



Planning Panels Victoria

Department of Environment, Land, Water and Planning

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

19 April 2021

Dear Party,

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

The Minister for Planning called in proceeding P1792/2020 relating to the proposed use and development of land at 11 Malmsbury Street, Kew for the demolition of existing buildings and to extend an existing education centre for autistic children and young adults from the Victorian Civil and Administrative Tribunal (VCAT) on Tuesday, 6 April 2021 and referred it to the Priority Projects Standing Advisory Committee (Committee). We are writing to you because you are a party to the VCAT proceeding.

The Minister for Planning appointed the Priority Projects Standing Advisory Committee (Committee) under section 151 of the *Planning and Environment Act 1987*. Committee Members Geoff Underwood (Chair) and Debra Butcher will consider this referral. This matter will be known as Referral 14.

The Minister for Planning has provided the Committee with Terms of Reference dated 14 June 2020 and Letter of Referral dated Tuesday, 6 April 2021 (both attached). In accordance with these documents, the purpose of the Committee is to:

- provide timely and independent advice to the Minister for Planning on projects referred by the Development Facilitation Team (DFT), and projects affected by COVID-19.
- Provide advice and recommendations on whether the proposed development appropriately responds to the heritage significance of the site and surrounding heritage/neighbourhood character of the area
- Provide advice and recommendation on whether the proposal would result in unacceptable impacts on safety, amenity, noise and traffic within the surrounding area.

Form of engagement

Clause 16 of the Terms of Reference provides that the Committee is not expected to carry out a public hearing or roundtable discussion but may do so if it is deemed necessary. The Committee considers a roundtable discussion is required for this referral. Please advise the Committee if you have procedural matters that you wish to raise as soon as possible.

The Committee will hold a Roundtable Discussion by video conference. This letter:

- tells you about the Roundtable Discussion process
- tells you what you need to do if you want to participate in the Roundtable Discussion process
- explains how we will use information the Committee collects
- sets out directions for the Roundtable Discussion

The Committee Roundtable Discussion process

The Committee will:

- consider parties in an independent forum

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

- be informal and not like a court
- give fair, unbiased advice and recommendations to the Minister for Planning about the referral.

Submissions and other information presented throughout the process will be treated as public documents. Please note the attached *Privacy Collection Notice*.

Roundtable Discussion

The Roundtable Discussion will be held:

10.00am, Tuesday, 11 May 2021

by video conference using MS Teams

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

The Roundtable Discussion is open for anyone to attend.

Parties can view the [Planning Panels Victoria guide to using MS Teams](#) online.

At the Roundtable Discussion the order will be:

- The Responsible Authority
- Individual objectors
- Applicant.

If you wish to be involved in the Roundtable Discussion

If you wish to participate in the Roundtable Discussion you must confirm attendance by **12 noon on Thursday 22 April 2021** by emailing planning.panels@delwp.vic.gov.au.

Also by that time and date, the responsible authority and the applicant must advise if they propose to call expert evidence and the names and field of expertise of a witness.

Further Information

The attached standard *Privacy Collection Notice* explains how your submission will be used by the Committee.

Further information including the *What is a Panel?* guide, *Guide to the Public Hearing* and *Frequently Asked Questions* are available at:

<https://www.planning.vic.gov.au/panels-and-committees/planning-panel-guides>

If you have any other questions, please contact Georgia Thomas, Project Officer at Planning Panels Victoria on (03) 8624 5717 or planning.panels@delwp.vic.gov.au.

Yours sincerely,



Geoff Underwood
Committee Chair

Att 1 - Terms of Reference

Att 2 – Letter of Referral

Distribution list

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

This list should be used to circulate documentation to parties listed below as requested by the Committee. It must not be used for any other purpose.

