VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

planning and environment DIVISION

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| planning and environment LIST | vcat reference No. P1741/2019Permit Application no. PA1841638 |
| CATCHWORDS |
| Section 82 of the *Planning and Environment Act 1987*; Heritage Overlay HO13, Hannan’s Farm Heritage Precinct; extension to existing dwelling. |

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| APPLICANTs | Alan Hart & Anmaree Iaccarino |
| responsible authority | Hobsons Bay City Council |
| RESPONDENT | Tina Lardner – Tina Lardner Building Design |
| SUBJECT LAND | 33 Hannan StreetWILLIAMSTOWN VIC 3016 |
| WHERE HELD | Melbourne |
| BEFORE | Susan Whitney, Member |
| HEARING TYPE | Hearing |
| DATE OF HEARING | 13 March 2020  |
| DATE OF ORDER | 26 March 2020 |
| CITATION | Iaccarino v Hobsons Bay CC [2020] VCAT 385 |

# Order

### Permit granted

1. In application P1741/2019 the decision of the responsible authority is varied.
2. In planning permit application PA1841638 a permit is granted and directed to be issued for the land at 33 Hannan Street, Williamstown in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:
* Construction of a two-storey addition to the rear of the existing dwelling, alterations to the existing dwelling and associated demolition.

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| **Susan Whitney****Member** |  |  |

# Appearances

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| For applicant | Mr Alan Hart and Mr Michael Iaccarino |
| For responsible authority | Ms Emma Lewis and Mr Callum Steele, town planners, of Hobsons Bay City Council. |
| For respondent | Mr Mark Walton, town planner, of St-Wise Pty Ltd. |

# Information

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| Description of proposal | Construction of a two storey addition to the rear of the existing dwelling to replace an existing two storey addition, along with alterations to the existing dwelling to remove non-original built form elements and associated demolition of non‑original built form elements. |
| Nature of proceeding | Application under section 82 of the *Planning and Environment Act 1987* – to review the decision to grant a permit. |
| Planning scheme | Hobsons Bay City Council |
| Zone and overlays | General Residential Zone – Schedule 2;Heritage Overlay – HO13. |
| Permit requirements | Clause 43.01-1 – demolition of part of a building and construction of a building. |
| Land description | The subject land is of irregular shape. It is located on the corner of Hannan Street and Gellibrand Street. The subject land fronts Hannan Street, with a frontage width of 24.38 metres, a depth of 42.67 metres and a narrow width to the rear laneway of 5.38 metres. The length of the site to Gellibrand Street is 30.21 metres. The area of the site is 781m2. |

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

## What is this proceeding about?

1. The Applicants, Alan Hart & Anmaree Iaccarino, seek the Tribunal’s review of the decision by the Hobsons Bay City Council to approve the demolition works and proposed extension of the existing dwelling on the subject land.
2. The subject land is located in the Heritage Overlay – HO13, Hannan’s Farm Heritage Precinct. HO13 is a precinct overlay that applies to a number of streets but is focused upon Hannan Street as the spine of HO13.
3. The only planning permission required for the proposed development is under clause 43.01-1of the Heritage Overlay.
4. The heritage component of the subject land is the single storey Victorian dwelling. The dwelling presently has a double storey extension to the rear, attached to the heritage built form by way of a glazed section of the building with weatherboard flat roof that is visible from outside the site.
5. The proposed works include the demolition of the existing double storey extension to the rear of the heritage building, the construction of a new double storey extension to the rear and the replacement of non-original built form elements (such as windows) on the heritage building with new built form elements that the permit applicant assesses as being more appropriate.
6. The key issue before me is whether the proposal constitutes an acceptable planning outcome having regard to the significance of the heritage place, which involves consideration of not just the dwelling on the subject land but also the other contributory heritage buildings in this precinct. One such contributory heritage building is 35 Hannan Street, being the adjoining property to the north that is the residence of Michael and Anmaree Iaccarino.
7. Having considered the policies and provisions of the Hobsons Bay Planning Scheme (“**Scheme**”), the submissions of the parties including the material provided to me, and having already viewed the subject land and its surrounds, I have determined that a planning permit should be issued for the proposal but on slightly varied conditions to those contained in the Notice of Decision to Grant a Permit issued by the Council on 6 August 2019 (“**NOD**”). My reasons follow.

