VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

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| planning and environment LIST | vcat reference No. P479/2021Permit Application no. TPA/51830 |
| CATCHWORDS |
| Two double storey attached dwellings; Neighbourhood character; Visual bulk amenity impact. |

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| **Applicant** | Ms A Milonakos |

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

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| SUBJECT LAND | 31 Chapman BoulevardGLEN WAVERLEY VIC 3150 |
| HEARING TYPE | Hearing |
| DATE OF HEARING | 3 November 2021 |
| DATE OF ORDER | 10 November 2021 |

# Order

**Amend permit application**

1. Pursuant to clause 64 of Schedule 1 of the *Victorian Civil & Administrative Tribunal Act 1998*, the permit application is amended by substituting for the permit application plans, the following plans filed with the Tribunal:

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| Prepared by: | P2 Urban Planning & Design |
| Drawing numbers: | TP01, TP02, TP02A, TP02B, TP02C, TP03, TP04, TP05, TP06, TP07, TP08 - All Rev 3 |
| Dated: | Sept 2021 |

### Permit granted

1. In application P479/2021 the decision of the responsible authority is set aside.
2. In planning permit application TPA/51830 a permit is granted and directed to be issued for the land at 31 Chapman Boulevard, Glen Waverley in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows construction of two double storey dwellings above a basement.

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

# Appearances

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| For applicant | Mr A Bromley, town planner of Pitard Group |
| For responsible authority | Ms A Kellock, town planner of Kellock Town Planning Pty Ltd |

# Information

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| Land description | The site has an irregular shape with a curved frontage and angled rear boundary. The frontage is 15.24m and the east and west sides have lengths of 44.86 and 40.79 metres respectively. The land area is 711sqm. There are two easements that run along the rear boundary with a combined width of about 4.28m. The land contains a single storey brick dwelling set back 11.8m from the street with a swimming pool in its front setback. |
| Description of proposal | Construction of two attached (side by side) double storey dwellings above a shared basement containing car parking, storage and a cinema/gym room for each dwelling. Each dwelling contains four bedrooms and are setback at least one metre from the relevant side boundary. Construction of a front fence of 1.2m high with brick piers and metal pickets. |
| 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 | Neighbourhood Residential Zone Schedule 4 – Dandenong Valley Escarpment Areas (NRZ4)Vegetation Protection Overlay Schedule 1 – Tree Protection Area |
| Permit requirements | Clause 32.09-6 Construction of two dwellings on a lot in NRZ4 |

# Reasons[[1]](#footnote-2)

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

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

# Appendix A – Permit Conditions

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| Permit Application No: | TPA/51830 |
| Land: | 31 Chapman BoulevardGLEN WAVERLEY VIC 3150 |

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| What the permit allows |
| Construction of two double storey dwellings above a basement in accordance with the endorsed plans. |

## Conditions:

##### Amended Plans

1. Before the development starts, 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 VCAT substituted amended plans but modified to show, to the satisfaction of the Responsible Authority:
	1. A planter box to be extended south (approximately 1.65m) to align with the northwest corner of the house at 33 Chapman Boulevard, with the dining/living area of dwelling two reconfigured to accommodate this planter box as well as to maintain a one metre wide access way around the planter box.
	2. The western setback to the guest bedroom of dwelling one increased to provide a minimum 600mm wide planter box adjacent to the western side boundary for the length of the guest bedroom and associated ensuite and a one metre wide paved area adjacent to the bedroom.
	3. A corner splay or area at least 50% clear of visual obstruction (or with a height of less than 1.2m) extending at least 2.0 metres long x 2.5 metres deep ( within the property) on both sides of each vehicle crossing to provide a clear view of pedestrian on the footpath of the frontage road.
	4. The extent of brickwork along the site’s frontage in the front fence design reduced to provide only for the mail boxes.
	5. Any external screening provided to the north side of the first floor north facing balconies to demonstrate compliance with standards B22 and B23 of clause 55.
	6. The location of gas, electricity and water meters.
	7. Tree 4 nominated for retention
	8. The location of Tree Protection Zones and Tree Protection Fencing as set out in the Tree Management Plan required by condition 3 of this Permit.
	9. Any changes in accordance with the Tree Management Plan required by condition 3 of this Permit.