Party	Email Address
Planning Panels Victoria	planning.panels@delwp.vic.gov.au
Boroondara City Council	
Giant Steps Melbourne Ltd (Applicant)	
Department of Transport	
Kew Hebrew Congregation Inc.	
Katrina Reynen	
Alexis Fong	

Documentation and Preliminary list of issues

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

Documentation

The Committee has been provided with:

- Terms of Reference dated 14 June 2020
- Letter of Referral dated Tuesday 6 April 2021
- Electronic file for VCAT proceeding P1792/2020

Preliminary Issues

The Committee has identified the following issues from the documentation provided so far:

1. Relationship of heritage issues through the permit application and Amendment C342boro.
2. The status of Amendment C342boro and what relationship it has to Amendment C336boro (referred to in the Minister's letter dated 6/4/2021) and Amendment C366boro (referred to in the Council Officer's report dated 22/9/2020)
3. Council's positions on amenity and traffic issues: Council to state its positions on matters set out in the Delegate Report dated 22 September 2020.
4. Amenity and traffic issues as expressed by objectors.

Parties are directed to advise the Committee and other parties on the distribution list, of any key issues additional to those listed by **12 noon on Thursday 22 April 2021**

Committee Directions

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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	Tuesday, 27 April 2021	Council must supply the documents specified	2
12 noon	Tuesday, 27 April 2021	The Applicant must supply documents specified	3
12 noon	Tuesday, 4 May 2021	Parties must circulate expert witness reports	5
12 noon	Wednesday, 5 May 2021	Council must provide parties with an MS Word version of the Without Prejudice Permit Conditions	23
12 noon	Friday, 7 May 2021	The Applicant must circulate to parties any comment on the proposed Permit Conditions	24
10 am	Tuesday, 11 May 2021	Video conference Hearing commences	

Before the Roundtable Discussion

Circulation and sharing of documents

1. Documents must be circulated electronically. Paper documents will only be permitted in exceptional circumstances.
2. Council must provide the following documents to parties on the distribution list by **12 noon on Tuesday 27 April 2021**:
 - a) Any relevant information beyond the material provided to VCAT in the response PN2 in December 2020.
 - b) Details of any submissions received relevant to the exhibition of Amendment C342boro as well as advice about the proposed timing of consideration of the Amendment by the Planning Authority.
3. The Applicant must provide the following documents to parties on the distribution list by **12 noon on Tuesday 27 April 2021**:
 - a) A copy of the planning permit application and plans on which it relies.
 - b) Any other information beyond the material provided to VCAT in the package of information dated 30 September 2020 as the Section 77 review material.
 - c) Any material beyond that supplied to the responsible authority by Contour Consultants as additional information on 30 July 2020.

Witness reports

4. 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) not refer to any individual submitter by name – if necessary, submitters should be referred to by submission number (*Note: it can refer to community groups, organisations, corporations and government agencies*)
 - c) be provided to the Committee as an unlocked document.
5. Parties must circulate their witness reports to parties on the distribution list by **12 noon on Tuesday 4 May 2021**

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Submissions and information

6. Parties must present material at the Hearing electronically.
7. All information presented is a public document unless the Committee directs otherwise.

Evidence and cross examination

8. An expert witness may refer to a presentation which summarises their evidence, but it must:
 - a) not include new evidence
 - b) be provided to parties by 12 noon the day before that witness is scheduled to appear.
9. Parties, advocates and the Committee may question a witness.
10. During the Hearing, for scheduling purposes, the Committee will ask each party:
 - a) how much time they anticipate they will need for each witness
 - b) to keep to their anticipated time for each witness.
11. If cross-examining a witness, a party must:
 - a) be present for the whole of the giving of the evidence
 - b) ask clear and relevant questions, directed to matters of fact or professional opinion, that genuinely assist the Committee in understanding the issues
 - c) allow a witness time to explain their answer.
12. If giving evidence remotely, a witness must:
 - a) be alone in the room from which they give evidence and not make or receive any communication with another person while giving evidence except with the express leave of the Committee
 - b) inform the Committee immediately should another person enter the room from which they are giving evidence
 - c) not discuss their evidence with any other person during breaks in evidence when under cross-examination
 - d) not have before them any document, other than their expert witness statement and relevant supporting documents.
13. The Committee will regulate cross-examination.

Other information

14. Any other material a party wishes to present at the Hearing must be circulated to parties on the distribution list by **12 noon on the day before** the party presenting the material is due to present.
15. After presenting to the Committee, submissions and other material (preferably in MS Word) should be emailed to planning.panels@delwp.vic.gov.au as an unlocked document.
16. All information presented at the Hearing is a public document unless the Committee directs otherwise.

