VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

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| planning and environment LIST | vcat reference No. P528/2021 |

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| **Applicant** | Mary O'Shaughnessy |

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| **Responsible Authority** | Monash City Council |
| **Respondents** | Vatche Vorperian |

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| SUBJECT LAND | 39 Tamar Grove  OAKLEIGH VIC 3166 |
| **HEARING TYPE** | Compulsory conference |
| **DATE OF HEARING** | 23 August 2021 |
| **DATE OF ORDER** | 26 August 2021 |

# Order

### Amend permit applicant

1. Pursuant to clause 64 of Schedule 1 of the *Victorian Civil and Administrative Tribunal Act* 1998, the permit application is amended by substituting the following person as the permit applicant:

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| Vachte Vorperian |  |

### Grant permit

1. In application no. P528/2021**,** the decision of the responsible authority is **varied.**
2. In permit application no**. TPA/51617** a permit is granted and directed to be issued for the land at 39 Tamar Grove, OAKLEIGH VIC 3166in accordance with the endorsed plans and on the conditions set out in Appendix A. The permit allows:

Construction of two (2) double storey dwellings on a lot

### Vacate hearing

1. The hearing listed for **15 November 2021** is vacated. No attendance is necessary.

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| S. R Cimino  **Senior Member** |  |  |

# APPEARANCES

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| For applicant | Peter Connell, planning consultant, ANC Planning for Mary O’Shaughnessy. |
| For responsible authority | Flora Lau and James Heitmann, town planners, for Monash CC. |
| For respondents | Joel Fredman, planning consultant, Fredman Malina Planning for Vatche Vorperian. |

# remarks

1. This matter involves and application pursuant to section 82 of the *Planning and Environment Act 1987* for a review of the Monash City Council’s decision to grant a permit for the construction of two dwellings on the subject land.
2. At the compulsory conference, the parties reached agreement and request orders by consent. The parties request that a permit be issued, subject to the conditions set out in the Notice of Decision and some extra conditions requiring a small increase in the northern setback and provision of a new boundary fence.
3. This order is made at the request of the parties and with their consent as an outcome of a compulsory conference.
4. The Tribunal regards the consent of the responsible authority to be a confirmation to the Tribunal that:

* the responsible authority is of the opinion that the permit is appropriate having regard to the matters it is required to consider under section 60 of the *Planning and Environment Act 1987* (**Act**), including the balanced application of the strategies and policies of the Monash Planning Scheme (**Planning Scheme**) and is otherwise in conformity with the provisions of the Planning Scheme and the Act;
* the proposed orders will not result in any change to the proposed development which would materially affect any person other than the parties to the proceeding.

1. Based on the information available to the Tribunal, I consider it is appropriate to give effect to the settlement reached by the parties pursuant to section 93(1) of the *Victorian Civil and Administrative Tribunal Act 1998*.

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| S. R Cimino  **Senior Member** |  |  |



# APPENDIX A

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| **PERMIT APPLICATION NO:** | TPA/51617 |
| **LAND:** | 39 Tamar Grove  OAKLEIGH VIC 3166 |
| **WHAT THE PERMIT ALLOWS:** | |
| * Construction of two (2) double storey dwellings on a lot.   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 plans submitted with the application [TP1 – TP6 Revision B dated 12/20, prepared by Cultured House and Building Design],but modified to show:
   1. The lounge room to Dwelling 1 and the family room of Dwelling 2 to have a setback of not less than 150mm from the northern boundary;
   2. Provision of a new 2.0 metre high fence along the entire length of the northern boundary in common with 37 Tamar Grove.
   3. Dwelling 1 porch to have a maximum height of 3.6 metres above natural ground level.
   4. 0.5 metres of landscaping to be provided either side of the common driveway.
   5. Dwelling 2 first floor plan to correctly show the Entry and Porch area, correlating with what is shown on the Ground floor plan.
   6. Note added to the ground floor plan: 2 metre high rendered feature wall in front of 2m high proposed paling fence on northern boundary.
   7. The location and design of any proposed electricity supply meter boxes. The electricity supply meter boxes must be located at a distance from the street which is 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”.

All changes to the satisfaction of the Responsible Authority.

### No Alterations

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

### Common Boundary Fences

1. Except as required under condition 1(b), 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.

### Landscaping

1. Before the commencement of buildings and works, 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 prior to the commencement of any works. The plan must show the proposed landscape treatment of the site including:-
   1. the location 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 paved areas;
   4. a schedule of all proposed trees, shrubs and ground cover, which will include the size of all plants (at planting and at maturity), their location, botanical names and the location of all areas 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; and
   7. details of all proposed hard surface materials including pathways, patio or decked areas.

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

### 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 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.

### Drainage

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:

* a trench grate (minimum internal width of 150 mm) located within the property boundary and not the back of footpath; and/or
* shaping the internal driveway so that stormwater is collected in grated pits within the property; and or
* another Council approved equivalent.

1. 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 collection of stormwater within the site and for the conveying of the stormwater to the nominated point of discharge.

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 225 mm Council drain in the naturestrip via 100 mm pipe and a 900 mm x 600 mm junction pit to be constructed to Council standards.

If the point of discharge cannot be located then notify Council’s Engineering Division immediately.

1. 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.

Note: A drainage contribution may be accepted in lieu of the installation of the detention system to the satisfaction of Council’s Engineering Division.

### 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. All vehicle crossings within 1.50 metres of an adjoining crossing shall be converted to a double crossing in accordance with Council standards.
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. Approval from affected service authorities is required as part of the vehicle crossing application process.
4. Any works within the road reserve must ensure the footpath and naturestrip are to be reinstated to Council standards.
5. The development must be provided with 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.

### Urban Design

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

### 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 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.

1. 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 within six months of the permit expiry date, where the development allowed by the permit has not yet started; or within 12 months of the permit expiry date, where the development has lawfully started before the permit expires.

**---** **End of Conditions** ---