

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

ADMINISTRATIVE DIVISION

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P2003/2016
PERMIT APPLICATION NO. P15/2392

CATCHWORDS

Mornington Peninsula Planning Scheme; building height, visual impact, necessity of pedestrian works under section 62(5)(c) Planning and Environment Act 1987.

APPLICANT	Continental Developments Pty Ltd
RESPONSIBLE AUTHORITY	Mornington Peninsula Shire Council
RESPONDENT	Nepean Conservation Group
SUBJECT LAND	1-21A Ocean Beach Road and 23 Constitution Hill Road.
WHERE HELD	Melbourne
BEFORE	Michael Nelthorpe, Presiding Member and Peter Gray, Member
HEARING TYPE	Hearing
DATE OF HEARING	30 & 31 January and 1 & 2 February 2017
DATE OF ORDER	16 February 2017
CITATION	Continental Developments Pty Ltd v Mornington Peninsula SC [2017] 224

ORDER

- 1 Pursuant to section 127 and clause 64 of Schedule 1 of the *Victorian Civil & Administrative Tribunal Act 1998*, the Application for Review is amended by substituting for the grounds relating to Condition 1F, the following grounds:

That Condition 1F is replaced with the following:

- a) Reduction in roof terrace to 241 square metres in a central location;
- b) Removal of the lift overrun to the roof terrace;
- c) Retention of lightweight transparent structure over stairwell only; and
- d) Screening to habitable room windows (other than bedroom windows) on the western elevation including any balcony to



living room screening to be 1.7 metres high above finished floor level and not greater than 25% permeability.

- 2 With the consent of the Responsible Authority, the Application for Review is allowed in part by the deletion of Condition 11P of Planning Permit P15/2392 as issued on 31 January 2017.
- 3 The decision of the responsible authority is varied.
- 4 The Tribunal directs that planning permit P15/2392 must contain the conditions set out in planning permit P15/2392 issued by the responsible authority on 31 January 2017 with the following modifications:
 - (a) Conditions 1F, 11O and 11P are deleted.
- 5 The responsible authority is directed to issue a modified planning permit in accordance with this order.

Michael Nelthorpe
Presiding Member

Peter Gray
Member

APPEARANCES

For applicant

Ms Susan Brennan SC, assisted by Ms Jane Sharp, barrister and instructed by Ms Diana Ting of Ryan Commercial Lawyers.

Ms Brennan called the following witnesses:

Ms Helen Lardner, architect of Helen Lardner Conservation and Design Pty Ltd;

Mr James Brownlie, traffic engineer of Salt;
and

Ms Catherine Heggen, town planner of Message Consultants Australia Pty Ltd.

For responsible authority

Mr Graeme Peake, barrister instructed by Ms Kate Morris of Maddocks Lawyers.

Mr Peake called the following witness:

Mr Craig Czany, urban designer of Hansen Partnership.

For respondent

Dr Ursula de Jong and Mr Frank Handily.



INFORMATION

Description of proposal	The restoration of the Continental Hotel with hotel additions with the construction of a three storey apartment building over a wellness centre and basement car parking behind the Hotel.
Nature of proceeding	Application under section 80 of the <i>Planning and Environment Act 1987</i> – to review the conditions contained in the permit.
Planning scheme	Mornington Peninsula Shire Council
Zone and overlays	Commercial 1 Zone Heritage Overlay Schedule 1; and Design and Development Overlay Schedule 28.
Permit requirements	Clause 34.01-4: to construct a building or construct or carry out works; Clause 34.01-6: to use the land for a restricted recreation facility (wellness centre); Clause 43.01-1: to construct a building or construct or carry out works and to demolish an existing building; Clause 52.06: to reduce the required number of car parking spaces; Clause 52.07: to vary the requirement for a loading bay associated with the café use; and Clause 52.27: to increase the area in which liquor is allowed to be sold or consumed.
Relevant scheme policies and provisions	Clauses 10, 11, 15, 16, 17, 21.07, 22.02, 22.05, 22.13, 22.17, 34.01, 43.01, 52.06, 52.07, 52.27 & 65.
Land description	The site is located at the intersection of Ocean Beach Road, Point Nepean Road and Constitution Hill Road, at the eastern end of the main commercial centre of Sorrento. The four-storey circa 1875 Continental Hotel occupies the land adjacent to the intersection. The land diagonally to the rear of the Hotel is a gravel car park. Beside and at the rear of the Hotel on the Constitution Hill Road frontage is a council-owned car park.
Tribunal inspection	31 January 2017



