

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P1356/2023
PERMIT APPLICATION NO. TPA/55157

CATCHWORDS

Monash Planning Scheme; neighbourhood character outcomes from a side by side development; Strategies for the Garden City Suburbs (Northern) area under Clause 15.01-5L of the Monash Planning Scheme; off-site amenity impacts from a medium density housing development; construction of a new side boundary fence during the planning process and impact on shadowing assessment under Standard B21.

APPLICANT	Krnet Pty Ltd
RESPONSIBLE AUTHORITY	Monash City Council
RESPONDENT	Lihui Gu
SUBJECT LAND	23 Nioka Street Chadstone
HEARING TYPE	Major Case Hearing
DATE OF HEARING	19 April & 5 July 2024
DATE OF ORDER	18 July 2024
CITATION	Krnet Pty Ltd v Monash CC [2024] VCAT 669

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:
 - Prepared by: JKBD
 - Drawing numbers: TP01 to TP17
 - Dated: 15 May 2024 (Revision G)
 - Prepared by: John Patrick Landscape Architects
 - Drawing numbers: TP01
 - Dated: December 2023
- 2 In application P1356/2023 the decision of the responsible authority is set aside.



3 In planning permit application TPA/55157 a permit is granted and directed to be issued for the land at 23 Nioka Street Chadstone in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:

- The construction of two dwellings on a lot

Michael Deidun
Member



APPEARANCES

For applicant	Paul O'Shea, Town Planner of CS Town Planning He called the following witness: <ul style="list-style-type: none">• Craig Czarny, Urban Designer and Landscape Architect of Hansen Partnership
For responsible authority	Sally Moser, Town Planner of Monash City Council
For respondent	Lihui Gu appeared in person

INFORMATION

Description of proposal	The construction of two double storey dwellings in a side by side arrangement
Nature of proceeding	Application under section 77 of the <i>Planning and Environment Act 1987</i> – to review the refusal to grant a permit.
Planning scheme	Monash Planning Scheme
Zone and overlays	General Residential Zone 2
Permit requirements	Clause 32.08-7 to construct two or more dwellings on a lot on land within the General Residential Zone
Relevant scheme policies and provisions	Clauses 02, 11, 15, 16, 32.08, 52.06, 53.18, 55, 65 and 71.02.
Land description	The land is a rectangular allotment with a frontage to Noika Street of 16.15 metres, a depth of 38.4 metres, a rear abuttal to the Batesford Reserve, and an overall area of 620.1 square metres. The land is presently vacant.
Tribunal inspection	The Tribunal inspected the site and surrounding area on 4 July 2024.



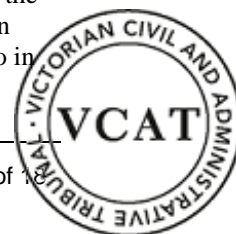
REASONS¹

WHAT IS THIS PROCEEDING ABOUT?

- 1 Krneta Pty Ltd (the ‘applicant’) seeks to review the decision of the Monash City Council (the ‘Council’) to refuse to grant a planning permit for the proposed construction of two dwellings on land at 23 Nioka Street, Chadstone (the ‘review site’).
- 2 The Council’s grounds of refusal raise concern with the impact on the surrounding landscape and neighbourhood character, the level of compliance with Clause 55, and the potential impacts on adjoining properties. One statement of grounds was received from an adjoining neighbour (the ‘respondent’), who is primarily concerned with the potential off-site amenity impacts.
- 3 The issues or questions for determination are:
 - a. Is the proposal an appropriate response to the surrounding neighbourhood character?
 - b. Will there be any unreasonable off-site amenity impacts?
 - c. Is an appropriate level of internal amenity achieved?
 - d. Does the proposal appropriately provide for car parking and traffic movements?
- 4 Between days 1 and 2 of this hearing, Amendment C166 to the Monash Planning Scheme was gazetted on 23 May 2024. The purpose of Amendment C166 is set out below.

The amendment replaces the Local Planning Policy Framework of the Monash Planning Scheme with a new Municipal Planning Strategy at Clause 02, a modified Planning Policy Framework at Clauses 11-19 and a selected number of operational provisions in a manner consistent with changes to the Victoria Planning Provisions introduced by Amendment VC148.
- 5 This decision is made in accordance with the content of the Monash Planning Scheme, as it applies at the date of the decision.
- 6 The Tribunal must decide whether a permit should be granted and, if so, what conditions should be applied. Having considered all submissions and evidence presented with regard to the applicable policies and provisions of the Monash Planning Scheme, I have decided to set aside the Council’s decision, and direct the grant of a planning permit subject to conditions. My reasons follow.

