

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P942/2023

APPLICANT BCentral Johnson Pty Ltd
RESPONSIBLE AUTHORITY Monash City Council
SUBJECT LAND 12-14 Johnson Street & 1 Mill Road
OAKLEIGH VIC 3166
HEARING TYPE Compulsory conference
DATE OF HEARING 24 October 2023
DATE OF ORDER 3 November 2023

ORDER

- 1 Application no. P942/2023 is allowed.
- 2 Permit no. TPA/51498/A is amended and it is directed that an amended permit be issued for land at 12-14 Johnson Street & 1 Mill Road OAKLEIGH VIC 3166
- 3 The description of what the permit allows is unchanged.
- 4 Conditions are amended to read as set out in Appendix A.
- 5 The Hearing scheduled on 24 January 2024 for 1 day is vacated. No attendance is required.
- 6 No orders as to costs.

Nicholas Hadjigeorgiou
Member



APPEARANCES

For applicant	Jarryd Gray solicitor, Minter Ellison and Tal Goldman
For responsible authority	Alexandra Wade & Sally Moser Town Planners

REMARKS

Full settlement

- 1 This matter involves an application pursuant to section 87A(2)(a) of the *Planning and Environment Act 1987* to amend an existing permit at 12 – 14 Johnson St & 1 Mill Rd Clayton.
- 2 This order is made at the request of the parties and with their consent as an outcome of a compulsory conference.
- 3 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 /amended permit is appropriate having regard to the matters it is required to consider under section 60 of the *Planning and Environment Act 1987 (Act)*, including the balanced application of the strategies and policies of the Monash Planning Scheme (**Planning Scheme**) and is otherwise in conformity with the provisions of the Planning Scheme and the Act;
 - the proposed orders will not result in any change to the proposed use/development which would materially affect any person other than the parties to the proceeding.
- 4 Based on the information available to the Tribunal, I consider it is appropriate to give effect to the settlement reached by the parties pursuant to section 93(1) of the *Victorian Civil and Administrative Tribunal Act 1998*.

Nicholas Hadjigeorgiou
Member



APPENDIX A

PERMIT APPLICATION NO:	TPA/51498/A
LAND:	12-14 Johnson Street & 1 Mill Road OAKLEIGH VIC 3166
WHAT THE PERMIT ALLOWS:	
<ul style="list-style-type: none"> Construction of mixed use development including office and retail, use of land for accommodation and a reduction in the standard car parking requirement <p>in accordance with the endorsed plans.</p>	

CONDITIONS

Amended Plans Required

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale and dimensioned. When the plans are endorsed they will then form part of the Permit. The plans must be generally in accordance with the plans prepared by Bruce Henderson Architects, Plan nos. TP-203 – TP-212 (Revision D dated 27 June 2023), TP-301 – TP-306 & and TP-501 – TP-502 (Revision D dated 5 July 2023), and TP-401 – TP-404 (Revision D dated 27 June 2023) but modified to show:
 - (a) A Waste Management Plan in accordance with Condition 4 of this Permit.
 - (b) A Sustainable Design Assessment to be prepared in accordance with Condition 8 of this Permit.
 - (c) The following changes generally as shown on the plans prepared by Bruce Henderson Architects, Plan nos. SK-210, SK-302, SK-303, SK-304, SK-305 (Revision 1 dated 1 November 2023):
 - i Apartment 605 deleted.
 - ii The square panels shown in the lighter grey colour on the east side of Apartments 306, 406 & 506 changed to match the vertical panelling in the darker grey colour shown on the east side of 305, 405, 505.
 - iii The square panels shown in the lighter grey colour on the north and west sides of Apartments 307, 407, 507 and 606 changed to a darker grey colour.
 - iv Window element/s to the eastern façade of the accessway to Apartments 606 and 607.
 - (d) The basement car park to comply with the requirements in Diagram 1 of Clause 52.06-9 of the Monash Planning Scheme.

- (e) Further details of stop line locations and management of the ramp to the basement car park.
- (f) An acoustic report in accordance with condition 31 and changes in accordance with the recommendation of the acoustic report.
- (g) A wind impact assessment in accordance with condition 32 and changes in accordance with the recommendation of the assessment.

All to the satisfaction of the Responsible Authority.

Layout not to be Altered

- 2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
- 3. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

Waste Management Plan

- 4. Concurrent with the endorsement of any plans pursuant to Condition 1, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The plan must be generally in accordance with the plan prepared by RB Waste Consulting Service dated 3 November 2022, but showing to the satisfaction of the Responsible Authority:
 - a) The TPA number and streets address in the development description.
 - b) Correct waste volume calculation and total waste generated per waste stream.
 - c) Waste collection and bin numbers detailed.
 - d) Bin storage equipment insides premises.
 - e) Waste collection process supported by scaled plans in the Waste Management plan.
 - f) Details of responsibility for the operation of the waste management system outlined.
 - g) Waste management communications strategy for occupiers outlined.
 - h) Management of food waste recycling described.
 - i) The management of separate glass recycling to be planned for and addressed.
 - j) Inclusion of e-waste management details and provision within the waste storage area.
 - k) Reference to the legislated ban to landfill for e-waste to inform the site operator and tenants of their obligations to prevent e-waste entering the garbage waste system.
 - l) Bin colours.
 - m) Reference to EPA guidelines and City of Monash Local Law for permitted waste collection hours.
 - n) Further clarification of how waste is to be managed within tenancies.
 - o) Detail of how cleaners will know how to handle waste correctly, and who will monitor this.