## Will the proposal adversely affect the significance of the heritage place?

1. Determination of this question requires consideration of the three components of the proposed works: the demolition; the alterations to the heritage building; and, the construction of the new extension.
2. The demolition proposed is of the existing double storey extension to the rear of the original heritage building. The non-original building elements attached to the heritage building that will be removed and replaced are the front door and windows; the side windows; and, the verandah posts, fretwork and flooring. The slate roof and blockwork façade of the dwelling are original and are described as being in need of repair. The permit applicant states that the intention is to replace these with materials that match the original building fabric.
3. The new extension to the rear includes:
	1. a ground floor open plan kitchen, dining and lounge area with walk through pantry and laundry that provides access to the rear exit leading to the existing carport;
	2. a new outdoor area with open decks, new inground concrete pool, open patio and open outdoor area;
	3. a first floor containing three bedrooms and three ensuite bathrooms; and
	4. a basement containing a wine cellar and a cinema room.

### What are the planning considerations?

1. In assessing the permission required under the Heritage Overlay, it is appropriate to consider the purposes of the Heritage Overlay, which include:

To conserve and enhance heritage places of natural or cultural significance.

To conserve and enhance those elements which contribute to the significance of heritage places.

To ensure that development does not adversely affect the significance of heritage places.

1. It is also necessary to consider the decision guidelines contained in clause 43.01-8 of the Heritage Overlay, as appropriate. These include:

The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.

Any applicable statement of significance (whether or not specified in the schedule to this overlay), heritage study and any applicable conservation policy.

…

Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.

Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.

Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place.

Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.

…

Whether the location, style, size, colour and materials of the proposed solar energy system will adversely affect the significance, character or appearance of the heritage place.

1. The statement of significance for HO13[[2]](#footnote-2) identifies that the precinct is of historical and aesthetic significance. It provides:

Historically, Hannan's Farm is significant as a nineteenth century speculative subdivision, which resulted in streets that were not fully developed until the Interwar period. It demonstrates how the expansion of the nearby railway workshops and related industry led to a revival in Williamstown during the early twentieth century after the decline of the port at the end of the nineteenth. The nineteenth century origins of the street are demonstrated by the Victorian era dwellings, while the main period of development is illustrated by the Edwardian and Interwar villas. (AHC criteria A4 and D2)

Aesthetically, Hannan's Farm is significant as an early twentieth century residential precinct, which comprises predominantly Edwardian and Interwar era houses with common or similar characteristics of design, siting and scale that create a cohesive and homogeneous streetscape. Many are externally intact and others, although altered, still retain their distinctive form and siting and hence contribute to the precinct. (AHC criterion E1)

1. The subject land fronts Hannan Street and, by virtue of its corner location, has its sideage visible from Gellibrand Street. The statement of significance describes Hannan Street as follows:

The lots in Esplanade and Hannan Street are of regular shape with similar frontages and area, although later subdivisions have created some narrower allotments….

…

Hannan Street is a well-established residential street which predominantly comprises single-storey detached Victorian and Edwardian-era villas, with some inter-war weatherboard houses. The street is notable for the relatively high number of relatively intact double-fronted symmetrical and asymmetrical villas, which share consistent setbacks, siting and scale. There are many good examples of cast-iron and timber fretted verandah detail such as the elaborate verandah to No. 121. No. 47 is a rare example of an asymmetrical villa constructed in polychromatic brick.

1. Further, it is stated that:

Unrelated postwar development disrupts the complete expression of the precinct as a whole. However, Hannan Street and Collins Street have high integrity with few postwar dwellings.

