

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P1017/2023
PERMIT APPLICATION NO.TPA/54481

APPLICANT	Phong Investments Pty Ltd
RESPONSIBLE AUTHORITY	Monash City Council
SUBJECT LAND	229 Clayton Road CLAYTON VIC 3168
HEARING TYPE	Hearing
DATE OF HEARING	12 and 19 February 2024
DATE OF ORDER	20 February 2024

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: Jesse Ant Architects
- Drawing numbers: TP00, TP01, TP02, TP03, TP04, TP05, TP06, TP07, TP08, TP09, TP10, TP11, TP12, TP13, TP14, all Revision L
- Dated: 7 December 2023

- Prepared by: Species Landscape Architects
- Drawing numbers: L1B
- Dated: 11 December 2023

Permit granted

- 2 In application P1017/2023 the decision of the responsible authority is set aside.
- 3 In planning permit application TPA/54481 a permit is granted and directed to be issued for the land at 229 Clayton Road Clayton VIC 3168 in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:



- Construction of two or more dwellings on a lot in the Residential Growth Zone, Schedule 3; and
- Alteration of vehicle access to a road in a Transport Zone 2.

Judith Perlstein
Presiding Member

Donna D'Alessandro
Member



APPEARANCES

For applicant

Andrew Clarke of Clarke Planning Pty Ltd.
They called the following witness:

- Tony Aravidis, landscape architect of Species Landscape Architects.

For responsible authority

Sally Moser of Monash City Council.



REASONS

- 1 Oral reasons for the Tribunal decision were provided via online forum the day after the conclusion of the hearing.

Judith Perlstein
Presiding Member

Donna D'Alessandro
Member



APPENDIX A – PERMIT CONDITIONS

PERMIT APPLICATION NO	TPA/54481
LAND	229 Clayton Road CLAYTON VIC 3168

WHAT THE PERMIT ALLOWS

In accordance with the endorsed plans:

- Construction of two or more dwellings on a lot in the Residential Growth Zone, Schedule 3; and
- Alteration of vehicle access to a road in a Transport Zone 2.

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 Jesse Ant Architects, dated 7 December 2023 (Revision L), but modified to show:
 - (a) Roof catchment area to be connected to the water tanks (as per SDA).
 - (b) A notation that the water tanks are not to exceed a depth of 2.5 metres below surface level.
 - (c) The removal and relocation notes concerning Tree 1 (tree in nature strip), deleted.
 - (d) Plans (including cross sections) indicating compliance with the requirements of Standard B22 of Clause 55.04-6 Overlooking , for the north-facing balconies of dwellings 3, 4 and 5.
 - (e) For the balcony of dwelling 8, the height of the screen increased to 1.7 metres with fixed obscured glazing, and the 600 millimetre ledge removed.



- (f) 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.
- (g) Intercom security gate adjacent to unit 1, to provide secure access for pedestrian entry to all dwellings.
- (h) External lighting to the pedestrian pathway.
- (i) Any modifications required by the landscape plan. including the location of permeable paving to be provided within the driveway and pedestrian pathway.
- (j) A Sustainable Design Assessment in accordance with condition 3 of this permit.
- (k) A Landscape Plan in accordance with condition 4 of this Permit.
- (l) A Waste Management Plan in accordance with condition 8 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.

Environmentally Sustainable Design

- 3 Concurrent with the endorsement of plans requested pursuant to Condition 1, an amended 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. The amended Sustainable Design Assessment must be generally in accordance with the Sustainable Design Assessment prepared by IBE Consulting and dated 27 March 2023 but modified to include or show:

- (a) Changes to the development layout and any resulting changes to the assessment.

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.



Landscape Plan

- 4 Concurrent with the endorsement of any plans requested pursuant to Condition 1, a landscape plan generally in accordance with the plan prepared by ‘Species Landscape Architecture dated March 2023, or other 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 show:
- (a) The removal and relocation notes concerning Tree 1 (tree in nature strip), deleted.
 - (b) 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.
 - (c) Specific details of the wire support structure, establishment and ongoing maintenance requirements of the plants shown on the plans as ‘Climber growing over wire structure’.
 - (d) The location of external lighting.

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.

Waste Management Plan

- 6 Concurrent with the endorsement of plans required pursuant to Condition 1, a Waste Management Plan must be submitted and approved by the Responsible Authority. The plan must be generally in accordance with the Waste Management Plan prepared by Frater Consulting Services dated 23 February 2023, except that the plan must be modified to show:
- (a) Any changes to the development layout.
 - (b) Waste vehicles able to enter and exit the site in a forward direction, using the turntable provided at the rear of the site.
 - (c) Waste collection to occur on-site, at the entrance to the development, and not at the rear of the site.

The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Drainage

- 7 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.
- 8 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.
- 9 No polluted and/or sediment laden stormwater 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.
- 10 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

- 11 Any new vehicle crossover or modification to an existing vehicle crossover must be constructed to the satisfaction of the Responsible Authority.

Privacy Screens

- 12 Prior to the occupancy of the development, all screening and other measures to limit 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.

Department of Transport and Planning (ref: PPR 43048/23)

- 13 Before the development starts, plans to the satisfaction of the Responsible Authority, 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 drawn to scale with dimensions. The plans must be generally in accordance with the plans submitted with the application, Project Number 22-021, Dated 13.04.2023, amendment C, but modified to show:

- (a) Provide a passing bay consistent with clause 52.06-9 Design standard 1 – Accessways (Provide a passing area at the entrance at least 6.1m wide and 7 metres long).
 - (b) The relocation of the Electricity and associated amendments to achieve a driveway width of 6.1m.
- 14 Prior to the occupation of the development, the crossover and driveway are to be constructed to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria.
- 15 The driveway and crossover must be maintained in a fit and proper state so as not to compromise the ability of vehicles to enter and exit the site in a safe manner or compromise operational efficiency of the road or public safety.
- 16 Vehicles must always enter and exit the site in a forward direction.

Satisfactory Continuation and Completion

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

Expiry of permit for development

- 18 This permit as it relates to development (buildings and works) will expire if one of the following circumstances applies:
- (a) The development is not started within two (2) years of the issue date of this permit.
 - (b) The development is not completed within four (4) years of the issue date of this permit.

In accordance with section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

– End of conditions –