

ATTACHMENT 1

Applications for review *lodged* by period (total numbers)

	Application by Objector/s About Decision of Council to Grant a Planning Permit	Application by Permit Applicant About Decision of Council to Refuse to Grant a Planning Permit	Application by Applicant About Decision to impose Conditions on a Planning Permit	Application by Permit Applicant About failure of Council to Decide On a Planning Permit Application	Other including s149 appeals	Total
Period						
Aug, Sept, Oct, 2005	14	2	5	0	0	21
Nov & Dec 2005	12	1	1	6	0	20

ATTACHMENT 1

Applications for review lodged by period (percentage)

	Application by Objector/s About Decision of Council to Grant a Planning Permit	Application by Permit Applicant About Decision of Council to Refuse to Grant a Planning Permit	Application by Applicant About Decision to impose Conditions on a Planning Permit	Application by Permit Applicant About failure of Council to Decide On a Planning Permit Application	Other including s149 appeals	Total
Quarter						
Aug, Sept, Oct, 2005	67%	9%	24%	0%	0%	100%
Nov, Dec 2005	60%	5%	5%	30%	0%	100%

ATTACHMENT 2

Matters determined by VCAT according to type of review for November & December

	Application by Objector/s About Decision of Council to Grant a Planning Permit	Application by Permit Applicant About Decision of Council to Refuse to Grant a Planning Permit	Application by Applicant About Decision to impose Conditions on a Planning Permit	Application by Permit Applicant About failure of Council to Decide On a Planning Permit Application
Number				
Decision of Council set aside	0	2	0	1
Decision of Council partly affirmed	0	2	2	1
Decision of Council fully affirmed	2	2	0	0
Application withdrawn	0	0	0	0
Total	2	6	2	2

ATTACHMENT 2

Matters determined by VCAT according to type of review for November & December 2005 (percentage)

	Application by Objector/s About Decision of Council to Grant a Planning Permit	Application by Permit Applicant About Decision of Council to Refuse to Grant a Planning Permit	Application by Applicant About Decision to impose Conditions on a Planning Permit	Application by Permit Applicant About failure of Council to Decide On a Planning Permit Application
Percentage				
Decision of Council set aside	0%	33.3%	0%	50%
Decision of Council partly affirmed	0%	33.3%	100%	50%
Decision of Council fully affirmed	100%	33.3%	0%	0%
Application withdrawn	0%	0%	0%	0%
Total	100%	100%	100%	100%

ATTACHMENT 3

VCAT Decisions - Merits Hearings

Nicholls Ward

Address	37 McKean Street, North Fitzroy
Ward	Nicholls
Decision of Council	Refuse to grant a permit
Type of review	Application about a decision to refuse to grant a permit
Outcome of hearing	Decision of Council affirmed
Planning Application Number	PL04/0577
Date of Hearing	19 September 2005
Date of Order	24 November 2005
Before	Mary-Anne Taranto, Member
Comments	<p>This was an application for part demolition and alterations and additions to an existing dwelling. The applicant circulated amended plans which made various alterations to the original plans. These amended plans did not, however, satisfy the concerns of Council.</p> <p>The key issue of consideration and the basis of Council's submission was whether the proposed buildings and works were acceptable having regard to the neighbourhood character and the site's location within a heritage overlay.</p> <p>In its decision, the Tribunal noted that McKean Street is one of the most intact streetscapes in the North Fitzroy precinct. The dwellings located in proximity to the site were described as a <i>"highly intact collection of simple, unpretentious dwellings that have a relatively consistent height and low key appearance"</i>.</p> <p>In directing that no permit be granted, the Tribunal suggested that any upper level addition should be setback 6m to 8m, allowing retention of the front portion of the roof form and chimney.</p>

