

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P382/2022

APPLICANT	KW Tower Pty Ltd
RESPONSIBLE AUTHORITY	Port Phillip City Council
RESPONDENTS	David Ian MacGowan Karen Baynes George Swinburne John Tabart & John Herbert
REFERRAL AUTHORITIES	Head, Transport for Victoria Melbourne Water
SUBJECT LAND	313-317 Kings Way SOUTH MELBOURNE VIC 3205
HEARING TYPE	Compulsory conference
DATE OF HEARING	4 July 2022
DATE OF ORDER	4 July 2022

ORDER

- 1 The details set out in the Tribunal's initiating and practice day hearing orders are **changed**.
- 2 The proceeding is listed for hearing on the dates and for the times as detailed below.

The hearing will be at 55 King Street, Melbourne.

If there is any change to these details, the Tribunal will notify you.

Major Cases Hearing:	
Date and time	8, 9, 12, 13, 14 and 15 September 2022 10:00am – 4:30pm
Conduct	Online

The details of the online platform will be provided to the parties before the hearing.

Providing submissions and associated material before the hearing

- 3 No later than **1 September 2022**, the parties must provide an electronic copy of their submissions and associated material (such as supporting



documentation, case law and photographs) to the Tribunal and all parties. The copy for the Tribunal must be sent to admin@vcat.vic.gov.au

- 4 All expert evidence must be filed and served in accordance with the Tribunal's Practice Note PNVCAT2 Expert Evidence except a varied below.

Draft Conditions

- 5 No later than **1 September 2022** the responsible authority must give the Tribunal and all parties a draft of the conditions to which the permit should be subject if it is granted.

The draft conditions must be provided to the Tribunal in electronic Word format and must be sent to planningconditions.vcat@courts.vic.gov.au

Tribunal Book

- 6 No later than **12 noon 5 September 2022**, the applicant must provide a Tribunal Book to the Tribunal and all parties. One electronic copy of the Tribunal Book must be provided to the Tribunal. The electronic copy for the Tribunal must be sent to admin@vcat.vic.gov.au

Information on the content and format requirements of the Tribunal Book is available at www.vcat.vic.gov.au

Variation of PNPE9 – amendment of permit application and plans

- 7 If the applicant makes an application to amend the permit application by substituting new plans for the permit application plans this must be undertaken in accordance with VCAT Practice Note – PNPE9 *Amendment of Planning Permit Applications and Plans* (as amended on 1 July 2020) except that:

- (a) The timeframes in column 3 of Table 1 are varied as follows:
 - (i) **Notice given in person or by email:** must be delivered or emailed to the recipients by no later than **21 July 2022**.
 - (ii) **Notice given by post:** must be put in the post by no later than **21 July 2022**.

- 8 By no later than **26 July 2022**, the permit applicant must provide a clearly readable paper copy, with dimensions, of any amended plans, highlighting where changes have been made or other supporting material to the following parties:

- (a) John Tabart
- (b) George Swinburne
- (c) Karen Baynes
- (d) David Ian McGowan



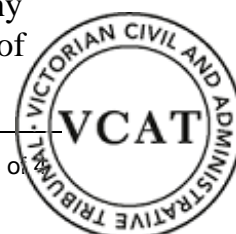
- 9 The permit applicant must also provide a clearly readable, scaled copy, with dimensions, of any amended plans, highlighting where changes have been made to any other party, objector or person notified of the permit application whether that request is made orally or in writing as soon as practicable after the request is made.
- 10 The permit applicant must provide the responsible authority with a copy of the plans and/or other material in electronic PDF form and the responsible authority must publish the plans and material on its website as soon as practicable after receiving them.

Witness material (representative order)

- 11 The requirements of VCAT Practice Note PNVCAT 2 Expert Evidence are varied.
- 12 It will be sufficient compliance with the requirements of clause 24 of VCAT's Practice Note – PNVCAT2 *Expert Evidence* for parties provide an electronic copy of any reports or statements containing the evidence in chief of any expert upon whose evidence they intend to rely at the hearing to the Tribunal and all other parties. The copy for the Tribunal must be sent to admin@vcat.vic.gov.au
- 13 In addition to an electronic copy, the applicant, responsible authority and Head, Transport for Victoria must provide a paper copy of any reports or statements containing the evidence in chief of any expert upon whose evidence they intend to rely at the hearing to the following parties:
 - (a) John Tabart
 - (b) George Swinburne
 - (c) Karen Baynes
 - (d) David Ian McGowan
- 14 A paper, colour copy of the evidence report/s or statement/s must be provided to any other party who requests a copy.
- 15 Expert witness reports relating to **traffic, vehicle access and parking** must be filed with the Tribunal and served on the other parties by **18 August 2022**.
- 16 Expert witness reports relating to other matters must be filed with the Tribunal and served on the other parties by **25 August 2022**.
- 17 The responsible authority must publish the expert reports on its website as soon as practicable after receiving them.

Witness material (meeting of experts)

- 18 The expert witnesses retained by any party to give evidence on **traffic, vehicle access and parking** must meet prior to the hearing to narrow any points of difference between them and to identify any remaining points of



difference. By **29 August 2022** the parties must give the Tribunal and all other parties an electronic copy of a joint report that includes the following:

- the matters agreed and not agreed by the experts
- the reasons for any agreement or disagreement
- the facts and assumptions of fact on which the matters of agreement or disagreement are based

The copy for Tribunal must be sent to admin@vcat.vic.gov.au

19 A paper copy of the joint report must also be served on the following parties at the same time:

- (a) John Tabart
- (b) George Swinburne
- (c) Karen Baynes
- (d) David Ian McGowan

Head, Transport for Victoria - Statement of grounds

20 The Head, Transport for Victoria must file with the Tribunal and give to the other parties a statement of grounds on which it intends to rely at the hearing by **12 July 2022**.

S. R. Cimino
Senior Member

APPEARANCES

For applicant	Jarryd Gray, lawyer, MinterEllison
For responsible authority	Romy Davidov, lawyer, Best Hooper
For Head, Transport for Victoria	Gillian Menegas, town planner
For respondents	John Tabart, Karen Baynes, George Swinburne and David Ian MacGowan

