

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P850/2022
PERMIT APPLICATION NO.TPA/52274

APPLICANTS	John Katsis, Patawinee Ally Yooyaem-Katsis & Others
RESPONSIBLE AUTHORITY	Monash City Council
REFERRAL AUTHORITY	Melbourne Water
SUBJECT LAND	Units 1, 2, 3 and Common Property, 19 Burton Avenue, CLAYTON VIC 3168
DATE OF HEARING	13 February 2023
DATE OF INTERIM ORDER	14 February 2023
DATE OF ORDER	17 April 2023
CITATION	Katsis v Monash CC [2023] VCAT 332

ORDER

Permit granted

- 1 In application P850/2022 the decision of the responsible authority is set aside.
- 2 In planning permit application TPA/52274 a permit is granted and directed to be issued for the land at Units 1, 2, 3 and Common Property, 19 Burton Avenue, CLAYTON VIC 3168 in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:
 - Development of eight dwellings on land covered by the Special Building Overlay.

Tracey Bilston-McGillen
Member



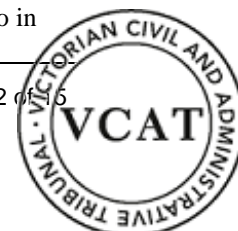
REASONS¹

WHAT IS THIS PROCEEDING ABOUT?

- 1 Following the Tribunal hearing on 13 February 2023, I issued an interim order providing a process which allowed for amended plans to be circulated. The order detailed the following changes to be made to address concerns:
 - A revised ground floor presentation to Burton Avenue. The ground floor is to enlarge the entry or provide a living area to dwelling 1.
 - Reduce in size or setback the waste room and provide details as to how this waste room can be further ‘designed’ to address the street.
 - A revised layout to dwelling 8 detailing any changes to setbacks at ground and first floor levels and internal layout changes. There is to be no reduction in the setbacks proposed in the amended plans.
 - Clearly identify any setback measurements.
 - Details of the wall treatment to the east elevation in front of the car spaces.

- 2 The applicants John Katsis, Patawinee Ally Yooyaem-Katsis & Others (**applicant**) submitted amended plans detailing the following changes:
 - Unit 1 ground level habitable room expanded to a width of 7 metres with additional full height clear glazed windows added. Depth of room unchanged at around 3.8 metres. A small splay provided to eastern corner of this room.
 - Garage entry door setback increased from 5.26 metres to 6 metres.
 - Bin room setback increased from 4 metres to 5.3 metres. Bin room pulled off side boundary with a 1 metre side setback provided. Same number and size of bins provided in this room as per previous plans which was as per advice in the submitted Waste Management Plan (**WMP**). Façade of the bin room facing the street modified to vertically applied timber fins.
 - Bike hoop added to surplus area to side of bin room.
 - One on-site parking space deleted to facilitate above changes. Reallocation of parking spaces amongst the 8 units. Unit 8 now provided with one parking space in lieu of two.

¹ 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 of this material will be cited or referred to in these reasons.



- Unit 8 eastern boundary setback increased from 1 metre to 1.5 metres.
 - Unit 8 modified at ground level only so as to be a 2 bedroom dwelling.
 - Unit 8 ground floor level raised by 300mm via reducing ceiling height from 3 metres to 2.7 metres.
 - Extra annotations on north-east elevation to confirm design intent is to have a 2 metre high merbau fencing intermittently placed along this walkway. This fencing is abutting parking spaces with a section that is open above this up to the underside of the main horizontal white render parapet that in part doubles as a balcony balustrade to 1st floor level.
- 3 The applicant submitted a traffic assessment showing that car spaces for dwellings 1 and 2 require a corrective movement to enable the occupiers to enter and exit the space in a forward manner. It is also noted that an email statement from Tree Response was also provided stating that there was support for the proposed changes.
- 4 Monash City Council (**Council**) reviewed the proposed changes and submitted that it remains of the view that the proposal continues to represent a poor character and built form response for the following reasons:
- The waste collection room continues to take up a prime position at the front of the site. It continues to sit forward of the balance of the ground floor layout, and in doing so, represents one's first impression of the development. In Council's view, this is an element that should be sited to the rear of the site, and not given prime position in the frontage. We remind the Tribunal of the schedule 3 to the Residential Growth Zone seeking "high quality design and finish".
 - The waste collection room will result in odours and noise filtering to the public realm at street level, with this room setback just 5.3m from the footpath. In Council's view, this is contrary to the urban design principles at Clauses 15.01 of the Monash Planning Scheme that seek "to create urban environments that are....healthy...and enjoyable..".

