 VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

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| planning and environment LIST | vcat reference No. P407/2021  Permit Application no.TPA/52146 |
| CATCHWORDS | |
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| **Applicant** | Marie Therese Angela David |

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| **Responsible Authority** | Monash City Council |

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| SUBJECT LAND | 2 Glenleigh Court  GLEN WAVERLEY VIC 3150 |

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| HEARING TYPE | Hearing |

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| DATE OF HEARING | 4 October 2021 |

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| DATE OF ORDER | 5 October 2021 |

# Order

### Permit granted

1. In application P407/2021 the decision of the responsible authority is set aside.
2. In planning permit application TPA/52146 a permit is granted and directed to be issued for the land at 2 Glenleigh Court Glen Waverley VIC 3150 in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows the construction of two dwellings on a lot.

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| Katherine Paterson  **Member** |  |  |

# Appearances

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| For applicant | Mr Trevor Ludeman, Town Planner, Project Planning and Development Pty Ltd. He called the following witness:   * Mr Robert Thompson, Landscape Architect |
| For responsible authority | Ms Adrianne Kellock, Town Planner, Kellock Town Planning Pty Ltd |

# Information

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| Description of proposal | Construction of two dwellings. |
| Nature of proceeding | Application under section 77 of the *Planning and Environment Act 1987* – to review the refusal to grant a permit. |
| Planning scheme | Monash Planning Scheme |
| Zone and overlays | Neighbourhood Residential Zone Schedule 4, Vegetation Protection Overlay Schedule 1. |
| Permit requirements | Clause 32.09-6 – Construct two or more dwellings on a lot. |
| Land description | The subject site has an area of 910 square metres. Located at the end of a court, it has a narrow frontage of 16.6 metres. It currently contains a detached single storey dwelling. |

# Reasons[[1]](#footnote-1)

## What is this proceeding about?

1. For the reasons given orally at the conclusion of the hearing.

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| Katherine Paterson  **Member** |  |  |

# Appendix A – Permit Conditions

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| Permit Application No | TPA/52146 |
| Land | 2 Glenleigh Court  GLEN WAVERLEY VIC 3150 |

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| What the permit allowS |
| The construction of two dwellings generally in accordance with the endorsed plans. |

## 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. The plans must be generally in accordance with the plans submitted with the application, prepared by Concept 2 Completion, dated 7 December 2020 and numbered TP04 to TP07 inclusive, but modified to show:
2. The garages reduced to be single garages located on the respective side boundaries, in the same location as the current double garages, with a consequential reduction in the extent of driveway to access the garages. The resultant floor space is then to be converted to a habitable space such as a study nook, extended entry or living area, with a glazed element to the front façade. The building footprint of each dwelling is to be otherwise unchanged.
3. The materials of the driveway altered to be consistent with that shown on the landscape plan prepared by Habitat Landscape and Environmental Design Consultants, dated September 2021.
4. Screening treatment to the following first floor windows in accordance with the requirements of Standard B22 of Clause 55 of the Monash Planning Scheme, unless it is satisfactorily demonstrated (e.g. by cross section or other diagrams) that no screening is required to satisfy Standard B22 to the satisfaction of the Responsible Authority:
5. Dwelling 1: The northernmost east facing sitting room window.
6. Dwelling 2: The two east facing windows of Bedroom 4.
7. The street tree identified to be shown to be retained
8. Any design changes necessary to ensure the retention of the street tree including driveway and crossover construction, as recommended in the arborist report endorsed under condition 6 of this permit.
9. A Landscape Plan prepared in accordance with Condition 3 of this permit.

### No Alteration or Changes

1. The development as shown on the endorsed plans must not be altered without the prior 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 plan prepared by Habitat Landscape and Environmental Design Consultants, dated September 2021 but modified to show:
2. any changes required by condition 1;
3. the provision of any tree protection fencing or other changes as specified within the arborist report endorsed under condition 6 of this permit;

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

### Landscaping and Tree Retention

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.
2. All landscaping works shown on the endorsed landscape plan(s) must be maintained and any dead, diseased or damaged plants replaced, all to the satisfaction of the Responsible Authority.
3. Prior to the commencement of any works that are permitted by this permit, a report prepared by a suitably qualified arborist must be submitted to and approved by the responsible authority. Once approved, the report will be endorsed and form part of this permit. The report must be in accordance with the in accordance with Australian Standard AS4970:2009 - Protection of Trees on Development Sites and must:
   1. Calculate the tree protection zone and structural root zone of the street tree, and provide an assessment as to the level of incursion into the street tree;
   2. Provide an assessment as to the likely impact that the works may have on the health and viability of the tree, including a root exploration if the level of incursion into the tree protection zone is above 10% or is within the structural root zone of the tree.
   3. Detail any design changes, including to crossover location and driveway design, necessary to ensure the long term health and viability of the tree.
   4. Detail any tree protection works necessary during construction to protect the health and viability of the street tree, such as tree protection fencing.

### Car Parking and Accessways

1. Before the use starts or any building is occupied, areas set aside for parked vehicles and access lanes as shown on the endorsed plans must be:

a) constructed to the satisfaction of the Responsible Authority;

b) properly formed to such levels that they can be used in accordance with the plans;

c) surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority;

d) drained, maintained and not used for any other purpose to the satisfaction of the Responsible Authority;

e) line-marked to indicate each car space and all access lanes to the satisfaction of the Responsible Authority.

Parking areas and access lanes must be kept available for these purposes at all times.

1. Low intensity / baffled lighting must be provided to ensure that car park areas and pedestrian accessways are adequately illuminated without any unreasonable loss of amenity to the surrounding area, 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.

### 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.

### Services and Plant Equipment

1. All pipes (except down-pipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from external view, to the satisfaction of the Responsible Authority.
2. 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.
3. Any required fire services, electricity supply, gas and water meter boxes must be discreetly located and/or screened to compliment the development to the satisfaction of the Responsible Authority. Any required services must be clearly detailed on endorsed plans forming part of this permit.
4. 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:
2. The development has not started before 3 (three) years from the date of issue*.*
3. The development is not completed before 5 (five) 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 use or 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.

1. The submissions and evidence of the parties, any supporting exhibits given at the hearing and the statements of grounds filed have all been considered in the determination of the proceeding. In accordance with the practice of the Tribunal, not all of this material will be cited or referred to in these reasons. [↑](#footnote-ref-1)