

Corkman Hotel Developer/Demolishers Get their Way

5 December 2018

In September, Clay Lucas wrote in *The Age* that Melbourne City Council had thrown in the towel on forcing the developers to rebuild the Corkman Hotel, which they demolished illegally in 2016. Convinced that the developers would win in the Supreme Court on the argument that planning law can't be used to punish wrongdoing, Council passed a Planning Scheme Amendment which would have allowed the developers to do what they would probably have obtained from Council or VCAT: a permit to build a 40 metre tower (some 10-12 stories).¹

What about the heritage overlay protecting the Corkman Hotel as a Gold Rush building, I hear you ask? The site was also subject to a DDO (Design Development Overlay) providing for a 40-metre tower set back 6 metres from a 'street wall' of 25 metres. This DDO was totally inconsistent with the Heritage Overlay. Would it be heritage or development that won when the case went to VCAT?

The interim planning scheme amendment put in place after the developers demolished the building expired in October. It had to be replaced with a permanent planning scheme amendment. Melbourne City Council proposed to concede to the developers in advance rather than fight a VCAT or court battle. Their proposal, like all planning scheme amendments, required the Planning Minister's approval.

We wrote to Minister Wynne on 12 October urging him to reject the proposed amendment (see Appendix below). We received an incomprehensible reply from one of his bureaucrats. Town planner Ian Wight and historian Dr Judith Smart, members of the RHSV Heritage Committee, pursued the links to the amendments and discovered that this meant that the Minister had proceeded with his own Planning Scheme Amendment for the Corkman site. It provides that the developers would have to go to the Planning Minister for approval, but their plans would have to be consistent with the Design and Development Overlay which still covers the site and which makes approval for a 40 metre apartment block a virtual certainty. No wonder the Minister's office was not keen to make this clear to us!

Minister Wynne gazetted this amendment on 18 October. The only silver lining is that he also gazetted a state-wide planning scheme amendment under which any developer who in the future illegally demolishes another historic building may be forced to rebuild it. But for the Corkman developers, it's jackpot. They bought the building cheaper because it was covered by a heritage overlay and will now get to build a tower, which will net them millions for their criminal acts. Not content with this, they are also appealing their \$600,000 fine!²

Charles Sowerwine,
Chair, Heritage Committee,
. RHSV.

¹ Clay Lucas, '\$600,000 fine over Corkman', *The Age*, 13 September 2018.

² Clay Lucas, 'Corkman pair appeal \$600,000 fine after guilty plea', *The Age*, 24 October 2018.

Appendix:
Letter to Minister Protesting Council Concessions on Corkman Hotel

The Hon. Richard Wynne, MP,
Minister for Planning,
Level 16, 8 Nicholson Street,
East Melbourne, Vic. 3002

12 October 2019

Dear Minister,

Corkman Hotel Proposed Amendment C320

I write to urge you, respectfully but urgently, to reject the proposed Amendment C320. I write on behalf of the Royal Historical Society of Victoria, peak body for 340 local history societies.

The RHSV is deeply indignant at the possibility that the developers may be rewarded for their reprehensible demolition of this outstanding example of a Gold Rush Hotel. Our indignation would undoubtedly be shared across the community if you were to approve Amendment C320. I need hardly remind you of the extent of community anger aroused by this wanton vandalism, community anger which you rightly shared and channelled into the interim Amendment C299.

We see no justification whatsoever for Melbourne City Council's decision to propose a planning Amendment which allows the developers to build as if the hotel had never been there. However inappropriate or unlikely, it is, of course, theoretically possible that, despite the Heritage Overlay, the developers may have gained permission to build a 40 meter apartment block, retaining only a minimal six-meter facade of the hotel, but one can't assume that they would have gained permission. Even if Council officers had ruled in their favour, many in the community would have fought strenuously to retain the substance of the hotel: the RHSV, the National Trust, the University of Melbourne, law students at the University, the Carlton Association, plus many people who would have opposed it. There is no justification for assuming that the developers would have won.

The RHSV therefore urges you to reject the proposed Amendment C320 and to do everything in your power to maintain the conditions you imposed with Amendment C299.

Yours faithfully

(Professor) Charles Sowerwine,
Chair, Heritage Committee,
Royal Historical Society of Victoria.