VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

planning and environment DIVISION

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| planning and environment LIST | vcat reference No. P748/2019PERMIT APPLICATION NO. tpa/49989 |
| APPLICANT | Manikato Avenue Pty Ltd |
| responsible authority | Monash City Counil  |
| respondent | Archsign Pty Ltd  |
| SUBJECT LAND | 33 Stockdale Avenue CLAYTON VIC 3168 |
| WHERE HELD | 55 King Street, Melbourne  |
| BEFORE | Margaret Baird, Senior Member |
| HEARING TYPE | No hearing |
| DATE OF ORDER | 18 September 2019 |

# Order

### Application amended

1. Pursuant to clause 64 of schedule 1 of the *Victorian Civil and Administrative Tribunal Act 1998*, the permit application is amended by substituting the following plans for the application plans:
* Prepared by Bello Design Group;
* TP01 – TP06 inclusive Ref No. 1822; and
* Revision D, dated 13 August 2019.

### Permit granted

1. In application P748/2019, the decision of the Responsible Authority is set aside.
2. In planning permit application TPA/49989, a permit is granted and directed to be issued for the land at 33 Stockdale Avenue, Clayton, in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:
* Multi-storey residential development (student accommodation).

### Hearing vacated

1. The hearing scheduled at **10.00am on 19 September 2019 is vacated**. No attendance is required.

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| **Margaret Baird****Senior Member** |  |  |



# REASONS

1. This order is made at the request of the parties and with their consent.
2. The Tribunal regards the consent of the Responsible Authority to be a confirmation to the Tribunal that:
	* + - 1. The Responsible Authority is of the opinion that the varied permit is appropriate having regard to the matters it is required to consider under section 60 of the *Planning and Environment Act 1987*, including the balanced application of the strategies and policies of the relevant planning scheme and is otherwise in conformity with the provisions of the planning scheme and the *Planning and Environment Act 1987*; and
				2. The proposed orders will not result in any change to the proposed use or development which would materially affect any person other than the parties to the proceeding.
3. Based on the information available to the Tribunal, I consider it is appropriate to make these orders.

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| **Margaret Baird****Senior Member** |  |  |

# APPENDIX A

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| **PERMIT APPLICATION NO:** | TPA/49989 |
| **LAND:** | 33 Stockdale Avenue, Clayton |
| **WHAT THE PERMIT ALLOWS:**In accordance with the endorsed plans:* Multi-storey residential development (student accommodation).
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# CONDITIONS:

1. Before the development starts, three copies of amended plans drawn to scale and dimensioned, must be submitted to and be approved by the Responsible Authority. The submitted plans must clearly delineate and highlight any changes. When approved the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans submitted with the application TP 01 – TP 06 Revision D (13 August 2019) Ref No. 1822 drawn by Bello Design Group, but modified to show:
	1. The location and design of any proposed electricity supply meter boxes. The electricity supply meter boxes must be located at a distance from the street which is at or behind the setback alignment of buildings on site or in compliance with Council’s ‘Guide to Electricity Supply Meter Boxes in Monash’.
	2. 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 of each vehicle crossing to provide a clear view of pedestrians on the footpath of the frontage road.
	3. Relocation of the north facing first floor retreat space to between rooms 8 and 9.
	4. Relocation of the Bin Storage Area to the satisfaction of the Responsible Authority.
	5. Finished floor levels of the deck under the pergola.
	6. Details of window screenings to prevent overlooking, to the satisfaction of the Responsible Authority.
	7. Notation to read the ‘300mm high lattice on the existing common boundary fences to be freestanding and to be maintained by the owner/s of the subject site’.
2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
3. Once the development has started it must be continued, completed and maintained to the satisfaction of the Responsible Authority.
4. Prior to the endorsement of the plans referred to in Condition 1, the owner of the land must enter into and execute an agreement with the Responsible Authority pursuant to Section 173 of the *Planning and Environment Act 1987* to the satisfaction of the Responsible Authority. The agreement shall require that, without the prior written consent of the Responsible Authority:
	1. That no person may reside in the building unless that person is a bona fide student whether part time, full-time, short-term, or resides there in a supervisory, management or caretaker capacity.
	2. The car parking spaces are only permitted to be used by the occupants of the units and their visitors in accordance with the endorsed plans and such spaces must not be on-sold or leased to any other person.
	3. That if the land ceases to be used for accommodation, a new planning permit will be required for an alternative use if so required by the Monash Planning Scheme.

