

# VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

## PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P1108/2022  
PERMIT APPLICATION NO.TPA/53568

<b>APPLICANT</b>	Dinesh Gamage
<b>RESPONSIBLE AUTHORITY</b>	Monash City Council
<b>RESPONDENT</b>	Kathleen Jennifer Bolger
<b>SUBJECT LAND</b>	4 Colin Road CLAYTON VIC 3168
<b>HEARING TYPE</b>	Hearing
<b>DATE OF HEARING</b>	9 February 2023
<b>DATE OF ORDER</b>	13 February 2023

### ORDER

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:

- Prepared by: Archimedium Australia Pty Ltd
- Drawing numbers: TP01 to TP09
  
- Dated: December 2022

### Permit granted

- 2 In application P1108/2022 the decision of the responsible authority is set aside.
- 3 In planning permit application TPA/53568 a permit is granted and directed to be issued for the land at 4 Colin Road Clayton VIC 3168 in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:
- Construction of four dwellings in a General Residential Zone

Alison Slattery  
Member



## APPEARANCES

For applicant	Mr Simon Skinner of Planning Sense
For responsible authority	Mr Gerard Gilfedder of Currie Brown
For respondent	Ms Bolger in person

## INFORMATION

Description of proposal	Construction of four dwellings
Nature of proceeding	Application under section 77 of the <i>Planning and Environment Act 1987</i> – to review the refusal to grant a permit.
Planning scheme	Monash Planning Scheme
Zone and overlays	General Residential Zone Schedule 3
Permit requirements	Clause 32.08-6 construction or extension of two or more dwellings on a lot



### ORAL DECISION GIVEN

1. I have decided to set aside the Council decision of 10 August 2022. I direct the Responsible Authority to issue the planning permit in accordance with the conditions in Appendix A. My decision and reasons were given orally at the hearing.

### CONCLUSION

2. For the reasons I have provided, I will direct that the Responsible Authority issue the planning permit in accordance with the conditions contained in Appendix A.

Alison Slattery  
**Member**



## APPENDIX A – PERMIT CONDITIONS

<b>PERMIT APPLICATION NO</b>	TPA/53568
<b>LAND</b>	4 Colin Road CLAYTON VIC 3168

### WHAT THE PERMIT ALLOWS

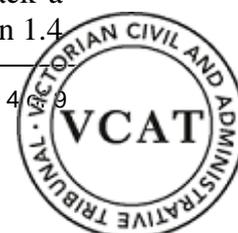
In accordance with the endorsed plans:

- Construction of four dwellings in a General Residential Zone.

## 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 are to be generally in accordance with Plans: TP1 (Site Context Plan) – Revision E – December 2022, TP2 (Design Response Plan) – Revision F – December 2022; TP3 (Lower Ground Floor Plan) - Revision G – December 2022; TP4 (Ground Floor Plan) – Revision G – December 2022; TP5 (First Floor Plan) - Revision G – December 2022; TP6 (Elevations) – Revision G – December 2022; TP7 (Elevations & Sections) - Revision G – December 2022; TP8 (Shadow Plans) - Revision F – December 2022; TP9 (Minimum Garden Area Plan) – Revision B – Dec 2022 by Archimedium Australia Pty Ltd but modified to show:
  - a) Any required changes from the Sustainable Design Assessment required by Condition 23.
  - b) Provision of 6 cubic metres of external storage for each dwelling
  - c) No fencing between the dwellings in the front setback.
  - d) Tree protection fencing in accordance with the AS4970-2009 for the Council street trees.
  - e) Any trellis provided being freestanding.
  - f) Gas/water meter locations in unobtrusive locations.
  - g) Letter boxes no greater than 900mm in height convenient to the dwellings.
  - h) The location and design of any proposed electricity supply meter boxes. The electricity supply meter boxes and any associated infrastructure must be located at a distance from the street which is at or behind the setback alignment of buildings on the site. Alternatively, it must be setback a minimum of 3 metres from the front title boundary, be no greater than 1.4



metres in height and must be adjacent a side boundary fence where the most minimal level of visual impact arises.

- i) 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 proposed vehicle crossing to provide a clear view of pedestrians on the footpath of the frontage road.
- j) A Tree Management Plan in accordance with Conditions 7 & 8.
- k) A clear identifiable notation on the ground floor plan advising the development is subject to a Tree Management Plan.
- l) A Landscape Plan in accordance with Condition 9.
- m) The location of water tanks and clotheslines consistent with the landscape plan.

#### **No Alterations**

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

#### **Tree Protection**

- 3. The existing Photinia street tree in Colin Road, will be removed and replaced by Council at the cost of the developer prior to the commencement of the development.
- 4. Any Council street tree in Fulton Street that is to be retained, must be protected by temporary rectangular wire fencing accordance with AS4970-2009 for a distance of at least 3.0 metres from the base of the tree.
- 5. No building material, demolition material or earthworks shall be stored or stockpiled under the canopy line of any tree to be retained on or on adjoining sites during the construction period of the development hereby permitted.
- 6. Concurrent with the submission of amended plans required by Condition 1 and prior to any demolition or site works, a Tree Management Plan (TMP) must be submitted to and be approved as being satisfactory by the Responsible Authority. The TMP must be prepared by a suitably qualified and experienced Arborist.
- 7. The Tree Management Plan must make specific reference to the Condition 1 and Condition 9 plans confirming they have been assessed.
- 8. The TMP must make specific recommendations in accordance with the Australian Standard AS4970: 2009 - Protection of Trees on Development Sites and detail the following to the satisfaction of the Responsible Authority ensuring the trees to be retained remain healthy and viable during construction:
- 9. A Tree Protection Plan drawn to scale that shows:
  - a. Tree protection zones and structural root zones of all trees to be retained.



