

# VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

## PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P916/2023  
PERMIT APPLICATION NO.TPA/54736

### CATCHWORDS

Application under section 77 of the *Planning and Environment Act 1987* (Vic) – Refusal to grant a permit – Monash Planning Scheme – Commercial 1 Zone – Electronic, major promotion sign – Clause 22.03 – Clause 22.08 – Garden city vision and character – Signage theme – Visual clutter – Impact on residential properties.

<b>APPLICANT</b>	Perpetual Corporate Trust Ltd
<b>RESPONSIBLE AUTHORITY</b>	Monash City Council
<b>SUBJECT LAND</b>	271 Police Road MULGRAVE VIC 3170
<b>HEARING TYPE</b>	Hearing
<b>DATE OF HEARING</b>	29 January 2024
<b>DATE OF ORDER</b>	8 February 2024
<b>CITATION</b>	Perpetual Corporate Trust Ltd v Monash CC [2024] VCAT 105

### ORDER

#### Amend permit application

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

- Prepared by: SUM Design Studio
- Drawing numbers: TP-01, TP-02, and TP-03, Revision B, & TP04 Landscape Plan
- Dated: 8 December 2023

#### Permit granted

- 2 In application P916/2023 the decision of the responsible authority is set aside.
- 3 In planning permit application TPA/54736 a permit is granted and directed to be issued for the land at 271 Police Road, Mulgrave, VIC 3170, in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:
- Construction and display of an electronic, major promotion sign.



- Construction and display of an internally illuminated business identification sign.

Sarah McDonald  
**Member**

### **APPEARANCES**

For applicant

Susan Brennan, SC, and  
Tara Hooper, barrister.

They called the following witness:

- Simon Gilbertson, town planner,  
Contour Consultants Australia Pty Ltd.

For responsible authority

Sylvia Chan, town planner, and  
Sally Moser, town planner,  
Monash City Council



## INFORMATION

Description of proposal	Erection and display of an electronic major promotion sign and an internally illuminated business identification sign.
Nature of proceeding	Application under section 77 of the <i>Planning and Environment Act 1987</i> (Vic) – to review the refusal to grant a permit.
Planning scheme	Monash Planning Scheme (‘Scheme’).
Zone and overlays	Commercial 1 Zone (‘C1Z’). The adjoining roads are in the Transport Zone ‘TRZ2’ Principal Road network.
Permit requirements	Clause 52.05: To construct or put up for display an electronic major promotion sign and an internally illuminated business identification sign.
Key scheme policies and provisions	Clauses 21, 22.03, 22.08, 52.05, 65 & 71.
Land description	The site forms part of the Waverley Gardens Shopping Centre, which has frontages to Police Road (to the south), Jacksons Road (to the east), Hansworth Street (to the west), and the Monash Freeway to the northeast. The site’s location and context are shown at Figure 1.
Tribunal inspection	An unaccompanied inspection of the site and surrounding area was undertaken before the hearing.

Figure 1: Site location & context<sup>1</sup>



<sup>1</sup> Source: Figure 2.2 of Mr Gilbertson’s written submission, 5.

## REASONS<sup>2</sup>

### WHAT IS THIS CASE ABOUT?

- 1 Perpetual Corporate Trust Ltd ('applicant') is seeking a permit for the proposal for the erection and display of an electronic major promotion sign ('major promotion sign') and an internally illuminated business identification sign ('business identification sign') on the land at 271 Police Road, Mulgrave ('site').
- 2 The two signs are to be located at the southeastern corner of the site, facing the intersection of Police Road and Jackson Road.
- 3 The Monash City Council ('Council') refused to grant a permit for the proposed signs. The Council does not oppose the business identification sign. Its grounds for refusal relate only to the major promotion sign. Its refusal grounds refer to the major promotion sign failing to, in summary:
  - meet the 'garden city vision' for the municipality under clause 21 of the Scheme;
  - meet the objectives of the local 'Industry and business development and character policy' at clause 22.03;
  - meet the objectives or satisfy the performance criteria for major promotion signs of the local 'Outdoor advertising policy' at clause 22.08;
  - satisfy the decision guidelines for signs at clause 52.05-8.
- 4 The applicant has sought this review of the Council's decision.
- 5 The applicant relies on amended plans of the proposed signs that have been substituted for the permit application plans. The signs proposed in the amended plans are:
  - The business identification sign, which is 4.5 metres wide and 0.97m high, with an area of 4.365 square metres. The sign will be located on the face of a low hedged retaining wall, set back approximately 8 metres from the southeastern corner of the site. This sign will comprise the words Waverley Gardens and the Waverley Gardens logo in illuminated text.
  - The major promotion sign, which is 10 metres wide and 3.12 metres high, with an area of 31.2sqm. The face of this sign will be a curved digital screen. This sign will be located in front of a high hedged retaining wall, approximately 11.68m from the southeastern corner of the site. The sign will display images with a 30 second dwell time.