Closing submissions

17. Council and the Applicant will be provided time to present a brief closing submission.
18. The closing submission must not raise new matters but should respond to matters raised in other parties' submissions or evidence.

Recording Hearings and use of personal information

19. Parties must not record any part of an electronic hearing by any means without permission from the Committee.

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20. In exceptional cases, the Chair may direct that the Hearing be recorded. A party who wishes proceedings to be recorded must make a request to the Committee at least five business days before the commencement of the Roundtable Discussion, outlining its reasons.
21. If Planning Panels Victoria records an electronic hearing, any party provided with a copy of the recording on request must not publish or distribute that recording or use it for any purpose other than for the Hearing.
22. 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

23. Council must provide parties by **Wednesday, 5 May 2021** with an MS Word version of proposed permit conditions.
24. The Applicant must provide without prejudice tracked changes, to all parties by **12 noon on Friday, 7 May 2021**.
25. After submissions close on Tuesday, 11 May 2021, parties will have an opportunity to comment on any tracked draft changes.
26. This process is not an opportunity to revisit any matter of merit.

Compliance with Committee directions

27. 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*]
28. 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.
29. 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 1

Day 1: Tuesday 11 May 2021

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

Time	Party	Allocated
10.00am – 10.15am	Preliminary matters	15 mins
10.15am – 10.45am	City of Boroondara	30 mins
10.45am – 11.15am	Applicant for permit	30 mins
11.15am – 11.30am	Break	15 mins
11.30am – 11.45am	Objector 1	15 mins
11.45am – noon	Objector 2	15 mins
12.00pm – 12.15pm	Objector 3	15 mins
12.15pm – 12.30pm	Summary of issues	15 mins
12.30pm – 1.30pm	Lunch break	1 hour
1.30pm – 4.30pm	Round table discussion on the issues	
2.45pm – 3.00pm	Break	15 mins
3.00pm – 4.30pm	Round table discussion continues including closing statements and without prejudice discussion on proposed permit conditions	
4.30pm	Day close	

Planning Panels Victoria Privacy Notice

Your submission has been collected for the primary purpose of this Committee process.

Natural justice for all participants and transparency are important parts of the Committee process. In meeting its legislative requirements, the Committee may:

- provide a copy of your submission with all contact details to the Proponent, Local Council, government agencies and other parties to the Hearing
- provide a copy of your submission to the Department of Environment, Land, Water and Planning if needed for preparing Ministerial briefings
- display a copy of your submission in the Planning Panels Victoria Office or Hearing room.
- display a copy of your submission in the relevant Local Council Office or Regional Government Office as appropriate.

Displaying submissions online

The Committee does not propose to display your full submission on a website unless this is necessary, and you have given your consent. However, your name and other personal information may be published on the internet as detailed below.

Publication of your personal information on the internet

A Committee Report will be published on the internet and may include each submitter's name, direct quotes from submissions and submitter addresses, if required.

Please note that even when your personal information is removed from the internet, it may remain on external servers indefinitely.

Hearing of submissions

A Hearing may be held in person at a venue, by telephone conference, by video link, or a combination of these. You should be aware the Committee may:

- broadcast submissions and proceedings live on the internet
- record submissions and proceedings
- make the recording available to submitters and parties to the Hearing and third parties who request it from Planning Panels Victoria at planning.panels@delwp.vic.gov.au
- use your phone contact details to contact you during a telephone/video hearing, if necessary.

The Committee will direct that parties:

- use any recording provided by Planning Panels Victoria solely for the purpose of the Committee process
- not record online hearings.

The Committee cannot:

- guarantee that a third party will not produce an unauthorised recording
- regulate how recordings are used outside the hearing context.

During the Committee process, all participants, including the general public, must respect the privacy of others and not make defamatory comments.

After the Committee has reported

When the Committee has reported to the Planning Authority, your submission will be removed from public display.

Your original submission and any additional material provided will be held at Planning Panels Victoria for two years and then sent to the Public Record Office Victoria. All additional copies of the submission and other material held by Planning Panels Victoria will be securely destroyed.

Committee Directions:

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Malmsbury Street, Kew

If you have any concerns about how your submission will be used, please contact Planning Panels Victoria on (03) 8624 3127.