

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P1708/2022
PERMIT APPLICATION NO. TPA/53927

CATCHWORDS

Removal of three trees; Construction of two attached (side by side) double storey dwellings; Vegetation Protection Overlay; Neighbourhood character and environmental and landscape characteristics; Visual bulk; Opportunities to plant new canopy trees.

APPLICANT	Kaldor Homes Pty Ltd
RESPONSIBLE AUTHORITY	Monash City Council
RESPONDENT	Michael Abel
SUBJECT LAND	1 Zodiac Street BURWOOD VIC 3125
HEARING TYPE	Hearing
DATE OF HEARING	10 July 2023
DATE OF ORDER	1 August 2023
CITATION	Kaldor Homes Pty Ltd v Monash CC [2023] VCAT 890

ORDER

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 including the following landscape concept plans filed with the Tribunal:

Prepared by: Wallbrink Landscape Architecture
Drawing numbers: 2264TP1, 2264TP2 & 2264TP3. All Issue B
Dated: 21/04/23

Permit granted

- 2 In application P1708/2022 the decision of the responsible authority is set aside.
- 3 In planning permit application TPA/53927 a permit is granted and directed to be issued for the land at 1 Zodiac Street, Burwood in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows development of two double storey dwellings and the removal of three trees.



Rachel Naylor
Senior Member

APPEARANCES

For applicant

Mr Richard Umbers, town planning
consultant of Peninsula Planning Consultants
Pty Ltd

He called Mr Mark Reynolds, arborist of
Arbor Survey to give expert evidence.

For responsible authority

Mr David de Giovanni, town planning
consultant

For respondent

Mr Michael Abel



INFORMATION

Land description	<p>The site has a 21.34m frontage, an average depth of 33.53m and a total area of 715.5sqm.</p> <p>The land is generally flat with 0.32m across the site, and there is a 2.44m wide drainage and sewerage easement along the rear boundary.</p> <p>The site contains 21 trees and there are another 7 trees on the immediately surrounding land, including in the nature strip.</p>
Description of proposal	<p>Removal of all vegetation on the site, including three trees that require planning permission to be removed.</p> <p>Construction of two attached double storey dwellings. They each contain open plan living areas, a bedroom, a study, amenities and a double garage at ground level, and three bedrooms, a multi-purpose area and amenities at first floor level. The dwellings have a contemporary appearance with face brickwork, render, vertical boards and colorbond roofing. The maximum building height is 7.4m.</p> <p>A 1.5m high steel picket front fence with automatic gates is also proposed.</p>
Nature of proceeding	<p>Application under section 77 of the <i>Planning and Environment Act 1987</i> – to review the refusal to grant a permit.</p>
Planning scheme	<p>Monash Planning Scheme</p>
Zone and overlays	<p>Neighbourhood Residential Zone Schedule 3 – Creek Environs Area (NRZ3)</p> <p>Vegetation Protection Overlay Schedule 1 – Tree Protection Area (VPO1)</p>
Permit requirements	<p>Clause 32.09-6 Construction of two dwellings on a lot and construction of a front fence in NRZ3</p> <p>Clause 42.02-2 Removal of three trees in VPO1</p>



REASONS¹

Overview

- 1 Kaldor Homes Pty Ltd (**the applicant**) seeks a review of the decision by Monash City Council (**the Council**) to refuse to grant a permit for the removal of three trees and the construction of two dwellings on the land at 1 Zodiac Street, Burwood (**the site**).
- 2 The Council's delegate report recommended that a refusal be issued 'subject to conditions as discussed and justified above' in the report. It appears that the actual grounds of refusal were prepared separately later. Hence, the refusal grounds are somewhat broad and, at times, appear to be somewhat at odds with the detailed analysis contained in the delegate report. The Council's grounds of refusal are:
 - (1). The proposal is inconsistent with the Municipal Strategic Statement Clause 21.01, the Residential Development Policy at Clause 21.04 and Residential Development and Character Policy at Clause 22.01 of the Monash Planning Scheme as it fails to achieve architectural and urban design outcomes that positively contribute to the neighbourhood character having particular regard to the desired future character for the area.
 - (2). The proposal is inconsistent with the Tree Conservation Policy at Clause 22.05 and the Vegetation Protection Overlay at Clause 42.02 with regard to preserving existing trees and other vegetation.
 - (3). The proposal does not adequately satisfy the objectives and design standards of Clause 55 of the Monash Planning Scheme with regard to Standard B1 Neighbourhood Character, B2 Residential Policy, B13 Landscaping, B22 Overlooking and B32 Design Detail.
 - (4). The proposed development would adversely affect the landscape character of the area through the removal of a significant tree at the front of the site.
 - (5). The proposed development will have a detrimental impact on the adjoining properties and the streetscape.
 - (6). The proposed development is considered a poor design outcome for the site.
- 3 Four objections were received to the planning application including from Mr Abel who lives in an adjoining property on the west side of this site. He lodged a statement of grounds in response to the circulation of the substituted landscape concept plans. Mr Abel is concerned about the

