VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT DIVISION

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| planning and environment LIST | | vcat reference No. P822/2019  Permit application no. TPA/50051 |
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| APPLICANT | Bau Investments Pty Ltd | |
| responsible authority | Monash City Council | |
| RESPONDENT | Vic Roads - Metropolitan South East Region | |
| SUBJECT LAND | 1931 Dandenong Road CLAYTON VIC 3168 | |
| WHERE HELD | Melbourne | |
| BEFORE | Elizabeth Bensz, Member | |
| HEARING TYPE | Compulsory conference | |
| DATE OF HEARING | 15 August 2019 | |
| DATE OF ORDER | 28 August 2019 | |

# Order

1. The decision of the Responsible Authority is affirmed set aside.
2. In permit application TPA/50051 a permit is granted and directed to be issued for the land at 1931 Dandenong Road, Clayton in accordance with the endorsed plans and on the conditions set out in Appendix A. The permit allows:

* Use and development of a residential building (student accommodation), alteration of access to a road in a Road Zone Category 1 and associated car parking.

1. The hearing scheduled at 10.00am on 25 September 2019 is vacated. No attendance is required.

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| Elizabeth Bensz  **Member** |  |  |

# reasons

### Full settlement

1. This order is made at the request of the parties and with their consent as an outcome of a compulsory conference.
2. 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 permit or amended permit is appropriate having regard to the matters it is required to consider under section 60 of the 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 *Planning and Environment Act* 1987;
* 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.

1. Based on the information available to the Tribunal, I consider it is appropriate to make these orders.

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| Elizabeth Bensz  **Member** |  |  |



# APPENDIX A

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| **PERMIT APPLICATION NO:** | TPA/50051 |
| **LAND:** | 1931 Dandenong Road CLAYTON VIC 3168 |
| **WHAT THE PERMIT ALLOWS:** | |
| * Use and development of a residential building (student accommodation), alteration of access to a road in a Road Zone Category 1 and associated car parking, in accordance with the endorsed plans. | |

# conditions

### Amended Plans

1. Before the development starts, three copies of 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 VIA Architects (TP-100 V4 dated 21.08.2019, TP-101 V4 dated 21.08.2019, TP-102 V2 dated 20.08.2019, TP-103 V2 dated 20.08.2019) but modified to show:
   1. Elevation plans and sectional diagrams.
   2. 2x2 car stackers (to provide 2 additional spaces)
   3. Car stacker details in accordance to Conditions 13 and 16.
   4. Decking in communal external space to be clear of easement
   5. No more than 30 beds
   6. Total of nine (9) car spaces in the basement
   7. Headroom clearance of 2.2m for the vehicle path in and out of basement
   8. Demonstration that all rooms have a minimum internal floor area of 24m2. Should an increase in any room be required it must be accommodated within the building footprint shown on TP-101 with no reduction in size to the communal areas.
   9. Specifications of the car stacker system including the platform length, width and headroom clearance to the satisfaction of the Council.

### No Alterations or Changes

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

### Section 173 Agreement

1. Prior to the endorsement of the plans referred to in Condition 1, the owner of the land must enter into and execute an agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987 to the satisfaction of the Responsible Authority. The agreement shall require that, without the prior written consent of the Responsible Authority:
   1. That no person may reside in the building unless that person is a bona fide student whether part time, full-time, short-term, or resides there in a supervisory, management or caretaker capacity.
   2. The car parking spaces are only permitted to be used by the occupants of the units and their visitors in accordance with the endorsed plans and such spaces must not be on-sold or leased to any other person.

A memorandum of the Agreement is to be entered into on title and the cost of the preparation, checking and execution of the Agreement and entry of the memorandum on title is to be paid by the owner.

### Landscaping

1. 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:-
   1. the location of all existing trees and other vegetation to be retained on site, and tree protection measures for all trees to be retained.
   2. provision of canopy trees generally in accordance with plan TP-100 Rev 4 dated 21.08.19 prepared by VIA Architects.
   3. planting to soften the appearance of hard surface areas such as driveways and other paved areas.
   4. a schedule of all proposed trees, shrubs and ground cover, which will include the size of all plants (at planting and at maturity), their location, botanical names and the location of all areas to be covered by grass, lawn, mulch or other surface material.
   5. the location and details of all fencing.
   6. the extent of any cut, fill, embankments or retaining walls associated with the landscape treatment of the site.
   7. details of all proposed hard surface materials including pathways, patio or decked areas.
2. Before the occupation of the building 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.

### Site Management Plan

1. Prior to the use commencing, a Site Management Plan must be prepared for the site to the satisfaction of the Responsible Authority. The plan must not be modified without the written consent of the Responsible Authority. The plan must provide for (but is not limited to):
   1. Permanent display of the Management Plan in the common area;
   2. The nature of the management of the complex and the contact details of the manager/lead tenant;
   3. Provision for at-call contact details to be displayed so they are clearly visible to any person outside the site for response 24 hours a day and seven days a week;
   4. Provision to ensure that the accommodation does not cause negative impacts on the amenity of the surrounding area particularly in respect to resident and/or guest behaviour, activities, visitors and parties and the extent to which external areas may be used at night.

### Sustainable Management Plan

1. Concurrent with the endorsement of any plans, a Sustainable Management Plan (SMP) must be submitted to and approved by the Responsible Authority. Upon approval the SMP will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the SMP to the satisfaction of the Responsible Authority. The report must include, but is not limited to, the following:
   1. Demonstration of how ‘best practice’ sustainability measures have been addressed, having regard to the relevant aspects of Clause 21.13 of the Monash Planning Scheme.
   2. Identify relevant statutory obligations, strategic or other documented sustainability targets or performance standards.
   3. Document the means by which the appropriate target or performance is to be achieved.
   4. Identify responsibilities and a schedule for implementation, and ongoing management, maintenance and monitoring.
   5. Demonstrate that the design elements, technologies and operational practices that comprise the SMP can be maintained over time.

