

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P270/2023
PERMIT APPLICATION NO. TPA/53564

APPLICANT	New Moon Investments Pty Ltd
RESPONSIBLE AUTHORITY	Monash City Council
REFERRAL AUTHORITY	Head, Transport for Victoria
SUBJECT LAND	523 Springvale Road GLEN WAVERLEY VIC 3150
DATE OF ORDER	4 July 2023

ORDER

Permit granted

- 1 In application P270/2023 the decision of the responsible authority is set aside.
- 2 In planning permit application TPA/53564 a permit is granted and directed to be issued for the land at 523 Springvale Road, Glen Waverley in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:
 - Use and development of a Childcare centre on the land in a double storey building with basement carparking for a maximum of 93 children.

Costs

- 3 No order as to costs.

Vacate

- 4 The hearing scheduled at **20 and 21 July 2023** is vacated. No attendance is required.

Peter Gaschk
Member



REMARKS

- 1 Pursuant to section 93(1) of the *Victorian Civil and Administrative Tribunal Act 1998*, 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:
 - a the responsible authority is of the opinion that the permit or amended permit is appropriate having regard to the matters it is required to consider under section 60 of the *Planning and Environment Act 1987* (**the Planning 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 Planning Act;
 - b the proposed orders will not result in any change to the proposed use or development which would materially affect any person other than the parties to the proceeding.
- 3 Based on the information available to the Tribunal, including the Memorandum of Advice (dated 6 June 2023) provided to the Tribunal on the applicability of Restrictive Covenant C674687, as submitted with the Minutes of the Proposed Consent Order, I consider it is appropriate to make these orders.
- 4 I have also undertaken some minor edits and formatting of the agreed conditions that do not change their intent or purpose.

Peter Gaschk
Member



APPENDIX A – PERMIT CONDITIONS

PERMIT APPLICATION NO	TPA/53564
LAND	523 Springvale Road GLEN WAVERLEY VIC 3150

WHAT THE PERMIT ALLOWS

In accordance with the endorsed plans:

- Use and development of a Childcare centre on the land in a double storey building with basement carparking for a maximum of 93 children.

CONDITIONS

- 1 Before the development starts, plans drawn to scale and dimensioned must be submitted to and approved by the responsible authority. 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 TP 100 Rev B, TP 101 Rev B, TP 102 Rev B, TP 110 Rev B, TP 200 Rev B, TP 201 Rev B, TP 300 Rev B, TP 301 Rev B, TP 310 Rev B, TP 400 Rev B, TP 401 Rev B, TP 402 Rev B prepared by The Ellis Group Architects dated 19/5/2023 but modified to show:
 - (a) The changes in TP 100 Rev P2, TP 101 Rev P3 and TP 102 Rev P2 dated 31/5/2023.
 - (b) Details of outdoor area surface treatments within the ground level children's play areas and provision of a minimum of 20% of the area to be permeable surfaces.
 - (c) Detail of all materials and finishes.
 - (d) A corner splay or area at least 50 per cent clear of visual obstructions extending at least 2.0 metres along the frontage road from the edge of an exit lane and 2.5 metres along the exit lane from the frontage, to provide a clear view of pedestrians on the footpath of the frontage road. The area clear of visual obstructions may include an adjacent entry or exit lane where more than one lane is provided, or adjacent landscaped areas, provided the landscaping in those areas is less than 900mm in height.
 - (e) Details of external lighting installed to provide safe entry and exit for occupants and visitors of the building.



- (f) The location of any substation required by the power company for this development. Any substation must be incorporated within the building (i.e. not free standing or pole mounted in the street) to ensure minimal impact on the visual amenity of the public realm.
- (g) The location of any air-conditioning or cooling units, condensers and the like located on roofs, external walls or on balconies.
- (h) Any required fire services, electricity supply, gas, and water meter boxes to be discreetly located and/or screened to compliment the development. Any required services must be clearly detailed.
- (i) Details of basement and bin storage ventilation (design, location, and noise levels) ensuring any external flues are designed and integrated into the building design.
- (j) An updated Waste Management Plan to include as appropriate:
 - a. Amenity (screening, odour, and noise)
 - b. Cleaning / washing
 - c. Drainage to sewer
 - d. Accessibility
 - e. Bin manoeuvrability
 - f. All waste streams
- (k) A Landscape Plan in accordance with condition 4 of this permit.
- (l) A Sustainable Management Plan in accordance with condition 3 of this permit.

All to the satisfaction of the responsible authority.

No alteration or changes

- 2 The development as shown on the endorsed plans must not be altered without the prior written consent of the responsible authority.

