

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P1439/2023
PERMIT APPLICATION NO.TPA/43605/I

CATCHWORDS

Section 77 of the *Planning and Environment Act 1987* (Vic); Monash Planning Scheme; Industrial 1 Zone; Store; Warehouse; Industry; Car Parking.

APPLICANT	Theo Avgoulis
RESPONSIBLE AUTHORITY	Monash City Council
SUBJECT LAND	6-14 Wells Road OAKLEIGH VIC 3166
HEARING TYPE	Hearing
DATE OF HEARING	9 October 2024
DATE OF ORDER	4 March 2025
CITATION	Avgoulis v Monash CC [2025] VCAT 187

ORDER

Permit amended

- 1 In application P1439/2023 the decision of the responsible authority is set aside.
- 2 In planning permit application TPA/43605/I an amended permit is granted and directed to be issued for the land at 6-14 Wells Road Oakleigh in accordance with the endorsed plans and the conditions set out in Appendix A.

The amended permit allows:

Planning scheme clause	Matter for which the permit has been granted
Clause 33.01-1	Use of the land for the purpose of self-storage facility, care takers house, warehouse, industry, and office.
Clause 33.04-4	Construct a building or construct or carry out works.
Clause 43.02-2	Construct a building or construct or carry out works.
Clause 52.06-5	Reduce the number of carparking spaces required.



Donna D'Alessandro
Member

APPEARANCES

For applicant

Daniel Bowden, town planner, Song Bowden Planning. He called Chris Tsiafidis, traffic engineer, Traffd Pty.Ltd.

For responsible authority

Peter English, town planner, Peter English & Associates.



INFORMATION

Description of proposal	<p>Amendment to Planning Permit TPA/43605/J which allows the construction and use of a self-storage facility comprising 62 units (61 stores and one office) with associated parking and a caretakers house. The amendment application seeks:</p> <ul style="list-style-type: none">• To make changes to the endorsed plans and conditions, particularly, condition 5, to allow 43 tenancies to be used for warehousing and industry/office.• Retrospective works to construct a mezzanine level contained internally to each specified unit.• The provision of an additional 42 car spaces contained internally to each specified unit.• A reduction in the car parking requirements from the planning scheme.
Nature of proceeding	Application under section 77 of the <i>Planning and Environment Act 1987</i> (Vic) – to review the refusal to grant an amended permit.
Planning scheme	Monash Planning Scheme
Zone and overlays	Industrial 1 Zone ('INZ') Design and Development Overlay – Schedule 1 (Industrial and commercial design and development overlay) ('DDO1')
Permit requirements	Clause 33.01 - use of the land for the purpose of warehouse in Industrial zone. Clause 33.01 - use of the land for the purpose of industry and office in Industrial zone. Clause 33.03-4 - to construct a building or construct or carry out works in Industrial zone. Clause 43.02-2 - construct a building or construct or carry out works in a Design and Development Overlay. Clause 52.06 - reduction in the car parking requirement.

Land description

The review site is located on the northern side of Wells Road, approximately 60 metres west of Connell Road, Oakleigh.

It is a large parcel of land with a significant frontage to Wells Road of 78 metres to the west and 103 metres to the south, for an overall site area of 9,297 square metres.

The review site is developed with five single storey buildings, comprising 62 industrial units with central driveways between each building. 29 car spaces are located along the Wells Street frontages and to the rear of the row of buildings. The review site is gated at each access point with landscaping provided along the Wells Road frontages.

Tribunal inspection

11 October 2024.



REASONS¹

WHAT IS THIS PROCEEDING ABOUT?

- 1 This is an application made by Theo Avgoulis ('applicant') against Monash City Council's ('council') decision to refuse to grant an amendment to an existing permit ('permit') which allows the construction and use of a self-storage facility comprising 62 units (61 stores and 1 office) with associated parking and caretakers house at 6-14 Wells Road, Oakleigh.
- 2 The amendment proposes to change the permit to allow 43 units to be used for warehousing and industry/office, retrospective works to the mezzanine floor levels constructed within 10 of the units and an overall reduction in car parking requirements. A total of 82 car spaces would be provided throughout the review site, 29 existing spaces externally (at-grade shared spaces) and 53 spaces internally. There are already 11 tenancies with internal car spaces contained within specified units, allowed by previous amended permits. The proposal will add a further 42 internal spaces.