- b. All tree protection fenced off areas and areas where ground protection systems will be used;
- c. The type of footings within any tree protection zones;
- d. Any services to be located within the tree protection zone and a notation stating all services will either be located outside of the tree protection zone, bored under the tree protection zone, or installed using hydro excavation under the supervision of the Project Arborist; and
- e. A notation to refer to the Tree Management Plan for specific detail on what actions are required within the tree protection zones.
- f. Details of how the root system of any tree to be retained will be managed. This must detail any initial non-destructive trenching and pruning of any roots required to be undertaken by the Project Arborist.
- g. Supervision timetable and certification of tree management activities required by the Project Arborist to the satisfaction of the responsible authority; and
- h. Any remedial pruning works required to be performed on tree canopies located within subject site. The pruning comments must reference Australian Standards 4373:2007, Pruning of Amenity Trees and a detailed photographic diagram specifying what pruning will occur.
- i. The recommendations contained in the approved tree management plan must be implemented to the satisfaction of the Responsible Authority.

### **Landscaping**

- 10. Concurrent with the endorsement of any plans requested pursuant to Condition 1 modified to reflect any changes under that condition, a Landscape Plan drawn to scale and dimensioned must be submitted to and approved by the Responsible Authority. The Landscape Plan must be generally in accordance with the Landscape Plan Sheet 1 of 1 dated January 2023 by Habitat and modified to show:
  - a) Any landscape design alterations arising from the project arborist needed to protect trees on abutting land including the nature strip.
  - b) 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;
  - c) 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;
  - d) Provision of canopy trees with spreading crowns located throughout the site including the major open space areas of the development;
  - e) The location of any fencing internal to the site and on the title boundary;



- f) Planting to soften the appearance of hard surface areas such as driveways and other paved areas;
- g) Canopy trees / significant plantings on adjoining properties within 3 metres of the site;
- h) The location of any retaining walls associated with the landscape treatment of the site;
- i) Details of all proposed surface finishes including pathways, accessways, patio or decked areas;
- j) The location of Tree Protection Zones and Tree Protection Fencing as outlined in Conditions 4 to 7;
- k) An in-ground, automatic watering system linked to rainwater tanks on the land must be installed and maintained to the common garden areas to the satisfaction of the Responsible Authority;
- l) The location of external lighting (if any);
- m) Planting required by any other condition of this permit; and
- n) Landscaping and planting within all open areas of the site.
- o) The location of clotheslines and tanks.

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

#### **Landscaping Prior to Occupation**

- 11. 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.

#### **Drainage**

- 12. Drainage of the site is to be to the satisfaction of the Responsible Authority.
- 13. 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.
- 14. 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:
  - 15. a trench grate (minimum internal width of 150 mm) located within the property boundary and not the back of footpath; and/or
  - 16. shaping the internal driveway so that stormwater is collected in grated pits within the property; and or
  - 17. another Council approved equivalent.
- 18. 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 and is to be to the satisfaction of the Responsible Authority.

19. The nominated point of stormwater connection for the site is to the south-west corner of the property where the entire site's stormwater must be collected and free drained via a pipe to the existing Council pit in the nature strip outside Fulton Street to be constructed to Council standards. Note: If the point of connection cannot be located then notify Council's Engineering Department immediately.

### **Road Infrastructure**

20. All new crossings must be a minimum of 3.0 metres in width.
21. All new vehicle crossings are to be no closer than 1.0 metres, measured at the kerb, to the edge of any power pole, drainage of service pit, or other services. Approval from affected service authorities is required as part of the vehicle crossing application process.
22. Any works within the road reserve must ensure the footpath and nature strip are to be reinstated to Council standards.
23. 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 \$3000 is to be paid prior to the drainage works commencing.

### **Traffic Department**

24. The layout of the development shall follow the Design Standards for car parking set out in Clause 52.06-9 of the Monash Planning Scheme as detailed below:
  - a. Driveway to be at least 3 metres wide.
  - b. Driveway to provide at least 2.1m headroom beneath overhead obstructions.
  - c. Driveway gradient to be no steeper than 1 in 10 (10%) within 5 metres of the frontage to ensure safety for pedestrians and vehicles.
  - d. Ramp grades (except within 5 metres of the frontage) to be designed as follows:
  - e. Maximum grade of 1 in 4.
  - f. Provision of minimum 2.0 metre grade transitions between different section of ramp or floor for changes in grade in excess of 12.5% (summit grade change) or 15% (sag grade change).
  - g. Grade changes greater than 18% or less than 3 metres apart are to be assessed for clearances in accordance with Appendix C of the Australian Standard for Off - Street Car Parking, AS/NZS 2890.1.



- h. Where parking spaces are in a tandem arrangement, an additional 500mm in length must be provided between each space.
- i. Clearance to car parking spaces to be in accordance with Diagram 1 in relation to the placement of a wall, fence, column, tree, tree guard or any other structure that abuts a car space.
- j. Garages or carports must be at least 6 metres long and 3.5 metres wide for a single space and 5.5 metres wide for a double space measured inside the garage or carport.
- k. In accordance with Australian Standard for Off-Street car Parking AS/NZS 2890.1, the maximum grade within a parking module measured parallel to the angle of parking is to be 1 in 20. Measured in any other direction is to be 1 in 16.

#### **Completion of Buildings and Works**

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

#### **Sustainable Design Assessment**

- 26. Concurrent with the endorsement of plans requested 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. Upon approval the Sustainable Design Assessment will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the Sustainable Design Assessment to the satisfaction of the Responsible Authority.

#### **Permit Expiry**

- 27. This permit will expire in accordance with section 68 of the Planning and Environment Act 1987, if one of the following circumstances applies:

The development has not started before two (2) years from the date of issue.

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.

– **End of conditions** –