Again, it is extremely rare for waste collection rooms to be positioned right to the front of a building for this very reason. Council is seeking to establish a positive and "high quality" precedent for future development to follow in this renewal area.
 - The fact the waste collection room continues to be given 'prime real-estate' at the very front of the site is a short coming of what is a design-on-the-run approach. This site deserves a well considered layout that properly addresses these siting issues,



rather than what has effectively been a 2 minute mark up at the hearing.

- It needs to be remembered this development, once constructed, will present to the Burton Avenue streetscape for many decades to come. In view of the Zone promoting “high quality” outcomes, - it is submitted a proper, well considered re-design is a worthy investment for this site and location. The long term gain for the streetscape is worth the short term pain of a re-design.
- The plans now confirm the north-east wall at ground level is open above the 2.0m high wall/fence. This similarly represents a poor urban design and planning outcome as follows:
 - It raises issues of noise (vehicles revving right beneath the balconies above).
 - It raises issues of noise and fumes etc to the dwelling entry points / entry path.
 - It does not fully protect the car park from inclement weather with the 5 cars along this northern side of the car park likely to get wet and be subject to dust etc.
 - This is ultimately indicative of a poorly resolved ventilation scheme, and offers a poor level of amenity for its future occupants.
- Council’s Engineers require that the dwelling 1 car space be widened to 2.9m to conform with Clause 52.06- 9 given it is located between walls/pillars.
- There is concern with the dwelling 1 front car space that appears to conflict with the stairs when reversing as shown in the Evan Baloutis’ swept path diagrams.

5 The applicant was provided with the opportunity to respond to Council’s concerns and provided the following comments:

- Having a width of 3.5m the waste bin room is not a dominant part of the building façade, considered in relation to either the ground level in isolation or the façade across all 3 levels in totality (which is how the overall impression to the street is generated). The bin room has a matching design to that approved by Council opposite at No.22 which is also part of the façade of that building and also 3.5m in width. The updated 3D views make it abundantly clear what the leading edge of the building is and which aspects present most strongly to the street and it is not the waste room. It is the elements with the 4m setback that are most prominent, not the bin room to the side of this at a 5.3m setback. The vertical timber wall of the bin room will be seen, as it will be opposite, but it is not dominant. One could increase its setback to 5.7m to match that of Unit 1



without impacting its functionality as it is generous in size, but we don't see this as being necessary.

- We leave it to the discretion of VCAT as to what weight to place on 'assertions' with no substantiation about odours and noise from an enclosed waste room that will be subject to a WMP with elements therein going to odour management. Noise associated with the collection of waste is required to occur in accordance with mandating obligations under other legislation including Local Laws and EPA.
- More assertions follow about the gaps (1m x 6m, 1m x 6m and 1m x 3m) along the pedestrian walkway that make somewhat unrealistic and improbable assumptions. It would be very much a random chance scenario if the approximately 5 second process of a car reversing from a specific car space coincided with a pedestrian walking along the path. But even if so, there is a 2m tall screen. The amount of noise cannot be more than one expects along any 'pathway' within urban confines, let alone one within an activity centre. We are simply unclear the level of sufferance generated from this and whatever it is, it is well below becoming something of substance in terms of planning considerations. The design is like this to avoid mechanical ventilation. It can be fully enclosed and mechanical ventilation provided, but there is no planning necessity to do so.
- Swept path diagrams show there is no need to widen the southernmost car-space for Unit 1 from 2.8m to 2.9m but it can easily be done given the waste room is larger than need be. Still, change should only be made to a proposal if it needs to be to make it acceptable, not simply because it can be done.
- The swept path diagrams outline that the green line represents the 'vehicle body' and it is true that by the 15th step up from the ground floor to the first floor there is an overlap here. Suffice to say, a 2.1m clearance is going to be achieved to the underside of this step. We would not oppose a permit condition requiring a sectional drawing with a marked dimension to confirm this should be there any lingering doubt here.

