

**VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL
ADMINISTRATIVE DIVISION**

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P334/2019
PERMIT APPLICATION NO. WH/2018/1138

APPLICANT Bello Designs Pty Ltd
RESPONSIBLE AUTHORITY Whitehorse City Council
SUBJECT LAND 80 Severn Street
BOX HILL NORTH VIC 3129
WHERE HELD Melbourne
BEFORE Joel Templar, Member
HEARING TYPE No hearing
DATE OF ORDER 15 March 2019

ORDER

Hearing details

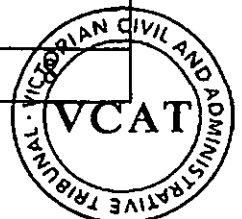
Item	Hearings	Date/Detail
A	Hearing date	28 August 2019
	Commencement time	10:00 AM
	Duration	1 Day
	Location	55 King St, Melbourne
	Major Cases List	No
	Short Cases List	No

- 1 This proceeding is listed for a hearing in accordance with the details set out in item A above. Any changes to the hearing details will be notified by further order of the Tribunal.

Other key dates

- 2 The following dates are the dates referred to in these orders.

Item	Action	By no later than	Order number
B	Applicant to serve application and specified documents on responsible authority	01-April-2019	3
C	Responsible authority to file with VCAT and	08-April-	



	serve on the applicant details of notice to be given	2019	
D	Applicant to give notice	15-April-2019	4
E	Responsible authority to file PNPE2 material	15-April-2019	10
F	Applicant to file statement of notice with VCAT	09-May-2019	6
G	Closing date for objectors and referral authorities to lodge statement of grounds with VCAT and serve on applicant and responsible authority	09-May-2019	5 & 12

ACTIONS REQUIRED – APPLICANTS

Service of application on responsible authority

- 3 By no later than the date set out in item **B** of order 2, the applicant must serve on the responsible authority:
- a copy of the application and all attachments;
 - other material filed with the Tribunal; and
 - a copy of this order.

Notice

- 4 The applicant must give notice of the application in accordance with the attached directions (as relevant) as follows:
- a By no later than the date set out in item **D** of order 2 serve the documents set out below on the following persons:
- owners and occupiers of adjoining land;
 - owners and occupiers of opposite land;
 - any additional persons identified by the responsible authority in response to order 8;
 - all relevant referral authorities.

The documents served must include:

- the application for review, including the applicant's statement of grounds, but excluding other attachments;
- a copy of this order;
- a cover letter, which must:
 - explain that an application for review has been lodged and VCAT has directed service of the documents

- o include the information required by order 5
- b By no later than the date set out in **item D of order 2**, publish a notice of the application by erecting a sign(s) on the land and maintaining the sign(s) in good order and condition for not less than 14 days from the date of erection in accordance with any directions by the responsible authority in response to order 8.
- c Within 7 days from the date set out in **item D of order 2**, publish a notice of the application in a newspaper in accordance with any directions by the responsible authority in response to order 8.

This order does not apply, except to referral authorities, if there is no right of review under section 82 of the *Planning and Environment Act 1987* in respect of any aspect of the permit application.

- 5 All notices must:
- a Specify the closing date, which is the date set out in **item G of order 2**, by which a statement of grounds must be received by the Tribunal and served on the responsible authority and applicant.
 - b Explain that a statement of grounds may be lodged with VCAT as described in Appendix A.
 - c Specify the date and time scheduled for the hearing as set out in **item A of order 1**.
 - d If applicable, include a statement setting out those matters within the permit application for which there is no right of review under section 82 of the *Planning and Environment Act 1987*.

Statement of notice

- 6 By no later than the date set out in **item F of order 2**, the applicant must file with VCAT:
- a completed statement of notice;
 - a list of names and addresses of all persons and authorities served;
 - a sample of the cover letter sent with the documents served;
 - all other information required by the statement of notice.

If a statement of notice is not filed by the specified date, this application may be struck out without further notice. No reminder will be sent.

Hearing fees

- 7 If you are the applicant in this proceeding, you may be required to pay a daily hearing fee before the hearing commences. For more information, see Appendix A and the VCAT website.

ACTIONS REQUIRED – RESPONSIBLE AUTHORITY

Extent of notice required

- 8 By no later than the date set out in **item C of order 2**, the responsible authority must file with VCAT and provide the applicant with the names and addresses of all persons to whom the applicant should give notice pursuant to order 4, including all relevant referral authorities, and any other form of notice required.
- 9 If the applicant disputes the extent of persons to whom notice should be given or other form of notice, which the responsible authority identifies pursuant to order 8, or the responsible authority fails to provide the information as directed, the applicant may request an urgent practice day hearing to resolve the dispute.

Practice Note 2 material

- 10 By no later than the date set out in **item E of order 2**, the responsible authority must file with VCAT information about the application as specified in the current version of **VCAT Practice Note PNPE2 – Information from Decision Makers**, unless this material has already been filed in another related proceeding.
- 11 The responsible authority must comply with **VCAT Practice Note PNPE2 – Information from Decision Makers** and serve a copy of the completed table (excluding attachments) on the applicant for review.

ACTIONS REQUIRED – OBJECTORS & REFERRAL AUTHORITIES

Statement of grounds

- 12 If you wish to contest this application, you must, within the time specified in **item G of order 2** (and also set out in the notice):
 - lodge a copy of your statement of grounds with VCAT, indicating that a copy was served on the applicant and the responsible authority and the date(s) this was done. You must ensure your statement of grounds is received by VCAT by the specified date;
 - serve a copy of your statement of grounds on the person making this application (the applicant);
 - serve a copy of your statement of grounds on the responsible authority.