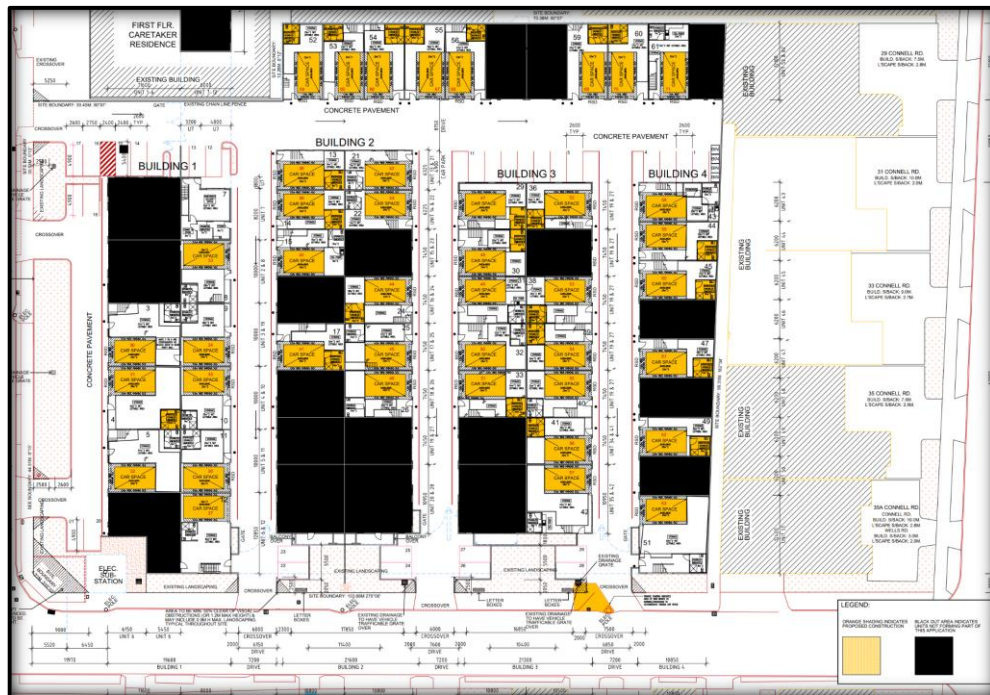


Figure 1 – Proposed Floor Plans

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.

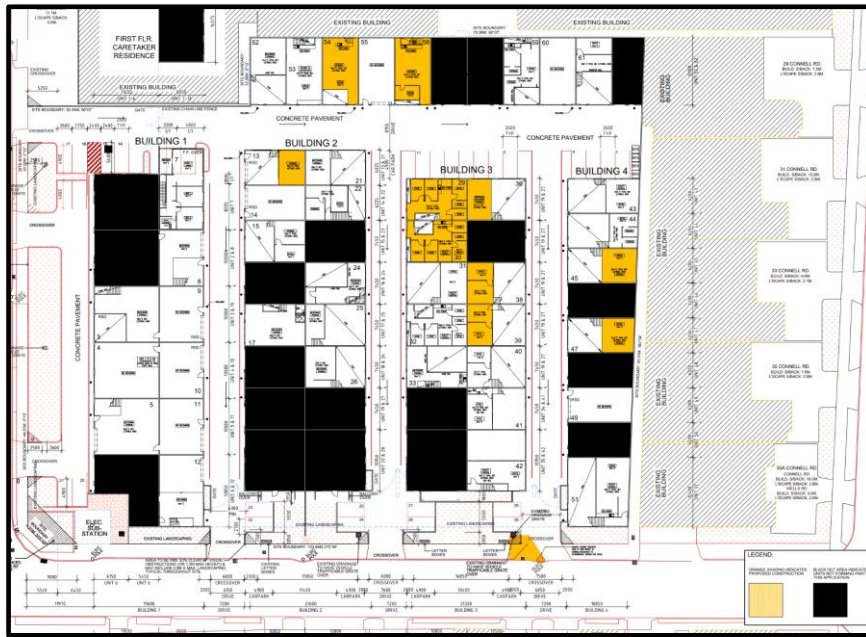


Figure 2 – Proposed Mezzanine Plans

- 3 The application arises from enforcement action undertaken by council. The changes to the approved land uses and internal works (mezzanine areas) to a number of the tenancies are the subject of this amendment application.
- 4 Following public notification, no objections were received to the amended permit application.
- 5 The council refused the amended permit application on the following grounds:
 1. The proposal does not provide appropriately located or convenient on-site car parking.
 2. The proposal does not provide appropriately located or convenient loading facilities.
 3. The proposal will have a detrimental impact on the car parking within the local streets.
 4. The proposal is not consistent with the Municipal Planning Policy and Planning Policy Framework in respect to car parking.
- 6 The applicant refutes council’s refusal and says the amendments are entirely consistent with policy and represent an acceptable planning outcome with respect to car parking and loading.

Key issues

- 7 Based on the parties’ submissions and traffic evidence of the applicant, and having regard to the relevant application considerations under the Monash Planning Scheme (‘Scheme’), I find the key matters to be determined in this application are whether:



- The change in land use is acceptable
 - The provision of car parking contained within each tenancy is acceptable
 - Whether the proposal will result in unreasonable traffic and parking impacts arising from the change in land use sought.
- 8 Having undertaken an inspection of the review site, the industrial estate, and the wider area, and taking into consideration the submissions and traffic evidence, I have decided to set aside council’s decision and direct that an amended permit be granted.
- 9 I find the amended application is acceptable having regard to clause 71.02-3 ‘Integrated decision making’. Clause 71.02-3 states the Planning Policy Framework operates together with the remainder of the Scheme to deliver integrated decision making. The decision maker should endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development.
- 10 The following is an explanation of my findings.