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

1. Prior to the use commencing, a Site Management Plan must be prepared for the site to the satisfaction of the Responsible Authority. The plan must not be modified without the written consent of the Responsible Authority. The plan must provide for (but is not limited to):
	1. Permanent display of the Management Plan in the common area;
	2. The nature of the management of the complex and the contact details of the manager/lead tenant;
	3. Provision for at-call contact details to be displayed so they are clearly visible to any person outside the site for response 24 hours a day and seven days a week;
	4. Provision to ensure that the 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;
	5. 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;
	6. The management of car parking spaces;
	7. Maintenance of grounds and upkeep of the buildings;
	8. Management of clothes drying facilities to ensure that no laundry is left drying on private balconies;
	9. Details of rubbish bin storage and waste collection;
	10. Management procedures over holiday periods.

The Site Management Plan is to be prepared to the satisfaction of the Responsible Authority and shall only be amended with the written consent of the Responsible Authority.

1. The amenity of the area must not be detrimentally affected by the use or development, through the:
	1. transport of materials, goods or commodities to or from the land;
	2. appearance of any building, works or materials;
	3. emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
	4. presence of vermin;
	5. others as appropriate.
2. 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.
3. No form of public address system may be installed so as to be audible from outside the building / site.
4. No goods must be stored or left exposed outside the building so as to be visible from any public road or thoroughfare.
5. 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.
6. Prior to the commencement of works on the site, the owner shall prepare a Waste Management Plan for the collection and disposal of garbage and recyclables for all uses on the site. The Waste Management Plan shall provide for:
	1. The method of collection of garbage and recyclables for uses;
	2. Designation of methods of collection including the need to provide for private services or utilisation of council services;
	3. Appropriate areas of bin storage on site and areas for bin storage on collection days;
	4. Measures to minimise the impact upon local amenity and on the operation, management and maintenance of car parking areas;
	5. Litter management.

A copy of this plan must be submitted to Council.

1. Waste collection is only to be carried out between the hours of 7am to 6pm.
2. The construction works associated with the use/development and/or subdivision hereby permitted must only be carried out during the following hours:
	1. Monday to Friday (inclusive) – 7:00am to 6pm;
	2. Saturday – 9am to 1pm;
	3. 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.

1. 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.
2. Disabled access to the building must 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.
3. All common boundary fences are to be a minimum of 1.8 metres above the finished ground level to the satisfaction of the Responsible Authority. The fence heights must be measured above the highest point on the subject or adjoining site, within 3 metres of the fence line.
4. A landscape plan prepared by a Landscape Architect or a suitably qualified or experienced landscape designer, drawn to scale and dimensioned must be submitted to and approved by the Responsible Authority prior to the commencement of any works. The plan must show the proposed landscape treatment of the site including:-
	1. the location of all existing trees and other vegetation to be retained on site;
	2. provision of canopy trees with spreading crowns located throughout the site including the major open space areas of the development;
	3. planting to soften the appearance of hard surface areas such as driveways and other paved areas;
	4. a schedule of all proposed trees, shrubs and ground cover, which will include the size of all plants (at planting and at maturity), their location, botanical names and the location of all areas to be covered by grass, lawn, mulch or other surface material;
	5. the location and details of all fencing;
	6. the extent of any cut, fill, embankments or retaining walls associated with the landscape treatment of the site;
	7. details of all proposed hard surface materials including pathways, patio or decked areas.

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

1. Before the occupation of the buildings allowed by this permit, landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority and then maintained to the satisfaction of the Responsible Authority.
2. Noise from any mechanical service equipment or any noise associated with the premises must at all times comply with the requirements of the State Environmental Protection Policies SEPP N1 and SEPP N-2.
3. Outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.
4. All on-site stormwater is to be collected from hard surface areas and must not be allowed to flow uncontrolled into adjoining properties. The on-site drainage system must prevent discharge from driveways onto the footpath. Such a system may include either:
	1. trench grates (150mm minimum internal width) located within the property; and/or
	2. shaping the driveway so that water is collected in a grated pit on the property: and/or
	3. another Council approved equivalent
5. 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, the Responsible Authority, prior to works commencing.
6. Any new connection into a Council easement drain requires the approval of the Council’s Engineering Division prior to the works commencing.
7. Unless no permit is required under the planning scheme, no sign must be constructed or displayed without a further permit.
8. Engineering permits must be obtained for new or altered vehicle crossings and for new connections to Councils drains / Council pits / kerb & channel and these works are to be inspected by Council (telephone 9518 3690).
9. This permit will expire if one of the following circumstances applies:
	1. The development is not started within two years of the issue date of this permit.
	2. The development is not completed within four years of the issue date of this permit.

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.

1. This permit as it relates to use will expire if the use does not commence within two (2) years after the completion of the approved 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 period referred to in this condition.

--End Conditions--