Sustainable Management Plan

- 3 Concurrent with the endorsement of plans requested pursuant to Condition 1, a Sustainable Management Plan must be submitted to and approved by the responsible authority. The plan must be generally in accordance with the Sustainability Management Plan prepared by Frater dated 15/12/2021, except that the plan must be modified to show:

- (a) Any changes required by Condition 1 of this planning permit.

Upon approval the Sustainable Management Plan (SMP) will be endorsed as part of the permit and the development must incorporate the sustainable design initiatives outlined in the SMP to the satisfaction of the responsible authority.



Landscaping

- 4 Before the commencement of buildings and works, 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:
- (a) a creeper to be planted on the basement ramp edge within the front setback;
 - (b) 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;
 - (c) 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;
 - (d) a minimum of five (5) canopy trees (minimum 1.5 metres tall when planted) in the following areas (specify location). The trees must be native species and have a minimum height of 8-10 metres and must have a spreading crown with a minimum width of 4 metres at maturity, or as otherwise agreed by the responsible authority;
 - (e) planting to soften the appearance of hard surface areas such as driveways and other paved areas;
 - (f) the location and details of all fencing;
 - (g) the location of any retaining walls associated with the landscape treatment of the site;
 - (h) the extent of any cut, fill, embankments or retaining walls associated with the landscape treatment of the site;
 - (i) details of all proposed hard surface materials including pathways, patio, or decked areas;
 - (j) an in-ground, automatic watering system linked to rainwater tanks on the land must be installed and maintained to the common garden areas to the satisfaction of the responsible authority; and
 - (k) The location of external lighting (if any).

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

Landscaping maintenance

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



Tree protection

- 6 Before any development (including demolition) starts on the land, a tree protection fence must be erected around all trees that are to be retained 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.
- 7 No building material, demolition material or earthworks shall be stored or stockpiled under the canopy line of any tree to be retained during the construction period of the development hereby permitted.
- 8 All existing vegetation shown on the endorsed plans must be suitably marked before any development starts on the site and that vegetation must not be removed, destroyed, or lopped without the written consent of the responsible authority.

Landscaping prior to occupation

- 9 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.

Number of children

- 10 No more than 93 children in care may be present on the subject land without the further written consent of the responsible authority.

Hours of operation

- 11 The use allowed by this permit may operate only during the following hours, except with the prior written consent of the responsible authority:
 - Monday to Friday (except Public Holidays) - 6.30 am to 6.30 pm
 - Saturday - 8 am to 1pm
 - Sunday and Public Holidays - Childcare centre to be closed

Noise

- 12 The development and use of the site shall not cause nuisance or be detrimental to the amenity of the neighbourhood by the emission of noise to the satisfaction of the responsible authority. In this regard any nuisance shall be assessed in accordance with the Australian Standards AS1055 and AS2107 relating to the measurement of Environmental Noise and recommended sound levels.

Amenity of area

- 13 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; and
- (d) presence of vermin.

To the satisfaction of the responsible authority.

Plant/equipment on roof

- 14 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.

Location of equipment

- 15 Motors for equipment and air-conditioning/heating units to be located to limit noise nuisance created to neighbours or insulated/sound proofed in accordance with any applicable EPA legislation.
- 16 All external plant and equipment must be acoustically treated or placed in soundproof housing to reduce noise to a level satisfactory to the responsible authority.

No PA system

- 17 No form of public address system may be installed to be audible from outside the building / site.

Parking on nearby roads

- 18 Vehicles under the control of the operator of the use or the operator's staff must not be parked on the nearby roads.

Loading and unloading

- 19 All loading and unloading of vehicles must be carried out within the boundaries of the land/ designated loading bay and must be conducted in a manner that does not cause any interference with the circulation and parking of vehicles on the land, to the satisfaction of the responsible authority.

Waste management plan

- 20 Concurrent with the endorsement of plans required pursuant to Condition 1, a Waste Management Plan must be submitted and approved by the responsible authority. The plan must provide details of a regular private/ Council waste (including recyclables) collection service for the subject land



and be prepared in accordance with the Multi-Unit and Commercial Developments Waste Management Plan Guide for Applicants.

The plan must include the following:

- (a) The method and location of collection of all waste from the land;
- (b) Waste volume calculation and total waste generated per waste stream;
- (c) Frequency of Waste collection and permitted collection times;
- (d) 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 (not required if Council collection); and
- (g) Details of who will be responsible for taking out and returning bins to kerb (if collection is proposed from street).

Acoustic report

21 Before the use and/or development commences, an amended Acoustic Report to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the amended Acoustic Report will be endorsed and will form part of this permit. The amended Acoustic Report must be generally in accordance with the Acoustic Report prepared by Renzo Tonin dated 24 November 2021, but modified to include:

- (a) Any alterations specified in condition 1 of the permit.

