

**Stonnington Planning Scheme Amendment C313ston  
Referral 18: High Street, Windsor**

**Priority Projects Standing Advisory Committee Report**

*Planning and Environment Act 1987*

**18 November 2021**

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Priority Projects Standing Advisory Committee Report pursuant to section 151 of the PE Act

Stonnington Planning Scheme Amendment C313ston

Referral 18: High Street, Windsor

**18 November 2021**

Members of the Priority Projects Standing Advisory Committee who considered this referral:



Geoff Underwood, Chair



Andrew Hutson, Member

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## Glossary and abbreviations

ACZ	Activity Centre Zone
Applicant	FC (High St) Windsor Pty Ltd
Council	Stonnington City Council
DELWP	Department of Environment, Land, Water and Planning
Minister	Minister for Planning
PE Act	<i>Planning and Environment Act 1987</i>
PPSAC	Priority Project Standing Advisory Committee
RDZ	Road Zone
VCAT	Victorian Civil and Administrative Tribunal

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# 1 Overview

## (i) Referral summary

Referral summary	
<b>Date of referral</b>	15 August 2021
<b>Members</b>	Geoff Underwood (Chair) and Andrew Hutson (Member)
<b>Description of referral</b>	Proposed use and development of land for a six storey building with two basement levels comprising retail (shop and food and drink premises), office floorspace, a reduction in car parking and alteration of access to a Road Zone Category 1
<b>Municipality</b>	City of Stonnington
<b>Planning Authority</b>	Minister for Planning
<b>Permit Application</b>	PA2101189
<b>Permit Applicant</b>	FC (High St) Windsor Pty Ltd
<b>Subject land</b>	196-206 High Street, Windsor
<b>Site inspection</b>	Unaccompanied, 13 October 2021 and 15 October 2021
<b>Objections</b>	58
<b>Parties</b>	See Appendix D
<b>Information relied upon</b>	All referred material
<b>Hearing</b>	19 and 20 October 2021
<b>Date of this report</b>	18 November 2021
<b>Citation</b>	Priority Projects Standing Advisory Committee Referral 18 [2021] PPV

## (ii) Findings

The Committee finds the proposal is acceptable with the inclusion of alterations to the permit conditions proposed by the Applicant's consultants during the Hearing. The Committee recommends the grant of a permit subject to conditions as generally agreed between the Applicant and Council but with further change accepted by the Committee.

The proposal before the Committee differs from the site development rejected in 2020. Importantly, the proposed changes to the proposal bring the building into line with the Activity Centre Zone – Schedule 1 (ACZ1) provisions for the Chapel Street Activity Centre and the design guidelines for the Windsor Village precinct 1.

The Committee acknowledges the concerns of the resident objectors who opposed the application on the basis that it would create unreasonable amenity impacts, particularly visual and other off-site impacts. The Committee finds the grounds of refusal from the Council are not sustained. Although the proposed height is above the preferred maximum height, the building complies with the design guidelines because the uppermost levels will not clearly be visible from the street level. Further, the built form satisfactorily addresses the off-site issues of shadow and overlooking.

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The referral from the Minister for Planning asked the Committee to consider an amendment to the Stonnington Planning Scheme to make the Minister the responsible authority for the subject land. As this proposition was not contested in submissions or during the Hearing, the Committee recommends approval of Amendment C313ston in its exhibited form.

**(iii) Recommendation**

The Priority Projects Standing Advisory Committee recommends:

- 1. That the Minister for Planning approve Stonnington Planning Scheme Amendment C313ston as exhibited.**
- 2. That the Minister for Planning recommend to the Governor in Council that Permit Application PA2101189 for 196-206 High Street, Windsor be issued consistent with the draft permit in Appendix F.**

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## 2 Introduction

### 2.1 Terms of Reference and letter of referral

The Priority Projects Standing Advisory Committee (the Committee) was appointed by the Minister for Planning on 14 June 2020. The purpose of the Committee is set out in its Terms of Reference (Appendix A) to:

... provide timely advice to the Minister for Planning on projects referred by the Building Victoria's Recovery Taskforce (BVRT), projects affected by Covid-19 and or where the Minister has agreed to, or is considering, intervention to determine if these projects will deliver acceptable planning outcomes.

The Committee was provided with a letter of referral from the Minister for Planning dated 18 August 2021 (Appendix B) that tasked it to advise the Minister on three questions:

1. whether planning approval should be given for the proposed development and, particularly, whether planning permit PA2101189 should be issued,
2. what conditions might be appropriate taking into consideration the matters raised in submissions received and the previous VCAT decision,
3. the drafting of Amendment C313ston which proposes to make the Minister for Planning the responsible authority for the site.

This is Referral 18.

Due to the issues to be considered, the members of the Committee dealing with Referral 18 include:

- Geoff Underwood, Chair
- Andrew Hutson, Member.

The Committee was assisted by Georgia Thomas, Project Officer, of the office of Planning Panels Victoria.

### 2.2 Background to the proposal

Permit application 1244/18 to develop 196-206 High Street, Windsor (the subject land) with a six storey mixed use building was considered and refused by the Victorian Civil and Administrative Tribunal (VCAT) in 2020 (VCAT Ref P327/2020). The permit applicant FC (High St) Windsor Pty Ltd (Applicant) subsequently prepared an amended proposal that retained the proposed access point and basement levels for car parking but reduced the height of the building by one level, and changed the building material and the street presentations to High Street at the front and to Victoria Street at the rear.

The Applicant sought the assistance of the Development Facilitation Unit in the Department of Environment, Land, Water and Planning (DELWP) to advance the amended proposal. During advertising, the City of Stonnington (Council) lodged a submission opposing the grant of a permit for reasons similar to those it put to the VCAT review in 2020. In summary, Council opposed the development mainly on grounds that it did not meet the planning controls relevant to the land, but also because the proposal would result in adverse off-site impacts. Resident objectors again opposed the grant of a permit. They echoed the grounds relied upon by Council and were adamant that the local issues of more traffic in the surrounding streets would cause problems with delays and difficulties in navigating the narrow, one-way streets in the area.

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The Committee accepts the strength of argument from the residents. At the time of the inspections, the Chair experienced delays in Victoria Street, Eastbourne Street and at the traffic signals at the intersection of High Street and Hornsby Street. Those experiences confirmed what the residents were identifying.

The Applicant, through its traffic evidence, acknowledged the proposal would increase traffic volumes in Victoria Street and Hornby Street, but relied on the evidence to argue the proposal satisfied the statutory measures by which the application has to be measured. The Committee is satisfied the increased traffic volumes associated with the proposal will not be so impactful as to warrant refusal on these grounds. This finding is consistent with the opinion of VCAT in 2020. It is also consistent with the stance taken by Council in this matter. The concerns of the residents do not justify refusal of the application for traffic reasons.

Advertising of the application resulted in 58 submissions from Council, individual residents and landowners as well as other residents who delegated their interest to particular spokespeople.

## 2.3 Process

Upon receiving the letter of referral from the Minister for Planning, the Committee notified submitters of the intent to hear their submissions. Notification of a Directions Hearing was sent to permit objectors, Council and the Applicant. The Directions Hearing was held on 10 September 2021. The Committee set out the key issues as it saw them at the Directions Hearing and advised submitters of the intention to hold the Hearing by video conference with discussion of the issues conducted in a roundtable format. Notice of the Hearing and the Committee's directions was sent to parties on 20 September 2021. The roundtable Hearing was held over two days on 19 and 20 October 2021.

## 3 Site and planning context

### 3.1 The subject land

The subject land (Figure 1) is located on the south side of High Street, Windsor approximately 100 metres east of Chapel Street. The site has an area of about 2,082 square metres and is almost square in shape, with a frontage to High Street and Victoria Street to the south, of approximately 45.39 metres.