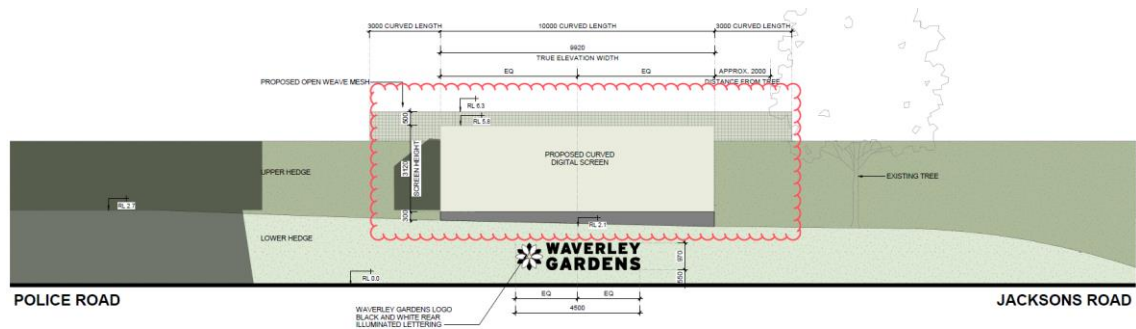
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<sup>2</sup> The submissions and evidence of the parties, any supporting exhibits given at the hearing and the statements of grounds filed have all been considered in the determination of the proceeding. In accordance with the practice of the Tribunal, not all this material will be cited or referred to in these reasons.

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Figure 2: Proposed signage



- 6 The amended plans also show:
- an existing V-shaped sign currently located at the southeastern corner of the site is to be removed; and
  - six lemon scented gum trees are to be planted along the Jackson Road frontage of the site.
- 7 The applicant submits that the major promotion sign responds favourably to the locational, physical, and policy context of the site.
- 8 In support of its submissions the applicant relies on the evidence of Simon Gilbertson in relation to town planning.
- 9 Despite the amendments to the plans the Council still opposes the major promotion sign. The Council submits this sign is not acceptable within its streetscape location and will not enhance the visual amenity of the area as sought by local planning policies.
- 10 The Tribunal must decide whether a permit should be granted and, if so, what conditions should be applied. In doing so I must consider whether the proposal will produce ‘acceptable outcomes’<sup>3</sup> in relation to the relevant provisions and policies of the Scheme.
- 11 As the Council’s grounds of refusal relate only to the major promotion sign, my findings are focussed on this sign. (In my findings below I refer to the major promotion sign as ‘the sign’).
- 12 The key issues to be decided relate to:
- the local planning policies that discourage major promotion signs;
  - the garden city vision and character;
  - the signage theme in the area;
  - visual clutter; and
  - the visual impact on nearby residential properties.
- 13 I have decided to set aside the Council’s decision and direct that a permit be granted, subject to conditions. My reasons follow.

<sup>3</sup> Having regard to the decision guidelines at clause 65 of the Scheme.

