

# VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

## PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P11512/2021  
PERMIT APPLICATION NO.TPA/52689

<b>APPLICANTS</b>	George Apostolou, John Apostolou & Others
<b>RESPONSIBLE AUTHORITY</b>	Monash City Council
<b>SUBJECT LAND</b>	128 View Mount Road, WHEELERS HILL VIC 3150
<b>HEARING TYPE</b>	Hearing
<b>DATE OF HEARING</b>	28 April 2022
<b>DATE OF ORDER</b>	28 April 2022

## 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:

- Prepared by: Durable Design
- Drawing numbers: TP00 – TP08 Revision C
- Dated: 16 February 2022
  
- Prepared by: Bradbury Culina
- Drawing numbers: 3766
- Dated: 27 September 2021

### Permit amended

- 2 In application P11512/2021 the decision of the responsible authority is set aside.
- 3 Planning permit TPA/52689 is amended and an amended permit is directed to be issued for the land at 128 View Mount Road Wheelers Hill in accordance with the endorsed plans and the conditions set out in Appendix A. The amended permit allows:
- The construction of two or more dwellings on a lot.

Karina Shpigel  
Member



## APPEARANCES

For George, John and Anna  
Apostolou

Tim Radisich, Town Planner

For Monash CC

Peter English, Town Planner.



## INFORMATION

Description of proposal	The construction of two double storey dwellings in a side by side arrangement.
Nature of proceeding	Application under section 77 of the <i>Planning and Environment Act 1987</i> – 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). Vegetation Protection Overlay, Schedule 1 (Tree Protection Area).
Permit requirements	Clause 32.09-6 to construct two or more dwellings on a lot.
Land description	The site is located on the eastern side of View Mount Road. The overall area of the site is 654 square metres. The site is developed with a single storey detached brick dwelling. There is no significant vegetation on the site.



## REMARKS

- 1 At the conclusion of the hearing, the parties were provided with an oral ruling.

Karina Shpigel  
**Member**



## APPENDIX A – PERMIT CONDITIONS

<b>PERMIT APPLICATION NO</b>	TPA/52689
<b>LAND</b>	128 View Mount Road, WHEELERS HILL VIC 3150

### WHAT THE PERMIT ALLOWS

In accordance with the endorsed plans:

- The construction of two or more dwellings on a lot.

### CONDITIONS

#### Amended Plans Required

- 1 Before the development 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. They must be generally in accordance with plans prepared by Durable Design, Rev C, dated 16 February 2022, but modified to show:
  - (a) The garages set back a minimum of 1.2 metres behind the facade of the dwellings.
  - (b) Landscape plan in accordance with Condition 3 of this Permit.

#### Layout not to be altered

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

#### Landscape

- 3 Concurrent with the endorsement of any plans requested 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. They must generally be in accordance with the landscape plan prepared by Bradbury Culina, Drawing Number 3766, dated 27 September 2021, but modified to show:
  - (a) A survey and location of all existing trees, using botanical names to be retained and of those to be removed. The intended status of the trees shown on the landscape plan must be consistent with that depicted on the development layout plan;



- (b) A planting schedule of all proposed trees (canopy tree to be Australian native species), shrubs and ground cover, which will include the size of all plants (at planting and at maturity), pot / planting size, location, botanical names and quantities;
- (c) A minimum of four (4) canopy trees (minimum 1.5 metres tall when planted). The canopy trees must have a minimum height of 7 metres and must have a spreading crown with a minimum width of 4 metres at maturity, or as otherwise agreed by the Responsible Authority;
- (d) the location of any boundary and internal fencing to the site;
- (e) provision of canopy trees with spreading crowns located throughout the site including the major open space areas of the development;
- (f) planting to soften the appearance of hard surface areas such as driveways and other paved areas;
- (g) Canopy Trees / Significant Planting on adjoining properties within 3 metres of the site;
- (h) the location of any retaining walls associated with the landscape treatment of the site;
- (i) details of all proposed surface finishes including pathways, accessways, patio or decked areas;
- (j) An in-ground, automatic watering system linked to rainwater tanks on the land must be installed and maintained to the common garden areas to the satisfaction of the Responsible Authority;
- (k) Landscaping and planting within all open areas of the site.

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

### **Tree Protection**

- 4 Before any development (including demolition) starts on the land, a tree protection fence must be erected around all trees that are to be retained, or are located within or adjacent to any works area (including trees on adjacent land). The tree protection fence must remain in place until all construction is completed on the land, except with the prior written consent of the Responsible Authority.
- 5 No crossover should be within 2.5 metres of the street tree base. The tree must be protected by temporary rectangular wire fencing as per Australian Standards, erected prior to commencement of works until completion. Fence must extend out to at least distances given.

### **Landscaping Prior to Occupation**

- 6 Before the occupation of any 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 thereafter maintained to the satisfaction of the Responsible Authority.

### **Drainage**

- 7 The site must be drained to the satisfaction of the Responsible Authority.
- 8 A plan detailing the drainage works must be submitted to the Engineering Division prior to the commencement of works for approval. The plans are to show sufficient information to determine that the drainage works will meet all drainage requirements of this permit.
- 9 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; or any alternate system.
- 10 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.
- 11 The full cost of reinstatement of any Council assets damaged as a result of demolition, building or construction works, must be met by the permit applicant or any other person responsible for such damage, to the satisfaction of the Responsible Authority.

### **Vehicle Crossover**

- 12 All new vehicle crossings must be a minimum of 3.0 metres in width and constructed in accordance with Council standards.
- 13 All vehicle crossings within 1.50 metres of an adjoining crossing shall be converted to a double crossing in accordance with Council standards.
- 14 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.
- 15 Any works within the road reserve must ensure the footpath and naturestrip are to be reinstated to Council standards.
- 16 Provide a corner splay or area at least 50% clear of visual obstructions (or with a height of less than 1.2 metres), which may include adjacent landscaping areas with a height of less than 0.9 metres, extending at least 2.0 metres long x 2.5 metres deep (within the property) both sides or from the edge of the exit lane of each vehicle crossing to provide a clear view of pedestrians on the footpath of the frontage road.

### **Urban Design**

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

### **Satisfactory Continuation and Completion**

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

### **Permit Expiry**

- 19 This permit as it relates to development (buildings and works) will expire if one of the following circumstances applies:
- (a) The development is not started within two (2) years of the issue date of this permit.
  - (b) 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 –**