ATTACHMENT 3

Address	375 Canning Street, North Carlton
Ward	Nicholls
Decision of Council	Refuse to grant a permit
Type of review	Failure to determine
Outcome of hearing	Planning Permit issued
Planning Application Number	PL04/1070
Date of Hearing	24 October 2005
Date of Order	25 November 2005
Member	Anthony Listen, Senior Member Boyce Pizzey, Member
Comments	
<p>This was an application to review the failure of Council to determine (and subsequent refusal of) an application to demolish (in retrospect) a building in the North Carlton Heritage Overlay Precinct and construct a new building.</p> <p>This application was initially submitted in the form of an amendment to an earlier permit granted in 2003 in an attempt to rectify the illegal demolition of the existing dwelling and make 72 other changes to the approved plans. In an earlier determination, VCAT refused to deal with the changes as 'amendments' to the original permit and determined that a fresh planning permit application be made. This was subsequently done.</p> <p>In deciding on the permit application Council formed the view that the replacement building was out of character with the heritage qualities of the area and that no permit should be granted.</p> <p>The Tribunal issued an interim order on 1 June 2005 providing the applicant with an opportunity to redesign the dwelling to respond to the heritage precinct and adjoining buildings. In this order, VCAT gave the applicant the opportunity to resubmit amended plans for further consideration based on the following two options:</p> <p>(a) prepare amended plan that incorporate a front setback from Canning Street and the implementation of good quality contemporary architecture; or</p> <p>(b) prepare an amended proposal (omitting the suggestion on a front setback) through the utilisation of good quality contemporary architecture.</p> <p>Amended plans were submitted in response to each of the above options. Council argued that neither of the re-designed schemes responded to the heritage and streetscape character of the area. VCAT disagreed, stating that:</p> <p style="text-align: center;"><i>“ In general we find that the character of The Setback option was considerably more in harmony with the neighbourhood character than the initial proposal and the No Setback Option. Given that its scale and bulk were also considerably improved the tribunal found that the amended scheme satisfactorily complied with the scheme’s requirements to conserve the heritage character of the precinct.”</i></p> <p>On this basis, VCAT directed that a permit be granted.</p>	

ATTACHMENT 3

Address	371 Canning Street, North Carlton
Ward	Nicholls
Decision of Council	Refuse to grant a permit
Type of review	Application about a decision to refuse to grant a permit
Outcome of hearing	Decision of Council set aside
Planning Application Number	PL05/0347
Date of Hearing	21 October 2005
Date of Order	20 December 2005
Member	Margaret Baird, Senior Member
Comments	
<p>Council refused this application which involved part demolition, alterations and additions (ground and first floor) to an existing single storey dwelling. VCAT issued an Interim Order dated 31 October 2005, recommending a number of modifications to the plans and in response, revised plans were produced. Council was supportive of some of the changes made within the revised plans, however, still had concern about the position and form of a canopy over the retained entry door, the position of a gate (the preference was for it to be located to the rear lane) and materials and finished to the north elevation.</p> <p>VCAT noted that while the amended plans addressed most of the concerns some matters still remained outstanding. In particular, setbacks at the upper level to ensure that the roof sections align. A condition was included requiring the side setbacks be no less than 200mm to each boundary, in order to address this concern. In relation to the detailing to the northern façade and materials and finishes, VCAT noted that this can be resolved by way of a permit condition. In relation to the canopy, VCAT noted that they were not persuaded by Council that the canopy had to be lowered however did state that simplicity in the design of the canopy was required and details of the canopy was required as a permit condition.</p>	

