

**Priority Projects Standing Advisory Committee Report**  
Referral 23: Stewart Street, Richmond  
Yarra Planning Scheme

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*Planning and Environment Act 1987*

**5 December 2022**

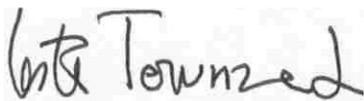
*Planning and Environment Act 1987*

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

Referral 23: Stewart Street, Richmond

Yarra Planning Scheme

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



Lester Townsend, Chair



Simon Shiel, Member

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## Glossary and abbreviations

Amendment	Draft Yarra Planning Scheme Amendment C303yara
BVRT	Building Victoria’s Recovery Taskforce
Committee	Priority Projects Standing Advisory Committee considering Referral 23
Council	Yarra City Council
DELWP	Department of Environment, Land, Water and Planning
ESD	Environmentally Sustainable Development
<i>Hines</i>	Hines 9 Stewart Property Pty Ltd v Yarra CC [2021] VCAT 185
MAC	Major Activity Centre
MUZ	Mixed Use Zone
PE Act	Planning and Environment Act 1987
PPV	Planning Panels Victoria
Proponent	Hines 9 Stewart Property Pty Ltd
VCAT	Victorian Civil and Administrative Tribunal

## Referral summary

Referral summary	
Date of referral	14 June 2020
Referral	23
Members	Lester Townsend (Chair), and Simon Shiel (Member)
Description of referral	An amendment to make the Minister for Planning the responsible authority for the subject land and to grant a permit for: <ul style="list-style-type: none"> <li>- Partial demolition and construction of a multi-storey mixed-use building, comprising commercial offices, retail, food and drink premises and reduction in car parking requirements</li> </ul>
Common name	9-13 Stewart Street, Richmond
Municipality	City of Yarra
Planning Authority	Minister for Planning
Draft Amendment	Yarra Planning Scheme Amendment C303yara
Draft Permit Application	PA2201605
Subject land	9-13 Stewart Street, Richmond
Proponent	Hines 9 Stewart Property Pty Ltd
Submissions	37
Site inspection	4 October 2022
Directions Hearing	9 August 2022 by video conference
Hearings	11, 12, 13 and 14 October 2022
Further material	8 November 2022
Parties	<p><b>Yarra City Council</b> represented by John Rantino and Kristin Richardson of Maddocks calling expert evidence on:</p> <ul style="list-style-type: none"> <li>- urban design from Professor Robert McGauran of MGS Architects Pty Ltd</li> <li>- heritage from Robyn Riddett of Anthemion Consultancies</li> </ul> <p><b>Hines 9 Stewart Property Pty Ltd</b> (the Proponent) represented by Tiphonie Acreman of Counsel, instructed by Tamara Brezzi of Norton Rose Fulbright, calling expert evidence on:</p> <ul style="list-style-type: none"> <li>- planning from David Crowder of Ratio Consultants</li> <li>- heritage from Bryce Raworth of Bryce Raworth Conservation &amp; Heritage</li> <li>- traffic from Jason Walsh of Traffix Group</li> </ul> <p><b>Michael Phillipson</b>  <b>Peter Stahle</b>  <b>Rowan Clark</b>  <b>Stephen McCulloch</b></p>

Information relied upon	All referred material including submissions, draft Planning Permit PA2201605, draft Planning Scheme Amendment C303yara, draft planning permit application documents, additional submissions received, and documents tabled during the course of the Hearing (see Appendix C)
Date of this report	5 December 2022

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# 1 Introduction

## (i) 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.

This is Referral 23. It relates to a proposal for a nine-storey building at 9-13 Stewart Street, Richmond.

The Committee was provided with a letter of referral from the Minister for Planning dated 18 July 2022 (Appendix B) that tasked it to consider:

- draft Planning Scheme Amendment C303yara which would make the Minister the responsible authority for the site
- whether Planning Permit PA2201605 should be issued for:

... the partial demolition of an existing building and use and development of a nine-storey commercial building comprising office space, retail and food and drink premises, and reduction in car parking requirements. The matter is proposed under Part 4, Division 5 of the PE Act, which allows for a combined permit and amendment process

The letter of referral requests that the Committee provide specific advice about matters raised in submissions and in the context of a previous Victorian Civil and Administrative Tribunal (VCAT) decision.

## (ii) Membership

The members of the Committee dealing with Referral 23 were:

- Lester Townsend, Chair
- Simon Shiel, Member.

The Committee was assisted by Georgia Thomas and Chris Brennan, Project Officers, of the office of Planning Panels Victoria.

The following declarations were made by Mr Shiel at the Directions Hearing:

- Council's proposed witness is Professor Robert McGauran of MGS. Mr Shiel is currently working alongside MGS but has no direct involvement with Prof McGauran. Mr Shiel undertook to have no direct contact with Prof McGauran until after the conclusion of this matter.
- The Proponent's previous planning consultant was Urbis. Mr Shiel has worked alongside Urbis in the past. The most recent instance was a planning application. That association was completed in June 2020.
- The Architects for the proposed development are Woods Bagot. Mr Shiel has worked alongside Woods Bagot in the past. The most recent instance was completed in about 2015.

No party expressed any concern with the declarations when invited to do so.

**(iii) Background to the proposal**

A previous permit application on the site was considered by VCAT (P1090/2020) against Yarra City Council's failure to grant a permit. VCAT refused the application.

The Committee is tasked with considering a revised proposal which was considered by the Development Facilitation Program within the Department of Environment, Land, Water and Planning (DELWP) and deemed to meet relevant criteria to be prioritised for accelerated assessment and determination.

On 14 April 2022, the former Minister for Planning resolved to undertake consultation on the draft Amendment and draft permit and to refer any unresolved submissions to the Committee.

The parties consulted included Yarra City Council, Hines 9 Stewart Street Pty Ltd (the Proponent), adjoining owners and occupiers, objecting parties to the previous VCAT proceeding and the Department of Transport. Thirty-seven submissions were received.

The main issues raised in submissions related to building height and heritage impacts and off-site amenity impacts. Following the completion of the consultation period, the matter was referred to the Committee for advice and recommendations about whether planning approval should be given for the proposal.

## 2 Site and planning context

### 2.1 The site

#### The locality

The site, outlined in white in Figure 1, is located immediately to the north of the Richmond Station (just over 2 kilometres from Flinders Street Station) in an established mixed-use area which has undergone layers of change over time.

**Figure 1** Aerial photograph of review site and immediate surrounds



Mr Crowther, in evidence for the Proponent, noted:

- The site is well positioned in terms of amenities, being located directly north of Richmond Train Station which is a major train hub through which multiple train lines run, and from which trains travel frequently directly into the Central Business District.
- In addition to Richmond Station, the site enjoys excellent public transport access with the number 70 tram running down Swan Street, and the 246 bus running north/south long Punt Road. This is a location that can easily be accessed without a car.
- The Swan Street Major Activity Centre offers various dining options and local services, including a full line supermarket.
- The site is also in close proximity to public open space and recreation areas including Punt Road Oval, the MCG and surrounding Parkland and Gosch's Paddock all within convenient walking distance.
- The site is proximate to various other educational, commercial, and recreational offerings.

According to WalkScore<sup>1</sup>, the site is located in an area where daily errands do not require a car and where 'world class' public transportation is available (refer to Figure 2.3 below).

#### The subject site

The site is generally regular in shape having a total site area of approximately 899 square metres. It is located on the corner of:

<sup>1</sup> A website([www.walkscore.com](http://www.walkscore.com)) that provides a score for a site, based on that sites proximity to walkable destinations or amenities.

- Stewart Street to the south (with a curved frontage of about 30 metres). Stewart Street is about 13 metres wide with a single lane of traffic in each direction and parallel parking along both sides of the street.
- Margaret Street to the east (with a frontage of about 32 metres). Margaret Street is about 8 metres wide with a single lane of traffic in each direction and parallel parking on one side.

The site comprises a two-storey building, which was originally developed for the purpose of a warehouse and is currently vacant.

The building is painted brick, with some decorative features and a strong parapet along the Stewart Street frontage. The ground floor facade has been heavily graffitied along both street frontages and the windows boarded up, but the facade otherwise appears to be in good condition.

**Figure 2** Site images



Subject Site - View from Richmond Station entry



Subject Site - View from the corner of Stewart Street and Margaret Street



Subject Site - View looking south along Margaret Street



Subject Site - View looking east along Stewart Street



Subject Site - View looking North from Richmond Station



Subject Site - Existing façade on Stewart Street

## Site interfaces

The southern side of the site fronts Stewart Street. On the southern side of Stewart Street is the Richmond Train Station, including 10 sets of railway tracks and several platforms. There is a high retaining wall with fencing above between Stewart Street and the railway infrastructure. Stewart Street is highly trafficked by pedestrians, owing to the northern station entrance being approximately 30 metre east of the subject site.

The eastern side of the site fronts Margaret Street. On the eastern side of Margaret Street is a residential apartment building which has been developed in a former warehouse building (the 'Express' Apartment Building). The apartment building is up to 7 storeys in height and includes apartments facing west, towards the site. This building and the associated west facing habitable room windows and terraces are separated from the subject site by a distance of around 8 metres.

Directly north of the site is a three-storey residential townhouse development. The building is constructed to its southern boundary with dwellings oriented either toward Margaret Street or the north. The building does not include any windows or terraces facing the subject site.

The front (southern) part of the western interface is a double storey brick commercial building, located on the corner of Stewart Street and Stewart Place. The existing building is built to the common boundary with the site.

The rear (northern) part of the western interface is occupied by a three-storey townhouse building (3 dwellings wholly or partly about the common boundary with the site), which includes windows and terraces facing the site. These are known as 3-7 Stewart Place and the owners made submissions to the Committee.

## 2.2 Zoning and overlays

### (i) The zone

The site is in the Mixed Use Zone (MUZ). The purposes of the MUZ include:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for a range of residential, commercial, industrial, and other uses which complement the mixed-use function of the locality.
- To encourage development that responds to the existing or preferred neighbourhood character of the area.

### (ii) Overlays

The site is subject to the:

- Environmental Audit Overlay with purposes:
  - To implement the Municipal Planning Strategy and the Planning Policy Framework.
  - To ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination.
- Heritage Overlay with purposes that include:
  - To conserve and enhance heritage places of natural or cultural significance.
  - To conserve and enhance those elements which contribute to the significance of heritage places.
  - To ensure that development does not adversely affect the significance of heritage places.
  - To conserve specified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.

The site is listed in the Heritage Overlay as part of 'HO332 Richmond Hill Precinct'. The *City of Yarra Database of Heritage Significant Areas*, April 2022, has identified the existing building on the land as a contributory building. Pursuant to Clause 43.01-1 a planning permit is required to demolish or remove a building, construct a building, or carry out works.

The Decision Guidelines of the Heritage Overlay include:

Whether the location, bulk, form and appearance of the proposed building will adversely affect the significance of the heritage place.

Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.