PLANNING PERMIT HISTORY

- 11 The review site has a long and somewhat confusing planning history and to understand how we got to this point it is important to provide some background information. To add to the confusion, over time, some of the existing on-site communal car spaces have been allocated to specific units whilst others were approved with internal car spaces within each unit. The council officer delegate reports unfortunately do not provide detail as to why these arrangements were approved.
- 12 The council provided a useful summary of the planning history of the review site.²
- 13 Planning permit TPA/43605 was issued on 29 June 2015, and allowed for the construction and use of a self-storage facility comprising 62 units (61 stores and 1 site office) with associated parking and caretaker’s house.
- 14 Relevant matters in the original permit included:
- The subject site to be exclusively used as a self-storage facility consistent with the definition of ‘store’ in the Scheme.
 - The preparation of a s 173 agreement which amongst other things required that the facility be under the control of only one operator, and that there be no subdivision of the development.

² Council submission page 3.



- 15 Plans were endorsed on 13 August 2015. Landscape plans were endorsed on 15 October 2015.
- 16 The permit has been amended on numerous occasions. The significant changes are summarised as follows:
- The removal of the s 173 agreement to prohibit subdivision and require the facility to be under the control of only one operator.
 - Minor changes to the built form by increasing the parapet and wall heights.
 - The subsequent subdivision of the review site into 62 separate titles and common property (accessways, landscaping and car parking). The subdivision did not allocate specific car spaces to separate titles.
 - The change of use to incorporate warehouse, office and food manufacturing use to units 1, 2, 6, 19, 27, 28, 34 and 35 per condition 5.
 - The consolidation of various units.
 - The addition of mezzanine levels to various units.
 - Modification to roller doors, window heights and window locations.
 - Amendments to car parking condition allocating car spaces to the at grade car park.
 - Allowing internal car spaces contained within specific units.

PROPOSAL

- 17 The proposal as described by council is summarised as follows:
- Change of use to specific storage facility units from ‘store’ to ‘warehouse’ with the exception of unit 51 which includes warehouse/industry with ancillary office.
 - One car space provided within each unit (except unit 7). That is 42 spaces provided internally contained within each specified unit, in addition to the existing 29 external spaces and 11 internal spaces (previously allowed).
- 18 A total of 53 spaces internally and 29 spaces externally (common property), being a total of 82 spaces for the site.
- Amendment to plans to include disabled toilets and mezzanine levels (specifically to units 13, ,29, 30, 36, 39, 45, 47, 54 and 56).

PLANNING POLICY

- 19 The review site is located within Industrial 1 Zone – Schedule 1 (‘INZ1’) and the Design and Development Overlay – Schedule 1 – Industrial and Commercial Design and Development Area (‘DDO1’).



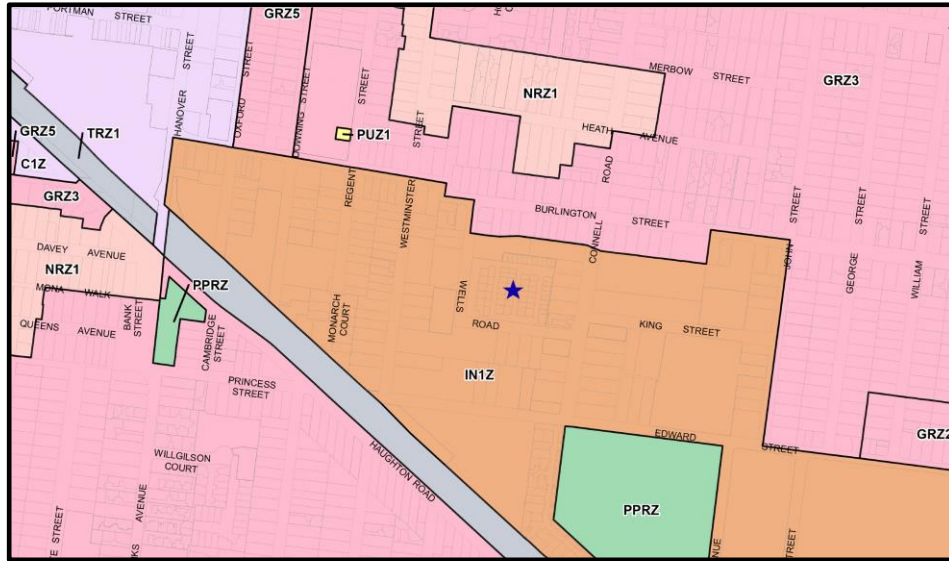


Figure 3 – Zoning Map.³

- 20 A planning permit is required for the use of the land as a warehouse because the review site is located within 30 metres of a residential zone.
- 21 A planning permit is also required for the change of use to industry (unit 35) and industry/office (unit 51), again, due to the review site located within 30 metres of a residential zone. An office is a section 2 use, and a permit is required.
- 22 A planning permit is also required to construct a building or construct or carry out works under clause 33.01-4 of the zone. That is because the floor area of each tenancy by the construction of the mezzanine area increases the floor area.
- 23 A planning permit is also required under the DDO1 overlay for buildings and works under clause 43.02-2. I agree with council, given the works are internal, and there are no external changes to the built form, this policy provides little relevance in my findings.
- 24 Finally, given the number of car parking spaces required under clause 52.06 (Car Parking) has not been met, a planning permit is required under clause 52.06-3.
- 25 The purpose of clause 52.06 states:
 - To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.
 - To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.
 - To support sustainable transport alternatives to the motor car.

