

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

ADMINISTRATIVE DIVISION

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P990/2016
PLANNING APPLICATION NO. TP-2015-742

APPLICANT 88 Pelham Street Pty Ltd
RESPONSIBLE AUTHORITY Melbourne City Council
RESPONDENT Carlton Residents Association Inc.
SUBJECT LAND 86-94 Pelham Street
CARLTON VIC 3053
WHERE HELD Melbourne
BEFORE Nicholas Hadjigeorgiou, Member
HEARING TYPE Compulsory conference
DATE OF HEARING 25 July 2015
DATE OF ORDER 5 August 2016

ORDER

- 1 Pursuant to section 60 of the *Victorian Civil and Administrative Act 1998*, the following person/entity is joined as a party to the proceeding:
Carlton Residents Association Inc.
- 2 The decision of the Responsible Authority is set aside.
- 3 In permit application TP-2015-742 a permit is granted and directed to be issued for the land at 86 – 94 Pelham Street Carlton, in accordance with the endorsed plans and on the conditions set out in Appendix A. The permit allows:
 - Building and works within DDO 47(Construction of building to a height above the DDO 47 preferred height)
 - Development of two or more dwellings in a Mixed Use zone
 - Use of part of the land for an office in excess of 250sqm
 - Reduction in the provision of car parking for office pursuant to c152.06
 - Waiver of the requirement for Parking overlay 12,
 - Waiver of the loading requirements pursuant to clause 52.07



- Reduction of Bicycle parking

4 The hearing scheduled to commence on 5 September 2016 for 4 days is vacated.

Nicholas Hadjigeorgiou
Member

APPEARANCES:

For Applicant	Mr David Vorcheimer, Solicitor, HWL Ebsworth
For Responsible Authority	Mr Colin Charman, Town Planner
For Respondents	Mr Dennis Toth and Mr Warren Green appeared for the Carlton Residents Association Inc



REASONS

- 1 This order is made at the request of the parties and with their consent as an outcome of a compulsory conference.
- 2 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 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*;
 - 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.

Nicholas Hadjigeorgiou
Member



APPENDIX A

VCAT REFERENCE NO:	P990/2016
PERMIT APPLICATION NO:	TP-2015-742
LAND:	86-94 Pelham Street CARLTON VIC 3053
WHAT THE PERMIT ALLOWS:	
<ul style="list-style-type: none"> • Building and works within DDO 47(Construction of building to a height above the DDO 47 preferred height) • Development of two or more dwellings in a Mixed Use zone • Use of part of the land for an office in excess of 250sqm • Reduction in the provision of car parking for office pursuant to c152.06 • Waiver of the requirement for Parking Overlay 12, • Waiver of the loading requirements pursuant to clause 52.07 • Reduction of Bicycle parking <p>in accordance with the endorsed plans.</p>	

CONDITIONS

- 1 Prior to the commencement of the development on the land including demolition or bulk excavation, two copies of plans, drawn to scale must be submitted to the Responsible Authority generally in accordance with the plans tabled at the VCAT compulsory conference dated 25 July 2016 but amended to show.
 - a The further modified floor plans as shown on the plans signed by the parties at the VCAT compulsory conference dated 25 July 2016.
 - b The Pelham and Cardigan Street façade design from ground floor to the third floor amended to include detailed design and articulation that is sympathetic to the building at 96 Pelham Street, Carlton.
 - c The location of all plant (including A/C).
 - d Reduce the framing to the Pelham and Cardigan Street facades above level 3.



- e Provide adequate lighting for pedestrian safety and amenity at all vehicle entry and exit points.
- f Any modifications required by Condition 6 – Wind test.
- g Any modifications required by Condition 7 – Waste Management Plan
- h Any modifications required by Condition 9 – Traffic Impact Assessment

These amended plans must be to the satisfaction of the Responsible Authority and when approved shall be the endorsed plans of this permit.

- 2 The development as shown on the endorsed plans must not be altered or modified unless with the prior written consent of the Responsible Authority.
- 3 Prior to the commencement of the development a schedule and samples of all external materials, colours and finishes including a colour rendered and notated elevation, which depicts the northern elevation to have a light coloured render finish, must be submitted to, and approved by the Responsible Authority.
- 4 Glazing materials used on all external walls must be of a type that does not reflect more than 15% of visible light, when measured at an angle of 90 degrees to the glass surface, to the satisfaction of the Responsible Authority.

