VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

|  |  |
| --- | --- |
| planning and environment LIST | vcat reference No. P1002/2021Permit application No.TPA/52129 |

|  |  |
| --- | --- |
| **Applicant** | Dean Bragge |

|  |  |
| --- | --- |
| **Responsible Authority** | Monash City Council |
| **Respondent** | Kue Sum Lai |

|  |  |
| --- | --- |
| SUBJECT LAND | 31 Olinda StreetGLEN WAVERLEY VIC 3150 |
| HEARING TYPE | Compulsory conference  |
| DATE OF HEARING | 5 October 2021 |
| DATE OF ORDER | 5 October 2021 |

# Order

### Grant permit

1. In application no. P1002/2021 the decision of the responsible authority is varied.
2. In permit application no. TPA/52129 a permit is granted and directed to be issued for the land at 31 Olinda Street Glen Waverley in accordance with the endorsed plans and on the conditions set out in Appendix A. The permit allows:
* Construction of two dwellings.

### Hearing vacated

1. The hearing scheduled at 10:00am **on 14 December 2021** is vacated. No attendance is required.

|  |  |  |
| --- | --- | --- |
| Alison Glynn**Member** |  |  |

# APPEARANCES

|  |  |
| --- | --- |
| For applicant | Mr Dean Bragge |
| For responsible Authority | Ms Moulisa Sahai, town planner. |
| For respondent | Mr Tim Radisich and Mr Kue Sum Lai. |

# remarks

### Full settlement

1. This matter involves and application pursuant to section 82 of the *Planning and Environment Act 1987* for a review of the Monash City Council to issue a notice of decision to grant a planning permit for two dwellings at 31 Olinda Street, Glen Waverley.
2. At the compulsory conference, the parties reached agreement and request orders by consent. The parties request that a permit is granted, subject to conditions].
3. This order is made at the request of the parties and with their consent as an outcome of a compulsory conference.
4. 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 is appropriate having regard to the matters it is required to consider under section 60 of the *Planning and Environment Act 1987* (**Act**), including the balanced application of the strategies and policies of the Monash Planning Scheme (**Planning Scheme**) and is otherwise in conformity with the provisions of the Planning Scheme and the Act;
* the proposed orders will not result in any change to the proposed 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 give effect to the settlement reached by the parties pursuant to section 93(1) of the *Victorian Civil and Administrative Tribunal Act 1998*.



# APPENDIX A

|  |  |
| --- | --- |
| **PERMIT APPLICATION NO:** | TPA/52129 |
| **LAND:** | 31 Olinda StreetGLEN WAVERLEY VIC 3150 |
| **WHAT THE PERMIT ALLOWS:** |
| * Construction of two dwellings

in accordance with the endorsed plans. |

# conditions

1. Before the development starts, amended plans drawn to scale and correctly dimensioned must be submitted to the satisfaction of and approved by the Responsible Authority. When approved, the plans will be endorsed and then form part of the Permit. The plans must be generally in accordance with the plans T20/06 sheet 1 to 6 prepared by Jackson and Fapio Architects dates 22.02.2021 but modified to show:
	1. The upper storey bathroom and wc wall along the southern elevation be setback 2.745 metres from the southern boundary.
	2. The upper storey setback of bedroom 3 of unit 2 increased to a minimum of 3.245 metres from the south side boundary.
	3. The upper storey setback of the gallery and bedroom 2 of unit 2 increased to a minimum of 3.645 metres from the south side boundary.
	4. Hedge screen planting of *pittosporum tenuifolium*, or similar species that has a mature height of at least 3 – 4 metres in the garden bed area along the south side boundary
	5. The upper storey bathroom and wc wall along the northern elevation be setback 3.170 metres from the northern boundary.
	6. A freestanding privacy screen, up to 25% permeability, be placed up to a height of 2m above the finished floor of the dwelling in front of the living room window and the rear deck on the north elevation of dwelling 1.
	7. A privacy screen with up to 25% permeability be provided along the southern elevation of the rear deck of dwelling 2. The screen must be at least 1.7m above the finished floor level of the deck.
	8. 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, or in compliance with Council’s “Guide to Electricity Supply Meter Boxes in Monash”.
	9. A corner splay or area at least 50 per cent clear of visual obstructions extending at least 2 metres along the frontage road from the edge of an exit lane and 2.5 metres along the exit lane from the frontage, to provide a clear view of pedestrians on the footpath of the frontage road. The area clear of visual obstructions may include an adjacent entry or exit lane where more than one lane is provided, or adjacent landscaped areas, provided the landscaping in those areas is less than 900mm in height.
	10. A Landscape Plan in accordance with condition 3 of this Permit but modified to address condition 1d).

### Removal of Street tree

1. The existing street tree will be removed and replaced by Council at the cost of the developer.

### Layout not to be altered

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 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 and generally in accordance with sheet of T20-06 landscape plan, prepared by Jackson and Fabio Pty Ltd, must be submitted to and approved by the Responsible Authority. The Landscape Plan must show:
	1. Hedge screen planting of *pittosporum tenuifolium*, or similar species that has a mature height of at least 3 – 4 metres in the garden bed area along the south side boundary.
	2. 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;
	3. A planting schedule of all proposed trees, 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;
	4. the location of any fencing internal to the site;
	5. provision of canopy trees with spreading crowns located throughout the site including the major open space areas of the development;
	6. planting to soften the appearance of hard surface areas such as driveways and other paved areas;
	7. Canopy Trees / Significant Planting on adjoining properties within 3 metres of the site;
	8. the location of any retaining walls associated with the landscape treatment of the site;
	9. details of all proposed surface finishes including pathways, accessways, patio or decked areas;
	10. 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;
	11. The location of external lighting (if any);
	12. Planting required by any other condition of this permit; and
	13. 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

1. 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.
2. No building material, demolition material, excavation or earthworks shall be stored or stockpiled within the Tree Protection Zone (TPZ) of any tree to be retained during the demolition, excavation and construction period of the development hereby permitted without the prior written consent of the Responsible Authority.

### Landscaping Prior to Occupation

1. 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

1. The site must be drained to the satisfaction of the Responsible Authority.
2. 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.
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; or any alternate system.
4. 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.
5. 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

1. All vehicle crossings within 1.50 metres of an adjoining crossing shall be converted to a double crossing in accordance with Council standards.
2. The proposed crossing of Unit 1 requires the removal of a naturestrip tree. Advice from Council’s Horticultural team will be required regarding the tree removal.
3. Any works within the road reserve must ensure the footpath and naturestrip are to be reinstated to Council standards.
4. 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 pedestrian on the footpath of the frontage road.

### Urban Design

1. 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

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:
* The development has not started before 2 years from the date of issue.
* 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** ---