³ Zoning Map provided in council's submission. Blue star identifies the review site.

To promote the efficient use of car parking spaces through the consolidation of car parking facilities.

To ensure that car parking does not adversely affect the amenity of the locality.

To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

- 26 At the table in clause 52.06-5 the review site is located within the Principal Public Transport Network Area Map. The table below outlines the car parking requirements for a warehouse and industry.

Table 1: Car parking requirement

Use	Rate	Rate	Car Parking Measure
	Column A	Column B	Column C
Warehouse other than listed in this table	2	2	To each premises plus
	1.5	1	To each 100 sq m of net floor area
Industry other than listed in this table	2.9	1	To each 100 sq m of net floor area

- 27 Clause 52.06-7 sets out the application requirements and decision guidelines for permit applications which require a reduction of the car parking requirements.
- 28 Clause 52.06-8 sets out the requirements for a car parking plan and Clause 52.06-9 design standards for car parking.
- 29 Clause 56.06-10 sets out the decision guidelines as follows:

Decision guidelines

Before deciding that a plan prepared under Clause 52.06-8 is satisfactory the responsible authority must consider, as appropriate:

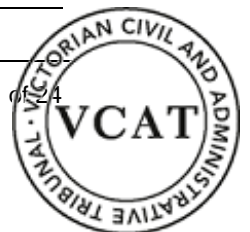
- The role and function of nearby roads and the ease and safety with which vehicles gain access to the site.
- The ease and safety with which vehicles access and circulate within the parking area.
- The provision for pedestrian movement within and around the parking area.
- The provision of parking facilities for cyclists and disabled people.
- The protection and enhancement of the streetscape.
- The provisions of landscaping for screening and shade.
- The measures proposed to enhance the security of people using the parking area particularly at night.

- The amenity of the locality and any increased noise or disturbance to dwellings and the amenity of pedestrians.
- The workability and allocation of spaces of any mechanical parking arrangement.
- The design and construction standards proposed for paving, drainage, line marking, signage, lighting and other relevant matters.
- The type and size of vehicle likely to use the parking area.
- Whether the layout of car parking spaces and access lanes is consistent with the specific standards or an appropriate variation.
- The need for the required car parking spaces to adjoin the premises used by the occupier/s, if the land is used by more than one occupier.
- Whether the layout of car spaces and accessways are consistent with Australian Standards AS2890.1-2004 (off street) and AS2890.6-2009 (disabled).
- The relevant standards of Clauses 56.06-2, 56.06-4, 56.06-5, 56.06-7 and 56.06-8 for residential developments with accessways longer than 60 metres or serving 16 or more dwellings.
- Any other matter specified in a schedule to the Parking Overlay.

IS THE CHANGE OF LAND USE ACCEPTABLE?

- 30 Parties agreed that the site is still taking benefit of the original permit, as set out in the principles of the *Benedetti*,⁴ the conditions of the original permit will continue to have effect for as long as the development which triggered the need for a permit remained on the land. In this case, the parties agree that the change in land use from ‘store’ to ‘warehouse’ or ‘industry’ is not fundamental, given warehouse is included in the definition of store under the table of definitions at clause 73.03. There was largely no dispute between parties about the changed land uses being sought, provided planning permit conditions are revised to reflect the suggestions by council. I agree that the nature of the proposed land use changes is relatively benign, not altering to any significant extent the nature of the industrial occupancy, or any potential amenity impacts to nearby sensitive land uses.
- 31 The focus of the dispute is largely about parking, loading and access. The council emphasised at the hearing that they are not opposing the use of the units, but the creation of the internal car spaces and with that change, the impact it will have on the overall operation of the review site.

⁴ *Benedetti v Moonee Valley City Council* [2005] VSC 434.



- 32 I am satisfied subject to the permit conditions suggested by council, and not disputed by the applicant, that the warehouse and industry uses sought via this amendment are appropriate, given the existing context of the review site and the adjoining and adjacent industrial and commercial buildings nearby. I am satisfied the purpose of the zone continues to be satisfied. The proposed land use changes sought by the amendment are acceptable.

