VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

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| planning and environment LIST | vcat reference No. P1121/2020Permit Application no. TPA/51311 |
| CATCHWORDS |
| Section 80 of the Planning and Environment Act 1987; Monash Planning Scheme, conditions appeal, SCL hearing; oral decision by the Tribunal on the day.  |

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| APPLICANT | Georgios & Konstantinia Gaoutsos |
| responsible authority | Monash City Council |
| SUBJECT LAND | Unit 28 Clapham RoadHUGHESDALE VIC 3166 |
| HEARING TYPE | Short Cases List Hearing |
| DATE OF HEARING | 22 October 2020 |
| DATE OF ORDER | 30 October 2020 |

# Order

1. The decision of the Responsible Authority is varied.
2. The Tribunal directs that Permit No. TPA/51311 must contain the conditions set out in the permit issued by the Responsible Authority on 26 June 2020, with the following modifications:
	1. Condition 1(a) is amended to read as follows – “*The northern end of the proposed upper balcony moved further to the south, so that this northern end sits parallel with the upper northern external wall of the subject dwelling*”.
	2. Condition 1(b) is varied by adding the words “*…or gravel with a single line of pavers acting as the equivalent of ‘stepping stones*’ *across the gravel area*” after the words “or garden beds”.
	3. Add a new Condition 1(d) which reads as follows “*A new notation inserted next to the balcony, as shown on each of the ‘Proposed East/South/North Elevations’ on Sheet WD10. This new notation shall read – “The permit holder in its discretion may alternatively utilise a balcony balustrade treatment as follows – the northern and lower southern/eastern sections of the balustrade shall be vertical slats with a maximum permeability of 25%, plus the upper section of the southern/eastern balustrade shall be opaque glass*”.

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| **Philip Martin****Senior Member**  |  |  |

# Appearances

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| For applicant | Ms Konstantinia Gaoutsos appeared in person |
| For responsible authority | Mr James Turner (Council planner) |

# remarks

# [SUMMARY OF ORAL DECISION]

1. In relation to the land at 8 Clapham Road, Hughesdale, planning permit number TPA/51311 was granted on 26 June 2020, authorising “….extension of one dwelling on a lot under 500 square metres”.
2. However, the owner/permit holder initiated a conditions appeal to VCAT, as follows. In relation to the application plans dated 20 April 2020, the following changes are required by conditions 1(a) and (b):
	* Condition 1(a) requires the deletion of the proposed upper level balcony.
	* Condition 1(b) in essence requires the paved area in the south eastern corner of the site to be replaced with either lawn or garden beds.
3. Although there was some loose suggestion of challenging condition 1(c), I am satisfied that this condition is very routine and there is nothing really of any concern here.
4. The hearing in front of me occurred as a Short Cases List Hearing on 22 October 2020, during which I heard submissions from the two persons listed further above. Council indicated that it would live with a shortened version of the upper level balcony. Being a SCL format hearing, after receiving submissions from the parties, I stood the matter down to reflect on the issues. I then returned and gave an oral decision.
5. I provided detailed oral reasons why my overall findings were that:
	* The contentious balcony could remain but in a shortened format, as was Council’s compromise position.
	* I would allow the option of a modified treatment of the shortened balcony’s balustrade, as was discussed during the hearing and shown on a revised eastern elevation plan forming part of the written submission of the applicant that was pre-provided to the Tribunal and Council.
	* The contentious garden area in the south/eastern corner of the site could (as was discussed during the hearing) be alternatively converted into the format of ‘gravel plus a single line of pavers, acting as the equivalent of stepping-stones’ (as well as the two other options of a garden bed or lawn).
6. My orders set out above reflect this in position.

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| **Philip Martin****Senior Member**  |  |  |