

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P11963/2021
PLANNING APPLICATION NO TPA/52636

APPLICANT	Cavill Development Pty Ltd
RESPONSIBLE AUTHORITY	Monash City Council
SUBJECT LAND	1945 Dandenong Road, Clayton
WHERE HELD	Melbourne
HEARING TYPE	Compulsory conference
DATE OF HEARING	18 March 2022
DATE OF ORDER	28 March 2022

ORDER

Amend application

- 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 for the application plans:

Prepared by:	D & D Architects & Interior
Drawing numbers:	TP02 to TP11 - Revision F
Dated:	22/03/22
- 2 In application P11963/2021 the decision of the responsible authority is set aside.
- 3 In planning permit application **TPA/52636** a permit is granted and directed to be issued for the land at 1945 Dandenong Road, Clayton, in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:
 - Buildings and works to construct a three storey residential building with basement
- 4 The hearing scheduled to commence at 10.00 am **on 14 June 2022** for 3 days is vacated. No attendance is necessary.



5 No order as to costs.

Nicholas Hadjigeorgiou
Member

APPEARANCES

Applicant for Review: **Reto Hofmann, solicitor Rigby Cooke,**
assisted by Radar Lei, Architect.

Responsible Authority: **Jeanny Lui, Town Planner**



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 to refuse the grant of a permit for buildings and works to construct a three storey residential building with basement.
- 2 At the compulsory conference, the parties reached agreement and request orders by consent. The parties request that the Tribunal **set aside** the responsible authority decision and direct the grant of a Permit subject to conditions.
- 3 This order is made at the request of the parties and with their consent as an outcome of a compulsory conference.
- 4 The Tribunal regards the consent of the responsible authority to be a confirmation to the Tribunal that:
 - the responsible authority is of the opinion that the permit is appropriate having regard to the matters it is required to consider under section 60 of the *Planning and Environment Act 1987 (Act)*, including the balanced application of the strategies and policies of the Monash Planning Scheme (**Planning Scheme**) and is otherwise in conformity with the provisions of the Planning Scheme and the Act;
 - the proposed orders will not result in any change to the proposed use/development which would materially affect any person other than the parties to the proceeding.
- 5 Based on the information available to the Tribunal, I consider it is appropriate to give effect to the settlement reached by the parties pursuant to section 93(1) of the *Victorian Civil and Administrative Tribunal Act 1998*.

Nicholas Hadjigeorgiou

Member



APPENDIX A

PERMIT APPLICATION NO:	TPA/52636
LAND:	1945 Dandenong Road, Clayton
WHAT THE PERMIT ALLOWS:	
<ul style="list-style-type: none"> Buildings and works to construct a three storey residential building with basement <p>in accordance with the endorsed plans.</p>	

CONDITIONS

Amended Plans Required

- 1 Before the development starts, amended plans drawn to scale and correctly dimensioned must be submitted to the satisfaction of and approved by the Responsible Authority. When approved, the plans will be endorsed and then form part of the Permit. The plans must be generally in accordance with the plans prepared by D&D Architects & Interiors, Revision “F” and dated 22 March 2022 but modified to show:
 - (a) Notation to the street trees on Stockdale Avenue near the proposed vehicle crossover to read ‘trees to be protected by temporary rectangular wire fencing as per Australian Standards, erected prior to commencement of works until completion. The fence must extend out at least 3.5 metres from the tree base’; and
 - (b) An amended Landscape Plan prepared in accordance with Condition 4;

all to the satisfaction of the Responsible Authority.

Note: Concurrent with the endorsement of plans requested pursuant to this condition, a Landscape Plan, Waste Management Plan and Sustainable Management Plan is to be endorsed in accordance with Conditions 4, 5 and 6.

Layout not to be Altered

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



Satisfactory Continuation

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

Landscape Plan

- 4 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 endorsed, the plan will form part of the Permit. The Landscape Plan must be generally in accordance with the Landscape Plan for VCAT (Revision A) dated 2 March 2022, Prepared by John Patrick Landscape Architects Pty Ltd, except that the plan must be modified to show:
- (a) The provision of a minimum of one canopy tree with mature height at least equal to the height of the roof of the proposed building, within the development;
 - (b) Provision of a canopy tree within the secluded private open space of Apartment 1 located off the easement;
 - (c) The detail of the proposed paving;
 - (d) The location of external lighting (if any); and
 - (e) The provision of an in-ground, automatic watering system linked to rainwater tanks on the land servicing the main garden areas, all to the satisfaction of the Responsible Authority.