IS THE PROVISION OF CAR PARKING ACCEPTABLE

- 33 The floor area of each unit ranges between 67 – 150 square metres, with the exception of Unit 5 at 211 square metres and Unit 51 at 206 square metres.⁵ Although the application seeks a reasonably substantial carparking reduction, the Council's concern was not with the numerical parking provision. Rather, the principal concern was with the actual location of the additional parking provided within the units, and the consequential impact the intensification of the usage of the site would have on the overall vehicle movements. Council is not satisfied with the internal modification to the units to allow for one car space internal to the building, saying that the proposed car spaces taking up approximately 20 square metres will reduce the floor area available for warehouse purposes.
- 34 A purpose of clause 52.06 is to ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities of the land and the nature of the locality.
- 35 Pursuant to clause 52.06-5, the car parking requirement for warehouse is 2 spaces per premises plus 1 space per 100 square metres of net floor area. Parties agreed with Mr Tsiafidis's evidence regarding the statutory parking requirements, that is the planning scheme requirements for the proposal is 125 spaces. This is a shortfall of 64 spaces.⁶
- 36 The site has 29 communal spaces, of which 10 are allocated to 7 specific units. In addition, 13 spaces are located within the units and exclusively used by those units.⁷
- 37 The proposal will include one space internally to each of the 42 units, the same arrangement as approved for the 13 specific units above. Overall, 53 of the 62 units will have one space per unit (that is provided onsite and internally to each warehouse).
- 38 The council is not concerned about the numerical car parking provision, but rather the use of each unit for the purpose of warehouse plus an allocated area for a car space. They say this location of the car parking is impractical and unmanageable. They argue, whilst some of the units already have approval for this arrangement, this was approved on a case by case basis.

⁵ Taken from Traffic Evidence as relied upon during the hearing. The floor area includes proposed mezzanine areas where relevant.

⁶ Traffic Evidence, page 12 of submission.

⁷ Outlined in council's submission and confirmed by traffic evidence.



- 39 The applicant relies upon traffic evidence from Mr Tsiafidis. His evidence is that of the 62 units;
- Proposed 42 (of the 43) units that are subject to this application, will have access to a parking bay within their own unit. He suggests a permit condition to restrict the employee numbers to a single employee, meaning that each unit will be self-sufficient in accommodating parking demand generated by staff.
 - Proposed 1 unit (unit 7) is unable to provide an internal parking bay and will rely on the 19 shared communal parking bays located in the common property.
 - 7 units already have exclusive access to 10 parking bays within the common property.
 - 13 units do not have any internal parking bays and will solely rely on the 19 shared communal parking bays located in the common property.
- 40 His evidence was that the on-site communal parking bays were surveyed and at least 11 parking bays were available at all times of the surveyed period. He was satisfied the site is currently well underutilized and has sufficient capacity to accommodate additional demand, with the average occupancy being 24%.
- 41 Further, beyond the site boundaries, the 37 on-street parking spaces along Wells Road were surveyed for on-street parking demand, with 35 of these spaces being unrestricted parking, meaning there is capacity to park in Wells Road if required.
- 42 Finally, his evidence is that the generation from the review site is expected to have a negligible impact on the existing function of Wells Road and the surrounding road network.
- 43 I am persuaded by the traffic evidence of Mr Tsiafidis and support the car parking reduction sought because:
- Each warehouse unit is a small scale operation with the business operation as described by the applicant, generally comprising one person working within each tenancy, and not being customer-based operations.
 - Most of the units include a mezzanine level and can be used for storage purposes where the proposed internal car space is occupied.
 - The development is gated and therefore the comings and goings are restricted by the occupants.

Deliveries / Loading Bay

- 44 With respect to deliveries and loading, council is concerned that loading facilities within each unit will be compromised due to the proposed internal car spaces and the impact this may have on access arrangements and car parking. I do not share this view.
- 45 I am content that providing one space within the internal layout of each of 42 units is appropriate in this instance. Any delivery to that specific warehouse unit will be generally managed by the business operator given this is a gated complex.
- 46 Further, any delivery vehicle will be able to utilise any of the communal spaces or drive into the unit to undertake the delivery. If the warehouse is occupied by a car space, may result in deliveries needing to prop and wait, such a situation is neither unexpected nor unacceptable in such an environment. Given each tenancy is small scale and largely run by a small business, any deliveries would be reasonably quick and would not significantly affect the access within the unit complex.
- 47 I have reviewed the plans and agree with the traffic evidence that the internal access lanes have been designed to allow for vehicles passing, that is a vehicle is able to prop to the side of the warehouse entry and a vehicle is able to pass. Such a situation in this instance is acceptable.
- 48 Finally, I am satisfied that an existing car space can be converted to a short-term loading bay for the review site. Given, Mr Tsiafidis evidence, I agree, a loading bay will provide for any overflow deliveries which requires a longer delivery time. This is included as a new condition.

WILL THE PROPOSAL RESULT IN UNREASONABLE TRAFFIC AND PARKING IMPACTS ARISING FROM THE CHANGE IN LAND USE SOUGHT

- 49 Council is concerned that the existing self storage facility is used infrequently and a change to warehouse/industry would intensify the use of the site, because warehouse/industrial use involves permanent staff and a high degree of comings and goings.
- 50 I am satisfied the scale of each unit is such as to support only a small business and therefore the intensification as expressed by council will not be significant. The parties agree to a new condition to address the small-scale operation, by limiting employee numbers and providing an updated operational management plan and I agree that this is acceptable.
- 51 Having regard to the fact that 19 of the existing units on the site are already permitted to be utilised as warehouse/industry/office and one caretaker's residence, I am satisfied the proposed uses will not be significantly different to the context, and supported by the conditions recommended by council to ensure the warehouse use is consistent with clause 73.03.



