

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P572/2023
PERMIT APPLICATION NO.TPA/54234

CATCHWORDS

Application under section 77 of the *Planning and Environment Act 1987 (Vic)*; Review the refusal to grant a permit; Residential Building / Student accommodation; Monash Planning Scheme; Residential Growth Zone (Schedule 3); Building form and architectural detailing; Visual impact; Space for canopy trees & screening vegetation; Car parking layout.

APPLICANT	Muhammad Rafi
RESPONSIBLE AUTHORITY	Monash City Council
SUBJECT LAND	39 Beddoe Avenue CLAYTON VIC 3168
HEARING TYPE	Hearing
DATE OF HEARING	25 September 2023
DATE OF ORDER	11 January 2024
CITATION	Rafi v Monash CC [2024] VCAT 33

ORDER

Amend permit application

1 Pursuant to clause 64 of Schedule 1 of the *Victorian Civil and Administrative Tribunal Act 1998 (Vic)*, the permit application is amended by substituting for the permit application plans, the following plans filed with the Tribunal:

- Prepared by: Jesse Ant Architects
- Project Number: 22-038
- Drawing numbers: TP00-TP014
- Amendment : D 'For VCAT'
- Dated: 25/09/2023

Permit granted

- 2 In application P572/2023 the decision of the responsible authority is set aside.
- 3 In planning permit application TPA/54234 a permit is granted and directed to be issued for the land at 39 Beddoe Avenue Clayton VIC 3168 in



accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:

- use of the land as a ‘Residential Building (Student accommodation)’ in the Residential Growth Zone – Schedule 3; and
- construction of a building and construction and carrying out works for a use in section 2 of clause 32.07-2 in the Residential Growth Zone – Schedule 3.

Sarah McDonald
Member

APPEARANCES

For applicant

Dianne King, planning advocate,
King Town Planning.

She called the following witness:

- Brett Young, traffic engineer,
Ratio Consultants Pty Ltd.

For responsible authority

David de Giovanni, planning advocate,
David de Giovanni Town Planning



INFORMATION

Description of proposal	Use and develop land as a three (3) storey (above basement car park) residential building for the purpose of student accommodation.
Nature of proceeding	Application under section 77 of the <i>Planning and Environment Act 1987</i> ('PE Act') – to review the refusal to grant a permit.
Planning scheme	Monash Planning Scheme ('the Scheme').
Zone and overlays	Residential Growth Zone – Schedule 3 'Clayton Major Activity Centre And Monash National Employment And Innovation Cluster' ('RGZ3').
Permit requirements	<p>Clause 32.07-2: To use land as 'Residential Building (Student accommodation)' being a use in section 2 – permit required in the RGZ3.</p> <p>Clause 32.07-9: A permit is required to construct a building or construct or carry out works for a use in section 2 of clause 32.07-2 in the RGZ3.</p>
Land description	<p>The site is a mid-block lot on the western side of Beddoe Avenue, between Woodside Avenue (to the north) and Princes Highway (to the south).</p> <p>The site is 17.98 metres wide, 41.15 metres deep, and has an area of 739.9 square metres. A 1.83 metre wide easement extends across the width of the land, adjacent to the rear (western) boundary. A single storey detached house currently occupies the site.</p> <p>The surrounding area is residential with a mix of single houses on similarly sized lots, and multi-dwelling developments.</p> <p>The adjoining land to the north is occupied by a single storey house. The adjoining land to the south is occupied by three, double storey townhouses.</p>



Land description
(continued)

The Monash University campus is to the east of the properties on the eastern side of Beddoe Avenue.

The site and its surrounding context are shown at Figure 1, below.

Figure 1: Site & surrounding context¹



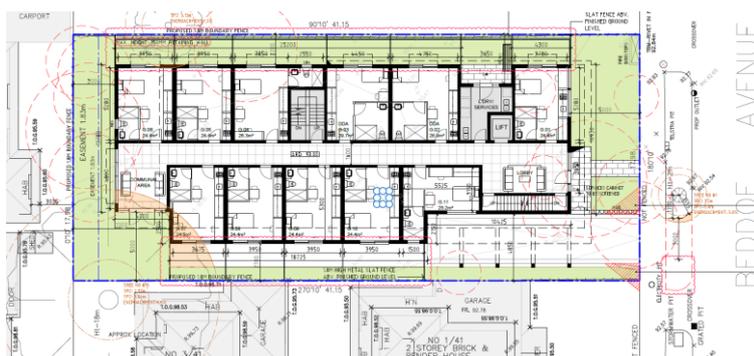
¹ Source: Written evidence statement of Brett Young, Ratio Consultants Pty Ltd, Figure 4.2, 13.

REASONS²

WHAT IS THIS PROCEEDING ABOUT?

- 1 Muhammad Rafi ('the applicant') is seeking a permit to use and develop the land at 39 Beddoe Avenue, Clayton, ('the site') with a three storey building for student accommodation ('the proposal').
- 2 Monash City Council ('the Council') has refused to grant a permit for the proposal. Its grounds related to the proposal not being consistent with various policies and provisions of the Scheme regarding neighbourhood character, building design, car parking, waste management and landscaping.
- 3 The applicant sought this review of the Council's decision.
- 4 The applicant relies on amended plans that have been substituted for the permit application plans. They also rely on the evidence of Brett Young, a traffic engineer, regarding the car parking layout and vehicle movements.
- 5 The amended proposal is for a three storey building, with a basement car park below. A total of 30 student accommodation rooms are proposed – 11 at ground floor level (first storey), 13 at first floor level (second storey), and six at second floor level (third storey). The basement is to contain 10 car parking spaces, 16 bicycle spaces, and a waste bin room. The ground floor level space along either side of the proposed building is to be divided into separate courtyards for the individual accommodation rooms at that level. A communal open space area is located in the south-western corner and along the rear of the building.
- 6 The site and ground floor level of the proposal is shown at Figure 2. The street elevation is shown at Figure 3.

