

# VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

## PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P1731/2022  
PERMIT APPLICATION NO. TPA/53813

**APPLICANT** Pai Property Consultant Pty Ltd  
**RESPONSIBLE AUTHORITY** Monash City Council  
**SUBJECT LAND** 31 Stockdale Avenue  
CLAYTON VIC 3168  
**DATE OF ORDER** 13 July 2023

### ORDER

- 1 The hearing scheduled at **10:00am on 18 July 2023** is vacated. No attendance is required.

#### Permit granted

- 2 In application P1731/2022 the decision of the responsible authority is set aside.
- 3 In planning permit application TPA/53813 a permit is granted and directed to be issued for the land at 31 Stockdale Avenue, 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 the purpose of student accommodation and reduction of the car parking requirement.
- 4 No order as to costs.

Tracey Bilston-McGillen  
**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:
  - a 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*;
  - b 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.

Tracey Bilston-McGillen  
**Member**



## APPENDIX A – PERMIT CONDITIONS

<b>PERMIT APPLICATION NO</b>	TPA/53813
<b>LAND</b>	31 Stockdale Avenue CLAYTON VIC 3168

### WHAT THE PERMIT ALLOWS

In accordance with the endorsed plans:

- Construction of a double storey residential building for the purpose of student accommodation and reduction of the car parking requirement.

## CONDITIONS

### Amended Plans Required

- 1 Before the use and 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 TP1 – TP8 prepared by PAI Property Consultant, Revision E, dated May 2023, but modified to show:
  - (a) A 1 metre setback from the double garage to the end of the two tandem car parking spaces.
  - (b) The pavement south-east of the southern tandem space widened (whilst maximising landscaping area and not widening the crossover) so that no part of the space extends over the landscaping area. This is to incorporate provision for pedestrian access which is to be also shown on the plan. The letter box facility relocated as required.
  - (c) The finishes of dedicated pedestrian areas paved or treated so that they are visually different from the driveway.
  - (d) Bedroom 1 or other unit shown as compliant with disabled access requirements.
  - (e) The proposed grass separator removed.
  - (f) The dimension of the splay at its nearest point to the base of the tree.
  - (g) A large notation on the plans in capital letters proximate to the Casaurina torulosa street tree “Tree protection requirements apply – Arboricultural supervision and hand diggings required for any crossover construction works within 3.7 metres of the street tree. No



works at all are to occur beyond the construction works setbacks shown on the plan. Further requirements apply in Condition 3.”

- (h) The requirements of Condition 3 on the TP3 Ground Floor Plan and Site Plan.
- (i) Tree protection fencing, in accordance with AS4970 - 2009 Trees on Development Sites, for the Council street tree extending to 3.7 metres from the base of the tree.
- (j) A schedule of colours and materials.
- (k) Alternative contrasting external materials/finishes to the front façade, and at upper level on the north side of Bedrooms 15 & 16 and the south side of Bedrooms 10, 11 and 12.
- (l) Compliance with Clause 55.04-4 North Facing Windows, Standard B20.
- (m) 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) both sides from the edge of each vehicle crossing to provide a clear view of pedestrians on the footpath of the frontage road.
- (n) Relocation of the water tanks to increase opportunities for boundary plantings.
- (o) A Landscape Plan prepared in accordance with Condition 6 of this permit.
- (p) A Sustainable Design Assessment in accordance with Condition 9 of this permit.
- (q) A Waste Management Plan prepared in accordance with Condition 10 of this Permit.

### **No Alteration or Changes**

- 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 All works associated with construction of the crossover that are within 3.7 metres of the Council street tree must be supervised by a suitably qualified and experienced arborist, to the satisfaction of the Responsible Authority. Any works within the setback are not to encroach into the 3.7 metre setback unless otherwise required for the construction of the crossover and this is to be hand dug. A photographic record is to be made by the project arborist documenting the distances and excavation along with identification and treatment of any tree roots encountered. The record is to be submitted to the Responsible Authority prior to occupation of the building hereby permitted.



