



Planning Panels Victoria

Department of Environment, Land, Water and Planning

1 Spring Street
Melbourne Victoria 3000
GPO Box 2392
Melbourne, Victoria 3001
Telephone (03) 8624 5712

9 September 2022

Dear Party

1 Spring Street and 21-25 Flinders Lane Melbourne Advisory Committee

Please find attached:

- Committee Directions (Version 2)
- Distribution List
- Hearing Timetable (Version 2)

The following dates apply:

Time	Date	Action	Direction
12 noon	Monday, 19 September 2022	Proponent must supply documents specified	7
		Proponent must provide written clarification	8
12 noon	Monday, 26 September 2022	Proponent and Heritage Victoria must supply the documents specified	9
12 noon	Monday, 24 October 2022	Proponent must confirm expert witness details	10
12 noon	Monday, 16 January 2023	Proponent must circulate amended plans	11
12 noon	Monday, 13 February 2023	Proponent must circulate its Part A submission	12
12 noon	Friday, 17 February 2023	Parties calling evidence must circulate Expert witness reports	14
12 noon	Friday, 24 February 2023	Proponent must circulate its Part B submission	15
		Proponent must circulate its 'Day 1' Incorporated Document	16
12 noon	Monday, 27 February 2023	Council and Heritage Victoria must circulate its written submission	18
		Any supplementary submission from a party not appearing at the Hearing must be circulated	19
12 noon	Monday, 6 March 2023	Hearing commences	

Privacy Statement

Any personal information about you or a third party in your correspondence will be protected under the provisions of the Privacy and Data Protection Act 2014. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Privacy Coordinator, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, Victoria 8002

OFFICIAL



Adjournment request

On 9 August 2022, the Proponent wrote to Planning Panels Victoria and indicated:

- Mr Chris Townshend QC who has a long-standing retainer in this matter remains unavailable in December 2022
- considerable enquiries to ascertain the availability of many suitably skilled and experienced senior counsel have been made and none are available
- further enquiries have been made with Mr Peter Lovell and Mr Bryce Raworth, persons whom the Proponent seeks to call as experts in the critical discipline of heritage, as to their availability for the December hearing dates, and neither are available
- the revised December dates for the Hearing would cause material prejudice and unfairness to the Proponent/Applicant's capacity to properly present its case before the Committee
- the Hearing should be adjourned to the week of either 27 February 2023 or 6 March 2023 (noting the availability constraints of Heritage Victoria).

On 16 August 2022, the Proponent wrote to Planning Panels Victoria again and indicated:

- following its correspondence of 9 August 2022, the Proponent has been notified of availability difficulties in its intended team during the week of 27 February 2022
- the Proponent has had discussions with both Heritage Victoria and Melbourne City Council who have both indicated that a hearing conducted in the week of 27 February 2022 is unlikely to be feasible
- a preference to list the matter for the weeks of 6 and 13 March 2023.

The Committee sought the views of all parties in relation to the adjournment request, and whether any party has any objection to the adjournment as proposed. No party objected to the further adjournment with the Council and Heritage Victoria indicated various levels of availability in the weeks proposed by Proponent.

On 17 August 2022 the Committee asked the Proponent to coordinate with the parties an agreed set of hearing dates for the Committee's consideration. On 22 August 2022 the Proponent advised that all parties are available in the weeks of 6 March 2023 and 20 March 2023.

In the circumstances, the Committee determined to adjourn the Hearing until the weeks beginning 6 March 2023 and 20 March 2023. The Committee considered that given the scale and significance of the project the Proponent would be materially disadvantaged in not being able to call its key heritage experts and retain suitable Counsel to run its case.

The Committee also had regard to:

- no other party will suffer any prejudice or detriment from the adjournment; and
- no party objected to the further adjournment.

If you have questions, please contact Hayley Becker, Manager Major Projects, Planning Panels Victoria on [REDACTED] or planning.panels@delwp.vic.gov.au.

Yours sincerely



SARAH RASO
Committee Chair

Before the Hearing

Hearing administration

1. The Proponent must host and manage the video conference component of the hearing.
2. The Proponent must host and manage online document sharing where all parties can access tabled documents through the course of the hearing.

