

# VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

## PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P1/2024  
PERMIT APPLICATION NO. TPA/54175

**APPLICANT** Kai Qin  
**RESPONSIBLE AUTHORITY** Monash City Council  
**RESPONDENT** Carter Grange Homes Pty Ltd  
**SUBJECT LAND** 7 Maroo Street  
HUGHESDALE VIC 3166  
**DATE OF ORDER** 14 August 2024

### ORDER

- 1 The hearing scheduled at **10.00 am on 23 August 2024** is vacated. No attendance is required.
- 2 In application P1/2024 the decision of the responsible authority is varied.
- 3 In planning application TPA/54175 a permit is granted and directed to be issued for the land at 7 Maroo Street, Hughesdale Vic 3166 in accordance with the endorsed plans and conditions set out in Appendix A. The permit allows:
  - Construction of two (2) double storey dwellings
- 4 No order as to costs.

Jane Tait  
**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 is appropriate having regard to the matters it is required to consider under section 60 of the Act, including the balanced application of the strategies and policies of the relevant planning scheme and is otherwise in conformity with the provisions of the planning scheme and the *Planning and Environment Act 1987*;
  - 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, I consider it is appropriate to make these orders.

Jane Tait  
**Member**



## APPENDIX A – PERMIT CONDITIONS

<b>PERMIT APPLICATION NO</b>	TPA/54175
<b>LAND</b>	7 Maroo Street HUGHESDALE VIC 3166

### WHAT THE PERMIT ALLOWS

In accordance with the endorsed plans:

- Construction of two (2) double storey dwellings

### CONDITIONS

- 1 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 the plans submitted to Council prepared by Roke Design Studios, dated 19 September 2023, but modified to show:
  - (a) The front porch height for dwelling 1 should be no greater than 3.6 metres and shown on both south and west elevation plans;
  - (b) A notation that no widening of the existing crossings along Maroo Street and Fellows Street is to occur due to their close proximity to Street Trees;
  - (c) The extent of development encroachment into the Tree Protection Zone of any Street Trees must be indicated on the ground floor plan and be no greater than 10%;
  - (d) The ground floor plan annotated for all recommendations contained within the Arboricultural report, prepared by TMC Reports, dated 13 December 2022 to be carried out to the satisfaction of the Responsible Authority;
  - (e) Details of fencing to enclose the secluded private open space of dwelling 1 indicated on the ground floor plan to correspond with the east elevation plan;
  - (f) The maximum extent of excavation, including any cut and fill and heights of retaining wall to be shown on the ground floor plans and all elevation plans;
  - (g) The maximum height of the dwellings built above natural floor levels to be indicated on the west elevation plan and north elevation plan, demonstrating compliance with Standard B22 – Overlooking;



- (h) The proposed storage area for Dwelling 1, meeting the minimum requirement of 6 cubic metres;
  - (i) The storage areas for both dwellings dimensioned to meet Standard B30 (storage);
  - (j) The maximum wall height for the garage of Dwelling 2 indicated on the north elevation plan to comply with Standard B18;
  - (k) The decking associated with Dwelling 2 to be shown on the western elevation plan.
  - (l) The pergola associated with Dwelling 1 to be clearly shown on all relevant elevation plans, and clarification if the pergola is to be roofed or open.
  - (m) The steps to the rear of the garage to Dwelling 2 to be shown on elevation plans.
  - (n) The location and design of any proposed electricity supply meter boxes. The electricity supply meter boxes must be located at or behind the setback alignment of buildings on the site, or in compliance with Council's "Guide to Electricity Supply Meter Boxes in Monash";
  - (o) A corner splay or area at least 50 per cent clear of visual obstructions extending at least 2 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 (where practicable). 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;
  - (p) The water gum tree proposed within the secluded private open space of Dwelling 2 to be replaced with a Japanese Maple to be located 3.0 metres from the northern boundary and 2.0 metres from the western boundary;
  - (q) The row of Lilly Pilli proposed along the northern and western boundary of Dwelling 2 replaced with Japanese Box;
  - (r) All clothesline annotated as freestanding;
  - (s) A Tree Management Plan in accordance with condition 6 of this Permit;
  - (t) A Landscape Plan in accordance with condition 4 of this Permit.
- all to the satisfaction of the Responsible Authority.

## **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.



## **COMPLIANCE WITH DOCUMENTS APPROVED UNDER THIS PERMIT**

- 3 At all times what the permit allows must be carried out in accordance with the requirements of any document approved under this permit to the satisfaction of the responsible authority.