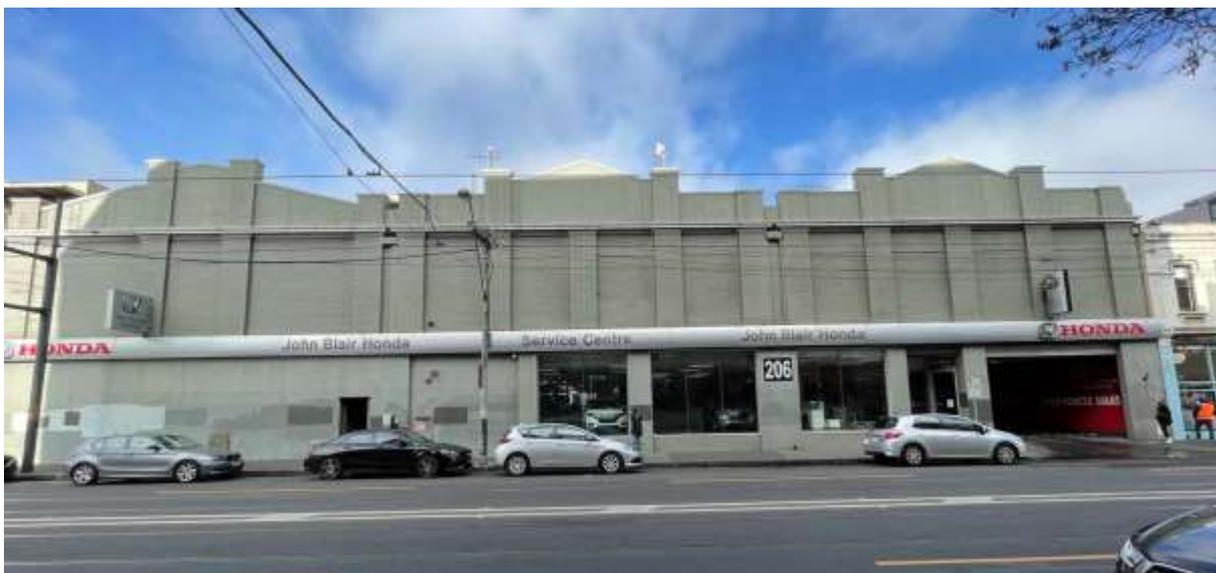
Figure 1: Aerial photo of the subject land



Source: Evidence statement of Mark Sheppard

The site is presently occupied by a two storey commercial building occupied by John Blair Honda sales and workshop (Figure 2).

Figure 2: Subject land



Source: Evidence statement from Mark Sheppard

The site's frontage to High Street and Victoria Street allows the current occupier to access and egress the site from both streets. The traffic evidence of Mr Jason Walsh of Traffix Group for the Applicant identified that there was a discharge of about 50 vehicles per day onto Victoria Street from the current use.

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On High Street, heritage buildings abut the site at its Chapel Street end. To the east, is a four storey apartment building, with low scale buildings continuing in the streetscape to Hornby Street.

On Victoria Street, three storey dwellings abut the site to the west towards Chapel Street. The site abutting to the east is occupied by a single storey dwelling but has a permit for a five storey mixed use development. There is a mix of residential and commercial buildings along the north side of Victoria Street to Hornby Street. Residential buildings dominate the streetscape on the south side of Victoria Street.

The north side of High Street has undergone redevelopment with mixed use developments characterising the streetscape between Clifton Street and Hillingdon Place. This part of the Chapel Street Activity centre has a different set of planning controls that allow greater height than the south side of High Street where the subject site is situated.

### **(i) Planning framework**

The planning evidence statement of Mr Stuart McGurn of Urbis for the Applicant set out the planning controls:

13. The site is in the Activity Centre Zone 1 'Chapel Street Activity Centre' (Clause 37.08) and is subject to the Incorporated Plan Overlay 3 (Clause 43.03) and Environmental Audit Overlay (Clause 45.03).
14. The provisions of Clause 52.06 'Car Parking', Clause 52.34 'Bicycle Facilities', Clause 52.29 'Land Adjacent to a Road Zone Category 1, or a Public Acquisition Overlay for a Category 1 Road', Clause 53.18 'Stormwater Management in Urban Development', and Clause 65.01 'Approval of an application or plan' apply to the proposal.

His evidence stated that:

The following clauses are relevant to the proposal:

- Clause 11.03-1S 'Activity Centres'
- Clause 15.01-S 'Urban Design'
- Clause 15.01-2S 'Building Design'
- Clause 17 'Economic Development'
- Clause 17.02-1S 'Business'
- Clause 18.02-2R 'Principal Public Transport Network'
- Clause 21.03-3 'Strategic Framework Plan'
- Clause 21.04-1 'Activity Centres'
- Clause 21.06 'Built Environment and Heritage'
- Clause 21.06-3 'Amenity'
- Clause 21.06-4 'Built Form Character'
- Clause 21.06-5 'Public Realm and pedestrian areas'
- Clause 21.06-8 'Environmentally Sustainable Development'
- Clause 21.09 'Reference Documents' includes 'Chapel Re-vision Structure Plan 2013 – 2031 (City of Stonnington/ Hansen Partnership 2015)'
- Clause 22.05 'Environmentally Sustainable Development'
- Clause 22.18 'Stormwater Management (Water Sensitive Urban Design)'

Two overlays apply to the site:

- Environment Audit Overlay (EAO), which requires the preparation of an Environmental Audit prior to the commencement of works associated with a sensitive use

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- Incorporated Plan Overlay – Schedule 3 (IPO3), which relates to the application for liquor licences, and accordingly is not relevant to the proposed development.

Under the ACZ1 controls, the proposal requires a permit:

- to use the land for the purpose of Office (ACZ1 – Clause 3)
- to construct a building or construct or carry out works (Clause 37.08-5)
- to reduce the number of car parking spaces (Clause 52.06-3)
- to alter access to a road in a Road Zone (RDZ1 - Clause 52.29).

It was agreed by the Applicant and Council that the application is properly described as:

Use of the land as Office, construction of a mixed-use development comprising food and drink premises (other than Hotel, Convenience restaurant and Bar) and a shop (other than Adult sex product shop, Bottle shop and Restricted retail premises) and offices in an Activity Centre Zone with associated reduction in the car parking requirements and alteration of access to a road in a Road Zone Category 1 in accordance with the endorsed plans and subject to the following conditions.

This was the preamble set out on the document used by the proponent and Council to submit draft conditions for the permit.<sup>1</sup> The preamble differs from that in the exhibited permit application<sup>2</sup> that described the use of the application for:

the construction of a six-story building (with two basement levels) comprising retail (shop and food and drink premises), office floorspace in an Activity Centre Zone with a reduction in car parking and alteration of access to a road in a Road Zone Category 1.

There was no dispute about the suitability of the proposed uses on the subject site. The issue is about the acceptability of the amended proposal and its variations to the planning controls.

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<sup>1</sup> Document 17

<sup>2</sup> Document provided in the DELWP briefing material

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## 4 The issues

### 4.1 The issues

The issues to be resolved are:

- Built form and design
- Other planning issues relating to the permit application
- Traffic and parking.

### 4.2 Proposed Planning Scheme Amendment C313ston

Amendment C313ston proposes changes to Clause 72.01 of the Stonnington Planning Scheme to make the Minister for Planning the responsible authority for the site. The effect of the Amendment is to make the Minister responsible for administering planning permit PA2101189, should it be issued, and for considering any matters requiring the approval of the responsible authority or to be undertaken to its satisfaction by the permit including endorsement of plans.

#### (i) Submissions

Some submissions were critical of the notion of removing the authority of Council. They were made in the context of opposition to the facilitated process of the application. The proposition was not contested by any party during the Hearing.

#### (ii) Findings

The Committee recommends approval of Clause 72.01 as set out in Appendix B.

### 4.3 Built form and design

The issue is whether the building design, height and setbacks will result in an appropriate urban design response. There was no dispute about the suitability of the proposed uses on the subject site. The issue is about the acceptability of the proposal and its variations to existing controls.

