

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

ADMINISTRATIVE DIVISION

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P2440 2016
APPLICATION NO 676/2016

APPLICANT Graham Street Projects Pty Ltd
RESPONSIBLE AUTHORITY Port Phillip City Council
SUBJECT LAND 279 Graham Street
PORT MELBOURNE VIC 3207
WHERE HELD Melbourne
BEFORE E A Bensz, Member
HEARING TYPE Compulsory Conference
DATE OF HEARING 16 March 2017
DATE OF FINAL ORDER 01 May 2017
DATE OF CORRECTION ORDER 17 May 2017

CORRECTING ORDER

- 1 Pursuant to Section 119 of the *Victorian Civil and Administrative Tribunal Act 1998*, the Tribunal's Order in Application No. 676/2016 dated 01 May 2017 is corrected as follows:

Condition 1 a) is amended to read:

Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and an electronic copy must be provided. The plans must be generally in accordance with the plans TP10F, 11F, 12E, 13F, 20F, 21F, 22F, 23E, 30E, 31E all dated 22 March 2017 but modified to show:

Condition 3 is amended by deleting the whole of 3a) and renumbering the condition parts accordingly

- 2 The amended order is attached at Appendix A.

E A Bensz
Member

REASONS

- 1 By order dated 1 May 2017, the Tribunal ordered that an Order be issued in relation to Application No. P2440 2016.
By email dated 3 May 2017 Planning Property Partners Pty Ltd drew the Tribunal's attention to what they suggested was an error within the Tribunal's order, and submitted that the Order should be corrected.
- 2 Section 119 of the *Victorian Civil and Administrative Tribunal Act 1998* provides that the Tribunal may correct an order made by it if the order contains:
 - a clerical mistake.
- 3 I am satisfied that a mistake or error has occurred here, comprising a clerical mistake and find it appropriate to authorise a correction of the order.
- 4 The corrected order is attached at Appendix A.

E A Benz
Member

APPENDIX A – PERMIT CONDITIONS

PERMIT APPLICATION NO	P2440/2016
LAND	279 Graham Street, PORT MELBOURNE.

WHAT THE PERMIT ALLOWS

Construction of a four storey, multi dwelling development, a dispensation in car parking and the alteration of access to a Road Zone, Category 1.
In accordance with the endorsed plans:

Conditions

1 Amended Plans Required

Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and an electronic copy must be provided. The plans must be generally in accordance with the plans TP10F, 11F, 12E, 13F, 20F, 21F, 22F, 23E, 30E, 31E all dated 22 March 2017 but modified to show:

- a) The garages on the ground floor extended to 6.0m in length.
- b) Details of site distance triangles for the new vehicle crossing on Princes Street designed in accordance with the relative Australian Standards.
- c) Details of the water tanks that are to be provided to satisfy WSUD (either in one large tank or individual tanks per townhouses).
- d) All plant, equipment and domestic services (including air conditioning, heating units, hotwater systems, etc.) which are to be located externally.
- e) Screening of the rear south facing level 1 and level 2 windows, and roof deck of townhouse 7 in accordance with the provisions of Clause 55.04-6 (Standard B22) of the Port Phillip Planning Scheme. Where louvre or batten screening is to be used, cross section elevation drawings of the screens must be submitted to and approved by the Responsible Authority. The drawings must:
 - Be drawn to scale and fully dimensioned;
 - Clearly delineate any solid parts of the screen and any louvre or batten parts of the screen;
 - Clearly illustrate how any louvre or batten system may allow horizontal or upward views but will prevent downward views to neighbouring properties;
 - Show the exact width and thickness of each louvre or batten, the exact spacing between each louvre or batten and a section detail from behind

the screen demonstrating that direct views of adjacent private open space are precluded, while allowing outlook horizontally and upward from the balcony and/or window.

- f) Any changes required by conditions 3 (SDA), 4 (WSUD) and 6 (Waste Management)
- g) Modification to the roof deck of Dwelling 1 as required to prevent overshadowing at the equinox of the solar panels on the roof of the dwelling at 269 Graham Street Port Melbourne. (refer plan nos. TP13 Rev F, TP30 and 31 Rev E).
- h) Installation of convex mirrors to the rear laneway to ensure safe ingress/egress for vehicles to both the subject site and 126 Princes Street, Port Melbourne.

2. No Alterations

The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason without the prior written consent of the Responsible Authority, unless the Port Phillip Planning Scheme exempts the need for a permit.