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.



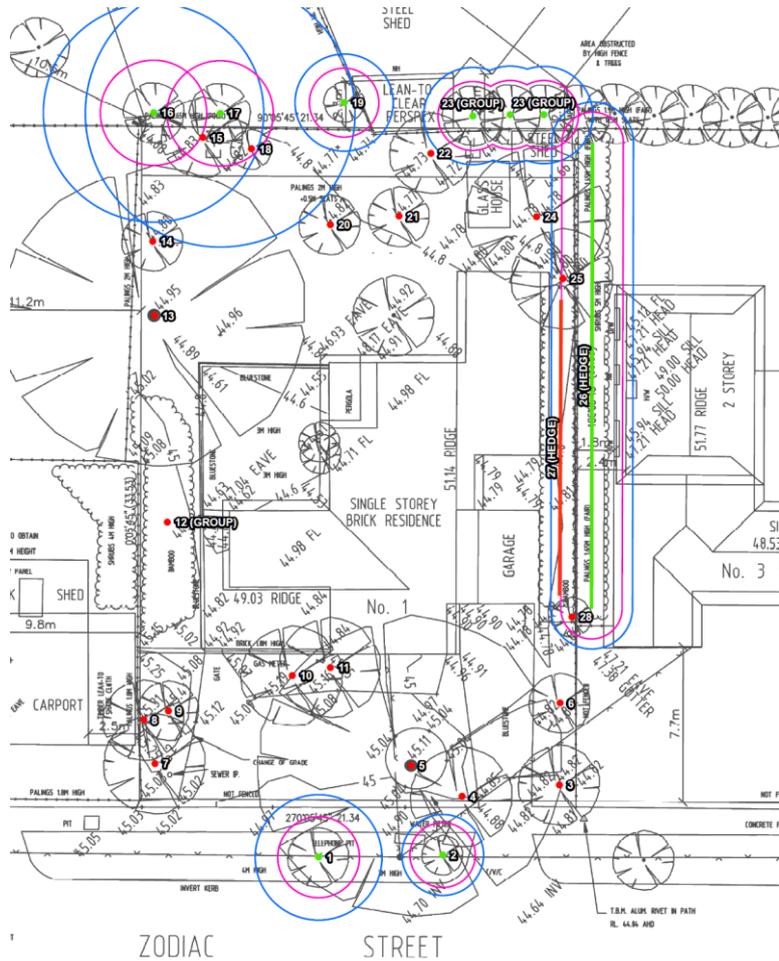
permeability and open space calculations, visual bulk, overlooking, the loss of vegetation and the adequacy of new landscaping opportunities.

- 4 I have considered the relevant legislation, the planning scheme policies and controls relevant to this proposal, the submissions and other material lodged and referred to by the parties and the expert arboricultural evidence presented. I have decided to grant a permit subject to conditions, which include some changes to the design. The key issues that have contributed to the decision I have reached are addressed below, and they are:
- The acceptability of the tree removal;
 - The policy support for increased housing and the type of design response;
 - The amenity impacts, particularly visual bulk and overlooking; and
 - The acceptability of the landscape design.