- p) A scale drawing to be included within the plan, showing bin storage areas, equipment and features, access routes, strategy for bin transfer and swept path analysis for collection vehicles.
5. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Green Travel Plan

6. Before the development commences, a Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Green Travel Plan will be endorsed and will form part of this permit. The Green Travel Plan must include, but not be limited to, the following:
- (a) A description of the location in the context of alternative modes of transport.
 - (b) Details of end of trip facilities provided.
 - (c) Education and awareness initiatives and incentives for users of the building to encourage more sustainable modes of travel to/from the site.
 - (d) Management practices identifying sustainable transport alternatives.
 - (e) Consider the provision of electric vehicle charging facilities.
 - (f) Details of bicycle spaces for staff.
 - (g) Employee packs (ie myki cards for new workers).
 - (h) An obligation to update the plan not less than every five years.
 - (i) Details of when and how this travel plan will be available for new staff.
 - (j) Any other relevant matters.
7. The provisions, recommendations and requirements of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Sustainability Management Plan (SMP)

8. Concurrent with the endorsement of any plans pursuant to Condition 1, an amended Sustainability Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Design Assessment will be endorsed and will form part of this permit. The amended Sustainable Design Assessment must be generally in accordance with the Sustainable Design Assessment prepared the Green Factory dated 31 May 2022 but modified to include or show:
- a) any requirements specified in Condition 1 of this Permit.
 - b) the amended development layout in accordance with the amended plans submitted for endorsement pursuant to Condition 1.



9. The provisions, recommendations and requirements of the endorsed Sustainability Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Construction Management Plan

10. Prior to the commencement of any site works (including demolition and excavation), a Construction Management Plan must be submitted to and approved by the Responsible Authority. No works are permitted to occur until the Plan has been endorsed by the Responsible Authority. Once endorsed, the Construction Management Plan will form part of the permit and must be implemented to the satisfaction of the Responsible Authority. The plan must address the following issues:

- (a) Hours for construction activity in accordance with any other condition of this permit.
- (b) Measures to control noise, dust and water and sediment laden runoff.
- (c) Prevention of silt or other pollutants from entering into the Council's underground drainage system or road network.
- (d) Measures relating to removal of hazardous or dangerous material from the site, where applicable.
- (e) A plan showing the location and design of a vehicle wash-down bay for construction vehicles on the site.
- (f) Cleaning and maintaining surrounding road surfaces.
- (g) A site plan showing the location of any site sheds, on-site amenities, building waste storage and the like, noting that Council does not support the siting of site sheds within Council road reserves.
- (h) Public Safety and site security.
- (i) A plan showing the location of parking areas for construction and sub-contractors' vehicles on and surrounding the site, to ensure that vehicles associated with construction activity cause minimum disruption to surrounding premises. Any basement car park on the land must be made available for use by sub-contractors/tradespersons upon completion of such areas, without delay.
- (j) A Traffic Management Plan showing truck routes to and from the site.
- (k) Swept path analysis demonstrating the ability for trucks to enter and exit the site in a safe manner for the largest anticipated truck associated with the construction.
- (l) Measures to ensure that sub-contractors/tradespersons operating on the site are aware of the contents of the Construction Management Plan.
- (m) Contact details of key construction site staff.
- (n) Any other relevant matters, including the requirements of VicRoads or Public Transport Victoria.
- (o) Except with the prior written consent of the Responsible Authority, a requirement that construction works must only be carried out during the following hours:
 - i Monday to Friday (inclusive) – 7.00am to 6.00pm
 - ii Saturday – 9.00am to 1.00pm



- iii Saturday – 1:00pm to 5:00pm (Only activities associated with the erection of buildings that does not exceed the EPA guidelines)
- iv No works are permitted on Sundays or Public Holidays.

11. The provisions, recommendations and requirements of the endorsed Construction Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Boundary Walls

12. The walls on the boundary of adjoining properties shall be cleaned and finished in a manner to the satisfaction of the Responsible Authority.

Ongoing Architect Involvement

13. As part of the ongoing consultant team, Bruce Henderson Architects or an architectural firm which is acknowledged to have comparable skill and expertise to the satisfaction of the Responsible Authority must be engaged to:
- (a) oversee design and construction of the development; and
 - (b) ensure the design quality and appearance of the development is realised as shown on the endorsed plans or otherwise to the satisfaction of the Responsible Authority.

Plant / Equipment or features on roof

14. No equipment, services, architectural features or structures of any kind, including telecommunication facilities, other than those shown on the endorsed plans shall be permitted above the roof level of the building except as shown on the plans endorsed pursuant to Condition 1 unless otherwise agreed to in writing by the Responsible Authority.