1. The parties referred me to various policy clauses in the Scheme that address heritage in the municipality. Amongst these were clause 22.10 Hobsons Bay East Neighbourhood Character Policy and clause 21.06 Built Environment and Heritage. I was also referred to the Guidelines for Alterations and Additions to Dwellings in Heritage Areas in Hobsons Bay 2006 (“**Guidelines**”), which is an incorporated document in the Scheme and a reference document in clause 21.06. The Guidelines provide assistance by explaining what the Council will take into account, from a heritage perspective, in assessing a planning application for alterations and additions to a dwelling, in conjunction with other relevant planning policies and controls. Among other things, the Guidelines identify key alteration issues for Victorian-style buildings.[[3]](#footnote-3)
2. The overall common message emerging from the clauses in the Scheme and the Guidelines is that additions should not dominate or overwhelm the original heritage fabric. The significant elements of the heritage place and precinct should retain visual dominance. Alterations should be recessive to the significant heritage fabric. Whilst the Guidelines state that a rear addition that is not visible from the street is preferred because it will have less impact on the street elevation of the heritage building, it is not the case that additions should never been seen. What is important is that the addition does not visually dominate and overwhelm the heritage place, to the point that the significance of the heritage place is adversely affected. What this means in each particular case will vary. It will depend upon the architectural design, colour and detail of the addition as compared with the heritage fabric, as well as the size of the additional built form and its location on the site, relative to the heritage building.

### What were the parties’ contentions?

1. No party called expert evidence in support of their case. The Council had referred the application to its heritage advisor, who had provided their comments prior to the issue of the NOD. These comments are detailed in the Council officer report. I acknowledge that these comments included criticism of facets of the design.
2. There was no dispute between the parties regarding the extent of demolition proposed or the alterations that were being made to the heritage building. This was because these works involve non-original, non-contributory built form.
3. The Applicants’ concern was focused upon the new double storey extension to the rear of the heritage building. I heard from both Mr Hart and Mr Iaccarino, who each provided me with written submissions and spoke to their concerns.
4. In essence, the Applicants say that this extension will dominate and overwhelm the heritage building on the subject land as well as those contributory buildings in Hannan Street. The Applicants take issue with the visibility of the extension, particularly on either side of the heritage building, notwithstanding what is shown in the sightline diagrams in the advertised plans. I understood the Applicants’ main concern to be the extent and visibility of the first floor extension, although concerns were also raised regarding the visual prominence of the sections of roof over the ground floor extension.
5. The Council considered that the proposed extension was appropriate in light of:
	1. its location behind the existing heritage building and its substantial set back from Hannan Street, noting that the first floor extension is setback 21.54 metres from Hannan Street;
	2. the height of the extension being 7.7 metres and lower than the height of the sight lines from Hannan Street. The Council regarded this to be of similar height as Mr Hart’s property to the rear and also that of other dwellings in Hannan Street;
	3. the location of the ensuite on the upper storey rooms within the roof area, meaning that the addition will not visually dominate the adjoining dwelling in which the Iaccarinos reside;
	4. the glazed link between the heritage and new built form as being a positive of the design, separating the old and new; and
	5. the materials of the addition being similar to the existing building, which is sought in the Guidelines.
6. The permit applicant added:
	1. the setback of the upper storey of the proposed extension from Gellibrand Street is greater than that of the existing double storey extension – 6.11 metres compared with 3.645 metres – meaning that the southern side of the upper floor should create a lesser visual impact than the existing structure does presently;
	2. the existing and proposed planting on the subject land will partially obscure the new built form;
	3. contributory features such as the chimney will be retained, which is a positive in terms of the aesthetic significance of the heritage place;
	4. upper storey windows facing Hannan Street are visible but well recessed from Hannan Street, which will result in them having a lesser visual impact from Hannan Street.