### (iii) Particular provisions

Two particular provisions are relevant to the proposal:

- Clause 52.06 Car Parking
- Clause 52.34 Bicycle Facilities.

## 2.3 Planning policy context

### (i) Plan Melbourne

Plan Melbourne, the metropolitan strategy for Melbourne, outlines a vision of Melbourne as a ‘global city of opportunity and choice.’ This vision is guided by seven key outcomes, each supported by directions and policies towards their implementation.

Outcomes relevant to the land-use and built form changes sought by this proposal include the following:

- **Outcome 1:** Melbourne is a productive city that attracts investment, supports innovation, and creates jobs
- **Outcome 4:** Melbourne is a distinctive and liveable city with quality design and amenity
- **Outcome 5:** Melbourne is a city of inclusive, vibrant, and healthy neighbourhoods

**Direction 1.1** seeks to create a city structure that strengthens Melbourne’s competitive advantage for jobs and investment, particularly about supporting the central city to become Australia’s largest commercial and residential centre by 2050.

**Policies 1.1.1 and 1.1.2** encourage new development opportunities to create and grow office floor space amongst residential space, to deliver co-benefits of employment, reduced commuting and transport costs for workers and residents. Urban renewal in identified precincts and around the central city is acknowledged to play a major role in delivering high-quality, distinct, and diverse neighbourhoods that offer a mix of uses.

**Direction 4.1** advocates a place-making approach to urban design to create “*more great public places across Melbourne.*”

**Policy 4.3.1** seeks to integrate place-making practices into road-space management to ensure the design of streets encourages the use of active transport and facilitates a greater degree of and encounter and interaction between people and places.

**Direction 5.1** outlines the ambition of creating a city of 20-minute neighbourhoods by encouraging the development of vibrant, mixed-use neighbourhoods linked by a network of activity centres. ‘Walkability,’ ‘housing diversity’ and ‘ability to age in place’ are identified here as key characteristics of 20-minute neighbourhoods.

Policy guidelines to consider where relevant include:

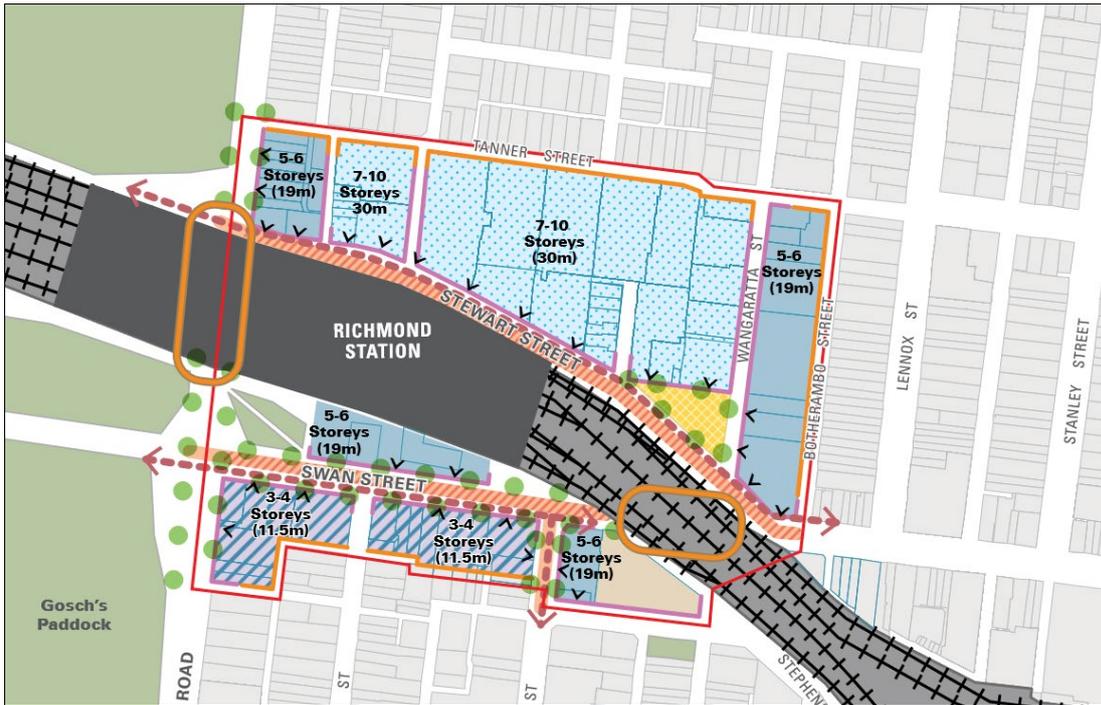
- *Urban Design Guidelines for Victoria* (DELWP, 2017).
- *Safer Design Guidelines for Victoria* (Crime Prevention Victoria and Department of Sustainability and Environment, 2005).
- *Urban Design Charter for Victoria* (Department of Planning and Community Development 2009).

### (ii) Local area based policy

#### Swan Street Structure Plan

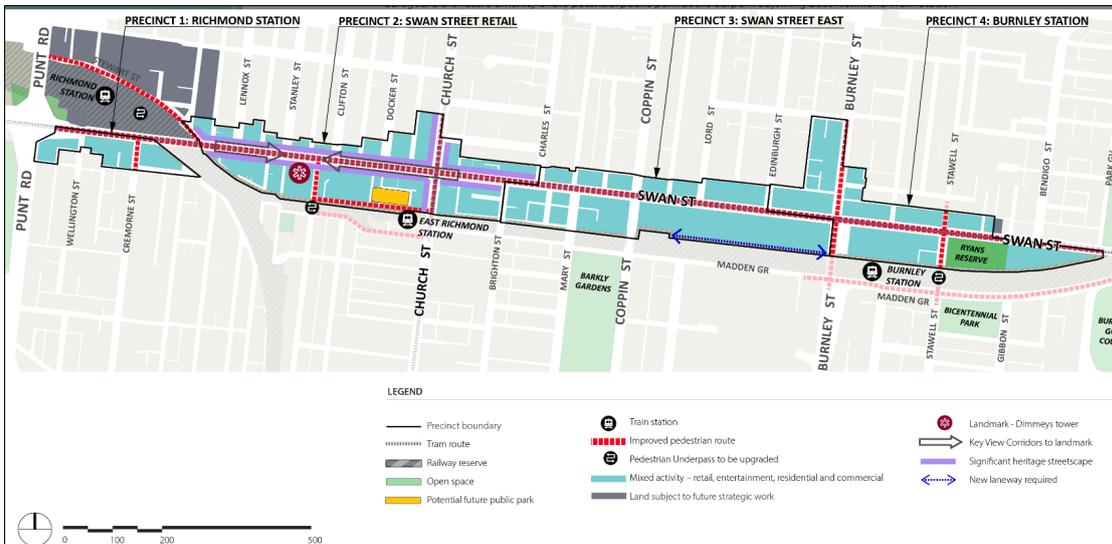
The Swan Street Structure Plan was adopted by Council on 17 December 2013 as a strategic document for the Swan Street Major Activity Centre.

Figure 3 Swan Street Structure Plan, extract (page 26)



Amendment C191yara introduced that structure plan and was gazetted on 10 February 2022. The site is not in an activity centre precinct identified in local policy (see Figure 4).

Figure 4 Swan Street Major Activity Centre plan and Clause 21.12 (Local Areas)



Amendment C269yara proposes to update the local policies in the Yarra Planning Scheme by replacing the Municipal Strategic Statement at Clause 21 and Local Planning Policies at Clause 22 with a Municipal Planning Strategy and local policies within the Planning Policy Framework, consistent with the structure introduced by Amendment VC148.

The Panel that considered Yarra C269yara advised in relation to the Swan Street Major Activity Centre:

It is not appropriate to include the mixed use land north of Richmond Station within the Swan Street Major Activity Centre until further strategic work has been completed that investigates:

- whether the mixed use land forms part of the Swan Street Major Activity Centre or some other precinct

- the boundary of the precinct
- strategies in local policies to help guide the development of the area
- appropriate built form controls for the precinct.

### Neighbourhood policy

Clause 21.08 (Neighbourhoods) sets out locally specific objectives and strategies for each neighbourhood. The site sits within the southwest corner of the Central Richmond Neighbourhood.

The implementation of built form strategies in Clause 21.08 includes:

Supporting development that maintains and strengthens the preferred character of the relevant Built Form Character type.

Improve the built form of:

- land around Richmond Station.

### (iii) Planning Policy Framework

#### Urban design

Clause 15.01-1S (Urban design) seeks to create urban environments that are “*safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.*” Relevant strategies towards achieving this goal include:

- Ensure development contributes to community and cultural life by improving the quality of living and working environments, facilitating accessibility, and providing for inclusiveness.
- Ensure development supports public realm amenity and safe access to walking and cycling environments and public transport.
- Promote good urban design along and abutting transport corridors.

Clause 15.01-02S (Building design) aims to ensure that building design outcomes contribute positively to local contexts and enhance public realm. Strategies relevant to this proposal include:

- Ensure the form, scale, and appearance of development enhances the function and amenity of the public realm.
- Ensure buildings and their interface with the public realm support personal safety, perceptions of safety and property security.
- Ensure development is designed to protect and enhance valued landmarks, views, and vistas.
- Ensure development provides safe access and egress for pedestrians, cyclists, and vehicles.
- Ensure development provides landscaping that responds to its site context, enhances the built form, and creates safe and attractive spaces.

Clause 21.05 (Built Form) presents objectives and strategies for heritage, urban design, built form character and the public environment. It seeks to reinforce the existing urban framework of Yarra of a “*low-rise urban form punctuated by pockets of higher development*”.

Objectives and strategies under this clause relevant to the proposal include:

- Developments on strategic redevelopment sites should generally be no more than 5-6 storeys unless it can be demonstrated that the proposal provides specific benefits such as the provision of affordable housing or a positive contribution to the enhancement of the public domain.

- Retain, enhance, and extend Yarra's fine-grain urban fabric by ensuring new developments are designed having regard to its surrounding urban context and fabric, including the re-establishment of historical streets and laneways.
- Provide a public environment that encourages community interaction and activity.
- Objective 16 under Clause 21.05 seeks to reinforce the existing urban framework of the City of Yarra, with Strategy 16.2 seeking to maintain and strengthen the preferred character of each built form character type within the City of Yarra.
- Objective 17 under Clause 21.05 seeks to “retain Yarra's identity as a low-rise urban form with pockets of higher development”.
- Objective 20 under Clause 21.05 seeks to ensure that new development contributes positively to Yarra's urban fabric, including:
  - Strategy 20.1: Ensure development is designed having regard to its urban context and specifically designed following a thorough analysis of the site, the neighbouring properties, and its environs.

Clause 21.05-4 (Public environment) notes:

New development must add positively to Yarra's overall character and help create a safe and engaging public environment where pedestrian activity and interaction are encouraged. Public spaces and urban squares provide outdoor spaces for people to meet and gather. Opportunities to create such spaces will be sought. There is a need to ensure that, as development occurs, Yarra's public environment, buildings and transport infrastructure are accessible to all people.