ATTACHMENT 3

Address	192 McKean Street, North Fitzroy
Ward	Nicholls
Decision of Council	Refuse to grant a permit
Type of review	Application about a decision to refuse to grant a permit
Outcome of hearing	Decision of Council affirmed
Planning Application Number	PL04/0949
Date of Hearing	1 December 2005
Date of Order	20 December 2005
Member	Tonia Komesaroff, Senior Member
Comments	
<p>The subject site was issued a planning permit (PL02/1138) on 23 January 2004, at the direction of VCAT for part demolition, alterations and additions including a two storey addition. More specifically the approved works permitted a ground floor extension to the existing dwelling comprising new glazing to the existing living room and a covered glazed walkway connecting the existing dwelling to the two storey addition. The two storey addition is attached to the existing rear double garage and comprises an open plan dining room and kitchen on the ground level, with a new bedroom first floor level together with a small bathroom.</p> <p>The subject planning application (PL04/0949) proposed to extend the double storey addition (approved under PL02/1138) backwards, over the rear single storey addition. Council refused this application with grounds relating to poor site layout and massing, negative off-site amenity impacts and not responding to the Heritage Overlay. VCAT agreed with Council's position noting that the visual bulk of the extended double storey construction when viewed from neighbouring properties was an issue. It was also stated that the cumulative impact of the proposal, when added to the 2004 extension, would result in an "oppressive outlook" from neighbouring private open space. VCAT noted that the applicants did not think through the development at the beginning, and through their own doing, created an indented double storey extension which was already at the borderline of reasonable inner urban living.</p> <p>The VCAT order went on to outline the importance of development respecting neighbours amenity and also the value of "respect for ones neighbour". Comments regarding intimidation of objectors was also discussed with the Tribunal stressing that they take a dim view of intimidatory solicitor letters in the planning process.</p>	

ATTACHMENT 3

Address	121-125 Kerr Street, Fitzroy
Ward	Nicholls
Decision of Council	Refuse to grant a permit
Type of review	Failure to determine
Outcome of hearing	Permit issued
Planning Application Number	PL04/0818
Date of Hearing	1 & 2 August and 4 November 2005
Date of Order	22 December 2005
Member	Philip Martin, Member
Comments	
<p>This application proposed the retention of the front part of three period single storey dwellings and the replacement of the rear part of these dwellings with a three storey building, so as to create a total of 11 dwellings with a basement car park.</p> <p>Council's planning officer made it clear to the permit applicant that there were a number of issues with the application and that it would not be supported in its submitted form. The applicant advised Council that they would look into these matters and then subsequently appealed to the Tribunal against Council's failure to determine the application.</p> <p>Council argued that the application should be refused as it did not comply with a number of ResCode objectives, the proposed design was not appropriate for the streetscape and the design failed to respond to the Heritage Overlay and relevant heritage policies. The hearing was originally listed for two days and towards the end of the second day, the applicant expressed a willingness to make further modifications to the plan. It was agreed that the matter would be adjourned to give the applicant time to go through a redesign process.</p> <p>Following receiving updated plans, a hearing date was listed for early November. At the hearing Council agreed that the plans were an improvement, however, argued that they did not go far enough and that they should be refused. Council argued that a two storey development, in principle, would be acceptable for the site, however the third level was problematic. VCAT did not agree with Council's position, stating that the third level was an acceptable outcome in terms of neighbourhood character, design and heritage issues and the overall design response was satisfactory. VCAT noted that, given the diversity in both building style and building scale, there is more flexibility in terms of how much built form the subject land can accommodate. It was also noted that while the proposed design "may not be startling, there seems to be a good argument that a locality affected by a Heritage Overlay is not necessarily the place for architectural heroics".</p> <p>In addition VCAT stated that the updated plans addressed a number of the ResCode issues and did not believe that the non-compliance with the side and rear setbacks was an issue given the "hard edge" nature of its interface.</p>	

ATTACHMENT 3

Melba Ward

Address	78 Buckingham Street, Richmond
Ward	Melba
Decision of Council	Refuse to grant a permit
Type of review	Application about a decision to refuse to grant a permit
Outcome of hearing	Decision of Council set aside
Planning Permit Number	PL05/0173
Date of Hearing	10 October 2005
Date of Order	10 November 2005
Before	Margaret Baird, Senior Member
Comments	
Council issued a refusal for the construction of a double storey dwelling on this site. The site is located in a Residential 1 Zone with no overlays. Council used the Built Form Design Policy to substantiate the case to reduce the size of the upper floor and increase the front setback. The Tribunal agreed with Council submission in respect to these issues and following the issue of an interim order and amended plans the development was supported.	