#### Key proposal design details

The permit application proposes:

- a 6-storey commercial building comprising retail and office space
- the ground floor and level 1 to be built to all site boundaries
- level 2 to be setback from southern boundary by 2.11 metres
- levels 3 and 4 to be setback 3.45 metres from the northern boundary, 2.9 metres from the eastern boundary, 9.01 metres from the southern boundary and between 3.85 and 4.35 metres from the western boundary to the face of the vertical fins. These setbacks are increased by 0.55 metres to the glazing line to all sides as measured between the fins
- level 5 to be setback 8.5 metres from the northern boundary, 7.1 metres from the eastern boundary, 13.5 metres from the southern boundary and a minimum of 7.1 metres from the western boundaries
- a height of is 23.5<sup>3</sup> metres excluding plant and lift overruns

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<sup>3</sup> There is a difference in building height identified across the evidence statements. In section 4.3 of this Report, a height of 23.7 metres is adopted.

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- a street wall height to High Street of 12.8 metres and 8.1 metres to Victoria Street.

The core issue is whether the application is justified under the ACZ1 controls and, particularly, the design requirements of precinct 4 of the Windsor Village.

**(i) Evidence and submissions**

**Objectors**

The majority of the objectors were represented by Mr Christopher Marr and Ms Sarah Benbow. Mr Marr submitted in relation to building form, height, design and setbacks that<sup>4</sup>:

- there was no justification for a height that is 46 per cent above the preferred maximum height under the ACZ1. The sheer mass and visual bulk is excessive for the site's context
- departure from the preferred maximum height of 18 metres should favour a lower height given the site and context constraints
- the proposal did not respond appropriately to the heritage properties to the west of the site along High Street
- the proposal did not sensitively transition to the residential zone to the south.

Mr Andrew Hill submitted for a number of objectors, mostly residents in Victoria Street. He submitted that the bulk of the proposal would impact on access to light and outlook to sky from the balcony of his residence on Victoria Street, located across from the site.

**Council submission**

Council accepted that the Applicant had made changes to address issues raised in the VCAT refusal of the previous proposal for the review site, but that the current proposal should be assessed on its merits.

Despite the further revisions to the proposal refused by VCAT, Council submitted that:

- built form and height failed to respect the character of the Windsor Village which requires a sensitive built form transition to nearby heritage buildings and the heritage character of the streetscape
- the proposal remains excessive in its presentation to High Street with the 6 storey high inappropriate
- the Victoria Street elevation presents as a wide, continuous street wall. It recommended more variation through inserts in the elevation
- the cladding material and colour palette was not in keeping with character of fine-grained heritage streetscape
- the vertical screening had the effect of reducing setbacks of the upper building level in excess of 600 millimetres, resulting in increased visual bulk
- it agreed with the recommendation of Mr Sheppard that increased spacing of the mid-level vertical fins would better reduce the visual bulk
- the visual bulk above the street wall does not comply with the objects of ACZ1
- the extent of the upper floor level and expansive roof plant would be likely to be visible from the public realm.

Council sought the removal of a level from the mid-section of the building.

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<sup>4</sup> Submission Christopher Marr and Sarah Benbow and others, and Document 22 (Closing submission)

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## **Applicant submission**

The Applicant relied on submissions from expert witnesses Mr Stuart McGurn<sup>5</sup> on planning and Mr Mark Sheppard of Kinetica Studio on urban design<sup>6</sup>.

Mr McGurn's evidence was that:

- the proposal had been reduced in height by one storey and has greater setbacks at the upper levels to both High Street and Victoria Street relative to the previous proposal refused at VCAT
- while the overall height of 23.7 metres (excluding plant) exceeded the ACZ1's preferred maximum height of 18 metres, the height was acceptable and provided a transition in height between the higher form to the north of High Street and the south of High Street
- the architectural treatment of the upper levels breaks down the singularity of form with the application of differing materials, vertical fins to the mid-levels, and a recessive upper level
- the street wall treatments have responded to VCAT's concerns through the deletion of recessed entries, the inclusion of masonry frames to produce a vertical rhythm along High Street. The Victoria Street interface has incorporated masonry and a vertical rhythm
- he was satisfied that the potential external amenity impacts relating to overlooking, overshadowing, visual bulk, and traffic impacts were acceptable, noting that the previous Tribunal decision concluded that these matters had been satisfactorily addressed
- the proposal:
  - was an appropriate response to the previous Tribunal decision
  - responds positively to the Activity Centre Zone and the relevant State and Local Planning Policy setting
  - will not unreasonably impact the amenity of the surrounding area.

Mr Sheppard provided urban design advice for the Applicant. It was his opinion that:

- the revisions to the High Street wall as represented in the amended architectural plans (dated 22.09.21) should be accepted and were appropriate in terms of height, articulation, activation, and materiality and consistent with the ACZ1. A condition should be attached requiring the street wall design to be amended in accordance with these drawings
- the overall height of the proposal was acceptable. The recessed uppermost levels would be largely concealed from High Street and therefore met the visual outcome objectives of the ACZ1
- the articulation and setbacks of the upper forms provided a sensitive built form transition to the adjacent heritage fabric
- the spacing of the vertical fins to levels 3 and 4 be widened. This would make the glazing line of these two levels read as the setback line rather than the outer line of the fins
- the ACZ1 prefers a maximum 12-metre-high wall for Victoria Street. Built form should be within a 45-degree angled offset from the top of the street wall. The proposal would have an 8-metre street wall with all built form comfortably within the 45-degree offset

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<sup>5</sup> Document 14

<sup>6</sup> Document 13

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and the upper form would be visually recessive due to setbacks and architectural treatments

- the use of brickwork and design elements made the southern elevation acceptable in the context of Victoria Street
- the proposal would cast a small area of additional shadow to the southern footpath of Victoria Street before 10.00am at the equinox, which was an acceptable public amenity outcome
- the potential for overlooking to the east and west will be mitigated through a series of setbacks and privacy screens
- proposed shadowing impacts to land within the ACZ to the east and west of the subject site were acceptable
- the proposal was an appropriate response to its physical and planning context and should be supported from an urban design perspective, subject to the recommended revisions as per architectural drawings dated 22.09.21.

## **(ii) Discussion**

### **Building height and setbacks**

The impact of the building height is dependent on the degree of prominence of the upper levels within the public realm of High Street and Victoria Street and less dependent on the actual height in metres. On High Street, the upper storey, level 5, would be set back sufficiently from the 12-metre street wall to be mostly concealed by the mid-levels as to have little visual impact from the public realm opposite the site or approaching the site. The plant level will almost be completely concealed except from distant views. On High Street, the proposal would present ostensibly as a five storey building at a height of approximately 19.7 metres to the top of the wall. In this respect the observable height of the proposal within the public realm is 1.7 metres above the preferred maximum height in the ACZ1.

From the public realm of Victoria Street, level 5 would be mostly concealed with the prominent form within the street being the two storey street wall and the setback level 2. The height of the street wall and form of the setbacks to the south will comfortably fit within the 12-metre street wall and ACZ1's 45 degree offset diagram that applies to a residential interface across a laneway or small street. This is a further indication that the form and southern profile of the proposal is acceptable.

The depth of the site from High Street to Victoria Street is sufficient for adequate upper level setbacks to reduce the visual bulk.

The application of vertical fins to elevations levels 3 and 4 are within the setbacks identified in ACZ1. The fins extend within the setback by approximately 600 millimetres. Council was concerned that the spacing of the fins in the amended application would make the facade of these levels read the outside the fins. The recommendation of Mr Sheppard to widen the spacing of the fins would enable the glazing behind to be perceived as the predominant face of the elevations, with the fins being applied architectural features. This recommendation was incorporated by the Applicant in drawings submitted at the Hearing (dated 22.09.21) and would provide an acceptable level of articulation.

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### **High Street - Street wall**

The street wall facing High Street is proposed to be three storeys high. Mr Sheppard's recommendations to amend the architectural treatment and materials for the street wall were incorporated into the revised 22.09.21 drawings. The revised outcome incorporates masonry/brickwork and a prominent vertical rhythm and articulation. It also includes horizontal elements within the bays that offer a relationship to the immediate context of the cornice lines of the adjacent two storey heritage properties to the west. The elevation has a textural quality and pattern that relates to the rhythm of the heritage shopfronts to the west and the broader patterns of the streetscape.

