VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

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| planning and environment LIST | vcat reference No. P313/2021  Permit Application no. TPA/51764 |
| CATCHWORDS | |
| Four dwellings; reverse living; existing and preferred neighbourhood character; features of the site and surrounds. | |

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| **Applicant** | NCC NL I-N-V-S Holding Pty Ltd & Powerlane 2 Pty Ltd |

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| **Responsible Authority** | Monash City Council |

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| SUBJECT LAND | 84 Power Avenue  CHADSTONE VIC 3148 |
| HEARING TYPE | Hearing |
| DATE OF HEARING | 3 September 2021 |
| DATE OF ORDER | 7 September 2021 |

# Order

### Permit granted

1. In application P313/2021 the decision of the responsible authority is set aside.
2. In planning permit application TPA/51764 a permit is granted and directed to be issued for the land at 84 Power Avenue Chadstone in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows four double storey dwellings in a General Residential Zone.

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| Rachel Naylor  **Senior Member** |  |  |

# Appearances

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| For applicant | Mr K Belfield of Belfield Planning Consultants |
| For responsible authority | Mr G Gilfedder of Currie & Brown (Australia) |

# Information

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| Land description | The site has an area of 595.85sqm and a fall across it from west to east of about 2.5 metres. It abuts a laneway on its southern side that is adjacent to the Batesford Road group of commercial premises (a local centre). The adjoining properties contain student accommodation and townhouses. The local centre has been developed with, and has planning permission for, some three storey buildings. |
| Description of proposal | Construction of four attached double storey dwellings in a reverse living style. Three of the dwellings contain two bedrooms and one contains three bedrooms. The dwellings step down the slope of the site and maintain the front garden setback to Power Avenue. |
| Nature of proceeding | Application under section 77 of the *Planning and Environment Act 1987* – to review the refusal to grant a permit. |
| Planning scheme | Monash Planning Scheme |
| Zone and overlays | General Residential Zone Schedule 3 – Garden City Suburbs (GRZ3) |
| Permit requirements | Clause 32.08-6 Construction of two or more dwellings on a lot in GRZ3 |

# Reasons

1. Oral reasons were given at the conclusion of the hearing.

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| Rachel Naylor  **Senior Member** |  |  |

# Appendix A – Permit Conditions

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| Permit Application No: | TPA/51764 |
| Land: | 84 Power Avenue  CHADSTONE VIC 3148 |

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| What the permit allows |
| The development of four double storey dwellings in a General Residential Zone in accordance with the endorsed plans. |

## Conditions:

##### Amended plans required

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 Alpha Q Property and Constructions, Plan No’s. 1 of 4 to 4 of 4, B1 and B2 and S1 and S2and dated 02/12/2020, but modified to show:
   1. 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”.
   2. All other service meters in unobtrusive locations.
   3. A schedule of construction materials, external finishes, and colours (including swatch samples).
   4. Any changes required by the Sustainable Design Assessment approved under Condition 3.
   5. 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 of each vehicle crossing to provide a clear view of pedestrians on the footpath of the frontage road.

##### Layout not to be Altered

1. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

##### Environmentally Sustainable Development

1. Before the development starts a Sustainable Design Assessment, that responds to the Environmentally Sustainable Development Policy in Clause 22.13 must be submitted to and approved by the Responsible Authority.

##### Common Boundary Fences

1. All common boundary fences are to be a minimum of 1.8 metres above the finished ground level to the satisfaction of the Responsible Authority. The fence heights must be measured above the highest point on the subject or adjoining site, within 3 metres of the fence line.

##### Boundary Walls

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

##### Landscape Plan

1. 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 generally in accordance with the Plans 1 and 2 of 2 prepared by Alpha Q Property and Constructions dated Nov-20 but modified to show:
   1. Identification 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;
   2. 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.
   3. The location of any fencing internal to the site;
   4. A minimum of at least five (5) canopy trees (minimum 1.5 metres tall when planted) with spreading crowns capable (minimum width of 4 metres) of reaching a mature height of 8 metres located throughout the site including the major open space areas of the development.
   5. Provision of other canopy trees with spreading crowns located throughout the site including the major open space areas of the development;
   6. Planting to soften the appearance of hard surface areas such as driveways and other paved areas;
   7. The location of any retaining walls associated with the landscape treatment of the site;
   8. Details of all proposed surface finishes including pathways, accessways, patio or decked areas;
   9. The location of Tree Protection Zones and Tree Protection Fencing as outlined within the Arborist Report prepared by Tree Logic of 30 April 2020;
   10. The location of external lighting (if any);
   11. Planting required by any other condition of this permit; and
   12. 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

##### Landscaping Prior to Occupation

1. 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.
2. All landscaping works shown on the endorsed landscape plan(s) must be maintained to the satisfaction of the Responsible Authority.

##### Tree Protection During Construction

1. Before any development (including demolition) starts on the land, a tree protection fence must be erected around the trees on abutting land including the street tree to define a "Tree Protection Zone" as detailed in the endorsed arborist report. The fence must be constructed as specified in the endorsed arborist report and remain in place until all construction is completed on the land, except with the prior written consent of the Responsible Authority.

##### Contractors to be advised of Trees to be Retained/Protected

1. The owner and occupier of the site must ensure that, prior to the commencement of buildings and works, all contractors and tradespersons operating on the site are advised of the status of trees to be retained as detailed in the endorsed arborist report and are advised of any obligations in relation to the protection of those trees.
2. Prior to the commencement of any works that are permitted by this permit, all trees in the nature strip and on adjoining properties that are located within or adjacent to any works area, shall be marked and provided with a protective barricade to the satisfaction of the Responsible Authority.
3. 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.

##### Stormwater

1. 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.
2. The private on-site drainage system must prevent stormwater discharge from the/each driveway over the footpath and into the road reserve. The internal drainage system may include either:
   1. a trench grate (minimum internal width of 150 mm) located within the property boundary and not the back of footpath; and/or
   2. shaping the internal driveway so that stormwater is collected in grated pits within the property; and or
   3. another Council approved equivalent.
3. 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.
4. The nominated point of stormwater connection for the site is to the south east of the property where the entire site's stormwater must be collected and free drained via a pipe to the Council pit in the existing vehicle crossing to be constructed to Council standards. (A new pit is to be constructed to Council standards if a pit does not exist, is in poor condition or is not a Council standard pit). Note: If the point of connection cannot be located then notify Council's Engineering Department immediately.

##### Vehicle Crossovers

1. All new vehicle crossings must be a minimum of 3.0 metres in width and constructed in accordance with Council standards.
2. The vehicle crossing of Dwelling 1 is to be reconstructed to align with the proposed driveway.
3. All new vehicle crossings are to be no closer than 1.0 metre, measured at the kerb, to the edge of any power pole, drainage or service pit, or other services, unless approval from affected service authorities is obtained.
4. Any works within the road reserve must ensure the footpath and naturestrip are to be reinstated to Council standards.
5. The development must 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 of each vehicle crossing to provide a clear view of pedestrians on the footpath of the frontage road.

##### Satisfactory Continuation and Completion

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

##### Permit Expiry

1. This permit as it relates to development will expire if one of the following circumstances applies:
   1. The development is not started within two (2) years of the issue date of this permit.
   2. 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 -**