## **LANDSCAPE PLAN**

- 4 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. When endorsed, the plan will form part of the Permit. The Landscape Plan must be generally in accordance with the Landscape Concept Plan prepared by Zenith Concepts Pty Ltd, dated 9 August 2022 except that the plan must be modified to show:
- (a) A minimum of five (5) canopy trees (minimum 1.5 metres tall when planted) in the following areas – within the front setback and the secluded private open spaces of the dwellings. The canopy trees must have a minimum height of 7 metres and must have a spreading crown with a minimum width of 4 metres at maturity, or as otherwise agreed by the Responsible Authority;
  - (b) The water gum tree proposed within the secluded private open space of Dwelling 2 to be replaced with a Japanese Maple;
  - (c) The row of Lilly Pilli proposed along the northern and western boundary of Dwelling 2 replaced with a Japanese Box; and
  - (d) Any other changes as required by Condition 1 of this Permit.

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

- 5 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.

## **TREE MANAGEMENT PLAN**

- 6 Concurrent with the submission of amended plans required by Condition 1 and prior to any demolition or site works, a Tree Management Plan (TMP) must be submitted to and approved by the Responsible Authority. The TMP must be prepared by a suitably qualified and experienced Arborist and must set out recommendations and requirements in relation to the management and maintenance of Street Tree Nos. 1, 2, 3, and 4 (as identified in the Arborist Report submitted with the application, prepared by TMC Reports, dated 13 December 2022).

The TMP must be approved by the Responsible Authority prior to the commencement of any works, including demolition and/or levelling of the



site. The TMP must make specific recommendations in accordance with the Australian Standard AS4970: 2009 - Protection of Trees on Development Sites and detail the following to the satisfaction of the Responsible Authority ensuring the trees to be retained remain healthy and viable during construction:

- (a) A Tree Protection Plan drawn to scale that shows:
  - i Tree protection zones and structural root zones of all trees to be retained.
  - ii All tree protection fenced off areas and areas where ground protection systems will be used;
  - iii The type of footings within any tree protection zones;
  - iv Any services to be located within the tree protection zone and a notation
  - v Stating all services will either be located outside of the tree protection zone, bored under the tree protection zone, or installed using hydro excavation under the supervision of the Project Arborist; and
  - vi A notation to refer to the Tree Management Plan for specific detail on what actions are required within the tree protection zones.
- (b) Details of how the root system of any tree to be retained will be managed. This must detail any initial non-destructive trenching and pruning of any roots required to be undertaken by the Project Arborist.
- (c) Supervision timetable and certification of tree management activities required by the Project Arborist to the satisfaction of the responsible authority; and
- (d) Any remedial pruning works required to be performed on tree canopies located within subject site. The pruning comments must reference Australian Standards 4373:2007, Pruning of Amenity Trees and a detailed photographic diagram specifying what pruning will occur.

The recommendations contained in the approved tree management plan must be implemented to the satisfaction of the Responsible Authority.

## **TREE PROTECTION**

- 7 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.



- 8 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**

- 9 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.

### **DRAINAGE & STORMWATER**

- 10 The site must be drained to the satisfaction of the Responsible Authority. Stormwater must be directed to the Point of Connection as detailed in the Legal Point of Discharge report. Stormwater must not be allowed to flow into adjoining properties including the road reserve.
- 11 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.
- 12 Stormwater 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 any stormwater drainage works commencing.
- 13 A plan detailing the stormwater drainage and civil works must be submitted to and approved by the Engineering Department prior to the commencement of any works. The plans are to show sufficient information to determine that the drainage and civil works will meet all drainage requirements of this permit. Refer to Engineering Plan Checking on [www.monash.vic.gov.au](http://www.monash.vic.gov.au).

### **VEHICLE CROSSOVERS**

- 14 All disused or redundant vehicle crossovers must be removed and the area reinstated with footpath, naturestrip, kerb and channel to the satisfaction of the Responsible Authority.
- 15 Any new vehicle crossover or modification to an existing vehicle crossover must be constructed to the satisfaction of the Responsible Authority.
- 16 Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose, to the satisfaction of the Responsible Authority. All disused or redundant vehicle crossovers must be removed and the area reinstated with footpath, naturestrip, kerb and channel to the satisfaction of the Responsible Authority.



## **PRIVACY SCREENS**

- 17 Prior to the occupancy of the development, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained ongoing to the satisfaction of the Responsible Authority. The use of obscure film fixed to transparent glass or windows is not considered to be 'obscure glazing' or an appropriate response to screen overlooking.

## **BOUNDARY WALLS**

- 18 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**

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

## **TIME FOR STARTING AND COMPLETION**

- 20 In accordance with section 68 of the *Planning and Environment Act 1987*, this permit will expire if one of the following circumstances applies:
- (a) The development is not started before 2 years from the date of issue.
  - (b) 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

- i within six (6) months afterwards if 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 –

