VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

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| planning and environment LIST | vcat reference No. P1841/2020  Permit Application no. TPA/51848 |

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| APPLICANT | Michael Higgins |
| responsible authority | Monash City Council |
| SUBJECT LAND | 2/486 Blackburn Road  GLEN WAVERLEY VIC 3150 |
| WHERE HELD | Melbourne |
| HEARING TYPE | Hearing |
| DATE OF HEARING | 4 March 2021 |
| DATE OF ORDER | 4 March 2021 |
| CITATION | Higgins v Monash CC [2021] VCAT 186 |

# Order

## GRANTING PERMIT

1. The decision of the Responsible Authority is set aside.
2. In permit application TPA/51848 a permit is granted and directed to be issued for the land at 2/486 Blackburn Road, Glen Waverley in accordance with the endorsed plans and on the conditions set out in Appendix A. The permit allows:

* Extension to a dwelling on a lot less than 300sqm and reduction of car parking (one space).

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| **Jeanette G Rickards, Senior Member** |  |  |

# Appearances

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| For applicant | Mr S O’Brien, Town Planner, Universal Planning |
| For responsible authority | Mr G Gilfedder, Town Planner, Currie & Brown |

# Information

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| Description of proposal | Construction of an extension to a dwelling on a lot less than 300sqm.  Reduction of one car parking space. |
| 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 |
| Zone and overlays | General Residential Zone, Schedule 2 |
| Permit requirements | Clause 32.08 - construction of an extension to a dwelling on a lot less than 300sqm  Clause 52.06- 5 - reduce the number of car spaces required |
| Relevant scheme policies and provisions | Clauses 22.01 (Character Area – Garden City Suburbs Northern Areas), 32.08 & Schedule 2, 52.06, 54, and 65. |
| Land description | The site is located on the eastern side of Blackburn Road and is approximately 50 metres north of England Road. The land is an irregularly shaped strata lot. The site has a total area of 294 square metres.  The land is flat. The site currently contains a single storey brick dwelling and a tiled pitched roof. An attached single vehicle carport is attached on the western side of the dwelling. A second single storey dwelling with a carport is located forward of the subject site.  Vehicle access to both dwellings is provided by a crossover along the northern boundary of the site. The secluded private open space is located to the north and rear of the dwelling.  Pinewood Shopping Centre is located to the north-west of the site.  Blackburn Road is in a Road Zone Category 1 and intersects with the Monash Freeway to the south of the property.  Bus services operate along Blackburn Road and Waverley Road to the north. |

# Reasons[[1]](#footnote-1)

An Oral Decision was given at the end of the Hearing. This is a summary of that decision.

1. This is an application for review by Michael Higgins against the Council’s refusal to grant a permit for an extension to a single dwelling and the reduction of one car space.
2. The Council has indicated it has no issue with the addition to the dwelling but does not consider it appropriate to allow for the reduction of one car space.
3. The proposed addition is adding an additional bedroom to the dwelling resulting in the need to provide two car spaces on the site. Currently there is one car space but there is no area other than on common property to provide an additional car space. This the applicant says would be difficult to obtain approval for.
4. I have considered the written and oral submissions of the parties and determine that the decision of the Council should be set aside, and a permit be granted for the extension to the single dwelling and the reduction of one car space.
5. I have reached this conclusion on the basis that the subject site is well located for shops and services, being opposite the Pinewood Shopping Centre (activity centre) and within close walking distance to the facilities provided in the Shopping Centre.
6. The site is also located within the Principal Public Transport Network. Two bus routes are located along Blackburn Road. Connections are made to Glen Waverley, Monash University, Syndal Railway Station, Clayton, Brighton, Glen Waverley, Mount Waverley, Chadstone and St Kilda.
7. The site is in close proximity to the Scotchman Creek Trail with Blackburn Road also forming part of VicRoads Principal Bicycle Network.
8. It will be evident to future residents that there is only one car space. Therefore, if more are required it is unlikely they would seek to purchase the dwelling. It is evident from the location that on street parking for a second vehicle would be extremely difficult.
9. I disagree with the Council that the useability of the property is limited with only one car space, given the close proximity to transport and other facilities to meet the needs of residents.
10. Whilst the Council referred to car ownership of two vehicles within proximity of the site, the size of the lot being less than 300sqm results in a second car space being impractical. As noted, the population of Monash is ageing and the close proximity to the activity centre allows for convenient access by older persons.
11. I will direct the Council issue a permit subject to the conditions provided.

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| **Jeanette G Rickards, Senior Member** |  |  |

# Appendix A – Permit Conditions

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| Permit Application No: | TPA/51848 |
| Land: | 2/486 Blackburn Road, Glen Waverley |

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| What the permit allows |
| In accordance with the endorsed plans:   * Extension to a dwelling on a lot less than 300sqm and reduction of car parking (one space) |

## Conditions:

No Alterations

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

Boundary Walls

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

Drainage

3. 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.

4. The nominated point of stormwater connection for the site is to the west of the property where the entire site's stormwater must be collected and free drained via a pipe to the Council pit in the naturestrip via the existing property connection.

Note: If the point of connection cannot be located then notify Council's Engineering Department immediately.

Completion of Buildings and Works

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

Permit Expiry

6. This permit will expire in accordance with section 68 of the Planning and Environment Act 1987, if one of the following circumstances applies:

· The development has not started before two (2) years from the date of issue.

· The development is not completed before four (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 -**

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)