



Council Meeting Agenda

Monday 6 February 2023 at 7 PM

**Council Chamber, Malvern Town Hall
Corner Glenferrie Road & High Street Malvern**

Information for the Community

The meeting will be conducted as follows:

1. partially in person and partially by electronic means; but if all Councillors attend in person then
2. wholly in person; but if no Councillor attends in person and five or more Councillors request to attend by electronic means then
3. wholly by electronic means.

Welcome

Welcome to a City of Stonnington Council meeting.

The Council has adopted Governance Rules in accordance with the Local Government Act 2020 which determine the way in which the Council will make decisions.

About this meeting

The agenda lists all the items to be considered by the Council. Each report is written by a Council Officer and outlines the purpose of the report, relevant information and a recommendation for the Council. The Council will consider the report and either accept, reject or make amendments to the recommendation. Council decisions are adopted if they receive a majority vote from the Councillors present at the meeting.

Arrangements to ensure meetings are accessible to the public

Council meetings are generally held at the Malvern Council Chamber, corner High Street and Glenferrie Road (entry via Glenferrie Road via the door closest to the Malvern Police Station). The Malvern Council Chamber is accessible to all. Accessible toilets are also available. If you require translation, interpreting services or a hearing loop, please contact the Council's Civic Support Officer on 03 8290 1331 to make appropriate arrangements before the meeting.

To ensure that people in the Hall can follow proceedings, the meeting agenda, recommendations and proposed alternate recommendations are displayed on screen.

Live webcasting

Council meetings are broadcast live via Council's website, allowing those interested to view proceedings without needing to attend the meeting. This gives people who are unable to attend, the ability to view Council decisions and debate. A recording of the meeting is available on the Council website after the meeting (usually within 48 hours). Live captioning is occurring during the meeting. Only Councillors and Council Officers are visible. People in the public gallery will not be filmed, but if you speak, you will be recorded.

Governance Matters

This Council Meeting is conducted in accordance with the Local Government Act 2020 and the City of Stonnington Governance Rules.

Recording of Council Meetings

In accordance with the Governance Rules, clause 69 meetings of the Council will be audio recorded and made available for public access, with the exception of matters identified as confidential items in the agenda.

Disclosure of Conflict of Interest

In accordance with the Local Government Act 2020, a Councillor must declare any Conflict of Interest pursuant to Section 130 of the Act in any items on the Agenda.

At the time indicated in the agenda, a Councillor with a conflict of interest in any item on the agenda must indicate they have a conflict of interest by clearly stating”

- The item for which they have a conflict of interest;
- Whether their conflict of interest is general or material; and
- The circumstances that give rise to the conflict of interest.

Immediately prior to the consideration of the item in which they have a conflict of interest, a Councillor must indicate to the meeting the existence of the conflict of interest and leave the meeting.

Behavior at meetings

Members of the public present at the meeting must remain silent during the proceedings other than when specifically invited to address the meeting.

The Chair may remove a person from the meeting for interjecting or offensive gesture after being asked to desist, and the Chair may cause the removal of any object or material that is deemed by the Chair to be objectionable or disrespectful.

The Chair may call a break in the meeting for either a short time, or to resume another day if the behavior at the Council table or in the gallery is significantly disrupting the Meeting.

Your cooperation would be appreciated.

Mayor, Deputy Mayor and Councillors, Stonnington City Council

Statement of Reconciliation

The Chair will open the meeting and recite the following Statement of Reconciliation.

We acknowledge we are meeting on the Traditional Lands of the Wurundjeri Woi Wurrung and Bunurong peoples of the East Kulin Nations and pay our respects to their Elders past, present and emerging.

We extend that respect to all Aboriginal and Torres Strait Islander peoples. We acknowledge their living connection to Country, relationship with the land and all living things extending back tens of thousands of years.

Statement of Commitment

The Chair will recite the following Statement of Commitment.

We are reminded that as Councillors we are bound by our Oath of Office to undertake the duties of Councillor in the best interests of the people of the City of Stonnington and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in us under the Local Government Act and any other relevant Act.

Council Meeting Agenda Monday 6 February 2023 Order of Business

1	Reading of the Statement of Reconciliation	7
2	Reading of the Statement of Commitment.....	7
3	Introduction of Councillors & Executive Staff	7
4	Apologies	7
5	Confirmation of the Minutes of the previous meeting	7
5.1	Minutes of the Council Meeting held on 12 December 2022.	7
6	Disclosure of Conflicts of Interest	7
7	Questions From the Community	7
8	Business.....	7
8.1	Aged Services 2023-2024 CHSP Funding Agreement Extension Offer	7
8.2	Planning Application 1146/21 - Shop 15-16/1 Grange Road, Toorak.....	11
8.3	Planning Amendment 0941/08 - 32-36 Greville Street, Prahran	21
8.4	Planning Applications 0596/22 - 150 Union Street, Windsor	29
8.5	Contract T23001 - Prahran Market Heritage Building Remediation Works	47
8.6	Declaration of Affirmation of Office	51
9	Correspondence	54

10 Tabling of Petitions and Joint Letters	54
11 Notices of Motion.....	54
12 Reports by Councillors	54
12.1 Minutes of the Audit and Risk Committee Meeting held on 17 November 2022	54
12.2 Record of Councillor Briefing Session held on 30 January 2023.....	57
13 Questions to Council Officers	58
14 Urgent Business	58
15 General Business	59
16 Confidential Business	59

- 1 Reading of the Statement of Reconciliation
- 2 Reading of the Statement of Commitment
- 3 Introduction of Councillors & Executive Staff
- 4 Apologies
- 5 Confirmation of the Minutes of the previous meeting

5.1 Minutes of the Council Meeting held on 12 December 2022.

Officer Recommendation

That the Minutes of the Meeting of the Stonnington City Council held on 12 December 2022 be confirmed as an accurate record of the proceedings.

- 6 Disclosure of Conflicts of Interest
- 7 Questions From the Community
- 8 Business

8.1 Aged Services 2023-2024 CHSP Funding Agreement Extension Offer

Director Community & Wellbeing: Cath Harrod

Linkage to Council Plan

Direction 2: An inclusive and healthy community

2.1 Health and wellbeing

Purpose of Report

To present the CHSP funding extension offer 2023-2024 for Council approval.

Officer Recommendation

That the Council:

1. ***AUTHORISE officers to accept relevant activities in the CHSP 2023-2024 funding extension offer.***
2. ***NOTE officers will continue to liaise with the Commonwealth Government to further understand Council's role in the program as of 2024.***

3. ***NOTE ongoing information on aged care reforms will be provided to the community as these are released.***

Executive Summary

1. The Commonwealth Government has offered a 2023-2024 Commonwealth Home Support Programme (CHSP) funding extension agreement to Council.
2. The extension agreement aligns with the Commonwealth Government's announcement of 1 July 2024 start date for a new in-home aged care program.
3. With no onerous new conditions placed on Council, it is recommended relevant service activities in the extension agreement, be accepted so that Council can continue delivering CHSP in its final year.

Background

4. Commonwealth Government commenced aged care reforms in July 2017.
5. Council is funded to deliver CHSP until 30 June 2023.
6. The Commonwealth Government is offering to renew funding until 30 June 2024 aligned with the introduction of the new support at home program on 1 July 2024.
7. Council Meeting (24 October 2022) noted any CHSP 2023-2024 funding extension offer will be reviewed and presented to Council for approval.

Key Issues and Discussion

8. The Commonwealth Government aged care reforms will create a nationally consistent aged care system but have been significantly delayed since commencing in 2017.
9. Council commenced a program of information in November 2022 targeting community members, clients, their families to understand and prepare for aged care reforms. This includes website information with a program of workshops scheduled early in 2023.
10. A one-year 2023-2024 extension offer from Commonwealth Government to continue CHSP until 30 June 2024 has been reviewed to understand and assess conditions; this has found the following similarities with current year agreement:
 - a. Monthly payments in arrears based on 1/12th of the total value of the grant agreement (introduced in 2022-2023);
 - b. Monthly performance reporting through the Data Exchange, due 10 business days after the end of month (introduced in 2022-2023);
 - c. Retention of nationally consistent unit price ranges. Officer review noted while this is consistent with previous years, funding continues to be inadequate funding to cover the full cost of service.
 - d. Indication certain grant agreements may be reviewed and varied to align with unexpended funds from previous years as described in the 2022-23 Grant Opportunities Guidelines. It is noted, to date, this has not been enforced in the current agreement with council.
 - e. Social support group funding was provided to Council in 2022-2023 through an adjustment to Sector Support and Development funding and is included in the funding extension offer. It is not recommended to accept social support group,

instead Council continue inclusive Engaged and Active Stonnington programs for older residents.

11. Changes include:
 - a. Adjustments to CHSP national unit price range including 10% increase to prices at bottom of range; 5% increase to prices at top of range; and for transport prices 11% increase at bottom of range; 6% at top of the range due to increased fuel costs. It is noted the impact of these for Council is minimal with most activities paid at the lowest range.
12. The one-year funding extension offer for 2023-2024 has been reviewed and the information provided does not indicate any new onerous conditions.
13. With the aged care sector experiencing labour shortages, the recent experiences of municipalities transitioning and impact on client service continuity it is recommended council continue relevant CHSP service delivery in 2023-2024, noting the Commonwealth Government indicate this is its final year.
14. The new support at home program scheduled to commence 1 July 2024 intends to combine CHSP, home care packages and short-term restorative care.
15. Commonwealth Government is incrementally releasing detail on the new support at home program.
16. Detail regarding applicability of the regulatory model on each service, expected early 2023, and unit pricing, expected mid 2023, will be helpful in assessing relevance to council in aged services delivery in a reformed environment.

Policy Implications

17. Procurement Policy for associated supplier contracts.

Financial and Resource Implications

18. The average net cost to Council in delivering the Commonwealth Home Support Programme over the last 2 years averages per annum \$1.774 million.

Conflicts of Interest Disclosure

19. No Council officer and/or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Legal / Risk Implications

20. There are no legal / risk implications relevant to this report.

Environmental Implications

21. There are no environmental implications relevant to this report.

Community Consultation

Proposed engagement presented to Council (24 October 2022) to assist understanding of aged care reforms:

Purpose	To promote awareness and understanding of the Commonwealth Government aged care reforms including the impact on clients and services
IAP2 Goal:	Inform
Exhibition period	November 2022 – March 2023

Method:	Direct letters to clients and families Information updates and promotion on the Council's website and social media channels (underway) Round table workshops as mor information becomes available
Reach:	Direct letters to 900 clients (approx.) Council's website: potential reach 61,000 Social media channels: potential reach 14,000
Summary of feedback:	To be advised
Impact:	To be advised

22.

Human Rights Consideration

23. Complies with the Charter of Human Rights & Responsibilities Act 2006.

Attachments

Nil

8.2 Planning Application 1146/21 - Shop 15-16/1 Grange Road, Toorak

Manager Statutory Planning: Alex Kastaniotis

Director Planning & Place: Annaliese Battista

Purpose of Report

For Council to consider a planning application for the use of the land for the sale and consumption of liquor (Restaurant and Café Liquor Licence) in association with the use of the land as a food and drink premises (as-of-right use) at Shop 15-16/1 Grange Road, Toorak.

Abstract

Proposal

The application proposes a restaurant and cafe licence associated with the use of the land as a restaurant (as of right). The proposed hours for the sale and consumption of liquor are:

- Monday to Thursday – 10am to 11pm.
- Friday and Saturday – 10am to 12am/midnight.

