

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P823/2022
PERMIT APPLICATION NO. TPA/51900

CATCHWORDS

Section 87A of the *Planning and Environment Act 1987*; Consent Order.

APPLICANT	I & K Investments Pty Ltd
RESPONSIBLE AUTHORITY	Monash City Council
REFERRAL AUTHORITY	Head, Transport for Victoria
SUBJECT LAND	34-54 Clayton Road CLAYTON VIC 3168
HEARING TYPE	Compulsory Conference
DATE OF HEARING	8 September 2022
DATE OF ORDER	12 September 2022

ORDER

- 1 The hearing listed to commence on **8 November 2022** is cancelled and the date **vacated**.
- 2 The parties to this application for review have advised the Member that they have reached an agreement in relation to the matters in dispute and that they consent to the Tribunal making an order implementing their agreement.
- 3 In application no. P823/2022 the decision of the responsible authority is varied.
- 4 The Tribunal directs that permit no. **TPA/51900** must contain the conditions set out in permit **TPA/51900** issued by the responsible authority on **2 June 2022** with the following modifications:
 45. Unless otherwise agreed in writing by the Head, Transport for Victoria, prior to the commencement of the development, Functional Layout Plans and function stage Road Safety Audit must be submitted to and approved by the Head, Transport for Victoria. When approved by the Head, Transport for Victoria, the plans must be endorsed by the Responsible Authority and will then form part of the permit. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a) Clayton Road signalised intersection to the development, to include:



- i. a southbound bus jump lane.
 - ii. the northern access to the development to be left-out only.
 - iii. a traffic island to enforce left-in-left-out access at the southern access to the development.
 - iv. a left turn deceleration lane for the southern access to the development.
 - v. relocation of the south bound bus stop to the deceleration lane of the southern access to the development.
 - vi. Fairland Avenue access to Clayton Road to be restricted to left-in-left-out only.
 - b) Functional Layout Plan and function stage Road Safety Audit of Clayton Road/Ferntree Gully Road intersection to include:
 - i. a new stand-alone left turn lane from Clayton Road (southern leg) to Ferntree Gully Road with the existing shared lane converted to a through lane only.
 - ii. extension of the right turn lane from Ferntree Gully Road (western leg) to Clayton Road.
 - c) Functional Layout Plan and function stage Road Safety Audit of Princes Highway/Clayton Road intersection to include:
 - i. extension of the right turn lane from Princes Highway (eastern leg) to Clayton Road.
46. Prior to the submission of the Functional Layout Plans for the Princes Highway/Clayton Road intersection, a SIDRA analysis of the Princes Highway/Clayton Road intersection must be conducted to determine the length of the right turn lane from the eastern leg of Princes Highway to Clayton Road, to the satisfaction of and at no cost to the Head, Transport for Victoria.
47. Prior to the commencement of any roadworks, the applicant must submit the detailed engineering design plans and traffic signal plan along with detailed design stage Road Safety Audit to the Head, Transport for Victoria for review and obtain written approval. The detailed design plans and traffic signal plan must be prepared generally in accordance with the approved functional layout plan and functional stage Road Safety Audit.
48. Prior to the occupation of the development, access to Fairland Avenue must be restricted to a left-in-left-out only by a traffic island to the satisfaction of the Responsible Authority.
49. Unless otherwise agreed in writing by the Head, Transport for Victoria, prior to the occupation of stage 1 of the development all roadworks set out under condition 45 a) to facilitate the Clayton Road access must be constructed in accordance with the approved detailed design plan to the satisfaction and at no cost to the Head, Transport for Victoria.



50. Unless otherwise agreed in writing by the Head, Transport for Victoria, prior to the occupation of the relevant stage that results in 1468 car parking spaces of the development, all roadworks set out under condition 45 b) must be constructed in accordance with the approved detailed design plan to the satisfaction and at no cost to the Head, Transport for Victoria.
 51. Unless otherwise agreed in writing by the Head, Transport for Victoria, prior to the occupation of the relevant stage that results in 2450 car parking spaces of the development, all roadworks set out under condition 45 c) must be constructed in accordance with the approved detailed design plan to the satisfaction and at no cost to the Head, Transport for Victoria.
- 5 Conditions 50 to 56 in the permit are renumbered accordingly.
 - 6 The responsible authority is directed to issue a modified permit in accordance with this order.

Frank Dawson
Member



APPEARANCES

For I & K Investments Pty Ltd	Rhodie Anderson, solicitor of Rigby Cooke Lawyers. Jason Walsh, traffic engineer of Traffix Group. Simon Gilbertson. Andrew Langford (applicant representative)
For Monash City Council	Anne Maree Roberts, town planner.
For Head, Transport for Victoria	Saurabh Shirude of Head, Transport for Victoria. Anitha Viswanathan of Head, Transport for Victoria.

REMARKS

- 1 Pursuant to 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.
- 2 The Tribunal regards the consent of the responsible authority to be a confirmation to the Tribunal that:
 - (a) 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*;
 - (b) the proposed orders will not result in any change to the proposed use or development which would materially affect any person other than the parties to the proceeding.
- 3 Based on the information available to the Tribunal, I consider it is appropriate to make these orders.

Frank Dawson
Member

Permit Notes

Although my order does not include the 'Notes' suggested by the Council, such advisory information may be included in the permit that the Council is directed to issue.

