



# Planning Panels Victoria

Department of Environment, Land, Water and Planning

1 Spring Street  
Melbourne Victoria 3000  
GPO Box 2392  
Melbourne, Victoria 3001  
Telephone (03) 8624 5712

11 May 2021

Dear Party,

## **Priority Projects Standing Advisory Committee: Referral 14 Call in of VCAT proceeding P1792/2020 at 11 Malmsbury Street, Kew**

---

Upon the postponement of hearing this matter until 10.00am Tuesday 8 June 2021, the Committee issues the following further directions. See attached to this letter:

- Further Directions
- Timetable (version 2).

### **Presentations to the Committee**

For the benefit of parties, the Committee restates the two issues on which the Minister seeks advice. They are:

1. whether the proposed development appropriately responds to the heritage significance of the site and surrounding heritage/neighbourhood character of the area
2. whether the proposal would result in unacceptable impacts on safety, amenity, noise and traffic within the surrounding area.

On the first issue, the Committee focus is on understanding the reasons why the responsible authority refused the application on the sole ground that *“demolition of the building known as Norman Smorgan House will have a detrimental impact on the social and cultural heritage significance of the place”*. Parties are therefore invited to address that issue and to make presentations on the issue of how the proposal impacts on that part of the site currently affected by HO559.

The Committee does not see it necessary for parties to present evidence of the type that would be presented to a Panel considering the merits of applying a Heritage Overlay as they might with Amendment C342boro in a hearing in another forum. It will be sufficient for parties to state their positions on the question put by the Minister about whether the proposed development appropriately responds to the heritage significance of the site and surrounding heritage/neighbourhood character of the area.

All parties are invited to make submissions on matters arising from the second issue put by the Minister.

One objector asked the Committee to add overlooking as an amenity issue. The Committee agrees and amends issue #4 in the Preliminary Issues stated in the Committee letter of 19 April 2021 to read:

4. Amenity issues, including overlooking, and traffic issues as expressed by objectors.

The Kew Hebrew Congregation has advised it now supports the application. This changed position is noted by the Committee, as is the representation of the Congregation.

#### **Privacy Statement**

Any personal information about you or a third party in your correspondence will be protected under the provisions of the Privacy and Data Protection Act 2014. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Privacy Coordinator, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, Victoria 8002



OFFICIAL

**Timetable for the hearing**

The roundtable discussion is to commence at 10.00am on Tuesday 8 June 2021. Presentations are expected by the responsible authority, represented by Maddocks, and by Arnold Bloch Leibler for the applicant. Expert evidence is expected from each of the responsible authority and the applicant.

One objector has advised they wish to present. Another objector is still to advise their intention. The Kew Hebrew Congregation has a place on the timetable.

If you have questions, please contact Georgia Thomas of Planning Panels Victoria on (03) 8624 5717 [planning.panels@delwp.vic.gov.au](mailto:planning.panels@delwp.vic.gov.au).

Yours sincerely,



**Geoff Underwood**  
Committee Chair

# Committee Directions

Priority Projects Standing Advisory Committee: Referral 14 Call in of VCAT proceeding P1792/2020 at 11 Malmsbury Street, Kew

Section 159 of the *Planning and Environment Act 1987* allows Committees to give directions about the time, place and conduct of proceedings and preliminary matters.

## Summary of dates

The following dates apply:

Time	Date	Action	Direction
12 noon	Wednesday, 26 May 2021	Council must circulate the Part A submission	2
12 noon	Wednesday, 26 May 2021	Council and the Applicant must circulate expert witness reports	4
12 noon	Wednesday, 2 June 2021	Council the Applicant must circulate evidence in reply	5
12 noon	Wednesday, 2 June 2021	The Applicant must circulate comments on the Draft Permit Conditions	11
12 noon	Monday, 7 June 2021	Parties must circulate written submission on their objections, their position in support of the proposal and the draft permit conditions	7
10.00 am	Tuesday, 8 June 2021	Roundtable discussion commences	

## Circulation and sharing of documents

1. Documents must be circulated electronically using the version 2 distribution list. Paper documents will only be permitted in exceptional circumstances.

