

# VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

## PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P550/2024  
PERMIT APPLICATION NO.YR-2023/596

**APPLICANT** Storm Victor, John Magnik & Others  
**RESPONSIBLE AUTHORITY** Yarra Ranges Shire Council  
**RESPONDENT** Alex Gradwell  
**SUBJECT LAND** 4 Clive Court  
MOOROOLBARK VIC 3138  
**HEARING TYPE** Hearing  
**DATE OF HEARING** 12 March 2025  
**DATE OF ORDER** 26 March 2025  
**CITATION** Victor v Yarra Ranges SC [2025] VCAT  
257

## ORDER

### Amend name

- 1 Pursuant to clause 64 of Schedule 1 of the *Victorian Civil and Administrative Tribunal Act 1998* (Vic), the permit application is amended by changing the name of the permit applicant to:  
Alex Gradwell

### Permit granted

- 2 In application P550/2024 the decision of the responsible authority is varied.
- 3 In planning permit application YR-2023/596 a permit is granted and directed to be issued for the land at 4 Clive Court Mooroolbark VIC 3138 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 32.09-7	Construct a dwelling if there is at least one dwelling existing on the lot. Construct two or more dwellings on a lot.

Donna D'Alessandro  
**Member**



## APPEARANCES

For Storm Victor & John  
Magnik & others

In person

For Yarra Ranges Shire  
Council

Aaron Truong, town planner

For Alex Gradwell

Andrew Crack, town planner of Andrew Crack  
& Associates.



## INFORMATION

Description of proposal	Construction of double storey dwelling behind the existing single storey dwelling. The existing cross-over and driveway will be retained, providing a shared access to both dwellings.
Nature of proceeding	Application under section 82 of the <i>Planning and Environment Act 1987</i> (Vic) – to review the decision to grant a permit.
Planning scheme	Yarra Ranges Planning Scheme
Zone and overlays	Neighbourhood Residential Zone Schedule 1 ('NRZ1') Significant Landscape Overlay Schedule 23 ('SLO23').
Permit requirements	Clause 32.09–7 - construct a dwelling if there is at least one dwelling existing on the lot. Clause 32.09-7 – construct two or more dwellings on a lot.
Land description	<p>The review site is located on the north side of Clive Court. The review site is an irregular shaped parcel of land with a street frontage of 16.32 metres, a depth of 42.68 metres, for an overall area of 1055 square metres.</p> <p>There are two, 2.44-metre-wide drainage easements located to the north-east and north-west of the review site.</p> <p>The review site contains a single storey weatherboard dwelling, set back from the front of the site by at least 8 metres due to the irregular shaped block. There is no vegetation or front fence.</p> <p>A single crossover and driveway are located on the south-eastern corner of the review site, accessible to a car port located to the rear of the existing dwelling.</p>



## REASONS<sup>1</sup>

### WHAT IS THIS PROCEEDING ABOUT?

- 1 Storm Victor, John and Evelyn Magnik & Others, ('applicant') bring this application for review under section 82 of the *Planning and Environment Act 1987* (Vic) seeking the Tribunal's review of the decision by the Yarra Ranges Shire Council ('council') to approve two or more dwellings on a lot, at 4 Clive Court, Mooroolbark ('review site'). The applicant resides to the rear of the review site as outlined below.



Figure 1 Near Map showing review site and adjoining properties.<sup>2</sup>

- 2 The proposal involves the retention of the existing single storey dwelling including existing vehicle access and driveway located to the south-western boundary of the review site. A double storey dwelling will be built to the rear of the review site and behind the existing dwelling. It will contain a double garage built on the boundary for a length of 6.48 metres, adjoining the western boundary at 6 Clive Court. At ground level contains open plan living/meal/kitchen area, laundry/store, main bedroom with ensuite. Three bedrooms, ensuite and bathroom are located at the first floor. The secluded private open space located to the rear of the dwelling includes an alfresco area. A 1.9 metres high colourbond fence runs along the eastern and

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<sup>1</sup> The submissions of the parties, any supporting exhibits given at the hearing and the statements of grounds filed have all been considered in the determination of the proceeding. In accordance with the practice of the Tribunal, not all of this material will be cited or referred to in these reasons.

<sup>2</sup> Near Map 1 February 2025.

western boundaries, and 1.8 metre high paling fence along the northern boundary with 20 Winifred Road. The proposed dwelling will be constructed from weatherboard cladding with colourbond roof as depicted in the plans below.