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.



IS THE PROPOSAL AN APPROPRIATE RESPONSE TO THE SURROUNDING NEIGHBOURHOOD CHARACTER?

- 7 The review site is located in a neighbourhood accessible to a wide range of services and facilities, including public open space abutting the rear boundary of the review site, and the Holmesglen Activity Centre and railway station being around 800 metres away. As such, the review site and surrounding area draws a moderate level of State and Regional policy support for urban consolidation, in a manner that responds to the surrounding neighbourhood character. In addition, the review site is covered by Schedule 2 to the General Residential Zone, which has been applied in the Monash Planning Scheme to residential areas accessible to a activity centre, where medium density housing is to be directed.²
- 8 The review site is included in a Garden City Suburbs (northern) area under Clause 15.01-5L Monash preferred neighbourhood character of the Monash Planning Scheme. The Garden City Suburbs (northern) area is provided with the following strategies, which could be said to represent a preferred future character statement.

Garden City Suburbs (northern) strategies

Provide well-vegetated front and rear gardens with shrubs and large canopy trees.

Design new development to complement the established buildings through consistent siting, articulated facades and use of materials.

Design buildings adjacent to public parks, reserves and other open space to address the public area.

Screen new development from the street and neighbouring properties with well-planted gardens.

Provide a mix of native and exotic vegetation and trees, and retain remnant indigenous vegetation and coniferous wind-rows.

Provide no or transparent front fences.

Limit vehicle crossovers.

- 9 In its written submissions, the Council referred to additional policies at Clauses 02.04-3, 15.01-1S, 15.01-2S, 15.01-5S, 16.01-1S and 16.02-1L-01 of the Monash Planning Scheme. These policies have been considered in my assessment of this proposal, and inform the findings and reasons that follow.
- 10 The application proposes the construction of two double storey dwellings on the review site, in a side-by-side arrangement. This results in dwellings with single garages presenting to the street, with two crossovers and two driveways. Unusually for such a narrow allotment, both dwellings are not constructed to the respective side boundaries, avoiding boundary to

² Using the language adopted in Clause 16.01-1L-01 of the Monash Planning Scheme.



boundary development. The proposal is depicted on the following image derived from the plans substituted at the commencement of the hearing.



- 11 The Council submits that the proposal is not an appropriate response to the surrounding neighbourhood character. They make this submission having regard to:
- The manner in which the proposed side-by-side dwellings contrast with the rhythm and spacing of the other dwellings in Nioka Street;
 - The use of a mirror image of design for the two proposed dwellings, which they say accentuates the appearance of bulk;
 - The visually prominent garages, which accommodate over 50% of the site's frontage, are sited forward of the first floors, and clad in vertical cladding;
 - An absence of habitable room windows at ground floor engaging with the street; and,
 - Lack of visible separation between the two proposed dwellings at first floor, which is accentuated by the lack of an upper level setback from the ground floor below.
- 12 I am not persuaded by the Council's submissions, and instead I have found that the proposal is broadly an appropriate response to the surrounding neighbourhood character. I make this finding for the following reasons.
- While the immediately surrounding and nearby properties may not contain side-by-side developments, I find that this type of development is reasonably common in the broader neighbourhood. As such, the spacing and rhythm of the development proposed for the review site cannot be said to be in contrast to the surrounding neighbourhood character. In any case, side-by-side developments that are appropriately designed can integrate into a street

comprising traditional housing stock, and for the reasons that follow I find that this proposal is sensitively designed in response to the surrounding neighbourhood character.