The acceptability of the tree removal

- 5 The Council's second ground of refusal is 'the proposal is inconsistent with the Tree Conservation Policy at Clause 22.05 and the Vegetation Protection Overlay at Clause 42.02 with regard to preserving existing trees and other vegetation'. However, the Council acknowledges only three of the trees on the site need planning permission to be removed and, of those, the Council is only concerned about the loss of the tree in the front garden. This is reflected in the Council's fourth ground of refusal that 'the proposed development would adversely affect the landscape character of the area through the removal of a significant tree at the front of the site'.
- 6 The three trees that require planning permission under VPO1 to be removed are numbered 5, 13 and 24 in Mr Reynold's expert evidence statement and the location of each tree is shown on the following page. Tree 5 in the front garden is the tree to be removed that the Council is concerned about. The Council has no concern with the removal of the other two trees.
- 7 Tree 24 is in the rear northeast part of the site. It is a *Robinia pseudoacacia* (Black Locust) that is an exotic species. Mr Reynolds considers it is about 12 metres high and 'almost dead' as there are only a couple of branches with a few leaves. He explains there were hardly any leaves in November when the tree should have been in full leaf. Given the condition of the tree and the Council's agreement to its removal, its loss is an acceptable outcome.
- 8 Tree 13 is located adjacent to the rear half of the western side boundary. It is a *Eucalyptus globulus* (Southern blue gum) that is a Victorian native and about 14 metres tall. Mr Reynolds describes it as having decay in the stem and is covered in ivy. He explains it is structurally very poor as there is a fungal fruiting body eating the hard tissue and it cannot be remedied. Whilst this tree may look healthy, Mr Reynolds explains it is likely to fail over time but cannot say when this will occur. Given the condition of the

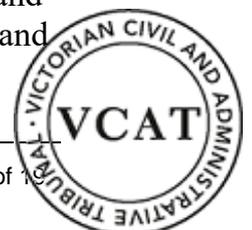
tree and the Council’s agreement to its removal, its loss is an acceptable outcome.



	11.2. TREE LOCATION PLAN	Arbor Survey Ref:	R6199
	Site:	Revision:	-
	1 Zodiac Street BURWOOD	Date Drawn:	
	Client:		
		Legend	Tree Protection Value
			● High
			● None

Extract from Mr Reynold’s tree location plan illustrating the tree numbering

- 9 Tree 5 in the front garden is a *Eucalyptus botryoides* (Southern mahogany) that is a Victorian native and about 16 metres tall. Mr Reynolds explains this species is generally considered to be a forest tree, fast growing and was planted a lot in the 1960s and 1970s. When they mature, they fall apart and often experience broken branches. Mr Reynolds points out that the extent of proposed development encroachment around tree 5 is very similar to the existing encroachment, meaning that for this reason tree 5 could remain. However, Mr Reynolds is supportive of its removal given it has very poor structure and fair to poor health. This is because the tree was significantly lopped in August 2022 because of its close proximity to existing power lines (see the photographs on the following page). The Council submits the remaining portions of the tree are ‘an imposing specimen with a height and canopy that contributes to the broader area’. I am not persuaded of this and find the tree is a paucity of what it once was. Mr Reynolds explains the



central leader (the trunk) has been completely lopped so only lower branches on either side are left. He has also observed decay sections on parts of these remaining lower branches, so Mr Reynolds is of the view in the long term these branches may fail. The Council questioned if these branches could be cabled, but Mr Reynolds points out cables are normally attached to the trunk and as that has been removed there is nothing to support the branch weight.



Tree 5 in January 2019 as shown in Google Streetview



Tree 5

Tree 5 now as shown in Mr Reynolds' expert evidence



Tree 5 and removed branch

Council's photograph of the lopping of tree 5



- 10 The VPO1 decision guidelines include considering the reason for removing or destroying the vegetation and the condition and quality of the vegetation. For the reasons explained above, I accept Mr Reynolds evidence that the condition of all three trees is poor for varying reasons and, whilst tree 5 could be kept, its poor structure and fair to poor health with a likelihood of long term branch failure are, in combination, an acceptable reason for its removal. The VPO decision guidelines include considering whether provision is to be made to establish and maintain vegetation elsewhere on the land. The landscape concept plan includes provision of 12 trees as well as 34 large and medium sized shrubs. This proposed vegetation together with a permit condition requiring additional tree planting at least along the western side boundary (explained later in these reasons) means that provision is being made to establish vegetation elsewhere on the site. For all of these reasons, the proposed tree removal is acceptable.