Address	45 Leslie Street, Richmond
Ward	Melba
Decision of Council	Notice of Decision to Grant a Permit with conditions
Type of review	Application by objector/s about decision to grant a permit
Outcome of hearing	Decision of Council affirmed
Planning Permit Number	PL05/1268
Date of Hearing	27 October 2005
Date of Order	16 November 2005
Before	Des Eccles, Member
Comments	
Council determined to approve this development for alterations and additions to an existing dwelling. The central issue of this case was the impact the proposed development would have on the adjoining sites. In response to the concerns raised by the objectors the permit applicant offered further modifications to the design to assist in their acceptance of the development proposal. On this basis the Tribunal accepted the changes and ordered that the permit issue.	

ATTACHMENT 3

Address	1 Little Lesney Street, Richmond
Ward	Melba
Decision of Council	Notice of Decision to Grant a Permit with conditions
Type of review	Application by objector/s about decision to grant a permit
Outcome of hearing	Decision of Council affirmed
Planning Permit Number	PL04/0617
Date of Hearing	11 November 2005
Date of Order	24 November 2005
Before	Jeanette G Rickards, Member
Comments	
<p>Council issued a Notice of Decision to Grant a Permit for the construction of 4 multi-storey dwellings. Two separate objector appeals were lodged with the Tribunal and submissions were made on various issues.</p> <p>The first was from the adjoining owner to the north that ran a seafood warehouse. It was submitted that the approval of a residential use on the southern boundary of their property would have the potential to generate complaints about the operation of the business and may ultimately force the business to relocate. To counter this submission, the permit applicant used an expert environmental scientist as a witness to make statements regarding the operation and potential impact of the seafood business on a residential use. The expert stated that, in his opinion, this was not a 'noxious' use and VCAT accepted this evidence.</p> <p>The second objector had concerns regarding the blocking up of 'on-boundary' windows which had not been approved via a planning permit and the other issue being the loss of sunlight to outside decks.</p> <p>In respect to the on-boundary windows, the Tribunal explained that the windows were not the sole source of access to day light to the relevant habitable rooms and therefore could be blocked.</p> <p>Access to sunlight would, in the Tribunals opinion, not be unduly impinged upon in this case. The Tribunal therefore ordered that the permit be granted in accordance with the Notice of Decision to Grant a Permit.</p>	

ATTACHMENT 3

Address	261 Coppin Street, Richmond
Ward	Melba
Decision of Council	Refuse to grant a permit
Type of review	Application about a decision to refuse to grant a permit
Outcome of hearing	Decision of Council set aside
Planning Permit Number	PL04/0896
Date of Hearing	22 November 2005
Date of Order	30 November 2005
Member	Jeanette G. Rickards, Member
Comments	
<p>Council refused this application for the demolition of a dwelling and construction of a new dwelling in a Residential 1 Zone with a Heritage Overlay. There were two issues of consideration in this hearing: one was the demolition of the existing building; and the other the appropriateness of the replacement building.</p> <p>In regard to the first issue, Council submitted that the existing dwelling should not be demolished, as it was a contributory building within the heritage streetscape. On this point the Tribunal did not agree with Council's submission, primarily because it was argued by the permit applicant (who used the evidence of a structural engineer) that the existing dwelling was in a state of disrepair and therefore not capable of being renovated in a cost-effective manner. Whilst the Tribunal acknowledged that Council's policy clearly states that the derelict state of a heritage place should not, in itself, be a reason for permitting demolition, it was further explained that the expert was persuasive in their argument which clearly indicated the building was beyond repair.</p> <p>On the second point, the Tribunal considered that the replacement building satisfied the requirements of Council's Heritage Policy.</p> <p>The Tribunal therefore ordered that a planning permit be granted with condition 1 requirements pertaining to the front fence design.</p>	