- b. The proposal adopts the varied front setback standard of 7.6 metres that applies under the schedule to the zone, and the varied standard does not require an additional setback to the first floors. As such, I must find that the proposed front setbacks achieve the deemed to comply objective that relates to the front setbacks.
- c. The proposed front façade is well articulated, with a range of colors and materials, and an interesting profile provided by the two gable ends to each of the respective first floors, separated by a narrow and reset flat roof component. In addition, the first floors are set in from the respective ground floors along the front façade, and along both side elevations, resulting in a development that steps down to the surrounding interfaces. The result is a design that will not be overbearing in this streetscape.
- d. The overall form and scale of the proposal in the streetscape is responsive to the surrounding examples of side by side development, which are an emerging component of the surrounding neighbourhood character. I am not persuaded that this particular design is any more bulky or less responsive to the surrounding neighbourhood character, than the other nearby examples of side by side development.
- e. While the floorplans depict a mirrored design, the use of different materials at the first floor sufficiently distinguishes each of the proposed dwellings. In any case I find that the proposed combined mass formed by the two dwellings is not so great as to require a degree of difference to the provided to the two proposed dwellings.
- f. I am not persuaded that the garages are unreasonably visually dominant. The design incorporates single garages for each dwelling, leaving room for side boundary setbacks that allow a narrow view to side boundary landscaping. The prominent elements of the front façade are the protruding curved porch design, and the gable ended first floor master bedrooms. Both of these elements engage with the street, with the first floor master bedrooms providing activation equivalent to that provided by most single storey traditional dwellings in this neighbourhood. Having regard to the surveillance and activation provided by the windows to the respective master bedrooms, I am not persuaded that the absence of ground floor habitable windows in the front façade is an element that should result in a refusal of the proposal that is before me.
- g. The proposal is accompanied by a detailed landscape plan, that proposes the planting of four trees on the review site, including two



within the front setback. Having regard to the extent of landscaping visible in the surrounding neighbourhood, I find that this extent of landscaping will be consistent with the existing landscape character. For this reason, I have not been persuaded by the Council that the extent of pedestrian paths by way of stepping stones should be reduced, in order to achieve increased landscaping opportunities.

- 13 For the reasons set out above I find that the proposal achieves the following elements of the previously quoted strategies for the Garden City Suburbs (northern) area, which could be said to comprise a preferred future character statement:
- a. Well vegetated front and rear gardens, with canopy trees, that will assist to screen new development from the street;
 - b. Generous setbacks to all boundaries that reflects the siting of surrounding buildings, noting also that Standard B17 is achieved and exceeded to the side and rear boundaries of the review site;
 - c. Articulated facades;
 - d. Materials that complement the surrounding housing stock;
 - e. Avoidance of walls on boundary, which allows the establishment of modest levels of landscaping along the side boundaries; and,
 - f. A low and transparent front fence.
- 14 The strategies for the Garden City Suburbs (northern) area also contain the following.
- Design buildings adjacent to public parks, reserves and other open space to address the public area.
- 15 This strategy is relevant as the review site has a rear abuttal to the Batesford Reserve. As vehicular access is not available via the Reserve, and there is no made pedestrian access point available in the Reserve, it is appropriate that the proposed development on the review site primarily addresses Nioka Street. However, the proposal does appropriately address the Batesford Reserve, by providing a landscaped setback to the Reserve, beyond which surveillance opportunities will be available from a first floor balcony and habitable room windows.
- 16 For these reasons I find that the proposal is an appropriate response to the surrounding existing and preferred future neighbourhood character, and the guidance provided by the Monash Planning Scheme.

WILL THERE BE ANY UNREASONABLE OFF-SITE AMENITY IMPACTS?

- 17 The Council submits that there will be off-site amenity impacts by way of visual bulk to the abutting properties to each side of the review site.



However, this is a proposal that complies with Standard B17.³ As such, the proposal is deemed to comply with the Side and rear setback objective, and I cannot find that the height and setback of walls from a boundary will result in an unreasonable amenity impact.⁴

- 18 Further, the two proposed side elevations are well articulated, both via a range of setbacks, as well as a variation in colors and materials. At a total length of 20.5 and 22.9 metres respectively, the walls are not unreasonably long for a side-by-side configuration in this context. Further, the manner in which the adjoining lots are each developed with dual occupancies in a one behind the other arrangement, means that one neighbouring dwelling is not sited adjacent to the entire length of the proposed side elevations. For these reasons I am not persuaded that there are other design attributes, aside from the height and setback of walls from a boundary, that would result in unreasonable off-site impacts by way of visual bulk.
- 19 I also find that the proposal appropriately reduces opportunities for overlooking, in accordance with the guidance provided by the Monash Planning Scheme. This is achieved through the clever placement of windows, and the use of highlight windows where needed at first floor along the two side elevations of the proposed development.
- 20 The most contested element of the potential amenity impacts is in relation to overshadowing to adjoining properties. The Council submits that the extent of shadows cast to the secluded private open space at 1/25 Nioka Street is excessive, and would create an unreasonable amenity impact on that property. In making this submission the Council submits that all of the rear and side outdoor areas at 1/25 Nioka Street are areas of secluded private open space, and that in accordance with the relevant Standard, no additional overshadowing should occur between 9:00am and 3:00pm at the equinox to this space.
- 21 The respondent resides in a dwelling to the west of the review site, which the Council says is not unreasonably overshadowed by the proposed development on the review site. The respondent raises concerns with the extent of shadows cast at the equinox to both habitable windows and an area of private open space, and the loss of view of the sunrise. They are also concerned with the potential loss of daylight access.
- 22 I will deal first with the respondent's adjoining property to the west of the review site. That property has an area of private open space along the common boundary with the review site, however its principal area of secluded private open space is located on the opposite side of the respondent's dwelling, and this principal area of secluded private open space will not be overshadowed by the proposed development on the review site, between 9:00am and 3:00pm at the equinox. The same occurs for the dwelling to the rear of the respondent's dwelling, with their principal area