Figure 2: Site and ground floor level layout³



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- 2 The submissions and evidence of the parties, any supporting exhibits given at the hearing and the statements of grounds filed have all been considered in the determination of the proceeding. In accordance with the practice of the Tribunal, not all this material will be cited or referred to in these reasons.
 - 3 Source: Plans prepared by Jesse Ant Architects, Amendment D, dated 25 September 2023, plan TP06.
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Figure 3: Street (east) elevation⁴



- 7 Despite the amended plans the Council maintains that the application should be refused. It relies on amended grounds of refusal that change its original grounds relating to the car parking and waste management vehicles.
- 8 The Council submits that, ‘notwithstanding the strategic support for change in this location, the development layout is too intense, and has failed to have appropriate regard to the neighbourhood character objectives and decision guidelines of the RGZ3’.⁵
- 9 The applicant submits that the Council is seeking an outcome regarding additional setbacks, building massing and landscaping that are not reflective of the applicable policies and inconsistent with the preferred and prevailing character of the area. They also submit that changes recommended by Mr Young regarding vehicle movements are accepted and can form conditions of the permit.
- 10 The Tribunal must decide whether a permit should be granted and, if so, what conditions should be applied to the permit. In doing so, I must consider whether the proposal will produce ‘acceptable’ outcomes⁶ having regard to the relevant provisions and policies of the Scheme.
- 11 There is no dispute that the site is in a location where increased housing densities and diversity of housing is expected and encouraged. For example:
 - i The site is zoned RGZ3. The zone purpose at clause 32.07 of the Scheme includes:

To provide housing at increased densities in buildings up to and including four storey buildings.

To encourage a diversity of housing types in locations offering good access to services and transport including activity centres and town centres.

⁴ Source: Plans prepared by Jesse Ant Architects, Revision D, dated 25 September 2023, plan TP10.

⁵ Written submission by David De Giovanni Town Planning on behalf of the Council, [3].

⁶ Having regard to the decision guidelines at clause 65 of the Scheme.

- ii The site is in the ‘Monash National Employment Cluster’ (‘Monash NEC’) under the municipal Residential Development Framework’ at clause 21.04. The Monash NEC is identified as an area with future development potential⁷ and where substantial residential growth is supported.⁸
- iii The site is in the ‘Housing Growth Area – Clayton Activity Centre and Monash National Employment Cluster’ character type (‘Housing Growth character type’) under the ‘Residential Development and Character Policy’ at clause 22.01.⁹ The scale of new residential development in this area is expected to generally comprise larger footprint apartment development of a high-quality design and finish.¹⁰

12 Rather, the key issues to be decided are:

- Is the form and architectural detail of the building an acceptable response to the site context and streetscape character?
- Will the visual impact of the proposed building on adjoining dwellings to the southern side and rear be acceptable?
- Is there sufficient space for planting canopy trees and screening vegetation?
- Does the layout and design of the building and open space provide an acceptable amenity for residents?
- Does the car parking layout provide for safe and efficient vehicle movements?

13 I have concluded that:

- the proposal will provide an acceptable outcome, subject to some changes to the detailed building design and landscaping; and
- a permit should be granted subject to permit conditions requiring changes to the plans.

My detailed findings and reasons are explained below.

PROCEDURAL ISSUES & RULINGS

Amended plans

14 Before the hearing, the applicant gave notice of an application to amend the permit application to substitute amended plans¹¹ (‘the PNPE9 plans’). Those plans were prepared by Jesse Ant Architects and identified as Revision C.

⁷ Clause 21.04-1.

⁸ Clause 21.04-3.

⁹ At clause 22.01-4.

¹⁰ Ibid.

¹¹ In accordance with the Tribunal’s practice note VCAT PNPE9.



- 15 After that notice was given, and prior to the hearing, the applicant's representative advised the Tribunal and the Council that there was an error in the northern elevation plan and provided a further set of amended plans correcting the error. At the hearing an error in the western elevation plan of the further set of amended plans was identified. During the course of the hearing the applicant provided another set of amended plans that corrected that error. Those plans are the plans prepared by Jesse Ant Architects, Revision D, dated 25 September 2023.
- 16 I am satisfied that the Revision D plans are consistent with the PNPE9 plans except for the corrections to the northern and western elevations. I am also satisfied that those corrections do not raise new implications for any adjoining or adjacent property owner or occupier. I have substituted the Revision D plans ('the amended plans') for the permit application plans and it is on those plans that this decision is based.

Amendment VC243

- 17 On 22 September 2023, three days prior to the hearing, Amendment VC243 to all Victorian planning schemes was gazetted. The amendment changed the operation of clause 55 to modify the assessment of specified standards.
- 18 Under RGZ3 provisions at clause 32.07-6, a development of a residential building must meet the requirements of clause 55.
- 19 Clause 55 includes objectives, standards, and decision guidelines. A development:
- Must meet all of the objectives of this clause that apply to the application.
 - Should meet all of the standards of this clause that apply to the application.¹²
- 20 The changes made by Amendment VC243 include that:
- If a development meets standard B6, B7, B8, B17, B18, B19, B20, B21, B22, B27, B28, B30 or B32, it is deemed to meet the objective for that standard.
- Where standard B6, B7, B8, B17, B18, B19, B20, B21, B22, B27, B28, B30 or B32 is met the decision guidelines for that standard do not apply to the application.¹³
- 21 The amendment was discussed as a preliminary matter at the hearing, and parties were given the opportunity to address me on the implications of the amendment for the proposal at the hearing. No party sought to make further written submissions on this amendment.
- 22 My findings are based on the Scheme as amended by Amendment VC243.

¹² Clause 55.

¹³ Ibid.



IS THE FORM AND ARCHITECTURAL DETAIL OF THE BUILDING AN ACCEPTABLE RESPONSE TO THE SITE CONTEXT AND STREETScape CHARACTER?

- 23 The Council takes issue with the form and architectural detail of the proposed building. It submits that, among other things and in summary:
- the architectural detail and form lack innovation and is bland;
 - the building form appears heavy and lacks the level of articulation and setbacks that an apartment building over a larger consolidated site would achieve, particularly the upper levels;
 - the architectural presentation is utilitarian, lacks imagination and does not engender the ‘high quality’ outcome sought by the zone and policy framework.
- 24 Relevant provisions and policies of the Scheme include the following:
- The design objective of the RGZ3 schedule that seeks:

To facilitate housing growth in the form of apartment developments of a high quality design and finish.¹⁴
 - The decision guidelines of the RGZ3 schedule that requires consideration of:

Include significant breaks and recesses in building massing, is designed to avoid large block like structures dominating the streetscape.
 - The preferred future character statement for the Housing Growth character type envisages:

The scale of new residential development will generally comprise larger footprint apartment development of a high quality design and finish. Some infill town house and unit development will also occur.