The policy support for increased housing and the type of design response

- 11 Zodiac Street immediately surrounding this site forms the boundary between the ‘creek environs area’ contained in the NRZ and the ‘garden city suburbs northern area’ contained in the GRZ. The Council highlights that the creek environs area is aligned with the designation of ‘areas with limited development potential’. This does not mean there can be no development, and this does not mean that two attached houses on this site cannot be an acceptable design response. Furthermore, the proposed modern design of two double storey dwellings across the majority of the site’s frontage is an acceptable design response.
- 12 The ‘creek environs area’ is described in the Residential Development and Neighbourhood Character policy as being defined by the spacious garden settings, tall canopy trees and consistent built form. New development is to be designed to complement the established planting patterns and topography. Vegetation is to dominate streetscapes with a lack of front fencing and rear setbacks are to include substantial vegetation including large canopy trees. Having regard to all of this, achieving an acceptable balance of new landscaping with new development on this site is a key design consideration in this case.

The amenity impacts, particularly visual bulk and overlooking

- 13 One of the Council’s refusal grounds includes that the proposed development will have a detrimental impact on the adjoining properties. The delegate report contains two dot points in regard to amenity impacts. The first is that potential overlooking has been addressed with extensive use of obscure glazing which it states is ‘suggestive of an unresponsive design’. I am not persuaded the screening is excessive as the first floor windows needing screening have been limited to bathrooms and the open plan multi-purpose room in each dwelling. The second dot point is that minimal side setbacks are insufficient to enable any meaningful landscape treatment.



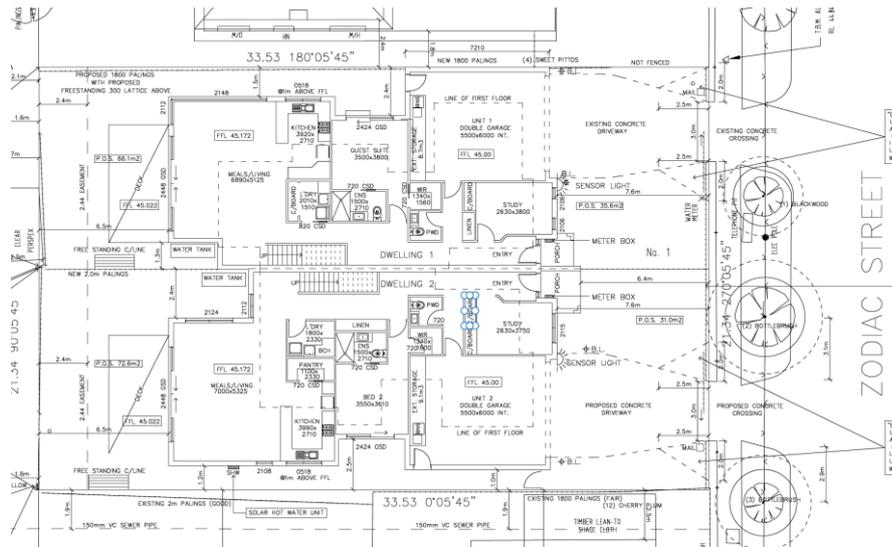
This raises the issue already identified about the need to strike an acceptable balance of new landscaping with the new development.

- 14 Mr Abel's home is designed with a partially elevated ground level indoor/outdoor living area on the northeast side of his property, providing an outlook towards the western side of this site. That means he currently enjoys the canopy and foliage of tree 13 that is to be removed, which is evident in the following photograph provided by Mr Abel.