## WHAT ARE THE TRIBUNAL'S FINDINGS?

### The local planning policies do not prevent the sign being acceptable.

- 14 The Council's grounds of refusal relate to the objectives of the local Industry and Business Development Character Policy' at clause 22.03 and the 'Outdoor advertising policy' at clause 22.08. The Council argues these discourage promotional signage and dominant obtrusive signage which is not respectful of its environment.
- 15 The advertising policies at clause 22.03 includes that 'Advertising signs identify the business on site, not any products'.
- 16 The specific objective at clause 22.08 that applies to the Waverley Gardens activity centre is 'To identify the centres and their major tenants in an orderly and co-ordinated manner'. The performance criteria guidelines for major promotion signs under clause 22.08 is that they are 'Generally inconsistent with the Garden City image'.
- 17 I am not persuaded that these policies prevent the proposed sign being acceptable in the circumstances of the site.
- 18 The policies at clauses 22.03 and 22.08 are simply policies to guide decision making. They are not prescriptive provisions that must be complied with or that can prohibit signs for which a permit is required (and may be granted) according to the sign provisions at clause 52.05.
- 19 I am persuaded by the applicant that major promotion signs are an identified and legitimate activity recognised and regulated by clause 52.05, that it is not appropriate to effectively eliminate these types of signs throughout an entire municipality.
- 20 The Tribunal has consistently held that the Council's local policies cannot be applied as a 'blanket' prohibition against major promotion signs.<sup>4</sup> In this regard I agree with the Member Deidun's findings in *Citizen Outdoor Pty Ltd v Monash CC*<sup>5</sup> as follows:

It is clear that the Monash Planning Scheme strongly discourages the erection of major promotion signs throughout the Municipality, particularly on arterial roads. This focus on arterial roads is curious, given that arterial roads provide the most natural habitat for a major promotion sign, given the extent of traffic that passes along such roads, the often robust nature of arterial road environments, and the width of many arterial road reserves is such as to enable the erection of a large sign. While a policy can strongly discourage such signs, such discouragement cannot be taken to be a prohibition. In any urban municipality, including Monash, it must be accepted that there will be

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<sup>4</sup> For example, *Octopus Media Pty Ltd v Monash City Council* [2012] VCAT 1700, *Maple Media Pty Ltd v Monash CC* [2019] VCAT 79, and *Citizen Outdoor Pty Ltd v Monash CC* [2023] VCAT 213.

<sup>5</sup> [2023] VCAT 213.



appropriate locations for major promotion signs, and there will be appropriate designs for major promotion signs. It is the role of policy to guide decision making around whether a particular context and design is appropriate.<sup>6</sup>

21 This does not make these policies irrelevant. They provide some guidance for deciding whether the sign will be acceptable in its circumstances. However, they are only one element of what I am required to consider under the provisions of the Scheme. My decision is guided by the decision guidelines for advertising signs at clause 52.05-8, which include decision guidelines specific to major promotion signs.

22 My decision is also informed by the principles regarding major promotion signs that can be discerned from previous Tribunal decisions. These are neatly summarised by Member Taranto in *iOM Pty Ltd v Knox CC*<sup>7</sup> as follows:

- Proposals for major promotion signs should be assessed from a neutral rather than negative point of view (*Kings Funeral Services v Greater Dandenong CC*)
- An inherent quality of major promotion signs is that they are typically placed in prominent locations and of a scale to maximise their exposure – that is they are designed to be seen and attract attention to themselves (*Caption Pty Ltd v Melbourne CC*).
- As a matter of principle, it cannot be fairly said that major promotion signs reduce visual amenity (*Wyndson Pty Ltd v Bayside CC*).
- Such signs are a legitimate commercial activity (*Wyndson Pty Ltd v Bayside CC*).
- Major promotion signs can serve an important function in relation to public information and awareness and can add interest, colour and character to an area (*Buckle Outdoor Advertising Pty Ltd v Port Phillip CC & Ors*).
- The critical element is that any major promotion sign is of a scale, form and location that is appropriate in the context of the existing physical environment (*Buckle Outdoor Advertising Pty Ltd v Port Phillip CC & Ors*).
- Any sign must be consistent with planning policies guiding future development and have regard to potential amenity impacts on surrounding uses (*Buckle Outdoor Advertising Pty Ltd v Port Phillip CC & Ors*).<sup>8</sup>

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<sup>6</sup> Ibid., [16].