³ As found at Clause 55.04-1 of the Monash Planning Scheme.

⁴ Consistent with my decision in *D'Andrea v Boroondara CC* [2023] VCAT 1148.



of secluded private open space also located away from the common boundary with the review site, and not subject to overshadowing from the proposed development that is before me. In contrast, the areas of open space that are located along the common boundary with the review site, including that at the respondent's property, are narrow spaces that are properly characterised as service yards. Due to this characterisation, the assessment under Standard B21 would not apply to this open space area on the respondents' property, that is immediately adjacent to the review site. This is consistent with the Council's approach in this proceeding.

- 23 However, even if I considered the shadowing impact on the respondent's open space located adjacent to the common boundary with the review site, I would find that it is not unreasonably overshadowed. The shadow diagrams prepared by the applicant demonstrate that this area is to be subject to only a minor amount of additional shadowing at 9:00am at the equinox, with no additional shadowing to occur at 10:00am and onwards at the equinox. It is therefore apparent that this property will not be significantly overshadowed by the proposed development of the review site, adopting the words set out in the Overshadowing open space objective at Clause 55.04-5 of the Monash Planning Scheme. While the respondent is concerned with the loss of sunlight at sunrise, this is not a relevant assessment under the Monash Planning Scheme, which does not consider shadowing prior to 9:00am at the equinox. The avoidance of shadows at sunrise would be an unreasonable expectation, that would frustrate a significant proportion of new development in most suburban locations, and not allow much needed new housing to proceed.
- 24 For these reasons I find that the extent of shadowing that would occur to the respondent's property is acceptable, and would not result in an unreasonable amenity impact.
- 25 The assessment of overshadowing to the property at 1/25 Nioka Street is more nuanced, and made more difficult and complicated by the decision of the applicant to construct a higher fence along the common boundary immediately prior to the circulation of amended plans (that is, after day 1 of the hearing of this proceeding). The amended plans then depict the shadows from this higher fence as existing shadows, which effectively reduces the extent of the new shadows cast by the proposed development of the review site. The applicant submits that the shadowing assessment should take account of the new fence height, as the new fence has been legally constructed, and represents the site conditions that exist today. I am not so persuaded. To the extent that the construction of a new fence during the planning process may frustrate and circumvent or avoid the usual assessment of overshadowing under Clause 55 of the Monash Planning Scheme, I have found it appropriate to set aside the increased fence height recently constructed on the review site. Instead, I will carry out my overshadowing assessment having regard to the previously existing fence heights. To do otherwise would only encourage applicants to construct



higher boundary fences at will, in an attempt to allow greater shadowing impacts to occur on neighbouring residential properties, than otherwise might be allowed under a Clause 55 assessment. That would not be a fair or appropriate planning outcome.

- 26 Fortunately, as part of the comprehensive set of shadow diagrams provided on the amended plans, the applicant provided plans depicting the existing shadows cast by the boundary fencing that previously existed on the review site. I have been able to translate this shadow line to the plan that depicts the new shadows from the proposed development, and electronically measure the area of new shadow that would be caused to the area of secluded private open space at 1/25 Nioka Street, as compared to the existing shadows from the previously existing fencing. The results are set out in the table below, noting that there is no additional shadow to this adjoining property prior to 2:00pm at the equinox.

Time at equinox	2:00pm	3:00pm
Total area of secluded private open space	63 square metres	63 square metres
Area of existing shadowing	30.2 square metres	33.7 square metres
Area of additional shadowing compared to new 1.95m fences	None	6.16 square metres
Area of additional shadowing compared to previous 1.55m fences	1.05 square metres	10.23 square metres
Area remaining free from shadow	31.75 square metres	19.07 square metres

- 27 As the area of secluded private open space at 1/25 Nioka Street that receives sunlight access, does not currently meet the area specified in Standard B21 set out at Clause 55.04-5 of the Monash Planning Scheme, compliance with Standard B21 can only be achieved if the amount of sunlight is not further reduced. As the proposal does not achieve that outcome, the Standard is not achieved, and I need to turn my mind to whether the Objective is achieved, while having regard to the Decision guidelines.