All works must be undertaken in accordance with the endorsed Sustainability Management Plan to the satisfaction of the Responsible Authority. No alterations to the endorsed Sustainable Management Plan may occur without written consent of the Responsible Authority and (to the extent material and necessary) any relevant flow-on changes to the design response must be also incorporated into the endorsed architectural plans.

1. Prior to the occupation of any of the dwellings approved under this permit, a report from the author of the endorsed Sustainable Management Plan (or similarly qualified person or company) must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that (in relation to those relevant completed dwellings ready for occupation) all measures specified in the Sustainable Management Plan have been implemented in accordance with the approved plan.

### Construction Management Plan

1. Prior to the commencement of works on the site, a Construction Management Plan must be prepared and submitted to the Responsible Authority for approval. The plan must be to the satisfaction of the Responsible Authority. Once approved, the plan must be implemented to the satisfaction of the Responsible Authority. The plan must address the following issues:
   1. measures to control emissions of noise and dust and water runoff from the site;
   2. prevention of silt or other pollutants from entering Council’s underground drainage system or road network;
   3. the location where building materials are to be kept during construction;
   4. site security to prevent people from entering the construction site;
   5. maintenance of safe movements of vehicles to and from the site during the construction phase;
   6. on-site parking of vehicles associated with construction of the development;
   7. wash down areas for trucks and vehicles associated with construction activities;
   8. a program for cleaning and maintaining surrounding road surfaces;
   9. a requirement that 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).

### Waste Management Plan

1. Prior to the commencement of works on the site, a Waste Management Plan must be submitted to and approved by the Responsible Authority for the collection and disposal of garbage and recyclables by a private contractor for all uses on the site. The Waste Management Plan shall provide for:
   1. The time and method of collection of garbage and recyclables from uses;
   2. Designation of methods of collection by the private contractor;
   3. Appropriate areas for bin storage on site and areas for bin placement on collection days;
   4. Measures to minimise the impact upon local amenity and on the operation, management and maintenance of car parking areas;
   5. The timing collection of all waste so as not to cause disruption to traffic and amenity of the area.
   6. Bins not to obstruct car parking or traffic movement.

Once approved the Waste Management Plan will be endorsed to form part of the permit.

### Drainage

1. Before the development starts, a site layout plan drawn to scale and dimensioned must be approved by the Responsible Authority.

The plans must show a drainage scheme providing for the collection of stormwater within the site and for the conveying of the stormwater to the nominated point of discharge.

The nominated point of discharge is the east corner of the property where the entire site's stormwater must be collected and free drained via a pipe to the 225 mm Council drain in the naturestrip via a 900 mm x 600 mm junction pit to be constructed to Council Standards.

If the point of discharge cannot be located then notify Council’s Engineering Division immediately.

1. All on-site stormwater is to be collected from hard surface areas and must not be allowed to flow uncontrolled into adjoining properties or the road reserve.
2. All stormwater collected on the site 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, the Responsible Authority, prior to works commencing. Please refer to the notes section of this permit for additional details.
3. Prior to endorsement of any plans, plans and specifications for the mechanical parking system must be submitted and approved to the satisfaction of the Responsible Authority.

### Car Parking and Vehicle Crossovers

1. Before the use starts or any building is occupied, the car stackers must be installed in accordance with the endorsed plans to the satisfaction of the Responsible Authority.
2. The mechanical parking system is to meet Australian Standard AS 5124:2017 Safety of machinery—Equipment for power driven parking of motor vehicles - Safety and EMC requirements for design, manufacturing, erection and commissioning stages (EN 14010:2003, MOD).
3. The mechanical car stackers are to be maintained in a good working order and be permanently available for the parking of vehicles in accordance with their purpose, to the satisfaction of the Responsible Authority.
4. All access points to the system require the provision of a gate/door which is to be fully automated and linked to the car stacker operating system to ensure that there is no inadvertent access during the operation of the system.
5. Car and bicycle parking areas and access lanes must be developed and kept available for those purposes at all times and must not be used for any other purpose such as storage to the satisfaction of the Responsible Authority.
6. Engineering permits must be obtained for new or altered vehicle crossings and new connections to Council drains and these works are to be inspected by Council's Engineering Department. A refundable security deposit of $1,000 is to be paid prior to the drainage works commencing.
7. All new vehicle crossings must be a minimum of 3.0 metres in width and constructed in accordance with Council standards.
8. The existing redundant crossing is to be removed and replaced with kerb and channel to the Council Standards.
9. All new vehicle crossings are to be no closer than 1.0 metre, measured at the kerb, to the edge of any power pole, drainage or service pit, or other services. Approval from affected service authorities is required as part of the vehicle crossing application process.

### Permit Expiry

1. This permit will expire in accordance with section 68 of the Planning and Environment Act 1987, if one of the following circumstances applies:
   1. The development has not started before two (2) years from the date of issue.
   2. The development is not completed before four (4) years from the date of issue.
   3. The use has not commenced within one (1) year from the date of the development completion.

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 within six months of the permit expiry date, where the development allowed by the permit has not yet started; or within 12 months of the permit expiry date, where the development has lawfully started before the permit expires

**---** **End of Conditions** ---