3. Sustainable Design Assessment

Before the development starts (other than demolition or works to remediate contaminated land) a Sustainable Design Assessment (SDA) must be submitted to and approved by the Responsible Authority. Upon approval the SDA will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the SDA to the satisfaction of the Responsible Authority. Amendments to the SDA must be incorporated into plan changes required under Condition 1. The report must be generally in accordance with the SDA prepared by Arc Resources dated 29 August 2016 submitted with the application but updated to address the following:

- a) A maintenance programme and site management plan.

4. Water Sensitive Urban Design

Before the development starts (other than demolition or works to remediate contaminated land) a Water Sensitive Urban Design Report similar to that submitted with the application, that outlines proposed water sensitive urban design initiatives must be submitted to, be to the satisfaction of and approved by the Responsible Authority. The report must demonstrate how the development meets the water quality performance objectives as set out in the Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO) or as amended.

When approved, the Report will be endorsed and will then form part of the permit and the project must incorporate the sustainable design initiatives listed.

5. Maintenance Manual for Water Sensitive Urban Design Initiatives

Before the development starts (other than demolition or works to remediate contaminated land) a Maintenance Manual for Water

Sensitive Urban Design Initiatives must be submitted to and approved by the Responsible Authority.

The manual must set out future operational and maintenance arrangements for all WSUD (stormwater management) measures. The program must include, but is not limited to:

- inspection frequency
- cleanout procedures
- as installed design details/diagrams including a sketch of how the system operates

The WSUD Maintenance Manual may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Builder' User's Guide or a Building Maintenance Guide.

6. Waste Management

Before the development starts (other than demolition or works to remediate contaminated land), a Waste Management Plan (WMP) must be submitted to and be to the satisfaction of the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The Waste Management Plan must be generally in accordance with the Waste Management Plan submitted with the application.

Without the further written consent of the responsible authority, waste management for the proposal must be in accordance with the endorsed Waste Management Plan to the satisfaction of the responsible authority.

VicRoads condition

7. Vehicle crossings - Removal Graham Street

The disused or redundant vehicle crossing along the Graham Street property frontage must be removed and the area reinstated to kerb, channel and footpath to the satisfaction of and at no cost to VicRoads (the Roads Corporation).

End Vic Roads Condition

8. Vehicle Crossings – Removal Princes Street

Before the occupation of the development allowed by this permit, all disused or redundant vehicle crossings must be removed and the area re-instated with footpath, nature strip and kerb and channel at the cost of the applicant/owner and to the satisfaction of the Responsible Authority.

9. Vehicle Crossing – Construction

Before the occupation of the development allowed by this permit, vehicle crossings must be constructed in accordance with Council's current Vehicle Crossing Guidelines and standard drawings to the satisfaction of the Responsible Authority.

All redundant crossings must be removed and the footpath, nature strip kerb and road reinstated as necessary at the cost of the applicant/owner and to the satisfaction of the Responsible Authority.

10. Walls On or Facing the Boundary

Prior to the occupation of the building(s) allowed by this permit, all new or extended walls on or facing the boundary of adjoining properties and/or the laneway must be cleaned and finished to a uniform standard. Unpainted or unrendered masonry walls must have all excess mortar removed from the joints and face and all joints must be tooled or pointed to the satisfaction of the responsible authority. Painted or rendered or bagged walls must be finished to a uniform standard to the satisfaction of the responsible authority.

11. Site Management Water Sensitive Urban Design

The developer must ensure that:

- a) No water containing oil, foam, grease, scum or litter will be discharged to the stormwater drainage system from the site;
- b) All stored wastes are kept in designated areas or covered containers that prevent escape into the stormwater system;
- c) The amount of mud, dirt, sand, soil, clay or stones deposited by vehicles on the abutting roads is minimised when vehicles are leaving the site.
- d) No mud, dirt, sand, soil, clay or stones are washed into, or are allowed to enter the stormwater drainage system;
- e) The site is developed and managed to minimise the risks of stormwater pollution through the contamination of run-off by chemicals, sediments, animal wastes or gross pollutants in accordance with currently accepted best practice.