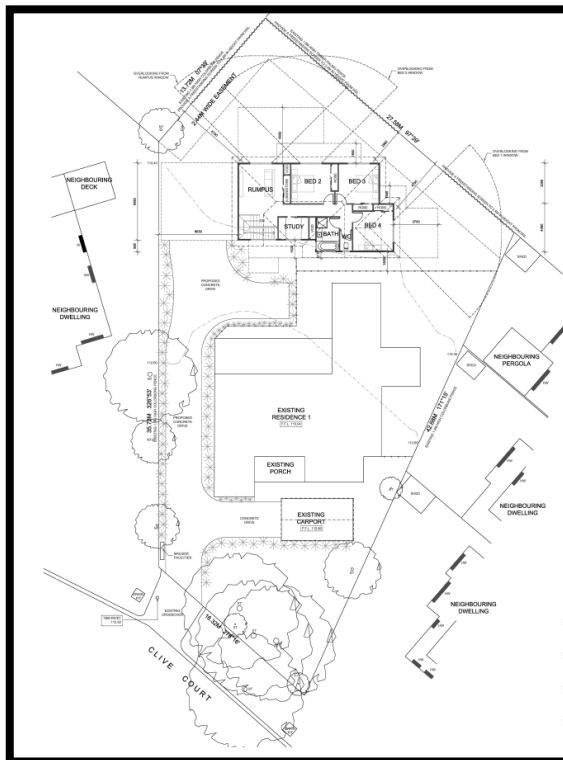
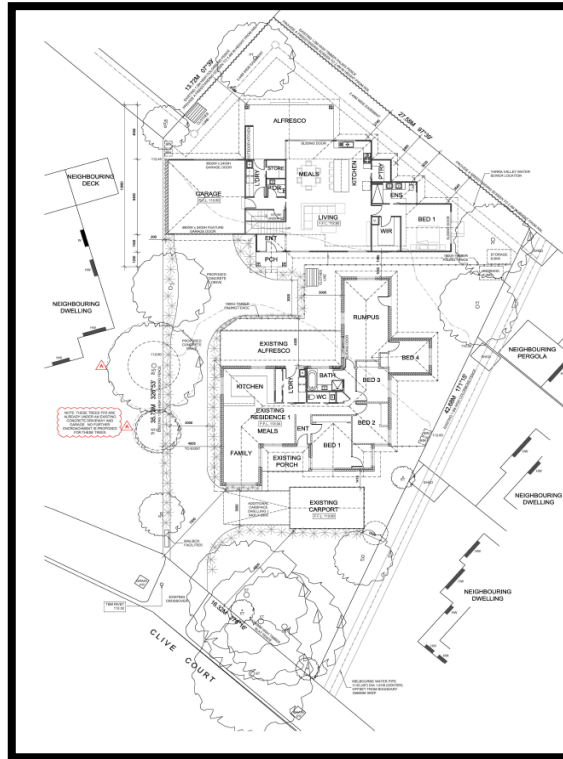


