VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

planning and environment DIVISION

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| planning and environment LIST | vcat reference No. P899/2020  Permit Application no. TPA/50354 |

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| APPLICANT | Manikato Avenue Pty Ltd |
| responsible authority | Monash City Council |
| SUBJECT LAND | 56 Eva Street CLAYTON VIC 3168 |
| WHERE HELD | Melbourne |
| BEFORE | Michelle Blackburn, Member |
| HEARING TYPE | Hearing |
| DATE OF HEARING | 24 September 2020 |
| DATE OF ORDER | 24 September 2020 |

# Order

### Permit granted

1. In application P899/2020 the decision of the responsible authority is set aside.
2. In planning permit application TPA/50354 a permit is granted and directed to be issued for the land at 56 Eva Street, Clayton in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:

* Construction of four (4) double storey dwellings on a lot.

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| **Michelle Blackburn**  **Member** |  |  |

# Appearances

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| For applicant | Mr/ D. Bowden, town planner, of Song Bowden Planning. |
| For responsible authority | Mr P. English, town planner, of Peter English & Associates Pty Ltd. |

# Remarks

1. Oral reasons for the decision of the Tribunal were given at the hearing.

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| **Michelle Blackburn**  **Member** |  |  |

# Appendix A – Permit Conditions

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| Permit Application No: | TPA/50354 |
| Land: | 56 Eva Street CLAYTON VIC 3168 |

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| What the permit allows |
| In accordance with the endorsed plans:   * Construction of four (4) double storey dwellings on a lot. |

## Conditions:

### Amended Plans Required

1. Before the development / use commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale and dimensioned. When the plans are endorsed they will then form part of the Permit. The plans must be generally in accordance with the decision plans prepared by Bello Design Group dated 20 March 2020 but modified to show:
   1. The location and design of any proposed electricity supply meter boxes. The electricity supply meter boxes must be located at or behind the setback alignment of buildings on the site. Alternatively it must be set back a minimum of 3 metres from the front title boundary, no greater than 1.4 metres in height and must be adjacent to the side boundary fence.
   2. Clarification of the height of proposed letterboxes to ensure their location does not impede on pedestrian sight lines.
   3. The materials schedule to provide further details on the finishes including the render finish and timber look cladding.
   4. Correction of garage doors on elevation plans to be woodland grey tone or similar.
   5. Variation of the material for the dividing party wall between dwellings 1 and 2 to reduce its dominance and blend into the dwellings.
   6. Revision of the dividing fence within the front setback between the open space areas of Dwellings 1 and 2 to be of a high quality material and finish.
   7. A Landscape Plan in accordance with condition 3 of this Permit.
   8. A Tree Management Plan in accordance with Condition 5 of this Permit.
   9. A Sustainable Design Assessment in accordance with Condition 6 of this Permit.

### Layout not to be Altered

1. The development as shown on the endorsed plans must not be altered without the written consent 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 prepared by John Patrick Landscape Architects Pty Ltd, dated 26 August 2020.
2. 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.

### Tree Management Plan

1. Concurrent with the endorsement of any plans pursuant to 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 Tree 1 Street Tree (as identified in the Arborist Report prepared by PSY Inv Pty Ltd dated 16 May 2019).

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 regarding the protection of the tree to the satisfaction of the Responsible Authority ensuring the tree is 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 of any roots required to be undertaken by the Project Arborist.
  3. Supervision details and certification of tree management activities required by the Project Arborist to the satisfaction of the responsible authority.

The recommendations contained in the approved tree management plan must be implemented to the satisfaction of the Responsible Authority.

### Amended Sustainable Design Assessment (SDA) Required

1. Concurrent with the endorsement of any plans pursuant to Condition 1, an amended Sustainable Design Assessment to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Design Assessment will be endorsed and will form part of this permit. The amended Sustainable Design Assessment must be generally in accordance with the Sustainable Design Assessment prepared by Star Rating, dated 5 September 2019 but modified to reflect plans prepared by Bello Design Group, dated 20 March 2020 including any Condition 1 requirements as necessary.
2. The provisions, recommendations and requirements of the endorsed Sustainable Design Assessment must be implemented and complied with to the satisfaction of the Responsible Authority.

### Car Parking and Driveways

1. Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose, to the satisfaction of the Responsible Authority.
2. Any new vehicle crossover or modification to an existing vehicle crossover must be constructed to the satisfaction of the Responsible Authority.
3. All disused or redundant vehicle crossovers must be removed and the area reinstated with footpath, naturestrip, kerb and channel to the satisfaction of the Responsible Authority.

### Boundary Walls

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

### Privacy screens

1. Prior to the occupancy of the development, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority. The use of obscure film fixed to transparent windows is not considered to be 'obscure glazing' or an appropriate response to screen overlooking.

### Plant / Equipment or features on roof

1. No equipment, services, architectural features or structures of any kind, including telecommunication 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.

### No Waste Bin in View

1. No bin or receptacle or any form of rubbish or refuse shall be allowed to remain in view of the public and no odour shall be emitted from any receptacle so as to cause offence to persons outside the land.

### Drainage & Stormwater

1. The site must be drained to the satisfaction of the Responsible Authority.
2. No polluted and/or sediment laden runoff is to be discharged directly or indirectly into Council's drains or watercourses during and after development, to the satisfaction of the Responsible Authority.
3. Stormwater discharge is to be detained on site to the predevelopment level of peak stormwater discharge. Approval of any detention system is required by the City of Monash prior to works commencing.

### Time for Starting and Completion

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 is not started before 2 years from the date of issue.
   2. The development is not completed before 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:

* + 1. within six (6) months afterwards if the development has not commenced; or
    2. 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 -**