

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P663/2024
PERMIT APPLICATION NO. TPA/55355

APPLICANT Gaetano Chiappetta
RESPONSIBLE AUTHORITY Monash City Council
SUBJECT LAND 63 Oakpark Drive
CHADSTONE VIC 3148
DATE OF ORDER 17 October 2024

ORDER

- 1 The hearing scheduled at **10.00am on 4 February 2025** is vacated. No attendance is required.
- 2 The compulsory conference scheduled at **10.00am on 10 December 2024** is vacated. No attendance is required.

Conditions changed

- 3 In application P663/2024 the decision of the responsible authority is varied.
- 4 The Tribunal directs that planning permit TPA/55355 must contain the conditions set out in Appendix A.
- 5 The responsible authority is directed to issue a modified planning permit in accordance with this order.

Costs

- 6 No order as to costs.

Katherine Paterson
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 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.
- 4 I have also updated the permit preamble to correct the permit preamble to reflect the correct “permit trigger” for the development within the Monash Planning Scheme.

Katherine Paterson
Member



APPENDIX A – PERMIT CONDITIONS

PERMIT APPLICATION NO	TPA/55355
LAND	63 Oakpark Drive CHADSTONE VIC 3148

WHAT THE PERMIT ALLOWS

- Clause 32.09-7 – Construction of a dwelling on a lot where there is one dwelling existing on a lot in accordance with the endorsed plans.

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 PREDEV, dated 06.03.24 (Revision D), but modified to show:
 - a) Deleted
 - b) A Landscape Plan in accordance with Condition 4 of this permit.
 - c) 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".
 - d) 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.
 - e) A notation on the plans specifying that 'Any workers involved in subsurface excavations and associated site works must be equipped with an operational Lower Explosive Limit (LEL) Detector'. The LEL is to provide a warning if unexpected gas concentrations are encountered during construction of the subsurface basement.



all to the satisfaction of the Responsible Authority.

Layout not to be Altered

- 2 The development and use 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 modified to show:
 - a) A minimum of two canopy trees (minimum 1.5 metres tall when planted) within each open space area. 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) 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) the location of any fencing internal to the site;
 - e) provision of canopy trees with spreading crowns located throughout the site including the major open space areas of the development;
 - f) planting to soften the appearance of hard surface areas such as driveways and other paved areas;
 - g) Canopy Trees / Significant Planting on adjoining properties within 3 metres of the site;
 - h) the location of any retaining walls associated with the landscape treatment of the site;
 - i) details of all proposed surface finishes including pathways, accessways, patio or decked areas;



- j) The location of Tree Protection Zones and Tree Protection Fencing as outlined within the Arborist Report prepared by Landscape by Design;
- k) 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;
- l) The location of external lighting (if any);
- m) Planting required by any other condition of this permit; and
- n) Landscaping and planting within all open areas of the site.

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

5 Deleted

6 Deleted

Lower Explosive Limit Detector

- 7 Any workers involved in subsurface excavations and associated site works must be equipped with an operational Lower Explosive Limit (LEL) Detector. The LEL is to provide a warning if unexpected gas concentrations are encountered during construction of the subsurface basement.

Tree Protection

- 8 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.¹⁰ 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

- 10 Building over easement approval is required. Approval will be given subject to:
 - a) Yarra Valley Water approval being obtained.
 - b) The use of easement agreement being signed by Council.



- 11 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.
- 12 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.
- 13 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.
- 14 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.

Vehicle Crossovers

- 15 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.
- 16 Any new vehicle crossover or modification to an existing vehicle crossover must be constructed to the satisfaction of the Responsible Authority.
- 17 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

- 18 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

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



Reticulated Gas Service Connection

- 20 Any new dwelling allowed by this permit must not be connected to a reticulated gas service (within the meaning of clause 53.03 of the relevant planning scheme). This condition continues to have force and effect after the development authorised by this permit has been completed.

Satisfactory Continuation and Completion

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

Time for Starting and Completion

- 22 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

- a) within six (6) months afterwards if the development has not commenced; or
- b) 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 –

