

# VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

## PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P517/2024  
PERMIT APPLICATION NO. TPA/55457

**APPLICANT** Dipak Vishram Tivarekar, Sanket  
Pandurang Landge & Others

**RESPONSIBLE AUTHORITY** Monash City Council

**SUBJECT LAND** 4 Woonah Street  
CHADSTONE VIC 3148

**HEARING TYPE** Compulsory conference

**DATE OF HEARING** 26 November 2024

**DATE OF ORDER** 19 December 2024

## ORDERS

### Amend application

- Pursuant to clause 64 of Schedule 1 of the *Victorian Civil and Administrative Tribunal Act 1998*, the permit application is amended by substituting the following for the application plans:  

Prepared by: Lazarovski Design

Drawing numbers: A04, A05, A06, A07, A08, A09, A10, A11, A12 & A13,

Dated: 25 November 2024
- In application P517/2024, the decision of the Responsible Authority is set aside.
- In Planning Permit Application TPA/55457, a permit is granted and directed to be issued for the land at 4 Woonah Street, Chadstone, VIC 3148 in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:

Planning scheme clause	Matter for which the permit has been granted
Clause 32.08-7	Construction of two or more dwellings on a lot.
- The compulsory conference scheduled for 9:00am on 15 January 2025 & the hearing scheduled for 30 January 2025 are both vacated
- No order as to costs.

Nicholas Hadjigeorgiou  
**Member**



## APPEARANCES

For applicant	Stephen O'Brien, Town Planner, Universal Planning
For responsible authority	Sally Moser, Town Planner



## REMARKS

- 1 This matter involves an application pursuant to section 77 of the *Planning and Environment Act 1987 (Vic)* to review the responsible authority's decision to refuse the grant of a permit for the construction of three dwellings on the subject land.
- 2 At the compulsory conference, the parties reached agreement subject to notice of amended plans. The matter was set down for an administrative mention. Notice of amended plans was given. By email letter dated [insert date] the responsible authority and permit applicant confirm that there are no new parties to the proceeding following notice of amended plans. Accordingly, all parties have reached agreement and request orders by consent. The parties request that a permit is granted, subject to conditions.
- 3 Therefore, 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 issue of a permit in the form agreed by the parties as described in the agreed orders is appropriate having regard to the matters it is required to consider under section 60 of the *Planning and Environment Act 1987 (Vic)* including the balanced application of the strategies and policies of the relevant 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 proposal which would materially affect any person other than the parties to the proceeding.
- 5 Based on the information available to the Tribunal, 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 (Vic)*.

Nicholas Hadjigeorgiou  
**Member**



## APPENDIX A – PERMIT DESCRIPTION AND CONDITIONS

<b>PERMIT NO</b>	TPA/55457
<b>PLANNING SCHEME</b>	Monash Planning Scheme
<b>RESPONSIBLE AUTHORITY</b>	Monash City Council
<b>ADDRESS OF THE LAND</b>	4 Woonah Street CHADSTONE VIC 3148

### THE PERMIT ALLOWS:

<b>Planning scheme clause</b>	<b>Matter for which the permit has been granted</b>
Clause 32.08-7	Construction of two or more dwellings on a lot.

### CONDITIONS TO APPLY TO THE PERMIT:

- 1 Before the development starts, amended plans drawn to scale and correctly dimensioned must be submitted to the satisfaction of and approved by the Responsible Authority. When approved, the plans will be endorsed and then form part of the Permit. The plans must be generally in accordance with the plans A04, A05, A06, A07, A08, A09, A10, A11, A12 & A13, prepared by Lazarovski Design dated 25 November 2024, but modified to show any changes arising from:
  - (a) An SDA report in accordance with Condition 4 of this permit.
  - (b) A Landscape Plan in accordance with Condition 6 of this Permit.
  - (c) Any layout or construction requirements detailed Tree Management Plan in accordance with Condition 10 of this Permit.