Figure 2 Floor Plan.<sup>3</sup>

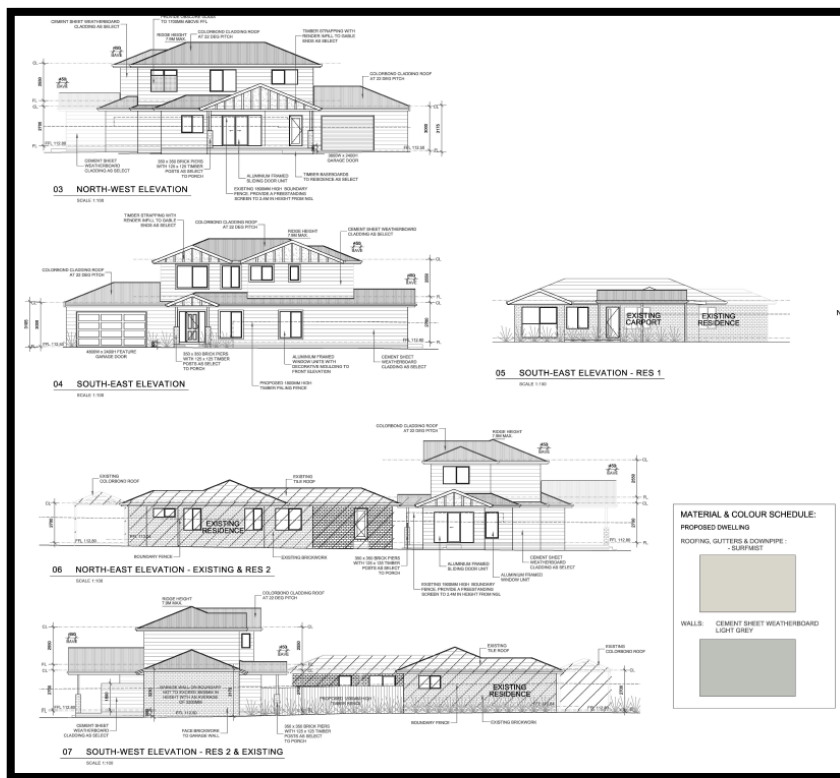


Figure 3 Elevation Plans.<sup>4</sup>

- 3 Council issued a Notice of Decision to Grant the Permit ('NOD') on 23 April 2024. The decision was based on council's view that the proposed double storey dwelling is considered to have an appropriate design which is in proportion with the site and surrounds. The siting is not a concern in terms of being located to the rear of the existing single-storey dwelling. The council contends the proposal is responsive to the Yarra Ranges Planning Scheme ('Scheme').
- 4 The applicant resides to the rear of the review site. They are concerned that the proposed two storey dwelling will have a significant impact on their privacy, from both the dwelling and the alfresco area. They are concerned about devaluation of their property. They are also concerned the proposed two-storey built form and the creation of the second dwelling at two storeys is not in keeping with the neighbourhood character.
- 5 Andrew Gladwell ('respondent') disagrees with the applicant. The respondent asserts the proposal is consistent with the Scheme (including the zoning of the land and clause 55). They disagree with the applicant about the loss of privacy due to overlooking from the first-floor habitable rooms given the proposal accords with the relevant standards at clause 55. The

<sup>3</sup> Application Plans.

<sup>4</sup> Application Plans.

applicant also refutes the issue relating to devaluation of property value, as they say is not a valid planning consideration.

## **WHAT ARE THE KEY ISSUES?**

- 6 The key issues for determination in this review relate to the following:
  - a Is the two-storey built form consistent with the prevailing neighbourhood character?
  - b Will the proposed dwelling cause a loss of amenity due to overlooking?
- 7 The Tribunal must decide whether a permit should be granted and, if so, what conditions should be applied. Having considered all submissions with regard to the applicable policies and provisions of the Scheme, I have decided to vary the decision of the council to make some minor changes to conditions for reasons I set out below. My reasons are provided as follows.

## **SITE LOCATION**

- 8 The review site is located in an established residential area of Mooroolbark. As described by council, the area consists of a mixture of predominantly single and double storey brick veneer and weatherboard dwellings, with several multi-unit developments within proximity of the review site. The established housing stock dates to the late 1980s, with several lots developed with townhouses and subdivided in a battle-axe arrangement.
- 9 The council confirms the location of the review site for two dwellings is appropriate given the review site is well serviced by local community facilities and centres such as pre-school, primary school, playgrounds and centres. The Mooroolbark train station is approximately 2 kilometres west of the review site.
- 10 None of the parties disputed the principle of the land to be accommodated for two dwellings.

## **PLANNING CONTEXT**

- 11 The review site is located within the Neighbourhood Residential Zone ('NRZ'). The purpose of the NRZ as it relates to this review is to recognise areas of predominantly single and double storey residential development, and to manage and ensure that development respects the identified neighbourhood character, or landscape characteristics.
- 12 The neighbourhood character objectives at clause 32.09-1 refers to the schedule to the zone. An application to construct a dwelling on a lot greater than 650 square metres must have a minimum garden area of 35%. In this instance, the garden area must be at least 369.25 square metres. The plans show a garden area of 470.1 square metres, 40.1%. The garden area requirements are met.