- 28 The Overshadowing open space objective is set out below.

To ensure buildings do not significantly overshadow existing secluded private open space.



- 29 Further, a number of the Decision guidelines are particularly relevant, including the following:
- Existing sunlight penetration to the secluded private open space of the existing dwelling or small second dwelling.
 - The time of day that sunlight will be available to the secluded private open space of the existing dwelling or small second dwelling.
 - The effect of a reduction in sunlight on the existing use of the existing secluded private open space.
- 30 I find that the proposed development of the review site will not significantly overshadow the secluded private open space at 1/25 Nioka Street, and therefore the Overshadowing open space objective is achieved. I make this finding for the following reasons. Firstly, the additional one square metre of additional shadowing that would occur at 2:00pm at the equinox will have a very minor impact on the extent of shadowing and the amenity of the secluded private open space, and cannot be said to cause significant overshadowing, in relation to the words used in the Objective.
- 31 Secondly, the additional shadowing that would occur at 3:00pm at the equinox is at a time of day that more extensive shadows can reasonably be expected, noting that the Standard only anticipates sunlight for 5 hours at an equinox, meaning that the shadows at 3:00pm can be discounted in complying with the Standard. Further, even at 3:00pm at the equinox, the proposed development will only cause 10.2 square metres of additional shadowing, and the dwelling at 1/25 Nioka Street will still have access to 19 square metres of secluded private open space with sunlight access. At this time of the equinox, I find that this outcome will still provide adequate sunlight penetration that will have a minimal effect on the amenity and existing use of the secluded private open space at 1/25 Nioka Street.
- 32 The respondent is also concerned regarding loss of daylight to their west facing windows. The relevant daylight standard is found at Standard B19,⁵ and the relevant component of that standard to this assessment requires walls to be setback from a window, at least half the height of the new wall. In this case, a wall height of 6.37 metres is proposed on the review site, which will be setback (to the proposed first floor) 4.44 metres from the respondent's windows. As such, the setback comfortably complies with Standard B19, and therefore I must find that the proposal will provide an appropriate level of amenity by way of daylight to the respondent's dwelling.
- 33 For these reasons I find that the proposed development will not result in any unreasonable amenity impacts to the surrounding properties.

⁵ At Clause 55.04-3 of the Monash Planning Scheme.



IS AN APPROPRIATE LEVEL OF INTERNAL AMENITY ACHIEVED?

- 34 Neither the Council nor the respondent raise any concerns regarding the levels of internal amenity to be enjoyed by future residents of the proposed dwellings.
- 35 From my own analysis, I find that an appropriate level of internal amenity will be enjoyed by future residents. I make this finding having regard to the sizes of the individual rooms and the two proposed dwellings, the ability for habitable rooms to receive solar and daylight access, the size and orientation of the areas of secluded private open space, and the convenient car parking provided on the review site.

DOES THE PROPOSAL APPROPRIATELY PROVIDE FOR CAR PARKING AND TRAFFIC MOVEMENTS?

- 36 Again, neither the Council nor the respondent raise any concerns regarding the provision of car parking and access on the review site.
- 37 Both proposed dwellings are to be provided with two car parking spaces for residents on the review site. This complies with the requirement for resident car parking at Clause 52.06 of the Monash Planning Scheme. Further, as the development comprises two dwellings, there is no requirement for the provision of visitor car parking on the review site, under the provisions of the Monash Planning Scheme.
- 38 Both lots are proposed to be accessed via separate single crossovers, across a 16.15 metre wide frontage. The provision of two crossovers along this frontage complies with Standard B14, and the proposal is consistent with the emerging character of side-by-side dwellings with dual crossovers, which is becoming more and more common in the surrounding neighbourhood. I note that the Council does not oppose the construction of two crossovers onto the review site to service the proposed development.
- 39 While the proposal will require cars to exit the site while reversing, this is no different to the previously existing condition on the review site.⁶ Further, Council has raised no traffic related concerns with the proposal.
- 40 For these reasons, I find that the proposal appropriately provides for car parking and traffic movements.

