VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

planning and environment DIVISION

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| planning and environment LIST | vcat reference No. P908/2020  Permit Application no. TPA/51144 |

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| APPLICANT | Nutac Homes Pty Ltd |
| responsible authority | Monash City Council |
| SUBJECT LAND | 17 Koonwarra Street CLAYTON VIC 3168 |
| WHERE HELD | Melbourne |
| BEFORE | Nicholas Hadjigeorgiou, Member |
| HEARING TYPE | Compulsory Conference |
| DATE OF HEARING | 18 September 2020 |
| DATE OF ORDER | 22 September 2020 |

# Order

### Amend 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:

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| Prepared by: | * DCA Design |
| Dated: | * 9 September 2020 |

1. In application P908/2020 the decision of the responsible authority is set aside.
2. In planning permit application TPA/51144 a permit is granted and directed to be issued for the land at 17 Koonwarra Street, Clayton in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:

* Construction of a double storey residential building for use as a student accommodation.

1. The hearing scheduled to commence on 20 November 2020 is vacated.
2. No order as to costs.

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| **Nicholas Hadjigeorgiou**  **Member** |  |  |

# Appearances

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| For applicant | Mr Hew Gerrard, Town Planner, & Mr J. Cardamone |
| For responsible authority | Ms A. Wade, Town Planner |

# Reasons

### Full settlement

1. This matter involves an application pursuant to section 77 of the *Planning and Environment Act 1987* for a review of the Monash City Council to refuse the grant of a permit for the construction of a double storey residential building for use as a student accommodation.
2. At the compulsory conference, the parties reached an agreement and request orders by consent. The parties request that the Tribunal set aside the responsible authority decision and direct the grant of a Permit subject to conditions.
3. 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 amended permit is appropriate having regard to the matters it is required to consider under section 60 of the *Planning and Environment Act 1987* (**Act**), including the balanced application of the strategies and policies of the Monash Planning Scheme (**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 proposed use/development which would martially affect any person other than the parties to the proceeding.

1. Based on the information available to the Tribunal, I consider 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.*

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| **Nicholas Hadjigeorgiou**  **Member** |  |  |

# Appendix A – Permit Conditions

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| Permit Application No: | TPA/51144 |
| Land: | 17 Koonwarra Street CLAYTON VIC 3168 |

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| What the permit allows |
| In accordance with the endorsed plans:   * Construction of a double storey residential building for use as a student accommodation |

## Conditions:

### Amended Plans Required

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale and dimensioned. When the plans are endorsed, they will then form part of the Permit. The plans must be generally in accordance with the plans prepared by DCA Design dated 9 September 2020 but modified to show:
   1. The ground floor layout as tabled at the VCAT compulsory conference conducted on 18 September 2020.
   2. The existing crossover to be reconstructed with a width of 3 metres and to be aligned with the proposed driveway.
   3. 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. Alternatively, it must be set back a minimum of 3 metres from the front title boundary, no greater than 1.4 metres in height and must be adjacent to the side boundary fence.
   4. A Landscape Plan in accordance with Condition 9 of this Permit.
   5. A Waste Management Plan in accordance with Condition 12 of this Permit.
   6. A Sustainable Design Assessment in accordance with Condition 15 of this Permit.
   7. The dark render finish on the ground floor southern elevation to be relocated centrally to align with the dark render finish of the first floor.

### Layout not to be altered

1. The development and use as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

### Section 173 Agreement

1. 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:
   1. That each of the rooms are used for a single student only other than room 6 and no more than 18 occupants can reside at any given time.
   2. That no person may reside in the building unless that person is a bona fide student or academic whether part time, full time, short term or resides there in a supervisory, management or caretaker capacity;
   3. Car parking spaces are only permitted to be used by the occupants of the units and their visitors and must not be subdivided, on-sold or leased to any other person;
   4. The number of students residing on-site who have cars shall not exceed the number of on-site car spaces provided by the development;
   5. The owner and residents of the development will comply with all condition and requirements of Planning Permit TPA/51144; and
   6. Should the land cease to be used for student housing, a new planning permit may be required for an alternative use. It should be noted that any dispensation for on-site car parking given to the student accommodation development is not transferable to any proposed alternative use of the land. Any subsequent use will be assessed in accordance with the car parking requirements of the Monash Planning Scheme.
2. 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.