##### No Alterations

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

##### Tree Management Plan

1. Concurrent with the submission of amended plans required by Condition 1 and prior to any demolition or site works, a Tree Management Plan (TMP) must be submitted to and approved by the Responsible Authority. The TMP must be prepared by a suitably qualified and experienced Arborist and must set out recommendations and requirements in relation to the management and maintenance of trees 1, 2, 4, 5, 6, 7 & 8 (as identified in the Arborist Report (Version 2) submitted with the application, prepared by Glenn Waters and dated 21 September 2020). The TMP must be approved by the Responsible Authority prior to the commencement of any works, including demolition and/or levelling of the site. The TMP must make specific recommendations in accordance with the Australian Standard AS4970: 2009 - Protection of Trees on Development Sites and detail the following to the satisfaction of the Responsible Authority ensuring the trees to be retained remain healthy and viable during construction:
	1. A Tree Protection Plan drawn to scale that shows:
		1. Tree protection zones and structural root zones of all trees to be retained,
		2. All tree protection fenced off areas and areas where ground protection systems will be used;
		3. The type of footings within any tree protection zones;
		4. Any services to be located within the tree protection zone and a notation stating all services will either be located outside of the tree protection zone, bored under the tree protection zone, or installed using hydro excavation under the supervision of the Project Arborist; and
		5. A notation to refer to the Tree Management Plan for specific detail on what actions are required within the tree protection zones.
	2.  Details of how the root system of any tree to be retained will be managed. This must detail any initial non-destructive trenching and pruning to be undertaken by the Project Arborist.
	3. Supervision timetable and certification of tree management activities required by the Project Arborist to the satisfaction of the responsible authority;
	4. Any remedial pruning works required to be performed on tree canopies located within subject site. The pruning comments must reference Australian Standards 4373:2007, Pruning of Amenity Trees and a detailed photographic diagram specifying what pruning will occur of any roots required.

The recommendations and requirements contained in the approved TMP must be implemented to the satisfaction of the Responsible Authority.

##### Landscape Plan

1. Concurrent with the endorsement of any plans 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. The Landscape Plan must be generally in accordance with the Landscape Plan circulated prior to the VCAT hearing, prepared by Species Landscape Architecture and dated 15.10.21, but modified to show:
	1. The changes required by condition 1 including changes to planter boxes and accessways / paved areas.
	2. Any changes required by the Tree Management Plan required by Condition 3 of this permit.

##### Inground irrigation system.

1. An inground irrigation system must be provided to the front and side landscaped areas of the approved development at a minimum to the satisfaction of the Responsible Authority.

##### Tree Protection

1. Prior to the commencement of any works that are permitted by this permit, all trees that are to be retained, or are located within or adjacent to any works area, shall be marked and provided with a protective barricade and verified by an authorised officer of the Responsible Authority.
2. No building material, demolition material or earthworks shall be stored or stockpiled under the canopy line of any tree to be retained on or on adjoining sites during the construction period of the development hereby permitted.

##### 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.

##### 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. 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.
3. The nominated point of stormwater connection for the site is to the north-east corner of the property where the entire site's stormwater must be collected and free drained via a pipe to the 1125 mm Council drain in the rear easement via a Council approved saddle adaptor to be constructed to Council standards. Note: If the point of connection cannot be located then notify Council's Engineering Department immediately.

##### Vehicle crossings

1. The vehicle crossing is to be reconstructed to align with the proposed driveway.
2. All vehicle crossings within 1.50 metres of an adjoining crossing shall be converted to a double crossing in accordance with Council standards.
3. Any works within the road reserve must ensure the footpath and naturestrip are to be reinstated to Council standards.
4. Approval of each proposed crossing, and a permit for installation or modification of any vehicle crossing is required from Council’s engineeers.
5. The proposed crossing is to be constructed in accordance with the City of Monash standards.

##### Engineering permits

1. Engineering permits must be obtained for new or altered vehicle crossings and new connections to Council drains and these works are to be inspected by Council's Engineering Department.

##### Completion of Buildings and Works

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

##### Permit Expiry

1. This permit 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 -**

1. The submissions of the parties, the supporting exhibits given at the hearing, and the statements of grounds filed were all considered in the determination of the proceeding. [↑](#footnote-ref-2)