ATTACHMENT 3

Address	57 & 57A Kent Street, Richmond
Ward	Melba
Decision of Council	Refuse to grant a condition 2 amendment
Type of review	Application about a decision to refuse a condition 2 amendment (via secondary consent)
Outcome of hearing	Decision of Council set aside
Planning Permit Number	PL03/0366
Date of Hearing	2 December 2005
Date of Order	6 December 2005
Member	Helen Gibson, Deputy President
Comments	<p>Permit PL03/0366 was issued on 5 September 2003 for construction of two dwellings at the subject site. The dwellings were constructed and sold. The development was not constructed in accordance with all conditions required by the Permit. Most of the matters were dealt with by way of amendments to the planning permit, but the issue which remained outstanding was non-compliance with the endorsed landscape plan. The endorsed landscape plan showed the garden area at the rear of each dwelling as a lawn area, however these areas have been developed with paved textured concrete.</p> <p>The applicants applied to amend this landscape plan through a Condition 2 amendment (secondary consent) however, Council refused the amendment as it was considered that the landscape area should be a garden area (as originally required under the endorsed landscape plan) and that the paved area did not comply with Standard B9 of clause 55.03-4 (ResCode) as it did not result in 20% permeability.</p> <p>VCAT did not agree with Council's position and considered that the request could be considered via secondary consent (condition 2) and noted that "the benefits associated with increasing the permeability of the site by 10% in order to achieve standard B9 requirements is outweighed by the cost, inconvenience and other detriment to the owners that would arise if they were forced to remove the concrete paving and install grass." It was also noted that the original landscape plan was impractical and the permeability objective would have been better achieved by other means.</p>

ATTACHMENT 3

Address	352 Burnley Street, Richmond
Ward	Melba
Decision of Council	Notice of Decision to grant a permit with conditions
Type of review	Application about conditions put on the Notice of Decision
Outcome of hearing	Decision of Council partially varied
Planning Permit Number	PL05/0398
Date of Hearing	13 December 2005
Date of Order	19 December 2005
Member	Tracey Bilston-McGillen, Member
Comments	
<p>Council issued a Notice of Decision for the construction of a three storey building and part use as an office and associated partial waiver in car parking and loading bay requirements, subject to a number of conditions. The applicant appealed two of the conditions, being condition 1 (b) and condition 3. Condition 1(b) required the deletion of a louvered screen on the eastern façade and a subsequent redesign showing a three-panelled louvre at first level (with details to the satisfaction of the Responsible Authority) and the first and second level balustrades to be semi-transparent. Condition 3 required the existing vehicle crossover to Burnley Street to be removed and the footpath reinstated to the satisfaction of VicRoads.</p> <p>In relation to condition 1(b) Council argued that the redesign was necessary as the proposed screen failed to comply with planning policy, was not consistent with other building designs within the street, was contrary to design objectives in the DDO and did not contribute to the safety of the local neighbourhood. VCAT did not agree with Council's position stating that the neighbourhood character of Burnley Street has limited valued features and is not a highly valued area. The Order noted that the façade treatment responds to its context in drawing on the broader elements such as the massing of buildings and stated that the façade treatment will allow a level of surveillance to occur. Given this, VCAT ordered that condition 1 (b) be deleted.</p> <p>In relation to condition 3, VCAT noted that the primary issue for consideration is "<i>what is the implication from a streetscape perspective on retaining the crossover?</i>" VCAT made reference to clause 22.10 stating that the removal of the crossover and its reinstatement is consistent with clause 22.10 as it recognises that streetscapes should be improved where possible and that new design should address the issue of the City's streets. VCAT noted that condition 3 should be retained.</p>	