### Student Accommodation/ Rooming House Management Plan

1. Prior to the commencement of the use, a Management Plan for the Student Accommodation Facility is to be prepared, submitted to and approved by the Responsible Authority. The Management Plan must include the following:
   1. The contact details of the responsible contact person displayed in a manner and location so 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 contact person.
   2. Details of the terms of accommodation and the maximum number of persons to be accommodated onsite.
   3. Car parking spaces are only permitted to be used by the occupants of the units and their visitors and must not be subdivided, on-sold or leased to any other person.
   4. A register that documents the allocation of car spaces.
   5. Maintenance of buildings and grounds, including all landscaped areas.
   6. Provision of information to student on local public transport and amenities in the area.
   7. Permanent display of the Management Plan in a common area accessible to all residents of the student accommodation facility.

### Use of Land

1. The development can only be used for the purpose of student accommodation. Should the land cease to be used for student accommodation, a new planning permit may be required for any alternative use. The car parking requirements for any subsequent use will be assessed in accordance with the provisions of the Monash Planning Scheme.

### Occupancy

1. Not more than one person may reside in each bedroom shown on the endorsed plans at any one time, other than bedroom 6. Only one bed is permitted per bedroom.

### Common Areas

1. All common areas on the endorsed plan(s) must be made available and accessible to a resident on a shared basis at all times.

### Landscaping

1. Concurrent with the endorsement of any plans 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 show:
   1. 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;
   2. 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;
   3. A minimum of two (2) canopy trees (minimum 1.5 metres tall when planted) in the front setback and rear setback of the site (total of four on the site). 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;
   4. Planting to soften the appearance of hard surface areas such as driveways and other paved areas;
   5. The location of any retaining walls associated with the landscape treatment of the site;
   6. details of all proposed surface finishes including pathways, accessways, patio or decked areas;
   7. Planting required by any other condition of this permit;
   8. Landscaping and planting within all open areas of the site; and
   9. Any changes as required by Condition 1 of this Permit.
2. Before the occupation of the buildings, allowed by the 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.
3. An in ground, automatic watering system connected to rainwater tanks on the land must be installed and maintained to the common garden areas to the satisfaction of the Responsible Authority.

### Waste Management

1. Concurrent with the endorsement of any plans 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 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:
   1. The method of collection of all waste from the land;
   2. Waste volume calculation and total waste generated per waste stream;
   3. Frequency of Waste collection and permitted collection times;
   4. 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(s);
   5. Provision of bin cleaning equipment, washing facilities and sewer disposal within the waste storage area; and
   6. Details of who will be responsible for taking out and returning bins to kerb.
2. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
3. 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.

### Sustainable Design Assessment (SDA) Required

1. Concurrent with the endorsement of any plans pursuant to Condition 1, a Sustainable Design Assessment (in accordance with Clause 22.13) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Sustainable Design Assessment will be endorsed and will form part of this permit.

### Noise from Air Conditioning Units

1. Air-conditioning and other plant and equipment installed on or within the buildings must be so positioned and baffled that any noise emitted complies with the appropriate Australian Standard and EPA requirements.

### Privacy Screens

1. 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 to the satisfaction of the Responsible Authority. The use of obscure film fixed to transparent windows is not considered to be 'obscure glazing' or an appropriate response to screen overlooking.

### Car Parking and Driveways to be Constructed

1. Before the use starts or any building is occupied, areas set aside for parked vehicles and access lanes as shown on the endorsed plans must be:
   1. Constructed to the satisfaction of the Responsible Authority;
   2. Properly formed to such levels that they can be used in accordance with the plans;
   3. Surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority;
   4. Drained, maintained and not used for any other purpose to the satisfaction of the Responsible Authority;
   5. line-marked to indicate each car space and all access lanes to the satisfaction of the Responsible Authority.

Parking areas and access lanes must be kept available for these purposes at all times.

1. 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.
2. Any new vehicle crossover or modification to an existing vehicle crossover must be constructed to the satisfaction of the Responsible Authority.

### Drainage & Stormwater

1. The site must be drained to the satisfaction of the Responsible Authority.
2. No 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.
3. Stormwater discharge is to be detained on site to the predevelopment level of peak stormwater discharge. Approval of any detention system is required by the City of Monash prior to works commencing.

### Time for Starting and Completion

1. In accordance with section 68 of the *Planning and Environment Act 1987*, this permit will expire if one of the following circumstances applies:
   1. The development has not started before 2 years from the date of issue*.*
   2. 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:

* + 1. Within six (6) months afterwards if the use or the development has not commenced; or
    2. 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 -**