### Council Part A submission

2. Council must circulate a Part A submission to parties on the distribution list by Error! No text of specified style in document. **on Wednesday, 26 May** that includes:
  - a) background to the permit application including chronology of events
  - b) background and status of the various heritage amendments referred to in the Directions Hearing letter dated 19 April 2021 (C342boro, C336boro and C366boro)
  - c) strategic context and assessment of the permit application
  - d) issues identified in submissions
  - e) any suggested changes to the permit application in response to submissions
  - f) list any other items.

*Note: Council's Part A submission will be taken as read by the Panel at the Hearing. Council should allow time for questions about its Part A submission on Day 1.*

## Expert Witness reports

3. A witness report must:
  - a) comply with the Guide to Expert Evidence (<https://www.planning.vic.gov.au/panels-and-committees/planning-panel-guides>)
  - b) be provided to the Committee as an unlocked document.
4. Council and the Applicant must circulate their witness reports to parties on the distribution list by Error! No text of specified style in document. **on Wednesday, 26 May.**
5. Council and the Applicant must circulate evidence in reply to parties on the distribution list by **12 noon on Wednesday, 2 June.**

### Directions:

Priority Projects Standing Advisory Committee: Referral 14 Call in of VCAT proceeding P1792/2020 at 11 Malmsbury Street, Kew

---

#### Submissions and information

6. Parties must present material at the Hearing electronically.
7. Parties must circulate written submissions on their objection, their position in support of the proposal and their comments on the draft permit conditions by **12 noon on Monday, 7 June 2021**.
8. All information presented at the roundtable discussion is a public document unless the Committee directs otherwise.

#### Recording and use of personal information

9. Parties must not record any part of an electronic hearing by any means without permission from the Committee.
10. Parties must not record, keep, distribute or publish contact details of any other party obtained in the course of an electronic hearing session, or use those contact details for any purpose other than for the Hearing.

#### 'Without prejudice' drafting

11. The Applicant must circulate an MS Word version of their comments on the draft permit conditions to parties on the distribution list by **Wednesday, 2 June 2021**.

#### Compliance with Committee Directions

12. All directions must be complied with. It is an offence to not comply with a direction without lawful excuse. [section 169 of the *Planning and Environment Act 1987*]
13. If you anticipate being unable to comply with a direction (for example, meeting a deadline for the circulation of evidence), you must provide the Committee with advance notice, and a written statement explaining why you are unable to comply with the direction, and seek leave from the Committee to vary the direction.
14. The Committee may:
  - a) refuse to hear from anyone who fails to comply with a direction. [section 159(b)]
  - b) not accept evidence if leave to vary a direction for the circulation of evidence is not sought or granted.

# Timetable

Priority Projects Standing Advisory Committee: Referral 14 Call in of VCAT proceeding P1792/2020 at 11 Malmsbury Street, Kew

## Timetable Version 2

11 May 2021

**Day 1: Tuesday 8 June 2021**

Video Conference: [Click here to join the roundtable discussion](#)

Time	Party	Allocated
10.00am – 10.15am	Preliminary matters	15 mins
10.15am – 10.45am	<b>City of Boroondara</b> represented by John Rantino and Georgia de Castella of Maddocks Lawyers	30 mins
10.45am – 11.15am	<b>Giant Steps Melbourne Ltd. (Applicant)</b> represented by Alexandra Harrison-Ichlov of Arnold Bloch Leibler Lawyers	30 mins
<b>11.15am – 11.30am</b>	<b>Break</b>	<b>15 mins</b>
11.30am – 11.45am	<b>Objector 1 – Alexis Fong</b>	15 mins
11.45am – 12.00pm	<b>Objector 2 – Katrina Reynen (appearance to be confirmed)</b>	15 mins
12.00pm – 12.15pm	<b>Kew Hebrew Congregation</b> represented by Jeffrey Mahemoff and Rodney Goldbloom	15 mins
12.15pm – 12.30pm	Summary of issues	15 mins
12.30pm – 1.30pm	<b>Lunch</b>	<b>1 hour</b>
1.30pm – 2.45pm	Roundtable discussion on the issues including expert evidence presentations	15 mins
<b>2.45pm – 3.00pm</b>	<b>Break</b>	<b>15 mins</b>
3.00pm – 4.30pm	Round table discussion continues including closing statements and without prejudice discussion on proposed draft permit conditions	1.5 hours
4.30pm	Day close	

1. The Committee may amend the timetable without notice.
2. Please be present at least 15 minutes before your scheduled commencement time.
3. If you are unable to be present at your scheduled time, please contact Planning Panels Victoria as soon as possible.