## Heritage

Clause 22.02-5.7 (New Development, Alterations or Additions) gives guidance related to facade articulation and appearance of additions to a heritage place:

Encourage the design of new development and alterations and additions to a heritage place or a contributory element to a heritage place to:

- Respect the pattern, rhythm, orientation to the street, spatial characteristics, fenestration, roof form, materials and heritage character of the surrounding historic streetscape.
- Be articulated and massed to correspond with the prevailing building form of the heritage place or contributory elements to the heritage place.
- Be visually recessive and not dominate the heritage place.
- Be distinguishable from the original historic fabric.

## 3 The issues

### Previous proposals

In 2012, an application for a 14-storey mixed use building at the site was refused by VCAT.<sup>2</sup> That proposal also included the site at 5 Stewart Street. The use of the building for a mix of commercial and apartments was supported, but VCAT refused the proposal citing concerns with the building design, height and setbacks.

In 2014, Yarra City Council issued a planning permit for an 8 storey mixed use building across the site and 5 Stewart Street ('the approved proposal'). That permit has since lapsed.

In March 2021, an application for a 42 metre high commercial office building for the site was refused by VCAT<sup>3</sup>('the refused proposal'). The referral letter requests the Committee "*provide specific advice about matters raised in submissions and in the context of the previous VCAT decision.*" The Committee refers to that decision as '*Hines*'.

There is no fundamental dispute that the site is suitable to accommodate some form of increased development due to its locational attributes. VCAT stated:

- 31 Overall, our conclusions in regard to the relevant policies are that there is policy support for new development on this site of at least 5-6 storeys. There is no guidance as to how much greater the intensity of development can or should be. Rather there is a recognition of the heritage significance of this mixed use area/precinct, and the need to protect and enhance this significance. The form and scale of any development on this site must respond to these relevant planning controls and policies as well as the physical context of the site and surrounds.

VCAT's findings can be broadly categorised as:

- building mass: height and setbacks
- design detailing: facade and interfaces
- other matters.

### Building mass: height and setbacks

On building height VCAT said:

- 70 ...We agree reducing the building height by two or three storeys (as is suggested by ... Council's expert witnesses) would mean the height is comparable to the existing and approved buildings in this sub-precinct.

On setbacks:

- 77 ...we are of the view that the proposed setbacks are insufficient to ensure that the new building will be visually recessive in, and not dominate, the existing heritage significant facades in the Stewart Street streetscape,

On shadow impacts:

- 99 ... this is an issue that will need to be considered afresh as part of any future planning application for this site.

On wind impacts:

- 110 ... in this case, it is important that the implications of wind impacts are considered hand in hand with the consideration of any impacts upon the heritage significance, particularly of visible new works along Stewart Street and Margaret Streets in proximity to the retained heritage facades.

<sup>2</sup> ACCC Pty Ltd t/as AWC Property v Yarra CC (includes summary) (Red Dot) VCAT 1180.

<sup>3</sup> Hines 9 Stewart Property Pty Ltd v Yarra CC [2021] VCAT 185

**Overall VCAT found:**

- 81 ... the combination of the height and setbacks of the proposed building comprises a scale and form that does not respect the existing heritage place and its contributory elements. Rather, we find the proposed building will overwhelm the heritage facade that is to be retained and the Stewart Street streetscape more broadly.

**Design detailing: facade and interfaces****On visual impact to 7 Stewart Place, VCAT said:**

- 91 ... Any future proposal should seek to locate building elements of such a height further away from the boundary with these residential properties or otherwise reduce their height.

**On overlooking:**

- 104 We find no basis for overlooking screening to be higher than 1.7 metres, particularly in a MUZ that allows for lesser amenity expectations ...

**On light spill impact:**

- 107 ... we do not dismiss the potential for light spill from the internal lights to cause amenity impacts on nearby residential properties.

**Other matters****On carparking provision, VCAT said:**

- 116 ... we accept it is a reasonable expectation that any future proposal for the use and development of this site will include a reduction in the car parking required to be provided. The extent and acceptability of any such reduction is a matter for consideration under any future application.

**On operating hours:**

- 107 ... in an evolving and diversifying economy and in a MUZ in a Major Activity Centre, we consider it is acceptable to anticipate and expect that an office premises use may extend beyond traditional business hours.

The Committee considered the issues raised in submissions and evidence in these broad categories and in the context of *Hines*.

At the direction of the Committee, Council gave a response to the proposal in the light of the *Hines*:

2. The proposal includes some positive changes that have successfully addressed the issues raised by [VCAT] in *Hines* in relation to the extent of demolition of the Margaret Street facade and visual bulk caused by the external stair along the east elevation.
3. However, the proposal has not adequately responded to the key concerns raised by [VCAT] in *Hines* and does not achieve an acceptable planning outcome because:
  - 3.1 Despite the removal of one level, the proposed building height is still excessive and does not fit with the existing and emerging built form character. The proposal will adversely affect the significance of the existing heritage building and the industrial heritage precinct.
  - 3.2 The proposed upper level setbacks are inadequate and accentuate the visual impact of the proposed tower element. The reduction in the setback of levels 2 and 3 from Stewart Street is contrary to the finding of [VCAT] in *Hines*.
  - 3.3 The architectural design of the proposal fails to ensure the dominance of the heritage elements of the existing building and streetscape.
  - 3.4 The combination of the overall height, setbacks and detailed design will result in a building that is visually dominating and not respectful of the existing heritage building and the industrial heritage precinct.

## Council changes

At the direction of the Committee, Council provided a short statement outlining what changes to the proposal were required to achieve an acceptable outcome in the light of *Hines*:

4. Council considers that a redesign is warranted to achieve an acceptable planning outcome for the Subject Land. The following changes to the proposal are necessary:
  - 4.1 deletion of levels 6 and 7
  - 4.2 for level 2 and above, providing a minimum setback of 4.5 metres to the face of structure from Stewart Street
  - 4.3 replacing the metal cladding with weathered steel finish along the north, east and south elevations with masonry framing and powder-coated window framing
  - 4.4 changes to the west elevation to minimise its utilitarian appearance. This may include replacing the metal cladding, textured precast concrete and metal cladding used in the west elevation with appropriate finishes
  - 4.5 providing access between the lift lobby and the end of trip facilities on the ground floor level
  - 4.6 providing an updated wind report based on a wind modelling, demonstrating that the amenity of the public realm, terraces and adjoining residential private open space will not be adversely impacted
  - 4.7 relocating the services core further south.

## 4 Consideration of the issues

### 4.1 Building mass: height and setbacks

#### (i) The issue

While often considered as separate issues, building height and setbacks are aspects of building mass. The Committee considers that building mass is the key issue and should be considered in an integrated way, and respond appropriately to:

- the strategic and emerging context
- the built form context including precinct skyline and visual intrusion
- heritage considerations
- amenity impacts including shadows and wind.

#### (ii) The proposal

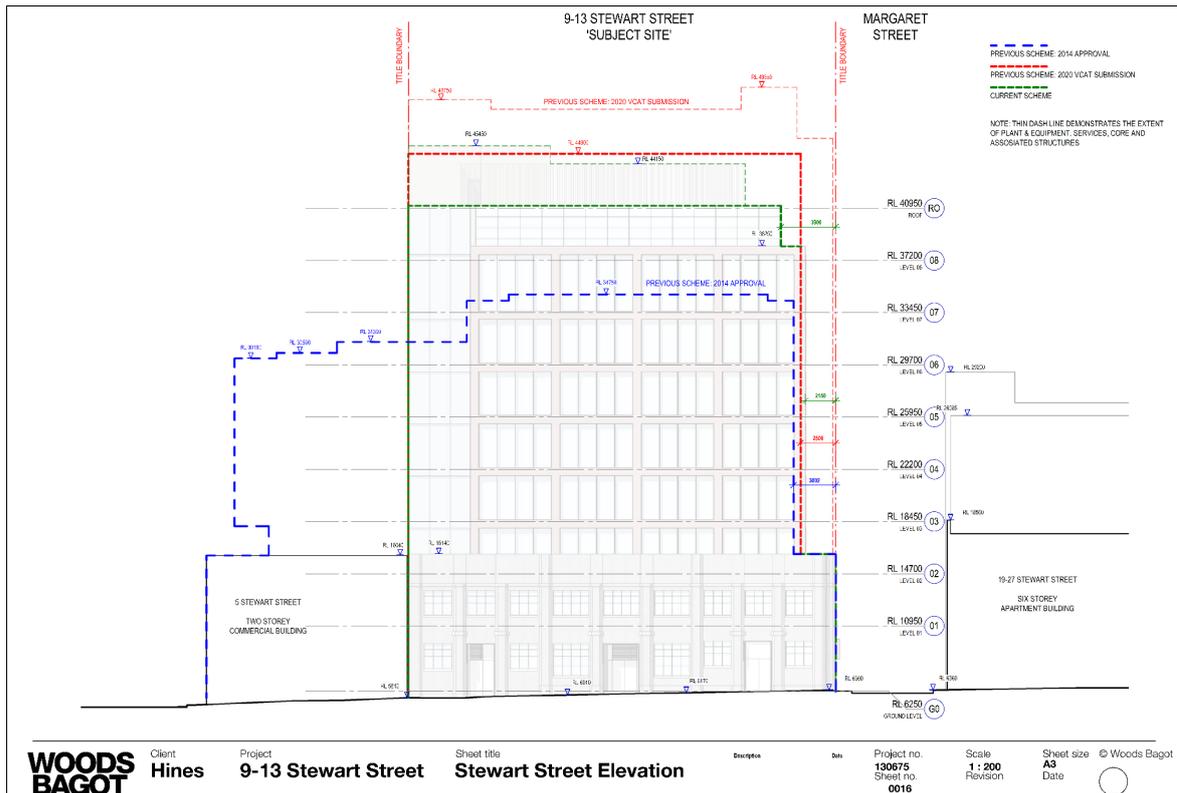
There was some discussion at the Hearing on precisely how the proposal compared to the proposal rejected in *Hines*. Mr Phillipson, a local resident, submitted an analysis of the heights of the current and previous proposals, this together with a rough elevation comparison from Professor McGauran, suggested uncertainty regarding the heights, and prompted the Committee to request an agreed comparison of the heights.

The facade windows on the upper levels are set behind a weathered steel 'grid' and setbacks on the exhibited material were measured to the face of the glazing and not the 'grid'. This also created uncertainty in making comparisons.

At the Committee's request, the Proponent provided a comparison of the 2014 approved scheme, 2020 VCAT rejected scheme, and the current proposal (Figure 5). Council reviewed the comparison and agreed to the accuracy of the analysis. Measured from the footpath level at the street corner to the top of the plant parapet, the heights are:

- 2014 Approved Scheme 28.4 metres
- 2020 VCAT Rejected Scheme 42.4 metres
- Current Proposal 37.8 metres.

**Figure 5 Comparison diagram**



**(iii) Evidence and submissions**

Professor McGauran presented evidence on behalf of Council as an expert in urban design. Prof McGauran was Council’s urban design expert in the VCAT *Hines* case. He considered the proposed building height excessive and the setbacks inadequate. His evidence can be summarised as follows.