### What are the Tribunal’s findings?

#### Demolition of non-original built form

1. Subject to the two matters set out below, I am satisfied that the demolition and replacement works described above will not adversely affect the significance of the heritage place. This is because the changes will involve the removal of non-original built form – in terms of the double storey extension and the identified built form elements on the heritage building – and the replacement of the built form elements on the heritage building with appropriate replacement pieces that will not detract from the heritage building.
2. It is proposed that the slate roof and blockwork façade be replaced with materials that match the original building. I note the comments of the Council’s heritage advisor that the slate roof should be repaired with slate to match, and that the intention should not be to make the building look new, but rather, to ensure that it is being repaired. The roof form of the original building is a recognisable and highly visible element of this heritage building that contributes to its aesthetic significance. To this end, I agree with the Council’s heritage advisor that the slate roof should be repaired rather than replaced in order to minimise the impact to the heritage significance of the heritage place. I have included a condition to this effect.
3. I also do not approve of the location of the five new pool solar panels on the north-facing part of the heritage roof that is closest to 35 Hannan Street. These are to be distinguished from the three new pool solar panels that are located in the central part of the heritage roof and the two new solar hot water service panels that are located on the flat roof section of the dwelling extension, neither of which I am concerned about. My concern in relation to the five north-facing solar panels on the heritage roof, as opposed to the other proposed solar panels, is the extent to which they will be visible from Hannan Street.
4. The decision guidelines direct specific consideration of “*whether the location, style, size, colour and materials of the proposed solar facility will adversely affect the significance, character or appearance of the heritage place*”. I appreciate that the solar panels will be understood as modern additions to the roof form, however, I think that they will visually detract from the appearance and form of this heritage roof, given the significant side setback of the building from 35 Hannan Street and the visibility of this part of the heritage roof in the Hannan Street streetscape. In my opinion, the positive of being able to appreciate and read the heritage building separate from the newer extension to the rear will be undermined by the extent to which the five solar panels will be visible in views of the Hannan Street streetscape. I note that the Council’s heritage adviser similarly sought for the solar panels to be located in the central section of the ‘M roof’ of the original building or on the proposed additions, rather than on the section of roof that is visible. As such, through the permit conditions I am directing removal of these five solar panels from this location. If the permit applicant wishes to identify an alternative location for these solar panels that is not on the original building and is not visible from outside the site, this can be discussed with the Council in the future.
5. With these changes to the proposal, the heritage built form will still be able to be appreciated as an example of Victorian architecture, read in the context of other heritage built form in Hannan Street. The original shape and size of the heritage building, along with the scale of the heritage building on the lot, as viewed from Hannan Street and also from Gellibrand Street (given its corner location) will still be able to be appreciated in terms of its historic and aesthetic significance.

