VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

planning and environment DIVISION

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| planning and environment LIST | vcat reference No. P2057/2019  Permit Application no. TPA/49850 |
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| APPLICANT | Qiao Tang |
| responsible authority | Monash City Council |
| RESPONDENT | Ian Hart |
| SUBJECT LAND | 4 Murphy Street, Chadstone |
| WHERE HELD | Melbourne |
| BEFORE | Geoffrey Code, Senior Member |
| HEARING TYPE | Hearing |
| DATE OF HEARING | 16 October 2020 |
| DATE OF ORDER | 21 October 2020 |

# Order

### Permit application amended

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:

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| * Prepared by: | Whelan Design |
| * Drawing numbers: | LS01 & TP01 – TP07 (inc) all Rev A |
| * Dated: | 26 October 2018 |

### Decision set aside

1. The decision of the responsible authority dated 10 October 2019 is set aside.

### Permit granted

1. In planning permit application TPA/49850 a permit is granted and directed to be issued for the land at 4 Murphy Street, Chadstone in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:

* Construction of four dwellings

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| Geoffrey Code  **Senior Member** |  |  |

# Appearances

### By videoconference

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| For Qiao Tang | Mr Kim Belfield, Belfield Planning Consultants |
| For Monash City Council | Mr James Turner, town planner, Monash City Council |
| For Ian Hart | In person |

# Information

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| Brief description of proposal | Construction of four double-storey townhouses above a basement containing four double garages |
| Nature of proceeding | Application under section 77 of the *Planning and Environment Act 1987* – to review the refusal to grant a permit |
| Planning scheme | Monash Planning Scheme |
| Zone and overlays | General Residential Zone Schedule 2 |

# Reasons

1. I gave oral reasons for this order at the conclusion of the hearing.

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| Geoffrey Code  **Senior Member** |  |  |



# Appendix A

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| Permit Application Number | TPA/49850 |
| Land | 4 Murphy Street, Chadstone |

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| What the permit allowS |
| Construction of four dwellings |

## Conditions

1. Before the development starts, three copies of amended plans drawn to scale and dimensioned, must be submitted to and 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 prepared by Whelan Design drawing nos. LS01 & TP01 – TP07 (inc) all Rev A and dated 26 October 2018 but modified to show:

* 1. The upper floor window of bedroom 4 of dwelling 3 with clear glazing.
  2. The upper floor window of the ensuite to bedroom 2 of dwelling 4 with obscure glazing.
  3. The height of the side and rear boundary fences shown on the elevation plans consistent with the ground floor plan.
  4. Tree protection measures in accordance with the arborist report by Bluegum dated 27 February 2019 to protect Tree 2, 9, 10, 11, 14 and 15. The trees must be numbered on the plans and the Tree Protection Zones shown.
  5. A setback from the vehicle crossing to the nature strip tree of a minimum of 2.6 metres.
  6. A corner splay or area at least 50% clear of visual obstruction (or with a height of less than 1.2 metres) extending at least 2.0 metres long and 2.5 metres deep (within the subject land) on both sides of each vehicle crossing to provide a clear view of pedestrian on the footpath of the frontage road.
  7. The location, height and materials of electricity meter boxes to the satisfaction of the Responsible Authority.

1. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
2. 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 be generally in accordance with the landscape plan prepared by Whelan Design drawing no. LS01 Rev B dated 20 April 2020 labelled ‘without prejudice plan’ and tendered to the hearing of the Victorian Civil and Administrative Tribunal in Proceeding P2057/2019 and must show the proposed landscape treatment of the site including:
   1. The retention of the Lemon Scented Gum between dwelling 1 and the street.
   2. The provision of a canopy trees with spreading crowns within the private open space areas of the site.
   3. The planting to soften the appearance of hard surface areas such as driveways and other paved areas.
   4. 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.
   5. The location and details of all fencing.
   6. The extent of any cut, fill, embankments or retaining walls associated with the landscape treatment of the site.
   7. 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.

1. 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.
2. Trees 2, 9, 10, 11, 14 and 15 must be protected in accordance with the tree protection measures on the endorsed plans and must not be damaged during construction.
3. There must be no excavation within 2.6 metres of the nature strip tree. The tree must be protected by temporary rectangular wire fencing as per Australian Standards erected prior to commencement of works until completion.
4. All common boundary fences are to be a minimum of 1.8 metres above the finished ground level to the satisfaction of the Responsible Authority. The fence heights must be measured above the highest point on the subject or adjoining site, within 3 metres of the fence line.
5. The amenity of the area must not be detrimentally affected by the use or development, through the:
   1. transport of materials, goods or commodities to or from the land;
   2. appearance of any building, works or materials;
   3. emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; or
   4. presence of vermin.
6. The construction works associated with the permitted development must only be carried out during the following hours:

* Monday to Friday (inclusive) – 7:00am to 6pm;
* Saturday – 9am to 1pm;
* Saturday – 1pm to 5pm (only activities associated with the erection of buildings);

unless otherwise approved in writing by the Responsible Authority.

1. The proposed vehicle crossing is to be constructed in accordance with the Monash City Council standards.
2. The redundant vehicle crossing removed and replace with kerb and channel to Monash City Council standards.
3. All stormwater collected on the site from all hard surface areas must not be allowed to flow uncontrolled into adjoining properties or the road reserve to the satisfaction of the Responsible Authority.
4. The private on-site drainage system must prevent stormwater discharge from the/each driveway over the footpath and into the road reserve. The internal drainage system may include either:

* a trench grate (minimum internal width of 150 mm) located within the property boundary and not the back of footpath; and/or
* shaping the internal driveway so that stormwater is collected in grated pits within the property; and or
* another equivalent system approved by Monash City Council.

1. All stormwater collected on the site must be detained on site to the predevelopment level of peak stormwater discharge. The design of any internal detention system must be approved by Monash City Council before drainage works start.
2. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
3. 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 is 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, if the development allowed by the permit has not yet started; or within 12 months of the permit expiry date, if the development has lawfully started before the permit expires.

**– End of conditions –**