

Victorian Civil and Administrative Appeals Tribunal.

VCAT Ref: P1853/2017

REVIEW: Application to Review Conditions to Planning Permit PLN 16/0925

PROPOSED DEVELOPMENT: Development of the land for construction of a multi storey building as an extension to the existing hospital, including part demolition and alterations to existing buildings on the site and streetscape works, reduction in car parking requirement and provision of car parking on another site.

Submission on behalf of the Royal Historical Society of Victoria

The Royal Historical Society of Victoria (RHSV) is a peak body representing approximately 340 community historical societies throughout the state. It has been active on history and heritage issues since its formation in 1909. The RHSV Heritage Committee is accountable to RHSV Council and has specific responsibility for preparing submissions and liaising with other relevant heritage bodies concerning the uses and preservation of heritage-protected buildings and sites.

The proposed development involves the construction of an eleven-storey tower extending St Vincent's Private Hospital to the west, and includes the demolition in part or in full of the following heritage assets:

- The total demolition of Easthill House;
- Demolition of west wing of the former Eastern Hill Hotel;
- Demolition of a council-owned bluestone laneway;
- Part demolition of the wall on the southern boundary of Dodgshun House (formerly Edensor).

The subject land is situated within the South Fitzroy Heritage Precinct HO 334

The RHSV objected to the planning application mainly because of the serious impact the height and bulk of the new tower would have on the setting of the adjacent heritage assets and therefor the precinct, and because the proposal involves the complete demolition of Eastern Hill House, a building of individual heritage significance.

In responding to these concerns, which have also been raised by many other objectors, the Council, rather than refuse the application, decided to approve the proposal subject to a number of conditions. Those conditions that are designed to deal specifically with the heritage issues are Conditions 1 (h-l) set out below:

- . (h) *The height of the buildings reduced so it is no taller than the existing tower associated with the St Vincent's Private Hospital at the eastern corner of Fitzroy Street and Victoria Parade*
- . (i) *Retention of the façade of Easthill House (No. 71-73 Victoria Parade, Fitzroy) including the shop fronts at street level and at least the first/front rooms behind the façade at all levels.*
- . (j) *Setback of the new tower building from Brunswick Street so it does not extend beyond the western-most wall of the former Eastern Hill Hotel at 77 Victoria Parade, Fitzroy*
- . (k) *Setback of the new built form so that it does not extend into the area of land on the Victorian Heritage Register, associated with Dodgshun House at 7-9 Brunswick Street, Fitzroy*
- . (l) *Deletion of all built form within the Council ROW between Nos 5 and 7 Brunswick Street, Fitzroy*

The RHSV believes that, while not entirely ideal from a heritage point of view, these conditions are a good attempt by the Council to reach a compromise between maintaining the heritage significance of the place while still accommodating a major expansion of the private hospital. This submission therefore supports these conditions.

Condition 1(h)

The height of the buildings reduced so it is no taller than the existing tower associated with the St Vincent's Private Hospital at the eastern corner of Fitzroy Street and Victoria Parade

The height limit proposed in this condition is not arbitrary but is based on advice from the Council's Heritage Adviser. In this case the adviser has suggested that there is little to be gained in assessing the appropriateness of the new tower against the predominantly 19th and early 20th century heritage fabric of the precinct as 'clearly the proposal is completely out of keeping with the character of the relevant heritage precinct'. Instead the advisor elected to focus on the impact of the development on the existing hospital as an adjacent building from a different era that is of individual heritage significance. This is an interesting approach that allows us to consider later 20th-century heritage management at the 'above podium level' differently from issues at what is effectively the podium level incorporating older buildings.

Clause 22.02 of the Yarra Planning Scheme, 'Development Guidelines for Sites Subject to the Heritage Overlay' puts considerable emphasis on new development being visually recessive, non-dominant and respectful. At Clause 22.02-5.7.1 for example we find:

1. General

Encourage the design of new development and alterations and additions to a heritage place or a contributory element to a heritage place to:

Respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape.

Be articulated and massed to correspond with the prevailing building form of the heritage place or contributory elements to the heritage place.

Be visually recessive and not dominate the heritage place.

Be distinguishable from the original historic fabric.

Not remove, cover, damage or change original historic fabric.

Not obscure views of principal façades.

Consider the architectural integrity and context of the heritage place or contributory element.

And in a specific reference to height we find:

Encourage similar façade heights to the adjoining contributory elements in the street. Where there are differing façade heights, the design should adopt the lesser height.

There is little that is recessive or respectful about this proposed tower whether considered in the context of the precinct in general or in relation to the existing hospital heritage tower. It presents as bigger and brighter than its neighbour in every way and further asserts itself by developing the staircase in the southeast corner into a tower-like structure projecting above the parapet, and originating from within the courtyard of the former Eastern Hill Hotel!