On building bulk and scale:

- 179 The design approach adopted does not respond to the coherent scale and integrity of this modestly scaled neighbourhood. For the reasons of policy and context outlined earlier, the ambitious scale or expression is not supported.
- 185 It is not a site or location that in my view promotes characteristics seeking landmark status.
- 192 As the earlier [VCAT decisions] both noted, the Yarra Planning Scheme specifically identifies protection of ‘heritage skyline’ and protection from the ‘visual intrusion’ of built form within heritage areas.
- 200 ... curvilinear street where comparative heights are more apparent because of its crescent form.

Recommendation. Remove two floor levels, namely Levels 6 and 7.

On setbacks:

- 171 (a). A substantial and generous demarcation between the historic street wall is necessary... I am of the view that with reduced height, a 4.5 metres setback would provide a basis for design response.
- 172. I note the proposed setbacks of the development are less than half the mandatory setback measure from heritage facades sought for development in the Swan Street corridor and supported in several other municipal main street contexts.

Recommendation. For Level 2 and above provide a minimum 4.5 metres to the face of structure to Stewart Street and 2.5 metres to structure in Margaret Street.

Ms Riddett presented evidence as an expert in heritage architecture on behalf of Council. She considered the proposed building height excessive and the setbacks inadequate:

22. My concerns about height remain paramount with regard to the effects of any level above 8 storeys, on views from various vantage points within and without the heritage precinct. Constraining the height to 8 storeys would mitigate this to an extent and would make all the difference between acceptability and not.

Ms Riddett's evidence can be summarised:

- 23 ... the proposal in its current form does not accord acceptably with the existing and proposed Heritage Policies...
- 24 ... the proposal does not comply acceptably with the intent of the new Cl.02 Municipal Planning Strategy and in particular Clause 02,01-6 (Built Environment and Heritage).
- 70 The existing industrial buildings provide robust 'podiums' to the upper level additions which are in proportion. As proposed on this site the upper levels occupy more vertical proportion (approximately 2.5 times more than the heritage facade) which reduces the visual strength of the latter.
- 78 ... the upper level will be out-of-keeping with the immediate heritage Sub-area in that it will be a dominant element and will not be visually recessive. Significant view lines to and vistas of the heritage place will be interrupted and the scale and pattern of streetscapes in the immediate part of the heritage place will not be preserved...
- 80 The height in combination with the width of these elevations will make the building dominant and visually conspicuous in views from Richmond Hill to the north, including a viewshed from the west and east, variously from the south, including the platforms of the Richmond Railway Station and probably Punt Road to the south... [from] Tyson Street...the proposed building is a dominant element on the skyline....
- 81 I note that there are limited direct on views from Stewart Street and I have no issue with the front setback of 2.5 metres at Levels 02 and 03 when viewed from that location. However, at Levels 04-09, the setback is 2.5 metres also and this setback will exacerbate the dominance of the south elevation when viewed from the platforms of Richmond Station and probably Stewart Street. It is only at Level 8 does the setback increase to 4.5 metres. I note that other developments in the former industrial area immediately north of the Station are visually further away and are not dominant for this reason (depth of setback) and in combination with their height.
- 82 The western elevation will be visible in longer distance views such as from Punt Road, Brunton Avenue and parkland/oval, including importantly behind Shakspeare Terrace [as inscribed on the building] and other terraces in Punt Road which are included in the Richmond Hill Precinct. ... the upper levels will form a dominant and abrupt background and an undesirable punctuation on the skyline as demonstrated in the perspective looking south west along Punt Road (Architectural view p. 40) ...

Council's submission reiterated the concerns raised by Prof McGauran and Ms Riddett. Council submitted that, whilst there were positive changes made, the proposal has not adequately responded to the key concerns raised by VCAT and that changes were required (set out in Chapter 3 on page 12).

Ms Riddett and Prof McGauran held different opinions regarding the visual intrusion of the proposal when viewed from the west. Ms Riddett considered that the proposal was visually intrusive, whilst Prof McGauran did not.

Mr Shaw, a local resident, presented a viewing of the Google Earth model including existing buildings with a discussion of the distinct urban form of the precinct and the community's ongoing engagement with the proposed development. Mr Shaw observed (correctly, in the Committee's view) that the 'lens' used in the renderings exaggerated the impact of the height reduction from the refused proposal.

Mr Raworth presented evidence for the Proponent as an expert in heritage. Mr Raworth considered that the proposal “*represents a considered and balanced outcome...*”. Mr Raworth’s reasons to support the proposed building mass were:

63. At 9 storeys, the proposal is only one level higher than nearby existing or proposed developments, which are in the range of 7-8 storeys ...

There was general discussion at the Hearing that comparison in terms of building storeys can be misleading due to the greater floor-to-floor height of office against residential.

Mr Raworth deferred consideration of building height to the domain of urban design rather than heritage:

64. In my view, the difference between upper level heights for tall additions of between 8 and 9 storeys to heritage buildings of limited scale, as it is in this instance, is not primarily a heritage issue, but an urban design/planning consideration ...
65. Even if the proposal were to be of 8 storeys only, there would still be a marked contrast in scale between old and new, with the new upper levels having a degree of visual dominance on the basis of scale. The additional level taking the proposal to 9 storeys represent an incremental shift in height, rather than a substantive shift that alters the relationship of contrast in scale in a fundamental manner. In this context, the overall height can be seen to be more of an urban planning question than a heritage consideration.
70. In my view the visual relationship between the retained heritage podium and the new upper level envelope will not be significantly changed by increasing the proposed setback of the upper levels from Stewart Street. The new elevation will still be visible above and behind the heritage facades as a recessed backdrop of a differing character. A greater setback will not significantly reduce the visibility of the upper levels, including in long views from along Stewart Street from the east.

On behalf of the Proponent, Mr Crowder submitted expert evidence in Town Planning. Mr Crowder’s evidence submitted, generally from paragraph 191 to 223, that the design and urban design outcomes were acceptable.

The Proponent submitted that the changes incorporated in the current proposal address the height<sup>4</sup> and setback concerns of *Hines*:

- 23 In summary, when compared to the 2020 Proposal, the current Proposal differs in that:
- a. The overall height has been reduced by one floor and the roof terrace deleted. The top floor has been reduced by 3.75 metres (RL 44900 to RL 41150 or 39.09 metres to 35.34 metres measured to the roof of the uppermost level). This does not include any reduction for deletion of the roof terrace which formed part of the 2020 Proposal.
  - b. The top of the lift overrun has been reduced by 4.2 metres and the lift core has been relocated to the west.
  - c. Setbacks have been added to the uppermost level on the north, east and western sides. The setback of level 8 is 4 metres from the north and east, 4.5 metres to the south, with a setback of 4.5 metres retained to the west. This level is setback from the level below by 1 metres to the north, 1.5 metres to east and 2 metres to the south.
  - d. Setbacks to the rooftop plant have been increased overall with an increase of 2 metres to the south (5 metres to 7 metres), 0.4 metres to the west (6.6 metres to 7 metres), 0.4 metres to the east (6.1 metres to 6.5 metres). The setback to the north has been reduced from 8 metres to 6.5 metres.
  - e. The service core on the western boundary has been setback further to the south to align with the boundary to the commercial building at 5 Stewart Street.

<sup>4</sup> The Committee notes that the Proponents levels don’t precisely match the levels on the comparison diagram which was prepared after these submissions.

- f. The shadow line at levels 2 and 3 has been deleted in conformity with the findings as to its utility in the VCAT decision.
- g. The projecting external stairwell to the Margaret Street facade has been removed and the stair accommodated internally.
- h. 8.2 metres of the Margaret Street heritage facade is to be retained compared to 4.55 metres (measured to the front wall) in the 2020 Proposal.
- i. The materials palette and composition has been substantially changed.

The Proponent submitted that a fair reading of the VCAT decision demonstrates that VCAT considered the heritage and urban design issues were inextricably linked and it was the combination of height and setbacks of the 2020 Proposal which was of concern. The changes incorporated into the proposal address these issues by amending the design to reduce impact on the heritage place and urban design setting, balancing competing policy expectations for the site to achieve a net community benefit.

The Proponent did not elaborate on the specifics of net community benefit. Mr Crowder's evidence, in paragraph 177, stated that he was advised that the proposed development would "*contribute 400-500 ongoing jobs to the locality*" with a construction cost is estimated at an additional \$ 28–33 million, but noted it is beyond his expertise to verify any of the dollar figures.

#### **(iv) Discussion**

##### **Strategic and emerging context**

The Committee considered the strategic and emerging context in considering whether the proposal would result in acceptable outcomes in terms of the appropriate mass, and in particular height.

The site is not included in the Swan Street Major Activity Centre (MAC) and the provisions of the MAC are not directly applicable to the site. Amendment C269yara designates the precinct as 'Land subject to further strategic work'.

The emerging context is a well-defined precinct that historically was zoned Industrial. That zoning remains evident in the building fabric and is distinct from the fine-grain residential area to the north and the broad rail corridor to the south.

The Committee was unpersuaded by Mr Crowder's evidence and the 'Urban Context – Emerging Development' illustration in the architectural report that places the site in an emerging development context that includes the Cremorne precinct. The existing Richmond Station, rail viaducts, and Swan Street establish a 140 metre wide separation that defines the site's precinct as distinct from the Cremorne precinct.

The Committee observes that the existing heights around the site range from a couple of storeys up to approximately 30 metres for the highest heritage buildings. This generally aligns with the Swan Street Structure Plan maximum height of 30 metres, and the 28 metres in the approved applications for the site (2014) and for the 'Slimform' building at 33-35 Stewart Street (30.55 metres to the top of the parapet). Together, these establish a relatively consistent 'ceiling' that is legible at the urban scale.

### **Massing in the context including precinct skyline and visual intrusion**

The proposal is visible from multiple vantage points including visually complex transitory approaches, sensitive fine-grain residential neighbourhoods, and close direct elevated views. The precinct is characterised by:

- sawtooth and flat roofs
- parapets, towers and chimneys
- industrial rooftop additions and later residential conversions and additions.

The Committee considered the massing when viewed from vantage points along Stewart Street. Due to the curve of the street, the proposal is on the visual axis and very prominent. The lesser upper level setback compared to the existing and approved development is more apparent than it would be on a straight street. The Committee considers that viewed from Stewart Street, the proposal is visually intrusive. A reduction in height and an increased setback will mitigate this.

The Committee considered the massing when viewed from the station platforms and considers that the upper levels and overall height would be more apparent from the elevated and direct viewing position of the platforms.

The proposed building mass would be highly visible from the west and in particular from Brunton Avenue, and would be seen behind the terrace houses known as *Shakspeare Terrace* (as inscribed) at the corner of Brunton Avenue and Punt Road. The building mass from this vantage point would be viewed at a distance, generally while moving, and in the context of large format billboards and banners, the elevated rail viaduct and station. Further, it is likely that future redevelopment of the station will add mass and articulation to the visual context and skyline. For these reasons, the Committee concludes that the mass is not problematic in the precinct skyline and not visually intrusive from this direction. The Committee concludes that increased setbacks to the western boundary are not required.