- 4 Tree protection fencing is to be erected to a distance extending out 3.7 metres from the outer base of the Council street tree. The fencing is only to be reduced to allow for construction of the crossover as detailed in condition 3.
- 5 No building material, demolition material, excavation or earthworks shall be stored or stockpiled within the Tree Protection Zone (TPZ) of any tree to be retained during the demolition, excavation and construction period of the development hereby permitted without the prior written consent of the Responsible Authority.

### **Landscape Plan**

- 6 Concurrent with the endorsement of any plans requested 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:
  - (a) 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.
  - (b) A planting schedule of all proposed trees, shrubs, and ground covers, which will include the size of all plants (at planting and at maturity), pot / planting size, location, botanical names and quantities.
  - (c) A minimum of (3) tall canopy trees (minimum 1.5 metres tall when planted) in the following areas (2 in the front setback and one in the rear open space). The canopy trees must have a minimum height equal to that of the building and must have a spreading crown with a minimum width of 4 metres plus at maturity, or as otherwise agreed by the Responsible Authority.
  - (d) Medium height deciduous canopy trees (such as Capital Pears or the like) in the following areas:
    - i In the front setback area inside the northern boundary.
    - ii Inside the southern boundary of the land where the building is setback 1.5 to 2 metres.
  - (e) The planting of shrubs that will grow to at least a metre above the boundary fence inside the north, south and west boundaries.
  - (f) The provision of ground covers and other plants to create a well vegetated appearance of the site from the street.
  - (g) The location of any fencing internal to the site.
  - (h) Planting to soften the appearance of hard surface areas such as driveways and other paved areas.



- (i) Details of the outdoor garden space at the rear of the site for use by residents.
- (j) The location of any retaining walls associated with the landscape treatment of the site.
- (k) Details of all proposed surface finishes including pathways, accessways, patio or decked areas.
- (l) 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.
- (m) The location of external lighting (if any).
- (n) Landscaping and planting within all open areas of the site.

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

### **Landscaping Completion and Maintenance**

- 7 Before 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 be maintained to the satisfaction of the Responsible Authority.
- 8 All landscaping works shown on the endorsed landscape plan(s) must be maintained and any dead, diseased or damaged plants replaced, all to the satisfaction of the Responsible Authority.

### **Sustainable Design Assessment**

- 9 Concurrent with the endorsement of plans in accordance with condition 1, an amended Sustainable Design Assessment (SDA) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended SDA will be endorsed and will form part of this permit. The amended SDA must be generally in accordance with the SDA submitted with the application, but modified to show:
  - (a) any changes required by condition 1;
  - (b) STORM report corrected / modified to ensure consistency with development plans; and
  - (c) STORM treatment result must remain at least 100%.

### **Waste Management**

- 10 Concurrent with the endorsement of plans required pursuant to Condition 1, an updated Waste Management Plan must be submitted and approved by the Responsible Authority. The plan must be submitted and endorsed by Council's Waste Management Department.



## Section 173 Agreement

11 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:

- (a) That each of the rooms are used for a single student only and no more than 18 occupants can reside at any given time.
- (b) 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.
- (c) 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.
- (d) The number of students residing on-site who have cars shall not exceed the number of on-site car spaces provided by the development.
- (e) That residents of the units will be notified in writing as part of any lease or rental agreement that they will not be entitled to car parking permits for on-street car parking.
- (f) The owner and residents of the development will comply with all conditions and requirements of Planning Permit TPA/53813.
- (g) 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.
- (h) That the student accommodation premises must be managed by a single entity with responsibility for all aspects of the use.
- (i) An operational management plan prepared and implemented to the satisfaction of the Responsible Authority according with Condition 12 of this permit.
- (j) 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.

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 Management Plan**

- 12 Prior to the commencement of the use, a Management Plan for the Student Accommodation Facility is to be prepared to the satisfaction of and be submitted to and approved by the Responsible Authority. The Management Plan must be endorsed as part of the permit include the following:
- (a) 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 24 hours a day and seven days a week. This information is to be updated as required immediately following any change to the nominated responsible contact person.
  - (b) Details of the terms of accommodation and the maximum number of persons to be accommodated onsite.
  - (c) Details of how the two tandem car parking spaces in the front setback will be managed in the facility to ensure vehicles parked in the garage are able to access and egress the site in a way that is unrestricted.
  - (d) A register that documents the allocation of car spaces.
  - (e) Maintenance of buildings and grounds, including all landscaped areas.
  - (f) Provision of information to students on local public transport and amenities in the area.
  - (g) Permanent display of the Management Plan in a common area accessible to all residents of the student accommodation facility.
  - (h) Provision to ensure that the housing 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.
  - (i) A requirement that should behavioural problems occur at the site causing disruption to surrounding residents, the operator under this permit must immediately take ameliorative action to the satisfaction of the Responsible Authority.
  - (j) The management of car parking spaces.
  - (k) Details of waste management including rubbish storage and bin collection.
  - (l) Management procedures over school holidays.