Rather than require the development to be restricted to the setback or 'podium' height along Victoria parade or to a height more compatible with the 19th and early 20th century buildings that predominate in the precinct, the recommendation asks for the building height and bulk to be comparable to the existing hospital.

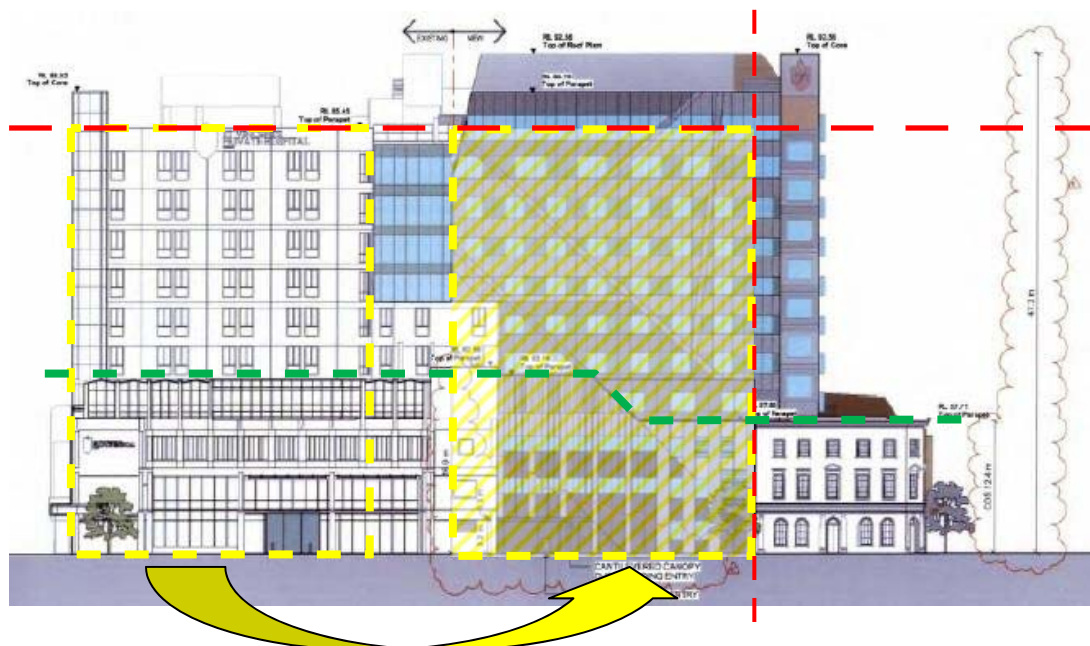


Figure 1

Figure 1 is a sketch from the Council's Heritage Advisor's report illustrating the

effect of applying this condition on height as well as the setback requirements of condition 1(j). One can see immediately how much better the reduced building sits in the streetscape and how much better it respects the existing hospital building as well as the former Eastern Hill Hotel.

We would add that we believe that the height line shown dotted red and yellow in Figure 1 above is the correct interpretation of this condition and not that shown on Drawing No. AA08-0001 Revision D appended to the Architectural Design Statement prepared by David Leece of Billard Leece Partnership. Mr Leece has taken the height of the existing Private Hospital building from the top of the lift overrun on the southwest corner of the building rather than from the parapet. This does not appear to accord with the definition of building height in the definition of general terms at Clause 7 of the Planning Scheme:

'The vertical distance from natural ground level to the roof or parapet at any point.'

We also note that Bruce Trethowan refers to the new tower as a 12-storey building. We have continued to call it 11 storeys as we have not counted plant rooms and lift overruns.

Condition 1(j)

Setback of the new tower building form Brunswick Street so it does not extend beyond the western-most wall of the former Eastern Hill Hotel at 77 Victoria Parade, Fitzroy ☒

We address this condition out of sequence as it relates closely to the preceding condition. The plans show the new building butting up directly to the western wall of the hotel (not so much of a problem due to the 9-metre set back of the high-rise part) then wrapping around the rear of the building for a distance of around 6 metres. Much of this wrap around is taken up by the a stair well, which projects forward of the south face of the high-rise by about 2 metres thus forming a tower feature that projects above the parapet of the high rise to a height greater than that of the Eye and Ear Hospital tower on the other side of Victoria parade. The tower effect is emphasised by its architectural expression; a series of stacked boxes, which distinguishes it from the rest of the façade.

This is the very opposite of a recessive approach that should be expected in dealing with the setting of a building of this significance. While the tower does not actually hang over the top of the hotel it pushes forward aggressively right to the back of the building and fully commands the attention of the viewer from the surrounding area. Thus the former hotel has had its setting visually and physically invaded. The effect of this condition would be to return the airspace required to retain an appropriate setting for the hotel.

Much of this of course is a matter for Heritage Victoria as, under the Heritage Overlay of the Yarra Planning Scheme, no permit is required to develop a heritage place that is included on the Victorian Heritage Register. This has also led to the suggestion that the condition is therefor invalid.