- 13 At clause 32.09-7 a permit is required to construct a dwelling if there is at least one dwelling existing on the lot, construct two or more dwellings on a lot, and construct a fence. The requirements of clause 55, applies if the schedule to the zone does not vary these requirements. The maximum building height must not exceed 9 metres and must contain no more than 2 storeys at any point, if it is not varied in the schedule to the zone.
- 14 Clause 55 (ResCode) relates to the construction of two or more dwellings on the lot. Clause 55 has the following purposes:
- To implement the Municipal Planning Strategy [MPS] and the Planning Policy Framework [PPF].
  - To achieve residential development that respects the existing neighbourhood character or which contributes to a preferred neighbourhood character.
  - To encourage residential development that provides reasonable standards of amenity for existing and new residents.
  - To encourage residential development that is responsive to the site and the neighbourhood.
- 15 The requirements of clause 55 include that all objectives that apply to the application must be met, and standards should be met. If a development meets standards B6, B7, B8, B17, B18, B19, B20, B21, B22, B27, B28, B30 or B32, it is deemed to meet the objective for that standard. In such circumstances, the decision guidelines do not apply to the application.
- 16 The review site is also located with Significant Landscape Overlay – Schedule 23 (‘SLO23’). A permit is not required to construct a building or carry out works because the proposal meets the requirements at section 3.0 of SLO23. Given there is no permit trigger I will not recite this policy.
- 17 Car parking requirements are outlined at clause 52.06 of the Scheme. Two car spaces are provided to each dwelling. The car parking requirements are met as two spaces are required for three or more dwellings.
- 18 A range of policies were identified by both council and the permit applicant and I have had regard to them. I will not recite them but will refer to them in my consideration as appropriate.

**Is the proposal an appropriate response to the existing and preferred neighbourhood character?**

- 19 The applicant is concerned the proposed double storey dwelling is not responsive to the existing neighbourhood character and prefer a single storey dwelling. They say this is more respectful to the neighbourhood character because there are only two, two storey dwellings in the immediate area, that being at 2 Clive Court and 34 Lancaster Road. The respondent on the other hand, argued that the emerging character includes two storey dwellings.



- 20 The applicant argued that they were not concerned about the wider area of Mooroolbark, and more concerned about what has occurred within their residential pocket of Clive Court/Lancaster Road/Winifred Street. Their main concern was the double storey dwelling in the back yard realm, they did not raise concern with two dwellings on the lot, but rather the intrusion of the double storey dwelling.
- 21 The council described the review site and the surrounding area as being mixed, although single storey and double storey dwellings are predominant within the streetscape. They were satisfied that the proposed double storey dwelling responded to the neighbourhood character.
- 22 *Planning Practice Note 43: Understanding Neighbourhood Character* (DELWP, January 2018) makes it clear that respecting character does not mean preventing change. It states that the neighbourhood character standard is not intended to result in the replication of existing building stock or stop change.
- 23 I am satisfied that the proposal is consistent with the existing neighbourhood character. The creation of one additional dwelling on a lot as proposed will not in any obvious sense, be an unreasonable character outcome. Given the irregular shaped allotment, the proposed double storey dwelling, will be set back from all site boundaries to comply with clause 55 (side and rear set backs), with the exception of the garage built on the boundary. The wall on the boundary is not out of character with the prevailing neighbourhood character, it is single storey and responds to clause 55. This ensures that there are no unreasonable building bulk or sense of enclosure when viewed from the adjoining properties.
- 24 Further, I am satisfied that the proposal is consistent with the purpose and decision guidelines of the NRZ. The proposal will provide the opportunity for a modest residential development which is encourage by NRZ.
- 25 I am satisfied that the proposal is respectful of the existing neighbourhood character of the area as follows:
- It is an established residential area, lots vary in shape and size, with varying dwellings contained within the allotments.
  - The proposed dwelling will be built behind the existing dwelling and will continue to address Clive Court as a single dwelling allotment.
  - The irregular shaped allotment can accommodate the additional dwelling, utilising the existing cross-over, creating a shared driveway. This arrangement will not impact the streetscape character.
  - Except for the garage, built on the boundary, the proposed dwelling is setback from all site boundaries, consistent with its neighbours and the backyard realm.



- The proposed dwelling is appropriately articulated, with varying setbacks and varying roof form, with a built form responding to the existing neighbourhood character. There are no sheer walls.
  - The proposed dwelling will be built behind the existing dwelling, therefore retaining all elements of the front setback. This will allow for landscaping within the front setback as outlined by NOD.
- 26 Council requested the materials to be changed to include brickwork. Whilst the NOD required this to be changed to the first floor, it became clear during the hearing that the change in materials is for the ground floor. Council says the use of cement sheet weatherboard at ground level does not respect the existing neighbourhood character given the surrounding dwellings incorporate brick at ground level. As such they requested this change in the NOD.
- 27 I am not persuaded that a change to the materials is necessary. The proposed dwelling is significantly setback from the front of the site, behind the existing dwelling and is largely concealed by the existing dwelling, except for the proposed garage. Even so, this is unlikely to be highly visible when viewed from Clive Court given the irregular shaped allotment. I do not share the same view as council on this matter and therefore deleted this condition.

