (where applicable) and every effort must be made to locate services away from the canopy drip line of trees and where unavoidable, details of hand work or trenchless installation must be provided.

* 1. All buildings and works for the demolition of the site and construction of the development (as shown on the endorsed plans) must not alter the existing ground level or topography of the land within trees that are to be retained.
  2. Landscaping as required by Condition 2 of this permit.
  3. The Tree Protection Fencing required by Condition 10 of this permit.
  4. The meter box located more than 8.3 metres from the street frontage.

1. Before the development permitted by this permit starts, an amended landscape plan to the satisfaction of the Responsible Authority 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 drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the landscape plan circulated by the permit applicant prior to the VCAT hearing (prepared by Habitat dated January 2020 and labelled “VCAT”) but modified to show
2. Location, details and cross section drawings of all Water Sensitive Urban Design features in accordance with the endorsed Sustainable Design Assessment and STORM report, with reference to connection details on the engineering plans.
3. All landscaping works for the development (as shown on the endorsed plans) must not alter the existing ground level or topography of the land within the TPZ of all retained/neighbouring trees.

### General

1. The development as shown on the endorsed plans or described in the endorsed documents must not be altered or modified except with the written consent of the Responsible Authority.
2. Unless otherwise agreed in writing by the Responsible Authority the development permitted by this permit must not be occupied until the development has been completed to the satisfaction of the Responsible Authority in accordance with the permit and endorsed plans (including, but not limited to built form and layout, parking, landscaping, drainage, street numbering, replacement of street trees).

Car Parking / Access

1. Areas set aside for the parking of vehicles together with the aisles and access lanes must be properly formed to such levels that they can be utilised in accordance with the endorsed plans and must be drained and provided with an all-weather seal coat. The areas must be constructed, drained and maintained in a continuously useable condition to the satisfaction of the Responsible Authority.
2. Vehicular access or egress to the subject land from any roadway or service lane must be by way of a vehicle crossing constructed in accordance with Council’s Vehicle Crossing Specifications to suit the proposed driveway and the vehicles that will use the crossing. The location, design and construction of the vehicle crossing must be approved by the Responsible Authority. Any existing unused crossing must be removed and replaced with concrete kerb, channel and nature strip to the satisfaction of the Council prior to occupation of the building. All vehicle crossing works are to be carried out with Council Supervision under a Memorandum of Consent for Works which must be obtained prior to commencement of works.

### Urban Design / External Appearance

1. Outdoor lighting must be designed, baffled and located to the satisfaction of the responsible Authority such that no direct light is emitted outside the boundaries of the subject land.

### Tree Protection / Landscaping

1. Unless otherwise agreed in writing by the Responsible Authority, the landscaping areas shown on the endorsed plans must be used for landscaping and no other purpose and any landscaping must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.
2. Except with the further written consent of the Responsible Authority, no other vegetation (other than that indicated on the endorsed plan, or exempt from planning permission under the provisions of the Banyule Planning Scheme), shall be damaged, removed, destroyed or lopped.

### Tree Preservation Zones

1. Unless otherwise agreed in writing by the Responsible Authority, prior to the commencement of works on the site a Tree Preservation Zone must be established around Tree #1. At least 14 days prior to the commencement of works you must provide a ‘Statement of Compliance’ (from a  AQF Level 5 qualified or above Arborist) which must include photographic evidence of the below requirements. This correspondence must be sent to [enquiries@banyule.vic.gov.au](mailto:enquiries@banyule.vic.gov.au). Once installed to the satisfaction below the Tree Preservation Zones must be maintained until the conclusion of works to the satisfaction of the Responsible Authority, and must meet the following requirements:

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

Any root severance within the TPZ must be undertaken to their satisfaction using a clean, sharp and sterile pruning saw. There must be no root pruning within the SRZ unless consent is received in writing from the responsible authority, and there must be no root pruning within the TPZ for works other than those endorsed by the Responsible Authority.

The Tree Preservation Zone must consist of:

1. Tree Protection Fencing (TPF) must be installed as close to the TPZ as practically possible provided that it does not encroach onto the road or footpath.
2. TPF must consist of chain wire mesh panels held in place with concrete feet. Fencing must comply with Australian Standard AS 4687-2007 Temporary fencing and hoardings.
3. Fixed signs are to be provided on all visible sides of the TPF stating “Tree Preservation Zone – No entry without permission from the City of Banyule”.
4. No persons, vehicles or machinery are to enter inside the Tree Protection Fencing except with the consent of the Responsible Authority

Access to Tree Preservation Zone

1. No persons, vehicles or machinery are to enter the Tree Protection Zone except with the consent of the Responsible Authority;
2. No fuel, oil dumps or chemicals are allowed to be used or stored within the Tree Preservation Zone and the servicing and re-fuelling of equipment and vehicles must be carried out away from the root zones;
3. No storage of material, equipment or temporary building is to take place within the Tree Preservation Zone;
4. Nothing whatsoever, including temporary services wires, nails, screws or any other fixing device, is to be attached to any tree.

Consent for the conduct of works within a Tree Protection Zone, where granted, may be subject to conditions. Such conditions may include a requirement that:

1. Any further works that are approved are to be supervised by the project arborist, and a written component may be required also;
2. All root excavation be carried out by hand digging or with the use of ‘Air-Excavation’ techniques;
3. Canopy and Limb protection is provided in accordance with the guidelines detailed in AS4970-2009 Protection of Trees on Development Sites.
4. Any underground service installations within the Tree Protection Zone be bored to a depth of 1.5 metres;
5. Roots required to be cut are to be severed by saw cutting and undertaken by a qualified arborist.
6. Or other conditions, as relevant, to ensure the ongoing health and stability of the subject tree/s.
7. Any underground service installations within the calculated Tree Protection Zone of any retained tree must be bored to a depth of at least 600mm. Any excavation within the calculated TPZ of a retained tree required for the connection of services must be:
8. Undertaken after written approval is received from the Responsible Authority; and
9. Undertaken by hand or by approved non-destructive techniques suitable in the vicinity of trees under the supervision of the project arborist.

### Development Infrastructure Levy

1. Prior to the issue of a building permit for any building or any works approved by this permit, a Development Infrastructure Levy and a Community Infrastructure Levy must be paid to Banyule City Council. The amount of the levy for each charge unit must be calculated in accordance with Schedule 1 to the Development Contribution Plan Overlay.

### Time Limits

1. In accordance with section 68 of the Planning and Environment Act 1987, this permit will expire if one of the following circumstances applies:
2. The development is not commenced within two years of the date of this permit
3. The development is not completed within four years of the date of this permit.

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:

(a) Before the permit expires, or

(b) Within six months afterwards, or

(c) Within 12 months afterwards if the development started lawfully before the permit expired.

**– End of conditions –**

1. 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. [↑](#footnote-ref-1)
2. Clauses 11, 15, 16 [↑](#footnote-ref-2)