<sup>7</sup> [2013] VCAT 1556.

<sup>8</sup> Ibid., [10].



23 These principles support the proposal being considered having appropriate regard to the site's individual physical, locational and planning context, rather than simply being refused based on blanket policy guidelines.

**The proposal provides an acceptable response to the garden city vision and character.**

24 The 'Vision and Strategic Framework Plan' at clause 21.01-3 includes that, in summary:

- Monash is known for its Garden City character;
- the Garden City vision aims to maintain and enhance the established canopy treed environment throughout the municipality;
- this vision covers all land use types, including business and commercial;
- the Garden City character is a key consideration when assessing applications regarding promotional material and signage; and
- planning decision should seek outcomes which continue to contribute to, consolidate and enhance this character and image.

25 The advertising policies at clause 22.03 include 'The standard of landscaping and advertising signs along the major road network and at gateways throughout Monash be improved'.

26 The policies at clause 22.08 include 'ensure that the amenity and area character contribution made by landscaped setbacks is not eroded by signage'.

27 The Council submits that the garden city concept 'permeates' all the local policies. The Council argues that the proposed sign is inappropriately sited and does not respect its environmental context. The Council says the sign is located within a prominent corner in a landscape buffer at the southeast corner of the shopping centre, and that this corner acts as an important visual landscape corridor at the intersection of Police Road and Jacksons Road. The Council also submits that to achieve the garden city vision sought by clause 21 it is policy that 'Promotion signs and large signs are discouraged to maintain the visual significance of these boulevards'.

28 I am not persuaded by the Council's submissions.

29 The garden city concept must be applied having regard to both the planning and physical circumstances of the site. It cannot be that a uniform 'garden city' character can be achieved across the entire municipality.

30 Despite its classification as a 'neighbourhood centre' in the activity centre hierarchy at clause 21.06, the shopping centre is not a modest commercial centre. Rather it is a large, multi-storey building that extends 300 metres wide across its Police Road frontage, with multi-level car parks within the



area between Police Road and the main building. It is by any view a substantial, robust commercial centre.

- 31 There is landscaping on the site. The Council describes the landscape character of the site, as follows:

There is currently a landscaping buffer along the interface of the shopping complex to Hansworth Street, Police Road and Jacksons Road. The landscape buffer contains tall hedges and mature established trees alongside the road. These landscaping provide a strong visual element, in line with the garden city objectives. The landscape treatment to Hansworth Street is generally at grade, however, this changes along Police Road and Jacksons Road, where due to the slope of the land, tall blockwork retaining walls have been constructed and are well landscaped with creepers to the public interface. The height of the walls and the landscaping increases from west to east due to the fall of the land. (Refer to Appendix 3, figures 1 and 2)

The centre presents with a strong landscape presence to the surrounding interfaces.<sup>9</sup>

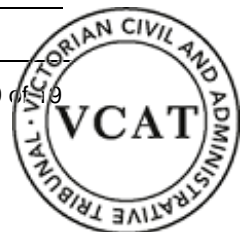
- 32 In the circumstances of the site, I am persuaded by the applicant that while landscaping is a contributing feature of the shopping centre, the centre cannot be characterised as having a garden character akin to that of a residential area.

- 33 I am persuaded by the applicant that the siting and design of the sign complements the existing landscape conditions of the site. This is because:

- i I am satisfied that the size and nature of the sign is consistent with the robust commercial building on the site.
- ii I am satisfied that the size and nature of the sign is consistent with the robust commercial context of the intersection of Police Road and Jacksons Road. This includes the shopping centre on the northwestern corner, a multi-storey commercial building on the northeastern corner, and a service station on the southwestern corner. Even though there is a residential property on the southeastern corner, this does not diminish the robust commercial context of the intersection.
- iii The positioning of the sign does not require the removal of any existing landscaping.
- iv The sign is integrated into the landscaping on the site. The sign is aligned with the upper hedged retaining wall and curved to follow the shape of the hedged wall. I am persuaded by Mr Gilbertson's evidence that a metal screen that will sit behind the sign 'will enable