REASONS¹

WHAT IS THIS PROCEEDING ABOUT?

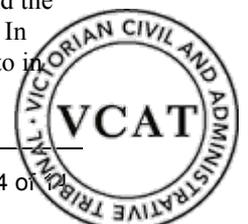
- 1 This proceeding is about two conditions on a planning permit issued for the Continental Hotel in Sorrento. It is based on amended plans that reduce built form on the roof top, including the removal of the lift overruns allowed by one of the contested conditions.
- 2 The permit allows for the Hotel's restoration and expansion, and allows for an apartment building and other facilities beside the Hotel.
- 3 The first contested condition requires a change to the apartment building's height. It states that:
 - 1 Before the development starts, amended plans and documents (three copies) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved and endorsed accordingly, these will form part of this permit. Such plans are to be drawn to scale with dimensions. The plans must be generally in accordance with the submitted plans, but modified to show:
 - F) The apartment building not to exceed RL 37.05 metres in height, with the exception of the lift overrun only.
- 4 The second contested condition requires the permit holder to contribute \$125,000 towards pedestrian crossing works. It states that:
 - 11 Prior to the transfer of 23 Constitution Hill Road from the Responsible Authority to the owner of 1-21A Ocean Beach Road, the owner of the subject land must enter into an agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987.

The agreement must be registered on title and provide for:

 - O) The owner contributing \$125,000, being a 50% share amount to the Responsible Authority in relation to improvement works to the adjacent intersection. The improvement works to be carried out by the Responsible Authority include the following:
 - A Pedestrian crossing including raised platforms and lighting in Ocean Beach Road.
 - A Pedestrian crossing including raised platforms and lighting in Point Nepean Road.
 - Pedestrian improvements in Constitution Hill Road.

The \$125,000 contribution to the Responsible Authority in relation to improvement works will be returned to the owner if

¹ The submissions and evidence of the parties, any supporting exhibits given at the hearing, and the statements of grounds filed; have all been considered in the determination of the proceeding. In accordance with the practice of the Tribunal, not all of this material will be cited or referred to in these reasons.



such works are not completed by the Responsible Authority within three years of the issue date of the planning permit.

- 5 The applicant contends that these conditions are not necessary to achieve an acceptable planning outcome.
- 6 In light of the amended plans, the council considers the intent of condition 1F would be met if the apartment building's height was reduced by 1.05 metres and if the planter boxes on the roof's perimeter were removed.
- 7 The Nepean Conservation Group is a respondent in this proceeding. It supports the council's position on condition 1F.
- 8 The questions we must address are:
 - Must the apartment building's height be reduced to ensure an acceptable planning outcome? and
 - Does the grant of this permit necessitate a contribution towards pedestrian works?
- 9 Having heard submissions and evidence, and having inspected the site and many vantage points around Sorrento, we find the answer to both questions is 'No'. Our reasons follow.

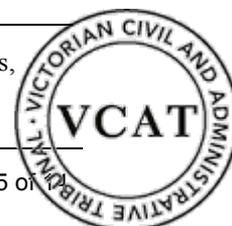
MUST THE APARTMENT BUILDING'S HEIGHT BE REDUCED TO ENSURE AN ACCEPTABLE PLANNING OUTCOME?