The Committee considered the massing when viewed from vantage points in the more sensitive fine-grained residential street to the north, in particular Tyson Street and the flank of Richmond Hill. This aspect is critical to the evaluation of the proposal in the precinct skyline. In this context, the established 30 metre high urban form of the precinct becomes evident and the proposal would be highly prominent. The Committee also observed that from the elevated slopes of Richmond Hill, the broader landscape skyline of South Yarra could be seen, with development generally below that skyline. When viewed from the north, the proposed mass would be problematic in the precinct skyline and the wider landform skyline, and the Committee considers that a reduction in height to below 33 metres is warranted. This would bring the proposal into alignment with the urban form of the precinct.

### **Heritage considerations**

The Committee notes that in respect of building mass, there are two key heritage issues. The first is the precinct skyline is discussed above. The second is the visual relationship between the heritage building and the new addition, to avoid overwhelming or visually intruding on the heritage place.

The Committee does not agree with Mr Raworth's view that "... the visual relationship between the retained heritage podium and the new upper level envelope will not be significantly changed by increasing the proposed setback ...". Whilst an increased setback does not materially reduce the visibility of the addition, it changes the relationship and importance of the objects in the composition. The proposal would be viewed from many positions and in

motion and the three-dimensional form will be appreciated. The Committee finds that an increased setback on the south (to approximately 4.5 metres) will contribute to making a clearer distinction between the existing building in the foreground (which is closely related to the street edge) and the new addition (which is further away).

The Committee discusses heritage issues related to visually recessive and respectful materials in Chapter 4.2.

### **Amenity impacts including shadows and wind**

In *Hines*, VCAT noted at paragraph 99 that overshadowing “*is an issue that will need to be considered afresh as part of any future planning application for this site.*” The principal concern of VCAT was overshadowing to residential balconies in Margaret Street. The following changes from the refused to the current proposal are anticipated to reduce the impact of overshadowing:

- a reduction in the building height by one storey
- deletion of the external stairwell to Margaret Street.

MEL Consultants’ letter 9 May 2022 confirms that the previous Wind Report remains relevant for the current proposal. The submitted desktop Wind Report indicates potential wind conditions that are on or exceed the maximum acceptable criteria in some areas (Committee’s emphasis):

The south face would be expected to induce additional wind flow towards lower levels. **The setback of the tower from the heritage facade would be expected to assist with mitigating the wind effects** along Stewart Street, but additional wind flow would still be expected to be induced into Stewart Street. Wind conditions along the street would be expected to increase compared to the existing wind conditions, with the corners of Stewart and Margaret Streets and Stewart Street and Punt Road increasing **up to the walking criterion.**

...

The wind conditions along Margaret Street for the north sector wind directions would be **up to and above the walking criterion** ...

...but platform areas either side of the development could experience **increased wind conditions** due to the bulk wind flow speeds increasing due to the presence of the building.

The Committee is particularly concerned with the public realm including the street corner, Stewart Street and the railway platforms. The platforms require particular consideration of safety and patrons sitting and standing. The setback from the heritage facade has been reduced from the previous proposal and may reasonably be expected to be less effective at mitigating wind downwash from the south face to the street. This could potentially result in conditions that are worse than indicated in the report. The Committee notes that whilst deflecting screens are proposed to protect the building’s private terraces, the report is silent on what mitigations may be required to ensure acceptable conditions in the public realm. These modifications may include changes to the setbacks and the current parallel-to-boundaries alignment of the building mass.

The Committee accepts that in many situations wind effects can be dealt with by way of a permit condition. In this case it is unclear what changes might be required and what impacts those changes will have on the overall massing of the building. For that reason, the Committee considers that wind effects should be dealt with as part of the integrated assessment of building mass and plans should not be endorsed until a wind tunnel test is completed.

The Committee notes that overlooking impacts have generally been acceptably mitigated by setbacks to residential windows and applied treatment to glass. However, there remain concerns with amenity impacts at the western interface and these concerns are discussed further in Chapter 4.2.

#### **(v) Conclusions and recommendations**

The Committee concludes that:

- The proposal does not adequately respond to the key concerns raised by the VCAT in *Hines*.
- The emerging development context is building heights in a range of 26 to 31 metres. Higher development in Cremorne is not of relevance when considering appropriate built form for the site. The site is not in the Swan Street MAC.
- The proposed building height is higher than appropriate and should be reduced to generally below 33 metres.
- The measurement of setbacks to the glazing in the current application is misleading and leaves open the possibility of encroachment into the setback.
- The setbacks of floors above the existing facade are less than appropriate.
- There is potential that the building design may need to be materially altered to achieve safe and acceptable wind conditions in the public realm.

The Committee recommends that to achieve an acceptable outcome the proposal should be modified as follows and plans incorporating these modifications be made a requirement in Condition 1 on the permit:

- 1. The building height reduced to below 33 metres, from the ground level to the top of the plant parapet or screen, or any plant equipment with:**
  - the height reduction to be achieved by deletion of typical levels being an anticipated to be a reduction of two levels; and
  - any lift over run or similar projection that exceeds the height being less than 15 per cent of the site area.
- 2. The building setbacks modified as follows:**
  - to the south boundary a setback not less than 4.5 metres above the retained building
  - to the east boundary a setback not less than 2.5 metres above the retained building
  - to the north boundary the building may abut the boundary up to and including level 2, but above this the setback should be not less than 3 metres from the north boundary
  - to the west boundary the building may abut the boundary up to and including level 2, and above level 2 must be setback not less than 4.5 metres except for a length of 11 metres or less that may abut the boundary but not that part of the boundary that abuts 3, 5 or 7 Stewart Street.
  - The setbacks are to be measured from the boundary to the predominant face of the facade.
- 3. The building modified to achieve wind condition criteria set out in Clause 58.04-4 of the Yarra Planning Scheme as Standard D17 as if the building contained Apartments together with any changes recommended in the amended Wind Report required by a condition in the planning permit.**

The Committee recommends that Condition 3 on the permit be modified to:

**4. Require results of a wind tunnel model study to confirm compliance with the wind criteria before the endorsement of plans.**

The Committee notes that the shadow study diagrams should be updated to reflect the updated massing and resubmitted before plans are approved.

## 4.2 Design detailing: facade and interfaces

### (i) The issues

The issues are:

- facade material
- interface to 3, 5, and 7 Stewart Place
- boundary wall to 3, 5, and 7 Stewart Place.

### (ii) The proposal

The proposed facade treatment seeks to echo industrial warehouse design with a grid of columns and floor plates (that might be constructed of red brick in a heritage industrial building) clad in weathering steel. Figure 6 is a render (not a corrected photomontage) of the proposal.

**Figure 6** Render of the proposal



### (iii) Evidence and submissions

#### The upper levels

The Committee heard range of opinions regarding the acceptability of the proposed weathering steel facade. These discussions raised two issues for consideration:

- is the material respectful?
- is the material recessive?

Ms Riddett’s evidence was that the proposed weathering steel facade was unacceptable from a heritage perspective. She advocated for a change in facade material:

79 Masonry framing of some sort probably in combination with powder-coated window framing would be more acceptable.

Ms Riddett’s reasons were that the material was:

96 ...alien to the preponderance of masonry (face and render) in Sub-area E [of the heritage precinct].

Ms Riddett gave oral evidence in cross examination that the proposed weathering steel facade was not ‘respectful’ to the heritage context, but she was not able to expand on the identifying characteristics of a respectful material.

In oral evidence, Prof McGauran supported the metal facade as a respectful material. He noted a number of examples of weathered steel in heritage contexts has been successful.

Mr Raworth supported the metal facade as a respectful material from a heritage perspective, although he suggested that lighter or reflective metal would be more recessive. Mr Raworth also advocated for a comprehensive schedule of conservation works be prepared by a heritage specialist. Figure 3 from Mr Raworth’s evidence (reproduced in Figure 7 below) shows the original facade detail prior to the current degraded state.

Figure 7 Image of original facade



Figure 3 1921 advertisement including an illustration of the south elevation of the newly completed factory. Source: Gippsland Times, 24 February 1921, p.1.

### **The western face to Stewart Place townhouses**

The existing west wall of 9-13 Stewart Street currently has balconies, fences and walls attached to it from the dwellings at 3-7 Stewart Place. The owners of these two properties seek the retention of the boundary wall. Issues of concern include the potential impact of demolition of the attached structures and services and the mitigation of amenity impacts. These issues involve both planning and property law considerations.

The Proponent advised on the implications of the retention of the wall on the development, should it be appropriate to retain the wall on planning grounds or necessary under property law.

The interface between the existing 3, 5, and 7 Stewart Place and the proposed core is a concern for some owners and occupants of 3, 5, and 7 Stewart Place. The proposed core incorporates a glazed facade and expected internal lighting. This glazed face will be visible to and from the balconies and windows of habitable rooms of the 3, 5, and 7 Stewart Place dwellings.

#### **(iv) Discussion**

##### **The upper levels**

The Committee observes the broad consensus of the urban design and heritage experts that the facade material of the new addition should respect the heritage place and be visually recessive. The Committee observes this aligns with the principles of Clause 22.02.

The Committee's view is that careful repair of the heritage facade and consideration of reinstatement of damaged facade detail will contribute to a stronger foreground presence for the heritage facade against a more recessive new building above.

The Committee is unpersuaded that the dark weathered steel is not respectful or should be replaced with masonry. In the absence of some articulation of the principles by which such a judgement was reached it is difficult to accept it an objective approach to heritage conservation.

That said, the Committee examined the rendered views of the previous and current facades and observed that the dark colour of weathered steel and deep shadowed soffits present a strong contrast with the sky that emphasises the mass of the building. The need to minimise a visually intrusive mass and to make the new mass recessive warrant investigation of a lighter metal colour or a largely glass facade.

##### **The western face to Stewart Place townhouses**

The proposed demolition and replacement of the existing wall at the boundary between 3, 5, and 7 Stewart and the site is a concern to some owners and occupants. Structures and equipment have been fixed to the wall on the 3, 5, and 7 Stewart side.

This matter was raised in *Hines*, and VCAT provided some direction:

- 117 ...we consider it would be desirable for the planning application plans for demolition in any future proposal to be as clear as possible about the extent to which the existing eastern boundary wall on this site is within the Title boundaries of this site and/or is located along the Title boundaries of adjoining properties.

The planning application provides no indication of the proposed material or finish of the proposed wall. The Proponent asserted that the matter is one of property law and building law and should be resolved through title re-establishment, title easements and protection works regimes. Whilst the Committee broadly agrees, it notes the wall is an external facade with

visibility from 3, 5, and 7 Stewart and so the design of the wall should be considered as a planning matter.

The matter was discussed in the Hearing, and the Proponent has proposed to provide a textured concrete finish or a painted or applied finish if the existing wall is demolished. The Committee considers that any finish should be integral to the wall to reduce the need for maintenance over the longer term.