We offer no opinion on the matter but have decided to proceed on the assumption, erroneous or otherwise, that even if the condition has no force or

effect over registered land, the responsible authority may apply conditions to any part of the development that is not on registered land including land adjacent to registered land. We are supportive of any condition that will assist in retaining the current setting of the former hotel.

It has also been suggested that the responsible authority should not attempt to use the planning scheme to modify the impact that development may have on the significance of registered places. We have proceeded on the assumption that this is incorrect, first on the practical grounds that as Heritage Victoria has no control beyond the boundaries of registered land there is no other mechanism to control adjacent development. Second, we suggest that the Decision Guidelines of the Heritage Overlay at Clause 43.01-4 require the responsible authority, among other things, to consider:

Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place. ☐

In this case taking the precinct to be the heritage place. Or ,if the registered buildings are not considered to be legally part of the precinct, they could be considered 'adjacent buildings':

Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.

Condition 1(i)

Retention of the façade of Easthill House (No. 71-73 Victoria Parade, Fitzroy) including the shop fronts at street level and at least the first/front rooms behind the façade at all levels. ☐

The Tribunal will have been presented with a number of expert opinions both as to the relative significance of Easthill House and as to whether its removal can be justified. Its unusual history of construction, starting with individual houses in the 19th century to its adaptation to residential apartments in the interwar period, is a source of fascination to some and an important part of its heritage significance, whereas to others this history is a reason for its denigration.

Our position on this is simply that Easthill House has earned its place as an individually significant building and, while there are differing views about whether its removal can be justified, that status has not been challenged.

The demolition of all or part of individually significant buildings is discouraged in the planning scheme and it would be normal to require its full retention. Its prominent position on a major thoroughfare adds some importance to the case for its retention.

However, again the Council has decided to make a compromise and seek only the retention of the façade to a minimum depth of one room. While this is less than satisfactory from a heritage point of view, we support it on the basis that much of the building's significance rests in the 1930 façade.

Condition 1(k)

Setback of the new built form so that it does not extend into the area of land on the Victorian Heritage Register, associated with Dodgshun House at 7-9 Brunswick Street, Fitzroy

The intent of this condition is exclude the serious encroachment proposed into the significant setting of Dodgshun House. In treating the car park adjacent to Dodgshun House as a development site, the designers have quite misunderstood the significance of this space. Indeed the building has been treated just like a single Victorian terrace house where all the emphasis is placed on a highly decorative front façade and where the side walls would normally be blank brick in anticipation of a similar building being erected next door. The front façade and garden have been retained while most of the site of the side garden is to be built over.

This ignores what makes this building so special: the outstanding south façade. Given that a house was acquired and demolished by Sir Samuel Gillott to create the appropriate setting for this grand façade, which has been described as a splendid example of high Victorian architecture, any development in the car park area would be unacceptable. The construction of an eleven-storey building running parallel to the façade for almost its full length at a distance of only 6.5 metres is totally inappropriate.

This condition (as well as condition 1(j)) has also been challenged on the basis that it seeks to modify that part of the building that lies within land on the Victorian Heritage Register.

Condition 1 (l)

Deletion of all built form within the Council ROW between Nos 5 and 7 Brunswick Street, Fitzroy

The laneway should be retained as a significant heritage asset to the precinct. Bluestone laneways are an important part of heritage infrastructure in Melbourne and are referred to specifically in the Statement of Significance for the South Fitzroy Heritage Precinct H0334

“The heritage Overlay Area contributory elements include: “Public infrastructure, expressive of the Victorian and Edwardian-eras such as bluestone pitched road paving, crossings, stone kerbs, and channels ...”

This one is of special importance as it has retained the original construction, having avoided its pitches being dug up and relayed inappropriately as is the case with most bluestone laneways in this precinct.

The significance of this laneway is enhanced by being bounded by the walls to what was the garden that Sir Samuel Gillott created to set off the magnificent façade that he built on to the southern wall of ‘Edensor’, now known as Dodgshun House.

The laneway is also significant in being part of the original setting for Dodgshun House and it is important that it continue to play that role.

Conclusion

Overall this development shows little sign that heritage constraints were a serious consideration at the outset. The objective seems to have been to squeeze as much development on the site as possible and to create an out-of-scale landmark building with little regard for the heritage context. The two registered places have been retained but somewhat grudgingly, with the new tower squeezing up to and dominating each one, and thus seriously detracting from their heritage significance.

Faced with such an approach the Council, while accepting the concept of the hospital expansion, has come up with a compromise solution that tries to take a step back to look at what heritage constraints should have been established in the first place. This seems in every way commendable and we ask the Tribunal to support this approach and retain the conditions discussed above.

Ian Wight

Judith Smart

Members RHSV Heritage Committee

15 January 2018