- 6 The interim Tribunal decision made the observation that a town house development was acceptable in this location but shared the concerns of Council regarding the presentation of the proposed building to the street. After receiving submissions from the parties in relation to the proposed changes, the Tribunal has decided that the proposed changes have addressed the concerns identified in the interim order. The Tribunal has decided to set aside the decision of the Council and grant a permit subject to conditions. The reasons for this decision follow.



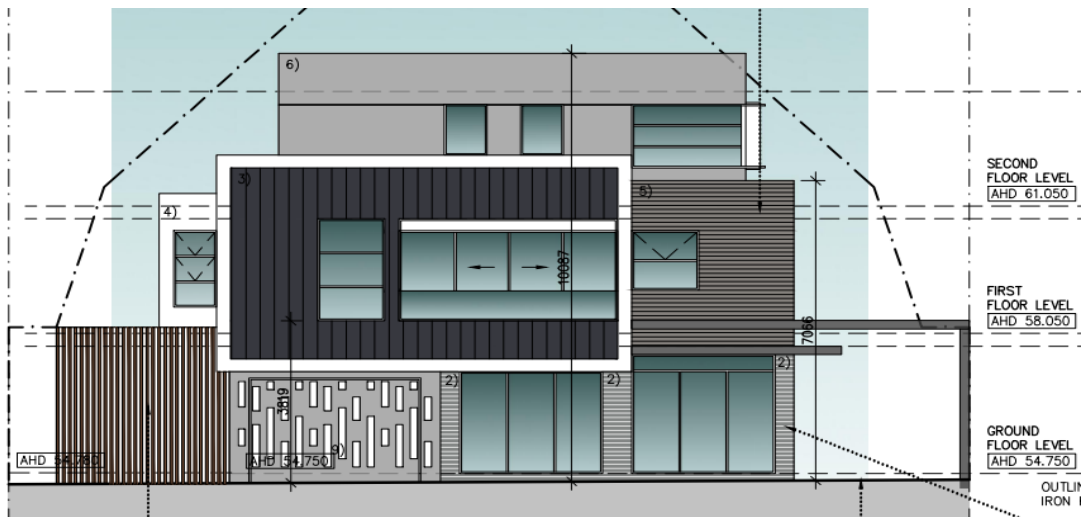


Figure 1: Proposed street elevation, VCAT Plans in response to Interim Order.

Revised street presentation

- 7 The key change to the development is the presentation to the street. As detailed above, the ground floor room has been increased in size to 7 metres, the waste room has been reduced in size and treated with timber battens to the façade and the garage door has been further set back from the street.
- 8 In response to the proposed changes to the street presentation, as detailed earlier, Council raised concern with the location and design of the waste room and the impact of the waste room from a health perspective directing me to consider the ‘the urban design principles at Clauses 15.01 of the Monash Planning Scheme (**planning scheme**) that seek ‘to create urban environments that are....healthy...and enjoyable..’.
- 9 I agree with Council that a purpose of the schedule to the zone is for a development of a high quality design and finish. It is also a purpose of the zone to encourage a diversity of housing. I make the observation that high quality design is a policy throughout the planning scheme. I further agree with the submission of Council that it could be considered an uncommon outcome for a waste room to be allocated to the area, described by the Council, as ‘prime real estate’, that is to the street frontage. However, based on the changes from the interim decision, I consider the proposed street presentation acceptable for the following reasons.
- 10 To the street, the proposed development now presents with a higher level of activity and potential for street interaction. The habitable room fronting Burton Avenue has been increased to a width of 7 metres and is notated as a sitting room/home office. The width of the room is further broken with the appearance of two large windows, making it appear, in my view a domestic element. It is my finding that the proposed room is now of sufficient size to present and be used as an active space.

- 11 The street frontage also comprises of the garage door and waste room. The waste room has its frontage to Burton Avenue, is set off the side boundary by 1 metre and setback from Burton Avenue by 5.305 metres. In response to Council's concerns, the applicant suggested that the waste room could be set back to 5.7 metres from the street, noting that it was their view that the change was not warranted.
- 12 Whilst the increase of the waste room to a setback to 5.7 metres is a minor change, I will require it. The increase even though small, will help to provide an area for meaningful landscaping and the increase further reduces the visual impact of the room to the street. I further make the observation that the waste room will appear as a room with timber slats, not dissimilar to examples of developments provided at the hearing and within Burton Avenue. It is my view that the passer-by will not read the room as a waste room. It is also my view that the success of the presentation to the street will also be dependent on the material used. The plans detail 'Feature Timber Battens'. A condition has been included requiring the detail of the colour, width and spacing of the battens to ensure a high quality finish. The responsible authority should ensure that the materials used are of a high quality, as indicated on the plans.
- 13 Overall, I find the presentation acceptable. It balances the objectives of the planning scheme seeking diversity of housing and high quality design. The presentation, as amended, is in part an active living space (dwelling 1 sitting/home office), a garage door and a waste room. Having a single garage door reduces the level of hard pavement to the street whilst providing for a maximum area for landscaping. The landscaping plan details the retention of an existing tree located in front of the ground floor room and space for a garden area in front of the waste room. The responsible authority should further ensure that the landscaping in the front setback is meaningful. Landscaping will soften the visual impact of the overall development to the street.