Where possible on larger sites, developments will be multi-level, and set in open gardens. Although setbacks from all boundaries will be less than is common in other parts of Monash, the developments will ensure the incorporation of well-maintained landscaping to address the garden city character, albeit in a more urban form.¹⁵
 - The objectives of the local Student Accommodation Policy, at clause 22.10 that seek:
 - To encourage high quality, well designed student accommodation that respects existing neighbourhood character and responds to the desired future character

¹⁴ Clause 1.0 of the RGZ3 schedule.

¹⁵ Clause 22.01-4.



statement of the relevant Residential Character Type identified in Clause 22.01-4.

- To ensure that bulk, mass and height of new student accommodation does not visually overwhelm the scale of existing development, particularly in residential areas.¹⁶
- The neighbourhood character criteria of the Student Accommodation Policy, at clause 22.10-4, that:

New development should be designed to respond to the context of the site within its surrounds and to respect the predominant characteristics of the built form of the surrounding area including the preferred neighbourhood character of the area.

Development should be designed to a high standard and quality to enhance the visual image of the streetscape. It should be resource and energy efficient using Australian best practice ecological sustainable and green building design principles.

The provision of student accommodation, particularly in predominantly residential areas, does not justify the development of buildings that have a greater built form, massing or scale than what would be accepted for any other form of development on the site.¹⁷

- 25 I am satisfied that the form and architectural detail of the building provides an acceptable response to these provisions and policies. I say this for the following reasons.
- 26 The three storey building form is consistent with that of an apartment building as anticipated for the RGZ3 and Housing Growth character type areas. The overall 9.3 metre height of the proposed building is 4 metres lower than the maximum 13.5 metre height allowed under the zone provision at clause 32.07-10. Within the streetscape the building is quite narrow, being only 11.93 metres wide at its widest point (first floor level).
- 27 The building is set back from the front, side, and rear boundaries at least the minimum specified in the local variations under the RGZ3 schedule to the 'Street setback' standard B6 at clause 55.03-1 and 'Side and rear setbacks' standard B17 at clause 55.04-1. At most points the building is set back from the boundaries more than the minimums specified in the local variations to these standards.
- 28 While the building does not have breaks and recesses as sought by the decision guidelines of the RGZ3 schedule, the building mass and bulk is broken up by variations in building setbacks, materials and finishes, and through window fenestration and detailing. This includes variations in the building setbacks of all three levels in the front, rear and southern side, and

¹⁶ Clause 22.10-2.

¹⁷ Clause 22.10-4.



the third storey along the northern side. These design details and articulation break up the mass and bulk of the building.

- 29 For these reasons I am satisfied the building will not appear as a bland or block like structure lacking articulation or dominating the streetscape, or in views available from adjoining properties.
- 30 I am also satisfied that the form and architectural detail of the proposal will be an acceptable fit with the emerging character that is expected for this area and with other residential developments that have been approved. The building form and architectural detail is reflective of other developments recently approved within Beddoe Avenue, at numbers 1 and 25. Indeed, the development approved by the Council at number 25 Beddoe Avenue is remarkably similar to the proposal.¹⁸ I note that the Council could not explain why it found that development acceptable but not this proposal. Other recently approved developments in the neighbourhood at 19 Beddoe Avenue and 6 Stockdale Avenue are much larger developments on larger sites.
- 31 For these reasons I find that the form and architectural detail of the building is acceptable.

WILL THE VISUAL IMPACT OF THE PROPOSED BUILDING ON ADJOINING DWELLINGS TO THE SOUTHERN SIDE AND REAR BE ACCEPTABLE?

- 32 The Council takes issue with visual impact of the proposed building on adjoining dwellings at 1/41 Beddoe Avenue (to the southern side) and 2/40 Marshall Avenue (to the west (rear)). It submits that, among other things and in summary:
- the three storey wall height and absence of articulation in the wall planes will overwhelm the courtyard of the adjoining dwelling at 1/41 Beddoe Avenue;
 - there is limited capacity for meaningful screen planting along the southern side boundary, and there should be a physical break in the built form in this location;
 - the breadth of the built form to the west lacks articulation and architectural quality and will present excessive visual bulk to the adjoining dwelling at 2/40 Marshall Avenue.
- 33 Relevant provisions and policies of the Scheme include:
- The design objective of the RGZ3 schedule that seeks:
To ensure that the height, scale and form of development respects any sensitive residential interfaces and minimises the appearance of visual bulk.¹⁹

¹⁸ That development was designed by the same architect as this proposal.

¹⁹ Clause 1.0 of the RGZ3 schedule.



- The local variation under the RGZ3 schedule to the ‘Side and rear setbacks’ standard B17 at clause 55.04-1, that requires:
 - Side setbacks – 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.
 - Rear setback – 3 metres for the first 2 storeys plus 2 metres for the third storey.²⁰
- The decision guidelines of the RGZ3 schedule that requires consideration of:
 - Whether the development minimises the impact to neighbouring properties, through suitable setbacks from adjacent secluded private open space to enable the provision of screening trees, and scaling down of building form to the adjoining properties in the General Residential Zone, where applicable.²¹

34 I am satisfied that the proposal provides an acceptable response to these provisions and policies. I say this for the following reasons.

35 The setbacks of all three levels of the proposed building from the side boundary with the dwelling at 1/41 Beddoe Avenue are substantially more than the minimum setback required under the local variation to standard B17. The setbacks of the first storey of the proposed building from the boundary with the dwelling at 2/40 Marshall Avenue meets the minimum setback required under the local variation to standard B17. The setbacks of the second and third storeys are substantially more than the minimum required. In accordance with the provisions of clause 55, as amended by Amendment VC243, the development is therefore deemed to meet the side and rear setbacks objective at clause 55.04-1, that seeks:

To ensure that the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

[Tribunal’s emphasis]

36 The visual impact of the proposed building on the amenity of the adjoining dwelling is a relevant consideration under the design objectives and decision guidelines of the RGZ3. I am satisfied that the visual impact of the proposed building as viewed from the adjoining dwellings will be acceptable. This is because the visual impact as viewed from the courtyards of the dwellings at 1/41 Beddoe Avenue and 2/40 Marshall Avenue is minimised by the substantial building setbacks of the proposed building, the substantially recessed nature of the third storey from the side boundary, and the articulation of the side elevations, as outlined previously. In addition,

²⁰ Clause 2.0 of the RGZ3 schedule.

²¹ Clause 5.0 of the RGZ3 schedule.



the view from 1/41 Beddoe Avenue will be to only a portion of the side elevation of the proposed building., not its full length.

