VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

planning and environment DIVISION

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| planning and environment LIST | vcat reference No. P198/2020. |

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| APPLICANT | NTZ Pty Ltd |
| responsible authority | Monash City Council |
| SUBJECT LAND | 1519-1523 Dandenong Road OAKLEIGH VIC 3166 |
| WHERE HELD | Melbourne |
| BEFORE | Ian Potts, Senior Member |
| HEARING TYPE | Hearing |
| DATE OF HEARING | 21 August 2020 |
| DATE OF ORDER | 21 August 2020 |

# Order

1. In application P198/2020 the decision of the Responsible Authority is set aside.
2. Planning permit TPA31612A is amended and an amended permit is directed to be issued for the land at 1519-1523 Dandenong Road, Oakleigh in accordance with the endorsed plans and the conditions set out in Appendix A. The amended permit allows:

* use and development of the land for the purpose of a take-away food premises, refurbishment of the petrol filling station and car wash;
* construction of buildings and works within 20 metres of Dandenong Road; and
* use of part of the first-floor area above the car wash as a caretaker’s house along with associated building and works to accommodate that use.

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| **Ian Potts** Senior Member |  |  |



# Appearances

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| For NTZ Pty Ltd | Mr Alan Lorenzini, a building surveyor from Lorenzini Group |
| For Monash City Council | Mr James Turner, a town planner from Monash City Council |

# Remarks

1. The Tribunal relies on the oral reasons given in the hearing to set aside the decision of the Responsible Authority and direct that permit TPA/31612A be amended.
2. To avoid doubt, the amendments that have been granted to the existing permit are as follows:
   * + - 1. What the permit allows has been amended to include:

use of part of the first-floor area above the car wash as a caretaker’s house along with associated building and works to accommodate that use.

* + - * 1. Condition 1 has been amended to include the following amendments to the endorsed plans:

(b) The layout of the caretaker’s house as shown in the plan “First Floor Layout Plan’ prepared by Carnegie design, dated 14 April 2019, but modified to show:

i Bedroom 2’s east wall extending to the passage way and access to that bedroom to be directly from the passage way;

ii The utility room re-labelled as a ‘dining / living room’;

iii An area marked out as a domestic laundry area within the plant room.

(c) Two additional car spaces provided within the property, in accordance with amendment application plans submitted in June 2019 (i.e. an additional space next to bay 3 and an additional space adjacent the takeaway food premises to make a total of 3 spaces); and

(d) An annotation to the indicate that two car parking spaces adjacent the warehouse building must be allocated to the caretaker’s house;

all to the satisfaction of the Responsible Authority.

* + - * 1. Condition 19 has been inserted as follows:

The caretaker’s house must only be occupied by a person or persons supervising the operation of the approved carwash use being undertaken on the land to the satisfaction of the Responsible Authority.

# Appendix A – Permit Conditions

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| Permit Application No | TPA/31612/A Amended |
| Land | 1519-1523 Dandenong Road, OAKLEGH VIC 3166 |

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| What the permit allowS |
| In accordance with the endorsed plans:   * use and development of the land for the purpose of a take-away food premises, refurbishment of the petrol filling station and car wash; * construction of buildings and works within 20 metres of Dandenong Road; and * use of part of the first-floor area above the car wash as a caretaker’s house along with associated building and works to accommodate that use. |

## Conditions

1. Before the development starts, three copies of amended 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 prepared by Bestway Group Pty Ltd dated October 2009, Drawing No. 24022 Revision O, but modified to show:

* 1. the upper level plant and store room to be articulated and treated to the satisfaction of the Responsible Authority.
  2. The layout of the caretaker’s house as shown in the plan “First Floor Layout Plan’ prepared by Carnegie design, dated 14 April 2019, but modified to show:
     1. Bedroom 2’s east wall extending to the passage way and access to that bedroom to be provided directly from the passage way;
     2. The utility room re-labelled as a ‘dining / living room’;
     3. An area marked out as a domestic laundry area within the car wash plant room.
  3. Two additional car spaces provided within the property, in accordance with amendment application plans submitted in June 2019 (i.e. an additional space next to bay 3 and an additional space adjacent the takeaway food premises); and
  4. An annotation to the indicate that two car parking spaces adjacent the warehouse building are must be allocated to the caretaker’s house;

all to the satisfaction of the Responsible Authority.

