

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P949/2024
PERMIT APPLICATION NO. TPA/55706

APPLICANTS Andre Barouh & Joyce Corral
RESPONSIBLE AUTHORITY Monash City Council
RESPONDENT Roger Rao
SUBJECT LAND 37 Edinburgh Street
CLAYTON VIC 3168
DATE OF ORDER 28 November 2024

ORDER

Hearings vacated

- 1 The hearing scheduled at **10:00am 13 March 2025 at VCAT Oakleigh** is vacated. No attendance is required.
- 2 The compulsory conference scheduled at **2:00pm on 18 December 2024 at VCAT Oakleigh** is vacated. No attendance is required.

Permit granted

- 1 In application P949/2024 the decision of the responsible authority is varied.
- 2 In planning permit application TPA/55706 a permit is granted and directed to be issued for the land at 37 Edinburgh Street, Clayton in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:

Planning scheme clause	Matter for which the permit has been granted
Clause 32.08-7	Construct two or more dwellings on a lot.

Alison Glynn
Senior Member



REMARKS

- 1 Pursuant to section 93(1) of the *Victorian Civil and Administrative Tribunal Act 1998*, this order is made at the request of the parties and with their consent.
- 2 The Tribunal regards the consent of the responsible authority to be a confirmation to the Tribunal that:
 - a 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*;
 - b 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.
- 3 Based on the information available to the Tribunal, I consider it is appropriate to make these orders. In doing so I note that:
 - I have amended the permit description from that set out in the consent order so that the permit description aligns with the *Planning and Environment Regulations 2015* as amended through the *Planning and Environment Amendment Regulations 2024* made on 8 October 2024. I note the appendix to the consent order has set out the permit description in a manner that accords with the regulations.
 - I have removed words ‘new’ and ‘modified’ from the conditions in the appendix. My reading of the consent order request is that these words describe changes agreed from the notice of decision to grant a permit and are not sought to form part of the approved permit conditions. If I am wrong about this, the responsible authority can correct any clerical misunderstanding under section 71 of the *Planning and Environment Act 1987* (Vic).

Alison Glynn
Senior Member



APPENDIX A – PERMIT CONDITIONS

PERMIT APPLICATION NO	TPA/55706
LAND	37 Edinburgh Street CLAYTON VIC 3168

WHAT THE PERMIT ALLOWS	
In accordance with the endorsed plans:	
Planning scheme clause	Matter for which the permit has been granted
Clause 32.08-7	Construct two or more dwellings on a lot.

CONDITIONS

Amended Plans

- 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 Bello Design Group dated 9 April 2023, but to be modified to show:
 - (a) The north facing first floor Dwelling 2 Bedroom 2 window to have obscure glazing (not film) to 1700mm above FFL and openable above if required for ventilation.
 - (b) The north facing first floor Dwelling 3, bedroom 2 and bedroom 3 windows, are to have 900mm in height upward facing louvres installed from 1500 mm FFL to the top of windows, to prevent overlooking. The louvres must extend to 200mm below the opening sash. The windows are to be limited to a maximum opening of 120mm. The fixed window (900mm ffl to 1700mm ffl) glass must be made of obscure glass (not film).
 - (c) The north facing first floor Dwelling 3 ensuite window, is to have 500mm in length upward facing louvres installed from 1000 ffl to 1500 ffl to prevent overlooking. Glass must be made of obscure glass.
 - (d) The north facing first floor Dwelling 3, bedroom 4, glass is to made of obscure glass.
 - (e) The northern title boundary fence (not including the 7 metre section of Dwelling 3’s rear ground floor brick wall) to be notated as “The existing northern title boundary fence to be replaced with a paling fence with a minimum height of 2.4 metres from ground level at the cost of the owner/developer or as otherwise agreed (written agreement



must be submitted to Council for record purposes) with the owner/s of 52 Manton Road Clayton.”

