VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

|  |  |
| --- | --- |
| planning and environment LIST | vcat reference No. P1803/2020 Permit Application no. TPA/51405 |

|  |  |
| --- | --- |
| **Applicant** | Zeta United Pty Ltd |

|  |  |
| --- | --- |
| **Responsible Authority** | Monash City Council |

|  |  |
| --- | --- |
| SUBJECT LAND | 24 Morton StreetCLAYTON  |

|  |  |
| --- | --- |
| compulsory conferenceWHERE HELD | 23 March 2021Melbourne |

|  |  |
| --- | --- |
| DATE OF ORDER | 26 April 2021 |

# Order

1. The hearing scheduled at **10.00 am on 4 June 2021** is vacated. No attendance is required.
2. In application P1803/2020 the decision of the responsible authority is set aside.
3. In planning permit application TPA/51405 a permit is granted and directed to be issued for the land at 24 Morton Street Clayton in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:
* Use of the land for two rooming houses and buildings and works to construct a building.

|  |  |  |
| --- | --- | --- |
| Peter Gaschk**Member** |  |  |



# remarks

1. This matter involves an application pursuant to section 77 of the *Planning and Environment Act 1987* for a review of the Monash City Council’s decision to issue a Notice of Refusal to Grant a Permit No. TPA/51405 for the use of the land for two rooming houses and buildings and works to construct a building at 24 Morton Street, Clayton.
2. Following completion of the compulsory conference, the parties reached agreement and requested orders by consent.
3. Under 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.
4. The Tribunal regards the consent of the responsible authority to be a confirmation to the Tribunal that:
5. 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*;
6. 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.
7. Based on the information available to the Tribunal and the consent and agreement of the parties, I consider it is appropriate to give effect to the settlement reached by the parties under section 93(1) of the *Victorian Civil and Administrative Tribunal Act 1998.*

|  |  |  |
| --- | --- | --- |
| Peter Gaschk**Member** |  |  |

# Appendix A – Permit Conditions

|  |  |
| --- | --- |
| Permit Application No | TPA/51405 |
| Land | 24 Morton StreetCLAYTON  |

|  |
| --- |
| What the permit allowS |
| In accordance with the endorsed plans:* Use of the land for two rooming houses and buildings and works to construct a building.
 |

## Conditions

### Amended Plans

1. Before the use and development starts, amended plans 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 Pai Property Consultants, sheets TP1-TP8, Revision H, dated April 2021, but modified to show:
	1. The location and design of any proposed electricity supply meter boxes. They must be set back a minimum of 3 metres from the front title boundary, no greater than 1.4 metres in height and must be adjacent to the side boundary fence.
	2. A Landscape Plan in accordance with condition 4 of this Permit.
	3. Any changes recommended in the Sustainable Design Assessment report required by Condition 13 of this permit.

### No Alteration or Changes

1. The development and use as shown on the endorsed plans must not be altered without the prior written consent of the responsible authority.

### Common Boundary Fences

1. 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.

### Landscaping

1. Concurrent with the endorsement of any plans pursuant to Condition 1, a landscape plan prepared by a Landscape Architect or a suitably qualified or experienced landscape designer, drawn to scale and dimensioned must be submitted to and approved by the responsible authority. The Landscape Plan must show:
	1. A survey and location of all existing trees, using botanical names to be retained and of those to be removed. The intended status of the trees shown on the landscape plan must be consistent with that depicted on the development layout plan;
	2. A planting schedule of all proposed trees, shrubs and ground cover, which will include the size of all plants (at planting and at maturity), pot / planting size, location, botanical names and quantities;
	3. A minimum of 4 canopy trees (minimum 1.5 metres tall when planted). The canopy trees must have a minimum height of 8 metres and must have a spreading crown with a minimum width of 4 metres at maturity, or as otherwise agreed by the responsible authority;
	4. the location of any fencing internal to the site;
	5. planting to soften the appearance of hard surface areas such as driveways and other paved areas;
	6. the location of any retaining walls associated with the landscape treatment of the site;
	7. details of all proposed surface finishes including pathways, accessways, patio or decked areas; and
	8. Landscaping and planting within all open areas of the site.

### Landscaping Before Commencement of Use

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.

### Tree Protection

1. Prior to the commencement of any works that are permitted by this permit, all trees that are to be retained, or are located within or adjacent to any works area, shall be marked and provided with a protective barricade and verified by an authorised officer of the responsible authority.
2. No building material, demolition material or earthworks shall be stored or stockpiled under the canopy line of any tree to be retained during the construction period of the development hereby permitted.

### Landscaping Prior to Occupation

1. Before the occupation of the buildings allowed by this permit, landscaping works as shown on the endorsed plans must be completed to the satisfaction of the responsible authority and then maintained to the satisfaction of the responsible authority.

### Waste Management Plan

1. Concurrent with the endorsement of any plans pursuant to Condition 1, a Waste Management Plan must be submitted and approved by the responsible authority. The plan must provide details of a regular private (including recyclables) collection service for the subject land and be prepared in accordance with the Multi-Unit and Commercial Developments Waste Management Plan Guide for Applicants. The plan must include the following:
	1. The method of collection of all waste from the land;
	2. Waste volume calculation and total waste generated per waste stream;
	3. Frequency of Waste collection and permitted collection times;
	4. Plans showing the location of bin storage areas, required bin storage equipment and features, number of bins and location of temporary bin storage at collection point(s);
	5. Provision of bin cleaning equipment, washing facilities and sewer disposal within the waste storage area;
	6. Type / Size of private waste vehicles; and
	7. Details of who will be responsible for taking out and returning bins to kerb (only use if collection is proposed from street).

### Ongoing Waste Management Plan Requirement

1. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the responsible authority.

