

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P490/2023

APPLICANTS	Andrew Robinson & Bronwyn Robinson
RESPONSIBLE AUTHORITY	Monash City Council
RESPONDENT	Xuanyi Zhu
SUBJECT LAND	22 Cleek Avenue OAKLEIGH SOUTH VIC 3167
HEARING TYPE	Compulsory conference
DATE OF HEARING	5 September 2023
DATE OF ORDER	5 September 2023

ORDER

Grant permit

- 1 In application no. P490/2023 the decision of the responsible authority is **varied**.
- 2 In permit application no. TPA/54357 a permit is granted and directed to be issued for the land at 22 Cleek Avenue Oakleigh South 3167 in accordance with the endorsed plans and on the conditions set out in Appendix A. The permit allows:
 - Construction of a second, double storey dwelling.

Hearing vacated

- 3 The hearing scheduled at **10:00am on 24 November 2023** is vacated. No attendance is required.

Alison Glynn
Member



APPEARANCES

For applicants	Andrew and Bronwyn Robinson, in person
For responsible authority	Calum Douglas, town planner.
For respondent	Xuanyi Zhu, in person.

REMARKS

- 1 This matter involves an application pursuant to section 82 of the *Planning and Environment Act 1987* for a review of the Monash City Council decision to issue a notice of decision to grant a planning permit for a second, double storey dwelling on a lot.
- 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.
- 5 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*.

Alison Glynn
Member



APPENDIX A

PERMIT APPLICATION NO:	TPA/54357
LAND:	22 Cleek Avenue OAKLEIGH SOUTH VIC 3167
WHAT THE PERMIT ALLOWS:	
<ul style="list-style-type: none"> • Construction of a second, double storey dwelling. <p>in accordance with the endorsed plans.</p>	

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 submitted to Council prepared by LCW, dated November 2022 (Revision B), but modified to show:
 - (a) The dwelling 1 garage set back 200 mm from the south boundary fence.
 - (b) The dwelling 1 garage floor to ceiling height reduced to a maximum of 2.4 metres with the overall height of the garage reduced correspondingly by at least 200 mm.
 - (c) 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”.
 - (d) Dwelling 2 first floor western facing retreat window to be screened in accordance with Standard B22.
 - (e) 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.
 - (f) 6 cubic metres of external storage for each dwelling located outside the primary area of Secluded Private Open Space. If the storage is located within 1.0 metre of the southern side boundary fence it must have a maximum height of not more than 2.0 metres.



- (g) Existing northern and southern boundary fences replaced with new 1.95 metres high boundary fences, and notation that the southern boundary fence must be constructed with hardwood posts.
- (h) A Landscape Plan in accordance with condition 3 of this Permit.
All to the satisfaction of the Responsible Authority.

Layout not to be Altered

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

Landscape Plan

- 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. The plans must be generally in accordance with the plans submitted to Council prepared by Bradbury Culina, dated 9 December 2022, Drawing number 4105, but modified to show:
 - (a) Screen planting with a mature height of at least 3 metres located along the south boundary adjacent to dwelling 2.
 - (b) Eucalyptus Melldora “little Spotty” (Dwarf Spotted Gum) located in the south west corner of the site relocated towards existing dwelling with a minimum setback of 2 metres from the southern boundary.
 - (c) the location of any fencing internal to the site;
 - (d) planting to soften the appearance of hard surface areas such as driveways and other paved areas;
 - (e) the location of any retaining walls associated with the landscape treatment of the site;
 - (f) 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;
 - (g) The location of external lighting (if any);
 - (h) The location of 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”
 - (i) Planting required by any other condition of this permit; and
 - (j) Any changes in accordance with condition 1 of this Permit

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

- 4 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
 - (a) the Responsible Authority and thereafter maintained to the satisfaction of the
 - (b) Responsible Authority

Drainage

- 5 The site must be drained to the satisfaction of the Responsible Authority. Stormwater must be directed to the Point of Connection as detailed in the Legal Point of Discharge report. Stormwater must not be allowed to flow into adjoining properties including the road reserve.
- 6 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. Refer to Engineering Plan Checking on www.monash.vic.gov.au.
- 7 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.
- 8 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.
- 9 The full cost of reinstatement of any Council assets affected by the 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 Accessways

- 10 Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose, to the satisfaction of the Responsible Authority. All disused or redundant vehicle crossovers must be removed, and the area reinstated with footpath, nature strip, kerb and channel to the satisfaction of the Responsible Authority.

Privacy Screens

- 11 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 ongoing to the satisfaction of the Responsible Authority. The use of obscure film fixed to transparent glass or windows is not considered to be 'obscure glazing' or an appropriate response to screen overlooking.

Satisfactory Continuation and Completion

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

Time for Starting and Completion

- 13 In accordance with section 68 of the Planning and Environment Act 1987, this permit will expire if one of the following circumstances applies:
- (a) The development is not started before 2 years from the date of issue.
 - (b) 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

- (i) within six (6) months afterwards if the development has not commenced; or
- (ii) 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 ---