Aspect from BBQ deck:

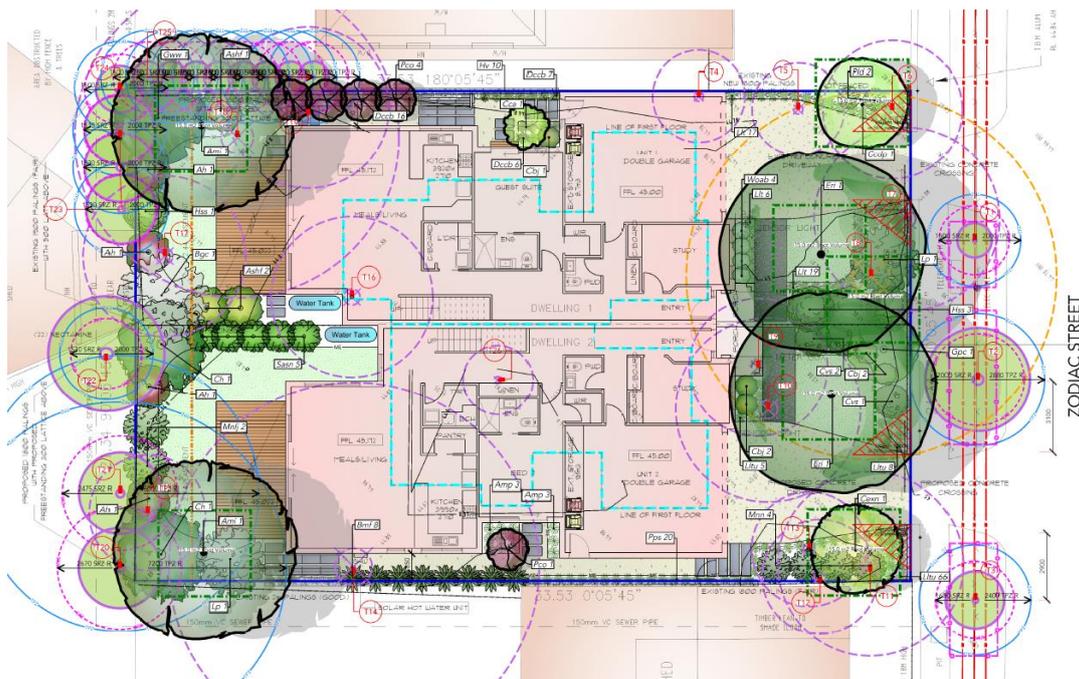


- 15 The proposed siting of unit 2 on the west side of the site has ground floor setbacks of 1.0, 2.5 and 1.2 metres respectively, followed by a minimum setback of 3.1-3.2 metres for the first floor.



Extract from ground floor plan with the west side interface illustrated at the bottom of the image

16 The landscape concept plan illustrates that the limited ground floor setbacks are diminishing the ability to plant any large shrubs or trees along this western interface. One Columnar (fastigate) Black Plum (**Black Plum**) with a mature height and spread of 6-8m x 1.5-2m is the only tree alongside the west side of unit 2. An alternative outcome is achieved along the eastern side interface with four Black Plums proposed where there is a setback of 1.5 metres and a Chinese Redbud with a mature height and spread of 3m x 2m in the larger 2.4 metre setback. Overall, this is not an acceptable design response, particularly given the planning policies and the zone and overlay provisions all seek a balance between landscaping and development in this creek area environs.



Extract of landscape concept plan that includes the extent of landscaping along each side boundary



- 17 NRZ3's neighbourhood character objectives include ensuring that development is defined by its spacious and generous garden settings, tall canopy trees and consistent built form and setbacks. The decision guidelines include considering whether the proposal incorporates a well-considered landscape theme and specifically (amongst other matters) sufficient and well located open space areas that provide for large trees within the front, side and rear setbacks and open space areas. Varied standard B13 seeks one canopy tree plus one canopy tree per 5 metres of the side width with a minimum mature height equal to the proposed roof height of the development. The landscape concept plan includes a few tree species but only four of those proposed reach the minimum mature height of the proposed roof height, which is less than that sought by varied standard B13.
- 18 The two proposed dwellings are generous in terms of the accommodation they provide as each contains an open plan living area, a study, a guest bedroom, ensuite, powder room, laundry and a double garage on the ground floor with a further three bedrooms and another open plan living area at first floor level. Mr Umbers explained that each dwelling has been designed to meet the desires of the future owner/occupier which is why each dwelling is slightly different in ground floor shape. The desires of the future residents are not a design consideration to be given any weight in deciding whether or not to grant a planning permit. As already explained, the planning policies and relevant planning controls and their objectives, standards and decision guidelines are what must be given weight and balanced in favour of net community benefit and sustainable development when deciding whether a planning permit should be issued.