Circulation and sharing of documents

3. Documents must be circulated electronically to all parties on the Distribution list.
4. Files should not exceed 20MB in size. Documents larger than 20MB should be broken down into smaller files less than 20MB.
5. File names should be as short as possible.
6. Paper documents will only be permitted in exceptional circumstances. If any party has issues supplying documents electronically, they should contact Planning Panels Victoria.
7. The Proponent must provide the following documents to parties on the distribution list by **12 noon on Monday 19 September 2022**:
 - a) Statement of changes which describes the changes between the plans lodged in November 2020 and the plans submitted in February 2022
 - b) Lovell Chen Statement of Design Principles for Milton House
 - c) Conservation Management Plan for Milton House
 - d) 1985 Design Report by Harry Seidler and Associates
8. The Proponent must provide written clarification to parties on the distribution list by **12 noon on Monday, 19 September 2022** in relation to:
 - a) Whether the amended development as shown in the plans submitted in February 2022 has been provided to Mr Greg Holman of Harry Seidler & Associates or to the OVGA Design Review Panel for an updated review.
 - b) The total figure for the existing plaza area on the north side of Tower 1 (inclusive of the existing level 3 plaza).
9. The Proponent and Heritage Victoria must jointly prepare an agreed list of documents (if any) to be provided to the Committee and all parties on the distribution list by **12 noon on Monday 26 September 2022**.

Expert Witness Details

10. Proponent must confirm its expert witness details and provide this information to all parties on the distribution list by 12 noon **on Monday, 24 October 2022**.

Amended Plans

11. The Proponent must circulate any amended plans sought to be relied upon, including a statement of changes which describes the changes from the plans lodged in November 2020, by **12 noon on Monday, 16 January 2023**.

Proponent Part A submission

12. The Proponent must circulate a Part A submission to parties on the distribution list by **12 noon on Monday 13 February 2023** that includes:
 - a) background to draft Amendment C401melb and heritage permit applications P33300 and P33301 including a chronology of events

- b) strategic context and assessment
- c) other amendments that may be under preparation or recently approved that may be relevant
- d) a summary of the main issues identified in submissions to draft Amendment C401melb, including a detailed summary of the issues raised by the City of Melbourne and the Department of Transport and their recommendations
- e) a summary of the main issues identified in submissions to heritage permit applications P33300 and P33301, including a summary of the Heritage Victoria decisions and the Heritage Council Victoria recommendation
- f) any suggested changes to either draft Amendment C401melb or heritage permit applications P33300 and P33301 in response to submissions
- g) any other strategic material that the Proponent intends to rely upon in support of the draft Amendment C401melb or heritage permit applications P33300 and P33301 that has not yet been provided, or that might assist the Committee.

Note: The Proponent's Part A submission will be taken as read by the Committee at the Hearing. The Proponent should allow time for questions about its Part A submission on Day 1.

Witness reports

13. A witness report must:

- a) comply with the Guide to Expert Evidence (<https://www.planning.vic.gov.au/panels-and-committees/planning-panel-guides>)
- b) not refer to any individual submitter by name – if necessary, submitters should be referred to by submission number (*Note: it can refer to community groups, organisations, corporations and government agencies*)
- c) be provided to the Panel as an unlocked document.

14. Parties calling evidence must circulate their witness reports to parties on the distribution list by **12 noon on Friday, 17 February 2023**.

The Proponent Part B Submission

15. The Proponent must circulate a Part B submission to parties on the distribution list by **12 noon on Friday 24 February 2023** that includes:

- a) its response to submissions and evidence
- b) its final position on the Amendment.

'Without prejudice' drafting

16. The Proponent must circulate its 'Day 1' version of the Incorporated Document (in MS Word with all changes tracked) to parties on the distribution list by **12 noon on Friday, 24 February 2023**.

17. Any party seeking to provide without prejudice tracked changes, must provide them to all parties by **12 noon on the day before** the party presenting is due to present.

Written submissions

18. Melbourne City Council and Heritage Victoria must circulate their written submission to parties on the distribution list by **12 noon on Monday 27 February 2023**.

19. A party who intends to supplement their original submission (without orally presenting that submission) must circulate their written submission to parties on the distribution list by **12 noon on Monday 27 February 2023**.

At the Hearing

Submissions and information

20. Parties must present material at the Hearing electronically.
21. Electronic information must be circulated to parties on the distribution list by 12 noon on the day before the information is to be presented at the Hearing.
22. All information presented at the Hearing is a public document for the purposes of the Committee process unless the Committee directs otherwise.

