

## Planning and Environment List Administrative Division

### Application by a Permit Holder to cancel or amend a permit under section 87 or 87A of the *Planning and Environment Act 1987*

#### Making an application

##### Information that must accompany your application form

- A copy of the permit to be cancelled or amended and current endorsed plans
- A description of the proposed changes, including a list of proposed amended plans
- A track-changes version of the proposed amended permit (where relevant) which includes any changes to what the permit allows and any new, amended or deleted conditions
- Proposed amended plans which highlight where changes are proposed
- A title search of the land not more than 14 days old
- List of interested persons, if a separate sheet is necessary
- A copy of any VCAT decision relating to the permit
- A copy of any other permit that contains a condition requiring the cancellation or amendment of this permit

You must also provide information about the zone, overlays or other planning controls that affect your land and any additional permission required under the planning scheme for the amended proposal, which the permit does not already include. You should also provide information about whether the proposal is exempt from the notice requirements or review rights under the *Planning and Environment Act 1987*, and if so, specify by what provision in the planning scheme. You may need to obtain this information from the responsible authority if you do not know the details.

**If your application is incomplete and you do not include all the material and information required, plus payment of the fee, your application may be rejected or struck out.**

##### What will happen after you lodge your application for review?

After you lodge your application for review, the Tribunal will allocate a hearing date to hear the application. The Tribunal will issue an initiating order setting out the hearing date and giving directions about steps that you and other parties to the proceeding must comply with. The initiating order will set dates by which each step must be completed. A hearing date will not be allocated until your application is complete.

**If you fail to comply with the Tribunal's initiating order by the dates specified in the order, your application may be struck out without further notice.** If you are unable to comply with any aspect of the initiating order, you must apply to the Tribunal in writing for an extension of time. You cannot change dates without an order by the Tribunal.

The Tribunal relies on the accuracy of the information you provide with your application to calculate the length of time required for the hearing. If you believe the time allocated is insufficient or too much, please advise the Tribunal in writing when you return the statement of service that will be sent to you with the initiating order.

**Planning and Environment List  
Administrative Division  
Section 87 & 87A**

VCAT Reference Number (Office Use Only)

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**Cost of the Development**

The estimated cost of this development is:

**\$5.5 million**

*The cost of development will normally be the cost specified in the original permit application.*

**Name of Applicant(s)**

Full Name **Preveza Enterprises Pty Ltd**

*Include the complete name if the applicant is a company: e.g. XYZ Co. Pty Ltd.*

**Address and Contact Details of Applicant(s)**

*All correspondence will be sent to the applicant(s) at this address or email, unless the 'Details of Representative' section is completed, in which case all correspondence will be sent to the representative address or email. Complete only one section. DO NOT COMPLETE BOTH SECTIONS. Address for service must be a Victorian address – VCAT Rules 2008 Order 4.08.*

Address for service

Business phone

After hours phone

Mobile

Fax number

Email

**Details of Representative**

Name/Firm

**Clarke Planning**

Reference Number/ Contact person

**Andrew Clarke**

Address for service

**11 Stewart St, Yarraville, 3013**

Business phone

Fax number

Mobile

**0407924625**

Email

**andrew@clarkeplanning.com.au**

## Category of applicant(s)

Please tick in which category you are making this application. More than one box may be ticked if relevant. If you are not one of the following, do not use this form.

- ☒ Owner of the land
- ☐ Occupier of the land
- ☐ Person who is entitled to use or develop the land

## Information about the land to which this application and the permit applies

If there is no conventional address (street number, street and locality) insert a land description:

- Certificate of Title volume and folio;
- Lot and lodged plan number;
- Crown allotment; or
- Section number /Township/Parish.

A title search of the land not more than 14 days old must be attached.

Address or description of the land

170-174 Highbury Rd, Mount Waverley

Responsible Authority

City of Monash

## Information about the permit to be cancelled or amended.

Only permits issued at the direction of VCAT may be cancelled or amended under section 87A. A permit issued by a predecessor of VCAT (Planning Appeals Board or Administrative Appeals Tribunal) cannot be amended under section 87A. An application may be made to the responsible authority under section 72 Planning and Environment Act 1987 or to VCAT under section 87 Planning and Environment Act 1987.

Relevant Decision: [Popular Pastimes Pty Ltd v Melbourne CC \(Red Dot\) \[2008\] VCAT 1184](#)

You must provide a copy of the permit to be amended in its current form and the current endorsed plans with your application.

### Permit details

Permit number

TPA/40955

Date issued

11 October 2013

Was the permit issued at the direction of VCAT?

- ☒ Yes ☐ No

If yes, please cite the VCAT reference number and/or AustLii citation

VCAT reference number

P404/2017 (Preveza Enterprises Pty Ltd v Monash CC (Corrected) [2017] VCAT 1355)  
P1368/2014 (Caratti v Monash CC [2014] VCAT 1279)  
P903/2013 (Caratti v Monash CC [2013] VCAT 1688)

Is this an application under section 87 or 87A Planning and Environment Act 1987?