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<sup>9</sup> Council's written submission, [7]-[8].



further growth of ivy that will integrate the sign into the existing context'.<sup>10</sup>

- v The proposal will supplement the existing landscaping through the planting of six trees along Jacksons Road site frontage. I am persuaded by Mr Gilbertson's evidence that 'the provision of a row of canopy trees responds positively to the row of lemon scented gums extending west along Police Road and will enhance the Garden City character of the Review Site presentation'.<sup>11</sup>
- vi I am satisfied that the site will continue to present a strong landscape presence to Police Road and Jacksons Road. While the sign will introduce a new advertising element to the intersection of these roads, the overall landscape interface of the site to both roads will be maintained.

34 I am not persuaded by the Council's submissions that it is policy that 'Promotion signs and large signs are discouraged to maintain the visual significance of these boulevards'. While this statement is included at clause 21.01-3, it is in the context of the following statement:

Other activities undertaken by Council to maintain the garden city character include planting of street trees. Monash's main roads provide some opportunities to develop boulevard effects through the comprehensive planting of vegetation. Such roads include Springvale Road, Wellington Road, Ferntree Gully Road and Princes Highway. Promotion signs and large signs are discouraged to maintain the visual significance of these boulevards.

[Tribunal's emphasis]

35 As neither Police Road or Jacksons Road is included in the list of roads for which boulevard effects are to be developed, I cannot draw the conclusion that Police Road and Jacksons Road are roads along which promotion and large signs are to be discouraged. Nor am I persuaded by the Council that the use of the word 'include' in this statement does not exclude other roads being boulevards. The Council has not taken me to anything in the Scheme that indicates Police Road and Jacksons Road are boulevards, or are sought to be developed as, boulevards. The mere fact that they are wide roads, and that the Police Road frontage of the site includes a row of trees, does not make either road a boulevard.

36 For these reasons I find that the proposal does provide an acceptable response to the garden city vision and character.

**There is no consistent signage theme in the surrounding area.**

37 The Council submits that while the Waverley Gardens Shopping Centre (Centre) is clearly commercial in nature and appearance, the signage themes

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<sup>10</sup> Mr Gilbertson's written evidence statement, [90].

<sup>11</sup> Ibid.



at the site and nearby relate to signage promoting local business in modest proportion. It also submits that existing signs serving the Centre are predominantly business identification signs which provide direction to drivers and pedestrians and are modest in scale.

- 38 Even though there is only one obvious major promotion sign in the surrounding area, I am not persuaded by the Council that the sign is inconsistent with signage in the surrounding area. Rather, I am persuaded by Mr Gilbertson's evidence that he does not view there is a consistent signage theme.
- 39 I am satisfied that the signage on the site and the immediately surrounding commercial sites presents a broad spectrum of signs. Along the Police Road frontage of the signage includes business identification signage on the walls of the shopping centre building, an internally illuminated panel sign with individual business identification signs for businesses within the Centre, directional signs adjacent the vehicle entries, separate internally illuminated pole signs for McDonalds and a 7-Eleven premises, and signage on the 7-Eleven buildings. Opposite the site on the southwestern corner of Police Road and Jacksons Road is a service station that has a panel sign on the corner and signage on the building and canopies. Opposite the site, on the northeastern corner, there is a two-sided major promotion sign atop the commercial building.<sup>12</sup>
- 40 For these reasons I find that there is no consistent signage theme on the site or in the surrounding area. I am also satisfied that the introduction of a major promotion sign as proposed is not inconsistent with the signage in the surrounding area.

**The proposal will not result in visual clutter.**

- 41 The Council's submission refers to the clause 22.03 advertising policy that seeks that 'visual Clutter caused by advertising signs be minimised'. The Council submits that the proposed sign is inconsistent with the existing signage theme for the Centre and will only add to visual clutter.
- 42 I am not persuaded that the proposal will result in visual clutter. This is because:
- i While the proposal is for two new signs on the southeastern corner of the site, these signs are separate from each other both vertically and horizontally.