- 10 The proposal, the physical context of the site, and the policies and applicable provisions of the Planning Scheme are the relevant factors in any review. We will describe these factors first.

The proposal

- 11 As described by the architects, the proposal has five components.² These are:
 - a the restoration of the Hotel;
 - b a new three-storey hotel building attached to the west side and rear of the existing hotel;
 - c a wellness centre, loading area and terrace to the rear of the existing hotel;
 - d a basement car park and 'back of house' services located beneath the wellness centre, loading area and terrace; and
 - e a three-storey apartment building containing 16 dwellings located above the wellness centre and loading area, and set behind the terrace.
- 12 The new hotel building obscures views to part of the Hotel's western wall from oblique views in Ocean Beach Road. The building has a simple

² See the Function Diagram at page 14 of the Town Planning Report by Six Degrees Architects, June 2016.



vertical form and is clad in dark, recessive materials. It is setback from the street with its roof at the level of the Hotel's eaves.

- 13 The terrace, wellness centre and basement car park face Constitution Hill Road. This part of the proposal has a simple, low-scale, horizontal form that allows views of the rear of the Hotel from that street.
- 14 The three-storey apartment building has a horizontal form of alternating bands of board-formed concrete balustrades and glazed front walls. Planter boxes filled with seaside grasses sit on the balustrades and on the perimeter of the roof.
- 15 On the roof, clear glass structures serve stairs to two small and centrally located roof decks bordered by transparent 1.2 metre high balustrades. The planter boxes on the perimeter of the roof are 700mm tall. The architects say the remaining area of the roof may be landscaped with gravel and succulents.
- 16 The five components of the building are integrated. The architect described the building as a three dimensional jigsaw. This is clearly the case, as there are carefully designed pathways and corridors linking various parts of the proposal. At the hearing, it was apparent that the ground level of the loading bay influenced the apartment building's height because the architect had presumed that the right-of-way adjacent to this point could not be lowered.
- 17 In terms of dimensions, the apartment building is approximately 50 metres long and is 26 metres wide at its widest point. As such it is marginally longer than the Hotel, which has a 47 metre sideage to Constitutional Hill Road, yet is the same width as the Hotel's Ocean Beach Road frontage.
- 18 Spatially, the apartment building sits diagonally to the rear of the Hotel. It sits behind the two-storey shops at 23-29 Ocean Beach Road and is setback 36.6 metres from that street. It sits behind the terrace facing Constitution Hill Road and is setback 40.5 metres from that street.
- 19 While the building itself is not as tall as the Hotel, it is sited on higher land. Consequently, the top of the rooftop planter boxes is at RL 38.8 metres, the top of the clear glazed balustrades is at RL 39.3 metres and the top of the glazed staircase shelters is RL 40.9 metres.
- 20 Comparatively, the top of the Hotel's tower is at RL 46.45 metres, its higher roof ridge is at RL 37.67 metres and its lower roof ridge is at RL 37.05 metres³.

The review site

- 21 We rely on the council's description of the review site, which we find is accurate, with one exception:

³ The relative levels referred to in this decision are derived or extrapolated from survey information shown on the application plans and accompanying material.



The Subject Land is located at the intersection of Ocean Beach Road, Point Nepean Road and Constitution Hill Road, at the eastern end of the main commercial area of Sorrento.

Part of the Subject Land, 1-21 Ocean Beach Road, is occupied by the historic Victorian Italianate limestone Continental Hotel (circa 1875) which is included on the Victorian Heritage Register under the *Heritage Act 1995* (Ref No H1896). The Hotel fronts Ocean Beach Road with a sideage to Constitution Hill Road. The rear of the site is largely vacant apart from an 'L' shaped shed and is used as an informal car parking area for the Hotel. It appears to accommodate approximately 18 car spaces.

Part of the Subject Land comprising 23 Constitution Hill Road is currently owned by the Council and developed with a fully constructed asphalt at-grade car park, comprising 18 spaces. It is the subject of a contract of sale from Council to the Applicant.