### **Victoria Street – Street wall**

The proposed elevations facing onto Victoria Street are a composition of brickwork and segmented window protrusions. They display rhythm and an articulation that breaks down the length. The resultant outcome is an acceptable architectural presentation to the street.

### **Impact on neighbouring residences**

The location of the site with an interface to Victoria Street will result in the location of development near to the low scale residential hinterland to the south of the street. The transition in scale from that which could be expected in the ACZ and the adjacent residential zone is managed through the proposed setback envelope in the ACZ1 that specifically relates to residential interfaces across lanes or small streets. The proposal sits comfortably within this envelope. The overall height of the proposal is largely concealed from street with the prominent feature being the two storey brick street wall. While the upper levels can be seen at various vantage points and from the residential properties to the south, the street wall will remain the prime important visual element. The Committee accepts that the development will be seen from the residential properties that front onto Victoria Street and from properties further into the residential area to the south, but the test is not that it be invisible, but that visual bulk and form be managed architecturally to provide an acceptable balance of urban expectations. In this case the Committee accepts that the proposed design would appropriately balance the development potential and respond to the site's context and the residential interface.

### **(iii) Findings**

The Committee finds:

- The building design, height and setbacks are appropriate and will result in an acceptable urban design response.
- The recommendations of Mr Sheppard regarding the changes to High Street wall, spacing and location of fins to levels 3 and 4, and amendments to architectural treatments as represented in architectural drawings dated 22.09.21 are acceptable and supported.

## **4.4 Other planning issues relating to the application**

Other built form issues raised in objections relate to:

- overlooking and privacy impacts on surrounding residential properties
- overshadowing reducing solar and light access to the adjoining Neighbourhood Residential Zone.

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Issues associated with overlooking and overshadowing were lesser concerns for both Council and the residents at the Hearing, with submissions focussed more on other matters. However, the question to be considered is whether the off-site issues support the refusal of the permit.

**(i) Evidence, submissions and discussion**

This proposal has a height of 23.7 metres. There was some uncertainty about whether the exact height was 23.5 metres or 23.7 metres. However, for the purposes of assessing overlooking and overshadowing issues, the 'extra' 200 millimetres presents a more conservative approach; and on the evidence, the difference is incidental and has no material additional impact.

Mr McGurn's evidence was that while there will be some shade caused by the proposal, the shadow impacts are reduced from those in the 2020 30.7 metre proposal which VCAT determined were insufficient to warrant refusal of the then proposal.

Diagrams submitted with the application and presented at the Hearing confirmed the minor impacts of shadow on non-critical parts of adjoining properties in Victoria Street. Shade will fall on the tops of buildings and the proposal would cast minor additional shading to the southern footpath of Victoria Street before 10.00am at the equinox. This would be a minor and acceptable impact on the amenity of the public realm. No shade will fall into the properties on the southern side of Victoria Street.

In relation to overlooking, Mr McGurn conceded the setback distances on the corners of the uppermost level near Victoria Street could allow overlooking of adjoining properties. He therefore recommended the addition of visual barriers such as planter boxes on level 4 to setback potential viewline points by one metre further to reduce overlooking. The Committee accepts that the potential for overlooking into adjacent residential properties is appropriately managed through setbacks and appropriate screening.

Submissions, and presentations at the Hearing, confirmed a level of concern by the residents on these issues. Submissions from the owners of properties abutting the site in Victoria Street, east and west of the site, expressed concern about the potential negative impacts of shadowing and overlooking on their properties. that the Committee noted that after hearing the evidence of Mr McGurn, the owner/occupier of the western abutting property identified he had a lower level of concern on this issue.

**(ii) Findings**

The evidence about limited impacts of overshadowing leads the Committee to find there is no need to amend the proposal in this regard.

The Committee accepts the recommendation from Mr McGurn about the installation of planter boxes or some other barrier to decrease the prospect of overlooking. A condition to that effect will be added as 1(a) in the draft permit included in Appendix F.

## **4.5 Traffic and parking issues**

Traffic was a major concern for the residents. Resident objectors argued that the already poor traffic and parking situation in Victoria Street would be made worse by not using access onto High Street as presently occurs and limiting the sole site access point to Victoria Street.

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Council maintained its original position from 2020 that traffic and parking issues were not grounds to oppose the application and that any issues could be managed by permit conditions.

The Applicant relied on the traffic evidence of Mr Walsh to support its position on the proposal.

**(i) Evidence, submissions and discussion**

Both Mr Marr, who lives in Eastbourne Street and Mr Hill, who lives opposite the site in Victoria Street, made submissions about current traffic conditions and spoke stridently about the view that the proposal would exacerbate existing conditions. Mr Hill focused on commercial traffic drawn into Victoria Street, which he described as a narrow residential street, to access the car park as well as the fear of drivers seeking out and occupying a limited number of on-street parking spaces. Mr Marr spoke about difficult driving conditions in what he called a labyrinth of one-way streets that meant access and egress to the site should be to High Street.

Other nearby residents spoke about what they regarded as poor traffic outcomes. Ms Wilson for example, spoke about current delays and difficulties in accessing and leaving Victoria Street which, she said, would be exacerbated by the additional traffic, including from delivery and courier vehicles and waste collection vehicles.

Mr Walsh considered the proposal in detail. His evidence-in-chief summary presentation addressed the core of the resident objections. He supported the proposal because it satisfied or exceeded the statutory requirements for loading bays, waste collection, provision of bicycle parking and trip end facilities, as well as the layout of car parking spaces. To address concerns about increased traffic in Victoria Street, he compared the proposal to the current use of the site as a commercial car sales and service site and the number of vehicle movements generated into Victoria Street. He estimated the future peak periods of morning and evening usage and vehicle numbers entering and exiting the basement car park. He concluded that with the reduction of cars on site from a statutory supply of 225 car parking spaces to 64 by a waiver of car parking requirements on site, the proposal would not create the adverse traffic conditions the residents feared.

Given the extent of resident concerns, the Committee considers it appropriate to set out aspects of Mr Walsh's evidence. He stated:

92 Having undertaken a detailed traffic engineering assessment of the proposed mixed use development at 196-206 High Street, Windsor, I am of the opinion:

- a) The level of traffic generated as a result of this proposal is acceptable and will have a manageable impact on the surrounding road network.
- b) The level of traffic generation is the same as considered by VCAT and found to be manageable.
- c) The proposed development has a statutory car parking requirement of 225 car spaces under Clause 52.06 of the Planning Scheme. The provision of 64 spaces realises a waiver of 161 car spaces.
- d) The waiver of car parking is acceptable because:
  - I. The site is located within an Activity Centre.
  - II. The site has excellent accessibility to public transport, other alternative transport modes, and services.
  - III. The application proposes bicycle parking in excess of the statutory requirement.
  - IV. Council local policies support reduced car parking provisions in areas such as this.
  - V. There is sufficient available public parking to support retail customers in an Activity Centre.
  - VI. VCAT determined a reduction of 207 car spaces was acceptable for the previous application.

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- e) The proposed parking layout and access arrangements accord with the requirements of the Planning Scheme, AS2890.1:2004 (where relevant) and current practice.
  - f) The bicycle parking provision exceeds the statutory requirement.
  - g) The bicycle parking arrangements are acceptable.
  - h) Loading arrangements have been considered and have been appropriately designed

There is a significant difference between the views of the residents versus the Applicant and its traffic expert, and Council which did identify concerns with traffic. The residents were adamant that their capacity to move within the local street network would suffer as a result of increased traffic flows. They argued the increased volume would cause delays and difficulties in navigating the areas narrow, one-way streets.

The difference in view is understandable where the residents see any increase in traffic, no matter the volume, as adding to current network challenges. It is no comfort to the residents that with fewer cars on site as a result of the waiver of car parking spaces, the proposal generates less traffic than might have been the case if a greater number of cars parking spaces were provided as required by the planning scheme. Nor are they likely to be satisfied that state policy supports the relocation of the main access to the site away from High Street to Victoria Street in order to support public transport operations by not interrupting tram movements on High Street.