12. Environmental Assessment - Audit May Not Be Required

The following conditions apply in respect of environmental condition, monitoring and remediation of land:

- Before the development starts (excluding works necessarily forming part of the environmental audit process), a preliminary site assessment of the land must be conducted by a suitably qualified professional in accordance with the National Environment Protection Measure (Assessment of Site Contamination) 1999 as amended from time to time and the findings of that assessment must be submitted to the Responsible Authority.
- Having regard to the Preliminary Assessment, if the Responsible Authority is satisfied that further assessment of the potential contamination of the land is required:
 - An appointed auditor must be engaged pursuant to Section 53U of the Environment Protection Act 1970 to perform an environmental audit of the land.
 - An environmental audit report must be produced in accordance with Section 53X of the Environment Protection Act 1970 must be provided to the Responsible Authority and

- A **Certificate or Statement of Environmental Audit** must be provided to the Responsible Authority.
- Where a Statement of Environmental Audit is issued for the land:
 - Development and/or use allowed by this permit must comply with any condition attached to the statement unless a certificate of environmental audit is subsequently issued for the land; and
 - At the direction of the Responsible Authority, an agreement must be prepared and entered into by the owner, at the owner's cost, pursuant to Section 173 of the Planning and Environment Act 1987 to facilitate notification of future occupiers of the land of any conditions attached to the statement of environmental audit; and
 - Prior to any use provided by this permit commencing, a letter prepared by an appointed auditor must be submitted to the Responsible Authority verifying that all conditions attached to the statement of environmental audit have been complied with.

13. Piping and Ducting

All piping and ducting (excluding down pipes, guttering and rainwater heads) must be concealed to the satisfaction of the Responsible Authority.

14. No Equipment or Services

Any plant, equipment or domestic services visible from a street (other than a lane) or public park must be located and visually screened to the satisfaction of the responsible authority.

15. Privacy Screens Must Be Installed

Privacy screens as required in accordance with the endorsed plans must be installed prior to occupation of the building to the satisfaction of the Responsible Authority and maintained thereafter to the satisfaction of the Responsible Authority.

16. Lighting Baffled

All lighting of external areas must be suitably baffled so as not to cause nuisance or annoyance to nearby residential properties.

17. Services to be underground

All basic services to the property including water, electricity, gas, sewerage, telephone and telecommunications (whether by means of a line or cable) must be installed underground and located in a position approved by the responsible authority.

18. SEPP N1

All air conditioning and refrigeration plant must be screened and baffled and/or insulated to minimize noise and vibration to other residences.

19. Parking Areas must be available

Car parking areas and access lanes must be kept available for those purposes at all times and must not be used for any other purpose such as storage.

20. Car parking allocation

A minimum of eleven car parking spaces must be provided on the land for the development to the satisfaction of the Responsible Authority.

21. Tandem Car Parking and Car Stacker Parking Allocation

Each set of tandem car parking spaces, or pair of vehicle stacker parking spaces must be allocated to one residential unit respectively.

22. Port Melbourne Development Contribution Levy

- (1) Prior to the commencement of the development hereby permitted the permit holder must either;
 - (a) Pay or provide a bank guarantee, insurance bond or similar security to the satisfaction of the Responsible Authority for the full amount of the development levy applying to the land in accordance with the provisions of the Port Melbourne Mixed-Use Area Development Contribution Plan (Streetscape Works) July 1999 which is an incorporated plan under the Port Phillip Planning Scheme (the DCP) or
 - (b) Elect by notice in writing to Council to carry out the works (the Works) generally in accordance with the plans of the streetscape works provided by the owner and consented to by Council.
- (2) If the election referred to (1)(b) is made, the following provisions must apply;
 - (a)
 - (i) Prior to the commencement of the Works, plans and specifications of the works must be submitted to council its approval once approved, the Works must be carried out only in accordance with such plans and specifications subject to any amendments the council may agree to.
 - (ii) Unless otherwise agreed in writing by the council, the Works must be completed to the satisfaction of Council prior to the issue of a certificate of occupancy.
 - (b)
 - (i) As security for carrying out the Works, on approval by the Council of the plans and specifications for the works, the owner must lodge with the council a bank guarantee or insurance bond for the value of the Works.
 - (ii) The council must be entitled to call upon such security to meet the cost of carrying out or completing the works as the case may be in the event that the works have not been completed to its satisfaction completion date.
 - (iii) The bank guarantee or insurance bond must be returned to the owner immediately upon Council advising the Owner in

writing that the streetscape works have been completed to its satisfaction.

- (3) If the works are carried out on behalf of the Owner, the Owner must pay to the Council supervision fee determined in accordance with the subdivision act 1998 and supervision of the works

23. Time for Starting and Completion

This permit will expire if one of the following circumstances applies:

- a) The development is not started within two years of the date of this permit.
- b) The development is not completed within two years of the date of commencement of works.

The Responsible Authority may extend the periods referred to if a request is made in writing before or within 6 months after the permit expiry date, where the use or development allowed by the permit has not yet started; and within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

End of Conditions.