ATTACHMENT 3

Address	27 Crown Street, Richmond
Ward	Melba
Decision of Council	Notice of Decision to grant a permit with conditions
Type of review	Application about conditions put on the Permit
Outcome of hearing	Decision of Council partially varied
Planning Permit Number	PL04/0551
Date of Hearing	2 December 2005
Date of Order	21 December 2005
Member	Christina Fong, Member
Comments	
<p>Council issued a Planning Permit for the development of a two storey dwelling, subject to modifications required under condition 1. The permit applicant appealed two aspects of the conditions, the first being the modification to the design so that the building is setback a further metre from the street without extending the footprint of the building towards the rear, and the second being the deletion of the first floor bedroom 1 window that faces west (window constructed along a boundary).</p> <p>VCAT noted that of the two modifications required by Council, one relates to neighbourhood character and streetscape consideration; the other not related to planning consideration. In terms of the condition requiring additional setback from the street, VCAT noted that the development when completed will be a 'stand out' piece of architecture in Crown Street. However, it noted that the issue is whether it should be more in line and respectful of adjoining properties. VCAT agreed with Council's position, stating that the policies of the Planning Scheme suggest that it should and accepted Council's argument that the 1 metre additional setback is required.</p> <p>The second contested condition required the deletion of the first floor west-facing window that was to be located on the boundary. The purpose of this condition was to ensure that this window will not prejudice future development potential to the adjoining property and being on the boundary and required to be fire rated, will not be able to perform a ventilation function.</p> <p>The applicant explained that the window would provide light into the robe area and would not generate any overlooking as it was fixed with opaque glazing which can be fire proofed. VCAT agreed with the applicant, noting that the window would not impose amenity or planning concerns to the adjoining property and also highlighted that the matter of fire rating is a building consideration. VCAT also noted that given the window does not provide natural light into the bedroom, its deletion is not required, however the condition should specify that the glazing be recessed as far as possible into the property.</p>	

ATTACHMENT 3

Langridge Ward

Address	166 Gore Street, Fitzroy
Ward	Langridge
Decision of Council	Refuse to grant a permit
Type of review	Application about a decision to refuse to grant a permit
Outcome of hearing	Decision of Council set aside
Planning Application Number	PL04/0817
Date of Hearing	15 August 2005 and 2 & 3 November 2005
Date of Order	14 November 2005
Member	Russell Byard, Senior Member
Comments	
<p>Council refused this application to construct 29 dwellings on the site. The development proposed a three storey building on Gore Street and a five storey building to the rear of the site, with a frontage to Charles Street.</p> <p>Council raised a number of issues, particularly in respect to: the scale of the five storey building component of the development and the impact it would have on the heritage streetscape of Charles Street; deficiencies with the secluded private open space; accessibility to daylight; and issues relating to future development potential of the site to the east as it related to the proposed five storey section of the building.</p> <p>The Tribunal approved the development, indicating that the location of the site in a Major Activity Centre and the quality of the three-storey portion of the development, together with the fact that there were at least two other buildings on Smith Street of a similar five-storey scale, was justification to approve the development.</p>	

Address	60 Smith Street, Collingwood
Ward	Langridge
Decision of Council	Direction Hearing
Type of review	Costs Order
Outcome of hearing	No order as to costs
Planning Application Number	PL04/0810
Date of Hearing	20 September 2005
Date of Order	23 November 2005
Before	Helen Gibson, Deputy President
Comments	
<p>In this case, the applicants for review (objectors in this matter) failed to attend a mediation hearing convened by VCAT. On the basis of this conduct the permit applicant sought for costs to be awarded to them.</p> <p>The Tribunal determined that the non-attendance by the applicants for review benefited the permit applicant as the matter was 'struck out' and the permit granted. It was therefore concluded that there was no basis to award costs on this issue.</p> <p>The permit applicant also made a second application for costs at this hearing, submitting that the applicants for review had unduly protracted the proceedings. The Tribunal did not agree and dismissed this second application for costs.</p>	