The Committee considers issues of light glare and overlooking from the lift core can be overcome by replacing the glass on the northern face with precast concrete panels matching the proposed west elevation.

#### **(v) Conclusions and recommendations**

The Committee concludes:

- The proposal of a metal facade cladding is 'respectful', and metal is a generally acceptable material. However, the dark colour of weathered steel and deep shadowed soffits present a strong contrast with the sky that emphasises the mass of the building. The need to minimise a visually intrusive mass and to make the new mass recessive warrant investigation of a lighter metal colour or a largely glass facade.
- The north facade of the core has the potential to generated adverse amenity impacts from overlooking and light spill.
- The plans should detail finishes to any new boundary wall adjacent to Nos. 3, 5 and 7 Stewart Place (if the existing wall is to be demolished).

The Committee recommends that to achieve an acceptable outcome the proposal should be modified as follows and plans incorporating these modifications be made a requirement in Condition 1 on the permit:

- 5. The north facade of the core amended to precast concrete panel matching the proposed west elevation, up to a height of no less than the floor of the proposed Level 5 at RL26.00.**
- 6. Demolition plans depicting either the extent of demolition of the western wall adjacent to Nos. 3, 5 and 7 Stewart Place or its retention in accordance with evidence demonstrating that the wall is wholly contained within the site.**
- 7. Details of finishes to any new boundary wall adjacent to Nos. 3, 5 and 7 Stewart Place (if the existing wall is to be demolished) as precast concrete panel with an agreed integral cast texture.**
- 8. A facade treatment that:**
  - **responds to modifications to the building mass**
  - **reduces the visual impact of the upper levels by use of lighter metal colour or a largely glass facade.**

### **4.3 Other matters**

#### **(i) The issues**

The issues are:

- Traffic including carparking and bicycle parking
- Operating hours.

**(ii) Evidence and submissions**

The Proponent called Mr Walsh to give expert traffic evidence in support of the proposal. Mr Walsh largely supported the proposed carparking and bicycle parking provision, but noted an error in the architectural plans should be corrected to read “45 staff bicycle spaces”. He considered an additional four on-site visitor bicycle spaces should be provided, and that the basement carpark aisle width should be increased. Mr Walsh’s verbal evidence included advice that direct foyer access should be provided to the end of trip facilities. .

Mr Phillipson submitted that the reduction of the carparking requirement amounted to “corporate welfare”.

Mr Shaw submitted that operating hours for the office should be restricted to reduce amenity impacts such as people coming and going, and smoking in the street.

**(iii) Discussion**

The Committee notes the very high availability of public transport and agrees with the evidence of Mr Walsh regarding the number of carparking and bicycle parking spaces provided. The Committee agrees with the Mr Walsh’s corrections and advice.

The Committee finds that operating hours for an office are customarily normal business hours with occasional use out of these hours. Restricting the hours of operation of an office would be unusual and unlikely to have a material positive effect. Therefore the Committee does not support restricting operating hours of the building.

**(iv) Conclusions**

The Committee concludes:

- The proposed number of carparking and bicycle parking spaces is acceptable.
- A direct route from the foyer to the bicycle parking spaces must be provided.

The proposed revised permit (Document 50) addresses these issues appropriately.

**4.4 Changes to permit conditions**

The Proponent prepared a revised draft permit with updated conditions addressing a number of concerns raised in submissions. These changes were considered appropriate by Council.

The revised permit (Document 50) forms the basis of the Committee’s recommended permit.

The Committee has identified some minor editorial inconsistencies in addition to its recommendations, and tracked recommended changes.

## 5 Reasons and recommendations

### 5.1 Reasons

There is no fundamental dispute that the site is suitable to accommodate some form of increased development due to its locational attributes.

There is policy support for new development on this site, but the form and scale of any development on this site must respond to the relevant planning controls and policies as well as the physical context of the site and surrounds.

The Committee agrees with making the Minister for Planning the responsible authority for the site given the assessment by BVRT, and the need for a planning scheme amendment to progress to allow the permit to issue under a combined permit and amendment process.

After considering all the written material submitted as part of the combined Amendment and permit application, the referred documents, written submissions by the parties, evidence and the presentations at the Hearing, the Committee concludes:

- The proposal does not adequately respond to the key concerns raised by VCAT in *Hines*.
- The emerging development context is in the range of 26 to 31 metres high. Higher development in Cremorne is not of relevance when considering appropriate built form for the site. The site is not in the Swan Street MAC.
- The proposed building height is higher than appropriate.
- The measurement of setbacks to the glazing in the current application is misleading and leaves open the possibility of encroachment into the setback.
- The setbacks of floors above the existing facade are less than appropriate.
- There is potential that the building design may need to materially alter to ensure safe wind conditions in the public realm.
- The proposal of a metal facade cladding is 'respectful' to the heritage building, and metal is generally acceptable as a material. However, the dark colour of weathered steel and deep shadowed soffits present a strong contrast with the sky that emphasises the mass of the building. The need to minimise a visually intrusive mass and to make the new mass recessive warrant investigation of a lighter metal colour or a largely glass facade.
- The north facade of the core has the potential to generate adverse amenity impacts from overlooking and light spill.
- The plans should detail finishes to any new boundary wall adjacent to Nos. 3, 5 and 7 Stewart Place (if the existing wall is to be demolished).
- The proposed number of carparking and bicycle parking spaces provided is acceptable.
- A direct route from the foyer to the bicycle parking spaces must be provided.

The Committee considers that to achieve an acceptable outcome the proposal should be modified and this can be achieved by appropriate conditions that require modified plans that show:

1. The building height reduced to below 33 metres, from the ground level to the top of the plant parapet or screen, or any plant equipment with:
  - the height reduction is to be achieved by deletion of typical levels being an anticipated to be a reduction of two levels; and

- any lift over run or similar projection that exceeds the height being less than 15 per cent of the site area.
2. The building setbacks modified as follows:
    - to the south boundary a setback not less than 4.5 metres above the retained building
    - to the east boundary a setback not less than 2.5 metres above the retained building
    - to the north boundary the building may abut the north boundary up to and including level 2, but above this the setback should be not less than 3 metres from the north boundary
    - to the west boundary the building may abut the boundary up to and including level 2, and above level 2 for a length of no more than 11 metres not abutting 3, 5 or 7 Stewart Street, and otherwise be setback not less than 4.5 metres.

The setbacks are to be measured from the boundary to the predominant face of the facade.
  3. The building modified to achieve wind conditions criteria set out in Clause 58.04-4 of the Yarra Planning Scheme as Standard D17 as if the building contained Apartments together with any changes recommended in the amended Wind Report required by a condition in the planning permit.
  4. Require results of a wind tunnel model study to confirm compliance with the wind criteria before the endorsement of plans.
  5. The north facade of the core amended to precast concrete panel matching the proposed West elevation, up to a height of no less than the floor of the proposed Level 5 at RL26.00.
  6. Demolition plans depicting either the extent of demolition of the western wall adjacent to Nos. 3, 5 & 7 Stewart Place or its retention in accordance with evidence demonstrating that the wall is wholly contained within the site.
  7. Details of finishes to any new boundary wall adjacent to Nos. 3, 5 & 7 Stewart Place (if the existing wall is to be demolished) as precast concrete panel with an agreed integral cast texture.
  8. A facade treatment that:
    - respond to modifications to the building mass
    - reduce the visual impact of the upper levels by use of lighter metal colour or a largely glass facade.

## 5.2 Recommendations

### The Committee recommends:

- **Draft Yarra Planning Scheme Amendment C303yara be approved to make the Minister for Planning the responsible authority for the site.**
- **Planning Permit PA2201605 be issued subject to the Committee preferred version of the Permit in Appendix D.**

## Appendix A Terms of Reference

### 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

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**Terms of Reference | Priority Projects Standing Advisory Committee**


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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.

**Terms of Reference | Priority Projects Standing Advisory Committee**

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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:
- the date of receipt of referral, if no further submissions or information are to be sought, or
  - 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



The costs of the advisory committee will be met by the proponent.

If you have any questions about this matter, please contact Matt Cohen, Director, Development Approvals and Design, DELWP, on email [matt.cohen@delwp.vic.gov.au](mailto:matt.cohen@delwp.vic.gov.au).

Yours sincerely

A handwritten signature in black ink that reads "Jane Homewood". The signature is written in a cursive, slightly slanted style.

**Dr Jane Homewood**  
Executive Director, Statutory Planning Services

18 /07 / 2022

## Appendix C Document list

No.	Date	Description	Provided by
1	25 Jun 21	Terms of Reference	Minister for Planning
	2022		
2	18 Jul	Letter of Referral	Minister for Planning
3	20 Jul	Architectural Drawings, Woods Bagot, February 2022	"
4	"	Architectural Report, Woods Bagot, November 2021	"
5	"	Acoustic Town Planning Report, AECOM, March 2020	"
6	"	Sustainable Management Plan, AECOM, March 2020	"
7	"	Traffic Impact Assessment, AECOM, March 2019	"
8	"	Waste Management Plan, AECOM, March 2020	"
9	"	Environmental Wind Assessment, MEL Consulting, February 2020	"
10	"	Architectural Report, Woods Bagot, November 2021 (revised with plans)	"
11	"	Traffic Impact Assessment, AECOM, May 2022	"
12	"	Acoustic Town Planning Report, AECOM, April 2022	"
13	"	Green Travel Plan, AECOM, May 2022	"
14	"	Metropolitan Planning Levy Certificate, December 2019	"
15	"	Payment Detail Report, ANZ, May 2022	"
16	"	Survey Plan	"
17	"	Certificate of Title	"
18	"	Title Plan	"
19	"	Town Planning and Urban Context Report, Contour, February 2022	"
20	"	Waste Management Plan, AECOM, May 2022	"
21	"	Hines 9 Stewart Property Pty Ltd v Yarra CC [2021] VCAT order	"
22	22 Jul	Notification letter	PPV
23	29 Jul	Letter regarding Hearing dates	Council
24	5 Aug	Email regarding site inspections	Mr Clark
25	12 Aug	Directions and Timetable (version 1)	PPV
26	19 Sep	Evidence statement of Robyn Riddett in heritage	Council
27	"	Evidence statement of Rob McGauran in urban design	"
28	"	Evidence statement of Jason Walsh in traffic	Proponent
29	"	Evidence statement of Bryce Raworth in heritage	"