Dwelling 8 changes

- 14 Dwelling 8 has been modified to a two bedroom apartment and the setback to the eastern boundary has been increased from 1 metre to 1.5 metres. I find this proposed layout acceptable.

Car parking layout

- 15 In addressing the ground floor changes to the dwelling 1, an analysis of swept paths for the car spaces for dwellings 1 and 2 was provided by Traffic Solutions.
- 16 The swept path diagrams were based on a splayed wall provided to the south western internal corner of the sitting/home office room to dwelling 1. Whilst this was not a recommendation in the interim order, based on the analysis provided, I require the change.

- 17 Council raised concerns with the width of the car space for dwelling 1 and the potential ‘overhang’ of a car to the stairs. The applicant submitted that it is acceptable but they could provide a section to further demonstrate clearances to the car parking space. Council also raised concern with the width of the car space requesting that the southernmost car space for unit 1 be increased from 2.8 metres to 2.9 metres.
- 18 I do not consider the car parking layout is a reason to refuse the proposed development. I will however include a condition requiring that the car parking layout including swept path details to all spaces is submitted to the satisfaction of the responsible authority. Further, whilst swept path diagrams show there is no need to widen the southernmost car-space for Unit 1 from 2.8 metres to 2.9 metres, the applicant detailed that it could be done given the waste room is larger than need be. I will require the increase in the width to the car parking space.

Changes to the wall treatment to the east elevation in front of the car spaces.

- 19 There was some uncertainty as to what was occurring on the north-east elevation. The plans detail the intention for 2 metre high merbau fencing intermittently placed along the walkway with a section that is open above.
- 20 Council raised concerns with noise and car fumes to residents above.
- 21 I find the proposed treatment of this elevation acceptable. It provides natural light and ventilation into the car park and further consider it would not have a detrimental impact on the amenity of the apartments above.

CONCLUSION

- 22 For the reasons given above, the decision of the responsible authority is set aside. A permit is granted subject to conditions.

Tracey Bilston-McGillen
Member

APPENDIX A – PERMIT CONDITIONS

PERMIT APPLICATION NO	TPA/52274
LAND	Units 1, 2, 3 and Common Property, 19 Burton Avenue, CLAYTON VIC 3168

WHAT THE PERMIT ALLOWS

In accordance with the endorsed plans:

- Development of eight dwellings on land covered by the Special Building Overlay.

CONDITIONS

- 1 Before the development starts, two copies of amended plans drawn to scale and dimensioned, must be submitted to and approved by the Responsible Authority. When approved the plans will then form part of the permit. The plans must be generally in accordance with the plans prepared by Petridis Architects, Sheets 1 to 9, dated 21 December 2022, but modified to show:
 - (a) Dwelling 8 with a finished floor level of at least 55.05 metres to Australian Height Datum (AHD) with no subsequent increase in the height of the building.
 - (b) A splay provided to the internal corner (south west corner) of the sitting/home office room as detailed in the VCAT plans dated 24 February 2023.
 - (c) Dimensions and areas of each storage area demonstrating compliance with Standard B30.
 - (d) The location of tree protection fencing in accordance with the recommendations contained in the Tree Response arborist report dated 14 January 2023.
 - (e) Mail box structure to be on root sensitive footings as detailed in the Tree Response arborist report.
 - (f) Unit 1 ground level habitable room increased in width to 7 metres with full height windows facing the street as detailed in the VCAT plans dated 24 February 2023.
 - (g) The southernmost parking space deleted and the bin room setback 1m from the side boundary and 5.7 metres from the front boundary as detailed in the VCAT plans dated 24 February 2023.