ATTACHMENT 3

Address	12 William Street, Abbotsford
Ward	Langridge
Decision of Council	Notice of Decision to grant a permit
Type of review	Application by objector/s about decision to grant a permit
Outcome of hearing	Decision of Council affirmed
Planning Permit Number	PL05/0092
Date of Hearing	2 December 2005
Date of Order	9 December 2005
Member	Richard Horsfall, Member
Comments	
<p>Council approved this application for partial demolition, and alterations and additions (including first floor), and an appeal was lodged by the objector. The two key issues raised by the objector were loss of daylight into living rooms windows and that the permit would prejudice their plans to redevelop their property. Council highlighted that the development was generally setback from the habitable room windows in accordance with the relevant ResCode standard but that there was a small area of non-compliance. The Tribunal agreed with Council's position being that it is appropriate to vary the ResCode requirement in this instance given that the new wall only extends 50% of the length of the window, therefore ensuring that the objector's living room will still receive appropriate levels of light.</p> <p>In relation to prejudicing the objector's plans to redevelop their property, the Tribunal noted that the objector did not produce any plans for this proposal and there was no evidence that a planning application had been made or any permit had been issued. The Tribunal also noted that this is not a relevant consideration under the planning scheme.</p>	

ATTACHMENT 3

Address	80-110 Trenerry Crescent, Abbotsford
Ward	Langridge
Decision of Council	Refusal of an extension of time
Type of review	Application about a decision to refuse an extension of time
Outcome of hearing	Decision of Council set aside
Planning Permit Number	990578
Date of Hearing	15 and 30 September 2005
Date of Order	21 December 2005
Member	S.R. Cimino, Member
Comments	
<p>Planning Permit No. 990578 was issued on 2 September 1999 for the use and development of the site for 149 dwelling, with associated car parking and landscaping. Condition 22 on the permit set out time limits for both the commencement and completion of the development. The initial time for completion under condition 22 would have been 2 September 2001, however Council had issued two previous extensions of time for completion. The second was granted in March 2004 and extended the time for completion to 2 September 2005. On the 7 April 2005, a further extension of time was requested and on the 10 June 2005, Council refused to grant permission for the extension of time. At the hearing Council noted that the reasons for the refusal were on the basis that there has been a material change in council policy (Amendment C66 was approved), that an excessive total amount of time had lapsed since the permit was granted and the reasons advanced by the Applicant for the extension had not been substantial.</p> <p>A number of issues were discussed during the hearing including compliance with the recently approved DDO1 provisions (namely height and setback requirements), environmental audit requirements and delays resulting from works to heritage features of the site (retention of central chimney).</p> <p>In the determination of the Tribunal, acknowledgment of non-compliances with DDO1 were stated, however given its relationship with other constructed buildings in terms of height and design the Tribunal found that the works were generally acceptable relevant to the consideration for an extension of time to an existing permit.</p> <p>Discussion regarding the 'warehousing' of the permit were dismissed given to the extent of works (two thirds of the site is completed) carried out on site to date and the applicants actions to remediate the northern remaining part of the site.</p> <p>The Tribunal ordered a further extension to the completion date until 2 September 2008.</p>	

ATTACHMENT 3

VCAT Decisions - Mediation and Consent orders

Nicholls Ward

Address	23 Kneen Street, Fitzroy North
Ward	Nicholls
Decision of Council	Notice of Decision to Grant a Permit
Type of review	Mediation
Outcome of hearing	Mediation successful
Planning Application Number	PL05/0275
Date of Hearing	4 November 2005
Date of Order	4 November 2005
Before	S.R. Cimino
Comments	
<p>Council issued a Notice of Decision to Grant a Permit for part demolition, alterations and additions (ground floor extension to the rear of a single storey dwelling). The decision was appealed by the objector who had concern with the height and materials used along the south elevation and the setback of clerestory windows.</p> <p>Prior to attending the mediation, a meeting was held at Richmond Town Hall where the objector, applicant and Council's Planning Officer met to discuss the concerns raised by the objector. This meeting was successful as when the application went to a mediation hearing all parties had reached an agreement and the issues in dispute had been resolved. All parties agreed to some variation to the conditions required under the Notice of Decision, including reduced heights and alternative materials along the south elevation and an increased setback to proposed clerestory windows.</p>	