#### New extension in the rear of the subject land

1. In terms of the extension to the rear, I am satisfied that the additional built form will not adversely affect the significance of the heritage place; either the heritage building on the subject land, or, the precinct generally. I say this for the following reasons.
2. Firstly, the upper storey extension is substantially setback from Hannan Street, which will lessen its dominance in the streetscape, notwithstanding that the new built form will be visible from Hannan Street. The distinctive form, design, siting and scale of the heritage building will still be able to be recognised and appreciated in terms of its aesthetic significance, while the building will continue to be understood as indicative of the settlement pattern of this part of Melbourne.
3. The materials and colours of the new extension are similar to the existing building fabric and colours but will be recognisable as being new built form, meaning that the two components of the dwelling will be able to comfortably sit together; the new part will not visually overwhelm or dominate the heritage part as the tones and fabrics will effectively blend together, yet the new is not seeking to replicate or mock the old. The detailing of the heritage building will continue to set the heritage building apart from the new addition and the new addition will not be visually jarring when viewed against the heritage fabric.
4. The proposed extension will replace an existing double storey extension that extends to the rear boundary at ground floor and has an upper storey that is set back 2.02 metres from the rear boundary and 3.645 metres from Gellibrand Street. The existing upper storey is angled, which gives the impression of the built form moving away from Gellibrand Street, but it is still highly visible from Gellibrand Street and Hannan Street. The new extension is larger and will be visible on both sides of the heritage building, however, its design provides a degree of visual symmetry when viewing the dwelling from Hannan Street and the extension will be appreciated as a separate but related component of the building on the subject land. Further, the existing street trees on Gellibrand Street that mitigate views to the extension will continue to do so for the new extension. The existing street tree on Hannan Street will perform a similar function for views of the dwelling from the front, as it does now.
5. The rhythm and spacing of built form within the Hannan Street streetscape will remain as is, in that the heritage building will retain the same side setbacks from Gellibrand Street and 35 Hannan Street and the rear extension, given its substantial setback from Hannan Street, will not disrupt this spacing. The heritage building will continue to be ‘read’ alongside the other contributory buildings in the Hannan Street streetscape.
6. The use of the glazed link, with timber framed windows and doors, will provide a visual break between the solid form of the new and old and allow each to be appreciated as separate components of the overall dwelling. The glazed link will not be visible from Hannan Street and, whilst visible from Gellibrand Street, this replaces an existing link that is visible from outside the subject land. The proposed glazed link is taller than the existing glazed link and will be closer to Gellibrand Street – 6.99 metres compared with in the order of 7.8 metres – but given it is wider than the existing link – 4.95 metres compared with in the order of 2 metres – this will provide a greater visual separation between the solid built form components than it does now. This further assists in the demarcation between old and new.
7. The existing vegetation on the subject land – including the hedge planted on either side of the heritage building – already somewhat screens views of the existing extension from Hannan and Gellibrand Streets. Admittedly, given its height, this mainly interrupts views of the ground floor. Notwithstanding, this vegetation will continue to serve this function and will be enhanced by the planting of two new maple trees in the front setback. I have included conditions in the permit to address the concerns held by the Applicants regarding the planting of this vegetation.
8. The new extension is commensurate in height with that of the adjacent residence of Mr Hart, being 46 Gellibrand Street. The colour and fabric of the extension will also be consistent with that dwelling. Similarly, the light tones used in the new extension will be consistent with those of 35 Hannan Street, the adjacent residence of the Iaccarinos. Read against these adjacent properties, the extension will be in keeping with this existing character and will not appear out of place.
9. I also note that the design of the extension effectively has a visual counterpart at 37 Hannan Street, on a property that is an infill (compared with a heritage) building but which is visible when views are taken of the subject land. In this sense, the design of the extension is in keeping with other built form elements in the streetscape. Further, there are other examples of double storey extensions to heritage dwellings proximate to the subject land – for instance, at 39 and 41 Hannan Street – that provide additional examples of where similar built form is evident in the streetscape.
10. In terms of the interfaces with adjacent properties, it is apparent that the proposal will result in more built form on, or within 200 metres of, common boundaries. The permission required for the proposal is under the Heritage Overlay and in relation to the purposes and decision guidelines of the Heritage Overlay, the construction of built form in this location at the rear of the subject land will not have an adverse impact on the significance of the heritage place, as explained above.
11. In terms of the interface with 46 Gellibrand Street, currently there is ground floor built form constructed to the common boundary and parts of the adjacent dwelling are also currently constructed to the boundary. The new rear wall of the sunken lounge room is to be located opposite the adjacent dwelling wall, extending forwards opposite the garage of 46 Gellibrand. Where the interface of the extension is towards the rear of the dwelling on 46 Gellibrand, the ground floor wall has been pulled further into the subject land by 1.15 metres to provide space for light and planting opposite the habitable room windows on 46 Gellibrand Street. These elements of the design will mitigate its impact on this interface.
12. Similarly, in terms of 35 Hannan Street, a part of the common boundary wall in the order of 3.25 metres is to be located opposite the rear portion of that dwelling where there is no habitable room window directly facing onto the boundary wall. This wall will extend opposite the verandah of 35 Hannan Street, which is approximately 1.8 metres deep, and then for approximately 4 metres of the boundary opposite the adjoining private open space for that property. However, beyond that the common boundary fence extends for a further approximately 10 metres, where the boundary fence will remain as a 1.9 metre timber paling fence. The existing carport on the subject land also remains proximate to the common boundary fence in this location. As such, whilst there will be a change to the boundary between the two properties, part of this change is opposite an existing wall and there will remain a large section of the rear common boundary fence that will be retained. In terms of the change to this interface, one of the permit conditions requires that the northern boundary wall be rendered to the satisfaction of the neighbour at 35 Hannan Street. This condition will provide the Iaccarinos with some control over the final finish that will be visible from their property.

