

# Terms of Reference

## 36 Kooyongkoot Road Advisory Committee

Version: February 2022

Advisory Committee appointed pursuant to section 151 of the *Planning and Environment Act 1987* (the Act) to report on application of the Heritage Overlay (HO790) to property at 36 Kooyongkoot Road Hawthorn.

### Name

The Advisory Committee is to be known as the "36 Kooyongkoot Road Advisory Committee" (Advisory Committee).

1. The Advisory Committee is to have members with the following skills:
  - a. Statutory and strategic planning;
  - b. Heritage planning.

### Purpose

2. The purpose of the Advisory Committee is to advise the Minister for Planning on whether 36 Kooyongkoot Road, Hawthorn (the property) should be included in the HO.

### Background

3. Amendment C284boro sought to implement the recommendations of the 'City of Boroondara Municipal-Wide Heritage Gap Study Volume 3: Hawthorn' (Context Pty Ltd, 20 July 2020) (Hawthorn Heritage Gap Study) by introducing the HO on a permanent basis to 14 individual heritage places, seven heritage precincts, and expanding four existing heritage precincts. The amendment was considered by a planning panel, and split into two by Boroondara City Council at adoption. Amendment C284 Part 1 affects 13 individual heritage places (excluding 36 Kooyongkoot Road, Hawthorn), seven heritage precincts, and four expanded existing heritage precincts on a permanent basis. The amendment was adopted by the council, approved by the Minister and gazetted on 12 March 2021.
4. Amendment C284 Part 2 affects the property at 36 Kooyongkoot Road, Hawthorn. The amendment sought to include the property as an individually significant place within the HO. The amendment has not been adopted by the council.
5. Three submissions were received by the council about 36 Kooyongkoot Road, Hawthorn: one from the landowner and two submissions from other residents.
6. The landowner requested changes to the amendment to remove the property from the HO while the other submissions supported its inclusion.
7. The applicant and owner of the property at 36 Kooyongkoot Road, Hawthorn, filed an application under section 39 of the Act in the Victorian Civil and Administrative Tribunal (VCAT) alleging departure by the panel from the rules of natural justice in respect of its consideration of the proposed inclusion of the property within the HO.
8. By the consent of the parties to the proceeding, the proceeding was withdrawn by VCAT Order of 23 March 2021.
9. A newly constituted Advisory Committee is required to consider the merits and advise the Minister on whether the property should be included within the HO.

## Method

10. The Advisory Committee may apply to the Minister to vary these Terms of Reference in any way it sees fit before submitting its report.
11. The Advisory Committee must not consider the Panel Report for Amendment C284 in its assessment of the property.
12. Apart from the exclusion in Clause 11 above, the Advisory Committee may inform itself in any way it sees fit, but must consider:
  - a. Relevant provisions of the Act and the Boroondara Planning Scheme, including any adopted plans, strategies or planning scheme amendments (excluding Amendment C284);
  - b. *Plan Melbourne 2017-2050* and any other policy document that the Advisory Committee considers relevant;
  - c. All relevant material prepared by or for the applicant or otherwise provided to the Advisory Committee;
  - d. All relevant materials prepared by or for Boroondara City Council or otherwise provided to the Advisory Committee; and
  - e. All submissions and objections received by the Advisory Committee.
13. The Advisory Committee must provide the following parties with a reasonable opportunity to be heard:
  - a. Landowner/s (or nominated representative) of the property and other residents as noted in Clause 5; and
  - b. Boroondara City Council

## Submissions are public documents

14. The Advisory Committee must retain a library of any written submissions or other supporting documentation provided to it directly until a decision has been made on its report or five years has passed from the time of its appointment.
15. Any written submissions or other supporting documentation provided to the Advisory Committee must be available for public inspection until the submission of its report, unless the Advisory Committee specifically directs that the material is to remain 'in camera'.

## Outcomes

16. The Advisory Committee must produce a written report for the Minister providing the following:
  - a. Advice as to whether the HO should be applied to the property.
  - b. The consideration of:
    - i. relevant State and local policy;
    - ii. any expert advice provided to the Advisory Committee;
    - iii. initial written submissions made in the panel hearing for Amendment C284boro regarding the property.
  - c. An assessment of submissions made to the Advisory Committee.
  - d. Any other relevant matters raised in the course of the Advisory Committee hearing.
  - e. A list of persons who made submissions considered by the Advisory Committee.
  - f. A list of persons consulted or heard.

### Timing

17. The Advisory Committee is required to commence this work as soon as it practicable from the date it is formally notified of its appointment.
18. The Advisory Committee is required to submit its report in writing as soon as practicable but no later than 30 business days from the last day of its hearings or from the date of any further information requested by the Advisory Committee.

### Fee

19. The fee for the Advisory Committee will be set at the current rate for a Panel appointed under Part 8 of the Act.
20. The costs of the Advisory Committee will be met by the Department of Environment, Land, Water and Planning.



Hon Lizzie Blandthorn MP  
Minister for Planning

Date: 14.9.22

The following information does not form part the Terms of Reference.

### **Project Management**

- 1 Administrative and operational support to the Committee will be provided by Esther Oluyide, Senior Planner, the Department of Environment, Land, Water and Planning, on 03 8508 0817 and [esther.oluyide@delwp.vic.gov.au](mailto:esther.oluyide@delwp.vic.gov.au).
- 2 Day to day liaison for the Advisory Committee will be through Chris Brennan, Project Officer of Planning Panels Victoria on [Chris.brennan@delwp.vic.gov.au](mailto:Chris.brennan@delwp.vic.gov.au).