WHAT CONDITIONS ARE APPROPRIATE?

- 41 A number of other matters about permit conditions were raised by the parties. With respect to those matters, other than those already addressed above, I summarise my conclusions as follows:
- a. I will delete the amended plans conditions drafted by Council that seek design changes to the proposed dwellings, which for the reasons set out above I have found to be unnecessary in order to

⁶ That is, prior to the demolition of the dwelling that existed on the review site as recently as September 2023.



achieve an appropriate and acceptable built form outcome on the review site.

- b. I have also not been persuaded that larger or different proposed canopy trees are required on the review site, in order to achieve an appropriate landscape outcome. I will therefore decline to include a permit condition to this effect.
- c. I will add an amended plans condition to require the reference to a 500mm trellis to be deleted, along the common boundary with the respondents property, as during the course of the hearing it was established that a fence of this height was not necessary for overlooking purposes.
- d. The respondent requests that the external walls of the proposed dwellings be changed from a mid grey, to white. I do not consider that white walls are characteristic of this neighbourhood, and in any case the materials depicted on the plans are appropriate and reasonable. I have not been persuaded that there is any reason to require a change to the colors of the external walls.
- e. I will replace the expiry permit condition drafted by Council, with the version adopted as standard by the Tribunal.

CONCLUSION

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

Michael Deidun
Member



APPENDIX A – PERMIT CONDITIONS

PERMIT APPLICATION NO	TPA/55157
LAND	23 Nioka Street Chadstone

WHAT THE PERMIT ALLOWS

In accordance with the endorsed plans:

- The construction of two dwellings on a lot

CONDITIONS

- 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 TP01 – TP08 prepared by JKBD Design/Property Development, dated 15 May 2024 (Revision G), but modified to show:
 - (a) The location and design of any proposed electricity supply meter boxes. The electricity supply meter boxes must be located at or behind the setback alignment of buildings on the site, or in compliance with Council’s “Guide to Electricity Supply Meter Boxes in Monash”.
 - (b) Deletion of the 500mm high trellis depicted to be erected above a new 1.95 metre high fence for the length of the common boundary with the property at 1/21 Nioka Street.
 - (c) The dividing fence in the front setback between the dwellings to have a high level of transparency and be low key in visual appearance.
 - (d) The dimension of the crossovers at the boundary and the existing crossover modified to Council requirements, to ensure it lines up with the driveway.
 - (e) Corner splay areas with at least 50 per cent clear of visual obstructions extending at least 2 metres along the frontage road from the edge of an exit lane and 2.5 metres along the exit lane from the frontage, to provide a clear view of pedestrians on the footpath of the frontage road (where practicable). The area clear of visual obstructions may include an adjacent entry or exit lane where more than one lane is provided, or adjacent landscaped areas, provided the landscaping in those areas is less than 900mm in height (reduction in boundary fence heights required).
 - (f) A Landscape Plan in accordance with Condition 4 of this Permit.



all to the satisfaction of the Responsible Authority.

Layout not to be Altered

- 2 The development and use 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.

Landscape Plan

- 4 Concurrent with the endorsement of any plans requested pursuant to Condition 1, a landscape plan prepared by a Landscape Architect or a suitably qualified or experienced landscape designer, drawn to scale and dimensioned must be submitted to and approved by the Responsible Authority. When endorsed, the plan will form part of the Permit. The Landscape Plan must be generally in accordance with the Landscape Concept Plan prepared by John Patrick Landscape Architects dated December 2023, except that the plan must be modified to show:
 - (a) Any alterations arising as a result of other changes required elsewhere in the permit.
 - (b) All fencing details.

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

- 5 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 maintained to the satisfaction of the Responsible Authority.

Landscaping Prior to Occupation

- 6 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 maintained to the satisfaction of the Responsible Authority.

Drainage

- 7 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.
- 8 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.



- 9 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.
- 10 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.

Vehicle Crossovers

- 11 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.
- 12 Any new vehicle crossover or modification to an existing vehicle crossover must be constructed to the satisfaction of the Responsible Authority.
- 13 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. 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.

Privacy Screens

- 14 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

- 15 The walls 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

- 16 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

- 17 Once the development has started it must be continued, completed and maintained to the satisfaction of the Responsible Authority.
- 18 This permit as it relates to development (buildings and works) will expire if one of the following circumstances applies:
 - (a) The development is not started within two (2) years of the issue date of this permit.
 - (b) The development is not completed within four (4) years of the issue date of this permit.

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

– End of conditions –