The maximum number of patrons will be 24 – all internally.

Officer Recommendation Summary

That Council authorise Officers to issue a **Notice of Decision** subject to conditions outlined in the Officer Recommendation. **The proposal is supported** for the following reasons:

- The proposal is consistent with the requirements of Clause 22.10 (Licensed Premises Policy) and Clause 52.27 (Licensed Premises).
- The proposal will not have an unreasonable impact on the amenity of the area, including nearby residential properties.

Issues

The following are the key issues in respect of this application:

- The proposed hours of operation.
- Impact on adjoining dwellings, in particular the apartments directly above the subject site and dwellings on the opposite side of Grange Road.

Officer's response

The proposed use of the land for the sale and consumption of liquor under a Restaurant and Café Licence is appropriate in this commercial location, subject to recommended conditions which include the reduction of hours.

Executive Summary

Applicant:	Lorenzo Lulic Sam Boehm
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Ward:	North
Zone:	Commerical 1 Zone
Overlay:	Desgin and Development Overlay – Schedule 9 Heritage Overlay – Schedule 173
Neighbourhood Precinct:	Toorak Village
Date Lodged:	24 December 2021
Statutory Days: (as at Council Meeting date)	146 days
Trigger for Referral to Council:	Councillor call-up
VCAT Hearing Date	N/A
Patron Numbers	24 (internal only)
Cultural Heritage Plan	No
Number of Objections:	8 objections from 6 properties
Consultative Meeting:	Yes – held on 18 August 2022
Officer Recommendation	Notice of Decision to Grant a Permit

Background

The Proposal

The plans that form part of the basis of Council's consideration were prepared by Sam Boehm and comprise the plans sent to objectors for additional comments in November 2022, Red Line Plan and Council date stamped 14 September 2022.

The application seeks permission for the use of the land for the sale and consumption of liquor (Restaurant and Café Liquor Licence) in association with the use of the land as a food and drinks premises (as-of-right use) at Shop 15-16/1 Grange Road, Toorak. Key features of the proposal are:

- A licenced area plan to include:
 - The internal space within the existing restaurant.
- A maximum patron capacity of 24, with all being internal to the premises.
- Trading hours as follows:
 - Monday to Thursday – 10am to 11pm.
 - Friday and Saturday – 10am to 12am/midnight.
- Background recorded music is proposed to be played within the venue (no live entertainment is proposed). No external music is proposed.
- The applicant proposes a liquor licence in association with the restaurant at the site.

Site and Surrounds

The site is located on the western side of Grange Road, approximately 60 metres north of Toorak Road. The site has the following significant characteristics:

- The site occupies two ground floor commercial/shop tenancies which forms part of a larger commercial building.
- The site has its entry from Grange Road and presents a contemporary glazed façade, both to Grange Road, and the internal parking area.
- The site has an approximate frontage of 7 metres to Grange Road, a depth of 5.5 metres, and an overall area of 45.5sqm.
- The site is currently operating as a restaurant known as San Lorenzo Pizzeria E Dolceria.
- The larger commercial building comprises restaurants and shops at ground level with a double storey heritage building on the corner of Grange Road and Toorak Road.
- There are some car spaces on site for the public to utilise – to which these are shared with the other premises in the development.
- Immediately proximate to the site is:
 - To the south is the Via Torino restaurant, which is located within Tenancy 5 of the development.
 - Adjoining the site to the north and west are modern commercial buildings.
 - Directly opposite the subject site are two storey buildings, made up of apartments/flats built in the 1940's, facing onto Grange Road.
- More broadly, the site is located on the edge of the Toorak Village Activity Centre, where there are a range of uses and developments present. There are a number of licenced uses within proximity of the site, including at the Via Torino restaurant which is located within the same development.

Previous Planning Application/s

A search of Council records indicates the following relevant planning application/s

- Planning Permit 0209/16 for 1A Grange Road, Toorak issued on 10 November 2016 for partial demolition, building and works to an existing building, business identification signage, a restaurant and café liquor licence associated with use of land for a restaurant (as of right) and a reduction in the standard car parking requirements, and waiver of the loading requirements in a Commercial 1 Zone and Heritage Overlay. There is external seating at this site. This site is known as the Fleur Espresso restaurant.

The above Planning Permit allows for a maximum of 97 patrons with following operating hours:

Internal areas

6am to 11pm (Monday to Friday) and 7am to 11pm (Saturday and Sunday); and

External area

8am to 10pm (Monday to Sunday)

- Planning Permit 0622/18 for Shop 12, 1 Grange Road, Toorak issued on 31 December 2018 for Use of the land for the sale and consumption of liquor (restaurant and café liquor licence) in association with a food and drink premises (as of right) in a Commercial 1 Zone. At present, there is no external seating at this site. This site is known as the Via Torino restaurant.

The above Planning Permit allows for a maximum of 16 patrons with the following operating hours:

11am to 11pm (Monday to Sunday)

12pm to 11pm (Good Friday and Anzac Day)

The Title

The site is described on Certificate of Title Volume 10235 Folio 438 as Lot 15 and no covenants or easements affect the land. The site totals 13 lots with common property, which is on the corner of Grange Road and Toorak Road, and is addressed to the former.

Planning Controls

The following controls/permit triggers are considerations for this application:

Zone

Clause 34.01 – Commercial 1 Zone

Pursuant to Clause 34.01-01 a permit is not required to use the land for a retail premises, which includes food and drink premises.

Overlay

Clause 43.01 – Heritage Overlay

The proposal does not include demolition, development, or subdivision therefore does not require a permit under the Heritage Overlay.

Clause 43.02 – Design and Development Overlay

The proposal does not include development or subdivision therefore does not require a permit under the Design and Development Overlay.

Particular Provisions

Clause 52.27 – Licenced Premises

Pursuant to Clause 43.05-2 a permit is required to use land to sell or consume liquor if a licence is required under the *Liquor Control Reform Act 1998*. A permit is therefore required for the application under this clause.

Relevant Planning Policies

Clause 21.03 – Vision

Clause 21.04 – Economic Development

Clause 22.10 – Licensed Premises Policy

Advertising

The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987 by sending notices to the owners and occupiers of adjoining land (and by placing one (1) sign on the site). The public notification of the application has been completed satisfactorily.

The site is located in North Ward and 8 objections from 6 different properties have been received. The objections can be summarised as follows:

- Hours and days of liquor trading is inappropriate.
- Total patron numbers inappropriate.
- Amenity impact from service of alcohol in footpath trading area.
- Noise.
- Footpath congestion.
- Adverse social impacts from intoxicated patrons.
- Adverse amenity impact from food and drink premises.
- Pollution/litter.
- Parking/traffic.

A Consultative Meeting was held on 18 August 2022. The meeting was attended by Councillors Koce and Griffin, representatives of the applicant, objectors and a Council Planning Officer. The meeting did result in changes to the plans, and they are as follows:

- Hours reduced for Friday and Saturday to be 10am until 12am/Midnight.
 - Previous (advertised) hours were Friday and Saturday from 10am until 1am (the following day).
- All external areas of sale and consumption of liquor removed from the application and plans.
 - Application is only for sale and consumption internally within the restaurant.

The modified plans dated 14 September 2022 were sent to objectors on 14 November 2022. Due to the nature of the modifications as listed above being a reduction from what was formally advertised, Council's Officers determined that formal notice was not required. Information in the reduction of the hours and the reduction of the area of the proposed red line were included in the information provided to all objectors. No further objections were lodged.

Referrals

Local Laws

No objection subject to the following conditions:

- Background music only.

Key Issues and Discussion

The permit applicant seeks permission to allow the sale and consumption of liquor associated with an existing restaurant in the Toorak Village Neighbourhood (Large) Activity Centre. Major Activity Centres are described at Clause 21.04 (Economic Development) as a larger local centre catering for everyday needs and wider specialty retail, office and service markets – predominately retail, catering for everyday and some specialty needs. In principle, such locations are appropriate for a greater range and intensity of commercial operations. Where there are surrounding residential uses, policy focuses on the effective management of the licensed premises rather than exclusion of such premises from the area.

Council's Local Policies (Clause 17.02-1S and 21.04) recognise the importance of licensed premises in contributing to the vibrancy and economic strength of the municipality, whilst

acknowledging that licensed premises should be managed to minimise adverse amenity impacts on surrounding residential uses.

It is considered that the subject site is suitably located within the Toorak Village Activity Centre for a licensed premises and will contribute to the vibrancy and activation of the street. The potential amenity impacts, and their management are discussed in detail below.

Liquor

Consideration of new liquor licence applications is guided by Clause 22.10 (Licensed Premises Policy) and Clause 52.27 (Licensed Premises). Clause 22.10 seeks to establish an appropriate mix of licensed premises relative to other uses, including residential, within activity centres and seeks to encourage daytime uses and active frontages. Pursuant to Clause 22.10 and Clause 52.27, licensed premises should not have an unreasonable impact on the amenity of the surrounding uses in relation to noise, hours of operation, light spill, and car parking demand. An assessment of these factors is undertaken below.

Cumulative Impact

Whilst there are a number of licensed premises in the Toorak Village precinct, restaurant and café liquor licenses are generally considered low risk. For this reason, the proposal is not expected to result in any negative cumulative impact. The primary use of the land is for the preparation and serving of meals, while the sale and supply of liquor on the premises is a secondary aspect. Pursuant to Section 9A of the *Liquor Control Reform Act 1998 (Vic)* and *Standard Licence Obligations – Restaurant and Café* set out by the *Victorian Gambling and Casino Control Commission*, the following requirements apply to restaurant and café liquor licences:

- The predominant activity to be carried out on the premises is the preparation and serving of meals to be consumed on the licensed premises; and
- Tables and chairs must be placed in position on the licensed premises so as to be available to at least 75% of the patrons attending the premises at any one time.

Under these requirements, it is unlikely that this proposal will lead to intoxication and antisocial behaviour, but rather will positively contribute to the high level of activity in this area and add to the overall vibrancy of the precinct.

Patron numbers and hours of operation

A total of 24 patrons are proposed within the premises.

The proposed hours of sale and consumption of alcohol are:

- Monday to Thursday – 10am to 11pm; and
- Friday and Saturday – 10am to 12am/midnight.

Council's Licensed Premises Policy at Clause 22.10 preferences any trading after 11pm to occur in an Activity Centre but also discourages trading after 11pm adjacent to residential uses unless the use will not adversely affect the amenity of the area.

As discussed above, the addition of a licensed restaurant is unlikely to result in unreasonable amenity impact on the area given the nature of the business and low-risk restaurant operating conditions. Therefore, the use of the internal areas for the sale of liquor until 11pm Monday to Thursday is considered acceptable. However, the proposed sale of

liquor until 12am/midnight on Friday and Saturday is against local policy adjacent to residential areas and will be reduced to 11pm.

Given this application relates to liquor only, a commencement time 10am is considered appropriate. It is noted that a planning permit is not required for the use, therefore the serving of meals, coffees and any other non-alcoholic drinks can commence prior to 10am, and after the abovementioned end of the proposed sale and consumption of liquor hours. The commencement time of 10am only relates to the serving of liquor.

The initially proposed external area was considered to have potential for greater impacts on the amenity of the area. As outlined above, in response to objector concerns the applicant has agreed to remove the external footpath area from the proposal.

Subject to conditions, the hours and patron numbers are deemed to be reasonable for a restaurant and café within the Toorak Village precinct and will not result in significant adverse amenity impacts on the surrounding area, including residential properties.