The acceptability of the landscape design

- 19 The Council is concerned that the removal of all vegetation from the site will leave a notable hole in the landscape of the neighbourhood. The Council also considers some of the proposed areas for the planting of trees are constrained, meaning that those trees will only reach the lower end of the nominated heights and spreads at best. For the reasons outlined in the previous section, I am not persuaded that the ground floor footprint particularly along the side boundaries and more particularly on the west side, and the selection of tree species provides an acceptable design response to the aspirations for future development in this neighbourhood.
- 20 The neighbourhood character and particularly both sides of Zodiac Street do contribute to landscaping around properties to varying degrees (including within side boundaries), so the landscaping is not just traditionally found at the front and rear. This existing character together with the planning policies and controls highlight the need for a design outcome where more landscaping needs to be achieved on this site. Mr Umbers offered during the hearing that if Mr Abel's concerns were lodged earlier in this proceeding, the design could have been modified to increase



the west side setback. I note the ground floor plan of each dwelling chooses to create a service area containing a water tank at the rear adjacent to the proposed common boundary between the two dwellings. By doing so, each dwelling is pushed closer to the east and west side boundaries. This should be reconsidered. The ground floor plan of each dwelling should be modified to achieve the following:

- a A minimum setback from the west side boundary of at least 1.5 metres (excluding adjacent to the garage);
 - b A reduction or the removal of the service areas containing the water tanks with setbacks of 1.3 metres for unit 1 and 2.4 metres for unit 2 so that the setback from each side boundary can be further increased and the opportunities for tree plantings along the side boundaries can be further increased;
 - c West side boundary landscaping to be at least similar to what is proposed on the east side boundary and if possible include further or modified landscaping that is increased in mature height and spread to what is contained in the landscape concept plan; and
 - d No other changes are to be made to the rear setback and any changes to the internal layout must be absorbed into the building footprint as otherwise shown.
- 21 It is not required by the planning scheme that there be no visibility of unit 2 from Mr Abel's property but rather that there is acceptable level of setbacks, articulation and landscaping in the proposed design. Subject to a combination of an increased ground floor side setback and additional landscaping, the visibility of the proposed new building (unit 2) from Mr Abel's property is acceptable design response.
- 22 Mr Abel raised concern during the hearing about the permeability created through the proposed development given his experience of a sodden property for much of the year between March and November. He explains that this is due to very little natural drainage because of the sodden earth on a clay base. Part of Mr Abel's concern is related to the extent of paving including along the western side boundary, with a question about the extent of its permeability. He also questioned the accuracy of the open space calculations shown in the amended plans. The error in the open space area nominated was acknowledged by the applicant and the extent of permeable area is also nominated in the plans. The proposal demonstrates it meets the minimum requirements specified in the planning scheme for permeability, and I have required modifications to the side setbacks and landscaping provision. Hence these concerns are not a reason to refuse this proposal.
- 23 The final aspect of the design that I wish to make findings about is the front fence. NRZ3 suggests a front fence should not exceed 0.6 metres and the proposal is to construct a 1.5 metre high steel picket fence with automatic gates. The applicant submits most fences in Zodiac Street exceed 0.6



metres with nearby tall timber paling fences as well. I am not persuaded that these paling fences should be determinative as they are associated with properties located on street corners where it is reasonable for there to be some higher solid fencing to enclose the back gardens. I agree with the Council's submission that much of Zodiac Street has no front fencing or side fencing within the front setbacks. This creates a very open landscaped setting where front gardens blend into one another. Given the existing character of the immediately surrounding properties is no front fencing, this is the preferable design outcome so I will require the front fencing and any fencing within the front setback to be removed.

Draft permit conditions

- 24 The Council's draft permit conditions were discussed during the hearing including those proposing to address the fact that this site is in a buffer area of a former landfill. The Council points out the conditions about this have been imposed before in other permits including those issued at the direction of the tribunal. As the applicant does not oppose them albeit there was some discussion about the necessity or appropriateness of a peer review, I have included them in this decision.

Conclusion

- 25 For these reasons, the decision of the Responsible Authority is set aside. A permit is issued subject to conditions.