Waste Management Plan

- 5 Concurrent with the endorsement of plans required pursuant to Condition 1, a Waste Management Plan must be approved by the Responsible Authority. The plan must be generally in accordance with the Waste Management Plan prepared by One Mile Grid dated 20 August 2021 but amended to show:
- (a) Equipment for managing bin washing/spills and ventilation supported with scaled plans indicating cleaning/ washing facilities & ventilation;
- The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Sustainable Management Plan

- 6 Concurrent with the endorsement of plans requested pursuant to Condition 1, a Sustainable Management Plan must be approved by the Responsible Authority. The plan must be generally in accordance with the Sustainability Management Plan prepared by ESD Hub dated 23 August 2021.



Construction Management Plan

- 7 Prior to the commencement of any site works (including any demolition and excavation), a Construction Management Plan (CMP) 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 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) Hours for construction activity in accordance with any other condition of this permit;
 - (b) Appropriate measures to control noise, dust and water and sediment laden runoff;
 - (c) Appropriate measures for the prevention of silt or other pollutants from entering into the Council's underground drainage system or road network;
 - (d) Appropriate measures relating to removal of hazardous or dangerous material from the site, where applicable;
 - (e) 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;
 - (f) A program for the cleaning and maintaining surrounding road surfaces;
 - (g) 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;
 - (h) Measures to provide for public Safety and site security;
 - (i) 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;
 - (j) A Traffic Management Plan showing truck routes to and from the site;
 - (k) 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;
 - (l) Appropriate measures to ensure that sub-contractors/tradespersons operating on the site are aware of and adhere to the requirements of the CMP;
 - (m) The provision of contact details of key construction site staff; and



(n) Include a requirement that except with the prior written consent of the Responsible Authority, a requirement that 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 Construction Management Plan must be implemented and complied with by all contractors to the satisfaction of the Responsible Authority.

Car Parking

8 Before the use starts or any building is occupied, areas set aside for parked vehicles and access lanes as shown on the endorsed plans must be:

- (a) constructed to the satisfaction of the Responsible Authority;
- (b) properly formed to such levels that they can be used in accordance with the plans;
- (c) surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority;
- (d) drained, maintained and not used for any other purpose to the satisfaction of the Responsible Authority; and
- (e) line-marked to indicate each car space and all access lanes to the satisfaction of the Responsible Authority.

Parking areas and access lanes must be kept available for these purposes at all times.

9 The layout of the development shall follow the Design Standards for car parking set out in Clause 52.06-9 of the Monash Planning Scheme as detailed below:

- Minimum requirements for car park dimensions to be in accordance with Table 2.
- Clearance to car parking spaces to be in accordance with Diagram 1 in relation to the placement of a wall, fence, column, tree, tree guard or any other structure that abuts a car space.

10 The three bedroom dwellings (units 11 and 12) must be allocated 2 spaces in the stacker unit comprising of one lower and one upper level platform. The unit allocated the remaining upper level platform must be advised of any vehicle height limitation.



Landscaping and Tree Retention

- 11 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 (including trees on the nature strip) during the demolition, excavation and construction period of the development hereby permitted without the prior written consent of the Responsible Authority.
- 12 All works (including demolition and excavation works) within the dripline of any tree to be retained (including trees on nature strip and adjoining properties) shall be supervised by a qualified landscape architect or horticulturist who shall ensure that the works are done in a manner which protects and minimises any damage to those trees.
- 13 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 there after maintained to the satisfaction of the Responsible Authority.

Drainage

- 14 The site must be drained to the satisfaction of the Responsible Authority.
- 15 All stormwater collected on the site from all hard surface areas must not be allowed to flow uncontrolled into adjoining properties or the road reserve.

Other

- 16 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.

Time for Starting and Completion

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

In accordance with Section 69 of the *Planning and Environment Act 1987*, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or:

- i within six (6) months afterwards if the development has not commenced; or
- ii within twelve (12) months afterwards if the development has not been completed.



Council and the Victorian Civil and Administrative Tribunal are unable to approve requests outside of the relevant time frame.

--- End of Conditions ---