- 37 Due to the building setbacks and articulation, I am satisfied that it is not necessary to screen views of the proposed building from the adjoining dwellings. However, I am satisfied that there are opportunities for landscaping along the respective boundaries with the adjoining dwellings to filter views of the proposal, which will minimise the building's visual impact. I discuss the landscaping further below.
- 38 For these reasons I find that the visual impact of the proposed building on adjoining dwellings to the southern side and rear will be acceptable.

IS THERE SUFFICIENT SPACE FOR PLANTING CANOPY TREES AND SCREENING VEGETATION?

- 39 The Council takes issue with the footprint and siting of the basement of the proposed building having insufficient setbacks from the site boundaries for landscaping. It submits that, among other things and in summary:
- The basement layout fails to respond to the zone and policy expectations, including for providing for large tree planting, and screening trees.
 - Although the landscape plan shows a row of Dwarf Magnolia trees along the southern side, the narrowness of the 'deep rooted space' limits the potential for realistic plant growth.
 - While the landscape plan shows Compact Lilly Pilly shrubs along the rear boundary, the RGZ3 schedule decision guidelines call for providing landscaping in areas unencumbered by easements, and the large basement restricts capacity to provide for large tree planting,
 - The amount of space available for landscaping in the front setback is limited. The proposal is for planting Capital Pears with a canopy spread of 2.5 metres. This falls well short of the design objective of the RGZ3 schedule that seeks for an open garden setting, including canopy trees.
 - The proposal does not provide a canopy tree within the front setback, as sought by the local variation to the landscaping standard B13 at clause 55.03-8 under the RGZ3 schedule.
 - The proposal does not provide for a canopy tree in the open space at the rear of the building, as sought by the Student Accommodation Policy.
- 40 The Council is also concerned about the ability for landscaping to be maintained in the individual courtyards that are to be provided for the individual student rooms at ground floor level.
- 41 Relevant provisions and policies of the Scheme include:



- The design objective of the RGZ3 schedule that seeks:
 - To ensure developments are constructed within an open garden setting through the retention and planting of vegetation, including canopy trees.²²
- The local variation under the RGZ3 schedule to the ‘Landscaping’ standard B13 at clause 55.03-8, that requires:
 - Retain or provide at least one canopy tree with a minimum mature height equal to the height of the roof of the proposed building or 10 metres, whichever is greater.
- The decision guidelines under the RGZ3 schedule that require consideration of:
 - Whether the development contains elements of the ‘garden city’ character. Specifically, whether the proposal:
 - Includes well located open space, primarily unencumbered by easements, to provide for large tree planting and a mixture of indigenous and exotic vegetation in front, side and rear setbacks.
 - Provides vegetation in the front setback that softens the appearance of built form and contributes to the public realm.
 - ...
 - Maximises planting opportunities adjacent to the street by excluding hard paving such as car parking, turning circles and wide driveways, and minimising basement car parking, within the front setback.
 - Minimises hard paving throughout the site including limiting driveway lengths and widths, providing landscaping on both sides of driveways, and restricting the extent of paving within open space areas.

and

- Whether the development minimises the impact to neighbouring properties, through suitable setbacks from adjacent secluded private open space to enable the provision of screening trees.
- The objective of the Student Accommodation Policy that seeks:
 - To maintain and enhance the garden city character of Monash by preserving existing vegetation, and have new canopy trees planted.²³

²² Clause 1.0 of the RGZ3 schedule.

²³ Clause 22.10-2.



- 46 I am satisfied that the landscape plan demonstrates that vegetation can be provided in the front setback to soften the appearance of the building and contribute positively to the public realm.
- 47 I am satisfied that the 4 metre wide front setback area provides sufficient space to provide for planting at least one canopy tree with a height of at least 10 metres as sought by the local variation to the 'Landscaping' standard B13. The landscape plan currently shows three Capital Pear trees to be planted along the front boundary. These are indicated on the landscape plan to have a canopy width of only 2.5 metres at maturity. I am satisfied these could be replaced with at least one tree with a wider canopy. The north eastern corner of the site provides a wider space for a tree canopy to spread, with the benefit of the side setback of the proposed building from the northern boundary and the open front setback of the adjoining property to the north. It should also be possible to provide narrow canopy trees and/or shrubs within the front setback in addition to a wider canopy tree. I consider that changing the paving within the front setback (excluding the driveway) to permeable paving should improve the planting conditions for trees and other vegetation. I am satisfied these changes can be addressed by permit conditions.
- 48 The provision of a canopy tree within the front setback partially satisfies the Student Accommodation Policy that seeks one new canopy tree with spreading crowns in every major open space area. The other major open space area is the rear setback. I place greater weight on the local variation to the landscaping standard B13 than the Student Accommodation Policy. This is because the RGZ3 schedule applies to this specific area, whereas the policy applies generally to residential building and dwellings for student accommodation, irrespective of a site's location. The potential for planting a canopy tree with a spreading crown is more limited in this location due to the 1.83 metre wide easement that extends across the rear of the site, and the existing large tree on the adjoining property adjacent to the south-west corner of the site. The landscaping criteria under the policy includes that 'Proposals that do not meet the ... criteria/performance measures may still meet the objectives of this policy'. In this context, I am satisfied that it is not necessary to provide a canopy tree with a spreading crown in both locations.
- 49 In the context of the local variation to the landscaping standard B13 only seeking one canopy tree, and the Student Accommodation Policy only seeking canopy trees in major open space areas, I am satisfied that it is not necessary to provide trees with wide canopies in other locations on the site. In addition to the larger canopy tree in the front setback discussed above, the landscape plan shows narrow canopy trees and tall shrubs along the side and rear boundary. In the context of the Housing Growth character type

anticipating the garden city character ‘in a more urban form’,²⁷ I am satisfied that planting will contribute to and enhance the garden city character.