- (f) Notation requiring the “Dwelling 3’s ground floor north wall (7 metre length) of Bedroom 1 to be cleaned and finished in a manner to the satisfaction of the Responsible Authority.” The notation must be added to the proposed ground floor plan and the proposed north elevation plan.
- (g) The Dwelling 3 ground floor northern wall (7 metre length) proposed on the northern title boundary is to be setback 200mm from the rear title boundary.
- (h) The diving fence between Dwelling 1 and 2 in the front setback to be deleted.
- (i) The secluded private open space of Dwelling 2 to have a minimum total area of 35 square metres with a minimum dimension of 5 metres and the overall private open space area to be a minimum of 75 square metres.
- (j) The storage shed of Dwelling 2 to be relocated to an internal ground level 6 cubic metre storage space within the garage (This will result in an increase in the internal length of the single car garage to accommodate this).
- (k) The Dwelling 2 pedestrian path to be relocated to have direct access from the nature strip.
- (l) The Dwelling 3 to have increased provision of landscaping area near the entry of the dwelling.
- (m) The proposed canopy tree in the north west corner of Dwelling 3 to be relocated to a position in the secluded private open space area at a minimum distance of 3 metres from the rear (northern) title boundary.
- (n) The external air conditioning unit of Dwelling 3 is to be located on the western side of Dwelling 3.
- (o) The rangehood vent of Dwelling 3 is to be located on the western side of Dwelling 3.
- (p) The north facing side of Dwelling 3 is to only use bollard lighting, and no flood lighting on the north facing side of Dwelling 3 is permitted.
- (q) The proposed finished floor level of the decking area of Dwelling 3. The level must correlate with the decking level as shown on the north elevation.
- (r) A Landscape Plan in accordance with condition 4 of this Permit.
- (s) A SDA Report in accordance with condition 6 of this Permit.

All the above to the satisfaction of the Responsible Authority.

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.

Compliance with documents approved under this permit

- 3 At all times what the permit allows must be carried out in accordance with the requirements of any document approved under this permit to the satisfaction of the responsible authority.

Landscape Plan

- 4 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. When endorsed, the plan will form part of the Permit. The Landscape Plan must be generally in accordance with the Landscape Concept Plan prepared by Bello Design Group dated 9 April 2023 except that the plan must be modified to show:
 - (a) Any required changes in Condition 1 to ensure the plan correlates with the development plans.

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

Landscaping Prior to Occupation

- 5 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

Sustainable Design Assessment

- 6 Concurrent with the endorsement of plans requested pursuant to Condition 1, a Sustainable Design Assessment to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Design Assessment will be endorsed and will form part of this permit.
- 7 The provisions, recommendations and requirements of the endorsed SMP must be implemented and complied with to the satisfaction of the Responsible Authority.

Tree Protection

- 8 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.

- 9 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.

Drainage & Stormwater

- 10 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.
- 11 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.
- 12 Stormwater 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 any stormwater drainage works commencing.
- 13 A plan detailing the stormwater drainage and civil works must be submitted to and approved by the Engineering Department prior to the commencement of any works. The plans are to show sufficient information to determine that the drainage and civil works will meet all drainage requirements of this permit. Refer to Engineering Plan Checking on www.monash.vic.gov.au.

Vehicle Crossovers

- 14 All disused or redundant vehicle crossovers must be removed and the area reinstated with footpath, naturestrip, kerb and channel to the satisfaction of the Responsible Authority.
- 15 Any new vehicle crossover or modification to an existing vehicle crossover must be constructed to the satisfaction of the Responsible Authority.
- 16 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.

Privacy Screens

- 17 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.

Boundary Walls

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

Reticulated Gas Service Connection

- 19 Any new dwelling allowed by this permit must not be connected to a reticulated gas service (within the meaning of clause 53.03 of the relevant planning scheme). This condition continues to have force and effect after the development authorised by this permit has been completed.

Dwelling 2 - Maximum of number of bedrooms

- 20 Dwelling 2 is to have no more than 2 bedrooms provided within the dwelling without the written consent by the Responsible Authority.

Satisfactory Continuation and Completion

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

Time for Starting and Completion

- 22 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 –