Noise and Amenity

The area consists of a mixture of commercial tenancies, including cafes, restaurants and retail shops, as well as a number of residential apartments, including directly opposite. As a condition of permit, a Noise and Amenity Action Plan (NAAP) will be required to be prepared in accordance with Clause 22.10, to the satisfaction of Council. The plan will be required to outline details of potential noise sources, sensitive areas, measures to control noise emissions, details of staffing, complaint procedures, waste management and other details of the operation.

Conditions will be included on the permit, should one issue, requiring that noise emanating from the subject site must conform with Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, Environment Protection Authority, November 2020), that only background noise may be played internally and that there must be no external speakers.

Waste

As discussed above, a condition of permit will require the plans show an area for the storage of waste receptacles within the property. To ensure that the waste management does not impact on the amenity of the area a standard condition is recommended to be included on the permit that the collection of waste is in accordance with Council's Local Law.

Car Parking and Traffic

The application for the use of the land for the sale and consumption of liquor (Restaurant and Café Liquor Licence) does not trigger a requirement to provide car parking under the Stonnington Planning Scheme.

There are no changes to the car parking provision on site and the traffic generation associated with the use is not likely to be significantly impacted.

The site is well located within proximity to public transport and on-street parking and is likely to cater to high levels of local foot traffic.

Governance Compliance

Conflicts of Interest Disclosure

No Council Officer and/or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Human Rights Consideration

This application has been assessed in accordance with the requirements of the Planning and Environment Act 1987 (including the Stonnington Planning Scheme), reviewed by the State Government and which complies with the Charter of Human Rights & Responsibilities Act 2006.

Attachments

1. 1146/21 - Shop 15-16/1 Grange Road, Toorak [8.2.1 - 2 pages]

Officer Recommendation

That Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 1146/21 for the land located at Shop 15-16/1 Grange Road, Toorak under the Stonnington Planning Scheme for the use of the land for the sale and consumption of liquor (Restaurant and Café Liquor Licence) in association with the use of the land as a food and drinks premises (as-of-right use) subject to the following conditions:

- 1. Before the commencement of the use, one (1) copy of plans drawn to scale and fully dimensioned, must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the 'Revised Plans' (Council date stamp 14 September 2022) prepared by Sam Boehm but modified to show the following:***
 - a) Tables and chairs to be shown on the floor plans, with no more than 24 seats.***
 - b) An area for the storage of waste receptacles identified within the property.***
 - c) A Noise and Amenity Action Plan as per Condition 2.******All to the satisfaction of the Responsible Authority.***
- 2. Before the commencement of the use, an amended Noise and Amenity Action Plan (NAAP), must be submitted to and approved by the Responsible Authority. The NAAP must be generally in accordance with the plan submitted with the application, but modified to reflect the updated operating hours. When approved, it will form part of the permit and the tenancy must operate in accordance with the applicable plan to the satisfaction of the Responsible Authority.***
- 3. A maximum of 24 seats may be housed on the premises at any one time to the satisfaction of the Responsible Authority.***
- 4. Without the prior written consent of the Responsible Authority, the sale and consumption of liquor shall only occur within the licensed area between the following hours:***
 - a) Monday to Saturday - 10am to 11pm***
- 5. The predominant activity carried out at all times on the licensed premises must be the preparation and serving of meals to be consumed on the premises to the satisfaction of the Responsible Authority.***

6. **Tables and chairs must be placed in position on the licensed premises so as to be available for at least 75% of the patrons in each area at any one time, to the satisfaction of the Responsible Authority.**
7. **No speakers are to be located externally.**
8. **Noise emanating from the subject land must comply with Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, Environment Protection Authority, November 2020), to the satisfaction of the Responsible Authority. Any works required to ensure and maintain the noise levels from the premises are in compliance with this policy must be completed prior to the commencement of the use or occupation of the site and maintained thereafter, all to the satisfaction of the Responsible Authority.**
9. **Without the prior written consent of the Responsible Authority, the provision of music and entertainment on the premises must be limited to background music or entertainment by performers using non-amplified instruments or equipment.**
10. **Bottles and rubbish must not be removed from within the premises to the waste storage area between the hours of 11pm and 7am the following day.**
11. **The collection of wastes and recyclables from the premises (other than normal Stonnington City Council collection) must be in accordance with Council's General Local Laws.**
12. **This permit will expire if one of the following circumstances applies:**
 - a) **The use is not started within two years from the date of this permit.**
 - b) **The use is discontinued for a period of two years or more.**

In accordance with Section 69 of the Planning and Environment Act 1987, the Responsible Authority may extend the periods referred to if a request is made in writing within the prescribed timeframes, where the use allowed by the permit has not yet started.

NOTES

- A. **This permit is for the use of the land and/or buildings and does not constitute any authority to conduct a business requiring Health Act/Food Act registration without prior approval from the Council's Health Services.**
- B. **This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.**
- C. **Unless a permit is not required under the Stonnington Planning Scheme, signs must not be constructed or displayed without a further planning permit.**
- D. **Background music level, in relation to premises, means a level that enables patrons to conduct a conversation at a distance of 600 millimetres without having to raise their voices to a substantial level.**
- E. **This permit does not give any authority to occupy the footpath for trading without prior approval from Council's Local Laws department. A permit must be obtained for footpath trading and it must accord with the relevant Footpath Trading Code.**
- F. **At the permit issue date, Section 69 of the Planning and Environment Act 1987 stated that the Responsible Authority may extend the periods referred to if a request is made in writing within the following timeframes:**

- i. Before or within 6 months after the permit expiry date, where the development allowed by the permit has not yet started; and*
- ii. Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.*

8.3 Planning Amendment 0941/08 - 32-36 Greville Street, Prahran

Manager Statutory Planning: Alex Kastaniotis

Director Planning & Place: Annaliese Battista

Purpose of Report

For Council to consider an amendment to a permit for buildings and works to an existing building in a Heritage Overlay and Residential 1 Zone and a waiver of parking associated with an increase in floor area under Clause 52.06 of the Stonnington Planning Scheme at 32-36 Greville Street, Prahran.

Abstract

Proposal

The proposal seeks retrospective permission for various alterations to the original design of the courtyard of the College Lawn Hotel fronting Greville Street. Alterations include the construction of a deck and standing bench, retractable awnings, landscaping changes, alterations to the front fence, removal of a timber screen and use of synthetic grass.

Officer Recommendation Summary

That Council authorise Officers to issue an **amended Planning Permit** subject to conditions outlined in the Officer Recommendation. **The proposal is supported** for the following reasons:

- The proposed alterations do not alter the appearance of the significant heritage building.
- The design and appearance of the proposed buildings and works are appropriate to the neighbourhood character.
- The proposed changes will not have unreasonable amenity impacts on the amenity of the neighbouring properties.

Issues

The following are the key issues in respect of this application:

- Impacts on the significant Heritage site (refer to Heritage assessment)
- The design and appearance of the proposed buildings and works (refer to Neighbourhood Character assessment)
- Amenity impacts on the adjoining properties (refer to Amenity Impacts assessment)

Officer's response

The proposed amendment seeks permission for various design changes to the existing external courtyard that was approved as part of Planning Permit No. 941/08. Importantly, the proposed changes do not alter the use of the site, hours of operation, patron numbers or the movement of patrons.

The site is located within a residential zone and is covered by the Greville Street Residential Precinct Heritage Overlay. The Precinct is of local historical, social, and aesthetic

significance. The College Lawn Hotel contributes to the local historical, social and aesthetic significance of the residential precinct. Due to its historical position, the College Lawn Hotel benefits from existing use rights for the use of the land as a hotel by virtue of the use having commenced before the introduction of the current planning controls in Prahran.

The applicable planning policy encourages development in the Heritage Overlay to protect places of local cultural heritage significance and to ensure new development respects the significance of heritage places. While much of the proposed works are not readily visible from the street, the amended design responds appropriately to the significant heritage building as the works are proposed to non-original building fabric.

The proposed changes to the courtyard are consistent with design and appearance of the local neighbourhood context and will not result in unreasonable amenity impacts on existing properties.

Executive Summary

Applicant:	Australian Venue Co. C/- Urbis
Ward:	South
Zone:	Neighbourhood Residential Zone – Schedule 3 (NRZ3)
Overlay:	Heritage Overlay (HO456)
Neighbourhood Precinct:	Inner Urban
Date Lodged:	26 September 2022
Statutory Days: (as at Council Meeting date)	99
Trigger for Referral to Council:	Councillor call-up
Cultural Heritage Plan	No
Number of Objections:	Six (6)
Consultative Meeting:	No
Officer Recommendation	Notice of Decision to Amend Planning Permit

Background

History

Planning permit 941/08 was issued on 05 January 2010 by VCAT (Ref No. P1582/2009) for *buildings and works to an existing building in a Heritage Overlay and Residential 1 Zone, and a waiver of parking associated with an increase in floor area under Clause 52.06 under the Stonnington Planning Scheme.*

In simple terms, the original proposal was for the extension of the front courtyard to transform the existing drive through into a beer garden to extend the area where patrons could consume liquor.

A Secondary Consent application was lodged on 24 February 2010 and the following changes were requested:

- Installation of seating in the area beneath the canopy at the western end of the site to create an additional patron occupiable floor area from 160 square metres to 220 square metres; an increase of 60 square metres.
- Removal of shutters and section of building wall.
- Additional landscaping along west boundary.
- Construction of a vergola at the south western corner of the site.

The above changes were determined to be inconsequential to the development and the amendment was subsequently issued on 27 May 2010.

Since the issuing of the amendment, the construction of the courtyard was carried out. As the permit has been acted upon, it is valid.

A Notice of Contravention pursuant to Section 126(3) of the *Planning and Environment Act 1987* was issued on 02 September 2022, outlining that the land had been developed in contravention of Condition 1 of Permit No. 941/08. The proposed amendment seeks retrospective approval for the various buildings and works outlined in the Proposal section below.

The Proposal

The plans that form part of the basis of Council's consideration were prepared by DC Group Newline Design and are known as Drawing No.s: 02, 03, 04, 05, 06 and 07 and Council date stamped 26 September 2022.

The application seeks approval under Section 72 of the *Planning & Environment Act 1987* for the following amendments to the endorsed plans:

- Removal of the tree to the front lawn
- Alterations to the Greville Street fence to include a new double-gate on the east opening and replace the double-gate to the west with a single gate.
- The synthetic grass is proposed in-lieu of the brick paving at the rear dining area.
- Timber decking proposed to the courtyard adjacent to the bar with standing benches.
- Addition of retractable awnings to the western boundary and the north and west elevation of the restaurant.
- Removal of timber screen between the courtyard and undercover dining area.
- Redesign of fixed timber benches.
- Alterations to the planter boxes on the west boundary.

Site and Surrounds

The site is located on the south side of Greville Street on the southwest corner of the intersection between Greville and Perth Street, Prahran. The site has the following significant characteristics:

- The site is located approximately 200 metres west of Prahran Railway Station and 543 metres west of Chapel Street.
- The site has an approximate frontage to Greville Street of 40 metres and frontage of 30 metres to Perth Street with an approximate site area of 1,200 sqm. The site's south

interface is to an unnamed laneway and the west interface is to a dwelling located at 28 Greville Street.

- The site is developed with a significant (B-graded) two-storey heritage hotel sitting on the northeast corner of the site with various later single-storey additions at the rear.