Rachel Naylor
Senior Member



APPENDIX A – PERMIT CONDITIONS

PERMIT APPLICATION NO:	TPA/53927
LAND:	1 Zodiac Street BURWOOD VIC 3125

WHAT THE PERMIT ALLOWS

Development of two double storey dwellings and the removal of three trees in accordance with the endorsed plans.

CONDITIONS:

Amended Plans Required

- 1 Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale and dimensioned. When the plans are endorsed, they will then form part of the Permit. The must be generally in accordance with plans prepared by Phillip Harvey and Associates, dated 25 May 2022, but modified to show:
 - (a) A minimum setback from the west side boundary of at least 1.5 metres (excluding adjacent to the garage); a reduction or the removal of the service areas containing the water tanks with setbacks of 1.3 metres for unit 1 and 2.4 metres for unit 2 so that the setback from each side boundary can be further increased and the opportunities for tree plantings along the side boundaries can be further increased; no other changes to the rear setbacks of either unit; and any changes to the internal layout of each unit must be absorbed into the building footprint as otherwise shown.
 - (b) The street tree nearest to the existing crossing, numbered Tree 2 on plans, labelled the correct specie.
 - (c) Any new or widened crossing to achieve a minimum distance of 2.6 metres from Tree 2 (Callistemon/bottlebrush) measured from the edge of the base to the nearest splay corner.
 - (d) The front porches, including its parapet walls to be no higher than 3.6 metres and indicated on the south elevation plan.
 - (e) Any pedestrian walkway from the front porches to the site frontage deleted and access taken direct from the driveways.
 - (f) Deletion of the front fencing and automatic gates and any front dividing fence within the front setback of the dwellings (if applicable).



- (g) The rear decks reduced, if necessary, to allow for canopy trees to be planted within the private open space.
- (h) The provision of six (6) native and indigenous canopy trees having a minimum mature height equal to the height of the roof.
- (i) All site services including a minimum six (6) cubic metres of storage for each dwelling.

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.

Landscape plan

- 3 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. The Landscape Plan must be generally in accordance with the Wallbrink Landscape Architecture landscape concept plans, drawing numbers 2264TP1, 2264TP2 & 2264TP3, all Issue B dated 21/04/23 and must show:
 - (a) A survey and location of all existing trees, using botanical names to be retained and of those to be removed. The intended status of the trees shown on the landscape plan must be consistent with that depicted on the development layout plan;
 - (b) A planting schedule of all proposed trees, shrubs and ground cover, which will include the size of all plants (at planting and at maturity), pot / planting size, location, botanical names and quantities;
 - (c) A minimum of six (6) native and indigenous canopy trees (minimum 1.5 metres tall when planted and include existing trees retained of the require height). The canopy trees must have a minimum height at least equal to the maximum height of the new development and must have a spreading crown with a minimum width of 4 metres at maturity, or as otherwise agreed by the Responsible Authority;
 - (d) West side boundary landscaping to be at least similar to what is proposed on the east side boundary and if possible include further or modified landscaping that is increased in mature height and spread to what is contained in the landscape concept plan;
 - (e) A notation requiring all Tree Protection Measures contained within the recommendations of the Arboricultural report prepared by Arbor Survey dated 1 June 2023 to be carried out to the satisfaction of the Responsible Authority.
 - (f) The location of any boundary and internal fencing to the site;



- (g) Provision of canopy trees with spreading crowns located throughout the site including the major open space areas of the development;
- (h) Canopy Trees / Significant Planting on adjoining properties within 3 metres of the site;
- (i) The location of any retaining walls associated with the landscape treatment of the site;
- (j) Details of all proposed surface finishes including pathways, accessways, patio or decked areas;

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

Tree Removal

- 4 Trees 5, 13 and 24 as shown in the Arbor Survey expert evidence statement prepared by Mark Reynolds dated 1 June 2023 are permitted to be removed after plans have been endorsed in accordance with conditions 1 and 3 of this permit to the satisfaction of the Responsible Authority.