All the above to the satisfaction of the Responsible Authority.

#### **Layout not to be Altered**

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

#### **Compliance with documents approved under this permit**

- 3 At all times what the permit allows must be carried out in accordance with the requirements of any document approved under this permit to the satisfaction of the responsible authority.

#### **Sustainable Design Assessment**

- 4 Concurrent with the endorsement of plans requested pursuant to Condition 1, a Sustainable Management Plan must be submitted to and approved by



the Responsible Authority. The plan must be generally in accordance with the submitted Sustainability Management Plan, except that the plan must be modified to show any changes required by Condition 1 of this planning permit.

Upon approval the Sustainable Management Plan will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the SMP to the satisfaction of the Responsible Authority.

### **Sustainable Design Assessment/Sustainable Management Plan**

- 5 The provisions, recommendations and requirements of the endorsed SDA report must be implemented and complied with to the satisfaction of the Responsible Authority.

### **Landscape Plan**

- 6 Concurrent with the endorsement of the amended development plans required by Condition 1 of this permit, an amended landscape plan prepared by a Landscape Architect or a suitably qualified or experienced landscape designer, drawn to scale and dimensioned must be approved by the Responsible Authority prior to the commencement of any works. The plan must show the proposed landscape treatment of the site including:-
- (a) the location of all existing trees and other vegetation to be retained on site
  - (b) provision of canopy trees with spreading crowns located throughout the site including the major open space areas of the development
  - (c) planting to soften the appearance of hard surface areas such as driveways and other paved areas
  - (d) a schedule of all proposed trees, shrubs and ground cover, which will include the size of all plants (at planting and at maturity), their location, botanical names and the location of all areas to be covered by grass, lawn, mulch or other surface material
  - (e) the location and details of all fencing
  - (f) the extent of any cut, fill, embankments or retaining walls associated with the landscape treatment of the site
  - (g) An in-ground, automatic watering system linked to rainwater tanks on the land must be installed and maintained to the common garden areas to the satisfaction of the Responsible Authority;
  - (h) The location of external lighting (if any);
  - (i) details of all proposed hard surface materials including pathways, patio or decked areas

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



## Landscaping Prior to Occupation

- 7 Before the occupation of any of the buildings allowed by this permit, landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority and thereafter be maintained to the satisfaction of the Responsible Authority.

## Tree Protection

- 8 Before any development (including demolition) starts on the land, a tree protection fence must be erected around all trees, including the street tree, that are to be retained, or are located within or adjacent to any works area (including trees on adjacent land). The tree protection fence must remain in place until all construction is completed on the land, except with the prior written consent of the Responsible Authority. The fence must be erected unless otherwise considered not required under Condition 10.
- 9 No building material, demolition material, excavation or earthworks shall be stored or stockpiled within the Tree Protection Zone (TPZ) of any tree to be retained during the demolition, excavation and construction period of the development hereby permitted without the prior written consent of the Responsible Authority.

## Tree Management Plan

- 10 Concurrent with the submission of amended plans required by Condition 1 and prior to any demolition or site works, a Tree Management Plan (TMP) must be submitted to and approved by the Responsible Authority. The TMP must be prepared by a suitably qualified and experienced Arborist and must set out recommendations and requirements in relation to the management and maintenance of Trees identified in the arboricultural report prepared by Rigoni Tree Solutions dated 11/12/2023 with a TPZ encroachment arising from the development of more than 10%.