52 Based on the traffic evidence I am satisfied that there will be no unreasonable off-site traffic issues that will arise from the proposed land uses.

WHAT CONDITIONS ARE APPROPRIATE?

53 I have amended the permit preamble to reflect the introduction of the Planning and Environment Amendment Regulations 2024 which came into operation on 1 December 2024. I have adopted the conditions generally provided by council.

54 I have also included the recommended conditions as outlined through the traffic evidence. I have also modified condition 5 as discussed and agreed to by parties.

55 Any new conditions have been added to the end of the amended permit to keep condition numbers consistent given this is permit TPA/43605/I, and there have been various amendments previously.

CONCLUSION

56 For the reasons given above, the decision of the responsible authority is set aside. An amended permit is granted subject to conditions.

Donna D'Alessandro
Member



APPENDIX A – AMENDED PERMIT DESCRIPTION AND CONDITIONS

PERMIT APPLICATION NO	TPA/43605/I
LAND	6-14 Wells Road OAKLEIGH VIC 3166

THE AMENDED PERMIT ALLOWS:

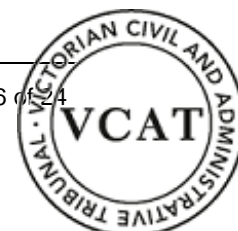
Planning scheme clause	Matter for which the permit has been granted
Clause 33.01-1	Use of the land for the purpose of self-storage facility, care takers house, warehouse, industry, and office.
Clause 33.04-4	Construct a building or construct or carry out works.
Clause 43.02-2	Construct a building or construct or carry out works.
Clause 52.06-5	Reduce the number of carparking spaces required.

THE FOLLOWING CONDITIONS APPLY TO THIS AMENDED PERMIT

- 1 Within 90 days of the issue of permit TPA/43605/I, amended plans drawn to scale and dimensioned, must be submitted to, the satisfaction of and be approved by the Responsible Authority. The submitted plans must clearly delineate and highlight any changes. When approved the plans will be endorsed and will then form part of the permit.

The plans must be generally in accordance with the plans submitted with the application Consulting Pty Ltd, Drawing 15-18-04- A1 to A4, Issue K, but modified to show:

- (a) Deletion of black out areas with the internal layouts of all units on the site shown, including internal car spaces and mezzanines.
 - (b) Location of bin storage within each unit.
 - (c) External allocation of car parking spaces as detailed in condition 33 of this permit.
 - (d) Loading Zone Signage with 15-minute restrictions be implemented and maintained for parking bay 13.
- 2 The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
 - 3 Once the development and use has started it must be continued and completed to the satisfaction of the Responsible Authority.



- 4 The occupant of the caretaker's house must be a bona fide employee of the self-storage facility, and must be associated with the running of the site.
- 5 The subject site is to be used exclusively as a self-storage facility in accordance and consistent with the definition of "store" as contained in the Monash Planning Scheme, with the exception of:
 - (a) Units 1, 2, 19, 20, 27, 28, 34 and 35 which are permitted to be utilised as warehouse/office tenancies as detailed on the endorsed plans.
 - (b) Unit 6 which is permitted to be utilized for industry (food manufacturing).
 - (c) Units 3, 4, 5, ground floor of unit 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 21, 22, 24, 25, 26, 29, 30, 31, 32, 33, 36, 38, 39, 40, 41, 42, 43, 44, 45, 47, 49, 52, 53, 54, 55, 56, 59, 60, 61 which are permitted to be utilised as "warehouse" tenancies as defined in the Monash Planning Scheme and detailed on the endorsed plans.
 - (d) Unit 51 which is permitted to be utilised as a "warehouse"/"industry" tenancy with ancillary office as detailed on the endorsed plans.
- 6 Prior to the endorsement of plans referred to in Condition 1 the owner of the land must enter into an agreement with the Responsible Authority under Section 173 of the Planning and Environment Act 1987. In addition to the usual mechanical provisions, the agreement must provide for the following matters:
 - (a) Except with consent of the Responsible Authority, the land is to be used exclusively as a self-storage facility in accordance and consistent with the definition of "store" as contained in the Monash Planning Scheme.
 - (b) The occupant of the caretaker's dwelling must be a *bona fide* employee of the self-storage facility and must be associated with the running of the site.

The cost of the preparation and review of the Section 173 Agreement and its registration on the title of the land must be borne by the owner of the land.

- 7 Within 90 days of the issue of permit TPA/43605/I, the permit holder must submit an operational management plan describing:
 - The ways in which owners and tenants are made aware of the conditions attached to this permit.
 - Details of the nature of the use approved for each unit (as defined by the Monash Planning Scheme).
 - Details of the proposed hours of access permitted.
 - Process for the delivery and collection of goods.