## Conclusion

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

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| **Susan Whitney****Member** |  |  |

# Appendix A – Permit Conditions

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| Permit Application No | PA1841638 |
| Land | 33 Hannan Street, Williamstown |

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| What the permit allowS |
| In accordance with the endorsed plans:* Construction of a two-storey addition to the rear of the existing dwelling, alterations to the existing dwelling and associated demolition.
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## Conditions

### Amended plans

1. Before the development starts, revised 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 substantially in accordance with the advertised plans, but modified to show to the satisfaction of the Responsible Authority:

* 1. A schedule of all external materials and finishes. The schedule must show the materials, colour (including a set of physical colour samples) and finish of all external walls, roof, fascias, window frames and paving and include the following:
		1. The material for the gutters shown as galvanised;
		2. The removal of all reference to the Colorbond monument colour from the colour schedule;
		3. Replace the monument colour for the fascia and gutters (notated as F1, F11, F11A and F12) to Dulux Dieskau;
		4. Amend the colour of the eaves and fascia board (notated as F2 and F3) to Dulux Dieskau;
		5. All weatherboards, ashlar cladding and stops (notated as F4, F13, F14 and F5) should be painted with half strength Dulux Silkwort;
		6. The cast iron frieze and window frames and sashes (notated as F7, F8, F16, F17, F18 and F20) to be painted Dulux Stowe White;
		7. The colour of the new door (notated as F9) should match the windows or if a darker colour is required then Dulux Goanna Grey or similar;
		8. The turned posts (notated as F10) to be replaced with plain square posts, with bevelled edges and skirting and details provided. The colour should be the same as the frieze;
		9. The paint colour to the chimney (notated as F26) and Juliet Balcony (notated as F26) to be Dulux Stowe White;
		10. The galvanised perimeter frame of the skylight (notated as F22) to be painted to match Dulux Stowe White;
		11. Side fencing (notated as F23) to be painted Dulux Stowe White;
		12. The side boundary fence (notated as F24 and F25) to be a timber fence with no capping and painted half strength Dulux Mali;
		13. The front fence amended to wrought iron with a bluestone base and all reference to aluminium and cast iron pickets or any other reference to aluminium deleted. The wrought iron fence painted Dulux Mali (a dark colour) or similar. The pickets to be wrought iron and the tops to be cast;
		14. The changes to the roof of the original heritage building to be shown as repairs and the plans are to identify which parts of the roof are being repaired and which parts of the roof will be retained in original condition, with the extent and form of the repair changes to be to the satisfaction of the Responsible Authority; and
		15. All colours to be as nominated under condition 1 (a) or to the satisfaction of the Responsible Authority;
	2. All wall cladding noted as ‘weatherboard’ on the endorsed plans must be timber weatherboards or an alternative material with a profile consistent with timber weatherboard cladding;
	3. The relocation of the condenser units to be located externally. Such plant and equipment must be positioned to prevent unreasonable noise and visual impact;
	4. The site plan to nominate a Tree Protection Zone in accordance with condition 3 of this permit;
	5. The fencing on the northern boundary of 46 Gellibrand Street retained and the laundry wall set back 200mm from the boundary;
	6. The western boundary to include a blockwork fence to a height of 2.55 metres set back 200mm from the boundary in line with the addition to provide screening from the dining room windows. The height of the dining room windows lowered to match the height of the wall;
	7. The first floor plan revised to remove the incorrectly shown window to bedroom four;
	8. The plans revised to accurately show the existing carport to be retained;
	9. A notation that the northern boundary wall is rendered to the satisfaction of the neighbour at 35 Hannan Street;
	10. A 1:50 detailed drawing of the front verandah with dimensions shown;
	11. The removal of the five new pool solar panels shown on the north‑facing part of the roof of the original building that is closest to 35 Hannan Street; and
	12. The landscaping changes in accordance with the Landscape Plan that is approved under condition 4 of this planning permit.

