VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

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| planning and environment LIST | vcat reference No. P11026/2021Permit Application no. TPA/49551/A |
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| APPLICANT | Darko Perovic |
| responsible authority | Monash City Council |
| SUBJECT LAND | 91 Power AvenueCHADSTONE VIC 3148 |
| WHERE HELD | Melbourne |
| HEARING TYPE | Hearing |
| DATE OF HEARING | 30 August 2021 |
| DATE OF ORDER | 30 August 2021 |

# Order

1. In application P11026/2021 the decision of the Responsible Authority is set aside.
2. Planning Permit No. TPA/49551/A is amended and an amended permit is directed to be issued for the land at 91 Power Avenue, Chadstone. The permit is amended as follows:
3. What the permit allows is amended to read as follows:

Development of two double storey dwellings and construction of a front fence within 3 metres of the frontage which exceeds the maximum height specified in Clause 55.06-2 in the General Residential Zone Schedule 3.

1. Conditions in the permit are amended as follows:
	1. Condition 1c) is amended to read:

c) the front fence with a maximum height of 1.5 metres and 50% transparency to the satisfaction of the Responsible Authority.

1. The following note to be included on the amended permit:

The Permit has been amended as follows:

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| Date | Description of Amendment |
| 30 August 2021 | * Preamble modified to permit the construction of a front fence within 3 metres of the frontage which exceeds the maximum height specified in Clause 55.06-2 in the General Residential Zone Schedule 3.
* Modification to Condition 1c) to allow:
	+ a maximum fence height of 1.5m and 50% transparency.
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| **J A Bennett****Senior Member**  |  |  |

# Appearances

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| For Darko Perovic | Mr Russell Hocking, Town Planner of CityShire Planning Pty Ltd. |
| For Monash City Council | Mr Gerard Gilfedder, Town Planner of Currie Brown.  |

# Information

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| Description of proposal | Request to amend condition 1c) in an existing permit to allow construction of a fence of 1.5 metres in height and 50% transparency instead of a fence of 1.2 metres in height and 25% transparency.  |
| Nature of proceeding | Application under section 77 of the *Planning and Environment Act 1987* – to review the refusal to amend a permit.  |
| Planning scheme | Monash Planning Scheme.  |
| Zone and overlays | General Residential Zone Schedule 3 (**GRZ3**). |
| Permit requirements | Clause 33.08-4 (construct two or more dwellings on a lot in GRZ3 - amend permit condition pursuant to s 72 of the *Planning and Environment Act 1987*). |
| Relevant scheme policies and provisions | Clauses 11, 15, 16, 21.01, 21.04, 22.01, 32,08, 55.06-2 (standard B32), 65 and 71.02. |
| Land description | The land is located on the north eastern side of the street, north of the T ‘intersection of Power Avenue and Amaroo Street. Two side-by-side, attached double storey dwellings have been constructed on the site in accordance with a permit issued in December 2018.  |

# Oral decision and reasons given[[1]](#footnote-1)

1. The Responsible Authority granted a permit for two dwellings on the site in December 2018. The dwellings have been constructed and the applicant now seeks to amend condition 1c).
2. The condition allows the construction of a 1.2 metre high front fence with 25% transparency. The amendment seeks permission for a fence of 1.5 metres in height with 50% transparency.
3. The Council refused to amend the condition.
4. After having heard from the two parties, considered their written and oral submissions and taken a brief adjournment, I gave an oral decision with reasons to amend condition 1c) and the permit preamble.

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| **J A Bennett****Senior Member**  |  |  |

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. [↑](#footnote-ref-1)