VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

planning and environment DIVISION

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| planning and environment LIST | vcat reference No. P2625/2018  Permit Application no. TPA/47543 |

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| APPLICANT | Architekton Ltd |
| responsible authority | Monash City Council |
| Referral Authority | Vic Roads - Metropolitan South East Region |
| RESPONDENT | Pratik Parekh |
| SUBJECT LAND | 96-98 Ferntree Gully Road OAKLEIGH EAST VIC 3166 |
| WHERE HELD | Melbourne |
| BEFORE | Susan Whitney, Member |
| HEARING TYPE | No Hearing |
| DATE OF ORDER | 12 February 2020 |

# Order

1. The hearing scheduled at **10.00 am on 10 February 2020** is vacated. No attendance is required.

### Amend permit application

1. Pursuant to clause 64 of Schedule 1 of the *Victorian Civil & 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: | Architekton |
| * Drawing numbers: | Sht-1 to Sht 15 |
| * Dated: | 28 October 2019 |

### Permit granted

1. In application P2625/2018 the decision of the responsible authority is set aside.
2. In planning permit application TPA/47543 a permit is granted and directed to be issued for the land at 96-98 Ferntree Gully Road OAKLEIGH EAST VIC 3166 in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:

* Development of a three storey building containing 12 dwellings above a basement carpark and alteration of access to a road in a Road Zone Category 1 (Ferntree Gully Road).

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| **Susan Whitney**  **Member** |  |  |



# remarks

1. Pursuant to section 93(1) of the *Victorian Civil and Administrative Tribunal Act 1998*, 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:
   * + - 1. the responsible authority is of the opinion that the 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*; and
         2. 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.

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| **Susan Whitney**  **Member** |  |  |

# Appendix A – Permit Conditions

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| Permit Application No | TPA/47543 |
| Land | 96-98 Ferntree Gully Road OAKLEIGH EAST VIC 3166 |

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| What the permit allowS |
| In accordance with the endorsed plans:   * Development of a three storey building containing 12 dwellings above a basement carpark and alteration of access to a road in a Road Zone Category 1 (Ferntree Gully Road). |

## Conditions

### Amended Plans

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 prepared by Architekton dated October 2019, but modified to show:
   1. 5 metre rear setback up at upper level
   2. Privacy screening to the eastern side of the east facing balconies of Dwelling D-07 and D-08 a minimum height of 1.7m above finished floor level to prevent overlooking to the living room and bedroom of 3/100 Ferntree Gully Road, Oakleigh East.
   3. 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) on both sides of the vehicle crossing to provide a clear view of pedestrians on the footpath of the frontage road.
   4. All pedestrian doors to each garage are to open outwards from the garage not to impede the internal parking area.
   5. The height, materials and location of all internal fencing.
   6. A materials schedule of proposed external finishes including colour swatches.
   7. The proposed 5.1m passing area at the entrance of the property is to be widened to 6.1m.
   8. Visitor parking spaces are to be widened to 2.9m wide.
   9. Parking spaces for Dwellings 8 & 9 adjacent to the stairs are required to provide 300mm clearance on the side of the wall.
   10. All parking spaces are required to be 2.6m wide for a 6.4m access aisle width.
   11. 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 side boundary fencing.
   12. A Landscape Plan in accordance with Condition 3 of this Permit.
   13. A Waste Management Plan in accordance with Condition 5 of this Permit.
   14. A Sustainable Design Assessment (SDA) in accordance with Condition 6 of this Permit.

### No Alteration or Changes

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

### 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 4 canopy trees (minimum 1.5 metres tall when planted) within the front setback of 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. The location of any fencing internal to the site;
   5. Provision of canopy trees with spreading crowns located throughout the site including the major open space areas of the development;
   6. Planting to soften the appearance of hard surface areas such as driveways and other paved areas;
   7. Canopy Trees / Significant Planting on adjoining properties within 3 metres of the site;
   8. The location of any retaining walls associated with the landscape treatment of the site;
   9. Details of all proposed surface finishes including pathways, accessways, patio or decked areas;
   10. Planting required by any other condition of this permit; and
   11. Landscaping and planting within all open areas of the site.

### Landscaping Prior to Occupation

1. 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

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 the following details of a regular private or Council waste (including recyclables) collection service for the subject land including (to the satisfaction of the Responsible Authority):
   1. The method of collection of all waste from the land;
   2. Location of bin collection;
   3. The type(s) (including volume) and number of waste bins;
   4. Appropriate areas of bin storage on site;
   5. Frequency of Waste collection;
   6. Measures to minimise the impact upon local amenity and on the operation, management and maintenance of car parking areas;
   7. Provision of bin cleaning equipment, washing facilities and sewer disposal within the waste storage area;
   8. Details of who will be responsible for taking out and returning bins to kerb (if Council collection is proposed);
   9. Details of the size of waste vehicle truck (if Private Collection is proposed); and
   10. Litter management.

### Sustainable Design Assessment (SDA)

1. The provisions, recommendations and requirements of the endorsed Energy Lab Sustainability Management Plan V2 dated September 2017 must be implemented and complied with to the satisfaction of the Responsible Authority.

### Boundary Walls

1. The walls on the boundary of adjoining properties shall be cleaned and finished in a manner to the satisfaction of the Responsible Authority.

### Stormwater

1. All stormwater collected on the site from all hard surface areas must not be allowed to flow uncontrolled into adjoining properties or the road reserve.
2. The private on-site drainage system must prevent stormwater discharge from the/each driveway over the footpath and into the road reserve. The internal drainage system may include either:

* a trench grate (minimum internal width of 150 mm) located within the property boundary and not the back of footpath; and/or
* shaping the internal driveway so that stormwater is collected in grated pits within the property; and/or
* another Council approved equivalent.

1. All stormwater collected on the site 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 drainage works commencing.

### Road Infrastructure

1. Approval of the proposed crossing, and a permit for installation or modification of any vehicle crossing is required from Council’s Engineering Department.
2. The proposed crossing is to be constructed in accordance with the City of Monash standards.
3. The 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.
4. On-site visitor parking spaces are required to be clearly marked.

### Urban Design

1. The walls on the boundary of adjoining properties shall be cleaned and finished in a manner to the satisfaction of the Responsible Authority.

### Completion of Buildings and Works

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

### 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.

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.

### VicRoads

1. Prior to the commencement of use or occupation, a sealed access crossover as at least 5.5 metres wide at the property boundary with the edges of the crossover angled at 60 degrees to the road reserve boundary, at least for the first 3 metres from the edge of the road must be constructed to the satisfaction the Responsible Authority and at no cost to VicRoads or the Responsible Authority.
2. Prior to the commencement of the use or occupation of the development, all disused or redundant vehicle crossings must be removed and the area reinstated to the satisfaction of the Responsible Authority and at no cost to VicRoads or the Responsible Authority.
3. Prior to the commencement of the use or the occupation of the buildings or works hereby approved, the access crossover and associated works must be provided and available for use.
4. Vehicles must enter and exit the land in a forward direction at all times.
5. Any security boom, barrier, gate or similar device controlling vehicular access to the premises must be located a minimum of 7.6 metres inside the property to allow vehicles to store clear of the Ferntree Gully Road pavement and footpath.

**– End of conditions –**