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<sup>12</sup> Even though there is some dispute as to whether that sign was erected before the planning permit for that sign expired, and the Council has refused to grant a permit for a subsequent application for that sign, there is no dispute that there was a permit granted for a major promotion sign on that site.

- ii The scale and form of the southeastern side of the building is large and robust. Other than the high wall signs in the top left-hand corner, the building is otherwise a blank plane.
- iii Even though there are three existing ‘high wall’ signs on the southeastern side of the shopping centre building, they are separated from the proposed signs both vertically and horizontally. The two proposed signs are at a much lower level than the existing high wall signs.
- iv The proposal removes the existing V-shaped sign adjacent to the proposed location of the proposed signs.

43 In this context, I find that the proposed signs will not result in visual clutter.

**The visual impact on nearby residential properties will be acceptable.**

44 The Council submits that the proposed sign will affect the visual amenity of nearby residents. It refers to the residential areas that it says adjoins the site to the west and south.

45 I am not persuaded by the Council’s submissions.

46 I am satisfied that the visual impact on nearby residential properties will be acceptable. This is because:

- i The site does not directly adjoin any residential properties. Rather, the nearby dwellings to the south and southwest are on the opposite side of Police Road. The widths of Police Road and Jacksons Road creates a substantial separation between the proposed signs and nearby residential properties. This is evident in the aerial photograph at Figure 1. I am satisfied this separation will diminish the visual impact of the sign on these residential properties.
- ii The orientation of the sign and the orientation of the residential properties will diminish the visual impact of the sign. The sign is oriented to the southeast. Mr Gilbertson describes the nearby dwellings on the south side of Police Road (east of Jacksons Road) and the east side of Jacksons Road (south of Police Road) as being ‘typically oriented to the primary street frontage’. In this context I am persuaded by Mr Gilbertson’s evidence that any potential view to the signs from these properties would be oblique in nature.<sup>13</sup>
- iii The dwelling on the southeastern corner (366 Police Road) is over 80 metres from the proposed sign. That dwelling has a high fence along both its street frontages. I am persuaded by Mr Gilbertson’s evidence that ‘I do not consider there will be any significant visual impact to this property’.<sup>14</sup>

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<sup>13</sup> Mr Gilbertson’s written evidence statement, [111].

<sup>14</sup> Ibid, [112].



- iv The nearby dwellings on the eastern side of Jacksons Road are at least 90 metres from the proposed sign. These properties have either a large hedge (221 Jacksons Road) or high fence (219 Jacksons Road) that will block or limit views to the sign. I am persuaded by Mr Gilbertson that the view to the sign from the dwelling at 217 Jacksons Road will be an oblique view of more than 45 degrees. That property is about 130 metres to the southeast of the sign.
- v Although the dwelling at 374 Police Road (the fifth property to the east of the corner of Jacksons Road) includes west facing windows that may have an oblique view to the major promotion sign, I am persuaded by Mr Gilbertson that this site is approximately 154 metres from the proposed sign, and that the sign is appropriate in this context.<sup>15</sup>
- vi The nearest dwelling to the west is over 50 metres from the proposed sign. Due to its location, the view to the proposed sign from that dwelling will be at an oblique angle. That dwelling is cut into the land and there is a hedged fence along the Police Road boundary. I am persuaded by Mr Gilbertson's evidence that due to the siting and orientation of the sign and the conditions of this property 'I do not consider the signs will be visible'.<sup>16</sup>

#### **ARE THERE ANY OTHER ISSUES?**

- 47 Head, Transport for Victoria is a referral authority for the permit application. They have not objected to the permit application subject to specified conditions being included on the permit.

#### **CONCLUSION**

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

#### **What conditions are appropriate?**

- 49 The draft conditions circulated by Council were discussed at the hearing. A set of revised conditions reflecting the outcomes of this discussion were provided by the applicant after the hearing.<sup>17</sup> I have generally adopted these conditions subject to changes to reflect my further consideration of the draft conditions.
- 50 There is dispute between the parties about the timeframe for the expiry date for the permit. The mandatory conditions that must be included on permits for major promotion signs under clause 52.05-9 specifies an expiry date that is 15 years from the date the permit is issued. Clause 52.05-9 allows for a permit to specify an expiry date other than 15 years, but the date must not

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<sup>15</sup> Ibid, [114].