Construction Management Plan

- 5 Prior to the commencement of the development, including demolition or bulk excavation, a detailed construction and demolition management plan must be submitted to and be approved by the Responsible Authority – Construction Management Group. This construction management plan must be prepared in accordance with the City of Melbourne - Construction Management Plan Guidelines and is to consider the following:
 - a public safety, amenity and site security.
 - b operating hours, noise and vibration controls.
 - c air and dust management.
 - d stormwater and sediment control.
 - e waste and materials reuse.
 - f traffic management.

Wind Tests

- 6 Prior to the commencement of the development (excluding demolition or bulk excavation) wind tests carried out by a suitably qualified consultant, must be carried out on a model of the approved building. A report detailing the outcome of the testing must be submitted to and be to the satisfaction of the Responsible Authority. The report must also recommend any modifications which must be made to the design of the building to reduce



any adverse wind conditions in areas used by pedestrians, to the satisfaction of the Responsible Authority. The recommendations of the report must be implemented at no cost to the Responsible Authority and must not include reliance on street trees.

Waste Management

- 7 Prior to the commencement of development (excluding demolition or bulk excavation), a Waste Management Plan (WMP) to the satisfaction of the Responsible Authority shall be prepared and submitted to the City of Melbourne - Engineering Services. The WMP should detail waste storage and collection arrangements and comply with the City of Melbourne Guidelines for Preparing a Waste Management Plan 2015. Waste storage and collection arrangements must not be altered without the prior consent of the City of Melbourne - Engineering Services.
- 8 All waste must be stored and handled within the site. Bins must not be placed outside the property boundary for collection.

Traffic Impact Assessment

- 9 Prior to the commencement of development (excluding demolition or bulk excavation), a Traffic Impact Assessment (TIA) report to the satisfaction of the Responsible Authority shall be prepared and submitted to the City of Melbourne – Engineering Services. The TIA must demonstrate a layout for all vehicle parking and driveways on-site that demonstrates compliance with relevant Australian Standards and the design standards of the Melbourne Planning Scheme to the satisfaction of the Responsible Authority.

3D Model

- 10 Prior to the commencement of the development (excluding demolition or bulk excavation) a 3D digital model of the approved development must be submitted to, and must be to the satisfaction of the Responsible Authority. The model should be prepared having regard to the Advisory Note - 3D Digital Modelling City of Melbourne. Digital models provided to the City of Melbourne may be shared with other government organisations for planning purposes. The City of Melbourne may also derive a representation of the model which is suitable for viewing and use within its own 3D modelling environment. In the event that substantial modifications are made to the building envelope a revised 3D digital model must be submitted to, and be to the satisfaction of the Responsible Authority.

Contaminated Land and Remediation

- 11 Prior to the commencement of the development (including demolition and bulk excavation) the applicant must carry out a Preliminary Environmental Assessment (PEA) of the site to determine if it is suitable for the intended use(s). This PEA must be submitted to, and be approved by the Responsible Authority.



Authority prior to the commencement of the development. The PEA should include:

- Details of the nature of the land uses previously occupying the site and the activities associated with these land uses. This should include details of how long the uses occupied the site.
- A review of any previous assessments of the site and surrounding sites including details of the anticipated sources of any contaminated materials.

12 Should the PEA reveal that further investigative or remedial work is required to accommodate the intended use(s), then prior to the commencement of the development (including demolition and bulk excavation) the applicant must carry out a Comprehensive Environmental Assessment (CEA) of the site to determine if it is suitable for the intended use(s). This CEA must be carried out by a suitably qualified environmental professional who is a member of the Australian Contaminated Land Consultants Association or a person who is acceptable to the Responsible Authority. This CEA must be submitted to, and be approved by the Responsible Authority prior to the commencement of the development. The CEA should include:

- Details of the nature of the land uses previously occupying the site and the activities associated with these land uses. This includes details of how long the uses occupied the site.
- A review of any previous assessments of the site and surrounding sites, including details of any on-site or off-site sources of contaminated materials. This includes a review of any previous Environmental Audits of the site and surrounding sites.
- Intrusive soil sampling in accordance with the requirements of Australian Standard (AS) 4482.1. This includes minimum sampling densities to ensure the condition of the site is accurately characterised.
- An appraisal of the data obtained following soil sampling in accordance with ecological, health-based and waste disposal guidelines.
- Recommendations regarding what further investigate and remediation work, if any, may be necessary to ensure the site is suitable for the intended use(s).

