

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P235/2024
PERMIT APPLICATION NO. TPA/54941

APPLICANT Lynne Maree Bowlen & Daniel Ker & Others
RESPONSIBLE AUTHORITY Monash City Council
RESPONDENT Garry Sharp
SUBJECT LAND 38 Thompson Street
CLAYTON VIC 3168
DATE OF ORDER 24 February 2025

ORDER

Amend permit application

1 Pursuant to clause 64 of Schedule 1 of the *Victorian Civil and Administrative Tribunal Act 1998*, the permit application is amended by substituting for the permit application plans, the following plans filed with the Tribunal:

- Prepared by: Sharp Building Design (Job No. 5921)
- Drawing numbers: TP1 Cover Sheet, TP2-8 – TP10-8
- Dated: 12 September 2024

Permit granted

- 2 In application P235/2024 the decision of the responsible authority is varied.
- 3 In planning permit application TPA/54941 a permit is granted and directed to be issued for the land at 38 Thompson Street CLAYTON VIC 3168 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.

Hearing vacated

- 4 The hearing scheduled at 10:00am on 28 February 2025 is **vacated**. No attendance is required.



Costs

5 No order as to costs.

Donna D'Alessandro
Member



REMARKS

- 1 Pursuant to section 93(1) of the *Victorian Civil and Administrative Tribunal Act 1998* (Vic), 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* (Vic);
 - 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.

Donna D'Alessandro
Member



APPENDIX A – PERMIT DESCRIPTION AND CONDITIONS

PERMIT NO	TPA/54941
PLANNING SCHEME	Monash Planning Scheme
RESPONSIBLE AUTHORITY	Monash City Council
ADDRESS OF THE LAND	38 Thompson Street CLAYTON VIC 3168

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.

CONDITIONS TO APPLY TO THE PERMIT:

Amended Plans

- 1 Before the development / use 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 prepared by Sharp Building Design (Job No. 5921), TP1 Cover Sheet, TP2-8 – TP10-8, dated 12/9/2024, but modified to show:
 - (a) The upper-level separation between Dwelling 1 and 2 increased by 500mm.
 - (b) The width of all garden beds along the common driveway dimensioned.
 - (c) All levels to AHD and the maximum building height of each dwelling shown on all elevations.
 - (d) AHD ground levels shown for all boundary construction.
 - (e) An open unroofed pergola above the decks on the west side of the Dwellings 1 and 2 provide for solar protection.
 - (f) The Dwelling 1 storage shed located parallel against the Dwelling 2 garage and the water tank repositioned to the southern part of the secluded open space (proximate to the Dwelling 2 garage) to improve the useability of the secluded open space. The clothesline located on the south side of the Dwelling 1 garage.



- (g) The Dwelling 2 water tank relocated to a located south of the garage along the western boundary.
- (h) The upper roofline of Dwelling 2 at ground level modified so that it does not extend beyond the landscaping bed below.
- (i) In Dwelling 3, the provision of a clear glass north facing window (not a highlight window) above the stairwell west of the porch to assist with informal surveillance of the driveway.
- (j) The garage of Dwelling 3 shifted 1 metre south and the entry to Dwelling 3 improved through the provision of a porch with roofed entry area to improve the presentation of the dwelling to the accessway. A clear glass window at ground level facing east is to be included. The tandem parking space for the unit is also to shift further south and indicate a 500mm separation distance from the door of the garage.
- (k) Dwelling 3 provided with 35q.m. of private secluded open space with a minimum dimension of 5 metres on the south side of the laundry/ensuite and ground floor guest room in Dwelling 3.
- (l) The Dwelling 3 water tank is to be relocated out of the side setback to the rear of the garage or west wall of the dining room or other agreed location.
- (m) The Dwelling 3 private secluded open space south of the laundry is to meet the solar access requirements of Clause 55.05-5 Standard B29.
- (n) The roofline element (fascia above the roof) on the west elevation for the single storey aspect of Dwelling 3 deleted.
- (o) The notation 'Tree to be removed & replaced' placed on the correct side of the naturestrip to reflect the actual location of the tree.
- (p) The width of both crossovers at the property boundary dimensioned.
- (q) The setback of Garage 2 from the southern boundary dimensioned.
- (r) All private secluded open space areas dimensioned.
- (s) All wall heights on the boundary to be dimensioned at both ends achieving an average height of 3.2 metres. The existing ground level at the boundary to AHD clearly identified.
- (t) The height of finished floor levels at ground level including decks above the ground level.
- (u) Boundary fencing dotted on all elevations including any reductions required for driver lines of sight in accordance with Clause 52.06 of the Monash Planning Scheme.
- (v) Internal elevations for all dwellings throughout.
- (w) Variable upper-level finishes to create contrast:

- The east side of Dwelling 1 (Bedroom 2 east wall)
 - The east side of Dwellings 2 & 3. (Bedroom 2, Bedroom 1 and bathroom, Dwelling 3 east wall in part)
 - The west side of Dwelling 2 (west wall of the BIR west of Bedroom 1 and the bathroom to its north)
- (x) The inconsistency removed between the ground and first floor plans in terms of the driveway area/permeability notation as required.
- (y) The front fence shown on the elevation as a 50% clear 900mm high aluminium vertical slat fence.
- (z) All clothes lines are to be independently supported (not attached to boundary fences) or attached to buildings.
- (aa) The location of electricity and water meters. A combined meter box is likely to be required in the common property and it should be located on the east side wall of Dwelling 1 or other location back away from the front façade not in the front setback. Please refer to the City of Monash “Guide to Electricity Supply Meter Boxes in Monash”.
- (bb) A corner splay or area at least 50 per cent clear of visual obstructions (shown hatched on the plans) 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 where practicable. 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. The height of the boundary fences within the splay must be clearly shown on both the plans and elevations.
- (cc) Relocation of the storage shed for Dwelling 3 outside the root zone of the abutting vegetation to the east or the provision of arboricultural advice advising on construction techniques.
- (dd) A landscape plan in accordance with Condition 6.
- (ee) An SDA Assessment in accordance with Condition 18.
- 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.

Use of Easement Approval

- 3 Prior to submitting plans for endorsement under Condition 1, use of easement consent must be obtained for any structures within the easement area. The approval is to be submitted to Council.

Street Tree Removal & Replacement

- 4 The existing street tree (*Callistemon salignus*) must only be removed and replaced by Council at the cost of the developer, prior to the commencement of the development. (All costs associated with the removal and replacement are to be borne by the resident or landowner who has requested the removal. Please contact Council's Horticultural Department to establish the tree valuation, removal costs and timing).

Tree protection during construction

- 5 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.

Landscaping

- 6 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 Landscape Plan must be in accordance with the requirements of the General Residential Zone Schedule 6 and is to show:
 - (a) A survey and location of all existing trees, using botanical names to be retained and of those of any trees to be removed ;
 - (b) 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 and planting size, location, botanical names and quantities. The planting theme is to create a well landscaped appearance and include lawn, shrubs and trees;
 - (c) A minimum provision of canopy trees in accordance with the Schedule (minimum 1.5 metres tall when planted) in the following areas in the front setback and private secluded open space areas. The canopy trees must have a minimum at least the height of the dwellings and must have a spreading crown with a minimum width of 4 metres at maturity, or as otherwise agreed by the responsible authority. Additional medium height trees are to be included in the design;
 - (d) The location of any fencing internal to the site;
 - (e) Provision of canopy trees with spreading crowns located throughout the site including the major open space areas of the development;
 - (f) Planting to soften the appearance of hard surface areas such as driveways and other paved areas;

- (g) Canopy Trees / Significant Planting on adjoining properties within 3 metres of the site;
- (h) The location of any retaining walls associated with the landscape treatment of the site;
- (i) Details of all proposed surface finishes including pathways, accessways, patio or decked areas;
- (j) 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;
- (k) The location of external lighting (if any);
- (l) Planting required by any other condition of this permit; and
- (m) 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.

Landscaping Prior to Occupation

- 7 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

- 8 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.
- 9 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.
- 10 Stormwater discharge is to be detained on site to the predevelopment level of peak stormwater discharge as required by Council. Approval of any detention system is required by the City of Monash prior to works commencing; or any alternate system.
- 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 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 Crossovers

- 13 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.
- 14 Any new vehicle crossover or modification to an existing vehicle crossover must be constructed to the satisfaction of the responsible authority.
- 15 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, naturestrip, kerb and channel to the satisfaction of the responsible authority.

Privacy Screens

- 16 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

- 17 The walls on the boundary of adjoining properties shall be cleaned and finished in a manner to the satisfaction of the responsible authority.

SDA Assessment

- 18 Concurrent with the endorsement of plans requested pursuant to Condition 1, a Sustainable Design Assessment (in accordance with Clause 15.01-2L-02) to the satisfaction of the responsible authority must be submitted to and approved by the Responsible Authority. Upon approval the Sustainable Design Assessment will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the Sustainable Design Assessment to the satisfaction of the responsible authority.

Waste Management

- 19 Waste management and collection is to be to the satisfaction of the responsible authority.

Satisfactory Continuation and Completion

- 20 Once the development has started it must be continued and completed to the satisfaction of the responsible authority.

Time for Starting and Completion

21 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 –