

# VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

## PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P1323/2023  
PERMIT APPLICATION NO. TPA/54825

**APPLICANT** Palcorp Developments Pty Ltd  
**RESPONSIBLE AUTHORITY** Monash City Council  
**SUBJECT LAND** 1799 Dandenong Road  
OAKLEIGH EAST VIC 3166  
**DATE OF ORDER** 28 March 2024

### ORDER

- 1 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: Martin Tribe Architects Pty Ltd

Drawing numbers: TP00-TP19 inclusive

Dated: 8 February 2024 (Version 3)

Prepared by: John Patrick Landscape Architects Pty Ltd

Drawing Numbers: TP01, TP02 & TP03

Dated: 8 February 2024

- 2 In application no. P1323/2023 the decision of the responsible authority is set aside.
- 3 In permit application no. TPA/54825 a permit is granted and directed to be issued for the land at 1799 Dandenong Road, Oakleigh East in accordance with the endorsed plans and on the conditions set out in Appendix A. The permit allows:

Monash Planning Scheme Clause No.	Description of what is allowed
32.08-6	Construct of two or more dwellings on a lot ( <i>a three storey building containing 12 dwellings above a basement car park</i> ).
36.04-3	Consent of the Head, Transport for Victoria for alteration and creation of access to a road in a Transport Zone – Schedule 2.

- 4 The hearing scheduled at 10.00 am on 22 April 2024 for two days is vacated. No attendance is required.



Frank Dawson  
**Member**

### **APPEARANCES**

For applicant

Dominic Scally, solicitor of Best Hooper  
Lawyers

Robert Palermo in person

Martyn Tribe, architect

For responsible authority

Anne Maree Roberts, town planner

## REMARKS

- 1 This matter involves an application pursuant to section 77 of the *Planning and Environment Act 1987* (Vic) for a review of Monash City Council's decision to refuse the grant of a permit for the construction of a three storey building containing 12 dwellings above a basement car park and alteration and creation of access to a road in a Transport Zone at 1799 Dandenong Road, Oakleigh East.
- 2 At the compulsory conference, the parties reached agreement and request orders by consent. The parties request that a permit is granted, subject to conditions.
- 3 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 permit is appropriate having regard to the matters it is required to consider under section 60 of the *Planning and Environment Act 1987* (**Act**), including the balanced application of the strategies and policies of the Monash Planning Scheme (**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 proposed development which would materially affect any person other than the parties to the proceeding.
- 5 Based on the information available to the Tribunal, I consider 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*.

Frank Dawson  
**Member**



## APPENDIX A – PERMIT CONDITIONS

<b>PERMIT APPLICATION NO</b>	TPA/54825
<b>LAND</b>	1799 Dandenong Road OAKLEIGH EAST VIC. 3166

### WHAT THE PERMIT ALLOWS

<b>Monash Planning Scheme Clause No.</b>	<b>Description of what is allowed</b>
32.08-6	Construct of two or more dwellings on a lot ( <i>a three storey building containing 12 dwellings above a basement car park</i> ).
36.04-3	Consent of the Head, Transport for Victoria for alteration and creation of access to a road in a Transport Zone – Schedule 2.

### CONDITIONS

#### Amended Plans Required

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 submitted to Council prepared by Martyn Tribe Architects dated 8 February 2024 (Revision V3) but modified to show:
  - a) Detail of the model and specifications of the stacker parking system.
  - b) Any required fire services, electricity supply, gas and water meter boxes located in front setback to be discreetly located and/or screened to compliment the development. Any required services must be clearly detailed.
  - c) The proposed decked areas of Units 2 and 5 to be shown as per the landscape plan prepared by John Patrick Landscape Architects Pty Ltd, dated 8 February 2024.
  - d) A 1:50 sectional diagram detailing the proposed external screens and how they will limit overlooking into the adjoining areas of secluded private open space and habitable room windows as required by Standard B22.
  - e) The location of any trellis on boundary fencing proposed to prevent unreasonable overlooking, to be detailed on the ground floor plan.
  - f) The materials for the pedestrian pathway to the front entrance leading to the building to be consistent on the development and landscaping plans.



- g) Details of tree protection measure to the Council street tree.
- h) A materials schedule of all proposed external materials including colour swatches.
- i) The allocation of car parking in accordance with Condition 10.
- j) A Landscape Plan in accordance with Condition 4 of this Permit.
- k) A Waste Management Plan in accordance with Condition 7 of this Permit.
- l) A Sustainable Management Plan (SMP) prepared in accordance with Condition 8 of this Permit.

All 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.

### **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 Pty Ltd, dated 8 February 2024 except that the plan must be modified to show:
  - Any changes as required by Condition 1 of this Permit.
  - Landscaping provided to second floor balconies facing Dandenong Road, with planting that can cascade.

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 Before Commencement of Use**

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 Maintenance**

6. All landscaping works shown on the endorsed landscape plan(s) must be maintained and any dead, diseased or damaged plants replaced, all to the satisfaction of the Responsible Authority.