- All lighting of car park areas including access lanes.
- General rubbish storage/removal arrangements & hours of pick up.
- Maintenance of buildings and grounds, including all landscaped areas.
- Car parking within the site, including management of externally allocated and internally located staff parking, short-term parking/loading/unloading in parking bays and access lanes.
- A complaint handling process to be put in place to effectively manage complaints received from neighbouring and nearby businesses or tenants/owners of the facility. This must include details of a Complaints Register to be kept at the premises by the caretaker. The Register must include details of the complaint received, any action taken and the response provided to the complainant.
- Caretaker contact hours and details.

The operational management plan must be to the satisfaction of, and be approved by, the Responsible Authority. Once approved, the operational management plan will form a part of the endorsed documents under this permit. The operation of the use must be carried out in accordance with the endorsed operational management plan unless with the prior written consent of the Responsible Authority. The operational management plan may be amended from time to time with the written consent of the Responsible Authority.

- 8 The amenity of the area must not be detrimentally affected by the use or development, through the:
 - (a) transport of materials, goods or commodities to or from the land;
 - (b) appearance of any building, works or materials;
 - (c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
 - (d) presence of vermin.
- 9 Outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.
- 10 The occupier of the premises must ensure that any noise emanating from the premises, during and post construction, must not exceed the standards of the Environment Protection Regulations 2021 (as amended from time to time) as measured in accordance with the Noise Protocol. Noise Protocol means the Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues, published by the Environment Protections Authority on its website, as in force from time to time, and must on request provide evidence to Council of Compliance with the policies.



- 11 Adequate provision shall be made for the storage and collection of garbage and other solid wastes and these facilities are to be located on the site to the satisfaction of the Responsible Authority.
- 12 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 prior to the commencement of any works. The plan must show the proposed landscape treatment of the site including:
 - the location of all existing trees and other vegetation to be retained on site
 - provision of canopy trees with spreading crowns located throughout the site including the major open space areas of the development
 - planting to soften the appearance of hard surface areas such as driveways and other paved areas
 - 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
 - the location and details of all fencing
 - the extent of any cut, fill, embankments or retaining walls associated with the landscape treatment of the site
 - 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.

- 13 Before the occupation 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 then maintained to the satisfaction of the Responsible Authority.
- 14 Three existing street trees (*Lagerstroemia* sp) will be removed and replaced by Council at the cost of the developer.
- 15 All activities at the premises must comply with the Dangerous Goods (Storage and Handling) Regulations.
- 16 The existing redundant crossings are to be removed and replaced with kerb and channel. The footpath and naturestrip are to be reinstated to the satisfaction of Council.
- 17 All on-site stormwater is to be collected from hard surface areas and must not be allowed to flow uncontrolled into adjoining properties. The on-site

drainage system must prevent discharge from driveways onto the footpath. Such a system may include either:

- (a) trench grates (150mm minimum internal width) located within the property; and/or
- (b) shaping the driveway so that water is collected in a grated pit on the property; and/or
- (c) another Council approved equivalent.

18 Stormwater discharge is to be detained on site to the predevelopment level of peak stormwater discharge. Approval of any detention system is required by the City of Monash, the Responsible Authority, prior to works commencing.

19 Before the development starts, a site layout plan drawn to scale and dimensioned must be approved by the Responsible Authority.

The plans must show a drainage scheme providing for the collection of stormwater within the site and for the conveying of the stormwater to the nominated point of discharge.

The nominated point of discharge is the south-west corner of the property where the entire site's stormwater must be collected and free drained via a pipe Council pit in the nature strip to be constructed to Council Standards. *(A new pit is to be constructed if a pit does not exist or is not a standard Council pit).*

Note: If the point of discharge cannot be located then notify Council's Engineering Division immediately.

20 Convert the side entry pit affected by the south-western crossing into a junction pit and install a heavy duty cast iron cover and frame. Also construct a new side entry pit over the existing 450 mm drain 1.0 metre east from the turning point of the new vehicle crossing at the kerb edge.

21 Install a heavy duty grated cover on the existing Council pit affected by the proposed north-western crossing to Council Standards.

Condition required by Melbourne Water (Ref: 130497)

22 Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.

