

**1.3 40-44 WELLINGTON ROAD, CLAYTON
AMENDMENT TO CONDITIONS OF APPROVED FIVE STOREY STUDENT
ACCOMMODATION BUILDING AND ASSOCIATED FOOD AND DRINK PREMISES
(TPA/52242/A)**

EXECUTIVE SUMMARY:

This application proposes an amendment to Planning Permit TPA/52242, issued following the Council meeting of 25 May 2021. The permit allows the development of a five storey residential building to be used as student accommodation, associated food and drink premises and alteration of access to a road in a Road Zone Category 1. The development includes 130 self-contained units.

This application proposes to amend the Permit conditions relating to provision of a traffic signal system for the basement access ramp and a requirement of the Section 173 Agreement to specify the maximum permitted occupancy of the premises. Other amended permit conditions and additions are proposed as a consequence of the requested amendments. No modification is made to the approved building premises, maximum number of residents occupying the premises or vehicle access arrangements. The modification to conditions is a consequence of ongoing discussions between the permit applicant and Council Officers about alternative ways to satisfy the intent of the previous conditions and is consistent with the integrity of the existing approval.

The application was not subject to public notification.

Key issues to be considered relate to the appropriateness of the alternative conditions in achieving the same outcome approved by Council in its issue of the original permit.

This report assesses the proposal against the provisions of the Monash Planning Scheme including the relevant state and local planning policy framework.

The reason for presenting this report to Council is the proposed development cost of \$14.9 Million. The proposal is an amendment to an approved development, determined by Council.

The proposal is considered appropriate having regard to the relevant provisions of the Monash Planning Scheme. It is recommended that Council issue an amended Planning Permit subject to conditions.

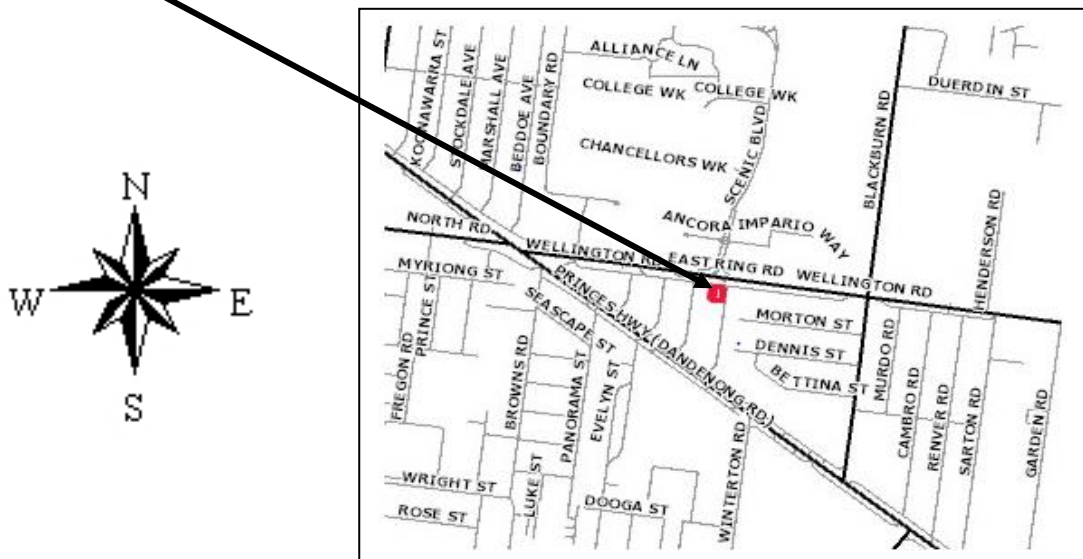
RESPONSIBLE DIRECTOR:	Peter Panagakos
RESPONSIBLE MANAGER:	Natasha Swan
RESPONSIBLE PLANNER:	Jeanny Lui
WARD:	Oakleigh
PROPERTY ADDRESS:	40-44 Wellington Road, Clayton
EXISTING LAND USE:	Residential dwelling & Student accommodation
PRE-APPLICATION MEETING:	Yes
NUMBER OF OBJECTIONS:	The application was not advertised and no objections have been received
ZONING:	Residential Growth Zone Schedule 3
OVERLAY:	N/A
RELEVANT CLAUSES: <u>Planning Policy Framework</u> Clause 15.01-2S- Building Design Clause 15.01-4S & R- Healthy Neighbourhoods Clause 18.01-1S- Land Use and Transport Planning Clause 18.02-2R– Principal Public Transport Network Clause 18.02-4S- Car Parking	<u>Local Planning Policy Framework</u> Clause 21- Municipal Strategic Statement) Clause 21.04- Residential Development Clause 21.08- Transport and Traffic Clause 22.10- Student Accommodation Policy <u>Particular Provisions</u> Clause 52.06- Car Parking Clause 52.23- Rooming House Clause 52.29- Land Adjacent to a Road Zone, Category 1 Clause 65 – Decision Guidelines
STATUTORY PROCESSING DATE:	27 August 2021
DEVELOPMENT COST:	The total cost of the development is \$14.9 Million