- ☐ Section 87 ☒ Section 87A

**Please provide the following information and material about the permit to assist the Tribunal to process your application as expeditiously as possible.**

Provide a copy of the permit in its current form and a track-changes version of the proposed amended permit (where relevant)	A copy of permit in its current form is attached.  The only changes necessary to the permit text to facilitate this amendment request is that a different set of plans ought be referred to in Condition 1.
When does the permit expire? (The Tribunal cannot extend an expired permit.)	11 October 2020. See Condition 42 of the permit. This is to 'complete' construction as it is agreed that construction has already 'commenced'
What is the name of the relevant planning scheme, the zone and any overlay or other control applying to the subject land?	Monash Planning Scheme, General Residential Zone Schedule 2, Vegetation Protection Overlay Schedule 1. Land abuts with a Road Zone Category 1.
Identify any additional permission required under the planning scheme for the amended proposal, which the permit does not already include.	No additional permit triggers are generated by this s87a amendment application above and beyond those already granted in the current permit.
Is the proposal exempt from the notice requirements or review rights under the <i>Planning and Environment Act 1987</i> , and if so, specify by what provision in the planning scheme.	No

**Details of cancellation or amendment**

*You must attach a precise description of the amendment(s) you propose. If you want to:*

- *amend what the permit allows, you must state what the permit allows now and what changes you want;*
- *amend, delete or add conditions, you must set out the draft conditions that are to replace existing conditions. This should be in the form track-changes version of the proposed amended permit;*
- *amend plans, you must submit with the application a clearly readable, identifiable copy of the amended plans drawn to scale with dimensions, and a statement in writing describing the changes from the previous plans.*

**Do you want the permit to be cancelled?**

☐ Yes ☒ No

**If yes, is the cancellation applied for as a condition in another permit?**

☐ Yes ☐ No

If yes, that permit number is:

**If you want the permit amended, is an amendment required in respect of:**

- ☐ What the permit allows
- ☒ Conditions of the permit (being condition 1 which refers to the plans endorsed)
- ☒ Plans referred to in the permit or endorsed under the permit

**Does the responsible authority consent to the cancellation or amendment?**

☐ Yes ☐ No ☒ Don't know

### Details of person(s) potentially affected by the amendment

*VCAT will require you to serve the application on any person who appears to it to have a material interest in the outcome of the application. In determining who may have a material interest, VCAT will consider the effect of the proposed amendments on other people. In its initiating order, VCAT will direct you to serve the application on people you have identified below and any people whom the responsible authority considers should be given notice of the application. If you disagree with the responsible authority, you may apply for an urgent practice day hearing to resolve the matter.*

*You should contact the responsible authority for details of persons it considers should be given notice of the application before lodging this application.*

**Please provide the name and address for service of other persons who may have a material interest in the outcome of this application.** Attach a separate list if necessary.

It is our view that given the setback and recessive nature of the roof deck stair/lift structure and the actual roof deck area itself, including the shade sails, that the visual impact of this to them to the public or private realm is not at a level where any other person may have a material interest.

### Other Proceedings affecting the land

**Do you know of any other planning proceedings, such as an application for review or enforcement order application, relating to or affecting the land?** If so, give details including Tribunal reference numbers, if possible.

Reference numbers

3 x previous applications to VCAT cited above

### Attachments

**Attach the following documents to this application.** Tick and reference the attachments provided. Attach a separate schedule of attachments if necessary.

<input type="checkbox"/> A copy of the permit to be cancelled or amended and current endorsed plans	Ref. No.	A
<input type="checkbox"/> Details of proposed amendment(s) and any amended plans as required by this application form	Ref. No.	B
<input type="checkbox"/> A track-changes version of the proposed amended permit	Ref. No.	NA
<input type="checkbox"/> List of interested persons, if a separate sheet is necessary	Ref. No.	NA
<input type="checkbox"/> A title search of the land not more than 14 days old	Ref. No.	C
<input type="checkbox"/> A copy of the VCAT decisions relating to the permit	Ref. No.	D
<input type="checkbox"/> A copy of any other permit , which contains a condition requiring the cancellation or amendment of this permit	Ref. No.	NA
<input type="checkbox"/> Copy of cultural heritage management plan and approval (if relevant)	Ref. No.	NA

## Hearing time and complexity

Estimate the time it will take you to present your complete case at the hearing (submissions plus witnesses) and the number of expert witnesses you intend to call, if any.

Time to make submissions & present evidence:  Hours  Minutes

Number of witnesses:  Expertise:

See VCAT's Practice Note PNVCAT2 – Expert Evidence for information about the obligations of expert witnesses and what must be included in the report of an expert witness.

## Acknowledgement

I acknowledge that:

- To the best of my knowledge, all information provided in this application is true and correct and that no details relevant to the application have been left out.
- I approve the information that has been provided.
- It is an offence under section 136 of the *Victorian Civil and Administrative Tribunal Act* 1998 to knowingly give false or misleading information to VCAT.

### Category of person completing this application:

☐ Applicant in person ☒ Authorised Representative

Name of person completing this application (print)

Date

## Checklist

### Before you lodge this application, make sure that:

- ☐ You have completed all details and responded to all questions
- ☐ All documents regarding fees (e.g. fee waiver documents, credit card form or cheque) are supplied with your application.
- ☐ You have attached and properly referenced all of the attachments listed in this form.

## Fees

You must pay the relevant application fee at the same time you lodge this form. Fees may change each year. To find out about the current fee, visit the VCAT website [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au) or call VCAT on 1300 01 8228.

Application Fee	\$1213.80
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VCAT may waive the requirement to pay a fee in some instances. Details are available on the VCAT website. You should apply for a waiver at the same time that you lodge this form.

### Fees can be paid via money order, cheque, cash or credit card.

Money orders and cheques are to be made payable to 'VCAT'. Cash payments will only be accepted if you are delivering this application in person to VCAT. Do not send cash in the mail.

If you wish to pay the fee by credit card, please fill in the details below.