



5 OCTOBER 2018

## TRIBUNAL DECISION ALERTS

### ***Architect found to be responsible for permits not being in place for building work – determination of the Architects Tribunal***

*The Architects Tribunal has found that an architect involved in building work carried out without the required permits is guilty of unprofessional conduct.*

*The matter related to the construction of a new three level home in Hampton. The architect prepared the design and administered the building contract.*

*A planning permit and building permit had been issued for the construction. However, various amendments were sought so the proposed works, so an application to amend the planning permit was made.*

*The building works proposed in the application to amend the planning permit were then carried out. The work related to the widening of the balcony to the attic of the dwelling, the construction of a wall to a boundary and the construction of the dwelling with an increased wall height. Given the amendments to the planning permit had not been granted, the work did not comply with the planning permit (and with respect to most of the work, did not comply with the building permit either).*

*The Tribunal determined that given the architect proceeded as if the permits were in place for the work when he knew they had not been granted, he was guilty of unprofessional conduct. The architect was found to have breached 18 of the Victorian Architects Code of Professional Conduct (**Code**) as included in the Architects Regulations 2015, in that he had not met his duty to “endeavour to maintain the standards and integrity of the profession of architecture” (paragraph 18).*

*The Tribunal did not accept that it was permissible to allow the works to proceed because waiting for the approvals to be granted, which had already taken considerable time, would delay the progress of the project and therefore not be in the owners' interests. The Tribunal also rejected the justification put forward by the architect that the works could revert to what was permitted by the original permits if the amendments sought were not granted.*

*The Tribunal said that it was "concerning that the Architect did not appear to appreciate the inappropriateness of his conduct". The architect was cautioned by the Tribunal and ordered to pay the costs of the inquiry.*

*The decision recognises that it is fundamental to the schemes governing building work that permits be obtained before the works commence. If building work is carried out without a required permit, it may amount to an offence under planning and/or building legislation.*

*The determination of the Architects Tribunal can be found here: [www.arbv.vic.gov.au/wp-content/uploads/2018/01/AT16-17-08-Architects-Tribunal-Report-inquiry-concluded-5-December-2017.pdf](http://www.arbv.vic.gov.au/wp-content/uploads/2018/01/AT16-17-08-Architects-Tribunal-Report-inquiry-concluded-5-December-2017.pdf)*

*If you have any queries regarding compliance with the Code or other conduct issues relating to architects, please contact the Board's Compliance Consultant at [compliance@arbv.vic.gov.au](mailto:compliance@arbv.vic.gov.au) or on 0437 912 922.*