

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P721/2024
PERMIT APPLICATION NO. TPA/55624

APPLICANT J&L Holding Group Pty Ltd
RESPONSIBLE AUTHORITY Monash City Council
SUBJECT LAND 23 Thomas Street
CLAYTON VIC 3168
DATE OF ORDER 10 April 2025

ORDER

Permit granted

- 1 In application P721/2024 the decision of the responsible authority is set aside.
- 2 In planning permit application TPA/55624 a permit is granted and directed to be issued for the land at 23 Thomas 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 32.07-2	Use of the land for a Rooming House
Clause 32.07-6	Construction of Residential Buildings
Clause 32.07-9	Buildings and works associated with a Section 2 use.

Hearing vacated

- 3 The **hearing** scheduled at 10:00am on 16 April 2025 is **vacated**. No attendance is required.

Costs

- 4 No order as to costs.

Sarah McDonald
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 *Planning and Environment Act 1987* (Vic) ('PE 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 PE Act;
 - 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.

Sarah McDonald
Member



APPENDIX A – PERMIT DESCRIPTION AND CONDITIONS

PERMIT NO	TPA/55624
PLANNING SCHEME	Monash Planning Scheme
RESPONSIBLE AUTHORITY	Monash City Council
ADDRESS OF THE LAND	23 Thomas Street CLAYTON VIC 3168

THE PERMIT ALLOWS:

Planning scheme clause	Matter for which the permit has been granted
Clause 32.07-2	Use of the land for a Rooming House.
Clause 32.07-6	Construction of Residential Buildings.
Clause 32.07-9	Buildings and works associated with a Section 2 use.

CONDITIONS TO APPLY TO THE PERMIT:

Amended Plans Required

- 1 Before the development starts, plans drawn to scale and dimensioned 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 generally in accordance with the plans submitted to Council prepared by Bello Design Group referenced as Compulsory Conference, dated 28 February 2025 and including pages TP10, TP11, TP12, TP13, TP17 and TP18, but modified to show:
 - (a) Clearer notations to indicate the layout and location of the powder room on the ground floor of Building 2.
 - (b) The northern boundary of the Building 1 SPOS area is to be shifted south by 0.75 metres, to provide a landscape buffer along the southern side of the pedestrian path and Building 2 entry.
 - (c) The northern and western edges of the Building 1 SPOS area are to include decorative (non-paling) fencing, adjacent to the Building 2 entry area.
 - (d) The Building 2 entry area is to be reconfigured to provide passive surveillance through the inclusion of clear window with an outlook to the porch, to create an appropriate sense of address.



- (e) The north-east post of the Building 2 porch, setback in line with the newly positioned Building 1 fence so as to visually open up the Building 2 entry.
- (f) The bin storage area for Building 2 is to be reconfigured to provide landscaping adjacent to the entry area of the building.
- (g) A decorative (non-paling) gate is to be provided to the bin area adjacent to Building 2.
- (h) A transparent security gate is to be installed across the northern pedestrian access.
- (i) An internal eastern elevation drawing is to be provided for Building 2
- (j) The location and design of any proposed electricity supply meter boxes. The electricity supply meter box structure must be located at or behind the setback alignment of buildings on the site.
- (k) 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.
- (l) A Landscape Plan in accordance with condition 4 of this Permit.
- (m) A revised Waste Management Plan as outlined in permit condition 10.

All to the satisfaction of the Responsible Authority.

No Alteration or Changes

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

Sustainable Design Assessment

- 3 Upon approval of the amended plans to meet the condition 1 requirements of the permit, 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 SDA to the satisfaction of the Responsible Authority.

Landscaping

- 4 Before the commencement of buildings and works, 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 prior to the commencement of any works. The plan must show the proposed landscape treatment of the site including:-



- (a) 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.
- (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 / planting size, location, botanical names and quantities.
- (c) A minimum of four (4) canopy trees (minimum 1.5 metres tall when planted) in the private open space areas. The canopy trees must have a minimum height of 7 metres and must have a spreading crown with a minimum width of 4 metres at maturity, or as otherwise agreed by the Responsible Authority.
- (d) Planting to soften the appearance of hard surface areas such as driveways and other paved areas.
- (e) The location and details of all fencing.
- (f) Planting to soften the appearance of hard surface areas such as driveways and other paved areas.
- (g) The location of any retaining walls associated with the landscape treatment of the site.
- (h) The extent of any cut, fill, embankments or retaining walls associated with the landscape treatment of the site.
- (i) Details of all proposed hard surface materials including pathways, 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.