No.	Date	Description	Provided by
30	“	Evidence statement of David Crowder in planning	“
31	20 Sep	Email regarding site inspections	PPV
32	3 Oct	Statement in accordance with direction 9	Council
33	“	Statement in accordance with direction 8(a)	Proponent
34	4 Oct	Letter regarding availability constraints of Mr Crowder and provision of further material	Proponent
35	“	Shadow diagrams prepared by Woods Bagot dated 22 March 2022	“
36	“	Letter from MEL consultants dated 9 May 2022	“
37	“	Environmental wind assessment prepared by MEL consultants dated 18 December 2019	“
38	“	Environmental wind assessment prepared by MEL consultants dated 7 February 2020	“
39	5 Oct	Email regarding order of witnesses	PPV
40	6 Oct	Revised written submission dated 4 October 2022	Mr Phillipson
41	“	Statement in response to direction 10	“
42	“	Timetable (version 2)	PPV
43	10 Oct	Written submission	Council
44	“	Presentation of Mr Crowder	Proponent
45	11 Oct	Without prejudice draft permit conditions	Proponent
46	“	Written submission	Proponent
47	“	Comparison drawings for two proposals at 17-23 Wangaratta Street, Richmond	Mr Phillipson
48	“	Without prejudice draft permit conditions	Council
49	12 Oct	Copy of Amendment C269yara material including: a) Agenda of Council Meeting, 19 April 2022 b) Minutes of Council Meeting, 19 April 2022 c) C269yara clean policies - adopted	Council
50	14 Oct	Revised without prejudice draft permit conditions for discussion	Proponent
51	“	Sustainable Management Plan dated 9 May 2022	Proponent
52	“	Presentation	Mr Shaw
54	27 Oct	VCAT scheme architectural plans	Proponent
55	8 Nov	Letter to Committee enclosing elevation comparison drawings	Proponent

## Appendix D Committee preferred version of Planning Permit PA2201605

**REFERRAL No.:** Referral 23 to the Priority Projects Standing Advisory Committee

**PERMIT APPLICATION NO.:** PA2201605

**RESPONSIBLE AUTHORITY:** Minister for Planning

**SUBJECT LAND:** 9-13 Stewart Street, Richmond

### DRAFT PERMIT PREAMBLE

Partial demolition and construction of a multi-storey mixed-use building, comprising commercial offices, retail, food and drink premises and reduction in car parking requirements.

### DRAFT PERMIT CONDITIONS

#### Amended Plans

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with, Drawings Revision 'A' Plans dated 28 February 2022 comprising Sheet Nos. SK1100 (Site Plan – Existing), SK1200 (Site Plan – Demolition), SK1300 (Site Plan – Proposed), SK2000 (Demolition Plan – Ground Level), SK2001 (Demolition Plan – Level 01), SK2002 (Demolition Plan – Roof), SK2100 (Demolition and Restoration – Stewart Street Elevation), SK2101 (Demolition and Restoration – Margaret Street Elevation), SK2201 (Basement 01), SK2202 (Ground Level), SK2203 (Level 01), SK2204 (Level 02), SK2205 (Level 03), SK2206 (Level 04 – 07), SK2210 (Level 08), SK2211 (Roof), SK3200 (Stewart Street Elevation), SK3201 (Margaret Street), SK3202 (North Elevation), SK3203 (West Elevation), SK3300 (General Section 01 – North to South), SK3301 (General Section 02 – East to West), SK5300 (Detail Section), SK5301 (Detail Section) prepared by Woods Bagot Architects, but modified to include or show/address:
  - a) The building height reduced to below 33 metres, from the ground level to the top of the plant parapet or screen, or any plant equipment with:
    - the height reduction is to be achieved by deletion of typical levels being an anticipated to be a reduction of two levels; and
    - any lift over run or similar projection that exceeds the height should be less than 15 per cent of the site area.
  - b) The building setbacks modified as follows:
    - to the south boundary a setback not less than 4.5 metres above the retained building
    - to the east boundary a setback not less than 2.5 metres above the retained building
    - to the north boundary the building may abut the north boundary up to and including level 2, but above this the setback should be not less than 3 metres from the north boundary
    - to the west boundary the building may abut the boundary up to and including level 2, and above level 2 for a length of no more than 11 metres not abutting 5, 7 or 9 Stewart Street, and otherwise be setback not less than 4.5 metres.

The setbacks are to be measured from the boundary to the predominant face of the facade.

- c) The building modified to achieve wind conditions criteria set out in Clause 58.04-4 of the Yarra Planning Scheme as Standard D17 as if the building contained Apartments.
- d) Any changes recommended in the amended Wind Report required by condition 30 of this planning permit.
- e) The north facade of the core amended to precast concrete panel matching the proposed West elevation, up to a height of no less than the floor of the proposed Level 5 at RL26.00.
- f) Demolition plans depicting either the extent of demolition of the western wall adjacent to Nos. 3, 5 & 7 Stewart Place or its retention, in accordance with the requirements of Condition 3.
- g) Details of finishes to any new boundary wall adjacent to Nos. 3, 5 & 7 Stewart Place (if the existing wall is to be demolished) as precast concrete panel with an agreed integral cast texture.
- h) A facade treatment that:
  - respond to modifications to the building mass
  - reduce the visual impact of the upper levels by use of lighter metal colour or a largely glass facade
- i) The following changes to car and bicycle parking and access:
  - ~~a~~i. The car park doorway width to be dimensioned on the plans.
  - ~~b~~ii. The headroom clearance at the car park entry to be dimensioned on the plans.
  - ~~c~~iii. The distance between the vehicle crossing and the nearest road intersection to be dimensioned/referenced on the drawings.
  - ~~d~~iv. The existing vehicle crossing on Margaret Street shown to be demolished. and the footpath, kerb and channel reinstated.
  - ~~e~~v. Specifications for the car lift and evidence that the device can be adequately accommodated within the car lift core.
  - ~~f~~vi. All dimensions and locations of the proposed visitor bicycle parking spaces on Margaret Street.
  - ~~g~~vii. All dimensions for employee bicycle spaces and access ways to demonstrate compliance with Clause 52.34 and AS2890.3.
  - ~~h~~viii. Details and numbers of horizontal and vertical bicycle parking spaces to demonstrate compliance with Clause 52.34 and AS2890.3.
  - ~~i~~ix. An annotation on the plans that security/sensor lighting is provided at the building entrances.
  - ~~j~~x. ~~Demolition plans depicting either the extent of demolition of the western wall adjacent to Nos. 3, 5 & 7 Stewart Place or its retention, in accordance with the requirements of Condition 3.~~
  - ~~k~~ ~~Details of finishes to any new boundary wall adjacent to Nos. 3, 5 & 7 Stewart Place (if the existing wall is to be demolished) with either a textured concrete finish, or a painted finish or applied finish in a light colour.~~
  - ~~l~~x. Details of end of trip facilities.
  - ~~m~~xi. Provision of a connection between the entry lobby and the end of trip facilities.
  - ~~n~~xii. A minimum of four (4) visitor bicycle spaces.
  - ~~o~~xiii. Widening of the aisle width in the basement on approach to the car lift to 7 metres, with consequential changes to car spaces 1 and 2.
- ~~p~~j) Any changes recommended in the amended SMP required by condition ~~x~~19 of this planning permit.
- ~~q~~k) Any changes recommended in the amended WMP required by condition ~~x~~22 of this planning permit.
- ~~r~~ ~~Any changes recommended in the amended Wind Report required by condition x of this planning permit.~~

- s) Any changes recommended in the amended Acoustic Report required by condition ~~25~~ of this planning permit.
- ~~t~~m) Any changes required by the Conservation Works Schedule at Condition ~~11~~ of this planning permit.

### Plans not altered

2. The use and development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
3. ~~Prior to~~ Before the endorsement of plans:
  - a) evidence to the satisfaction of the Responsible Authority demonstrating that the section of western wall with direct abuttal to Nos. 3, 5 & 7 Stewart Place is wholly contained within the subject site must be submitted and agreed by the Responsible Authority, or alternatively the section of wall retained.
  - b) results of a wind tunnel model study to confirm compliance with the wind criteria.
4. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
5. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
6. All building and plant equipment on roofs must be concealed to the satisfaction of the Responsible Authority. The construction of any additional plant machinery and equipment, including but not limited to all air conditioning equipment, ducts, flues, all exhausts including car parking and communications equipment shall be to the satisfaction of the Responsible Authority.
7. Any satellite dishes, antennas or similar structures associated with the development must be designed and located at a single, unobtrusive area on each building in the development to the satisfaction of the Responsible Authority, unless otherwise approved by the Responsible Authority.
8. As part of the ongoing consultant team, Woods Bagot Architects or an architectural firm to the satisfaction of the responsible authority must be engaged to:
  - a) Oversee design and construction of the development; and
  - b) Ensure the design quality and appearance of the development is realised as shown in the endorsed plans or otherwise to the satisfaction of the Responsible Authority.

### Demolition Management Plan

9. ~~Prior to~~ Before the commencement of any demolition or construction works associated with this permit, and ~~prior to~~ before the approval of the Construction Management Plan a fully detailed 'demolition method statement' must be submitted to and approved by the Responsible Authority. When approved, the statement will be endorsed and will then form part of the permit. The 'demolition method statement' must fully describe and clearly demonstrate that the construction methods to be used on site will ensure that the building fabric required to be retained on the plan approved under Condition 1 of the permit will be safeguarded during and after the demolition process has occurred, or finished in accordance with the plans approved under Condition 1. The statement must detail the necessary protection works required to retain the integrity of the perimeter wall and include measures of making good the wall following the works to punctuate the approved openings.

## Façade Strategy and Materials and Finishes Plan

10. In conjunction with the submission of plans under Condition 1, a Façade Strategy and Materials and Finishes Plan must be submitted to and be approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of the permit. The plan must detail:
- Elevation drawings at a scale of 1:20 illustrating typical podium details, entries and doors, and utilities and typical tower façade details;
  - Section drawings to demonstrate façade systems, including fixing details and joints between materials or changes in form;
  - Information about how the façade will be maintained; and
  - A sample board and coloured drawings outlining colours, materials and finishes.

## Conservation Works Schedule

11. Before the development commences, a Conservation Works Schedule to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Conservation Works Schedule will be endorsed and will then form part of this permit. The Conservation Works Schedule must be prepared by a suitably qualified conservation consultant or architect and include:
- Drawings at 1:50 or 1:20 scale.
  - A schedule of conservation works, including works to the retained sections of façade to Stewart Street and Margaret Street.
  - Details of all proposed finishes/colours.

## Glare

12. External building materials and finishes must not result in hazardous or uncomfortable glare to pedestrians, public transport operators and commuters, motorists, aircraft, or occupants of surrounding buildings and public spaces, to the satisfaction of the Responsible Authority.

## Reflectivity

13. Light reflectivity from external materials and finishes must not reflect more than 20% of specular visible light, to the satisfaction of the Responsible Authority.

## Food and Drink Premises Use

14. Except with the ~~prior~~-written consent of the Responsible Authority, the food and drink premises (café) may only operate between the hours of 7.00 am and 7.00 pm, seven days per week.
15. Except with the ~~prior~~-written consent of the Responsible Authority, delivery and collection of goods to and from the land may only occur between 7 am and 10pm Monday to Saturday, or after 9am on a Sunday or public holiday except for those allowed under any relevant local law.
16. The provision of music and entertainment within the food and drink premises (café) must be at a background noise level.
17. The amenity of the area must not be detrimentally affected by the use, including through:
- the transport of materials, goods or commodities to or from land;
  - the appearance of any buildings, works or materials;
  - the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; or

- d) the presence of vermin,  
to the satisfaction of the Responsible Authority.