The Subject Land, in particular where it is proposed to construct the four storey apartment building with two roof decks is located on one of the highest points of the hill and is visible from various vantage points, both close and distant around Sorrento.

- 22 The exception we foreshadowed relates to the last paragraph of the council's description. This paragraph implies that the highest part of the review site is visible from various close and distant vantage points. This is not the case. The highest point is only visible in public views as a hillcrest from the right of way off Ocean Beach Road and from Constitution Hill Road behind the Hotel.

What surrounds the review site

- 23 The eastern end of Ocean Beach Road is the main commercial centre of Sorrento. Buildings in the commercial centre are generally one or two storeys high and are occupied by shops, restaurants and cafés. They date from many eras yet are unified by their expression as coastal town shops, and by their direct presentation to the street. The Hotel and Stringers Stores, directly opposite, are historic landmarks that identify the entrance.
- 24 This retail character ebbs away quickly on the side streets. Township uses including a CFA station, a Telstra exchange and local schools are interspersed with residential properties on these side streets. These residential properties date from various eras. Separately, a number of commercial and residential heritage buildings are found at prominent locations in the town.
- 25 Of most relevance to this review are the recent apartment buildings at 21 Constitution Hill Road and 1 Hayes Avenue. 21 Constitution Hill Road is beside the council car park to the rear of the Hotel. It is an elevated three-storey, flat roofed building with a maximum height of RL 37.05 metres. 1 Hayes Avenue is an elevated three-storey, flat roofed building with a maximum height of RL 35.82 metres.



- 26 Ocean Beach Road links the town's natural features, being Port Phillip Bay to the north-east and the Sorrento back beach to the south-west. The road's relationship to the town's topography is spectacular, as its eastern end is where the land rises prominently from the Bay, while its western end leads directly to the vegetated sand dunes of the Nepean State Park above the back beach. The Nepean Conservation Group described this as the Sorrento amphitheatre.

The policies and applicable provisions of the Planning Scheme

- 27 Clause 10 of the Planning Scheme sets the framework for our decision. It obliges us to integrate all relevant policies and to balance the Scheme's conflicting objectives in favour of net community benefit and sustainable development.
- 28 The relevant policies that clearly support the proposal are those on activity centres and the protection of sites of heritage significance.⁴

The activity centre policies

- 29 These clearly encourage more intensive built form and activity in these locations. In the structure of the Planning Scheme, these policies are expressed in the site's Commercial 1 zoning and in Schedule 28 to the Design and Development Overlay.
- 30 Relevantly, the purpose of the Commercial 1 Zone includes the creation of vibrant mixed use centres, and to provide for residential uses at densities complementary to the centre's role and scale.
- 31 The design objectives of Schedule 28 to the Overlay seek to ensure that new development positively contributes to Ocean Beach Road's valued characteristics and to ensure that its existing limestone buildings continue to be a major feature of the streetscape. It calls for design excellence in new buildings and for proper regard for the design requirements of the *Ocean Beach Road Commercial Precinct Sorrento Heritage Policy*.
- 32 Separately, it requires that any new built form exceeding 8 metres in height above natural ground level is generally not visible from eye level directly opposite the site on Ocean Beach Road. The Schedule's provisions include a sight line diagram demonstrating this objective.
- 33 Relevantly, the Schedule's provisions do not apply to the proposal as this application was made before to the Schedule came into operation. Separately, we note that the reduced height of the apartment building supported by the council and respondent is approximately 2 metres higher than what the sightline diagram encourages.

⁴ At clauses 11, 15.03, 16, and 22.02.



The policies for the protection of sites of heritage significance

- 34 The policies for the protection of sites of heritage significance are expressed in the Hotel being subject to Schedule 257 of the Heritage Overlay, which identifies that the Hotel is listed on the Victorian Heritage Register (No. H1896). In this circumstance, Heritage Victoria assesses the works to the Hotel. It has issued planning permit P24867 for these works.