The Committee accepts the strength of the residents' convictions; during one of the inspections on a rainy Friday afternoon, the Chair experienced delays in Victoria Street, Eastbourne Street and at the signals at the intersection of High Street and Hornby Street. The delay in Eastbourne Street was caused by a commercial waste collection vehicle at the corner of High and Chapel Streets. On Mr Walsh's evidence, rubbish collection will not be a problem in Victoria Street with collection to take place in the basement. The delay in exiting Victoria Street was caused by traffic queueing to Victoria Street from the traffic signals. No such delay was experienced during the first inspection.

The evidence for this proposal is similar to the evidence provided to VCAT in 2020. With the basement remaining the same across the two proposals, but with a reduced floor area to generate demand for spaces on site, the evidence that was accepted in 2020 is more be persuasive in 2021.

VCAT in 2020, Council, the Applicant and traffic evidence all concluded that while there will be additional traffic, the proposal satisfies the statutory measures by which the application has to be measured. Valid as they may be, the resident's traffic concerns do not support the refusal of the application.

There was no discussion about the merit of waiving car parking requirements to supply 64 spaces on site instead of 225 spaces. For the record, the Committee accepts the justification set out in Mr Walsh's evidence for this waiver.

## **(ii) Findings**

The Committee finds that:

- Traffic impacts, car parking and other on site arrangements for the proposal are acceptable.
- There are no traffic related grounds to support refusal of the proposal.

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## 5 Reasons and recommendations

### 5.1 Reasons

The task of the Committee is to advise the Minister on three questions:

1. whether planning approval should be given for the proposed development and, particularly, whether planning permit PA2101189 should be issued
2. what conditions might be appropriate taking into consideration the matters raised in submissions received and the previous VCAT decision
3. the drafting of Amendment C313ston which proposes that the Minister for Planning is the responsible authority for the site.

As no substantive submissions were made on the question of the merit of the planning scheme amendment, the Committee recommends approval of Amendment C313ston in the exhibited form.

For the reasons set out in this report, the Committee finds the proposal is acceptable with the alterations as recommended by consultants for the Applicant during the Hearing. The Committee finds the grounds of refusal from the Council are not sustained:

- The building design, height and setbacks are appropriate and will result in an acceptable urban design response.
- The recommendations by Mr Sheppard regarding the changes to High Street wall, spacing and location of fins to levels 3 and 4 and amendments to architectural treatments as represented in architectural drawings dated 22.09.21 be accepted.

The Committee recommends the grant of a permit subject to conditions generally as agreed between the proponent and Council but with determination by the Committee. The draft permit is set out in Appendix F.

The Committee is assisted in its decision on permit conditions by the submissions from the Applicant and Council. The parties accepted the direction of the Committee to discuss and to seek to agree on draft conditions. The response was not unanimous but there were few areas of absolute dispute.

The Committee has accepted some conditions proposed by Council and rejected others not supported by the Applicant. The permit as recommended adopts the further plan changes proposed by Mr McGurn to protect overlooking, and by Mr Sheppard to improve the appearance of the building. The conditions proposed by Council about sustainable environmental outcomes are considered appropriate and are suggested for retention. The Committee is confident the amended conditions will deliver a building which both fits the local context and enhances the presentation of the proposed building.

### 5.2 Recommendation

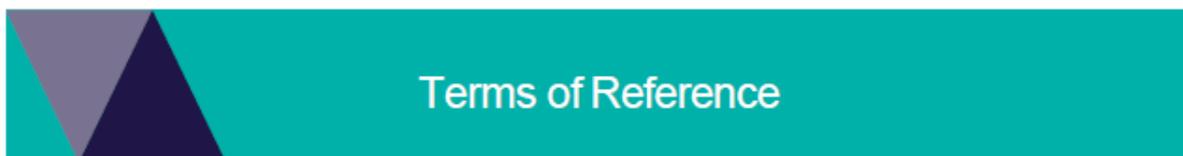
The Priority Projects Standing Advisory Committee recommends:

- **That the Minister for Planning approve planning scheme Amendment C313ston in the exhibited form.**

- 
- **That the Minister for Planning recommend to the Governor in Council that permit application PA2101189 for 196-206 High Street, Windsor be issued consistent with the draft permit in Appendix F.**

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## Appendix A Terms of Reference



### Priority Projects Standing Advisory Committee

Standing Advisory Committee appointed pursuant to Part 7, section 151 of the *Planning and Environment Act 1987* to advise the Minister for Planning on referred priority planning proposals.

#### Name

1. The Standing Advisory Committee is to be known as the 'Priority Projects Priority Projects Standing Advisory Committee' (the Committee).
2. The Committee is to have members with the following skills:
  - a. statutory and strategic land use planning
  - b. land development and property economics
  - c. urban design and architecture
  - d. heritage
  - e. civil engineering and transport planning
  - f. social impacts
  - g. environmental planning
  - h. planning law.
3. The Committee will include a lead Chair, Chairs, Deputy Chairs and not less than ten other appropriately qualified members.

#### Purpose

4. The purpose of the Committee is to provide timely advice to the Minister for Planning on projects referred by the Building Victoria's Recovery Taskforce (BVRT), projects affected by Covid-19 and or where the Minister has agreed to, or is considering, intervention to determine if these projects will deliver acceptable planning outcomes.

#### Background

5. The Victorian Government has identified Victoria's building and construction sector as a key mechanism to revitalise Victoria's economy during the coronavirus (COVID-19) pandemic.
6. The Government has committed to a fast-track assessment process for priority projects of state and regional significance that are shovel-ready and that will provide immediate benefits to Victoria's economy, keeping Victorians in work and priority infrastructure on track for completion.
7. The BVRT was formally announced on 26 April 2020. The Taskforce was established by the Minister for Planning and Treasurer to help keep Victoria's building and development industry running during the coronavirus crisis. The Taskforce will investigate planning and investment opportunities to boost Victoria's building and development industry over the short, medium and long term.

#### Method

8. The Minister for Planning or delegate will refer projects by letter to the Committee for advice on whether the project achieves acceptable planning outcomes.
9. The referral letter must specify:
  - a. the specific issues the Minister for Planning seeks advice about
  - b. the mechanism of intervention being considered
  - c. whether, or which previously collected, submissions are to be considered by the Committee
  - d. how the costs of the Committee will be met.

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Land, Water  
and Planning

10. The letter of referral will be a public document.
11. In making a referral, the Minister for Planning or delegate must, either:
  - a. be satisfied that any proposed planning controls for the land make proper use of the Victoria Planning Provisions and are prepared and presented in accordance with the Ministerial Direction on The Form and Content of Planning Schemes, or
  - b. seek advice from the Committee on the drafting of the planning controls or permit conditions.
12. The Committee may inform itself in anyway it sees fit, but must consider:
  - a. The referral letter from the Minister for Planning,
  - b. referred submissions,
  - c. the comments of any referral authority,
  - d. the views of the project proponent,
  - e. the views of the relevant Council,
  - f. The relevant planning scheme.
13. The Committee is not expected to carry out additional public notification or referral but may seek the views of any relevant referral authority, responsible authority or government agency.
14. The Department of Environment, Land, Water and Planning (DELWP) will be responsible for any further notification required. New submissions will be collected by DELWP.
15. The Committee may seek advice from other experts, including legal counsel where it considers this is necessary.
16. The Committee is not expected to carry out a public hearing but may do so if it is deemed necessary and meets its quorum.
17. The Committee may:
  - a. assess any matter 'on the papers'.
  - b. conduct discussions, forums, or video conferences when there is a quorum of:
    - i. a Chair or Deputy Chair, and
    - ii. at least one other member.
18. The Committee may apply to vary these Terms of Reference in any way it sees fit.

### **Submissions are public documents**

19. The Committee must retain a library of any written submissions or other supporting documentation provided to it directly to it in respect of a referred project until a decision has been made on its report or five years has passed from the time of the referral.
20. Any written submissions or other supporting documentation provided to the Committee must be available for public inspection until the submission of its report, unless the Committee specifically directs that the material is to remain confidential. A document may be made available for public inspection electronically.