Key features of the surrounding area are as follows:

- Immediately to the north of the subject site is Greville Street. Over Greville Street the site interfaces with three residential properties. 37 Greville Street is a three-storey apartment building, 41 Greville Street is a two-storey Victorian shop occupied as a dwelling and 43 Greville Street is a single-storey Victorian dwelling.
- Immediately to the south is an unnamed laneway. Over the laneway is 39 Perth Street, a two-storey contemporary dwelling with vehicle access from the adjoining laneway.
- Immediately to the east is Perth Street. Over Perth Street the Hotel interfaces with three residential properties. 38 Greville Street are significant two-storey interwar flats and 40 and 38 Perth Street are a single-storey Victorian semi-detached pair.
- Immediately to the west is 28 Greville Street, a significant semi-detached single-storey Victorian terrace part of a row.

Previous Planning Application/s

The history of Planning Permit 941/08, which this application seeks to amend, is detailed within the Background section above.

The Title

The site is described as Land in Plan of consolidation 102696 in Volume 09088 Folio 464.

Planning Controls

The following controls/permit triggers are considerations for this application:

Zone

Clause 32.09 – Neighbourhood Residential Zone

Given the College Lawn Hotel benefits from existing use rights, a permit is not required to use the land as a hotel.

Pursuant to Clause 32.09-9 a permit is required for buildings and works associated with a Section 2 use.

Overlay

Clause 43.01 - Heritage Overlay

Pursuant to Clause 43.01-1 a permit is required to partially demolish and construct a building or construct or carry out works.

Existing Uses

Pursuant to Clause 63.05, a Section 2 use for which an existing use right is established may continue provided no buildings or works are constructed or carried out without a permit. The proposed amendment seeks approval for buildings and works in accordance with Condition 1 of Planning Permit No. 941/08.

Relevant Planning Policies

Clause 22.04 – Heritage Policy

Clause 22.23 – Neighbourhood Character Policy

Advertising

The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987 by sending notices to the owners and occupiers of adjoining land (and by placing two signs on the site). The public notification of the application has been completed satisfactorily.

The site is located in South Ward and objections from six different properties have been received, a summary of the objections are as follows:

- Increasing the capacity of the outdoor area that will increase noise.
- Request for the addition of soundproof glass on the Greville Street elevation to address noise levels.
- The retention of the tree and red brick paving as per the endorsed plans is more visually attractive and in keeping with the streetscape.
- The amenity of the neighbourhood has been detrimentally affected by not carrying out the endorsed works.
- The retention of the tree is preferred as a mature tree would provide sound buffering and limit patron capacity.
- Brick paving would provide sound buffering and be more in keeping with the heritage nature of the pub.

Referrals

Heritage

- Most of the matters of concerns are not relevant to the heritage.
- Changes to the front fences are relevant to heritage, however the installation of the double gate does not change the presentation.
- While one neutral colour is preferred for the retractable awnings, the striped colouring of the awnings have a minimal impact on the heritage significance of the building or the precinct.

Key Issues and Discussion

Heritage

The application has been assessed against Clause 22.04 and generally complies as follows:

- All changes apart from the fence and the awnings do not impact the heritage significance of the original building volume nor the Greville Street Residential Heritage Precinct as the works are well removed from the significant building fabric and are not readily discernible when viewed from the street.
- The addition of the double gate picket fence on the east and the change to a single picket gate on the west in lieu of the double gate is not a discernible difference to the presentation of the fence. As the material, colour and height of the fence is not

proposed to change, the alterations are acceptable and are consistent with timber picket fences found within the Victorian streetscape.

- While the two awnings attached to the building were existing prior to the permit being issued in 2010, the awning attached to the west boundary occurred after the permit was issued. No planning permissions has been granted for the installation of the awnings at the site. Therefore, retrospective approval for all awnings is being sought as part of the amendment. While the use of a single neutral colour to all awnings is preferred by Council's Heritage Advisor over the proposed blue and white striped colours, the current design has a minimal impact on the heritage significance of the building. In addition, it is officers view that as the awnings are not attached to the original heritage building, are retractable and lightweight and setback behind the primary building volume, the striped cloth has a minimal impact on the significance of the heritage place. Furthermore, the awnings are clearly discernible as new building fabric and their colour will not significantly impact how the building presents to the street.

Built Form

The changes to the rear dining area, including the replacement of brick pavers, removal of timber benches and timber screen, are not readily visible from the street, the changes do not readily alter the design of the courtyard. Other changes including the deck construction, standing benches and planter boxes are minor alterations that are largely concealed from view by the front fence. The changes not readily visible from the street are largely inconsequential to the development as a whole and are supported.

As per the plans endorsed on 27 May 2010, the species and size of the tree previously proposed is not specified. Additional landscaping is proposed for the western boundary comprising five planter boxes. Overall the removal of the tree is inconsequential as the proposed landscaping design is still consistent with the inner urban residential streetscape. See further discussion below in the Objections section of this report.

Amenity Impacts

Council is unable to assess the alterations from either a use perspective or a licensed premises perspective by virtue of the existing use rights, thereby ruling out an assessment of the potential for increased use or intensification of uses. As the proposed amendment simply provides design layout changes and surface changes to the existing courtyard, the amendment does not result in an increase or decrease to patronage of the courtyard. Given the proposed amendment does not affect patron numbers, hours of operation, nor increase the floor area of the venue, no unreasonable amenity impacts are to result from the proposed buildings and works.

The alterations to the picket front fence are inconsequential as the design is in keeping with the streetscape and the flow of patrons from the venue is unchanged as the gates are located to existing openings.

Objections

With respect to the issues regarding the potential increase for patrons to use this area as a result of the revised works with subsequent increase in noise, it is important to note that due to the existing use rights, Councils is unable to regulate or control the number of patrons that

will use the courtyard. As such, the considerations for noise are outside the scope for this assessment.

In addition, it is important to note that it is not uncommon for a premises to redesign the internals of a premises to better the experience for its patrons. However, this has no impact on the number of patrons that are already permitted within an area. Council cannot deny a right to improve internal amenity of a premises on the basis that it may lead to increased use of the area.

With regard to the removal of the tree within the courtyard, the proposed design with hedging along the perimeter to Greville Street and separate planter boxes on the west elevation are an adequate landscaping outcome for the context and is consistent with front gardens found in the Greville Street Residential Heritage precinct.

Where the synthetic turf is proposed to be used at the rear undercover dining portion instead of brick pavers to match the front portion of the courtyard, the change is not readily visible from the street and is inconsequential to the design.

Governance Compliance

Conflicts of Interest Disclosure

No Council Officer and/or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Human Rights Consideration

This application has been assessed in accordance with the requirements of the Planning and Environment Act 1987 (including the Stonnington Planning Scheme), reviewed by the State Government and which complies with the Charter of Human Rights & Responsibilities Act 2006.

Attachments

1. 0941/08 - 32-36 Greville Street, Prahran [8.3.1 - 6 pages]

Officer Recommendation

That Council AUTHORISE Officers to issue a Notice of Decision to Grant an Amended Planning Permit No: 941/08 for the land located at 32-36 Greville Street, Prahran under the Stonnington Planning Scheme for buildings and works to an existing building in a Heritage Overlay and Residential 1 Zone; and a waiver of parking associated with an increase in floor area under Clause 52.05 of the Stonnington Planning Scheme subject to the following conditions:

1. ***The development allowed by this permit and shown on the plans endorsed to accompany the permit must not be amended without the written consent of the Responsible Authority.***
2. ***Prior to the completion of works, the vehicle crossover to Greville Street made redundant by these works must be re-instated to the satisfaction of the Responsible Authority.***
3. ***This permit will expire if one of the following circumstances applies:***

- a) *The development is not started within two years of the date of this permit.*
- b) *The development is not completed within four years of the date of this permit,*

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit or within three months afterwards.

NOTE: This permit does not include permission for the sale and consumption of liquor (clause 52.27 Stonnington Planning Scheme) in the area of the approved buildings and works.

8.4 Planning Applications 0596/22 - 150 Union Street, Windsor

Manager Statutory Planning: Alex Kastaniotis
Director Planning & Place: Annaliese Battista

Purpose of Report

For Council to consider a planning application for use of the land for offices and construction of a mixed-use development within an Activity Centre Zone and Special Building Overlay and a reduction in the statutory car parking requirement at 150 Union Street, Windsor.

Abstract

Proposal

The proposal seeks to redevelop the site with a four-storey commercial building plus roof terrace. The proposal comprises of a cafe at the ground floor and offices on all levels above. Six car parking spaces are proposed on site, with access from Bowling Green Street, and twelve bicycle parking spaces.

Officer Recommendation Summary

That Council authorise Officers to issue a **Notice of Decision** subject to conditions outlined in the Officer Recommendation. **The proposal is supported** for the following reasons:

- The proposed use and development of the site is consistent with the objectives of the Planning Policy Framework and Local Planning Policy Framework.
- The proposal is consistent with the land use and development objectives of the Chapel Street Activity Centre.
- The site is appropriately located to support a development of this nature and scale.
- There will be no unreasonable off-site amenity impacts arising from the proposal.
- The proposed reduction in the statutory car parking requirement is appropriate for the location of the site within close proximity to a range of public transport and proposed use of the development as offices.

Issues

The following are the key issues in respect of this application:

- Building height, massing and form (refer to Built Form assessment);
- Protection from flooding (refer to referral comments from Council's Infrastructure Department and Special Building Overlay Assessment), and
- Car parking provision (refer to Car Parking and Traffic assessment).

Officer's response

The proposal seeks to construct a four-storey mixed-use development incorporating a café at ground floor and offices on the floors above. The site is located within the Chapel Street Activity Centre which is well serviced by public transport and a variety of services and facilities. The proposed development is considered an appropriate scale and layout to accommodate the mix and intensity of the use proposed. The development has also been designed to appropriately respond to the interfaces surrounding the site. The overall height

and massing of the development is considered appropriate for the site and will not result in excessive bulk to the surrounding public realm or adverse amenity impacts to the surrounding lots.

The proposed amended plans have been designed to appropriately respond Council's Infrastructure Departments requirements in relation to protection from flooding under the Special Building Overlay.

The reduction in car parking sought is reasonable when considering the proposed use of the site as predominantly office and the activity centre location of the site in which a mode shift from private vehicle use is encouraged. The site is also well serviced by alternative transport modes for future employees using the site.

Executive Summary

Applicant:	Bloque Developments C/- Tract
Ward:	South
Zone:	Activity Centre Zone – Schedule 1
Overlay:	Incorporated Plan Overlay – Schedule 3 Special Building Overlay – Schedule 2
Commercial Precinct:	Chapel Street Windsor Precinct
Date Lodged:	17 August 2022
Statutory Days:	47
Trigger for Referral to Council:	4 or more storeys
Cultural Heritage Plan	No
Number of Objections:	1
Consultative Meeting:	No
Officer Recommendation	Notice of Decision

Background

The Proposal

The plans that form part of the basis of Council's consideration were prepared by Tandem and are known as the Section 57A Revised Plans, Drawing No's: TP00, TP05-TP07, TP10-TP14, TP20, TP21, TP30, TP35, TP40 and TP55 and Council date stamped 21 December 2022.

Key features of the proposal are:

- Demolition of the existing office building (no planning permit required).
- Construction of a four-storey building with roof terrace. The building is proposed to be constructed to all boundaries of the site and is a contemporary form. The lift core and amenities are proposed to be located in the centre of the eastern boundary.
- At ground floor a café is proposed orientated to Union Street with a total floor area of 120 square metres. To the rear of the ground floor is a lobby area to the offices above,

bicycle parking, end of trip facilities, bin storage area and car stackers with parking for 6 cars.