1. The development and use as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
2. The applicant shall pay the full costs of all roadworks, service relocations, signage and other costs associated with these works.
3. Prior to gaining approval from VicRoads to undertake the subject works, the developer shall:
   1. Provide evidence that the contractor has a public liability insurance policy for at least $10 million that will be effective for the duration of the works;
   2. Submit to VicRoads for approval, a traffic management plan showing the proposed provision for traffic and signing for the duration of the works at least 21 days prior to the commencement of the works. The Traffic Management Plan shall meet the requirements of the VicRoads Worksite Traffic Management (Roadworks Signing) Code of Practice which incorporates AS 1742.3 – 2002. Traffic management/control shall be carried out by suitably trained personnel.
4. Loading and unloading must only take place between 6:00am and 7:00pm for a maximum duration of 20 minutes two times per week.
5. All on-site stormwater is to be collected from hard surface areas and must not be allowed to flow uncontrolled into adjoining properties (including the road reserve and footpaths).
6. The on-site drainage system must prevent discharge from each driveway onto the footpath. Such a system must include either:
   1. A trench grate (17fmm minimum width) located within the property; and/or
   2. Shaping the driveway so that water is collected in a grated pit on the property; and/or
   3. Another Council approved equivalent.
7. Before the development starts, a site layout plan drawn to scale and dimensioned must be approved by the Responsible Authority.

The plans must show a drainage scheme providing for the conveying of the stormwater to the nominated point of discharge (the north-east corner of the property) where it must be collected and piped to the 225mm Council drain in the right of way at the rear of the property via a 225mm pipe and 900mm x 600mm junction pit to be constructed to Council Standards.

1. Stormwater discharge is to be retained on site to the predevelopment level of peak stormwater discharge. Approval of any detention system is required from the City of Monash, the responsible authority, prior to works commencing.

A drainage contribution may be accepted in lieu of the installation of the retention system.

1. A landscape plan prepared by a landscape architect or a suitably qualified or experienced landscape designer, must be submitted to and approved by the responsible authority. The plan must be drawn to scale, be dimensioned, and show the proposed landscape treatment of the site including:
   1. The location and details (species, height etc) of all existing trees and other vegetation to be retained on site.
   2. Provision of canopy trees with spreading crowns located throughout the site including the major open space areas of the development.
   3. Planting to soften the appearance of hard surface areas such as driveways and other paver areas.
   4. A schedule of all proposed trees, shrubs and ground covers, which will include the size of all plants (at planting and at maturity), their location, botanical names and the location of all area to be covered by grass, lawn, mulch or other surface material;
   5. The location and details of all fencing;
   6. The extent of any cut, fill, embankments or retaining walls associated with the landscape treatment of the site;
   7. Details of all proposed hard surface materials including pathways, patio or decked areas;
   8. The raised planting strip along the western boundary of the site, south of the mechanical room tapering from the full 2200mm width of the room and providing enhanced screening of that building.

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

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. The amenity of the area must not be detrimentally affected by the use or development, through the:
   1. Transport of materials, goods or commodities to or from the land;
   2. Appearance of any building, works or materials;
   3. Emission of noise or artificial light.
3. No form of public address system must be installed so as to be audible from outside the building.
4. No goods must be stored or left exposed outside the building so as to be visible from any public road or thoroughfare.
5. No equipment, service, architectural features or structure of any kind, including telecommunications 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.
6. Outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.
7. The loading and unloading of goods from vehicles must only be carried out on the land.
8. Driveways are to be designed and constructed using appropriate engineering standards.
9. The caretaker’s house must only be occupied by persons supervising the operation of the approved carwash use being undertaken on the land to the satisfaction of the Responsible Authority.

Expiry of permit:

1. In accordance with section 68 of the *Planning and Environment Act 1987*, this permit will expire if one of the following circumstances applies:
   1. The development has not started within two (2) years of the date of issue.
   2. The development is not completed within four (4) years of 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:

* 1. within six (6) months afterwards if the use or the development has not commenced; or
  2. within twelve (12) months afterwards if the development has not been completed.

**– End of conditions –**