- 50 I am also satisfied that planting narrow trees and tall shrubs along the southern side and western setback areas with mature heights of 4 metres and 3 metres respectively will filter views of the proposed building from the courtyards of adjoining properties. The planting of narrow canopy trees with mature heights of 11 metres will filter views of the proposed building from the adjoining property to the north.
- 51 Regarding landscaping in the individual courtyards along the sides of the building, I am not persuaded by the Council’s arguments that landscaping has a greater chance of being cared for and reaching its expected growth when located in communal areas rather than private gardens. This is because:
- i The open space criteria of the Student Accommodation Policy encourage individual or private open space areas at ground level in addition to the communal open space requirement.
 - ii If there is a landscape plan endorsed as part of the permit, and appropriate conditions included in the permit about the establishment and maintenance of the landscaping, there is an obligation on the person taking the benefit of the permit to comply with the endorsed plans and permit conditions. The draft permit conditions provided by the Council²⁸ include conditions requiring the provision of a landscape plan, and the completion and maintenance of landscaping. If there is a failure to comply with the landscape plan and the permit conditions the Council can take enforcement action to ensure compliance with the permit.
 - iii I am satisfied that the ongoing maintenance of landscaping can be improved if a landscaping maintenance program forms part of the landscape plan to be endorsed as part of the permit, as well as a ‘Student Accommodation Operational Management Plan’ that the Council has sought to be required as a permit condition.
 - iv I am satisfied that the ongoing maintenance of landscaping in the individual courtyards would be aided if the side boundary fences dividing these spaces include gates for access by maintenance staff.²⁹ This can be addressed by a permit condition.

²⁷ Clause 22.01-4.

²⁸ In accordance with the Tribunal’s Orders, and on a ‘without prejudice’ basis.

²⁹ To the extent that this may raise concerns about security, I am satisfied this could be managed by the gates being lockable, with the operator/manager of the student accommodation managing access.

52 For these reasons, and subject to the changes I have outlined, I find that the siting of the building provides sufficient space for planting canopy trees and vegetation to filter views of the building.

DOES THE LAYOUT AND DESIGN OF THE BUILDING AND OPEN SPACE PROVIDE AN ACCEPTABLE AMENITY FOR RESIDENTS?

53 The Council submits that the proposal offers a highly compromised level of internal amenity. Its concerns relate to the following:

- there being only one internal communal area provided for 30 studio rooms;
- the internal communal area is south facing;
- the communal private open space in the south-west corner is overshadowed for much of the day; and
- the extent of screening of studio room windows at first and second floor levels.

54 The Student Accommodation Policy includes:

- Objectives that seek:
 - To ensure that well proportioned, convenient and safe open space areas are integrated into the design which meet the recreational needs of student residents.
 - To identify acceptable standards of habitation for individual and communal rooms.
 - To ensure student accommodation facilities are used and developed in a manner which responds to the needs of the students and does not adversely impact on surrounding properties.³⁰

- Open space criteria/performance measures that require:

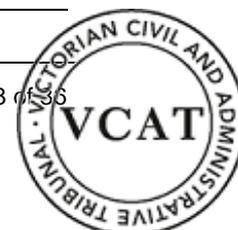
Student accommodation facilities should provide a communal open space area at ground level located to the side or rear of the building, with convenient access from the student amenities area, having a minimum area of:

- 75m² or 4m² per student, whichever is the greater, designed with a minimum dimension of 3 metres, including one area to the side or rear of the building of 35m² with a minimum dimension of 5 metres.

...

For student accommodation facilities, of three or more storeys, the total area of communal open space may be limited where

³⁰ Clause 22.10-2.



exceptional circumstances exist if the recreational needs for the students are satisfied by other means.

Individual or private open space areas at ground level are encouraged in addition to the communal open space requirement.

- 55 I am satisfied that the proposal provides an acceptable response to this policy. I say this for the following reasons.
- 56 In addition to the communal open space area, the proposal includes two internal communal areas.³¹ These are a communal area at the rear of the ground floor level, and the ‘lobby’ seating area adjacent to the front entry. Given the number of student accommodation rooms at the second and third storeys that require screening to their windows³² I consider that both the internal and external communal areas provide important spaces for residents of those rooms to ensure they have access to sunlight and outlook.
- 57 Both of the internal communal areas are relatively small, given the number of accommodation rooms. However, I am satisfied that the rear internal communal area can be increased in size by deleting the ground floor student accommodation room G.06, which adjoins the northern side of that space, and incorporating that floor area into the communal area.³³
- 58 I am satisfied the rear internal communal area will receive acceptable daylight access. Although the internal communal area at the rear does face the communal open space to the south, however it also has a western aspect to the rear setback. The changes to incorporate the area of room G.06 into the internal communal area also allows for north facing glazed windows/doors to provide additional daylight to the internal area.
- 59 I am satisfied that these changes can be addressed by permit conditions. Subject to these changes I am satisfied that the internal communal areas will provide functional and usable spaces with an acceptable amenity for residents.
- 60 Under the Student Accommodation policy 120 square metres of communal ‘open space’ is required for 30 students. The communal open space to the south-west and rear is only just over 70 square metres. Despite this, I am satisfied that the recreational needs of future residents can be met by this proposal. This is because:
- i The Student Accommodation Policy recognises that communal open space in developments of three or more storeys may be limited.
 - ii The ground floor level accommodation rooms have private courtyard areas. These provide open spaces for residents of those rooms and will reduce the demand for communal open space for those residents.

³¹ The Student Accommodation Policy does not require internal communal areas to be provided.

³² To comply with the Overlooking objective and standard B22 at clause 55.04-6.

³³ Subject to a modification to the alignment of the northern wall that I explain later in these reasons.



- iii The site is in close proximity to the Monash University campus, which provides a variety of open space areas, including passive and active recreation spaces, and indoor recreation facilities; and
- iv The area of the communal open space can be increased by:
 - incorporating the area of the private courtyard of accommodation room G.06 that I will require to be removed to expand the area of the rear internal communal area (as outlined above);
 - setting the northern wall of the expanded rear communal area back from the boundary an additional 2 metres to provide undercover outdoor space.

I am satisfied these changes can be addressed by permit conditions.

- 61 The applicant has suggested that the development could be moved 0.3 metres to the north to increase the width of the private courtyards along the southern side to 3.0 metres. I am not persuaded that this is necessary or appropriate. Although the width of the courtyards on either side is not ideal, being only 2.7 metres along the southern side and 2.2 metres along the northern side, I am satisfied they are acceptable. This is because they provide space approximately the size of an apartment balcony, with somewhere to sit and some landscaping. The residents will also have access to the communal open space area to the rear. Increasing the width of the courtyards along the southern side, it would decrease the width of the courtyards on the northern side to less than 2.0 metres.
- 62 For these reasons, and subject to the changes I have outlined, I find that the layout and design of the building will provide an acceptable amenity for residents of the student accommodation.

DOES THE CAR PARKING LAYOUT PROVIDE FOR SAFE AND EFFICIENT VEHICLE MOVEMENTS?