### **Outcomes**

21. The Committee must produce a concise written report to the Minister for Planning providing the following:
  - a. A short description of the project.
  - b. A short summary and assessment of issues raised in submissions.
  - c. A draft planning permit including relevant conditions from Section 55 referral authorities, or draft planning scheme control depending on the nature of the referral.
  - d. Any other relevant matters raised in the course of the Committee process.
  - e. Its recommendations and reasons for its recommendations.
  - f. A list of persons or authorities/agencies who made submissions considered by the Committee.
  - g. A list of persons consulted or heard, including via video conference.

22. Following the completion of a report, the Committee may deliver an oral briefing to the Minister for Planning and/or DELWP. The briefing may be by video conference or telephone.

**Timing**

23. The Committee is required to submit its reports in writing as soon as practicable, depending upon the complexity of the referred project between 10 and 20 business days from either:
- a. the date of receipt of referral, if no further submissions or information are to be sought, or
  - b. receipt of the final submission of material or final day of any public process in respect of a referral.

**Fee**

24. The fee for the Committee will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.

The costs of the Advisory Committee will be met by each relevant proponent.



Richard Wynne MP  
Minister for Planning

Date: 14 / 06 / 2020

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## Appendix B Letter of Referral



Hon Richard Wynne MP

Minister for Planning  
Minister for Housing  
Acting Minister for Water

8 Nicholson Street  
East Melbourne, Victoria 3002

Ms Kathy Mitchell  
Chair (Lead), Priority Projects Standing Advisory Committee  
Planning Panels Victoria  
[planning\\_panels@delwp.vic.gov.au](mailto:planning_panels@delwp.vic.gov.au)

Ref. MBR045317



Dear Ms Mitchell

### DEVELOPMENT FACILITATION PROGRAM – 196-206 HIGH STREET, WINDSOR

I refer to the proposed draft Amendment C313ston to the Stonnington Planning Scheme and planning permit PA2101189 affecting land at 196-205 High Street, Windsor. The project has been considered by the Development Facilitation Program (DFP), which has deemed that it meets relevant criteria and should be prioritised for accelerated assessment and determination.

I am considering preparing an amendment to the Stonnington Planning Scheme (Amendment C313ston) to make me the responsible authority for the site, allowing me to determine planning permit PA2101189 for the use and development of land for a six-storey building with two basement levels comprising retail (shop and food and drink premises), office floorspace, a reduction in car parking and alteration of access to a Road Zone Category 1. I am considering these matters under Part 4, Division 5 of the *Planning and Environment Act 1987*, which allows for a combined permit and amendment process. I am also considering exempting myself from the normal exhibition and notice requirements under section 20(4) of the Act.

A previous permit application on the site was considered by the Victorian Civil and Administrative Tribunal (VCAT) (P327/2020) against the council's failure to grant a permit. This decision can be viewed at <http://www.austlii.edu.au/cqi-bin/viewdoc/au/cases/vic/VCAT/2020/1081.html>. The new proposal seeks to respond to the issues raised by VCAT.

To inform my decision about whether to prepare, adopt and approve Amendment C313ston and grant planning permit P2101189, I undertook consultation with a range of stakeholders to seek their views about the draft amendment and the draft planning permit, and consultation under section 20(5) of the Act about the proposed exemption under section 20(4) of the Act. Parties consulted with were the council, the proponent, adjoining owners and occupiers, 12 objecting parties to VCAT proceeding P327/2020, and the Department of Transport.

I also advise that a change has been made to draft Amendment C313ston. The change affects the Schedule to Clause 72.01 and is administrative in nature. Originally, the draft amendment proposed to make me the responsible authority for the issue of planning permit PA2101202, if it was determined that a permit should issue; however, this has now been changed to make me the responsible authority for the subject site. The altered Schedule to Clause 72.01 of the draft amendment is attached to this letter.

I have decided to refer the matter to the Priority Projects Standing Advisory Committee for advice and recommendations about whether planning approval should be given for the proposed development. I request your specific advice about the drafting of draft Amendment C313ston and whether planning permit PA2101189 should be issued and, if so, the appropriate conditions taking into consideration the matters raised in submissions received and the previous VCAT decision.



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All 59 submissions received will separately be provided to the advisory committee, along with the draft amendment, draft planning permit and the planning permit application documents that were made available during the consultation period.

The cost of the advisory committee will be met by the applicant, FC (High St Windsor) Pty Ltd.

If you have any questions about this matter, please email Dr Jane Homewood, Executive Director, Statutory Planning Services, Department of Environment, Land, Water and Planning, at [jane.homewood@delwp.vic.gov.au](mailto:jane.homewood@delwp.vic.gov.au).

Yours sincerely



**HON RICHARD WYNNE MP**  
Minister for Planning

15 / 08 / 2021

Encl.

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## SCHEDULE TO CLAUSE 72.01 – AS ADVERTISED UNDER SECTION 20(5) CONSULTATION

### STONNINGTON PLANNING SCHEME

- 11/10/2018  
OC88
- SCHEDULE TO CLAUSE 72.01 RESPONSIBLE AUTHORITY FOR THIS PLANNING SCHEME**
- 1.0  
31/07/2018  
VC148
- Responsible authority for administering and enforcing this planning scheme:**  
The Stonnington City Council is the responsible authority for administering and enforcing the planning scheme, except for matters specified in Clause 72.01-1 and matters listed in this schedule.
- 2.0  
11/10/2018  
OC88  
Proposed C213.htm
- Responsible authority for administering and enforcing a provision of this planning scheme:**  
For the purposes of the relevant provisions of Divisions 1, 1A, 2, 3 and 5 of Part 4 of the Planning and Environment Act 1987, the Minister for Planning is the responsible authority for administering:
- Planning permit PA2101189 for land at 196-206 High Street, Windsor; and
  - Any matters required by planning permit PA2101189 to be endorsed, approved, or done to the satisfaction of the responsible authority.
- The Minister for Planning is the responsible authority for considering and determining applications, in accordance with Divisions 1, 1A, 2, and 3 of Part 4 and exercising the powers set out in Section 171 and under Division 2 of Part 9 of the *Planning and Environment Act 1987* and for approving matters required by the scheme or a condition of a permit to be done to the satisfaction of the responsible authority in relation to the use and development of land:
- Within the area known as Horace Petty Estate, South Yarra, more particularly being the areas affected by Schedule 5 to the Development Plan Overlay.
  - Within the area known as Precinct B as shown in Schedule 15 to the Design and Development Overlay.
- The Minister for Planning is the responsible authority for administering and enforcing:
- Clause 51.01 of the planning scheme with respect of the “Melbourne Metro Rail Project Incorporated Document, May 2017”.
  - Any other provision of the planning scheme as it applies to the use or development of land for the purposes of the Melbourne Metro Rail Project.
  - Clause 51.01 of the scheme in respect of the “Melbourne Metro Rail Project: Upgrades to the Rail Network Incorporated Document, May 2018”.
  - Any other provision of the scheme as it applies to the use or development of land for the Melbourne Metro Rail Project: Upgrades to the Rail Network.
- 3.0  
31/07/2018  
VC148
- Person or responsible authority for issuing planning certificates:**  
Minister for Planning.
- 4.0  
08/06/2020  
VC179
- Responsible authority for VicSmart and other specified applications:**  
The Chief Executive Officer of Stonnington City Council is the responsible authority for considering and determining VicSmart applications to which Clause 71.06 applies, in accordance with Divisions 1, 1A, 2 and 3 of Part 4 of the Act.
- The Chief Executive Officer of Stonnington City Council is the responsible authority for considering and determining any application that the notice and review exemption in Clause 52.10-2 applies to, in accordance with Divisions 1, 1A, 2 and 3 of Part 4 of the Act.