## **Ongoing Sustainable Management Plan (SMP) Requirement**

- 13 The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.



## Use of Land

- 14 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.
- 15 Not more than one person may reside in each bedroom shown on the endorsed plans at any one time.
- 16 All common areas on the endorsed plans must be made available and accessible to a resident on a shared basis at all times.
- 17 No form of public address system may be installed so as to be audible from outside the building/site.
- 18 No goods are to be stored or left exposed outside the building so as to be visible from any public road or thoroughfare.
- 19 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.

## Amenity

- 20 The amenity of the area must not be detrimentally affected by the use or development, through the:
  - (a) transport of materials, goods or commodities to or from the land;
  - (b) appearance of any building, works or materials;
  - (c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
  - (d) presence of vermin;
  - (e) others as appropriate.

## Inspection

- 21 Before occupation all buildings and works specified in this permit must be completed to the satisfaction of the Responsible Authority. The Responsible Authority must be advised in writing when all construction and works are completed to enable the site to be inspected.

## Car Parking and Accessways

- 22 Disabled access to the building is to be provided to the satisfaction of the Responsible Authority. All work carried out to provide disabled access must be constructed in accordance with Australian Standards Design for Access and Mobility AS 1428.1.
- 23 All car parking spaces are to remain in common property for the communal use of residents.



- 24 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:
- (a) constructed to the satisfaction of the Responsible Authority.
  - (b) properly formed to such levels that they can be used in accordance with the plans.
  - (c) surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority.
  - (d) drained, maintained and not used for any other purpose to the satisfaction of the Responsible Authority.
  - (e) 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.

- 25 Low intensity / baffled lighting must be provided to ensure that car park areas and pedestrian accessways are adequately illuminated without any unreasonable loss of amenity to the surrounding area, to the satisfaction of the Responsible Authority.
- 26 Any new vehicle crossover or modification to an existing vehicle crossover must be constructed to the satisfaction of the Responsible Authority.

### **Privacy screens**

- 27 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.

### **Services and Plant Equipment**

- 28 All pipes (except down-pipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from external view, to the satisfaction of the Responsible Authority.
- 29 No equipment, services, architectural features or structures of any kind, including telecommunication facilities, other than those shown on the endorsed plans shall be permitted above the roof level of the building unless otherwise agreed to in writing by the Responsible Authority.
- 30 Any required fire services, electricity supply, gas and water meter boxes must be discreetly located and/or screened to compliment the development to the satisfaction of the Responsible Authority. Any required services must be clearly detailed on endorsed plans forming part of this permit.



- 31 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.

### **Drainage & Stormwater**

- 32 The site must be drained to the satisfaction of the Responsible Authority.
- 33 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.
- 34 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.
- 35 Use of easement approval is to be obtained for the storage shed at the rear of the site.
- 36 The construction works associated with the use and development hereby permitted must only be carried out during the following hours:
- i Monday to Friday (inclusive) – 7:00am to 6pm;
  - ii Saturday – 9am to 1pm;
  - iii Saturday – 1pm to 5pm (Only activities associated with the erection of buildings. This does not include excavation or the use of heavy machinery).
- unless otherwise approved in writing by the Responsible Authority.

### **Time for Starting and Completion**

- 37 In accordance with section 68 of the Planning and Environment Act 1987, this permit will expire if one of the following circumstances applies:
- (a) The development has not started before 2 (two) years from the date of issue.
  - (b) The development is not completed before 4 (four) years from the date of issue.
  - (c) The use has not commenced within 2 (two) years from completion of the development.

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:

- i within six (6) months afterwards if the use or the development has not commenced; or
- ii 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 –**