#### **WILL THE PROPOSED DWELLING CAUSE AN UNREASONABLE LOSS OF PRIVACY TO THE ADJOINING NEIGHBOURS?**

- 28 The proposal has been assessed against clause 55, and council is satisfied that the proposal achieves compliance with the codified standards. I am satisfied that the proposal responds well to the objectives of clause 55.
- 29 The applicant is concerned about the loss of privacy from the first-floor bedroom windows (Bedroom 2 and Bedroom 3) and the outdoor entertaining area (alfresco area). There was considerable discussion about the loss of their privacy with the applicant contended that a commonsense approach as the bedroom windows will look straight into their bedroom windows (particularly 18 Winifred Road).
- 30 The council is satisfied that Standard B22 (overlooking) of clause 55 is met. The council's delegate report addresses overlooking as follows:

No overlooking impacts from Dwelling 2 on the first floor from the rear northeastern fence and the north-western fence which will incorporate a freestanding trellis on top of the existing 1.8 high to a height of 2.4 metres.

Overlooking from Bedroom 1 is minimised by the inclusion of the 2.4 metre high fence with the freestanding screen.

The proposal will limit views into the existing secluded private open space of adjoining lots on 32 Lancaster Road and 20 Winifred Road.



Windows with slight overlooking have been notated as to be obscure glass to 1.7 metre above FFL.

- 31 Council's NOD included a condition stating the free-standing screen must be erected on the north-eastern and north-western boundary to prevent overlooking by the dwelling into the adjoining residential property.
- 32 The respondent confirms it is one of the deemed to comply provisions in clause 55 and the standard is met. The respondent provided a detailed analysis of Standard B22. I agree with this assessment.
- 33 The proposed plans show that there are four habitable room windows at first floor level. Three habitable room windows face the rear properties, and one habitable room window faces the eastern boundary and the secluded private open space of the existing dwelling. This is demonstrated in the plan below.

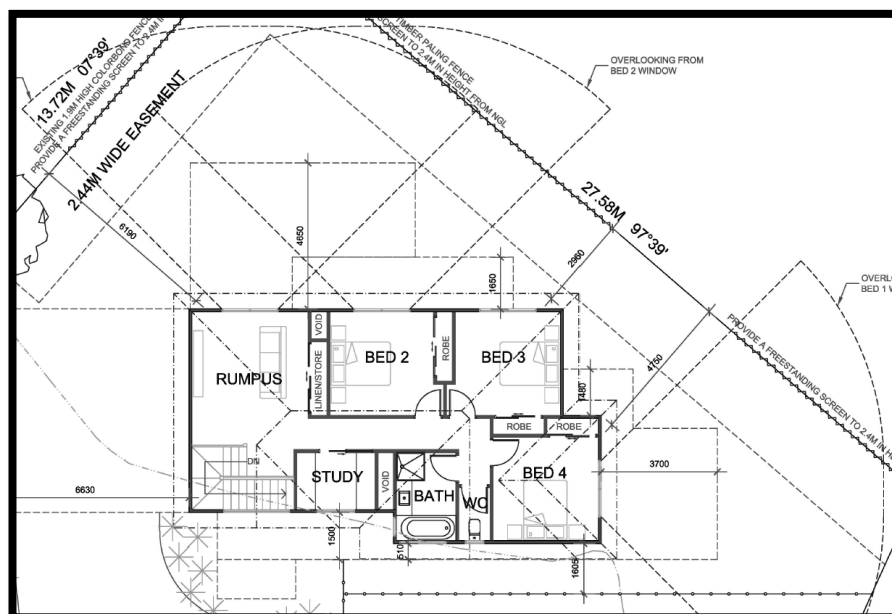


Figure 4: Overlooking plan.<sup>5</sup>

- 34 Bedroom 3 window is proposed to be screened with obscure glass to 1.7 metres above finished floor level. The rumpus room, bedroom 2 and 4 windows will be clear glass but rely on the construction of a 2.4 metre high free-standing screen, within the property boundary, adjacent to the existing 1.8 metre high paling fence (north-eastern boundary) and 1.9 metre high colorbond fence (north-western boundary).
- 35 The respondent confirmed the section plans show the critical 9 metre horizontal distance from the first-floor habitable room windows and the downward viewing opportunity taken at a height of 1.7 metres above finished floor level. In each case, the single storey roof form at ground level, obscures the downward view within the 9 metre arc. That is the 9 metre arc includes some of the secluded private open space of the adjoining

<sup>5</sup> Overlooking diagram, application plans.

properties at 18 and 20 Winifred Road and 32 Lancaster Road. The addition of the 2.4-metre-high free-standing screen obscures the downward view into these areas as demonstrated in the section plan below.