Tree Protection

- 5 Before any development (including demolition) starts on the land, a tree protection fence must be erected around all trees that are to be retained on-site, or are located within or adjacent to any works area (including trees on adjacent land). The tree protection fence must remain in place until all construction is completed on the land, except with the prior written consent of the Responsible Authority.
- 6 No building material, demolition material, excavation or earthworks shall be stored or stockpiled within the Tree Protection Zone (TPZ) of any tree to be retained during the demolition, excavation and construction period of the development hereby permitted without the prior written consent of the Responsible Authority.

Landscaping Prior to Occupation

- 7 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.

Landfill Gas Assessment

- 8 Prior to the commencement of the development authorised under this permit (excluding works reasonably required to conduct the landfill gas assessment), the permit holder must to the satisfaction of the Responsible Authority:
 - (a) Engage an appropriately qualified site assessor with demonstrated experience in the assessment of landfill gas in the subsurface



environment, to conduct an assessment of any methane within the land, subsurface services and buildings and structures on the land adopting the methane gas action levels prescribed at items 6 and 7 of schedule 3 of the Environment Protection Regulations 2021 (Vic) as set out below.

Item	Location for assessing methane gas concentration action levels	Methane gas concentration action level
6	Subsurface services on, and adjacent to, the waste	10,000 parts per million
7	Buildings and structures on, and adjacent to, the waste	5000 parts per million

- (b) Ensure that the site assessor prepares a report to be submitted to the Responsible Authority. The landfill gas risk assessment (LGRA) should be based on guidance prepared by the Environment Protection Authority from time to time and / or made under the Environment Protection Act 2017 (Vic) and subordinate legislation. As at the issue date of this permit, such ‘guidance’ includes EPA Publication 788.3 (Landfill Best Practice Environmental Management or Landfill BPEM) and EPA Publication 1684 (Landfill gas fugitive emissions monitoring guideline).
- (c) If the landfill gas assessment identifies methane at concentrations exceeding the methane gas concentration EPA action levels, the permit holder must engage the services of an EPA-appointed environmental auditor to complete an environmental audit with a scope limited to:
- i assessment of the nature and extent of the risk of harm to human health from waste;
 - ii recommending measures to manage the risk of harm to human health from waste;
 - iii making recommendations to manage any waste, where the landfill extends onto or beneath the land.
- (d) The permit holder must provide the Responsible Authority with a scope and supporting documents endorsed or determined by the Environment Protection Authority pursuant to section 208(5) of the Environment Protection Act 2017 (Vic) and a copy of the environmental audit statement and environmental audit report issued pursuant to sections 210(1) of the Environment Protection Act 2017 (Vic).



Peer Review

- 9 Prior to the commencement of the development authorised under this permit, the permit holder must:
- (a) provide to Council a copy of the LGRA undertaken in accordance with condition 1 within 14 days of receiving the LGRA;
 - (b) pay Council's costs and expenses associated with a Council-arranged peer review of the LGRA. The peer review will be undertaken by an independent and suitably qualified environmental consultant nominated by Council; and
 - (c) obtain a copy of the peer review obtained by Council.

The recommendations of the LGRA including any requirements arising from the peer review are to be implemented by the permit holder.

Drainage

- 10 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.
- 11 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.
- 12 The site must be drained to the satisfaction of the Responsible Authority.
- 13 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.
- 14 The full cost of reinstatement of any Council assets damaged as a result of demolition, building or construction works, must be met by the permit applicant or any other person responsible for such damage, to the satisfaction of the Responsible Authority.

Vehicle Crossovers

- 15 Any works within the road reserve must ensure the footpath and naturestrip are to be reinstated to Council standards.
- 16 Provide a corner splay or area at least 50% clear of visual obstructions (or with a height of less than 1.2 metres), which may include adjacent landscaping areas with a height of less than 0.9 metres, extending at least 2.0 metres long x 2.5 metres deep (within the property) both sides or from the edge of the exit lane of each vehicle crossing to provide a clear view of pedestrians on the footpath of the frontage road.

Urban Design

- 17 The walls on the boundary of adjoining properties shall be cleaned and finished in a manner to the satisfaction of the Responsible Authority.



Satisfactory Continuation and Completion

- 18 Once the development has started it must be continued, completed and maintained to the satisfaction of the Responsible Authority.

Permit Expiry

- 19 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 -