### Development

1. All service pipes, (excluding downpipes), fixtures and fittings must be concealed on exposed elevations to the satisfaction of the Responsible Authority.
2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

### Landscaping

1. A Landscaping Plan that is generally in accordance with the landscaping scheme shown in the advertised plans must be prepared by a suitably qualified landscape professional and this plan must show:
	1. A survey (including botanical names) of all existing vegetation to be retained and/or removed;
	2. Vegetation marked for retention to be marked with vegetation protection barriers;
	3. A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant;
	4. A minimum of two canopy trees to be planted within the front setback, which must include the two Acer rubrum ‘Fairview Flame’ red maple trees shown on the advertised plans as being planted at 2.5 metres high and on either side of the front setback or a similar species to the satisfaction of the Responsible Authority;
	5. The delineation of all garden beds, paving, grassed areas, retaining walls, fences and other landscape works; and
	6. The provision of notes regarding site preparation, including the removal of all weeks, proposed mulch, planting instructions, plant establishment procedures and any specific maintenance requirements.
2. Prior to the commencement of development works to the original building and rear extension to the building that are authorised under this planning permit, the vegetation protection barriers must be installed around the vegetation marked on the landscape plan for retention and these barriers must remain until such building works under this permit are completed.
3. Within one (1) month of the completion of the development works referred to in condition 5 (or other timeframe as agreed by the Responsible Authority), the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
4. The landscaping must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced as soon as practicable.

### Street trees

1. Prior to commencement of works, the following provisions relating to the protection of existing street trees must be undertaken to the satisfaction of the Responsible Authority:
	1. A suitable Tree Protection Zone of 1 metre radius with barrier fence must be established around the street trees on the Hannan Street and Gellibrand Street frontages;
	2. The Tree Protection Zone must be enclosed using a 2 metre high temporary cyclone fence or similar, which must remain in place through all stages of the development. This fence must not enclose the footpath which must be kept clear for pedestrian access and a sign must be erected on the fence informing that the fence is a ‘Tree Protection Zone’;
	3. The area within the Tree Protection Zone must not be disturbed by any means (including parking of vehicles or storage of plant & equipment, materials, soil or waste); and
	4. No excavation is allowed within the Tree Protection Zone except with the consent of Council’s Town Planning Department and under the supervision of a qualified Arborist.

### Public assets

1. The owner must meet the costs of all alterations to and reinstatement of, the Responsible Authority and other Public Authority Assets deemed necessary and required by such Authorities for the development. The owner must obtain the prior specific written consent of the Council or other relevant Authority to such alterations and reinstatements and must comply with conditions required by the said Authority in relation to the execution of such works.
2. If the nature strip is damaged during construction of the development approved or during the construction of any services, it must be reinstated and made good, (including by the planting of grass) at the cost of the owner to the satisfaction of the Responsible Authority.

### Retaining wall

1. Any alteration of soil level involving an increased or decreased level at the boundary must be retained by the provision of an adequate retaining wall, which is constructed of brick or masonry or other suitable alternative approved by the Responsible Authority, to buttress the soil against the possibility of shift. The construction of this retaining wall must be carried out by the owner. The retaining wall must remain in place whilst any increase or decrease level is present.

### Fencing

1. Before any construction or demolition works commence on the land, a secure fence must be provided around the perimeter of the land to prevent access to the land by unauthorised persons. This fence must be maintained for the duration of the construction and demolition, be a minimum height of 1.5m (or such alternative height as is approved in writing by the Responsible Authority), and be constructed to the satisfaction of the Responsible Authority. The gate or opening to the fence must be securely locked at all times when work is not being undertaken on the land.

### Permit expiry

1. This permit will expire if one of the following circumstances applies:
	1. The development is not started within two years of the date of this permit;
	2. The development is not completed within four years of the date of this permit.

The Responsible Authority may extend the period in which to start the development if a request is made in writing before the permit expires or within six months afterwards.

The Responsible Authority may extend the period in which to complete the development if a request is made in writing before the permit expires or within 12 months afterwards and the development was lawfully started 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. Hannan’s Farm Heritage Precinct, Victorian Heritage Database Report [↑](#footnote-ref-2)
3. Guidelines for Alterations and Additions to Dwellings in Heritage Areas in Hobsons Bay 2006 by Helen Lardner Conservation & Design Pty Ltd at page 4. [↑](#footnote-ref-3)