VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

planning and environment DIVISION

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| planning and environment LIST | vcat reference No. P413/2020 |
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| APPLICANT | Jefa and Catherine Greenaway |
| responsible authority | Monash City Council |
| RESPONDENTs | Matthew Merola |
| SUBJECT LAND | 2 Nioka StreetCHADSTONE VIC 3148 |
| WHERE HELD | Melbourne |
| BEFORE | E A Bensz, Member |
| HEARING TYPE | Compulsory conference  |
| DATE OF HEARING | 3 August 2020 |
| DATE OF ORDER | 3 August 2020 |

# Order

### Hearing details

1. The hearing listed for 1 February 2021 is **vacated**. No attendance is required.

### Grant new permit

1. The decision of the responsible authority is varied.
2. In permit application TPA50936 a permit is granted and directed to be issued for the land at 2 Nioka Street, CHADSTONE in accordance with the endorsed plans and on the conditions set out in Appendix A. The permit allows:
* The construction of two (2) double storey dwellings.

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| **E A Bensz****Member**  |  |  |

# APPEARANCES

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| For applicant | Jefa and Catherine Greenaway in person |
| For responsible Authority | James Turner and Di Stanley, town planners |
| For respondents | Peter English, town planner of Peter English and Assoc |

# reasons

### Full settlement

1. This order is made at the request of the parties and with their consent as an outcome of a compulsory conference.
2. The Tribunal regards the consent of the responsible authority to be a confirmation to the Tribunal that:
* the responsible authority is of the opinion that the permit or amended permit is appropriate having regard to the matters it is required to consider under section 60 of the Act, including the balanced application of the strategies and policies of the relevant planning scheme and is otherwise in conformity with the provisions of the planning scheme and the *Planning and Environment Act* 1987;
* the proposed orders will not result in any change to the proposed use or development which would materially affect any person other than the parties to the proceeding.
1. Based on the information available to the Tribunal, I consider it is appropriate to make these orders.

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| **E A Bensz****Member**  |  |  |



# APPENDIX A

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| **PERMIT APPLICATION NO:** | TPA50936 |
| **LAND:** | 2 Nioka StreetCHADSTONE VIC 3148 |
| **WHAT THE PERMIT ALLOWS:** |
| * The construction of two (2) double storey dwellings.

in accordance with the endorsed plans. |

# conditions

### Amended Plans

1. Before the development starts, plans drawn to scale and dimensioned must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans submitted with the application Revision C, drawings TP01 to TP08 dated November 2019 and prepared by 2BScene Design but modified to show:
	1. The setback of the front walls of both dwellings to the front property boundary to be a minimum of 7.6 metres.
	2. The setback of the ground floor living room in Dwelling 1 to the eastern property boundary to be increased to 2 metres.
	3. The proposed crossover adjacent to the eastern boundary provided with a setback of no less than 4 metres to the base of the Liquidambar street tree, measured from the trunk face at ground level.
	4. A double door (minimum width 1.8 metres) to be installed to the garage of Dwelling 2 to allow for drainage maintenance requests.
	5. The tandem car parking space in front of each garage is to have a minimum length of 5.4 metres from the property boundary.
	6. All garages must be at least 6 metres long and 3.5 metres wide for a single space measured inside the garage.
	7. The front wall of the garage for Dwelling 1 is to be recessed 1 metre behind the front wall of this dwelling.
	8. The finished floor level of the kitchen, living and dining room and deck at the rear of both Dwelling 1 is to be lowered to a maximum 500 mm above natural ground level.
	9. All boundary fences at the rear of the site are to include a lattice extension with a height of 500mm.
	10. The first floor east facing family room window in Dwelling 1 is to include screening to a height of 1.7 metres above finished floor level.
	11. The first floor east facing bathroom window of Dwelling 1 is to include fixed obscure glazing or screening to a height of 1.7 metres above finished floor level to prevent overlooking impacts.
	12. The first floor west facing bathroom window of Dwelling 2 is to include fixed obscure glazing or screening to a height of 1.7 metres above finished floor level to prevent overlooking impacts
	13. The south facing first floor windows in bedroom 4 of each dwelling are to include a fin or blade to the eastern and western edge of each of these windows to minimise overlooking impacts to the adjoining SPOS area.
	14. The fence to be located within the front setback to divide the two dwellings is to be removed.
	15. The location and design of any proposed electricity supply meter boxes. The electricity supply meter boxes must be located at a distance from the street which is at or behind the setback alignment of buildings on the site or in compliance with Council’s “Guide to Electricity Supply Meter Boxes in Monash”.
	16. The development must be provided with a corner splay or area at least 50% clear of visual obstruction (or with a height of less than 1.2m) extending at least 2.0 metres long x 2.5 metres deep (within the property) on both sides of each vehicle crossing to provide a clear view of pedestrians on the footpath of the frontage road.
	17. The finished floor level of the kitchen, living and dining room and deck at the rear of Dwelling 2 is to be lowered by an additional 300 millimetres.
	18. All upper level external screens be to a minimum height of 1.7 metres above FFL.
	19. The setback of the first floor of Dwelling 2 to the southern boundary to be increased to 11.48 metres.
	20. The western boundary fence shall be constructed in timber paling to a minimum height of 2.5 metres.