LOCALITY PLAN



SUBJECT SITE

NEIGHBOURHOOD PLAN



RECOMMENDATION:

That Council resolves to **Grant an Amended Planning Permit (TPA/52242/A)** for the development of a five storey residential building to be used as student accommodation, associated food and drink premises and alteration of access to a road in a Road Zone Category 1, subject to the following conditions (changes underlined or ~~deleted~~):

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 submitted to Council prepared by One Design Office, Revision I and dated 24 February 2021 but modified to show:

~~a) — Location of a signalling system or similar that tells motorists prior to entering the site if there are no available parking spaces within the carpark.~~

- a) 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 pedestrian on the footpath of the frontage road;
- b) Notation to the street trees on Arnott Street 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';
- c) The gas and water meter enclosures to be screened in the landscape setting; and
- d) 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 Concept Plan (Revision A) dated 25 February 2021, 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) The bicycle spaces south to the basement carpark entry in Arnott Street to be positioned within a landscaped setting. Hard paving associated with the bicycle spaces to be amended to be a grass or grasscrete finish;
 - (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 WSP (Revision 2) dated 18 December 2020.

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 Urban Digestor (Revision 2) Dated 2 March 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.

S173 Agreement

8. Prior to the endorsement of plans referred to in Condition 1 the owner of the land must enter into an agreement with the Responsible Authority under Section 173 of the Planning and Environment Act 1987. In addition to the usual mechanical provisions, the agreement must provide for the following matters:
 - ~~a) That each of the rooms are used for a single student only and no more than 130 occupants can reside at any given time.~~
 - b)a) 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 of the facility;
 - e)b) Car parking spaces are only permitted to be used by the occupants of the units and their visitors;

- ~~e)c)~~ Car spaces must not be individually subdivided, on-sold, leased, rented or made available to any other person other than an owner, occupant or visitor of the premises;
- ~~e)d)~~ 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)e)~~ Clearly note and acknowledge that should the land cease to be used for student housing, a new planning permit may be required for an alternative use. It should be noted that any dispensation for on-site car parking given to the student accommodation use is not transferable to any proposed alternative use of the land. Any subsequent use will be assessed in accordance with the car parking requirements of the Monash Planning Scheme;
- ~~g)f)~~ That the student accommodation premises must be managed by a single entity with responsibility for all aspects of the use; and
- ~~h)g)~~ An operational management plan prepared and implemented to the satisfaction of the Responsible Authority according with Condition 9 of this permit.

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.

Operational Management Plan

9. Prior to the commencement of the student accommodation, an Operational Management Plan for the use of the site must be submitted to and approved by the Responsible Authority. The Plan should detail but not limited to:
 - a) Student accommodation units managed and under the control of a single operator responsible for the operation and maintenance of the entire premises for the life of the use as student accommodation;
 - b) The 24 hour contact details for the management of the premises displayed in a manner and location 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 management contact person;
 - c) After hours contact details for management of the facility;
 - d) Appropriate management of the car park including access arrangements;
 - e) Appropriate maintenance of buildings and grounds, including all landscaped areas;

- f) Permanent display of the Management Plan in a common area accessible to all residents of the student accommodation facility; ~~and-~~
- g) Car parking spaces are to be managed to prevent vehicles entering the car park when all spaces are full.

When approved, the Operational Management Plan will be endorsed to form part of this permit and must be implemented to the satisfaction of the Responsible Authority

Car Parking

10. 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.

11. 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.
12. The accessible parking spaces should be designed in accordance with the Australian Standard for *Off-Street Parking for people with disabilities, AS/NZS 2890.6*. The vehicle path to and from each accessible space shall have a minimum headroom of 2200mm. The headroom above each dedicated space and adjacent shared area shall be a minimum of 2500mm.

Landscaping and Tree Retention

13. 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.
14. 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.
15. 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

16. The site must be drained to the satisfaction of the Responsible Authority.

Other

17. 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.