### Construction Management Plan

1. Prior to the commencement of any site works (including demolition and excavation), a Construction Management Plan must be submitted and approved by the responsible authority. No works are permitted to occur until the Plan has been endorsed by the responsible authority. Once endorsed, the Construction Management Plan will form part of the permit and must be implemented to the satisfaction of the responsible authority. The plan must address the following issues:
	1. Hours for construction activity in accordance with any other condition of this permit;
	2. Measures to control noise, dust and water and sediment laden runoff;
	3. Prevention of silt or other pollutants from entering into the Council’s underground drainage system or road network;
	4. Measures relating to removal of hazardous or dangerous material from the site, where applicable;
	5. A plan showing the location and design of a vehicle wash-down bay for construction vehicles on the site;
	6. Cleaning and maintaining surrounding road surfaces;
	7. 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;
	8. Public Safety and site security;
	9. 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;
	10. A Traffic Management Plan showing truck routes to and from the site;
	11. 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;
	12. Measures to ensure that sub-contractors/tradespersons operating on the site are aware of the contents of the Construction Management Plan;
	13. Contact details of key construction site staff;
	14. Any other relevant matters, including the requirements of VicRoads or Public Transport Victoria.
	15. Except with the prior written consent of the responsible authority, a requirement that 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. This does not include excavation or the use of heavy machinery.)
* No works are permitted on Sundays or Public Holidays.

### Ongoing Construction Management Plan

1. The provisions, recommendations and requirements of the endorsed Construction Management Plan must be implemented and complied with to the satisfaction of the responsible authority.

### Sustainable Design Assessment (SDA) Required

1. Before the development commences, a Sustainable Design Assessment (in accordance with Clause 22.13) to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the Sustainable Design Assessment will be endorsed and will form part of this permit.

### Ongoing Sustainable Design Assessment (SDA) Requirement

1. The provisions, recommendations and requirements of the endorsed Sustainable Design Assessment must be implemented and complied with to the satisfaction of the responsible authority.

### Rooming House Management Plan

1. Prior to the commencement of the use, a Management Plan for the Rooming Houses is to be prepared, submitted to and approved by the responsible authority. The Management Plan must include the following:
	1. 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. This information is to be updated as required immediately following any change to the nominated responsible contact person.
	2. Details of the terms of accommodation and the maximum number of persons to be accommodated onsite.
	3. 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 guess behaviour, activities, visitors and parties and the extent to which external areas may be used at night.
	4. 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.
	5. 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.
	6. A register that documents the allocation of car spaces.
	7. Maintenance of buildings and grounds, including all landscaped areas.
	8. Permanent display of the Management Plan in a common area accessible to all residents of the student accommodation facility / rooming house.

### Use of Land

1. The development can only be used for the purpose of rooming houses. Should the land cease to be used for student rooming houses, 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.

### Occupancy

1. Not more than one person may reside in each bedroom shown on the endorsed plans at any one time.

### Common Areas

1. All common areas on the endorsed plan(s) must be made available and accessible to a resident on a shared basis at all times.

### Drainage

1. All on-site stormwater is to be collected from hard surface areas and must not be allowed to flow uncontrolled into adjoining properties or the road reserve.

Development Engineering Advice

1. The on-site drainage system must prevent stormwater discharge from each driveway onto the footpath and into the road reserve. Such a system may include either:
	1. a trench grate (150 mm minimum internal width) located within the property boundary and not the back of the footpath; and/or
	2. shaping the driveways so that water is collected in grated pits within the property; and/or
	3. another Council approved equivalent.
2. Stormwater discharge is to be detained on-site to the predevelopment level of peak stormwater discharge. Approval of any detention system is required from Council’s Engineering Department prior to works commencing.
3. The nominated point of stormwater connection for the site is to the north-east corner of the property where the entire site's stormwater must be collected and free drained via a pipe to the Council pit in the naturestrip outside 26 Morton Street via a 225 mm pipe and a 900 mm x 600 mm junction pit to be constructed to Council standards. (A new pit is to be constructed to Council standards if a pit does not exist, is in poor condition or is not a Council standard pit).

### Vehicle Crossovers

1. All new vehicle crossings must be a minimum of 3.0 metres in width and constructed in accordance with Council standards.
2. All vehicle crossings within 1.50 metres of an adjoining crossing shall be converted to a double crossing in accordance with Council standards.
3. All new vehicle crossings are to be no closer than 1.0 metre, measured at the kerb, to the edge of any power pole, drainage or service pit, or other services. Approval from affected service authorities is required as part of the vehicle crossing application process.
4. The vehicle crossing is to be constructed to align with the proposed driveway.
5. Any works within the road reserve must ensure the footpath and naturestrip are to be reinstated to Council standards.

### Traffic Engineering

1. The development must be provided with a corner splay or area at least 50% clear of visual obstruction (or with a height of less than 1.2m) extending at least 2.0 metres long x 2.5 metres deep (within the property) on both sides of each vehicle crossing to provide a clear view of pedestrians on the footpath of the frontage road.
2. Car and bicycle parking area and access lanes must be developed and kept available for those purposes at all times and must not be used for any other purpose such as storage to the satisfaction of the responsible authority.

### Urban Design

1. The walls on the boundary of adjoining properties shall be cleaned and finished in a manner to the satisfaction of the responsible authority.
2. No equipment, services, architectural features or structures of any kind, including telecommunications 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.

### Completion of Buildings and Works

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

### Permit Expiry

1. This permit will expire in accordance with section 68 of the *Planning and Environment Act 1987*, if one of the following circumstances applies:
	1. The development has not started before two (2) years from the date of issue.
	2. The development is not completed before four (4) years from the date of issue.

**– End of conditions –**