- Offices are proposed on all levels above, the total floor area of all the office space is 836 square metres.
- The rooftop terrace has an area of 107 square metres and includes seating and landscaping.
- The development has a proposed maximum building height of 14.6 metres.
- Materials and finishes comprise of concrete with a natural finish, textured glass, vertical metal bars, wire mesh and bronze powder coat finish.
- A canopy is proposed on the northern and western sides of the development over the footpath.

Site and Surrounds

The site is located on the southern side of Union Street, approximately 35 metres to the west of Chapel Street. The site is a regular rectangular shaped lot with a frontage of 12.04 metres to Union Street and a maximum depth of 33 metres, with a total area of 405 square metres.

The site has the following significant characteristics:

- The site is currently occupied by a single storey office building constructed of a dark grey render and flat roof. Pedestrian access to the building is on the western side of the Union Street frontage. The building has a high site coverage, with the exception of the rear where there is a paved open car parking area with 4 car parking spaces. There is some low hedging and climbers along the western interface of the existing building.
- There is a double width vehicle crossing from Bowling Green Street to the existing car parking area at the rear of the lot.
- Streetscape works have recently been completed in front of the site which comprises of a public bench, street tree and bicycle parking hoops.

The site is located within the Windsor Village precinct of the Chapel Street Activity Centre. The surrounding uses are typically commercial in nature. The immediately surrounding interfaces are as follows:

- North – on the opposite side of Union Street is 147 Union Street which is a single storey extension to the rear of 85 Chapel Street that is used as a bar/café, currently occupied by Tyranny of Distance.
- East – on the opposite side of the laneway is 75-83 Chapel Street which comprises of a double storey Victorian group of retail premises fronting Chapel Street and a mixture of rear single storey additions. The land is occupied by a mixture of uses, including retail premises, hair dresses, gyms and first floor offices.
- South – Council owned gravel car parking area at 21 Bowling Green Street with chain wire mesh fence.
- West – on the opposite side of Bowling Green Street is angled on street parking and then the Melbourne Bowling Club. On the closest interface of the bowling club to the subject site is the car parking area and part of the northern most bowling green.

Previous Planning Applications

A search of Council records indicates that there are no relevant planning applications for the site.

The Title

The site is formally identified on Certificate of Title Vol. 6055 Fol. 909 as Lot 1 on TP383241Y. No covenants or easements encumber the site. The site benefits from a 3.34-metre-wide carriage way easement along the length of the eastern boundary and overhanging eaves and gutters no less than 12 feet (3.66 metres) from the surface of the lane.

Planning Controls

The following controls/permit triggers are considerations for this application:

Zone

Clause 37.08 – Activity Centre Zone, Schedule 1

Pursuant to Clause 37.08-3, any requirement in the schedule to this zone for the use of land must be met. In Schedule 1 the table of uses stipulates that a permit is not required for a food and drink premises (other than hotel, convenience restaurant and bar) on the condition that it must be located at ground or first floor. The proposed café is located at ground floor; therefore, a permit is not required. Schedule 1 stipulates that a permit is not required for an office on the condition that it must not be located at ground floor on land designated for main street uses, any frontage at ground floor must not exceed 2 metres and must not be located in (GV-6). The ground floor frontage to Bowling Green Street exceeds 2 metres, therefore a permit is required for the office use.

Pursuant to Clause 37.08-5 a permit is required to construct a building or construct or carry out works.

Pursuant to Clause 37.08-6 (Design and Development) a schedule to the zone may include design and development requirements. A permit may be granted to construct a building or construct or carry out works which is not in accordance with any design and development requirement in the schedule to this zone unless the schedule to this zone specifies otherwise. Schedule 1 specifies that a permit cannot be granted to vary a requirement specified as mandatory within this schedule, (including the Precinct Maps and Precinct Built Form Requirements at Clause 5.0).

The site is located within Windsor Village precinct 3 (WV-3). Relevant design and development requirements for the site include:

- Height – The site has a preferred maximum building height of 12 metres (3 storeys) and a mandatory building height of 14.6 metres.
- Interface setbacks – Preferred setback of 3 metres above a height of 9 metres (Type 2 interface) from the northern and eastern boundaries. No preferred setbacks apply to the southern and western interfaces.
- Building adaptability - Provide a minimum 4 metre floor to floor heights at ground floor and minimum 3.8 metre floor to floor heights at first and second floor.

Overlays

Clause 43.03 – Incorporated Plan Overlay, Schedule 3

The provision of the Schedule only apply to specific licenced venue applications, therefore is not applicable to this proposal.

Clause 44.05 – Special Building Overlay, Schedule 2

Pursuant to Clause 44.05-2 a permit is required to construct a building or to construct or carry out works. The site is affected by Schedule 2, Stonnington City Council drainage system – Council’s Infrastructure Department are responsible for this drainage system.

Particular Provisions

Clause 52.06 – Car Parking

Pursuant to Clause 52.06-2 a new use must not commence, or the floor area of an existing use must not be increased unless the number of car parking spaces required under Clause 52.06-5 is provided on the land. Pursuant to Clause 52.06-3 a permit is required to reduce the number of car parking spaces required under Clause 52.06-5.

The proposal generates a requirement for 29 car parking spaces, comprising of 4 spaces for the café and 25 spaces for the offices. 6 car parking spaces are proposed, therefore a reduction of 23 car parking spaces is sought.

Clause 52.34 – Bicycle Facilities

Pursuant to Clause 52.34-1 a new use must not commence, or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land. The provision of bicycle parking for an office only applies if the net floor area exceeds 1,000sqm, therefore this is not applicable to the site. Due to the size of the café no bicycle parking is required for this aspect of the development either. Nevertheless, it is noted that 12 bicycle spaces and 2 e-scooter parking spaces are provided at ground floor, as well as end of trip facilities.

Relevant Planning Policies

Clause 21.04 – Economic Development

Clause 22.05 – Environmentally Sustainable Development Policy

Clause 22.18 – Stormwater Management (Water Sensitive Urban Design)

Clause 22.21 – Awnings Policy

Public Notice

The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987 by sending notices to the owners and occupiers of adjoining land and by placing 3 signs on the site. The public notification of the application has been completed satisfactorily.

The site is located in South Ward and one objection has been received. The objection is from the Melbourne Bowling Club (138 Union Street, Windsor), to the west of the site. The objection is in regards to the impacts of the height of the development and consequential additional overshadowing will have on the greens of the bowling club.

There are no specific requirements in the Activity Centre Zone Schedule 1 in relation to overshadowing of the bowling green. In support of the application shadow diagrams prepared for the 22 September (the equinox) indicate that at 9am the majority of additional

overshadowing falls within Bowling Green Street with a small area over the bowling green itself. Due to the orientation of the lots the only time that there will be a degree of additional overshadowing is in the early morning, the bowling green will not be affected by overshadowing from the development from late morning onwards.

Referrals

Infrastructure

As noted above, Council's Infrastructure Department are responsible for the Special Building Overlay – Schedule 2 (SBO2). Over the course of the application the applicant has worked with Council's Infrastructure Department to resolve issues in relation to flooding. On the basis of the revised plans lodged on 21 December 2022 Council's Infrastructure Department have advised that the requirements in relation to the SBO2 have been addressed. On this basis, Council's Infrastructure Department have no objection to the proposal subject to conditions.

Urban Design

Comments from Council's Urban Designer are summarised below:

- The proposal marginally exceeds the preferred building height and is not compliant with the Type 2 interfaces to the two adjoining streets. Given the prominent corner location of the site and the proposed uses, there is scope to consider this particular site response.
- The key issue with the proposal is the fixed canopy structures over the footpaths on the northern and western interfaces of the development. It is considered that the proposed concrete beam and glass canopies are visually heavy. The preference is for a light-weight awning, which should ideally be retractable.

The canopy will be discussed further in the Built Form assessment below.

Transport and Parking

Council's Transport and Parking Department reviewed the application on two occasions, the comments are summarised below:

- Car parking provision – the proposed development is predominantly office use. This use is most readily adaptable to other modes of transport. Employees in this area are more likely to use alternative modes of transport rather than drive. The proposed development is located in close proximity to tram and train services, as well as car share locations and bicycle facilities. In addition, the proposed site is easily accessible for pedestrians. Based on the close proximity to alternative modes of transport, it is unlikely that an objection to the car parking provision could be sustained.
- Design Standard 1 – headroom clearance needs to be dimensioned on the elevations to at least 2.2 metres. The pedestrian flashing lights should be removed and an alternative measure used to provide appropriate sight lines when leaving the property.
- Design Standard 2 – The access arrangement is acceptable.
- Design Standard 3 – The gradients are acceptable.
- Design Standard 4 – The model of car stacker is the Parkline N5102 and N5122 systems. Appropriate space has been provided for this model as dimensioned on the plans. The stackers are directly accessed from the property boundary. As such, if a

vehicle has to wait for the stackers to become available, this would occur on Bowling Green Street which would not be supported. As the stackers are independent of each other, it is recommended that the empty stackers are always moved to the entrance as a default position. This way vehicles entering would always be able to drive straight into the stacker and not have to wait on-street.

- Bicycle parking – the proposed access to the bicycle spaces and the design of the spaces is supported.
- Vehicle Crossing – the existing crossing is proposed to be modified. The vehicle crossing is wider than the maximum allowable width, however there is no on-street parking on this side of the street that would be impacted. In addition, the width proposed allows for access to be improved considering the angled parking on the opposite side.

The headroom clearance is clearly shown on the elevations, the other outstanding matters identified above can be addressed via conditions if a permit is to issue.

Environmentally Sustainable Design

The following are outstanding issues with the applicants Sustainability Management Plan and need to be addressed in order to adequately respond to Council's Environmentally Sustainable Design (ESD) standards:

- Shading - Fixed external shading devices (a fixed overhang such as an eave) is to be provided to all north facing glazing to prevent passive solar gain in summer while enabling warming winter sun access. This ensures that the north windows are shaded from the spring equinox till the autumn equinox (21 September to 21 March).
- Shading - The neighbouring building to the east of the proposed development is a single storey building, which would not provide adequate shading. Therefore, adjustable external shading devices are to be provided to all east and west facing glazing of habitable spaces. As they will be exposed to relatively low sun angles, on 21 December (mid-summer), eastern and western sun angles will remain below 600. Due to the low sun angles, normal fixed horizontal sun shading becomes ineffective. Therefore, adjustable vertical shading devices are to be used, which could be in the form of operable louvres, sliding shutters or external blinds.
- Stormwater - The applicant has proposed to collect water from the rooftop terrace into a separate rainwater tank and use it for irrigation purposes. The applicant must filter the rainwater from rooftop terrace and connect it to the toilets for flushing along with landscape irrigation to validate the STORM report.
- Urban Ecology - The main purpose of this credit is to have a dedicated food garden area in the proposed development, which produce food with dedicated time and efforts. This credit is not applicable for planting a few food producing plants. The applicant's response regarding food production for the proposed development does not meet the criteria of this credit, so it must not be claimed and must update the BESS report accordingly.

The outstanding matters identified above can be addressed via conditions if a permit is to issue, its noted that when removing the urban ecology credit, the development will still be able to achieve best practice ESD outcomes.

Waste

Council's Waste Management Department advised that a comprehensive Waste Management Plan accompanied the proposal.