Use of land

18. That each of the rooms are used for a single student only and no more than 130 occupants can reside at any given time.

Time for Starting and Completion

- 17-19. 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.

NOTES

- A. This is **not** a Building Permit. A Building Permit approval for the works must be obtained prior to the commencement of the approved works.
- B. Building Permit approval for this development must take into consideration the location of future subdivision boundaries and their compliance with the Fire Separation Provisions of the Building Code of Australia, including Separating Walls and Openings near Boundaries, as well as the requirements of the Building Regulations.
- C. No work must be commenced in, on, under or over the road reserve without having first obtaining all necessary approval under the Road Management Act 2004, the Road Safety Act 1986, and any other relevant acts or regulations created under those Acts.
- D. An on-site detention system for storm events up to the 1% AEP event to be retained on site for the basement carpark. The basement detention system is to be separated from the storm water detention system for the property.
- E. A licensed Surveyor or Civil Engineer (who is a Registered Building Practitioner) must certify that the stormwater detention system including all levels, pits, pipes and storage volumes is constructed in accordance with the approved plans. The certifier's registration number must be included on the certificate.
- F. All disused or redundant vehicle crossovers must be removed and the area reinstated with footpath, naturestrip, kerb and channel to the satisfaction of the Responsible Authority.
- G. The proposed vehicle crossing is to be constructed in accordance with the City of Monash standards.

- H. Approval of each proposed crossing, and a permit for installation or modification of any vehicle crossing is required from Council's Engineering Department.
- I. The proposed vehicle crossing is to be constructed in accordance with the City of Monash standards.
- J. Engineering permits must be obtained for new or altered vehicle crossings and new connections to Council drains and these works are to be inspected by Council's Engineering Department. A refundable security deposit is to be paid prior to any drainage works commencing.
- K. A plan detailing the drainage works must be submitted to the Engineering Division prior to the commencement of works for approval. The plans are to show sufficient information to determine that the drainage works will meet all drainage requirements of this permit.
- L. Stormwater discharge is to be detained on site to the predevelopment level of peak stormwater discharge. Approval of any detention system is required by the City of Monash prior to works commencing; or any alternate system.
- M. The full cost of reinstatement of any Council assets damaged as a result of demolition, building or construction works, must be met by the permit applicant or any other person responsible for such damage, to the satisfaction of the Responsible Authority.
- N. Any works within the road reserve must ensure the footpath and nature's strip are to be reinstated to Council standards.
- O. All new 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.
- P. Any request for a variation of this Permit shall be lodged with the relevant fee as determined under the Planning & Environment (Fees) Regulations 2016.
- Q. Any request for time extension of this Permit shall be lodged with the relevant administration fee at the time the request is made.
- R. Residents of the approved development will not be entitled to car parking permits for on street car parking.

BACKGROUND:**History**

Council, at its meeting of 25 May 2021, resolved to grant a Planning Permit for the construction of a five storey residential building for the use of student accommodation and associated food and drink premises, alteration of access to a road in a Road Zone Category 1.

No objections were received to the original application.

Works on site have not commenced.

The Site and Surrounds

The site is located on the south side of Wellington Road in Clayton, on the west corner of Arnott Street, approximately 60 metres south of the Monash University Clayton Campus.

The site comprises of two allotments with a total frontage of 42.67 metres, a depth of 45.7 metres and yielding a total site area of 2,085 square metres. A 1.83 metre wide drainage and sewerage easement is located along the rear (southern) boundary of the lots.

There is a fall of approximately 3 metres from the north-western corner to the south-eastern corner of the site.

The site is located within the Monash National Employment and Innovation Cluster (MNEIC).

PROPOSAL:

The application proposes amendments to the conditions of the planning permit and endorsed plans. Specifically, it has been requested to delete condition 1a which requires a signalling system to the car park, and condition 8a of the permit relating to the maximum number of occupants being restricted through the Section 173 agreement.

It is proposed to manage the requirements of these conditions through alternate measures. This will be discussed in the assessment section of this report.

PERMIT TRIGGERS:**Zoning**

The subject site is located within the Residential Growth Zone, Schedule 3 (RGZ3) under the provisions of the Monash Planning Scheme.

Pursuant to the Residential Growth Zone (Clause 32.07-2), a permit is required to use the land for student accommodation and food and drink premises. A permit is also required to construct a building or construct or carry out works for the proposed use.

Overlay

The land is not affected by any overlays under the provisions of the Monash Planning Scheme.