ACTIONS REQUIRED – ALL PARTIES

Communicating with VCAT

- 13 All communications to VCAT about this proceeding must quote the VCAT reference number included in this order (see page 1, top right corner).
- 14 A party who communicates in writing with VCAT must serve a copy of that communication on all other parties at the same time and notify VCAT this has been done. The communication must state that a copy was sent to the other parties and list the parties it was sent to. This applies to communications sent by letter, email or fax.

Joel Templar
Member

APPENDIX A

IMPORTANT INFORMATION FOR ALL PARTIES

Non-compliance with orders and directions

Please read the orders and following information carefully. Non-compliance with these orders may result in an application being struck out, or other sanctions under the *Victorian Civil and Administrative Tribunal 1998*, including an award of costs.

Major Cases List

If this proceeding has been included in the Major Cases List, **VCAT Practice Note PNPE 8 – Major Cases List (Planning)** governs the procedures for matters in this list.

Short Cases List

If this proceeding has been included in the Short Cases List, **VCAT Practice Note PNPE7 – Short Cases List** governs the procedures for matters in this list.

Statement of grounds

If you wish to contest this application or you are a referral authority, you are entitled to become a party to this proceeding if you file and serve a statement of grounds in accordance with this order, unless third party review rights are excluded by the planning scheme or you indicate that you do not intend to participate in the hearing of the proceeding.

If you file a statement of grounds and indicate that you do not intend to participate in the hearing of the proceeding, you will not be a party to the proceeding but your statement of grounds will be considered at any contested hearing of the proceeding.

Fees apply if you intend to appear or present a submission at the hearing. If you do not pay the fee at the time of lodging your statement of grounds, you will not be a party and will not be entitled to take part at the hearing or any compulsory conference, even if you indicated that you wanted to participate. For information about fees and fee relief, visit www.vcat.vic.gov.au.

Your statement of grounds should provide sufficient information so that the issues you intend to raise can be clearly identified. Normally VCAT does not have copies of the objections made to the responsible authority so do not assume that VCAT is aware of any statement you may have already made.

If this is an application to review conditions under section 80 of the *Planning and Environment Act 1987*, your statement of grounds can only relate to the conditions that are being reviewed, not to other aspects of the permit.

Lodge your statement of grounds online with VCAT

You may lodge your statement of grounds online with VCAT. Go to www.vcat.vic.gov.au. Alternatively, you may access a blank statement of grounds form on the VCAT website.

Withdrawals

If you are an objector and wish to withdraw your objection at any time after you lodge your statement of grounds, you must inform VCAT, the applicant and the responsible authority in writing. You will then be withdrawn from VCAT's record and receive no further correspondence.

If you are the applicant, any application for withdrawal of the application must follow the procedures set out in **VCAT Practice Note PNVCAT1 – Common Procedures**.

Adjournments

Applications for adjournment of a hearing are not encouraged and you should not expect that an adjournment will be granted even if all parties consent.

VCAT may refuse an adjournment if it considers that the adjournment is:

- not in the public interest
- prejudicial to the interests of one or more parties or the expeditious determination of the proceeding
- contrary to efficient case management, or
- otherwise not justified.

If you wish to apply for an adjournment, choose the **Application for Consent to adjournment** form on the VCAT website or call us for a hard copy. Any application for adjournment must follow the procedures set out in **VCAT Practice Note PNVCAT1 – Common Procedures**. Refer to the VCAT website for more detail.

Providing your email address

VCAT will send copies of all orders, including the final decision, to a party's email address. VCAT will not send a hard copy in addition.

A party's email address will be available on VCAT's records for other parties to access. If you do not want other parties to have access to your email address, do not provide your email address. If VCAT does not have your email address, you will be sent a hard copy of any order, but you may receive it after other parties have received the order by email and after the order has been published.

VCAT does not accept any responsibility for emails not received due to changes in address, firewall or other security measures that may be attached to your email account.

Inspecting VCAT's file

Any party to the proceeding may inspect the VCAT file relating to the proceeding without a fee. Anyone else can inspect the file, but they must pay a fee. There is a charge for photocopying. To arrange an inspection time, complete the **File and Document Access Request Form** available on the VCAT website.

Hearing fees and waiver or reduction of hearing fees

If you are the applicant in this proceeding, you are required to pay a daily hearing fee for each day or part day of hearing. This includes accompanied site visits.

The amount of fee will depend on whether your case is deemed to be a complex case. You will be advised if your application is considered a complex case by the Registrar in advance and prior to the hearing. If your application is deemed a complex case you will be required to pay higher hearing fees. See VCAT's website for information on hearing fees for complex cases.

You are required to pay your fee online or at Counter Services on the ground floor at 55 King Street the day before the hearing. If you do not pay the fee, your hearing may be adjourned or struck out.

There are some exceptions to this requirement to pay hearing fees. **VCAT Practice Note – PNVCAT 6 Hearing Fees** sets out the procedures that apply to the charging of daily hearing fees in proceedings before the Tribunal, including who is liable to pay the daily hearing fee. This Practice Note and other information is available on VCAT's website.

For example, Day 1 hearing fees do not apply to a VicSmart application or a change in conditions application unless an objector application is also lodged, in which case the permit applicant must pay the Day 1 hearing fee. If an objector application is transferred into the Major Cases List, the permit applicant must pay any hearing fee.

The Principal Registrar has the power to waive or reduce a daily hearing fee in certain circumstances. An **Application for Fee Relief** form is available on VCAT's website. Any application to waive or reduce the daily hearing fee should be made as soon as possible in order to avoid any delay in the hearing.