### 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.

### Common Boundary Fences

1. All common boundary fences are to be a minimum of 1.8 metres above the finished ground level to the satisfaction of the Responsible Authority. The fence heights must be measured above the highest point on the subject or adjoining site, within 3 metres of the fence line.

### Landscaping

1. Before the commencement of buildings and works, 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 prior to the commencement of any works. The plan must show the proposed landscape treatment of the site including:-
	1. the location of all existing trees and other vegetation to be retained on site
	2. appropriate tree protection zone for the Liquidambar tree at the front of the site and notation to confirm that no construction will occur within 4 metres of the Liquidambar street tree measured from the trunk face at ground level
	3. provision of two (2) canopy trees with spreading crowns located within the front setback area of the site and two (2) canopy trees within the secluded private open space area of each dwelling
	4. planting to soften the appearance of hard surface areas such as driveways and other paved areas
	5. a schedule of all proposed trees, shrubs and ground cover, which will include the size of all plants (at planting and at maturity), their location, botanical names and the location of all areas to be covered by grass, lawn, mulch or other surface material
	6. the location and details of all fencing
	7. the extent of any cut, fill, embankments or retaining walls associated with the landscape treatment of the site
	8. details of all proposed hard surface materials including pathways, patio or decked areas

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

### Tree Protection

1. Prior to the commencement of any works that are permitted by this permit, all trees that are to be retained, or are located within or adjacent to any works area, shall be marked and provided with a protective barricade and verified by an authorised officer of the Responsible Authority.
2. No building material, demolition material or earthworks shall be stored or stockpiled under the canopy line of any tree to be retained during the construction period of the development hereby permitted.
3. Excavation of the driveway for Dwelling 1 is to be done by hand digging at the set back line and any roots encountered that are greater than 40mm in diameter, are to be cut cleanly and not broken away by machinery.

### Landscaping Prior to Occupation

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.

### Stormwater

1. All stormwater collected on the site from all hard surface areas must not be allowed to flow uncontrolled into adjoining properties or the road reserve.
2. All stormwater collected on the site is to be detained on site to the predevelopment level of peak stormwater discharge. The design of any internal detention system is to be approved by Council’s Engineering Department prior to drainage works commencing. Further information regarding the design of the on-site detention system is provided in the notes section of this permit.
3. The nominated point of stormwater connection for the site is to the south-west corner of the property where the entire site's stormwater must be collected and free drained via a pipe to the 225 mm Council drain in the rear easement via a 900 mm x 600 mm junction pit to be constructed to Council standards. Note: If the point of connection cannot be located then notify Council's Engineering Department immediately.
4. A double door (minimum width 1.8 metres) to be installed to the garage of Dwelling 2 to allow for drainage maintenance requests.

### Road Infrastructure

1. All new vehicle crossings must be a minimum of 3.0 metres in width and constructed in accordance with Council standards.
2. All vehicle crossings within 1.50 metres of an adjoining crossing shall be converted to a double crossing in accordance with Council standards.
3. Any works within the road reserve must ensure the footpath and nature strip are to be reinstated to Council standards.

### Traffic, Parking & Access

1. 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.
2. The visitor parking space in front of each garage is to have a minimum length of 5.4 metres from the property boundary.
3. All garages must be at least 6 metres long and 3.5 metres wide for a single space measured inside the garage.

### Permits

1. Engineering permits must be obtained for new or altered vehicle crossings and new connections to Council drains and these works are to be inspected by Council's Engineering Department. A refundable security deposit of $1,000 is to be paid prior to the drainage works commencing.

### Completion of Buildings and Works

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

### Permit Expiry

1. This permit will expire in accordance with section 68 of the Planning and Environment Act 1987, if one of the following circumstances applies:
	1. The development has not started before two (2) years from the date of issue.
	2. The development is not completed before four (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 within six months of the permit expiry date, where the development allowed by the permit has not yet started; or within 12 months of the permit expiry date, where the development has lawfully started before the permit expires

**---** **End of Conditions** ---