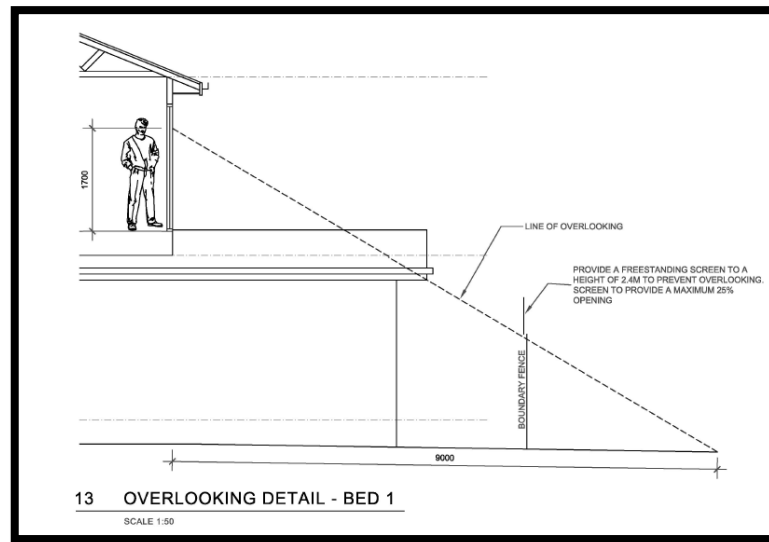


Figure 5: section plan demonstrating overlooking detail.<sup>6</sup>

- 36 The applicant was not satisfied that the proposed screen will limit overlooking into his private open space and was concerned about the overlooking into their bedroom windows. However, this is beyond the requirements in Standard B22 of clause 55. I am unable to request the permit applicant to provide any further screening of these windows that is beyond the scope of Standard B22. I am satisfied the objective is met and measures have been included in the proposal to limit views into existing secluded private open space of the applicant's properties as outlined in the requirements in Standard B22.
- 37 The applicant was also not persuaded that the alfresco area adjoining his property will not overlook his backyard. As demonstrated in the ground floor plan below, the angle of the allotment has the alfresco area setback from the pointiest section of the land by 12 metres.<sup>7</sup> The proposed 2.4 metres high screen will limit any overlooking from the alfresco area, even with the decking area 300mm above finished floor level. I am satisfied Standard B22 is met.

<sup>6</sup> Application plans.

<sup>7</sup> This was confirmed by the respondent.



## CONCLUSION

- 43 For the reasons given above, the decision of the responsible authority is varied. A permit is granted subject to conditions.

Donna D'Alessandro  
**Member**



## APPENDIX A – PERMIT DESCRIPTION AND CONDITIONS

<b>PERMIT NO</b>	YR-2023/596
<b>PLANNING SCHEME</b>	Yarra Ranges Planning Scheme
<b>RESPONSIBLE AUTHORITY</b>	Yarra Ranges Shire Council
<b>ADDRESS OF THE LAND</b>	4 Clive Court MOOROOLBARK VIC 3138

### THE PERMIT ALLOWS:

<b>Planning scheme clause</b>	<b>Matter for which the permit has been granted</b>
Clause 32.09-7	Construct a dwelling if there is at least one dwelling existing on the lot.  Construct two or more dwellings on a lot.

### CONDITIONS TO APPLY TO THE PERMIT:

#### Amended Plans

- 1 Before the development starts, amended 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 form part of the permit. The plans must be drawn to scale with dimensions and a digital copy must be provided. The plans must be generally in accordance with the plans submitted with the application New Edge Building Design, 22-0985, Revision A, November 2022 but amended to show the following:
  - (a) The internal dimensions of the proposed garage for Dwelling No. 2 to be a minimum of 5.5 metres wide and 6.0 metres in length.
  - (b) The internal driveway radius dimensions must be clearly annotated and have a minimum radius of 4.0 metres in accordance with the requirements of Clause 52.06-9.
  - (c) An additional 500mm in length must be provided between the tandem space and proposed carport for Dwelling No. 1 in accordance with the requirements of Clause 52.06-9.
  - (d) A notation stating “Provide obscure glass to 1700mm above FFL and fixed shut” on the first floor study window and bedroom 3 of Dwelling 2.
  - (e) Overlooking section plans corrected to show the corrected roof form and bedrooms. The section plans to include details of the 2.4-metre



high screen, notes to include it is a framed free-standing screen, not attached to the existing boundary fences and complies with Standard B22 of clause 55.