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

Landscaping Maintenance

- 5 All landscaping works shown on the endorsed landscape plan(s) must be maintained and any dead, diseased or damaged plants replaced, all to the satisfaction of the Responsible Authority.

Tree Protection

- 6 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.



- 7 No building material, demolition material or earthworks shall be stored or stockpiled under the canopy line of any tree to be retained during the construction period of the development hereby permitted.
- 8 All existing vegetation shown on the endorsed plans must be suitably marked before any development starts on the site and that vegetation must not be removed, destroyed or lopped without the written consent of the Responsible Authority.

Landscaping Prior to Occupation

- 9 Before the occupation 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 then maintained to the satisfaction of the Responsible Authority.

Waste Management Plan

- 10 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 provide details of a regular private waste (including recyclables) collection service for the subject land and be prepared in accordance with the Multi-Unit and Commercial Developments Waste Management Plan Guide for Applicants. The plan must include the following:
 - (a) Private waste collection of all waste from the land.
 - (b) Waste volume calculation and total waste generated per waste stream.
 - (c) Frequency of Waste collection and permitted collection times.
 - (d) Plans showing the location of bin storage areas, required bin storage equipment and features, number of bins and location of temporary bin storage at collection point.
 - (e) Provision of bin cleaning equipment, washing facilities and sewer disposal within the waste storage area.
 - (f) Type / Size of private waste vehicles.

No Waste bins in View

- 11 No bin or receptacle or any form of rubbish or refuse shall be allowed to remain in view of the public and no odour shall be emitted from any receptacle so as to cause offence to persons outside the land.

Section 173 Agreement (Rooming House)

- 12 Prior to the endorsement of plans referred to in Condition 1 the owner of the land must enter into an agreement with the Responsible Authority under Section 173 of the *Planning and Environment Act 1987*. In addition to the usual mechanical provisions, the agreement must provide for the following matters:



- (a) that no person may reside in the building unless that person is a bona fide resident, short term or resides there in a supervisory, management or caretaker capacity of the facility;
- (b) car parking spaces are only permitted to be used by the occupants of the units and their visitors;
- (c) car spaces must not be individually subdivided, on-sold, leased, rented or made available to any other person other than an owner or occupant or visitor of the premises;
- (d) that residents of the units will be notified in writing as part of any lease or rental agreement that they will not be entitled to car parking permits for on street car parking;
- (e) clearly note and acknowledge that should the land cease to be used for rooming house, a new planning permit may be required for an alternative use. Any subsequent use will be assessed in accordance with the car parking requirements of the Monash Planning Scheme;
- (f) that the rooming house premises must be managed by a single entity with responsibility for all aspects of the use; and
- (g) an operational management plan prepared and implemented to the satisfaction of the Responsible Authority according with Condition 12 of this permit.

All costs of preparation, execution and registration of the agreement must be borne by the owner of the land, or the future Owners Corporation, including those costs incurred by the Responsible Authority.

Rooming House Operational Management Plan

- 13 Prior to the commencement of the student accommodation/ rooming house, an Operational Management Plan for the use of the site must be submitted to and approved by the Responsible Authority. The Plan should detail but not limited to:
- (a) Rooming house units managed and under the control of a single operator responsible for the operation and maintenance of the entire premises for the life of the use as a rooming house.
 - (b) The 24 hour contact details for the management of the premises displayed in a manner and location that it is visible to any person entering the site. This information is to be updated as required immediately following any change to the nominated responsible management contact person.
 - (c) After hours contact details for management of the facility.
 - (d) Appropriate management of the car park including access arrangements.