Key Issues and Discussion

Strategic Justification

The overarching policies and objectives at both a State and Local level encourage the concentration of commercial activity within activity centres and call for built form outcomes that positively contribute to the urban environs.

The site is suitably located within the Chapel Street Activity Centre to accommodate a commercial development of this scale. It is considered that the combination of the cafe at ground floor and offices in the levels above will contribute to the vibrancy of the activity centre. An office building such as this has the potential to bring people to the Chapel Street Activity Centre from all over Melbourne. These office workers and visitors to the site will increase spending in the local shops and cafes during the day, and in turn has potential to increase retail and hospitality employment. Whilst the café at ground floor will assist in activation of the Union Street frontage of the site whilst serving the wider community.

Use

The proposal comprises of a café (as of right) at ground floor with three storeys of office space above. As outlined above there is strong strategic justification for the proposed use of the site considering its location within the activity centre. The proposed use of the site as predominantly office is also highly compatible with the existing uses within the precinct and is considered to increase the diversity of uses within the Windsor Village Precinct, which has typically been predominantly apartment developments and retail premises. The use of the proposed building, specifically the office use, can be supported.

Built Form

The proposal is assessed below in relation to the relevant design and development requirements and guidelines of the Activity Centre Zone Schedule 1 (ACZ1).

Building Height and Massing

The site has a preferred maximum building height of 12 metres (three storeys) and a mandatory building height of 14.6 metres. The proposal has a maximum building height of 14.6 metres and comprises of four storeys, therefore exceeds the preferred height limit. It is considered that due to the non-sensitive interfaces surrounding the site and minimal off-site amenity impacts that the additional 2.6 metres of height is an acceptable outcome for a development of this nature. Furthermore, the upper levels of the building are afforded with appropriate articulation through variations in materials, openings and setbacks which reduces the visual bulk of the development. The additional height is also supported by Council's Urban Design Advisor.

It is also noted that there is an additional 4.5 metre lift overrun/access to the roof terrace. Numerous VCAT decisions have upheld that the encroachment of balustrades, planters or structures associated with a roof terrace and services or other elements like solar panels do not form part of the overall building height. The lift is also recessed along the eastern boundary and will have minimal visibility from the public realm whilst the features on the roof terrace are minimal therefore not adding excessive bulk. The overall height and form of the development is considered acceptable.

Interface setbacks

The site has a preferred setback of 3 metres above a height of 9 metres from the northern and eastern interfaces (Type 2 interface requirements). On the northern interface the ground and first floor are built to the boundary with the second and third floor setback (above a height of 6.8 metres) is setback 1.64 metres. On the eastern interface the ground and first floor are constructed to the boundary, whilst at second and third floor there is a setback of 1.54 metres for a distance of 5.04 metres from the northern boundary. It is noted that where these setbacks are provided it acts as more of a void as there are still external concrete columns built to the boundary partially enclosing the setbacks.

Whilst the setbacks to these interfaces do not comply with the guidelines, they are considered an acceptable outcome for the site due to the constrained width of the site, the commercial context and the high level of articulation provided. Furthermore, to the east appropriate separation is provided to any potential future development on the adjacent site due to the laneway. The development will also not present excessive bulk to Union Street.

There are no preferred setbacks for the southern and western interfaces. The proposal comprises of a solid wall on the southern boundary, this is acceptable as it is a non-sensitive interface to the adjoining car park. On the western boundary the development is also built to the boundary and is considered to provide an appropriate interface with a high level of articulation to Bowling Green Street.

Overshadowing

The overshadowing guidelines seek to ensure that new buildings don't cast additional shadow to south sides of east-west street and to public open space. Due to the location of the site on the southern side of Union Street and orientation of the lot none of the overshadowing requirements and guidelines apply to the site.

Public Realm Interface

The public realm interface guidelines of the ACZ1 seek for active ground floor frontages with clear glazing, concealed services, sightlines into retail premises and opportunities for passive surveillance. As well as creating visually prominent entrances that have direct access, avoid large expanses of blank walls, provision of seating, shade and weather protection. The guidelines also seek for balconies and active rooftop areas to facilitate passive surveillance of the public realm from upper levels. It is considered that the design response incorporates appropriate measures that respond to these guidelines, such as large expanses of ground floor glazing, inclusion of seating integrated with the ground floor design and activation of the rooftop by the roof terrace.

Design Detail

The design response comprises of robust contemporary form that is proposed to be constructed of concrete with a natural finish, textured glass, vertical metal bars, wire mesh and bronze powder coat finish. The ACZ1 calls for the use of high quality, durable and low maintenance materials. In general, the proposed design is considered to achieve this and will sit comfortably within the urban context of the site.

Landscaping

The landscaping requirements of the ACZ1 don't apply to the proposal as the office floor area is less than 1,000 square metres. Nevertheless, the application has been supported by

a landscape plan which includes a variety of climbers, shrubs and ground covers on all levels plus small trees on the roof terrace.

It is considered that the proposed landscape response will assist in softening the built form and improve amenity to future employees at the site. The proposal will also increase the amount of vegetation on site from the existing conditions, which is considered a positive outcome.

Windsor Village Precinct Objectives

In addition to the above the ACZ1 includes the following precinct objectives for the Windsor Village of relevance to this application:

- *To achieve a distinctive local neighbourhood centre and urban village that retains a low scale and valued heritage streetscape, with fine grain character throughout the precinct.*
- *To support a built form that encourages small format shop fronts at ground floor.*
- *To encourage a diverse range of creative, educational, residential and community uses within the precinct.*
- *To improve pedestrian access and passive surveillance to Windsor Station along Bowling Green Street and Artist Lane.*

The proposed development is considered an appropriately low scale development for its context that will sit comfortably with the existing built form within the Windsor Village Precinct. The development will also provide an active frontage along Bowling Green Street, including areas of glazing and the primary entrance to the office lobby. Whilst at ground floor a small format café is also provided. The proposed development is considered to appropriately respond to the site constraints and opportunities.

Canopy/Awning

The proposal includes a canopy on the northern and western interfaces of the development over the footpath to be constructed of concrete and glazing. Council's Urban Design Advisor has raised concern with the proposed canopy being visually heavy and would prefer a lightweight retractable awning. Following a number of discussions with the applicant they will not accept a planning condition for the awning as they consider that the proposed canopy aligns with the exoskeleton of the architectural design of the building with use of the same materials as the building and further integrated through the use of climbers along the canopy. Council's Awning Policy at Clause 22.21 seeks to support awnings provided they are in character with the streetscape and maintain adequate levels of visibility and accessibility. It is considered that the proposed canopies have been designed to appropriately integrate with the building, will provide weather protection and provide the required clearances as directed by the policy. On this basis it is considered that an objection to the canopy cannot be sustained.

On-site amenity

The internal layout of the café and office tenancies have been designed to provide for appropriate daylight access, ventilation and outlook, thereby providing high levels of on-site amenity to future employees utilising the premises. The on-site amenity is further improved by the provision of the roof terrace which provides communal open space with good solar access. The offices are easily accessible from the central lobby on Bowling Green Street,

also at ground floor is the bin storage area, back of house and end of trip bicycle facilities. It is considered that the building has generally be well designed for the intended users.

The ACZ1 includes building adaptability requirements and guidelines that calls for a minimum 4m floor to floor heights at ground floor and minimum 3.8m floor to floor heights at first and second floor. This is intended to provide flexibility and adaptable internal layouts for a mix of commercial uses and easy conversion between different uses, as the needs of the community and economy change. The proposed floor to floor height at ground floor is 3.35 metres and the levels above are 3.4 metres. The smaller floor to floor heights at ground floor is partially a consequence of the Special Building Overlay and needing to raise the internal floor levels to protect the development from flooding. Whilst the floor-to-floor heights are lower than the guideline it is considered that the spaces still provide for appropriate adaptability for different uses.

Off-site Implications

The off-site implications as a result of the proposed development are limited due to the non-sensitive interfaces surrounding the site. To the south is the gravel Council owned car park, to the east is the laneway with the rear of the commercial buildings opposite, and the other interfaces are to public roads. There are no habitable room windows or areas of private open space that will be impacted as a result of the development. It is also considered that the layout and separation of the form from the adjoining lots to the east and south also provides for equitable development opportunities.

Car Parking

The proposal generates a total statutory car parking requirement for 29 spaces. The development provides 6 spaces, provided in car stackers, resulting in a shortfall of 23 spaces. Whilst the ACZ1 seeks for car parking to be provided in a basement format, this is not achievable for the site due to its constrained size and flood levels. As per the comments from Council's Transport and Parking Department, the employees in this area are more likely to use alternative modes of transport rather than drive, particularly due to the lack of long-term parking availability in the area. The site is well serviced by alternative modes of transport, including Windsor Train Station approximately 180 metres from the site and the route 78 tram along Chapel Street, route 6 tram on High Street and routes 5 and 64 on Dandenong Road. There are also car share locations and bicycle routes within the vicinity of the site.

It is considered that the proposed reduction in the statutory car parking requirement is appropriate for the location of the development within close proximity to a range of public transport, the proposed use of the site as offices and the proposed car parking provision.

Bicycle Parking

As noted above, there is no statutory requirement for the provision of bicycle parking however 12 spaces have been provided on site for future employees and visitors to the offices. The bicycle parking has been appropriately designed and is convenient to access. The bicycle parking area is also opposite the end of trip facilities, which includes lockers, and a shower/change room. It is considered that the provision of bicycle parking and associated amenities is appropriate for the site and encourages the use of bicycles for future employees within the building.

Environmentally Sustainable Design

The development has generally been designed to respond to Council's ESD Policy at Clause 22.05 and Stormwater Management Policy at Clause 22.18 as outlined in the submitted Sustainability Management Plan (SMP). The SMP includes a BESS report which achieves a score of 58%. The ESD commitments include 6kW rooftop solar photovoltaic system, 10,000L rainwater tank, high-efficiency air-cooled VRF heating and cooling systems, centralised air sourced heat pump hot water system, low-e double glazing for all windows.

The SMP has been reviewed by Council's ESD Advisor who has recommended several conditions of permit to ensure that the development will achieve an appropriate sustainable design outcome, as outlined in the referrals section above. These will be included as conditions if a permit is to issue.

Special Building Overlay

As outlined above, the applicant has generally satisfied Council's Infrastructure Departments requirements in relation to the SBO2, subject to conditions if a permit is to issue. On this basis it is considered that the development has been appropriately designed to respond to the local drainage conditions.

Governance Compliance

Conflicts of Interest Disclosure

No Council Officer and/or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Human Rights Consideration

This application has been assessed in accordance with the requirements of the Planning and Environment Act 1987 (including the Stonnington Planning Scheme), reviewed by the State Government and which complies with the Charter of Human Rights & Responsibilities Act 2006.

Attachments

1. 0596/22 - 150 Union Street, Windsor [8.4.1 - 11 pages]

Officer Recommendation

That Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 596/22 for the land located at 150 Union Street, Windsor under the Stonnington Planning Scheme for use of the land for offices and construction of a mixed-use development within an Activity Centre Zone and Special Building Overlay and a reduction in the statutory car parking requirement, subject to the following conditions:

1. ***Before the commencement of the development, 1 copy of plans drawn to scale and fully dimensioned, must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the Section 57A revised plans prepared by Tandem, Drawing No's: TP00, TP05-TP07, TP10-TP14, TP20, TP21, TP30, TP35, TP40 and TP55, Council date stamped 21 December 2022, but modified to show:***
 - a) ***The pedestrian flashing lights removed and an alternative measure to provide appropriate sight lines when leaving the car parking stackers.***

- b) External shading devices as required by Condition 5.a. and 5.b. to be clearly shown/noted on the plans and elevations.**
- c) Notate that the default position of the car stacker is for the empty stackers to always be moved to the entrance.**

All to the satisfaction of the Responsible Authority.