Prior to the occupation of the building, the applicant must submit to the Responsible Authority a letter confirming compliance with any findings, requirements, recommendations and conditions of the CEA.

13 Should the CEA recommend that an Environmental Audit of the site is necessary then prior to the commencement of the development (including demolition and bulk excavation) the applicant must provide either:



a A Certificate of Environmental Audit in accordance with Section 53Y of the Environment Protection Act 1970;

or

b A Statement of Environmental Audit in accordance with Section 53Z of the Environment Protection Act 1970. This Statement must confirm that the site is suitable for the intended use(s).

- 14 Where a Statement of Environmental Audit is provided, all the conditions of this Statement must be complied with to the satisfaction of the Responsible Authority and prior to the occupation of the building. Written confirmation of compliance must be provided by a suitably qualified environmental professional who is a member of the Australian Contaminated Land Consultants Association or other person acceptable to the Responsible Authority. In addition, the signing off of the Statement must be in accordance with any requirements in it regarding the verification of works.

If there are conditions on the Statement that the Responsible Authority consider requires significant ongoing maintenance and/or monitoring, the applicant must enter into a legal agreement in accordance with Section 173 of the Planning and Environment Act 1987 with the Responsible Authority. This Agreement must be executed on title prior to the occupation of the building. The owner of the site must meet all costs associated with the drafting and execution of this agreement including those incurred by the Responsible Authority.

Civil Conditions

- 15 All projections over the street alignment must be drained to a legal point of discharge in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services
- 16 Prior to the commencement of the development, a stormwater drainage system, incorporating integrated water management design principles, must be submitted to and approved by the Responsible Authority – Engineering Services. This system must be constructed prior to the occupation of the development and provision made to connect this system to the City of Melbourne’s underground stormwater drainage system.
- 17 Prior to the commencement of the use/occupation of the development, all necessary vehicle crossings must be constructed and all unnecessary vehicle crossings must be demolished and the footpath, kerb and channel reconstructed, in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services.
- 18 The footpaths adjoining the site along Pelham Street and Cardigan Street must be reconstructed together with associated works including the reconstruction or relocation of kerb and channel and/or services as necessary at the cost of the developer, in accordance with plans and



specifications first approved by the Responsible Authority – Engineering Services.

- 19 Existing street levels in Pelham Street and Cardigan Street must not be altered for the purpose of constructing new vehicle crossings or pedestrian entrances without first obtaining approval from the Responsible Authority – Engineering Services
- 20 Existing public street lighting must not be altered without first obtaining the written approval of the Responsible Authority – Engineering Services.

Urban Landscapes Conditions

- 21 Existing public street lighting must not be altered without first obtaining the written approval of the Responsible Authority – Engineering Services.
- 22 Prior to commencement of works Tree Protection Management Plan (TPMP) to the satisfaction of the Urban Sustainability Branch is required to be submitted that outlines how Council trees will be protected during construction.
- 23 A bank guarantee equivalent to the combined environmental and amenity values of any council tree will be held against the TPMP for the duration of construction activities. Should any tree be adversely impacted on, the City Of Melbourne will be compensated for any loss of amenity, ecological services or amelioration works incurred.
- 24 All construction and development works near council owned and managed trees must abide by the protection and retention requirements outlined in Council’s Tree Retention and Removal Policy.
- 25 Gantry and hoardings including placement of the footings and gantry structure must not adversely impact trees. See City Of Melbourne Tree protection fact sheet.

PERMIT EXPIRY

- 26 This permit will expire if one or more of the following circumstances apply:
 - a The development is not started within two years of the date of this permit.
 - b The development is not completed within four years of the date of this permit.

The Responsible Authority may extend the permit if a request is made in writing before the permit expires, or within six months afterwards.

The Responsible Authority may extend the time for completion of the permit if a request is made in writing within 12 months after the permit expires and the development started lawfully before the permit expired.

--- End of Conditions ---