- (f) Screening of the first floor bedroom 4 window in accordance with Standard B22 of Clause 55, measures to include the secluded private open space of the existing dwelling.
- (g) A notation stating “A Build Over Easement permit is required for the eaves of Dwelling No. 2 on the northern side of the boundary”, to the satisfaction of the responsible authority.
- (h) Details in accordance with the Landscape Plan to be submitted under Condition 2 of this permit.

## **Landscaping**

2 Before the development starts, a Landscape Plan to the satisfaction of the responsible authority and prepared by a suitably qualified person must be submitted to and approved by the responsible authority. When approved, the Landscape Plan will be endorsed and will then form part of the permit. The plan must be drawn to scale, fully dimensioned and a digital copy must be provided. The plan must show:

- (a) A survey (including botanical names, trunk location, trunk diameter and canopy spread) of all existing vegetation. The survey must clearly mark existing vegetation to be retained and removed. The survey must also include any street trees.
- (b) Buildings and trees (including botanical names, trunk location, trunk diameter and canopy spread) on neighboring properties where the Tree Protection Zones of such trees fall within the subject site as calculated in accordance with Australian Standard 4970-2009 or its successor.
- (c) Details of surface finishes of pathways and driveways.
- (d) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. All species selected must be to the satisfaction of the responsible authority.
- (e) Landscaping and planting within all open areas of the site including:
  - i Landscaping along the Clive Court frontage.
  - ii Landscaping and planting on both sides of each driveway and around the internal driveway.
- (f) Trees in the following locations:
  - i A minimum of two canopy trees (2 metres high at time of planting) reaching a minimum mature height of 10 metres within the Clive Court frontage of Dwelling No. 1.



- ii A minimum of one canopy tree (2 metres high at time of planting) reaching a minimum mature height of 5 metres within the private open space of each dwelling.
- (g) Landscaped areas must be planted with shrub and groundcover species capable of achieving a minimum density of at least 85 per cent coverage 12 months after planting in accordance with Council's Landscaping Guidelines.
- (h) The use of sustainable practices and if irrigation is to be provided it must not use potable water.
- (i) Any planting within an easement must utilise species suitable for planting within easements and must have a natural growing height of no more than 5 metres.
- (j) All garden beds adjoining turf or gravel surfaces must have hard garden edging.
- (k) 1200mm organic mulch diameter around any retained or proposed trees in lawn areas.
- (l) The provision of notes regarding site preparation, including the removal of all weeds, proposed mulch, soil types and thickness, subsoil preparation and any specific maintenance requirements.
- (m) The location of any tree protection zones and protection measures including for street trees accurately drawn to scale, labelled and notations referring to any endorsed Tree Management and Protection Plan, or Arboricultural Report.

The landscaping shown on the endorsed plans must be maintained in accordance with the endorsed plans to the satisfaction of the responsible authority. Areas shown on the endorsed plan as landscaped must not be used for any other purpose and any dead, diseased or damaged plants are to be replaced after becoming aware of the dead, diseased or damaged plants. The responsible authority may amend the endorsed Landscape Plan from time to time.

### **Layout Not Altered**

- 3 The development as shown on the endorsed plans must not be altered or modified (unless the Yarra Ranges Planning Scheme specifies a permit is not required) without the prior written consent of the responsible authority.

### **General Amenity**

- 4 The development must be managed so that the amenity of the area is not detrimentally affected including through the:
  - (a) Transportation of materials, goods or commodities to or from the land.
  - (b) Appearance of any building, works or materials.



- (c) Emission of noise, artificial light, smell, fumes, smoke, vapour, steam, soot, ash, dust, water, waste products, grit or oil.
  - (d) Presence of vermin
- 5 Once the development starts, the development must be carried out and completed to the satisfaction of the responsible authority.
- 6 All buildings and works must be maintained in good order and appearance to the satisfaction of the responsible authority.
- 7 Before the development is occupied, or by such later date as approved in writing by the responsible authority, all new on-boundary walls must be constructed, cleaned and finished to the satisfaction of the responsible authority.