23 All services, including electricity and telecommunications facilities, must be located underground.

24 Rubbish enclosures and service areas must be screened and located to the rear of buildings.

25 Rubbish bins, enclosures and loading docks must not be visible from the street.

- 26 No goods must be stored or left exposed outside the building so as to be visible from any public road or thoroughfare.
- 27 No bin or receptacle or any form of rubbish or refuse shall be allowed to remain in view of the public and no odour shall be emitted from any receptacle so as to cause offence to persons outside the land.
- 28 Before the development starts, a construction management plan must be prepared and submitted to the Responsible Authority for approval. The plan must be to the satisfaction of the Responsible Authority. Once approved, the plan must be implemented to the satisfaction of the Responsible Authority. The plan must address the following issues:
- (a) measures to control noise, dust and water runoff;
 - (b) prevention of silt or other pollutants from entering into the Council's underground drainage system or road network;
 - (c) the location of where building materials are to be kept during construction;
 - (d) site security;
 - (e) maintenance of safe movements of vehicles to and from the site during the construction phase;
 - (f) on-site parking of vehicles associated with construction of the development;
 - (g) wash down areas for trucks and vehicles associated with construction activities;
 - (h) cleaning and maintaining surrounding road surfaces;
 - (i) a requirement that 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. This does not include excavation or the use of heavy machinery.)
- 29 No equipment, services, architectural features or structures of any kind, including telecommunication facilities, other than those shown on the endorsed plans shall be permitted above the roof level of the building unless otherwise agreed to in writing by the Responsible Authority.
- 30 This permit will expire in accordance with section 68 of the *Planning and Environment Act 1987*, if one of the following circumstances applies:
- The development and use are not started before 2 years from the date of issue.



- 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*, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within six months of the permit expiry date, where the use or development allowed by the permit has not yet started; or within 12 months of the permit expiry date, where the use or development has lawfully started before the permit expires.

31 Car parking must be provided on the land as follows:

- No less than 3 car spaces per tenancy are to be provided to Unit 20 and Unit 28 which are permitted to be utilised as warehouse/office tenancies.
- No less than 3 car spaces per tenancy are to be provided to Unit 1 and Unit 35 which are permitted to be utilised as warehouse/office tenancies.
- No less than 2 car spaces per tenancy are to be provided to Unit 2, Unit 19 and Unit 34 which are permitted to be utilised as for warehouse/office tenancies.
- No less than 1 car space per tenancy is to be provided to Unit 27 which is permitted to be utilised as for warehouse/office tenancy.
- No less than 2 spaces for Unit 6 which is permitted to be utilised for Industry (food manufacturing).
- 1 car space within each of the units numbered 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 17, 21, 22, 24, 25, 26, 29, 30, 31, 32, 33, 36, 38, 39, 40, 41, 42, 43, 44, 45, 47, 49, 51, 52, 53, 54, 55, 56, 59, 60, 61.
- Loading bay allocated to car space 13 located within the car parking within common property, and clearly marked loading zone.
- All other onsite car parking located within common property to be utilised by occupants of the permitted self-storage facility.

Any future subdivision of the land must provide allocation of car parking on Title in accordance with this requirement.

- 32 No more than 5 persons are to be employed within Unit 1, Unit 6, Unit 20, Unit 28 and Unit 35 which are permitted to be utilised as warehouse/office tenancies.
- 33 No more than 4 persons are to be employed within Unit 2, Unit 19 and Unit 34 which are permitted to be utilised as warehouse/office tenancies
- 34 No more than 3 persons are to be employed within Unit 27 which is permitted to be utilised as warehouse/office.



- 35 No more than 1 person is to be employed within Units 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 21, 22, 24, 25, 26, 29, 30, 31, 32, 33, 36, 38, 39, 40, 41, 42, 43, 44, 45, 47, 49, 52, 53, 54, 55, 56, 59, 60, 61 which are permitted to be utilised as warehouse/office tenancies.
- 36 No more than 1 person is to be employed within Unit 51 which is permitted to be utilised as warehouse/industry/office.
- 37 Within 90 days of the issue of permit TPA/43605/I, a Waste Management Plan must be submitted and approved by the Responsible Authority. The plan must provide details of a regular private collection service (including recyclables) 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.
- 38 The warehouse and industry uses detailed in condition 5 (c) and (d) are only authorised under this permit provided that they:
- (a) Do not allow in-person retail or display of goods for retail, or allow persons to collect goods that have been purchased online.
 - (b) Are not a purpose listed in the table to the Uses And Activities With Potential Adverse Impacts Provisions (Clause 53.10 of the Monash Planning Scheme) with no threshold distance specified.
 - (c) Are at least the following distances from land (not a road) which is in an Activity Centre Zone, Capital City Zone, Commercial 1 Zone, Docklands Zone, residential zone or Rural Living Zone, land used for a hospital, an education centre or a corrective institution or land in a Public Acquisition Overlay to be acquired for a hospital, an education centre or a corrective institution:
 - The threshold distance, for a purpose listed in the table to Clause 53.10.
 - 30 metres, for a purpose not listed in the table to Clause 53.10.

Do not:



- (d) Exceed a fire protection quantity under the Dangerous Goods (Storage and Handling) Regulations 2012.
- (e) Require a notification under the Occupational Health and Safety Regulations 2017.
- (f) Require a licence under the Dangerous Goods (Explosives) Regulations 2011.
- (g) Require a licence under the Dangerous Goods (HCDG) Regulations 2016.

Must not adversely affect the amenity of the neighbourhood, including through the:

- Transport of materials, goods or commodities to or from the land.
- Appearance of any stored goods or materials.
- Emission of noise, artificial light, vibration, odour, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.

- 39 The warehouse and industry uses detailed in condition 5 (c) and (d) cannot commence operation until any necessary building approvals are obtained.

– END OF CONDITIONS –