The Scheme's heritage and urban design policies

- 35 The contest over the building's height turns on the Scheme's heritage and built form/urban design policies. State policy on these matters seeks to ensure that new development responds appropriately to its landscape, built form and cultural context and contributes towards an area's sense of place. It encourages new development that respects identified heritage places like the Hotel and the Ocean Beach Road precincts⁵.
- 36 Local heritage policy seeks to conserve and appropriately manage such heritage places. It encourages new development that is visually recessive and compatible with the identified heritage place, and seeks to ensure that such development responds positively to special features such as views or landmarks.⁶
- 37 Further to this, the Scheme contains local policy for the Sorrento historic precinct.⁷ The general objectives of this policy seeks to protect the significant natural and historical elements of the town. To this end, new development is expected to complement, rather than prejudice, its heritage surrounds. Further to this, it seeks to ensure that new development is compatible with the height, scale and siting of existing development.
- 38 This policy also provides specific guidance and objectives for specific areas of Sorrento including the Ocean Beach Road area. It describes the historical relevance of this street, emphasises the significance of its eastern entrance, and identifies the Hotel and Stringers Stores as having landmark qualities.
- 39 Its objectives on landscape, vistas and views include:
To retain the historical integrity of the Continental Hotel and Stringers Stores as landmark features at the entry to the main commercial area.
- 40 Its objectives on built form include to:
To conserve and enhance the character and ambience of the section of Ocean Beach Road east of Melbourne Road in terms of its scale, building height and setback, verandahs, wide footpaths, converted residential premises and variety of building style and design.
- 41 We have also had regard for the *Ocean Beach Road Commercial Precinct Sorrento Heritage Policy*, which is a policy adopted by the council. To a

⁵ At clause 15.

⁶ At clause 22.04.

⁷ At clause 22.17



large degree, we find Schedule 28 to the Design and Development Overlay reflects this policy's objectives and elaborates on the 8 metre height requirement and sight line diagram described earlier. Apart from this, it encourages new development on Constitution Hill Road to be subservient to the Hotel, and seeks to ensure that new buildings do not detract from this landmark in views from places such as the Bay and Webster's lookout.⁸

Submissions, evidence and findings

- 42 The council submits that the roof of the apartment building's height must be at RL 37.05 metres and its rooftop planter boxes removed to ensure that the Hotel remains the dominant feature in short and long distance views toward the site. It contends that planning policy strongly supports this position.
- 43 It says that RL 37.05 metres is the appropriate height datum because it matches the height of the building at 21 Constitution Hill Road. It submits that maintaining this height will ensure the apartment building will be lower than the Hotel's roofline ridge, and will maintain this benchmark for other new development near the Hotel.
- 44 The council relies on the evidence of Mr Czany, an experienced urban designer. He says that, in townscape terms, it is important to maintain the prominence of the silhouette of the Hotel's roof and tower in long range views from the Sorrento Ferry Terminal and the Sorrento Pier. He places little value on the apartment building's deep setback from Constitution Hill Road, saying that the distance involved flattens the skyline. Further to this, he says the building's height should be reduced because its profile, over and above Ocean Beach Road's two-storey shop buildings, will be prominent in oblique views.
- 45 Apart from this, Mr Czany considers that reducing the apartment building's height is a minor change that could be achieved by marginal reductions in floor-to-ceiling heights or by further embedding the building in the topography.
- 46 We find against the council's submissions and are not persuaded by Mr Czany's evidence. Rather, we find that the Hotel will remain the dominant feature in local and long distance views if the apartment building is constructed at its proposed height.
- 47 With regard to the council's submission on RL 37.05 metres, we can see that this was derived from the lower, horizontal eaves part of the parapet of 21 Constitution Hill Road. This is only one part of the parapet though, as it is shaped similarly to the application building's parapet, with recessed upstands that are more visible in longer range views. Its upper sections are at RL 37.7 metres, which is comparable to the higher roof ridge of the Hotel is at RL 37.67 metres.