### **Prior to Commencement**

- 8 Prior to the commencement of any buildings and/or works approved by this permit, temporary fencing must be erected around any tree shown for retention on the endorsed plans to define a Tree Protection Zone (TPZ) to the satisfaction of the responsible authority and must:
- (a) Exclude access and construction activity within the TPZs assessed in the Arborist Report by Specialist Arboricultural Services, 23/09/2023. If trees have not been assessed, the TPZ is a circle with a radius equal to 12x the trunk diameter measured at 1.4 m above ground level, and
  - (b) Have a minimum height of 1.8 metres and comply with Australian Standard AS4687 for temporary fencing and hoardings, and
  - (c) Not extend beyond the site boundaries except into roadside reserve and/or nature strip areas. Fencing within roadside reserves and/or nature strip areas must not prevent the use of a road or footpath, and
  - (d) Remain in place until all buildings and/or works are completed, unless with the prior written consent of the Responsible Authority.

Temporary fencing can be modified to accommodate encroachment into the TPZ of tree(s) as per the endorsed plans. Fencing must be modified in line with the footprint of the approved works only.

- 9 Prior to the commencement of any buildings and/or works approved by this permit, ground protection must be installed on top of the natural ground surface to cover the Tree Protection Zone (TPZ) of tree(s) number #1 and 2 to the satisfaction of the responsible authority. All ground protection must comply with the following:
- (a) Ground protection must consist of a permeable geotextile filter fabric beneath a 100mm layer of crushed rock beneath rumble boards, and
  - (b) Rumble boards must be strapped together and be a minimum 40mm thickness to prevent soil compaction and root damage, and
  - (c) Ground protection must not extend beyond the site boundaries, and



- (d) Ground protection must be maintained and remain in place for the duration of works unless to install approved works located in the TPZ.
- 10 Prior to the commencement of any works as required by this permit, Development Stormwater Drainage Engineering Plans and Computations must be submitted to, and approved by, the Responsible Authority. Development Stormwater Drainage Engineering Plans and Computations must be in line with all the requirements of the approved point of discharge certificate.
- <https://www.yarraranges.vic.gov.au/Development/Roads-drains/Applications/andpermits/Submit-stormwater-drainage-and-computations>

### **Prior to Occupation**

- 11 Before the development is occupied, screening must be erected in accordance with the endorsed plans on the north-eastern and north-western boundary to an overall height of 2.4 metres above natural ground level, to limit overlooking by the Dwelling 2 first floor habitable room windows, into the private open space areas of the adjoining residential properties (in accordance with Clause 55.04-6) to the satisfaction of the responsible authority. The screening must be framed, formed, and must be maintained at all times to the satisfaction of the responsible authority.
- 12 Before the development is occupied, or by such later date as approved in writing by the responsible authority, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority.
- 13 Before the development is occupied, the site must be cleared of all excess and unused building materials and debris to the satisfaction of the responsible authority.
- 14 Prior to the occupation of the permitted development piped drainage must be constructed to drain all impervious areas incorporating Water Sen
- 15 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.
- 16 Prior to the occupation of the permitted development the construction of all civil works within the site, including detention system must be fully completed and subsequently inspected and approved by a suitably experienced Civil Engineer at the arrangement and expense of the owner/developer. This person must supply written certification that the works have been constructed in accordance with this permit and to relevant standards to the satisfaction of the responsible authority.



## **Landscape Conditions**

- 17 The existing street tree must not be removed or damaged to the satisfaction on the responsible authority.
- 18 All underground service pipes/conduits including storm water and sewerage must be diverted around the Tree Protection Zone (TPZ) of any retained tree, or bored underneath with a minimum cover of 600mm to top of pipe/conduit from natural ground surface to the satisfaction of the responsible authority. All pits, holes, joints, and tees associated with the installation of services must be located outside the TPZ, or the project arborist must demonstrate works in the TPZ will not impact viable tree retention to the satisfaction of the responsible authority.
- 19 The driveway within the Tree Protection Zones (TPZs) of trees #1 and 2 must be constructed above the existing grade using permeable materials to the satisfaction of the responsible authority. There must be no excavation within the TPZ, except for scraping the surface up to 30mm deep to remove surface organics and/or debris.

## **No reticulated gas connection - dwellings**

- 20 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.

## **Expiry - Development**

- 21 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 issued date of this permit.
  - (b) The development is not completed within four (4) years of the issued date of this permit.

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

**– End of conditions –**