<sup>16</sup> Ibid, [116].

<sup>17</sup> In accordance with the Tribunal's oral direction at the hearing.



be less than 10 years or more than 25 years. The applicant wants the expiry date timeframe to be 15 years, the Council wants it to be 10 years. Having considered the matters I must consider under clause 52.05-9, I am not persuaded by the Council's arguments as to why the timeframe should be 10 years. I will set a 15-year timeframe for expiry of the permit.

Sarah McDonald  
**Member**



## APPENDIX A – PERMIT CONDITIONS

<b>PERMIT APPLICATION NO</b>	TPA/54736
<b>LAND</b>	271 Police Road MULGRAVE VIC 3170

### WHAT THE PERMIT ALLOWS

In accordance with the endorsed plans:

- Construction and display of an electronic, major promotion sign.
- Construction and display of an internally illuminated business identification sign.

### CONDITIONS

#### Signs not altered

- 1 The location, layout, dimensions, structures and features of the approved signs shown on the endorsed plans must not be altered without the prior written consent of the responsible authority.

#### Sign Content

- 2 At least 1 in 10 rotations of the sign content must provide for the business identification of the Waverley Gardens Shopping Centre or its tenants, to the satisfaction of the responsible authority.

#### Sign Maintenance

- 3 All signs must be constructed and maintained to the satisfaction of the responsible authority.

#### Signs within Land Boundary

- 4 All signs must be located wholly within the boundary of the land.

#### Removal of existing sign

- 5 Before the signs are constructed or put up for display, the existing A-frame sign located at the southeast corner of the site must be removed to the satisfaction of the responsible authority.

#### No flashing lights

- 6 No flashing, intermittent or changing colour light is permitted to be displayed, except with the prior written consent of the responsible authority.



## **Signs not to cause distraction**

- 7 The sign must not:
- (a) Dazzle or distract drivers due to its colouring;
  - (b) Be able to be mistaken for a traffic signal because it has, for example, red circles, octagons, crosses or triangles;
  - (c) Be able to be mistaken as an instruction to drivers.
- to the satisfaction of the responsible authority.

## **Illumination limited to specified hours**

- 8 The major promotion sign must only be illuminated between the hours of 5:00am to 12midnight, except with the prior written consent of the responsible authority.

## **Head, Transport for Victoria conditions**

- 9 During the operation of the sign, the maximum average luminance and threshold increment values as specified in below must not be exceeded:
- (a) Maximum average luminance:
    - i Full sun on face of signage: no limit.
    - ii Daytime luminance: 6000 cd/m<sup>2</sup>.
    - iii Morning and evening twilight and overcast weather: 700 cd/m<sup>2</sup>.
    - iv Nighttime: 350 cd/m<sup>2</sup>.
  - (b) Threshold increment for nighttime:
    - i Max %: 20%.
    - ii Adaptation luminance: 5
- 10 Brightness levels:
- (a) The signs must be dimmable and have a suitable control system to enable maximum lighting levels to be set or adjusted if deemed necessary by the responsible authority and the Head, Transport for Victoria.
  - (b) Where illuminated during the day, the sign must be fitted with Photocell/s (light sensor/s) that measure the ambient light and control system technology that enables the luminance of the sign to automatically adjust relative to the measured ambient light level.
  - (c) Any change in brightness levels must be applied during an image transition, not while an image is being displayed.
- 11 Image transitions:



- (a) Where the graphical content or colours can change (such as for digital/electronic signage), any changes in image must occur in 0.1 seconds or less.
- 12 Compliance with Lighting Impact Assessment Report
- (a) The sign must operate in accordance with the Lighting Impact Assessment Report submitted with the application prepared by Electrolight Australia Pty Ltd dated 24/ 03/ 2023, to the satisfaction of and at no cost to the Head, Transport for Victoria and the responsible authority.
- 13 Compliance record
- (a) The operator must keep a Compliance Record of the operation of the sign. This must be provided to the Head, Transport for Victoria within 5 days of a written request. The Compliance Record must include:
    - i The sign's luminance (cd/m<sup>2</sup> or as a percentage of its maximum luminance) in minimum 10-minute intervals.
    - ii The sign's photocell (light sensor) reading of the ambient light in minimum 10-minute intervals.
    - iii The dwell time and transition time between successive images.
  - (b) All record information must be time and date stamped to show the time of measurement.
  - (c) Compliance Records must be maintained for a minimum of 12 months.
- 14 Upward light ratio:
- (a) Electronic signage must have an Upward Light Ratio (ULR) of less than 50% and the design must include facilities (such as integral baffles) to mitigate upward waste light.
- 15 Operational Parameters for Electronic Signs:
- (a) No advertisement must be displayed for less than 30 seconds.
  - (b) The transition from one advertisement to another must be instantaneous.
  - (c) The sign must not display content, images or text:
    - i Giving the illusion of continuous movement.
    - ii Capable of being mistaken for traffic signals or traffic control devices, including red, amber or green circles, octagons, crosses or triangles.
    - iii Capable of being mistaken as an instruction to a road user, including the wording stop, give way, slow down, turn left or turn right.



- iv With a flashing background, flashing text, flashing images, blinking or fading elements that create the illusion of movement.
  - v Containing any animation.
  - vi Capable of being interpreted as projections beyond the face of the advertising screen such as through 3D technology.
  - vii Consisting of present time or other contemporary update information relating to news, weather or time.
  - viii Containing video, movie or television broadcasts.
- (d) The advertising area must not be split into two screens with different messages.
  - (e) The sign and any displayed advertisement must not include any ancillary extension, embellishment or accessorisation within or outside the permitted advertising area unless the Head, Transport for Victoria has agreed to in writing prior to its installation.
  - (f) The use of sound or motion to activate the sign is not permitted.
  - (g) The use of sound to interact with road users is not permitted.
  - (h) The sign must not dazzle or distract road users due to its colouring.
  - (i) In the event of an attack by a computer hacker or similar resulting in unauthorised display of visual images or any other display malfunction, the electronic sign must shut down and cease any form of visual output until the malfunction is repaired.
  - (j) This permit expires 15 years from the date of issue, at which time the sign and all supporting structures must be removed, and the site made good to the satisfaction of the responsible authority.

### **Landscape Planting**

- 16 The canopy trees identified in the Landscape Concept Plan prepared by Sum Design Studio, dated 8 December 2023, Drawing Number TP-04 must be a minimum of 1.5m in height when planted.

### **Landscaping Completion**

- 17 Within 3 months of the erection of the signs, landscaping works as shown on the endorsed plans must be completed to the satisfaction of the responsible authority and thereafter maintained to the satisfaction of the responsible authority.

### **Tree protection during construction**

- 18 Before the development starts, a tree protection fence must be erected around the existing Melaleuca tree to the north of the electronic major promotion sign at a radius equivalent to the 'Tree Protection Zone' (as



defined in Australian Standard AS 4970-2009), to the satisfaction of the responsible authority.

- 19 The tree protection fencing must remain in place until the construction of the sign is completed.
- 20 During the course of construction, the Tree Protection Zone must not be used for:
  - (a) vehicular or pedestrian access;
  - (b) trenching or soil excavation; or
  - (c) storage or dumping of materials, tools, equipment or waste.

The responsible authority may consent in writing to vary any of these requirements.

#### **Time for commencement**

- 21 This permit will expire if the electronic major promotion sign and internally illuminated business identification sign are not constructed and displayed within two (2) years of the issue date of this permit.

In accordance with section 69 of the *Planning and Environment Act 1987* (Vic), an application may be submitted to the responsible authority for an extension of the period referred to in this condition.

#### **Permit to Expire**

- 22 This permit will expire 15 years from the issue date of this permit.

On expiry of the permit, the sign and structures built specifically to support and illuminate it must be removed.

**– End of conditions –**