- 2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason, without the prior written consent of the Responsible Authority.**
- 3. Prior to the endorsement of any plans in accordance with Condition 1, an amended Landscape Plan must be submitted to and approved by the Responsible Authority. When approved, the landscape plan will be endorsed and will then form part of the permit. The Landscape Plan must be generally in accordance with the Landscape Design Report prepared by Tract, Council date stamped 10 October 2022, but modified as follows:**
 - a) Quantity of proposed plantings.**
- 4. Prior to the commencement of the occupation of the building, the landscaping works as shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority. Landscaping must then be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.**
- 5. Prior to the endorsement of any plans in accordance with Condition 1, an amended Sustainable Management Plan (SMP) must be submitted to and approved by the Responsible Authority. When approved the SMP will be endorsed and will then form part of the permit. The development must incorporate the sustainable design initiatives outlined in the SMP to the satisfaction of the Responsible Authority. The SMP must be generally in accordance with the SMP prepared by WRAP consulting engineering, Council date stamped 10 October 2022, but modified as follows:**
 - a) Fixed external shading devices (a fixed overhang such as an eave) are to be provided to all north facing glazing to prevent passive solar gain in summer while enabling warming winter sun access. This ensures that north windows are shaded from the spring equinox till the autumn equinox (21 September to 21 March).**
 - b) Adjustable vertical shading devices provided to all east and west facing glazing to habitable spaces. Shading devices could be in the form of operable louvres, sliding shutters or external blinds.**
 - c) Rainwater from the rooftop terrace must be filtered and connected to all toilets for flushing along with landscape irrigation.**
 - d) BESS report amended so that credit 3.2 (Food production – non-residential) is not claimed.**

All works must be undertaken in accordance with the endorsed Sustainability Management Plan to the satisfaction of the Responsible Authority. No

alterations to the Sustainable Management Plan may occur without the written consent of the Responsible Authority.

- 6. Prior to the occupation of the building, a report from the author of the Sustainability Management Plan approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Sustainability Management Plan have been implemented in accordance with the approved plan.**
- 7. Prior to the endorsement of any plans, a Waste Management Plan (WMP) must be submitted to and approved by the Responsible Authority. When approved, the WMP will be endorsed and will then form part of the permit. The WMP must be generally in accordance with the WMP prepared by Ratio Waste, Council date stamped 10 October 2022.**
- 8. Waste collection from the development must be in accordance with the Waste Management Plan, to the satisfaction of the Responsible Authority.**
- 9. Prior to commencement of the development (including excavation and demolition), a tree protection fence must be erected around the street tree on Union Street. Fencing is to be compliant with Section 4 of AS 4970. Signage identifying the need for approval from Council's Parks Unit for any root cutting (prior to it occurring) must also be displayed on the fence.**
- 10. The car stacker modules must be installed in accordance with the technical specifications shown on the endorsed plans. Including, that the default position of the stacker must be set so that the empty stackers are always moved to the entrance.**
- 11. The car stackers must be maintained in good working order and be made permanently available for the parking of vehicles in accordance with their purpose, to the satisfaction of the Responsible Authority.**
- 12. The car stackers and associated building are subject to flooding of up to 350mm depth associated with the Special Building Overlay. The design of the building must allow flooding to pass through the car stackers from the rear right-of-way to Bowling Green Street without unreasonable obstruction. Both the rear and the front door of the car stackers must be provided with vertical bars that extend from the Bowling Green Street footpath and the top of the kerb in the rear right-of-way respectively, to at least 600mm high. Those bars must be provided with at least 100mm minimum horizontal clearance to allow flood water to pass into the area and through without unreasonable obstruction.**
- 13. The design of the building and associated car stackers must allow flooding up to 350mm in depth to pass through without damaging the car stackers.**
- 14. The floor level of the car stackers must be no lower, and match, the Bowling Green footpath and be graded to allow flooding entering the area to discharge to Bowling Green Street without accumulating in the building.**
- 15. In order to help transfer the flooding at the rear through to Bowling Green Street, a 300mm diameter drain must be provided extending from the rear right-of-way**

through to the existing 375mm diameter drain on the Western side of Bowling Green Street. 600 x 600mm grated pits must be constructed at the rear in the right-of-way and the front of the property in Bowling Green Street, to convey flooding clear of the car parking area. A design for that drain must be prepared by a registered civil engineer and approved by Council. The works must be completed in accordance with the approved design under the supervision and to the satisfaction of Council's Asset Management Unit. Supervision fees and a security deposit will be required for the works. All works must be at the cost of the owner and be completed prior to the occupation of the building.

- 16. Prior to the endorsement of any plans in accordance with Condition 1, the owner of the land must enter into an agreement with the Responsible Authority pursuant to the provisions of Section 173 of the Planning and Environment Act 1987 in which it must be covenanted as follows:**
- a) That the requirements contained in this agreement must form part of any lease of the premises which the owner of the land under this permit may enter into with another party.**
 - b) Pursuant to the provisions of Section 181 of the Planning and Environment Act 1987 this agreement must be registered with the Registrar of Titles and must run with the land.**
 - c) The owner of the land under this permit must pay the legal costs and be responsible for the preparation and registration of the said agreement**
 - d) The owner must indemnify Council against any damage, loss and/or injury as a result of any flooding that may impact on the car parking area which is subject to flooding.**
 - e) The owners must inform all prospective purchasers, tenants and or occupiers that the car parking area floor level is below the applicable flood level and is subject to flooding. Based on Council flood mapping, the depth of this flooding is up to 350mm.**
 - f) All appliances including the car stackers must be such that the flooding will not damage or impact their use.**
 - g) All electrical wiring and appliances must be located a minimum of 650mm above the finished floor level.**
 - h) All fixed storage must be no less than 650mm above the finished floor level.**
 - i) All goods that may be damaged by flooding shall be stored at less than 650mm above the finished floor level.**
 - j) Any potential pollutants such as garden fertiliser or fuel that may be impacted by the flooding and subsequently may cause harm to the environment shall be stored at least 650mm above the finished floor level.**
 - k) The design of the building including all doors must allow for any additional loading or surcharge caused to the structure by the flooding.**

- l) The floor slab must be no lower than the Bowling Green footpath and graded to the car park door opening to allow the flooding to drain from the car parking area and to facilitate debris associated with the flooding to be able to be swept clear of the car park.*
 - m) The 300mm diameter drain and associated pits in the rear right-of-way and Bowling Green Street required by the Planning Permit must be regularly maintained by the owners at their cost.*
 - n) The car parking area must not be used for any other purpose and must not be converted to residential, office, or any other use.*
 - o) A clearly visible sign no smaller than 600mm x 600mm stating that 'the car parking area floor is 350mm below the flood level' must be erected and maintained.*
 - p) The building must be fully maintained and kept clear of any items that would obstruct the overland flow/flooding that is expected to pass through the building.*
- 17. The flood level associated with the Special Building Overlay varies as it passes through and around the property. Prior to the occupation of the building the finished floor levels of the building must be protected to satisfy the following:**
- a) At least 650mm above the abutting back of footpath of Union Street. This may be achieved by placing the entry/lobby at that level and stepping the floor level down subject to the floor being impermeable concrete to prevent any flooding entering the building. The immediate entries to the building may be below the flood level to allow access.*
 - b) At least 650mm above the top of the kerb in the right-of-way with the exception of the 'Bin Storage' area which must be no lower than the abutting kerb and channel.*
- 18. Prior to a building permit being issued, a report for the legal point of discharge must be obtained from Council and a drainage design for the development must be prepared by a Registered Professional Civil Engineer (VIC) in accordance with all 'recommendations' and requirements contained in that report. All drainage must be by means of a gravity based system and not pumped, with the exception of runoff from any agricultural drains which may be pumped. The relevant building surveyor must check and approve the drainage design and ensure that protection of the building is provided from a 1 in 100 A.R.I. rainfall event as required by the Building Regulations.**
- 19. Prior to an 'Occupancy Permit' being issued and prior to a 'Statement of Compliance' being issued for the subdivision, levels taken by a Licensed Land Surveyor must be provided on the finished floor levels to show compliance with Council requirements relating to the 'Special Building Overlay'.**
- 20. Prior to the commencement of the development hereby approved, the owner/developer must obtain approval from Council's Building and Local Laws Department to modify any vehicle crossover providing access to the subject**

site. The issue of a planning permit does not provide approval for vehicular crossovers which are outside of the title boundary.

- 21. All fixed plant and equipment (including air-conditioning units) must be located and screened to visually integrate into the development to the satisfaction of the Responsible Authority.**
- 22. Any poles, service pits or other structures/features on the footpath required to be relocated to facilitate the development must be done so at the cost of the applicant and subject to the relevant authority's consent.**
- 23. All utility services to the subject land and buildings approved as part of this permit must be provided underground to the satisfaction of the Responsible Authority by completion of the development.**
- 24. Prior to the occupation of the building, the walls on the boundary of the adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.**
- 25. The canopy must be constructed and maintained to the satisfaction of the Responsible Authority.**
- 26. This permit will expire if one of the following circumstances applies:**
 - a) The development is not started within two years of the date of this permit.**
 - b) The development is not completed within four years of the date of this permit.**
 - c) The use is not commenced within five years of the date of this permit.**
 - d) The use is discontinued for a period of two years or more.**

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

NOTES

- A. This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.**
- B. Nothing in the permit hereby issued may be construed to allow the removal of, damage to or pruning of any street tree without the further written consent of the Stonnington City Council. Contact the Council's Arborists on 8290 1333 for further information.**
- C. The crossover must be constructed to Council's Standard Vehicle Crossover Guidelines unless otherwise approved by the Responsible Authority. Separate consent for crossovers is required from Council's Building and Local Law Unit.**
- D. At the permit issue date, Section 69 of the Planning and Environment Act 1987 stated that the Responsible Authority may extend the periods referred to if a request is made in writing within the following timeframes:**

- i. Before or within 6 months after the permit expiry date, where the development allowed by the permit has not yet started; and***
- ii. Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.***

8.5 Contract T23001 - Prahran Market Heritage Building Remediation Works

Manager City Projects: Jason Sigar

Acting Director Environment & Infrastructure: Simon Holloway

Linkage to Council Plan

Direction 1: A thriving and unique place

- 1.1 Identity and destination
- 1.2 Thriving and desirable businesses
- 1.3 Pride of place and character

Direction 2: An inclusive and healthy community

- 2.2 Diverse, inclusive and safe

Direction 3: A people-centred and future ready city

- 3.1 Community focus, connection and engagement
- 3.2 Enhanced customer experience
- 3.4 Fit for purpose operating model and resource management

Purpose of Report

To seek approval to award Contract No. T23001 – Prahran Market; Heritage Building Remediation Works to SIDA Constructions Pty Ltd (ABN 91 154 051 180).