Acoustic fencing

22 Before the use starts, an acoustic fence must be erected along the western boundary and 100mm from the southern boundary of the site as shown on TP 101 Rev P3 to a minimum height of 2.0 metres above natural ground level. The design of the fence must be prepared in consultation with a suitably qualified acoustic engineer. The details of the design and acoustic qualities of the fence must be to the satisfaction of the responsible authority.

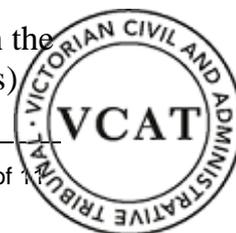
Construction management plan

23 Prior to the commencement of any site works (including any demolition and excavation), a Construction Management Plan (CMP) must be submitted and approved by the responsible authority. No works are permitted to occur until the CMP has been endorsed by the responsible authority. Once endorsed, the CMP will form part of the permit and must be implemented to



the satisfaction of the responsible authority. The CMP must address the following issues:

- (a) Appropriate measures to control noise, dust and water and sediment laden runoff;
- (b) Appropriate measures for the prevention of silt or other pollutants from entering the Council's underground drainage system or road network;
- (c) Appropriate measures relating to removal of hazardous or dangerous material from the site, where applicable;
- (d) A plan showing the location and design of a vehicle wash-down bay for construction vehicles on the site to prevent material leaving the site and being deposited on Council's road network;
- (e) A program for the cleaning and maintaining surrounding road surfaces;
- (f) A site plan showing the location of any site sheds, on-site amenities, building waste storage and the like, noting that Council does not support the siting of site sheds within Council Road reserves;
- (g) Measures to provide for public safety and site security;
- (h) A plan showing the location of parking areas for construction and sub-contractors' vehicles on and surrounding the site, to ensure that vehicles associated with construction activity cause minimum disruption to surrounding premises. Any basement car park on the land must be made available for use by subconstructors/tradespersons upon completion of such areas, without delay;
- (i) A Traffic Management Plan showing truck routes to and from the site;
- (j) A swept path analysis demonstrating the ability for trucks to enter and exit the site in a safe manner for the largest anticipated truck associated with the construction;
- (k) Appropriate measures to ensure that sub-contractors/tradespersons operating on the site are aware of and adhere to the requirements of the CMP;
- (l) The provision of contact details of key construction site staff; and
- (m) Include a requirement that except with the prior written consent of the responsible authority, a requirement that demolition, excavation or construction works must only be carried out during the following hours:
 - Monday to Friday (inclusive) - 7.00am to 6.00pm
 - Saturday - 9.00am to 1.00pm;
 - Saturday - 1.00pm to 5.00pm (Only activities associated with the erection of buildings that does not exceed the EPA guidelines)



- No works are permitted on Sundays or Public Holidays.

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

Drainage

- 24 The site must be drained to the satisfaction of the responsible authority.
- 25 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.
- 26 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.
- 27 A plan detailing the drainage works must be submitted to the Engineering Division prior to the commencement of works. The plans are to show sufficient information to determine that the drainage works will meet all drainage requirements of this permit.
- 28 The full cost of reinstatement of any Council assets damaged because 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.

Department of Transport

- 29 Prior to the occupation of the development hereby approved, the disused/redundant vehicle crossing on Springvale Road must be removed, and the area reinstated to kerb and channel, to the satisfaction of the responsible authority and at no cost to the Head, Transport for Victoria.

Road infrastructure

- 30 Approval of each proposed crossing, and a permit for installation or modification of any vehicle crossing is required from Council's Engineering Department.
- 31 The proposed crossing is to be constructed in accordance with the City of Monash standards.
- 32 All new crossings must be a minimum of 3.0 metres in width.
- 33 The existing redundant crossing is to be removed and replaced with kerb and channel. The footpath and naturestrip are to be reinstated to the satisfaction of Council.



Permits

- 34 Engineering permits must be obtained for new or altered vehicle crossings and new connections to kerb and channel and these works are to be inspected by Council's Engineering Department. A refundable security deposit of \$1,500 is to be paid prior to the drainage works commencing.

Completion of building and works

- 35 Once the development has started it must be continued and completed to the satisfaction of the responsible authority.

Permit expiry

- 36 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 has not started before 2 years from the date of issue.
- The development is not completed before 4 years from the date of issue.
- The use is not started 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:

- i within six (6) months afterwards if the use or the development has not commenced; or
- ii within twelve (12) months afterwards if the development has not been completed.

Council and the Victorian Civil and Administrative Tribunal are unable to approve requests outside of the relevant time frame

– End of conditions –