ATTACHMENT 3

Address	270 Queens Parade, Fitzroy North
Ward	Nicholls
Decision of Council	Refuse to grant a permit
Type of review	Application about a decision to refuse to grant a permit
Outcome of hearing	Consent Order
Planning Application Number	PL04/1233
Date of Hearing	2 December 2005
Date of Order	2 December 2005
Before	Megan Carew, Member
Comments	
<p>This application was originally lodged as a multi-unit residential development (five dwellings) with basement car park at the rear of a heritage building. Council refused the application due to the poor interface with Delbridge Street, lack of resolution with the basement car park and poor on site amenity outcomes for future occupants.</p> <p>The applicant presented amended plans at the hearing and all parties (both Council and objector) agreed that the amended plans were an improvement to the original application plans. The amended plans addressed Council's concerns by adopting a contemporary building appearance to Delbridge Street, redesigning the basement car park and improving the interface between the basement car park and the street by incorporating planter boxes to Delbridge Street and increased setbacks to improve both on and off site amenity.</p>	

Melba Ward

Address	21 Balmain Street, Cremorne
Ward	Melba
Decision of Council	Refuse to grant a permit
Type of review	Application about a decision to refuse to grant a permit
Outcome of hearing	Application Withdrawn
Planning Application Number	PL04/1158
Date of Hearing	No Hearing
Date of Order	8 November 2005
Before	No Member allocated
Comments	
The application was withdrawn at the request of the applicant.	

ATTACHMENT 3

Address	36 Fraser Street, Richmond
Ward	Melba
Decision of Council	Notice of Decision
Type of review	Mediation
Outcome of hearing	Mediation successful
Planning Permit Number	PL05/0353
Date of Hearing	25 November 2005
Date of Order	29 November 2005
Member	K.S. Gilfillan, Member
Comments	
Council issued a Notice of Decision subject to condition 1 requirements and this decision was appealed by the objector. At the mediation hearing the applicant, objector and Council agreed to a Permit being issued subject to setbacks to the west wall of unit 2 (adjoining the objector's property) and modifications to the proposed repair and maintenance easement.	

Address	9 Mary Street, Richmond
Ward	Melba
Decision of Council	Notice of Decision
Type of review	Application about a decision to approve to grant a permit
Outcome of hearing	Consent Order
Planning Permit Number	PL05/0257
Date of Hearing	No hearing
Date of Order	6 December 2005
Member	Nicholas Hadjigeorgiou, Member
Comments	
All parties to this application for review advised VCAT that they had reached an agreement in relation to the matters in dispute and that they consent to the Tribunal making an order with the inclusion of an additional condition on the permit requiring screening to the north facing bedroom and stairwell windows.	

ATTACHMENT 3

Langridge Ward

Address	17 Austin Street, Fairfield
Ward	Langridge
Decision of Council	Council position to Tribunal - Refuse to grant a permit
Type of review	Failure to determine
Outcome of hearing	Mediation Successful
Planning Application Number	PL04/1273
Date of Hearing	No Hearing
Date of Order	25 November 2005
Before	K.S. Gilfillan
Comments	<p>Council determined that if the applicant had not lodged a failure to determine application for review at VCAT, that it would have refused the application. VCAT listed the application for mediation.</p> <p>Prior to the mediation hearing the applicant circulated amended plans reducing the proposed number of dwellings from five to four (as recommended by Council).</p> <p>During the mediation, all parties including objector parties, were able to negotiate conditions which addressed material detailing and appearance of the dwellings, access issues, setbacks, overlooking, internal and external amenity controls.</p>

ATTACHMENT 3

Address	20 Yarra Bank Court, Abbotsford
Ward	Langridge
Decision of Council	Notice of Decision
Type of review	Application about a decision to approve a permit
Outcome of hearing	Consent Order
Planning Application Number	PL05/0105
Date of Hearing	No hearing
Date of Order	2 December 2005
Before	Peter O'Leary, Member
Comments	
<p>This was an appeal lodged by the objector against Council's Notice of Decision to Grant a Permit.</p> <p>All parties (applicant, objector and Council) consented to the Permit being issued subject to some modifications to the conditions relating to screening.</p>	