- 63 Car parking is to be provided within the basement level of the proposed building. Eight spaces are to be provided in two double-width car stackers (lifts), and two 'at grade', one of which is a disabled access car space. A loading area for a waste truck is also provided within the basement.
- 64 The Council takes issue with the functionality of the car parking layout. Its submissions include:
- The car park does not satisfy the purpose of the car parking provisions at clause 52.06 that seeks:
 - To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.
 - The use of the western car stacker is more difficult because it requires corrective manoeuvres.

- The swept paths for vehicles using the western car stacker does not include the separator that is wider than nominated on the plans and conflicts with movements shown in the swept path diagrams.
- Access to car space 1, the disabled car space, and for the waste truck requires corrective manoeuvres and precision driving.
- Reliance on corrective manoeuvres and precision driving conflicts with the high pedestrian movement in the basement.

65 Relevant provisions and policy of the Scheme include:

- The car parking provisions at clause 52.06; and
- the car parking and bicycle storage criteria and performance measures in the Student Accommodation policy.

66 The applicant relies on the evidence of Brett Young, who has assessed the proposal against these provisions and policy, as well as relevant Australian Standards. Mr Young's evidence is that the vehicle access arrangements and car parking layout are suitably designed subject to adoption of three recommendations for changes to the detailed design. His recommended changes are to, in summary:

- modify the driveway ramp profile to incorporate a longer final 1:8 transition from 2.0 metres to 2.5 metres;
- update the driveway ramp profile indicated on the ramp section in drawing number TP10; and
- replace one of the car stacker spaces with an at grade space to improve the manoeuvring of the waste collection vehicle within the basement.

67 The effect of Mr Young's third recommendation is that the number of car parking spaces will be reduced from 10 to nine.

68 Based on Mr Young's evidence and his recommendations, I am satisfied that:

- The aisle width in the basement is wider than the minimum required by clause 52.06, and that all of the vehicle movements will take place in a wide generous space.
- The swept path analysis prepared by Mr Young demonstrates that each of the car spaces, including each of the stacker bays, can be accessed in a suitable manner, including the number of manoeuvres permitted under the Australian Standard.³⁴
- The western car stacker is a double width stacker and does not include a separation between the two spaces.

³⁴ AS/NZS 2890.1:2004.



- iv All car stacker spaces can be required to be allocated to residents in accordance with Design Standard 4 at clause 52.06, and residents can be required to undergo an induction on how to use the car stackers.
 - v Waste vehicles will be able to turn around in the basement in a conventional ‘three-point turn’, and therefore be able to enter and exit the site in a forward direction.
- 69 For these reasons I am satisfied that the car parking layout does not require ‘precision driving’.
- 70 The applicant does not oppose Mr Young’s recommendations and I am satisfied these can be addressed by permit conditions requiring amendments to the plans.
- 71 Even though the number of car parking spaces will be reduced to nine, the proposed car parking satisfies the criteria/performance measure for car parking under the Student Accommodation policy.³⁵
- 72 For these reasons I am satisfied that, subject to amendments to the plans to implement Mr Young’s recommendations, the proposal provides an acceptable response to the relevant provisions and policy, and the car parking layout does provide for safe and efficient vehicle movements.

WHAT PERMIT REQUIREMENTS AND CONDITIONS ARE APPROPRIATE?

Description of what the permit allows

- 73 The description of the proposal in the notice of decision to refuse to grant the permit include ‘a reduction in the standard car parking requirements’. The Council’s submission confirms that there is no car parking requirement specified for ‘student accommodation’ or a ‘residential building’ under the Scheme. Rather, under clause 52.06-6, car parking spaces must be provided to the satisfaction of the responsible authority. As there is no standard car parking requirement for which a reduction is required, this does not need to be included in the description of what the permit allows.

Conditions

- 74 The draft conditions circulated by Council were discussed at the hearing. I have generally adopted these conditions subject to changes to reflect the findings in this decision, additional matters that were discussed at the hearing, and my further consideration of the detailed design of the proposal.
- 75 I am satisfied that the changes to the plans that I have outlined can be addressed by permit conditions requiring amended plans to be submitted to the Council.

³⁵ There is no car parking requirement specified for ‘student accommodation’ or a ‘residential building’ under the Scheme. Rather, under clause 52.06-6 car parking spaces must be provided to the satisfaction of the responsible authority.



76 The effect of the condition to require accommodation room G.06 to be deleted and for that area to be included in the internal communal area at the rear, is that the number of accommodation rooms will be reduced to 29.

CONCLUSION

77 For the reasons given above, I have concluded that:

- the proposal will provide an acceptable outcome, subject to some changes to the detailed building design and landscaping; and
- a permit should be granted subject to permit conditions requiring changes to the plans.

78 The decision of the responsible authority is set aside. A permit is granted subject to conditions.

Sarah McDonald
Member



APPENDIX A – PERMIT CONDITIONS

PERMIT APPLICATION NO	TPA/54234
LAND	39 Beddoe Avenue CLAYTON VIC 3168

WHAT THE PERMIT ALLOWS

In accordance with the endorsed plans:

- use of the land as a ‘Residential Building (Student accommodation)’ in the Residential Growth Zone – Schedule 3; and
- Construction of a building and construction and carrying out works for a use in section 2 of clause 32.07-2 in the Residential Growth Zone – Schedule 3.

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 prepared by Jesse Ant Architects, Project Number 22-038, Drawing Nos. TP00 – TP014, Amendment D dated 25/09/2023, but modified to show:
 - (a) the northern external wall of the ground floor level accommodation room G.06 set back from the northern boundary an additional 2 metres, so that wall is set back 4.2 metres from the northern side boundary, and a glazed sliding door provided in the northern wall in its new location;
 - (b) the area to the north of the wall referred to in condition 1(a) and under the first floor level above shown to be a paved undercover outdoor communal space;
 - (c) the separate courtyard of accommodation room G.06 removed and that area incorporated into the adjacent communal open space area;
 - (d) the wall between the ground floor level accommodation room G.06 and the adjoining internal communal area removed, and that area incorporated into the internal communal area, with the effect that accommodation room G.06 is deleted and the number of accommodation rooms is reduced to 29;