### Noise

18. The use and development must comply at all times with the noise limits specified in the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.4, Environment Protection Authority, May 2021) as may be amended from time to time.

### Sustainable Management Plan

19. Before the development commences (excluding bulk excavation and early works), an amended Sustainable Management Plan to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of the permit. The plan must be generally in accordance with the Sustainable Management Plan prepared by AECOM, dated 9 May 2022, but modified to include or show/address:
  - a) BESS Energy section figures updated in accordance with the amended building design under condition 1;
  - b) All ESD provisions originally proposed in the AECOM SMP, dated 9 May 2022, including a minimum 23kW solar array, unless otherwise agreed.
20. The provisions, recommendations and requirements of the endorsed Sustainable Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
21. ~~Prior to~~ Before the occupation of the development, or by such later date as approved in writing by the Responsible Authority, a report from the author of the Sustainable Management Plan, approved under this document, 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 all measures specified in the endorsed Sustainable Management Plan have been implemented, including a 5-star Green Star rating.

### Waste Management Plan

22. Before the development commences (excluding bulk excavation and early works), an amended Waste Management Plan to the satisfaction of the Responsible Authority, in consultation with Yarra City Council, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of the permit. The plan must be generally in accordance with the Waste Management Plan prepared by AECOM dated 5 May 2022, but modified to include or show/address:
  - (a) Consistency with the endorsed plans under condition 1.
  - (b) Details on how 4 waste streams will be separated, including ensuring adequate space for extra bins that will be required (ie. glass separation).
  - (c) Less than five collections per waste stream.
  - (d) Details of how hard waste will be managed.
  - (e) An explanation of how risk will be managed.
  - (f) Inclusion of a clause in the WMP regarding potential review into the service if operational requirements change.
23. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

24. The collection of waste from the site must be by private collection, unless with the **prior** written consent of the Responsible Authority.

### Acoustic Report

25. Before the development commences (excluding bulk excavation and early works), an amended Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended report will be endorsed and will form part of the permit. The report must be generally in accordance with the Acoustic Report prepared by prepared by AECOM dated 29 April 2022, but modified to include or show/address:
- Consistency with the endorsed plans under condition 1.
  - Noise from the carpark entrance gate and car lift to achieve Lmax sleep disturbance targets of no more than 65 dBA Lmax outside bedroom windows.
26. The provisions, recommendations and requirements of the endorsed Acoustic Town Planning Report must be implemented and complied with to the satisfaction of the Responsible Authority.
27. Before the development is occupied, an updated acoustic report prepared by a suitably qualified acoustic engineer to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The report must:
- Provide evidence of compliance with the requirements of the endorsed Acoustic Report.

The recommendations and any works contained in the approved acoustic report must be implemented and completed and where there are recommendations of an ongoing nature must be maintained all to the satisfaction of the Responsible Authority.

### Landscape Plan

28. Before the development commences (excluding bulk excavation and early works), a Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Landscape Plan will be endorsed and form part of the permit.
29. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, the landscaping works shown on the endorsed Landscape Plan must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping shown on the endorsed Landscape Plan must be maintained by:
- Implementing and complying with the provisions, recommendations and requirements of the endorsed Landscape Plan;
  - Not using the areas set aside on the endorsed Landscape Plan for landscaping for any other purpose;
  - replacing any dead, diseased, dying or damaged plants, to the satisfaction of the Responsible Authority

### Wind Assessment Report

30. Before the development commences (excluding bulk excavation and early works), a Wind Assessment Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the report will be endorsed and will form part of the permit. The report must include or show/address:
- Wind tunnel testing; and
  - Achieve recommended criteria without the reliance on vegetation.

31. The provisions, recommendations and requirements of the endorsed Wind Assessment Report must be implemented and complied with to the satisfaction of the Responsible Authority.

### **Street Tree Protection**

32. Before the use and/or development commences, the permit holder must establish Tree Protection Zone fencing in accordance with Australian Standard 4970-2009 for the adjacent existing street tree in Stewart St to the satisfaction of the Responsible Authority.

### **Road Infrastructure**

33. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, any new vehicle crossing must be constructed:
  - a) In accordance with any requirements or conditions imposed by the council;
  - b) At the document holder's cost; and
  - c) To the satisfaction of the Responsible Authority.
34. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, any redundant vehicular crossings must be demolished and reinstated as standard footpath and kerb and channel:
  - a) At the document holder's cost; and
  - b) To the satisfaction of the Responsible Authority.
35. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, any damage to roads, footpaths and road related infrastructure as a result of the construction works, including trenching and excavation for utility service connections development resulting from the development must be reinstated:
  - a) At the document holder's cost; and
  - b) To the satisfaction of the Responsible Authority.
36. All road pavement reinstatements must be consolidated as single full-width areas of reinstatement to reduce further construction joints in the pavement.
37. Any services poles, structures or pits that interfere with the proposal must be adjusted, removed or relocated at the owner's expense after seeking approval from the relevant authority.
38. Areas must be provided inside the property line and adjacent to the footpath to accommodate pits and meters. No private pits, boundary traps, valves or meters on Council property will be accepted.
39. No parking restriction signs or line-marked on-street parking bays are to be removed, adjusted, changed or relocated without approval or authorisation from Council's Parking Management unit and Construction Management branch.
40. Any on-street parking reinstated as a result of development works must be approved by Council's Parking Management unit.
41. The removal of any kerbside parking sensors and any reinstatement of parking sensors will require the Permit Holder to pay Council the cost of each parking sensor taken out from the kerb/footpath/roadway. Any costs associated with the reinstatement of road infrastructure due to the removal of the parking sensors must also be borne by the Permit Holder.

### Civil Works

42. The kerb and channel along the property's Margaret Street road frontage must be reconstructed to Council's satisfaction and at the Permit Holder's cost.
43. The footpath along the property's Margaret frontage must be reconstructed to Council's satisfaction and at the Permit Holder's cost. The footpath must have a cross-fall of 1 in 40 or unless otherwise specified by Council.
44. The half width road pavement of Margaret Street (in between the west kerb and the centreline of the road) is to be profiled and re-sheeted from Stewart Street up to the site's northern boundary to Council's satisfaction and at the Permit Holder's cost. Isolated areas of pavement failure are to be reconstructed with full-depth pavement.
45. The footpath along the site's Stewart Street frontage is to be profiled and re-sheeted to Council's satisfaction and at the Permit Holder's cost.
46. An outfall drain is to be constructed from the north east corner of the site and extend along the west side of Margaret Street, connecting to the existing drain at Tanner Street to Council's satisfaction and at the Permit Holder's cost.

### Car parking

47. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, the area set aside on the plans for the car parking spaces, access lanes, driveways and associated works must be:
  - a) Constructed and available for use in accordance with the plans;
  - b) Formed to such levels and drained so that they can be used in accordance with the plans;
  - c) Treated with an all-weather seal or some other durable surface; and
  - d) Line-marked or provided with some adequate means of showing the car parking spaces to the satisfaction of the Responsible Authority.

### Green Travel Plan

48. The provisions, recommendations and requirements of the endorsed Green Travel Plan prepared by AECOM dated 6 May 2022 must be implemented and complied with to the satisfaction of the Responsible Authority.

### Lighting

49. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, external lighting capable of illuminating access to the pedestrian and vehicular entrances and internal laneway must be provided on the subject site. Lighting must be:
  - a) Located;
  - b) Directed;
  - c) Shielded; and
  - d) Of limited intensity,

to the satisfaction of the responsible authority.

### General

50. Finished floor levels shown on the endorsed plans must not be altered or modified without the ~~prior~~ written consent of the Responsible Authority.

51. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.
52. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority.
53. Before the building is occupied, any wall located on a boundary facing public property must be treated with a graffiti proof finish to the satisfaction of the Responsible Authority.
54. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
55. All pipes, fixtures and fittings servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
56. Except with the ~~prior~~ written consent of the Responsible Authority, demolition or construction works must not be carried out:
  - a) Monday–Friday (excluding public holidays) before 7.00 am or after 6.00 pm;
  - b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9.00am or after 3.00pm; or
  - c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.

### Developer Contribution

57. ~~Prior to~~ Before the issue of a building permit, commencement of the development, or issue of a Statement of Compliance (whichever occurs first) the Development Infrastructure Levy must be paid to Yarra City Council in accordance with the approved Development Contributions Plan, or the Owner must enter into an agreement with Yarra City Council to pay the amount of the levy within a time specified in the agreement.

### Construction Management Plan

58. Before the development commences (excluding demolition), a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of the incorporated plans for this document. The plan must provide for:
  - a) A pre-conditions survey (dilapidation report) of the land and all adjacent Council road frontages and nearby road infrastructure;
  - b) Works necessary to protect road and other infrastructure;
  - c) Remediation of any damage to road and other infrastructure;
  - d) Containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land;
  - e) Facilities for vehicle washing, which must be located on the land;
  - f) The location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;
  - g) Site security;
  - h) Management of any environmental hazards including, but not limited to:
    - i. Contaminated soil;
    - ii. Materials and waste;
    - iii. Dust;

- iv. Stormwater contamination from run-off and wash-waters;
  - v. Sediment from the land on roads;
  - vi. Washing of concrete trucks and other vehicles and machinery;
  - vii. Spillage from refuelling cranes and other vehicles and machinery;
- i) The construction program;
  - j) Preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;
  - k) Parking facilities for construction workers;
  - l) Measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;
  - m) An outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
  - n) An emergency contact that is available for 24 hours per day for residents and the responsible authority in the event of relevant queries or problems experienced;
  - o) The provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads;
  - p) A Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with Noise Control Guideline 12 for Construction (Publication 1254) as issued by the Environment Protection Authority in October 2008. The Noise and Vibration Management Plan must be prepared to the satisfaction of the responsible authority. In preparing the Noise and Vibration Management Plan, consideration must be given to:
    - i. Using lower noise work practice and equipment;
    - ii. The suitability of the land for the use of an electric crane;
    - iii. Silencing all mechanical plant by the best practical means using current technology;
    - iv. Fitting pneumatic tools with an effective silencer;
    - v. Other relevant considerations; and
    - vi. Any site-specific requirements.

During the construction:

- q) Any stormwater discharged into the stormwater drainage system must be in compliance with Environment Protection Authority guidelines;
- r) Stormwater drainage system protection measures must be installed as required to ensure that no solid waste, sediment, sand, soil, clay or stones from the land enters the stormwater drainage system;
- s) vehicle borne material must not accumulate on the roads abutting the land;
- t) The cleaning of machinery and equipment must take place on the land and not on adjacent footpaths or roads; and
- u) All litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly.

The provisions, recommendations and requirements of the endorsed Construction Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

## PERMIT EXPIRY

- 59. Notwithstanding other provisions of these requirements, the development permitted by this Planning 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 has not commenced within five years of the date of this permit.

In accordance with section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.