

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

ADMINISTRATIVE DIVISION

**PLANNING AND ENVIRONMENT
LIST**

VCAT REFERENCE NO. P2257/2016
PERMIT APPLICATION NO. 536/2016

| | |
|------------------------------|---|
| APPLICANTS | Michael Kathopoulos & Bill Papastergiadis |
| RESPONSIBLE AUTHORITY | Port Phillip City Council |
| RESPONDENT | J & J Lauritx and Others |
| SUBJECT LAND | 70-72 Albert Street, Port Melbourne |
| BEFORE | Nicholas Hadjigeorgiou, Member |
| HEARING TYPE | Compulsory Conference |
| DATE OF HEARING | 7 March 2017 |
| DATE OF ORDER | 24 April 2017 |

ORDER

1. The decision of the Responsible Authority is set aside.
2. The hearing scheduled at 10.00 am on 26 April 2017 is vacated. No attendance is required.
3. Pursuant to section 127 and clause 64 of Schedule 1 of the Victorian Civil & Administrative Tribunal Act 1998, the permit application is amended by the substitution of the plans prepared by Metaxas Architects Pty Ltd (Project No. 15.029; Revision F) numbered TP2.01 (plot date 9 March 2017), TP2.02 (plot date 9 March 2017), TP2.03 (plot date 14 March 2017), TP2.04 (plot date 14 March 2017), drawing TP2.05 (plot date 9 March 2017), and TP3.01 (plot date 9 March 2017).
4. In planning permit application 536/2016 a permit is granted and directed to be issued for the land at 70-72 Albert Street, Port Melbourne in accordance with the endorsed plans and the conditions set out in Annexure A. The permit allows:
 - Full demolition of the existing buildings and construction of a three storey building with a basement containing nine dwellings and a reduction of the car parking requirements.
5. No order as to costs.

Nicholas Hadjigeorgiou
Member



REASONS

- 1 This order is made at the request of the parties and with their consent as an outcome of a compulsory conference and further discussions between the parties.
- 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

ANNEXURE A

PERMIT CONDITIONS

| | |
|-------------------------------|-------------------------------------|
| VCAT REFERENCE NO. | P2257/2016 |
| PERMIT APPLICATION NO. | 536/2016 |
| RESPONSIBLE AUTHORITY | Port Phillip City Council |
| LAND: | 70-72 Albert Street, Port Melbourne |

WHAT THE PERMIT ALLOWS:

In accordance with the endorsed plans:

- Full demolition of the existing buildings and construction of a three storey building with a basement containing nine dwellings and a reduction of the car parking requirements.

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 three copies must be provided. The plans must be generally in accordance with the plans prepared by Metaxas Architects Pty Ltd (Project No. 15.029; Revision F) numbered TP2.01 (plot date 9 March 2017), TP2.02 (plot date 9 March 2017), TP2.03 (plot date 14 March 2017), TP2.04 (plot date 14 March 2017), drawing TP2.05 (plot date 9 March 2017), and TP3.01 (plot date 9 March 2017) but modified to show:

- a) Any changes required by the Sustainable Design Assessment at Condition 3.
- b) Any changes required by the Water Sensitive Urban Design Reports at Conditions 4 and 5.
- c) The fencing on the street frontages to have a minimum of 25% transparency.
- d) All plant, equipment and domestic services (including air conditioning, heating units, hotwater systems, etc.) which are to be located externally.
- e) All plan and elevation drawings fully dimensioned, including natural ground level, floor levels, and incremental and total wall and building heights and lengths, with heights to be expressed to Australian Height Datum (AHD) and/or reduced levels.
- f) Screening of the first and second floor southern bedroom windows of dwellings 204 and 302 to limit the views into the habitable windows of No.31 Ross Street 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.
- g) Schedule of external finishes generally in accordance with Finishes Schedule Drawing TP7.02 (Revision Di, dated 7 July 2016) prepared by Metaxas Architects.

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) an amended Sustainable Design Assessment that outlines proposed sustainable design initiatives must be submitted to and approved by the Responsible Authority. Upon approval the Assessment will be endorsed as part of the planning permit and the project must incorporate the sustainable design initiatives listed.

4. Water Sensitive Urban Design

Before the development starts (other than demolition or works to remediate contaminated land) an amended Water Sensitive Urban Design Report 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. Alteration/Reinstatement of Council or Public Authority Assets

Before the occupation of the development allowed by this permit, the Applicant/ Owner shall do the following things to the satisfaction of the Responsible Authority:

- (a) Pay the costs of all alterations/reinstatement of Council and Public Authority assets necessary and required by such Authorities for development.
- (b) Obtain the prior written approval of the Council or other relevant Authority for such alterations/reinstatement.
- (c) Comply with conditions (if any) required by the Council or other relevant Authorities in respect of reinstatement.

7. Vehicle Crossing

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.

8. 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.

9. 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.

10. Piping and Ducting

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

11. 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.

12. 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.

13. Lighting Baffled

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

14. Number of Dwellings

Without the further written consent of the Responsible Authority, no more than nine dwellings may be constructed on the land.

15. 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.

16. SEPP N1

All air conditioning and refrigeration plant must be screened and baffled and/or insulated to minimize noise and vibration to other residences to ensure compliance with noise limits determined in accordance with State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1.

17. 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.



18. Waste Management

Prior to the endorsement of the plans under Condition 1, 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.

19. Car parking allocation

Without the further written consent of the Responsible Authority, not less than one car space for each apartment must be allocated on any Plan of Subdivision.

20. North-west terrace to Dwelling 201

In respect of the north-west first floor terrace to Dwelling 201 (that is, the terrace that faces Albert Street), any canopy, eve, awning, overhang or the like must be setback not less than 1,978 mm from the north-west boundary of the Subject Land.

21. 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.