## Appendix C Document list

No.	Date	Description	Provided by
1	14 June 2021	Terms of Reference	Minister for Planning
2	15 Aug 2021	Letter of Referral	“
3	“	Schedule to Clause 72.01 - As advertised under Section 20(5)	“
4	18 Aug 2021	Referred material including: <ul style="list-style-type: none"> <li>- Submissions</li> <li>- Draft Planning Scheme Amendment C313ston</li> <li>- Documents for Permit Application PA2101189</li> </ul>	Development Facilitation Program (DELWP)
5	3 Sep 2021	Notification letter to submitters advising of referral of the application to the Committee	Ms Mitchell, Committee Chair
6	9 Sep 2021	Letter confirming attendance and evidence to be called	Ms Choi, Norton Rose Fulbright for the Applicant
7	17 Sep 2021	Letter confirming represented submitters	Mr Marr for objectors
8	20 Sep 2021	Directions and Timetable (version 1)	Mr Underwood, Committee Chair
9	11 Oct 2021	Email filing evidence and submissions	Ms Choi
10	“	Applicant opening submission	“
11	“	Appendix A – comparison drawings (revision b)	“
12	“	Appendix B – ESD memo by Integral	“
13	“	Expert Evidence of Mark Sheppard	“
14	“	Expert Evidence of Stuart McGurn	“
15	“	Expert Evidence of Jason Walsh	“
16	13 Oct 2021	Council submission	Mr Wilkinson for Stonnington City Council
17	“	Without prejudice draft permit conditions incorporating all changes	“
18	19 Oct 2021	Summary and opening comments by the Committee	Mr Underwood
19	“	Renders from Mark Sheppard	Ms Choi
20	20 Oct 2021	VCAT decision Sprut Pty Ltd v Stonnington CC [2012] VCAT 1675	Mr Wilkinson
21	“	Proponent’s Hearing issue plans	Ms Choi
22	“	Closing submission Christopher Marr and Sarah Benbow and others	Mr Marr

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## Appendix D Submitters

Submitter
Adam Portelli
Alan Nelson
Amanda Graham
Andrew Hill
Andrew Millar
Anna Butterworth
Annemarie Newth
Catherine Diggins
Cathy Roberts
Charlie Smith
Cherie Wilson
Christine Deppeler
Christopher Marr
Danny A
Darrell Nam
Dean Bowden & Jennifer Bowden
Debbie & Danny Samuels
Dek Ford
Dijana Moisis
Dionne Wilson
Donald Wilson
Effie Tangelakis
Fiona Cowan
George Ouzas
Ha-Dieu Ford
Hamish Cant
Hannah Priest
Isobel Kate Warburg
Jeff Elliott

Submitter
Jocelyn Yee
Joel Dubs
Julee Johnson
Karen Le Rossignol
Kenneth Tabak
Kyveli Kotsimbos
Lorelle Porter
Lorraine Murphy
Louise Photiou
Lyn Williams
Marc Morris
Margaret Leever
Matt Moisis
Michael R Pintabona
Mike Scott
Nicholas Tsihlakis
Nick Van
Niovi Kotsimbos
Paul Rosbrook
Reuben Gill
Ristana Wong
Sakis Michelis
Ashlee Harris
Annaliese Battista
Talieh Williams
Tammy Lidano
Vera na Ranong
Vicki Kotsimbos
Wei Tang

## Appendix E Parties to the proceeding

Name	Represented by
FC (High St Windsor) Pty Ltd (Applicant)	Carly Robertson of Counsel, instructed by Sally Macindoe of Norton Rose Fulbright who called the evidence of: <ul style="list-style-type: none"> <li>• Stuart McGurn of Urbis on planning</li> <li>• Mark Sheppard of Kinetica Studio on urban design</li> <li>• Jason Walsh of Traffix Group on traffic</li> </ul>
Stonnington City Council	Kate Lyle of Counsel
Chris Marr and Sarah Benbow	
Alan Nelson	Chris Marr and Sarah Benbow
Andrew Millar	"
Anna Butterworth	"
Annemarie Newth	"
Charlie Smith	"
Dek Ford	"
Dionne Wilson	"
Donald Wilson	"
Ha-Dieu Ford	"
Hamish Cant	"
Isobel Kate Warburg	"
Joel Dubs	"
Julee Johnson	"
Kyveli Kotsimbos	"
Lyn Williams	"
Marc Morris	"
Margaret Leever	"
Nicholas Tsihlakis	"
Niovi Kotsimbos	"
Paul Rosbrook	"
Ristana Wong	"
Talieh Williams	"
Tammy Lidano	"
Vera na Ranong	"

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Name	Represented by
Vicki Kotsimbos	“
Wei Tang	“
Andrew Hill	
Cathy Roberts	
Cherie Wilson	
Danny A	
Darrell Nam	
George Ouzas	
Hannah Priest	
Nick Van	
Reuben Gill	
Sakis Michelis	

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## Appendix F Committee preferred version of Permit PA2101189

### Permit Preamble

#### The permit allows:

Use of the land as Office, construction of a mixed-use development comprising food and drink premises (other than Hotel, Convenience restaurant and Bar) and a shop (other than Adult sex product shop, Bottle shop and Restricted retail premises) and offices in an Activity Centre Zone with associated reduction in the car parking requirements and alteration of access to a road in a Road Zone Category 1 in accordance with the endorsed plans and subject to the following conditions.

### Draft Conditions

#### Amended Plans

- 1 Before the commencement of the development, one copy of plans drawn to scale and fully dimensioned, must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the plans prepared by K2LD dated 22.09.21 and marked SAC Hearing Issue including plans TP102 Rev TP3, TP103 Rev TP2, TP104 Rev TP3, TP105 Rev TP4, TP106 Rev TP4 and TP107 Rev TP4 but modified to show:
  - (a) The installation of barriers on level 4 to increase setback distances to preclude overlooking.
  - (b) Redesign of the High Street street-wall in accordance with the recommendations of Mark Sheppard in Appendix D of the Kinetica evidence statement dated October 2021 to better reflect the character, diversity and vertical rhythms of the fine-grained heritage buildings in the streetscape.
  - (c) All operable windows, doors, winter garden openings & vents in elevation drawings.
  - (d) Roof and relevant floor plans show the extent of roof and terrace rainwater catchment areas, with a note that rainwater from trafficable areas will be treated.
  - (e) All meter locations for water, electricity and gas covering all tenancies and common areas.
  - (f) Mechanical ventilation systems with heat recovery for all levels.
  - (g) Dimensions of tandem car parking and motorcycle parking spaces.
  - (h) Dimension of the blind aisle extension.
  - (i) The minimum gradient of the parking area shall be 1 in 200 (0.5%) for covered areas to allow for adequate drainage as per AS 2890.1. This is to be shown or indicated in the plans.
  - (j) Deletion of bicycle parking spaces shown outside the title boundary of the site.

- 
- (k) Staff bicycle parking spaces redesigned to that at least 50% are on ground and that all racks are separated by at least 0.5m and heights staggered.
  - (l) Any privacy screening to comply with the Overlooking Standard of Clause 54/55 clearly shown on the floor plans, elevations and sections.
  - (m) Service cupboard doors amended so they do not open outside the title boundary or installed with hinges to allow the doors to be opened and fixed at 180 degrees. The doors may not protrude more than 600mm into the footpath from the title boundary.
  - (n) Modify the rooftop services to limit any visibility from the street view.
  - (o) Improve the Victoria Street Ground Floor entrance to emphasise a sense of address.
  - (p) Provide a variance in frontage setbacks to Victoria Street with subtle insets to assist in ameliorating the wide continuous street wall presentation.
  - (q) Any changes as required by Conditions 3 (Materials Schedule) 4 (Acoustic Report); 6 (Sustainability Management Plan), 8 (Water Sensitive Urban Design Response), 10 (Landscape Plan), 12 (Waste Management Plan), 13 (Green Travel Plan) and 14 (3D Model).

All to the satisfaction of the Responsible Authority.

- 2 The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason, without the prior written consent of the Responsible Authority.
- 3 Concurrent with the endorsement of plans, a schedule of construction materials, external finishes and colours to the satisfaction of the Responsible Authority must be submitted and approved. The schedule must be generally in accordance with the External Material Schedule prepared by K2LD (Dwg No. TP205, Rev TP1). All materials must be confirmed as having no more than 25% reflectivity. When approved, the schedule will be endorsed and will form part of the permit.