Service Location

15. Any required fire services, electricity supply, gas and water meter boxes must be discreetly located and/or screened to complement the development to the satisfaction of the Responsible Authority. Any required services must be clearly detailed on endorsed plans forming part of this permit.

Hours for Waste Collection

16. Waste collection only to be carried out within hours prescribed by EPA guidelines.

No Waste Bin in View

17. No bin or receptacle or any form of rubbish or refuse shall be allowed to remain in view of the public and no odour shall be emitted from any receptacle so as to cause offence to persons outside the land.



Car Parking and Accessways

18. Before the use starts or any building is occupied, areas set aside for parked vehicles and access lanes as shown on the endorsed plans must be:
 - (a) constructed to the satisfaction of the Responsible Authority
 - (b) properly formed to such levels that they can be used in accordance with the plans
 - (c) surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority
 - (d) drained, maintained and not used for any other purpose to the satisfaction of the Responsible Authority
 - (e) line-marked to indicate each car space and all access lanes to the satisfaction of the Responsible Authority.

Parking areas and access lanes must be kept available for these purposes at all times.

19. Any new vehicle crossover or modification to an existing vehicle crossover must be constructed to the satisfaction of the Responsible Authority.

Bike provision

20. No less than 22 bicycle parking spaces are to be provided on the land.

Drainage and Stormwater

21. The site must be drained to the satisfaction of the Responsible Authority.
22. No polluted and/or sediment laden runoff is to be discharged directly or indirectly into Council's drains or watercourses during and after development, to the satisfaction of the Responsible Authority.
23. Stormwater discharge is to be detained on site to the predevelopment level of peak stormwater discharge. Approval of any detention system is required by the City of Monash prior to works commencing.
24. A plan detailing the drainage works must be submitted to the Engineering Division prior to the commencement of works. The plans are to show sufficient information to determine that the drainage works will meet all drainage requirements of this permit.
25. The full cost of reinstatement of any Council assets damaged as a result of demolition, building or construction works, must be met by the permit applicant or any other person responsible for such damage, to the satisfaction of the Responsible Authority.



Privacy screens

26. Prior to the occupancy of the development, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority. The use of obscure film fixed to transparent windows is not considered to be 'obscure glazing' or an appropriate response to screen overlooking.

Services and Plant Equipment

27. All pipes (except down-pipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from external view, to the satisfaction of the Responsible Authority.
28. No equipment, services, architectural features or structures of any kind, including telecommunication facilities, other than those shown on the endorsed plans shall be permitted above the roof level of the building unless otherwise agreed to in writing by the Responsible Authority.
29. Any required fire services, electricity supply, gas and water meter boxes must be discreetly located and/or screened to compliment the development to the satisfaction of the Responsible Authority. Any required services must be clearly detailed on endorsed plans forming part of this permit.
30. No bin or receptacle or any form of rubbish or refuse shall be allowed to remain in view of the public and no odour shall be emitted from any receptacle so as to cause offence to persons outside the land.

Acoustic Report

31. Concurrent with the endorsement of plans pursuant to Condition 1, an Acoustic Report to the satisfaction of the Responsible Authority must be prepared by a suitably qualified acoustic engineer and must be submitted to and approved by the Responsible Authority. When approved, the Acoustic Report will be endorsed and will form part of this permit. The Acoustic Report must demonstrate that the development meets the following noise levels in accordance with Standard D16 of Clause 58.04-3:

- Not greater than 35dB(A) for bedrooms, assessed as an LAeq,8h from 10pm to 6am.
- Not greater than 40dB(A) for living areas, assessed LAeq,16h from 6am to 10pm.

The acoustic report must make recommendations to limit the noise impacts in accordance with the State Environment Protection Policy (Control of noise from industry, commerce and trade) No. N-1 (SEPP N-1), State Environment Protection Policy (Control of music noise from public premises) No. N-2 (SEPP N-2) or any other requirement to the satisfaction of the Responsible Authority.



Wind Impact Assessment

32. Concurrent with the endorsement of any plan requested pursuant to Condition 1, a Wind Impact Assessment prepared by a suitably qualified Wind Engineer must be submitted to and approved by the Responsible Authority to ensure no unreasonable wind effects occur around and between buildings on and adjacent to the site.

Ongoing Wind Assessment Requirement

33. The provisions, recommendations and requirements of the endorsed Wind Assessment Report must be implemented and complied with to the satisfaction of the Responsible Authority.

Time for Starting and Completion

34. In accordance with section 68 of the Planning and Environment Act 1987, this permit will expire if one of the following circumstances applies:
- (a) The development is not started within three years from the date of issue.
 - (b) The development is not completed within five years from the date of issue.

In accordance with section 69 of the Planning and Environment Act 1987, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires; or

- (c) within six (6) months afterwards if the development has not commenced; or
- (d) within twelve (12) months afterwards if the development has not been completed.

Council and the Victorian Civil and Administrative Tribunal are unable to approve requests outside of the relevant time frame.

--- End of Conditions ---