- (e) Appropriate maintenance of buildings and grounds, including all landscaped areas.
- (f) Permanent display of the Management Plan in a common area accessible to all residents of the rooming house.

When approved, the Operational Management Plan will be endorsed to form part of this permit and must be implemented to the satisfaction of the Responsible Authority.

Construction Management Plan

14 Prior to the commencement of any site works (including any demolition and excavation), a Construction Management Plan (CMP) must be submitted and approved by the Responsible Authority. No works are permitted to occur until the Plan has been endorsed by the Responsible Authority. Once endorsed, the CMP will form part of the permit and must be implemented to the satisfaction of the Responsible Authority. The CMP must address the following issues:

- (a) appropriate measures to control noise, dust and water and sediment laden runoff;
- (b) appropriate measures for the prevention of silt or other pollutants from entering into the Council's underground drainage system or road network;
- (c) Appropriate measures relating to removal of hazardous or dangerous material from the site, where applicable;
- (d) a plan showing the location and design of a vehicle wash-down bay for construction vehicles on the site so as to prevent material leaving the site and being deposited on Council's road network;
- (e) a program for the cleaning and maintaining surrounding road surfaces;
- (f) a site plan showing the location of any site sheds, on-site amenities, building waste storage and the like, noting that Council does not support the siting of site sheds within Council road reserves;
- (g) measures to provide for public Safety and site security;
- (h) a plan showing the location of parking areas for construction and sub-contractors' vehicles on and surrounding the site, to ensure that vehicles associated with construction activity cause minimum disruption to surrounding premises. Any basement car park on the land must be made available for use by sub-constructors/tradespersons upon completion of such areas, without delay;
- (i) a Traffic Management Plan showing truck routes to and from the site;
- (j) a swept path analysis demonstrating the ability for trucks to enter and exit the site in a safe manner for the largest anticipated truck associated with the construction;



- (k) appropriate measures to ensure that sub-contractors/tradespersons operating on the site are aware of and adhere to the requirements of the CMP;
- (l) the provision of contact details of key construction site staff; and
- (m) include a requirement that except with the prior written consent of the Responsible Authority, a requirement that demolition, excavation or construction works must only be carried out during the following hours:
 - Monday to Friday (inclusive) – 7.00am to 6.00pm;
 - Saturday – 9.00am to 1.00pm;
 - Saturday – 1.00pm to 5.00pm
(Only activities associated with the erection of buildings that does not exceed the EPA guidelines)
 - No works are permitted on Sundays or Public Holidays.

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

Drainage

- 15 The site must be drained to the satisfaction of the Responsible Authority.
- 16 Engineering permits must be obtained for new or altered or removal of vehicle crossings, works within the Road Reserve and stormwater connections.
- 17 Tree planting should be kept clear of any drainage easement.

Road Infrastructure

- 18 Approval any proposed crossing, and a permit for installation or modification of any vehicle crossing is required from Council's Engineering Department.
- 19 Any proposed crossovers or modifications to the existing crossing are to be constructed in accordance with the City of Monash standards.
- 20 All crossovers and accessways must be a minimum of 3.0 metres in width.
- 21 Any existing redundant crossing is to be removed and replaced with kerb and channel. The footpath and naturestrip are to be reinstated to the satisfaction of Council.
- 22 Provide a corner splay or area at least 50% clear of visual obstructions (or with a height of less than 1.2 metres), which may include adjacent landscaping areas with a height of less than 0.9 metres, extending at least 2.0 metres long x 2.5 metres deep (within the property) both sides of the vehicle crossing to provide a clear view of pedestrians on the footpath of the frontage road.



- 23 The developer is to provide a waste management plan for the site to the satisfaction of the Responsible Authority.

Permits

- 24 Engineering permits must be obtained for new or altered vehicle crossings and new connections to kerb and channel and these works are to be inspected by Council's Engineering Department. A refundable security deposit of \$1,500 is to be paid prior to the drainage works commencing.

Residential Reticulated Gas Service Connections

- 25 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.

Completion of Buildings and Works

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

Permit Expiry

- 27 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.
 - The use is not started 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 use or 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 –