Officer Recommendation

That Council resolve:

- 1. To AWARD Contract No. T23001 – Prahran Market; Heritage Building Remediation Works, to SIDA Constructions Pty Ltd (ABN 91 154 051 180) at the lump sum price of \$1,353,891.45 ex GST (\$1,489,280.56 incl. GST) for the completion of heritage building remediation works at Prahran Market.***
- 2. To AUTHORISE the Chief Executive Officer to execute the contract agreements with the above contractor.***
- 3. To NOTE that expenditure under this contract is in accordance with Council's Budget for Financial Year 2022/23 and provisions will be made accordingly for the associated future budget periods for this contract.***

Executive Summary

Confidentiality

Confidential information is contained in Attachment 1, 2, 3 and 4 as circulated in the confidential section of the agenda attachments, in accordance with Section 66(2)(a) and the definition of 'confidential information' in section 3(1) of the Local Government

Act 2020. The information relates to Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.

The item has been included in the public agenda to facilitate transparency and accountability in Council's decision making. If discussion of the confidential information in the attachments to this report is required in order for Council to make a decision, this item will be deferred to the confidential section of the agenda.

Contract No.	T23001
Contract Name:	Prahran Market Heritage Building Remediation Works
Contract Supervisor:	Reza Ramjerdi

Background

1. The Prahran Market has undergone expansion and renovation since the 1920s.
2. In June 2021, City of Stonnington conducted detailed Building Condition Audits which identified various items that require remediation and urgent actions. The subsequent report shaped the Asset Maintenance and Renewal Strategy Program for the market.
3. Since then, and as part of the strategy, Council has engaged a design team who investigated and developed the remediation methodology to:
 - Replace the existing roof slates
 - Rectify the roof structure where damaged by water and fire
 - Repair doors and windows
 - Improve building structure integrity
 - Repair the render and paint
 - Renew the air-conditioning system
 - Renew the walkways within the ceiling with compliant walkways
 - Upgrade the roof access

Key Issues and Discussion

Advertisement Date:	30/07/2022
Procurement Method:	Public Tender
Documents released via:	VendorPanel
Closing Date:	12/09/2022
Number of Submissions received:	4

4. Tenders were assessed against the Evaluation Criteria listed in the Tender Application by an Evaluation Panel and supported by an external consultant and Prahran Market.

5. Refer to the attached confidential Evaluation Report for:
 1. Tender Summary
 2. Tenders Received
 3. Tender Submission Pricing
 4. Tender Evaluation Panel Members
 5. Clarifications
 6. Evaluation Matrix
 7. Evaluation Panel Recommendation and Commentary
 8. Tender Conformance/ Compliance Assessment
 9. Contract Departures
 10. Referee and Financial Due Diligence Checks

Conclusion

6. Council issued a tender for the provision of Heritage Building Remediation Works. Four tender submissions were received by Council for contract T23001 - Prahran Market; Heritage Building Remediation Works.
7. SIDA Constructions Pty Ltd was assessed by the Tender Evaluation Panel as the preferred supplier, offering the best value to Council based on price, experience and scope of works inclusions competitiveness and capability to undertake the works to the appropriate standards in line with the scope.

Governance Compliance

Policy Implications

8. There are no policy implications associated with this report.

Financial and Resource Implications

9. The lump sum price of this contract is \$1,353,891.45 ex GST (\$1,489,280.56 inc. GST).
10. Funding is provided from capital budget X00266 Prahran Market Asset Renewal in which there is a total available (remaining) budget of \$1,684,299.00 (ex GST) for FY22/23.
11. The contract is within the current budget allocation and there is sufficient budget for project contingencies.

Conflicts of Interest Disclosure

12. No Council Officer and/or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Legal/ Risk Implications

13. As a result of access issues, the design team was unable to identify all the issues on the roof; therefore, there will be a number of latent conditions that need to be identified

requiring further destructive investigation during the construction phase. These works have been allowed for in the available budget.

Environmental Implications

14. Reducing energy consumption will be achieved by replacing the air-conditioning system providing a more energy efficient system.

Community Consultation

15. There was no requirement for community consultation.

Stakeholder Consultation

16. Throughout the Maintenance and Asset Renewal Strategy, Prahran Market has been involved from the design stage to the procurement stage and the engagement of the contractor.

Human Rights Consideration

17. Complies with the Charter of Human Rights & Responsibilities Act 2006.

Attachments

Nil

8.6 Declaration of Affirmation of Office

Executive Manager Legal & Governance: David Thompson

Linkage to Council Plan

Direction 1: A thriving and unique place

1.1 Identity and destination

Direction 2: An inclusive and healthy community

2.1 Health and wellbeing

Direction 3: A people-centred and future ready city

3.1 Community focus, connection and engagement

Purpose of Report

For the Council to note Cr Joseph Gianfriddo has taken the affirmation of office, a copy of the affirmation of office will be recorded in the minutes of the Council meeting and the affirmation of office was made before the Interim Chief Executive Officer in his office on 23 January 2023.

Officer Recommendation

That Council resolve to note:

- 1. Cr Joseph Gianfriddo has taken the affirmation of office.***
- 2. A copy of the affirmation of office by Cr Joe Gianfriddo will be recorded in the minutes of the Council meeting.***
- 3. The affirmation of office by Cr Joe Gianfriddo was made before the Interim Chief Executive Officer in his office on 23 January 2023.***

Executive Summary

1. The office of councillor became vacant on 12 December 2022 following the resignation of Councillor Alexander Lew.
2. Joe Gianfriddo was elected as a councillor for East Ward within Stonnington City Council, after the Victorian Electoral Commission (the VEC) conducted a countback of votes on 18 January 2023.
3. Cr Joe Gianfriddo was sworn into office by the Interim Chief Executive Officer on 23 January 2023.
4. The Local Government Act 2020 (the Act) requires the affirmation of office to be recorded in the minutes of the Council and whether or not the affirmation was taken at a Council meeting.

Background

5. Newly elected councillors must under section 30 of the Act take the Oath or Affirmation of Office in the manner prescribed by the Local Government (Governance and Integrity) Regulations 2020 (the Regulations). A councillor is not capable of undertaking the role of councillor until they have taken the oath or affirmation of office.
6. The Oath or Affirmation of Office is to be taken in accordance with the Oaths and Affirmations Act 2018 and the Regulations.
7. The Oath or Affirmation of Office must be administered by the Chief Executive Officer, dated and signed before the Chief Executive Officer and recorded in the minutes of the Council, whether or not the oath or affirmation was taken at a Council meeting.
8. Cr Joe Gianfriddo was sworn into office by the Interim Chief Executive Officer on 23 January 2023. A copy of the affirmation of office taken by Cr Joe Gianfriddo is at **Attachment 1**.

Key Issues and Discussion

9. A person elected to be a councillor is not capable of acting as a councillor until the person has taken the oath or affirmation of office in the manner prescribed by the Regulations.
10. The office of a councillor becomes vacant if a person elected to be a councillor does not take the oath or affirmation of office within 3 months after the day on which the person was declared elected.
11. The Act requires the affirmation of office to be recorded in the minutes of the Council and whether or not the affirmation was taken at a Council meeting

Governance Compliance

Policy Implications

12. The Act and the Regulations prescribes manner in which a councillor takes either the oath or affirmation of office.

Financial and Resource Implications

13. Other than Council officer time in preparing this report, there are no financial and resource implications associated with this report.

Conflicts of Interest Disclosure

14. The Council officer preparing this report has no general or material conflict of interest to declare.

Legal / Risk Implications

15. A person elected to be a councillor is not capable of acting as a councillor until the person has taken the oath or affirmation of office in the manner prescribed by the Regulations.
16. The office of a councillor becomes vacant if a person elected to be a councillor does not take the oath or affirmation of office within 3 months after the day on which the person was declared elected.

Community Consultation

17. There was no requirement for community consultation.

Human Rights Consideration

18. The list of prescribed human rights contained in the Victorian Charter of Human Rights and Responsibilities Act 2006 has been reviewed. It is considered that the proposed actions contained in this report present no breaches of, or infringements upon, those prescribed rights.

Attachments

1. Copy - Cr Gianfriddo Sworn Affirmation of Office [8.6.1 - 1 page]

9 Correspondence

10 Tabling of Petitions and Joint Letters

11 Notices of Motion

12 Reports by Councillors

12.1 Minutes of the Audit and Risk Committee Meeting held on 17 November 2022

Purpose of Report

To present to the Council the minutes of the last meeting of the Audit and Risk Committee held on 17 November 2022.

Officer Recommendation

That the Council resolve to NOTE the minutes of the meeting of the Audit and Risk Committee held on 17 November 2022.

Executive Summary

1. Under Section 54 of the *Local Government Act 2020*, the Chief Executive Officer must ensure the preparation and maintenance of agendas, minutes and reports of the Audit and Risk Committee.
2. The Audit and Risk Committee Charter specifies that minutes of Audit and Risk Committee meetings are provided to the Council.
3. It should be noted that the minutes of the last Audit & Risk Committee meeting held on 17 November 2022 are subject to confirmation and adoption at the next Audit and Risk Committee meeting scheduled to be held on 16 March 2023.

Background

4. The last meeting of the Audit and Risk Committee was held on 17 November 2022. The minutes from the meeting are now presented to the Council for noting.

Key Issues and Discussion

5. The matter discussed at the Audit and Risk Committee meeting held on 17 November 2022 are set out in the minutes. See **Attachment 1**.

Governance Compliance

Policy Implications

6. The Audit and Risk Committee Charter adopted by the Council on 24 October 2022 specifies the functions and responsibilities of the Audit and Risk Committee.

Financial and Resource Implications

7. There are no financial and resource implications arising from the Council noting the minutes of the Audit and Risk Committee meeting held on 17 November 2022.
8. The sitting fees payable to independent members are provided for within the Legal and Governance Department's operational budget.

Conflicts of Interest Disclosure

9. The Council officers preparing this report have no general or material conflict of interest to declare.

Legal / Risk Implications

10. The Audit and Risk Committee Charter specifies the minutes of Audit and Risk Committee meetings are provided to the Council. Failure to provide the minutes of the Audit and Risk Committee meetings to the Council would be a breach of the Audit and Risk Committee Charter.

Community Consultation

11. There was no requirement for community consultation.

Human Rights Consideration

12. The list of prescribed human rights contained in the Victorian Charter of Human Rights and Responsibilities Act 2006 has been reviewed. It is considered that the proposed actions contained in this report present no breaches of, or infringements upon, those prescribed rights.

Attachments

1. Minutes - Audit and Risk Committee Meeting (17 November 2022) [12.1.1 - 12 pages]

12.2 Record of Councillor Briefing Session held on 30 January 2023

Purpose of Report

The Governance Rules provide that a summary of the matters discussed at an informal meeting of Councillors is tabled at the next convenient Council meeting and recorded in the minutes of that Council meeting.

Officer Recommendation

That the Council RECEIVE the Record of the Councillor Briefing Session held on 30 January 2023.

Governance Compliance

Policy Implications

1. There are no policy implications associated with the report.

Financial and Resource Implications

2. There are no financial and resource implications associated with the report.

Conflicts of Interest Disclosure

3. No Council officer and/or contractors who have provided advice in relation to the report have declared a conflict of interest regarding the matter under consideration.

Legal / Risk Implications

4. There are no legal / risk implications relevant to the report.

Community Consultation

5. There was no requirement for community consultation.

Human Rights Consideration

6. Complies with the Charter of Human Rights & Responsibilities Act 2006.

Attachments

1. Record - Councillor Briefing Session (30 January 2023) [12.2.1 - 3 pages]

13 Questions to Council Officers

14 Urgent Business

15 General Business

16 Confidential Business