 VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

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| planning and environment LIST | vcat reference No. P960/2020  Permit Application no. TPA/50794 |

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| **Applicant** | Gerardo Andrade Puertos & Ying Sun |

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| **Responsible Authority** | Monash City Council |

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| SUBJECT LAND | 76 Westerfield Drive  NOTTING HILL VIC 3168 |

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| HEARING TYPE | No Hearing |

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| DATE OF ORDER | 14 April 2021 |

# Orders by consent

1. The hearing scheduled at **10.00 am on 26 April 2021** is vacated. No attendance is required.

### Amend permit application

1. Pursuant to clause 64 of Schedule 1 of the *Victorian Civil and 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: | ArchSign |
| * Drawing numbers: | CV1.0, TP1.0, TP2.0 and TP.30, Job No. 19092 all Rev C, dated March 2021 |
| * Drawing numbers: | DR.10, GA1.0, SH1.0, SH2.0, SH3.0 and Materials Schedule, Job No. 19092 all Rev C, dated November 2019 |
| * Prepared by: | Etched |
| * Drawing numbers: | Landscape Concept Plan – VCAT Issue, dated March 2021 |

### Permit granted

1. In application P960/2020 the decision of the responsible authority is set aside.
2. In planning permit application TPA/50794 a permit is granted and directed to be issued for the land at 76 Westerfield Drive, Notting Hill Vic 3168 in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:

* Construction of two (2) double storey dwellings and variation of the restrictive covenant to allow building materials other than brick or brick veneer and fence material other than brick including increased fence height.

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| Susan Whitney  **Member** |  |  |

# Remarks

1. This order is made at the request of the parties and with their consent.
2. 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.

1. 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*.

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| Susan Whitney  **Member** |  |  |

# Appendix A – Permit Conditions

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| Permit Application No | TPA/50794 |
| Land | 76 Westerfield Drive  NOTTING HILL VIC 3168 |

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| What the permit allowS |
| In accordance with the endorsed plans:   * Construction of two (2) double storey dwellings and variation of the restrictive covenant to allow building materials other than brick or brick veneer and fence material other than brick including increased fence height. |

## Conditions

1. Amended Plans Required

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 CV1.0, TP1.0, TP2.0 and TP.30, prepared by ArchSign, Job No. 19092, Rev C, dated March 2021 and DR1.0, GA1.0, SH1.0, SH2.0, SH3.0 and ‘Materials Schedule’, prepared by ArchSign, Job No. 19092, Rev C, dated November 2019, but modified to show:

* 1. the amendments depicted in TP1.0 and TP2.0, marked ‘Discussion Plans’, Rev C, dated April 2021;
  2. the location of Tree Protection Zones and Tree Protection Fencing as outlined within the Arborist Report prepared by Stem Arboriculture (dated 19 October 2019), including a notation that all recommendations as per the Arborist report are to be carried out to the satisfaction of the Responsible Authority.

1. The development as shown on the endorsed plans must not be altered without the prior 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 show the proposed landscape treatment of the site including:-
   1. the location of all existing trees and other vegetation to be retained on site;
   2. provision of canopy trees with spreading crowns located throughout the site including the major open space areas of the development;
   3. 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; and
   8. the final location and dimensions of the bin enclosure, mailboxes and services in accordance with the endorsed plans.

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, the landscaping works as shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority. Landscaping must then be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.
2. 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.
3. 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:
   1. A trench grate (minimum internal width of 150 mm) located within the property boundary and not the back of footpath; and/or
   2. Shaping the internal driveway so that stormwater is collected in grated pits within the property; and or
   3. Another Council approved equivalent.
4. All stormwater collected on the site 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 drainage works commencing. Further information regarding the design of the on-site detention system is provided in the notes section of this permit.
5. The nominated point of stormwater connection for the site is to the north‑west corner of the property where the entire site's stormwater must be collected and free drained via a pipe to the 375 mm Council drain in the nature strip via a 900 mm x 600 mm junction pit to be constructed to Council standards. Note: If the point of connection cannot be located then notify Council's Engineering Department immediately.
6. All new vehicle crossings must be a minimum of 3.0 metres in width and constructed in accordance with Council standards.
7. All new vehicle crossings are to be no closer than 1.0 metre, measured at the kerb, to the edge of any power pole, drainage or service pit, or other services. Approval from affected service authorities is required as part of the vehicle crossing application process.
8. Any works within the road reserve must ensure the footpath and nature strip are to be reinstated to Council standards.
9. Engineering permits must be obtained for new or altered vehicle crossings and new connections to Council drains and these works are to be inspected by Council's Engineering Department. A refundable security deposit of $1,000 is to be paid prior to the drainage works commencing.
10. 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.
11. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
12. This permit will expire in accordance with section 68 of the *Planning and Environment Act 1987*, if one of the following circumstances applies:
    1. The development has not started before two (2) years from the date of issue.
    2. The development is not completed before four (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 development allowed by the permit has not yet started; or within 12 months of the permit expiry date, where the development has lawfully started before the permit expires.

**– End of conditions –**

# Appendix B – discussion plans (condition 1(a))

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