- (e) the accommodation rooms at ground floor level renumbered to reflect the deletion of room G.06;
- (f) the side boundary fences dividing the separate courtyards for the accommodation rooms at ground floor level to include lockable gates to provide access for maintenance staff;
- (g) the paving within the front setback (excluding the driveway) shown to be permeable paving.
- (h) the letter box bank relocated to the immediate south side of the central footpath and finished in darker, naturalistic colours and the area immediately north of the accessway landscaped;
- (i) details on how the fire booster unit is to be screened, with full elevations of the structure; the fire booster unit may be relocated to a location where it will be less visually obtrusive;
- (j) a notation that the northern vehicle crossover to Beddoe Avenue is removed and the footpath, naturestrip, and curbing reinstated in accordance with the requirements of the Responsible Authority;
- (k) to ensure that vehicles do not scrape their undersides, the driveway ramp profile modified to incorporate a longer final 1:8 transition from 2.0m to 2.5m, this can be achieved by adopting the following ramp profile which does not alter the overall length of the ramp and maintains a headroom clearance of at least 2.2m at the building overhang:
 - 1:10 for 5 metres
 - 1:5 for 4.5 metres
 - 1:4 for 7.75 metres
 - 1:8 for 2.5 metres;
- (l) the ramp profile indicated on the ramp section drawing at plan TP10 updated to accord with the dimensions and gradients in accordance with the changes required by condition 1(j);
- (m) the 4 car stacker spaces to the west of the stairwell replaced with a two-car stacker space (to the west) and a single at grade space (to the east), in accordance with the plan at Appendix C 'Plan Illustrating Parking Layout Recommendation' at page 35 of the written evidence statement of Brett Young, Ratio Consulting Pty Ltd, dated 11 September 2023, to provide for additional manoeuvring room for the waste collection vehicle to turn around in a 3-point turn; this change will reduce the number of car parking spaces to nine;
- (n) the southern elevation on plan TP10 amended to change the glazed sliding door to accommodation unit G.11 to a window;



- (o) a notation on plan TP08 that the west facing window of accommodation room 2.05 is to be obscure glazing to a minimum height of 1.7 metres above the finished floor level;
 - (p) a detailed schedule of colours and materials representing high quality and durable finishes;
 - (q) a highly prominent notation in bold capital letters that a 'Tree Management Plan applies to the development and the development plan is to be implemented in accordance with its requirements';
 - (r) a Tree Management Plan prepared in accordance with condition 4;
 - (s) the location of any tree protection fencing as required by the endorsed Tree Management Plan in accordance with condition 4;
 - (t) a Landscape Plan prepared in accordance with condition 6;
 - (u) a Sustainable Design Assessment in accordance with condition 9;
 - (v) a Waste Management Plan prepared in accordance with condition 12;
- all to the satisfaction of the Responsible Authority.

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.

Inspection

- 3 Before occupation of the building, 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.

Tree Protection

- 4 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 approved by the Responsible Authority. The TMP must be prepared by a suitably qualified and experienced Arborist and must set out recommendations and requirements in relation to the management and maintenance of Tree Nos. 1, 15 and 16 (as identified in the Bluegum Arborist Report prepared by Paul Jameson, dated 7 June 2022.).

The TMP must be approved by the Responsible Authority prior to the commencement of any works, including demolition and/or levelling of the site. 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, to ensure the trees to be retained remain healthy and viable during construction:



- (a) a Tree Protection Plan drawn to scale that shows:
 - i tree protection zones and structural root zones of all trees to be retained;
 - ii all tree protection fenced off areas and areas where ground protection systems will be used;
 - iii the type of footings within any tree protection zones;
 - iv 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
 - v a notation to refer to the Tree Management Plan for specific detail on what actions are required within the tree protection zones;
- (b) 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;
- (c) a supervision timetable and certification of tree management activities required by the Project Arborist to the satisfaction of the responsible authority;
- (d) 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; and
- (e) the TMP is to include and make reference to the development and landscaping plans sought to be endorsed in condition 1; it is to include reference to these plans as being in accordance with the requirements of the TMP.

All trees specified in the endorsed Tree Management Plan are to be protected and maintained in accordance with the recommendations set out in the report, to the satisfaction of the Responsible Authority. Written confirmation of implementation should be obtained and provided to the Responsible Authority if requested.

- 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. When the plan is endorsed it will then form part of the Permit. The landscape plan must accord with the layout shown on the development plan (in accordance with condition 1), generally in accordance with the landscape plan prepared by Keystone Alliance Pty Ltd, Project number L9383, Revision B dated 12 August 2022, and 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 (1) canopy tree within the front setback area, that will grow to at least the height of the building and with a spreading crown with a minimum width of 4 metres at maturity, or as otherwise agreed by the Responsible Authority;
 - (d) a notation that any canopy trees is to be at least 1.5 metres tall when planted;
 - (e) inclusion of shrubs that will grow to at least 1 metre tall in the front setback area, immediately inside the front boundary alignment north and south of the entry footpath and along the north side of the footpath leading to the entry;
 - (f) creepers or cascading plants along both the sides of the driveway retaining walls that will cover these walls to a point in line with the setback of the building from the front boundary;
 - (g) the provision of additional ground covers and other plants to create a well vegetated appearance of the site from the street;
 - (h) details of the outdoor garden space at the rear of the site for use by residents, including garden furniture and paved areas;
 - (i) details of all proposed surface finishes including pathways, accessways, patio or decked areas;
 - (j) all paving within the front setback area (excluding the driveway) to be permeable paving;
 - (k) the Tree Protection Zones and Structural Root Zones of trees on abutting land;



- (l) the location and details of any fencing internal to the site;
- (m) the location of any retaining walls associated with the landscape treatment of the site.
- (n) 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;
- (o) the location of external lighting (if any); and
- (p) details of an ongoing maintenance program for the landscaping, including that the landscaping within the separate courtyards of individual accommodation rooms; this program must provide that these areas to be maintained by the operator of the student accommodation (rather than individual residents);

all to the satisfaction of the Responsible Authority.

Landscaping Completion and Maintenance

- 7 Before the building allowed by this permit is occupied, landscaping works as shown on the endorsed landscape plan must be completed to the satisfaction of the Responsible Authority and then be maintained to the satisfaction of the Responsible Authority.
- 8 Landscaping in the individual courtyards at ground floor level along the sides of the building must be maintained by the operator of the Student Accommodation use (or the Owners' Corporation, if applicable).
- 9 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

- 10 Concurrent with the endorsement of plans in accordance with condition 1, an amended Sustainable Design Assessment (SDA) as required, 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 any changes required by condition 1.