⁸ See page 17 of Section 4.3.



- 48 The council has selected the benchmark of RL 37.05 metres but, we find that it could easily have chosen one of the other dominant levels. Whilst we can see the logic of a benchmark, there would have been logic in the selection of other levels also. We are not convinced though, that any of these levels would be determinative because the planning policy objective is to ensure that the Hotel remains the primary visual element. We find that what gives weight to the apartment building's height and its role in the visual hierarchy is the fact that it is behind the Hotel and set back 36.6 metres from Ocean Beach Road and 40.5 metres from Constitution Hill Road.
- 49 We agree with the evidence of both Ms Heggen and Ms Lardner that, in perspective, these setbacks will give effect to the building being lower than the Hotel and 21 Constitution Hill Road though this effect will reduce as the views get longer. Importantly though, the apartment building cannot be seen at all from the main postcard view diagonally opposite the site at the intersection of Point Nepean Road and Ocean Beach Road. Further to this, on our inspection of the site and surrounds, and in looking at the viewpoints in the application drawings and others shown to us by the parties, we are convinced that this effect of perspective is correct.
- 50 We accept that the apartment building's height will fully apparent when standing directly opposite the right-of-way opposite Stringers Store or from directly outside the site on Constitution Hill Road. We find that this is acceptable because we consider that local policy is not directed to these specific vantage points.
- 51 In terms of longer views, we accept that state and local policy value the 'sense of place' that the Hotel brings to Sorrento yet we are not persuaded that it demands subservience to the Hotel's silhouette of roof ridgelines and tower. From our site inspection, we observed that while the Hotel's tower was always prominent, its roofline ridges were often obscured by vegetation or formed part of an array of roof forms in the town.
- 52 We found this to be the case in views from the Ferry Terminal, the Pier and a distant vantage point near Webster's lookout in the Nepean State Park. We recognise that the Hotel's silhouette can be in full from particular static points on the Pier and at the Ferry Terminal yet, more often than not, it became obscured or less prominent within a few metres from those points. Overall, we found that the Hotel's tower was the dominant feature and landmark in these views.
- 53 From the distant vantage point in the Nepean State Park, we found that the tower was distinctive yet that the silhouette of the roofline ridges was difficult to discern because of the distance. Importantly, we consider that the minor reduction in height sought by the council would be indiscernible at this distance.
- 54 Further to this, we consider that the apartment building's setback and recessive colour scheme will make it appear deferential to the Hotel in



longer views. Given the marginal reduction in height sought by the council, we are persuaded by Ms Heggen's evidence that this change in height is unnecessary because it would be difficult to discern in long distance views.

- 55 During the hearing, we investigated the possibility of lowering the building, consistent with Mr Czarny's suggestions. These were well founded but, once the detail was investigated, their magnitude appeared to have been reduced by the practical aspects of buildability. We are persuaded that, whilst there could be some lowering, it would not be to the extent of Mr Czarny's suggestions and our own initial speculation. Because of this, the magnitude of change and the resultant effect would be negligible.
- 56 With regard to the Nepean Conservation Group, we find their submission that the siting and design of the Hotel sets the character expectations of Sorrento more than any other building is overstated. From the policy framework and our site inspection, we find the character expectations of Sorrento are set by the town's history, its layout and its many significant heritage buildings. Certainly, the Hotel is highly important yet, for the reasons outlined above, we are satisfied that marginally lowering the apartment building's height will not detract from this significance.
- 57 Separately, in the hearing, it was apparent that an RL 37.7 metre height was set for 21 Constitution Hill Road by permit conditions imposed by the tribunal in *Hudson Conway*.⁹ We have reviewed this decision and note that it addresses almost the same issues as those before us. We give weight to its analysis of policy and its comments on new architecture in heritage places.
- 58 However, we are not convinced that it sets RL 37.7 metre height for the reasons relied on by the council. In its finding, the tribunal took issue with the design of the proposed roof top patio, saying it would clutter an otherwise simple roof and was an 'oddity' that would draw a viewer's attention. As such, it determined that this patio should be removed. We distinguish our decision on this point, as we are satisfied that the reduced roof terraces of the amended plans reduce their visual impact, and the retained planter boxes provide a valuable symmetry and coherence to the apartment building's appearance. Further to this, we take no issue with the planting of low succulents on the vacant roof space, as this would only be visible to those on the decks.
- 59 However, we cannot ignore the tribunal's statements in its discussion of long-range views that:

[38] We consider that a building both close to and even moderately higher than the roofline of the hotel would be unacceptable. Such a building would provide an alternative and stronger focus to the view.

⁹ *Hudson Conway Pty Ltd v Mornington Peninsula Shire Council* VCAT Ref: P2842/2005 (unreported).



- 60 Our findings clearly differ. We distinguish this difference of opinion partially because the tribunal had other reasons to reduce the building's height, but mainly because it did not have the benefit of an actual proposal to consider. We are satisfied that the proposed apartment building before us will not provide the '*alternative and stronger focus*' that it refers to. As outlined earlier, we find the apartment building's height, setback and recessive colour scheme will make it appear deferential to the Hotel in these views.

The contest over Condition 110:

- 61 As outlined in the council's submissions, Condition 110 requires the permit holder to agree to contribute \$125,000 towards works to create, improve or vary pedestrian crossings on the adjacent roads. This is 50% of the estimated \$250,000 required for these works.
- 62 The council submits the condition is appropriate. It makes this submission on the basis that such works are necessary because substantially more people will attend the Hotel once it is redeveloped, and because the Hotel has a high reliance on on-street parking. It submits that a 50% contribution is fair and equitable for the same reasons.
- 63 The applicant contests the condition, saying the grant of this permit does not necessitate these works. It contends that some of the works are already needed, and that the proposal will not generate sufficient patronage to warrant the other works. It relies on Mr Brownlie's evidence in making these submissions.
- 64 The council provides no evidence to support its submission. It simply presumes an increase in patron numbers. It provides no estimate of what those numbers might be, when these patrons might attend the Hotel or what their path of travel might be. This leads us to doubt its claim that the Hotel necessitates these works.
- 65 We consider it equally likely that while the Hotel is likely to enjoy increased patronage, this does not mean that Sorrento will necessarily have significantly more visitors but merely the visitors that come may choose to visit the hotel rather than other venues. This would constitute a redistribution, rather than an increase.
- 66 Further to this, the council Traffic Officer commented in the Council Report of 25 July 2016 that surveys have indicated that the loads on the intersection show that some crossing works are a 'high priority' now. They state:

Assessment of recent pedestrian surveys during January 2016 at the intersection of Ocean Beach Road/Constitution Hill Road/Point Nepean Road show that extremely high volumes of pedestrian activity occur at this intersection at peak periods. The suitable provision of improvements to safety and accessibility in this immediate precinct is recommended as a high priority.



- 67 This opinion fairly acknowledges that works are required now. It demonstrates that this intersection is a very busy part of Sorrento for both pedestrians and cars in any instance at present. As such, we are not persuaded that this development will be the catalyst for the need for upgrading works and thus, the applicant contributing to the council's infrastructure works
- 68 With regard to the proposed 50% contribution to these works, the council makes only the most general comments to support its submission. Once more, the lack of evidence leads us to doubt its claim, particularly given the high number of pedestrian movements throughout this strip shopping centre.
- 69 For these reasons, we will order the deletion of Condition 11O from the permit.

CONCLUSION

- 70 For the reasons outlined above, we will order the deletion of Condition 1F and 11O from planning permit P15/2392.

Michael Nelthorpe
Presiding Member

Peter Gray
Member