Particular Provisions

Clause 52.06- Car Parking & Clause 52.34- Bicycle Facilities

The proposed amendment does not seek to change the number of car parking or bicycle parking spaces provided on site; nor changes to the layout of the basement car park.

Clause 52.29: Land adjacent to a Road Zone, Category 1

A permit is required to create or alter access to a Road Zone, Category 1. The proposed amendment does not seek to create or alter the vehicle crossover from the approved development.

CONSULTATION:

The Applicant has been advised that this application is coming to the September Council meeting, in addition a letter has been sent to the Applicant formally informing them of the details of the Council meeting. The Applicant has been verbally advised that this application is recommended for approval, and an outline of the recommended changes of conditions and the ramifications of the conditions has been explained.

Public Notice

The application is seeking limited modification to the approved development and was not advertised. It is considered that the proposed amendments will not result in any unreasonable amenity impacts to the adjoining properties nor cause material detriment to the surrounding area. The amendments are generally consistent with the existing approval and include no modification to the approved building envelope or development intensity.

Referrals

External Referral

The amendment was not referred to the Department of Transport (former VicRoads) as they did not raise any concerns nor require any conditions when the original application was referred to them.

Internal ReferralTraffic Engineer

This application, together with additional Traffic evidence prepared on behalf of the applicant was referred to Council's Traffic Engineer for review and comment.

Council's Traffic Engineer has no objection to the deletion of Condition 1a, requiring a signalling system, subject to the inclusion of a new requirement for the management and allocation of car spaces to be specified as part of the Operational Management Plan. This requirement can be included in any amended permit issued.

DISCUSSION:

An application for amendment to a planning permit (including plans) is subject to the provisions of Section 72 of the Planning and Environment Act.

Sections 47 to 62 of the Act (with any necessary changes) apply to an application as if the application were an application for a permit.

Planning Policy Framework (PPF)

Plan Melbourne Refresh identifies places of state significance and places of local significance. Within the City of Monash, the main place of state significance is the Monash National Employment and Innovation Cluster (MNEIC). The subject site is located within the MNEIC where the use of student accommodation is supported.

Local Planning Policy Framework (LPPF)

Clause 22.10 (Student Accommodation Policy) requires student accommodation to be of high quality and well designed to meet needs of student residents. Developments should also provide adequate on site car parking and bicycle storage to minimise car parking impact on existing streets.

Car Parking, traffic and access

Supporting evidence prepared by WSP (Traffic Engineers) was submitted with the application in support of the deletion of condition 1a.

The evidence clarifies that the development is to be used as a student accommodation with a private carpark. The carpark will only be accessible by students within the development that are allocated a car parking space.

Access to the private car park will be restricted via a roller door and security pass/remote. There will be no need for vehicles to circulate within the carpark in search of a parking space.

Council's Traffic Engineers accept this proposal, and on this basis have no concerns with the deletion of Condition 1a subject to an amendment to Condition 9d, contained within the Operation Management Plan and requiring car parking spaces to be allocated and managed to prevent vehicles entering the car park when all spaces are full. The permit applicant has advised that they accept such condition being included in the Operational Management Plan.

Maximum number of occupants

Condition 8 of Planning Permit 52242 requires the owner of the land to enter into a Section 173 agreement providing for a number of matters associated with the Student Accommodation use.

In particular, Condition 8a requires the agreement to provide *'That each of the rooms are used for a single student only and no more than 130 occupants can reside at any given time'*.

The intention of this condition was to restrict the maximum number of occupants not exceeding the number of units provided for within the approved development.

The permit applicant has expressed concerns regarding the inclusion of this requirement as part of the Section 173 Agreement. Potential amendment and variation to the requirement will become unnecessarily challenging as it would require amendment of not just the planning permit but also the Agreement itself. The inclusion of a separate permit condition relating to maximum number of permitted occupants allows for the intent of the requirement to be satisfied and allows for greater flexibility should the permit seek to be amended in the future, whether that be to increase or decreased numbers.

Condition 8a is proposed to be deleted and replaced by a separate condition to read *'Each of the rooms are to be used for a single student only and no more than 130 occupants can reside on the premises at any given time'*.

CONCLUSION:

The proposed amendments to the Permit are consistent with the applicable requirements and objectives of the Monash Planning Scheme. The proposed amendments are consistent with the original approval given, and do not alter the intent of any previous permit condition imposed

It is considered that vehicle management and student occupancy will continue to be appropriately managed via the proposed alternate conditions.

It is recommended that an amended permit be issued.