## **Waste Management Plan**

7. Concurrent with the endorsement of plans required pursuant to Condition 1, a Waste Management Plan must be submitted and approved by the Responsible Authority. The plan must provide details of a regular private waste (including recyclables) collection service for the subject land and be prepared in accordance with the Multi-Unit and Commercial Developments Waste Management Plan Guide for Applicants. The plan must include the following:
  - a) The method and location of collection of all waste from the land;
  - b) Waste volume calculation and total waste generated per waste stream;
  - c) Frequency of Waste collection and permitted collection times;
  - d) Plans showing the location of bin storage areas, required bin storage equipment and features, number of bins and location of temporary bin storage at collection point(s);
  - e) Provision of bin cleaning equipment, washing facilities and sewer disposal within the waste storage area;
  - f) Type / Size of private waste vehicles;

The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

## **Sustainable Management Plan**

8. Concurrent with the endorsement of plans requested pursuant to Condition 1, a Sustainable Design Assessment (in accordance with Clause 22.13) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Upon approval the Sustainable Management Plan (SMP) will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the Sustainable Management Plan to the satisfaction of the Responsible Authority.

The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

## **Construction Management Plan**

9. Prior to the commencement of any site works (including any demolition and excavation), a Construction Management Plan (CMP) must be submitted and approved by the Responsible Authority. No works are permitted to occur until the Plan has been endorsed by the Responsible Authority. Once endorsed, the CMP will form part of the permit and must be implemented to the satisfaction of the Responsible Authority. The CMP must address the following issues:
  - a) Appropriate measures to control noise, dust and water and sediment laden runoff;

- b) Appropriate measures for the prevention of silt or other pollutants from entering into the Council's underground drainage system or road network;
- c) Appropriate measures relating to removal of hazardous or dangerous material from the site, where applicable;
- d) A plan showing the location and design of a vehicle wash-down bay for construction vehicles on the site so as to prevent material leaving the site and being deposited on Council's road network;
- e) A program for the cleaning and maintaining surrounding road surfaces;
- f) A site plan showing the location of any site sheds, on-site amenities, building waste storage and the like, noting that Council does not support the siting of site sheds within Council road reserves;
- g) Measures to provide for public Safety and site security;
- h) A plan showing the location of parking areas for construction and sub-contractors' vehicles on and surrounding the site, to ensure that vehicles associated with construction activity cause minimum disruption to surrounding premises. Any basement car park on the land must be made available for use by sub-constructors/tradespersons upon completion of such areas, without delay;
- i) A Traffic Management Plan showing truck routes to and from the site;
- j) A swept path analysis demonstrating the ability for trucks to enter and exit the site in a safe manner for the largest anticipated truck associated with the construction;
- k) Appropriate measures to ensure that sub-contractors/tradespersons operating on the site are aware of and adhere to the requirements of the CMP;
- l) The provision of contact details of key construction site staff; and
- m) Include a requirement that except with the prior written consent of the Responsible Authority, a requirement that demolition, excavation or construction works must only be carried out during the following hours:
  - Monday to Friday (inclusive) – 7.00am to 6.00pm;
  - Saturday – 9.00am to 1.00pm;
  - Saturday – 1.00pm to 5.00pm (Only activities associated with the erection of buildings that does not exceed the EPA guidelines)
  - No works are permitted on Sundays or Public Holidays.

The provisions, recommendations and requirements of the endorsed Construction Management Plan must be implemented and complied with by all contractors to the satisfaction of the Responsible Authority.

### **Allocation of Car Spaces**

10. Car parking within the development must be allocated as follows:
  - a) Provision of no less than 2 car space per each 3 bedroom unit.
  - b) Provision of no less than 1 car space associated with each 1 and 2 bedroom unit.
  - c) Stacker spaces to be allocated to 3 bedroom units.

### **Visitor Parking Spaces**

11. Visitor parking spaces within the development must be:
  - a) Clearly identified by appropriate signage having an area no greater than 0.3m<sup>2</sup>;
  - b) Line marked to indicate each car space; and
  - c) Available for visitor usage at all times other than when vacant during waste collection hours.

### **Maintenance of Car Stackers**

12. The car stackers must be routinely serviced and maintained to the satisfaction of the Responsible Authority to ensure satisfactory access to all car spaces and to prevent any adverse effect on adjoining land by the emission of noise.

### **Bicycle Spaces**

13. Bicycle parking facilities shall generally follow the design and signage requirements set out in Clause 52.34 of the Monash Planning Scheme.

### **Vehicle Crossing**

14. The existing redundant vehicle crossover is to be removed and replaced with kerb and channel. The footpath and naturestrip are to be reinstated to the satisfaction of Council.

### **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.

### **Privacy screens**

16. 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.

### **Drainage & Stormwater**

17. 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.



18. No polluted and/or sediment laden stormwater 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.
19. An on-site detention system for storm events up to the 1% AEP event is to be retained on-site for the basement carpark. The detention system for the basement is to be separated from the detention system for the property, which is to be at ground level and discharged by gravity.
20. The entrance driveway is to be provided with an apex into the underground garage to ensure overland flow from the road reserve during major storm events does not enter the garage, to the satisfaction of the Responsible Authority.
21. 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).

#### **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.

In accordance with Section 69 of the *Planning and Environment Act 1987* (Vic), a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

**- End of conditions -**