#### **Acoustic Report**

- 4 Concurrent with the endorsement of the plans, an acoustic report must be submitted and approved by the Responsible Authority to confirm that the building has been designed in compliance with SEPP N-1 and N-2 at the nearest noise sensitive receivers. All acoustic measures proposed in the acoustic report must be shown on the architectural plans for endorsement.
- 5 Prior to the occupation of the development hereby approved, all acoustic measures proposed in the acoustic report must be incorporated to the satisfaction of the Responsible Authority.

#### **Sustainable Management Plan**

- 6 Concurrent with the endorsement of any plans pursuant to Condition 1 an amended Sustainable Management Plan (SMP) must be submitted to and approved by the Responsible Authority. The SMP must be generally as per the SMP prepared by Integral

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dated March 2021. Upon approval the SMP will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the SMP to the satisfaction of the Responsible Authority. Amendments to the SMP must be incorporated into plan changes required under Condition 1. The report must include, but not limited to, the following:

- (a) Demonstrate how Best Practice measures from each of the 10 key Sustainable Design Categories of Stonnington Council's Sustainable Design Assessment in the Planning Process (SDAPP) have been addressed
- (b) Identify relevant statutory obligations, strategic or other documented sustainability targets or performance standards
- (c) Document the means by which the appropriate target or performance is to be achieved
- (d) Identify responsibilities and a schedule for implementation, and ongoing management, maintenance and monitoring
- (e) Demonstrate that the design elements, technologies and operational practices that comprise the SMP can be maintained over time
- (f) Commitment to no less than a 4 star Green Star Designed Buildings rating through the Green Building Council of Australia (GBCA), or using the BESS tool to demonstrate that Council's best practice ESD standards, the minimum expected of large developments, are met. If Green Star is the selected, the applicant must provide a Green Star Designed scorecard with GBCA assessment comments
- (g) Ventilation rates to be 50% above AS 1668.2 standards and ventilation system will use of heat recovery for each floor
- (h) Mechanical ventilation systems with heat recovery for all levels.

All works must be undertaken in accordance with the endorsed Sustainability Management Plan to the satisfaction of the Responsible Authority. No alterations to the Sustainable Management Plan may occur without written consent of the Responsible Authority.

- 7 Prior to the occupation of the development approved under this permit, a report from the author of the Sustainability Management Plan, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Sustainability Management Plan have been implemented in accordance with the approved plan.

### **Water Sensitive Urban Design Responses**

- 8 Before the commencement of the development, the applicant must provide a Water Sensitive Urban Design Response to the satisfaction of the Responsible Authority addressing the Application Requirements of the Water Sensitive Urban Design Policy to the satisfaction of the Responsible Authority. All proposed treatments included within the Water Sensitive Urban Design Response must also be indicated on the plans. The response must include the following:

- 
- a) Design details of all treatment types identified in the Sustainability Management Plan and MUSIC modelling
  - b) Site management plan
  - c) Maintenance program which sets out future operational and maintenance requirements for the rainwater tanks and any other treatment proposed.

The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.

### **Landscape Plan**

- 9 Concurrent with the endorsement of plans, an amended landscape plan generally in accordance with the landscape plan prepared by Papworth Davies, dated 11 March 2021 must be submitted to and approved by the Responsible Authority. When approved, the landscape plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions and must be modified to show:
  - a) Any changes as required by condition 1 of this permit
  - b) All landscaping within the communal open space and roof terrace
  - c) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, quantities of each plant, and soil volume detail of any planter box
  - d) Dimensions of the planters and soil volume of the planters
  - e) Details of the irrigation design to accompany all landscaping planted in situ.

All to the satisfaction of the Responsible Authority.

- 10 Before the occupation of the development, the landscaping works as shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority. Landscaping must then be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

### **Waste Management Plan**

- 11 Concurrent with the endorsement of plans, a Waste Management Plan generally in accordance with the Waste Management Plan prepared by Salt dated 17 March 2021 must be submitted to and approved by the Responsible Authority. The Waste Management Plan must include:
  - (a) Dimensions of waste areas
  - (b) The number of bins to be provided
  - (c) Method of waste and recyclables collection
  - (d) Hours of waste and recyclables collection NB. These should correspond with our Local Laws
  - (e) Method of presentation of bins for waste collection

- 
- (f) Sufficient headroom within the basement to allow the passage of waste collection vehicles
  - (g) Sufficient turning circles for the waste collection vehicles to drive out in forward gear from within the basement
  - (h) Strategies for how the generation of waste and recyclables from the development will be minimised.

When approved, the plan will be endorsed and will then form part of the permit. Waste collection from the development must be in accordance with the plan, to the satisfaction of the Responsible Authority.

### **Green Travel Plan**

- 12 Prior to the commencement of any buildings or works, a Green Travel Plan must be submitted to and approved by the Responsible Authority. When approved, the Green Travel Plan will be endorsed to form part of the permit. The Green Travel Plan must include actions and recommendations designed to reduce the use of cars and increase the use of alternative travel methods to the satisfaction of the Responsible Authority. The development must operate in accordance with the Green Travel Plan.

### **Digital 3D Massing Model**

- 13 Concurrent with the endorsement of plans, the Applicant must submit a digital 3D massing model of the development hereby approved in accordance with the specifications of Council's GIS Unit, to the satisfaction of the Responsible Authority.

### **Stormwater and Drainage**

- 14 Prior to a building permit being issued, a report for the legal point of discharge must be obtained from Council and a drainage design for the development must be prepared by a suitably qualified Engineer in accordance with all 'recommendations' and requirements contained in that report. All drainage must be by means of a gravity based system with the exception of runoff from any basement ramp and agricultural drains which may be pumped. The relevant building surveyor must check and approve the drainage design and ensure that protection of the building is provided from a 1 in 100 A.R.I. rainfall event as required by the Building Regulations.
- 15 Prior to an 'Occupancy Permit' being issued, a suitably qualified Engineer must carry out a detailed inspection of the completed stormwater drainage system and associated works including all water storage tanks to ensure that all works have been constructed in accordance with the approved design and the relevant planning permit conditions. Certification of the completed drainage from the Engineer must be provided to Council prior to a 'Statement of Compliance' being issued for the subdivision.

### **General**

- 16 Prior to the occupation of the building, the walls on the boundary of the adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.
- 17 Any poles, service pits or other structures/features on the footpath required to be relocated to facilitate the development must be done so at the cost of the applicant and subject to the relevant authority's consent.

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- 18 The existing footpath levels must not be lowered or altered in any way at the property line (to facilitate the basement ramp).
  - 19 The redundant vehicular crossings must be removed and the footpath and kerb reinstated at the owner's cost to the satisfaction of Council.
  - 20 All plant and equipment (including air-conditioning units) shall be located or screened so as to minimise visibility from any of the surrounding footpaths and from overhead views and must not be located on balconies.
  - 21 The level of noise emitted from the premises must comply with EPA Victoria Publication 1826.4 May 2021 "Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues".
  - 22 All utility services to the subject land and buildings approved as part of this permit must be provided underground to the satisfaction of the Responsible Authority by completion of the development.
  - 23 Prior to occupation, access for persons with disabilities must be provided in compliance with the Disability Discrimination Act 1992 and such access must be maintained at all times the building is occupied or in use.
  - 24 External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.
  - 25 Prior to the occupation of the building, any fixed privacy screens (not adhesive film) designed to limit overlooking in accordance with the endorsed plans must be installed to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

### **Transport for Victoria**

- 26 All disused or redundant vehicle crossings must be removed, and the area reinstated to kerb and channel to the satisfaction of and at no cost to the Roads Corporation prior to the commencement of the use hereby approved.

### **Expiry**

- 27 This permit will expire if one of the following circumstances applies:
  - (a) The development is not started within two years of the date of this permit
  - (b) The development is not completed within four years of the date of this permit
  - (c) The use is not commenced within five years of the date of this permit.

In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.