The TMP must be approved by the Responsible Authority prior to the commencement of any works, including demolition and/or levelling of the site. The TMP must make specific recommendations in accordance with the Australian Standard AS4970: 2009 - Protection of Trees on Development Sites and detail the following to the satisfaction of the Responsible Authority ensuring the trees to be retained remain healthy and viable during construction:

- (a) A Tree Protection Plan drawn to scale that shows:
- i Tree protection zones and structural root zones of all trees to be retained,
  - ii All tree protection fenced off areas and areas where ground protection systems will be used;
  - iii The type of footings within any tree protection zones;



- iv Any services to be located within the tree protection zone and a notation stating all services will either be located outside of the tree protection zone, bored under the tree protection zone, or installed using hydro excavation under the supervision of the Project Arborist; and
  - v A notation to refer to the Tree Management Plan for specific detail on what actions are required within the tree protection zones.
- (b) Details of how the root system of any tree to be retained will be managed. This must detail any initial non-destructive trenching and pruning of any roots required to be undertaken by the Project Arborist.
  - (c) Supervision timetable and certification of tree management activities required by the Project Arborist to the satisfaction of the responsible authority; and
  - (d) Any remedial pruning works required to be performed on tree canopies located within subject site. The pruning comments must reference Australian Standards 4373:2007, Pruning of Amenity Trees and a detailed photographic diagram specifying what pruning will occur.

The recommendations contained in the approved tree management plan must be implemented to the satisfaction of the Responsible Authority.

### **Drainage and Stormwater**

- 11 The site must be drained to the satisfaction of the Responsible Authority. Stormwater must be directed to the Point of Connection as detailed in the Legal Point of Discharge report. Stormwater must not be allowed to flow into adjoining properties including the road reserve.
- 12 No polluted and/or sediment laden runoff is to be discharged directly or indirectly into Council's drains or watercourses during and after development, to the satisfaction of the Responsible Authority.
- 13 Stormwater is to be detained on site to the predevelopment level of peak stormwater discharge. The design of any internal detention system is to be approved by Council's Engineering Department prior to any stormwater drainage works commencing.
- 14 A plan detailing the stormwater drainage and civil works must be submitted to and approved by the Engineering Department prior to the commencement of any works. The plans are to show sufficient information to determine that the drainage and civil works will meet all drainage requirements of this permit. Refer to Engineering Plan Checking on [www.monash.vic.gov.au](http://www.monash.vic.gov.au).
- 15 The full cost of reinstatement of any Council assets affected by the demolition, building or construction works, must be met by the permit



applicant or any other person responsible for such damage, to the satisfaction of the Responsible Authority.

### **Vehicle Crossovers**

- 16 All disused or redundant vehicle crossovers must be removed and the area reinstated with footpath, naturestrip, kerb and channel to the satisfaction of the Responsible Authority.
- 17 Any new vehicle crossover or modification to an existing vehicle crossover must be constructed to the satisfaction of the Responsible Authority.
- 18 Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose, to the satisfaction of the Responsible Authority.

### **Privacy Screens**

- 19 Prior to the occupancy of the development, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained ongoing to the satisfaction of the Responsible Authority. The use of obscure film fixed to transparent glass or windows is not considered to be 'obscure glazing' or an appropriate response to screen overlooking.

### **Boundary Walls**

- 20 Any walls proposed on the boundary of adjoining properties shall be cleaned and finished in a manner to the satisfaction of the Responsible Authority.

### **Reticulated Gas Service Connection**

- 21 Any new dwelling allowed by this permit must not be connected to a reticulated gas service (within the meaning of clause 53.03 of the relevant planning scheme). This condition continues to have force and effect after the development authorised by this permit has been completed.

### **Satisfactory Continuation and Completion**

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

### **Time for Starting and Completion**

- 23 In accordance with section 68 of the *Planning and Environment Act 1987*, this permit will expire if one of the following circumstances applies:
  - (a) The development is not started before 2 years from the date of issue.
  - (b) The development is not completed before 4 years from the date of issue.





- 24 In accordance with section 69 of the *Planning and Environment Act 1987*, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or
- (a) within six (6) months afterwards if the development has not commenced; or
  - (b) within twelve (12) months afterwards if the development has not been completed.

Council and the Victorian Civil and Administrative Tribunal are unable to approve requests outside of the relevant time frame.

**--- End of Conditions ---**