- (h) Unit 8 converted to a 2 bedroom unit as detailed in the VCAT plans dated 24 February 2023.
 - (i) Details of the Feature Timber Battens including colour, width and spacing.
 - (j) Details of the car parking layout including sections where required and swept paths details of car spaces to the satisfaction of the responsible authority.
 - (k) Car space for dwelling 1 increased from 2.8 metres to 2.9 metres with plans dimensioned detailing the change.
 - (l) A Sustainable Design Assessment in accordance with Condition 18.
- 2 The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

Melbourne Water (Conditions 3 to 8)

- 3 The dwelling/s must be constructed with finished floor levels set no lower than 55.05 metres to Australian Height Datum (AHD).
- 4 The garage/s must be constructed with finished floor levels set no lower than 54.75 metres to AHD.
- 5 Any new verandahs/decking must be constructed with unenclosed foundations to allow for the passage of overland flows.
- 6 All open space within the property (including setbacks) must be set at existing natural surface level so as not to obstruct the passage of overland flows.
- 7 Any new fencing/gates must be of an open style of construction (minimum 50% open) to allow for the passage of overland flows.
- 8 Prior to the commencement of works, a separate application direct to Melbourne Water must be made for any new or modified storm water
- 9 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.
- 10 The private on-site drainage system must prevent stormwater discharge from the/each driveway over the footpath and into the road reserve. The internal drainage system may include either:
 - (a) a trench grate (minimum internal width of 150 mm) located within the property boundary and not the back of footpath; and/or
 - (b) shaping the internal driveway so that stormwater is collected in grated pits within the property; and or
 - (c) another Council approved equivalent.
- 11 All stormwater collected on the site is to be detained on site to the predevelopment level of peak stormwater discharge. The design of any

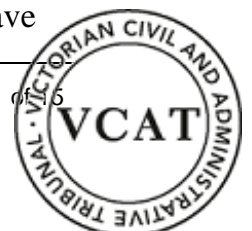


internal detention system is to be approved by Council's Engineering Department prior to drainage works commencing.

- 12 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:
- (a) The method of collection of garbage and recyclables for uses;
 - (b) Designation of methods of collection including the need to provide for private services or utilisation of council services;
 - (c) Appropriate areas of bin storage on site and areas for bin storage on collection days;
 - (d) Measures to minimise the impact upon local amenity and on the operation, management and maintenance of car parking areas;
 - (e) Litter management.

A copy of this plan must be submitted to and approved by the Responsible Authority.

- 13 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
- 14 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 is to be generally in accordance with the Species Landscape Plan dated 27/1/23 but modified to show:
- (a) Tree protection fencing shown in accordance with the Arborist Report prepared by Tree Response and dated 24 January 2023.
 - (b) Conditions outlined in Condition 1 of this Permit.
 - (c) Quantities of all plantings listed in the Schedule of landscaping
- When approved the plan will be endorsed and will then form part of the permit.
- 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 then maintained to the satisfaction of the Responsible Authority.
- 16 Before the development starts (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), the trees marked as being retained (Trees 1, 2, 4, 5 & 6 as identified in the Tree Response report dated 24th January 2023) must have



a Tree Protection Zone established to the satisfaction of the responsible authority. The tree protection areas associated must meet the following requirements:

Extent

- (a) protection fencing for Trees 1 & 2 must be provided as per the recommendations of the Arborist Report prepared by Tree Response dated 24 January 2023.

Fencing may be reduced directly adjacent to the works area only to allow access during construction (i.e. no more than 1.0 metre away from the works/construction area) and to allow access to the footpath.

- (b) ground protection for Trees 4, 5 & 6 must be provided must be provided as per the recommendations of the Arborist Report prepared by Tree Response dated 24 January 2023.

Fencing

All tree protection fencing required by this permit must be erected in accordance with the approved Tree Protection Zone. The tree protection fencing must be erected to form a visual and physical barrier and must be a minimum height of 1.5 metres and of chain mesh or similar fence

Signage

Fixed signs must be provided on all visible sides of the tree protection fencing clearly stating “Tree Protection Zone – No Entry”, to the satisfaction of the responsible authority

Ground Protection

Ground protection must include 100mm minimum depth of composted wood chips covered by suitable matting/boards to disperse weight from heavy machinery and resist compaction to soil beneath (e.g. hardwood plans strapped together or specialised product such as Trakmat)

Irrigation

The Fenced protection area for Tyree 1 must include an automated dripline irrigation system, installed beneath ground protection. It must apply a minimum of 100l/week of clean water, applied between September to March inclusive, for the duration of construction works.