Ongoing Sustainable Management Plan

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



Waste Management

- 12 Concurrent with the endorsement of plans required pursuant to Condition 1, a Waste Management Plan (WMP) must be submitted and approved by the Responsible Authority. The WMP must be generally in accordance with the WMP prepared by Makao, dated 21 December 2022, except that the plan must be modified to show:
- (a) any changes to reflect the amended development plans or required by condition 1 of this Planning Permit; an
 - (b) swept path diagrams showing that the waste vehicle can efficiently enter and exit the site in a forwards direction.
- 13 The provisions, recommendations, and requirements of the endorsed WMP must be implemented and complied with to the satisfaction of the Responsible Authority.

Section 173 Agreement

- 14 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* (Vic). 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 29 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/54234;
 - (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) a Student Accommodation Operational Management Plan be prepared and implemented to the satisfaction of the Responsible Authority according with condition 15 of this permit.
- (j) that should the land cease to be used for student housing, a new planning permit may be required for an alternative use.

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 Operational Management Plan

- 15 Prior to the commencement of the use, a Student Accommodation Operational Management Plan (OMP) for the Student Accommodation facility is to be prepared to the satisfaction of and be submitted to and approved by the Responsible Authority. When endorsed the OMP will form part of the permit. The OMP must include the following:
- (a) the contact details of the responsible contact person for the operator of the use 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) the management of car parking spaces, including a register that documents the allocation of car spaces;
 - (d) car spaces in a car stacker (lift) to be allocated to individual residents;
 - (e) arrangements for residents allocated a car space in a car stacker (lift) to be inducted in the operation and use of the car stacker (lift) for residents, in accordance with any requirements of the car stacker (lift) manufacturer/supplier;
 - (f) maintenance of buildings and grounds, including all landscaped areas, in accordance with the plans endorsed as part of this permit;
 - (g) provision of information to students on local public transport and amenities in the area;
 - (h) permanent display of the OMP in a common area accessible to all residents of the student accommodation facility;
 - (i) provisions 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;



- (j) 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;
 - (k) details of waste management, including rubbish storage and bin collection; and
 - (l) management procedures over school holidays;
- all to the satisfaction of the Responsible Authority.

Use of Land

- 16 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.
- 17 Not more than one person may reside in each bedroom shown on the endorsed plans at any one time.
- 18 All common areas on the endorsed plans must be made available and accessible to a resident on a shared basis at all times.
- 19 No form of public address system may be installed so as to be audible from outside the building/site.
- 20 No goods are to be stored or left exposed outside the building so as to be visible from any public road or thoroughfare.
- 21 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

- 22 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.

Car Parking and Accessways

- 23 The proposed stacker (lift) carparking system must cater for the following requirements, to the satisfaction of the Responsible Authority:



- (a) independent operation for each parking space;
- (b) a car/van up to 175cm height on the upper level;
- (c) a clear/usable platform width of at least 230cm;
- (d) minimum pit length of 520cm;
- (e) loading weight per platform of at least 2000kg;
- (f) a minimum aisle width adjacent to the mechanical parking system of 6.2 metres.

24 All car parking spaces are to remain in common property for use by residents and are to be:

- (a) drained, maintained and not used for any other purpose to the satisfaction of the Responsible Authority; and
- (b) 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. A permit for installation or modification of any vehicle crossing is required from Council's Engineering Department.

27 The proposed crossing is to be constructed in accordance with the City of Monash standards.

28 All new crossings must be a minimum of 3.0 metres in width.

29 Bicycle space design is to comply with the requirements of Clause 52.34 of the Monash Planning Scheme.

Privacy screens

30 Prior to the occupancy of the development, all screening and other measures to prevent overlooking as shown on the plans endorsed under condition 1 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

- 31 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.
- 32 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.
- 33 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.
- 34 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

- 35 The site must be drained to the satisfaction of the Responsible Authority. Stormwater must be directed to the Point of Connection as detailed in the Legal Point of Discharge report. Stormwater must not be allowed to flow into adjoining properties including the road reserve.
- 36 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.
- 37 Stormwater 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 any stormwater drainage works commencing.
- 38 A plan detailing the stormwater drainage and civil works must be submitted to and approved by the Engineering Department prior to the commencement of any works. The plans are to show sufficient information to determine that the drainage and civil works will meet all drainage requirements of this permit.

Construction Management Plan

- 39 Prior to the commencement of any site works (including any demolition and excavation), a Construction Management Plan (CMP) must be submitted and approved (endorsed) by the Responsible Authority. No works are permitted to occur until the Plan has been endorsed by the Responsible Authority. Once endorsed, the CMP will form part of the permit and must be implemented to the satisfaction of the Responsible Authority. The CMP must address the following issues:



- (a) appropriate measures to control noise, dust and water and sediment laden runoff;
- (b) appropriate measures for the prevention of silt or other pollutants from entering into the Council's underground drainage system or road network;
- (c) appropriate measures relating to removal of hazardous or dangerous material from the site, where applicable;
- (d) a plan showing the location and design of a vehicle wash-down bay for construction vehicles on the site so as to prevent material leaving the site and being deposited on Council's road network;
- (e) a program for the cleaning and maintaining surrounding road surfaces;
- (f) a site plan showing the location of any site sheds, on-site amenities, building waste storage and the like, noting that Council does not support the siting of site sheds within Council road reserves;
- (g) measures to provide for public Safety and site security;
- (h) a plan showing the location of parking areas for construction and sub-contractors' vehicles on and surrounding the site, to ensure that vehicles associated with construction activity cause minimum disruption to surrounding premises; any basement car park on the land must be made available for use by sub-constructors/tradespersons upon completion of such areas, without delay;
- (i) a Traffic Management Plan showing truck routes to and from the site;
- (j) a swept path analysis demonstrating the ability for trucks to enter and exit the site in a safe manner for the largest anticipated truck associated with the construction;
- (k) appropriate measures to ensure that sub-contractors/tradespersons operating on the site are aware of and adhere to the requirements of the CMP;
- (l) the provision of contact details of key construction site staff; and
- (m) a requirement that, except with the prior written consent of the Responsible Authority, demolition, excavation or 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);
 - no works are permitted on Sundays or Public Holidays.



The provisions, recommendations and requirements of the endorsed CMP must be implemented and complied with by all contractors to the satisfaction of the Responsible Authority.

Time for starting and completion

- 40 This permit as it relates to development (buildings and works) will expire if one of the following circumstances applies:
- (a) The development is not started within two (2) years of the issue date of this permit.
 - (b) The development is not completed within four (4) years of the issue date of this permit.
 - (c) The use has not commenced within 2 (two) years from the completion of the development.

In accordance with section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

– End of conditions –

