

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NOS.
P1361/2024 & P28/2025
PERMIT APPLICATION NO.
TPA/56180

APPLICANT

P1361/2024

Meiyun Sheng

P28/2025

Christopher Michael Linden

RESPONSIBLE AUTHORITY

Monash City Council

RESPONDENT

P1361/2024

Christopher Michael Linden

P28/2025

Meiyun Sheng

SUBJECT LAND

7 Birralelee Street
MOUNT WAVERLEY VIC 3149

HEARING TYPE

Compulsory Conference

DATE OF HEARING

25 March 2025

DATE OF ORDER

27 March 2025

ORDER

Permit granted

- 1 In applications P1361/2024 & P28/2025 the decision of the responsible authority is **varied**.
- 2 In permit application TPA/56180 a permit is granted and directed to be issued for the land at 7 Birralelee Street Mount Waverley 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

- 3 The hearing scheduled at 10:00am on 23 June 2025 is **vacated**. No attendance is required.

Nicholas Hadjigeorgiou
Member



APPEARANCES

For Meiyun Sheng	Stephen O'Brien, Town Planner, Universal Planning assisted by Guomin Huang
For Christopher Michael Linden	Dianne Stanley & Sally Moser, Town Planners
For Monash City Council	Gary Wissenden, Town Planner, Hansen Partnership

REMARKS

- 1 This matter involves an application pursuant to section 82(1) of the *Planning and Environment Act 1987* (Vic) to review the responsible authority's decision to issue a Notice of Decision to Grant a Permit for the construction of two or more dwelling on a lot on the subject land.
- 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 Therefore, 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 issue of a permit in the form agreed by the parties as described in the agreed orders is appropriate having regard to the matters it is required to consider under section 60 of the *Planning and Environment Act 1987* (Vic) 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 Act;
 - the proposed orders will not result in any change to the proposal which would materially affect any person other than the parties to the proceeding.
- 5 Based on the information available to the Tribunal, 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* (Vic).

Nicholas Hadjigeorgiou
Member

APPENDIX A – PERMIT DESCRIPTION AND CONDITIONS

PERMIT NO	TPA/56180
PLANNING SCHEME	Monash Planning Scheme
RESPONSIBLE AUTHORITY	Monash City Council
ADDRESS OF THE LAND	7 Birralelee Street MOUNT WAVERLEY VIC 3149

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 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 Chew Architecture, Revision A dated 8/08/2024, including pages TP01 to TP08, but modified to show:
 - (a) The Dwelling 2 garage wall is to be setback 1.2 metres from the western boundary.
 - (b) The ground floor front facades of the new dwellings are to include an element of face brickwork.
 - (c) The setback of the first floor of Dwelling 2 to the rear boundary is to be increased to 7 metres.
 - (d) The internal party wall with a height of 3 metres is not to extend beyond the edge of the Dwelling 2 GF canopy and the internal fence is to taper down in height to the rear boundary with a height of 1.93 metres. The elevation drawings are to show the height and extent of the wall and fence.
 - (e) The eastern elevation drawing is to be updated to include the outline of Dwelling 2 in the background.
 - (f) The height of all side and rear boundary fences are to be noted on the GF plan.
 - (g) The Dwelling 1 driveway to be located within the TPZ area of Tree 13, located at No. 9 Birralelee Street is to be constructed with a permeable surface.



- (h) Any works to upgrade the Dwelling 2 driveway that would occur within the TPZ area of the large street tree located on the western side of the frontage, are to include a permeable surface for the driveway.
- (i) The extent of decking associated with Dwelling 1 is to be reduced and sections of landscaping are to be added to the eastern side of the dwelling.
- (j) 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".
- (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 (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.
- (l) The location of Tree Protection Zones and Tree Protection Fencing as outlined within the Arborist Report prepared by Bluegum reports dated 31/03/2020, including a notation that all recommendations as per the Arborist report are to be carried out to the satisfaction of the Responsible Authority.
- (m) A Landscape Plan in accordance with condition 4 of this Permit.
all 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 Bradbury Culina dated 7 August 2024, except that the plan must be modified to show:

- (a) A minimum of five (5) canopy trees (minimum 1.5 metres tall when planted) in the 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;
- (b) Any changes to the decking /paving surrounding the dwellings.
- (c) The height of landscaping to be planted along the eastern side of the development is to comply with varied Covenant AX800295V.

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

- 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

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, 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

- 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 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.
- 10 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.



- 11 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

- 12 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.
- 13 Any new vehicle crossover or modification to an existing vehicle crossover must be constructed to the satisfaction of the Responsible Authority.
- 14 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

- 15 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

- 16 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

- 17 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.

Satisfactory Continuation and Completion

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

Time for Starting and Completion

- 19 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 –