Provision of Services

- (a) Except with the prior written consent of the responsible authority, all services (including water, electricity, gas and telephone) must be installed underground, and located outside of any Tree Protection Zone, to the satisfaction of the responsible authority.



- (b) Where underground services cannot avoid a TPZ, they must be installed via a non-destructive method (e.g. boring at 600mm+ depth, or hydro-vacuum) and under supervision by the project arborist.

Access to Tree Protection Zone

Should temporary access be necessary within the Tree Protection Zone during the period of construction, the responsible authority must be informed in writing prior to relocating the fence (as it may be necessary to undertake additional root protection measures such as bridging over with timber).

- 17 Prior to the endorsement of development plans under Condition 1, a Tree Management Plan prepared by a suitably qualified arborist must be submitted to and approved by the responsible authority. When approved, The Tree Management Plan will form part of this permit and all works must be done in accordance with the Tree Management Plan (AS 4970). The Tree Management Plan must detail measures to protect and ensure the viability of Tree 1, 2, 4, 5 and 6 as numbered on the architectural plans. The Tree Management Plan must be generally compliant with Section 5 of AS4970-2009 Protection of Trees on Development Sites, and include the following information:
 - (a) Details for protecting trees at various stages of development (including Pre-construction, During-construction and Post-construction).
 - (b) A Tree Protection Plan (TPP) including;
 - i Trees accurately located and numbered as per the arborist report with tree protection zone (TPZ)s and structural root zone (SRZ)s represented to scale.
 - ii Access points
 - iii Areas suitable of material/equipment storage.
 - iv A notation to refer to the Tree Management Plan.
 - v The location of tree protection measures to be utilized.
 - (c) A list of activities not permitted with protection areas.
 - (d) How canopies and root systems will be managed during works to mitigate damage, including necessary footings and surfacing systems within a TPZ.
 - (e) Specify remedial pruning works required to achieve minimum necessary canopy clearance from proposed buildings and construction requirements (e.g. scaffolding). Any pruning that is required to be done to the canopy of any tree to be retained is to be done by a qualified Arborist (AQF 3+) to Australian Standard - Pruning of



Amenity Trees AS4373-1996. Any pruning of the root system of any tree to be retained is to be done by hand by a qualified Arborist.

- (f) A table and/or process for monitoring and certification by the project arborist of implemented protection measures.
- (g) Schedule of Project Arborist inspections, including inspection of protection measures prior to demolition works proceeding.

Prior to the commencement of works, the name and contact details of the project arborist responsible for implementing the Tree Management Plan must be submitted to the Responsible Authority.

- 18 Concurrent with the endorsement of plans requested pursuant to Condition 1, 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. Upon approval the Sustainable Design Assessment will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the Sustainable Design Assessment to the satisfaction of the Responsible Authority.
- 19 Before the development starts, a construction management plan must be prepared and submitted to the Responsible Authority for approval. The plan must be to the satisfaction of the Responsible Authority. Once approved, the plan must be implemented to the satisfaction of the Responsible Authority. The plan must address the following issues:
- (a) measures to control noise, dust and water runoff;
 - (b) prevention of silt or other pollutants from entering into the Council's underground drainage system or road network;
 - (c) the location of where building materials are to be kept during construction;
 - (d) site security;
 - (e) maintenance of safe movements of vehicles to and from the site during the construction phase;
 - (f) on-site parking of vehicles associated with construction of the development;
 - (g) wash down areas for trucks and vehicles associated with construction activities;
 - (h) cleaning and maintaining surrounding road surfaces;
 - (i) requirement that construction works must only be carried out during the following hours:
 - i Monday to Friday (inclusive) – 7.00am to 6.00pm;
 - ii Saturday – 9.00am to 1.00pm;



- iii 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.
- 20 The permit for development will expire in accordance with section 68 of the Planning and Environment Act 1987, if one of the following circumstances applies:
- (a) The development is not started before 2 years from the date of issue.
 - (b) The development is not completed before 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 within six months of the permit expiry date, where the development allowed by the permit has not yet started; or within 12 months of the permit expiry date, where the development has lawfully started before the permit expires.

– **End of conditions** –