Evidence and cross examination

23. Unless agreed by the Chair, evidence-in-chief must be no longer than 30 minutes – *all expert witness reports will be read before the Hearing.*
24. An expert witness may refer to a presentation which summarises their evidence, but it must:
 - a) not include new evidence
 - b) be provided to parties by 12 noon the day before that witness is scheduled to appear.
25. Unless a specific direction is made about 'like' evidence, an expert witness can provide their response to other like evidence by 12 noon the day before that witness is scheduled to appear.
26. Parties, advocates and the Committee may question a witness.
27. During the Hearing, for scheduling purposes, the Committee will ask each party:
 - a) how much time they anticipate they will need for each witness
 - b) to keep to their anticipated time for each witness.
28. If cross-examining a witness, a party must:
 - a) be present for the whole of the giving of the evidence
 - b) ask clear and relevant questions, directed to matters of fact or professional opinion, that genuinely assist the Committee in understanding the issues
 - c) allow a witness time to explain their answer.
29. If giving evidence remotely, a witness must:
 - a) be alone in the room from which they give evidence and not make or receive any communication with another person while giving evidence except with the express leave of the Committee
 - b) inform the Committee immediately should another person enter the room from which they are giving evidence
 - c) not discuss their evidence with any other person during breaks in evidence when under cross-examination
 - d) not have before them any document, other than their expert witness statement and relevant supporting documents.
30. The Committee will regulate cross-examination.

Other information

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

Closing submissions

34. The Proponent will be provided time to present a closing submission.
35. The closing submission must not raise new matters but should respond to matters raised in other parties' submissions or evidence.

Recording Hearings and use of personal information

36. Parties must not record any part of an electronic hearing by any means without permission from the Committee.
37. If Planning Panels Victoria records an electronic hearing, any party provided with a copy of the recording on request must not publish or distribute that recording or use it for any purpose other than for the Hearing.
38. Parties must not record, keep, distribute or publish contact details of any other party obtained during an electronic hearing session, or use those contact details for any purpose other than for the Hearing.

Compliance with Committee directions

39. All directions must be complied with. It is an offence to not comply with a direction without lawful excuse. [section 169 of the *Planning and Environment Act 1987*]
40. If you anticipate being unable to comply with a direction (for example, meeting a deadline for the circulation of evidence), you must provide the Committee with advance notice, and a written statement explaining why you are unable to comply with the direction, and seek leave from the Committee to vary the direction.
41. The Committee may:
 - a) refuse to hear from anyone who fails to comply with a direction. [section 159(b)]
 - b) not accept evidence if leave to vary a direction for the circulation of evidence is not sought or granted.

Distribution List

1 Spring Street and 21-25 Flinders Lane Melbourne Advisory Committee

Use this list to circulate expert witness statements and other information requested by the Committee
It must not be used for any other purpose.

Electronic documents

Party	email address
Planning Panels Victoria	planning.panels@delwp.vic.gov.au
Phillip Nominees Pty Ltd (the Proponent)	[REDACTED] [REDACTED]
Melbourne City Council	[REDACTED] [REDACTED] [REDACTED] [REDACTED]
Heritage Victoria	[REDACTED] [REDACTED] [REDACTED]

Timetable

1 Spring Street and 21-25 Flinders Lane Melbourne Advisory Committee

Timetable Version 2

Day 1: Monday 6 March 2023

Venue: Planning Panels Victoria, Hearing Room 1 (Ground Floor, 1 Spring Street, Melbourne) and by video conference

Time	Party	Allocated
10.00am	Preliminary matters	30 mins
10.30am	Phillip Nominees Pty Ltd (Proponent) , represented by Mr Chris Townshend QC, instructed by Planning Property Partners calling the 6 to 8 expert witnesses (to be confirmed)	5 days
11.15am	Break	15 mins
11.30am	Proponent (continued)	
12.30pm	Lunch break	1 hour
1.30pm	Proponent (continued)	
3.15pm	Break	15 mins
3.30pm	Proponent (continued)	
4.30pm	Day close	

Day 2: Tuesday 7 March 2023

Venue: Planning Panels Victoria, Hearing Room 1 (Ground Floor, 1 Spring Street, Melbourne) and by video conference

Time	Party	Allocated
10.00am	Preliminary matters	15 mins
10.15am	Proponent (continued)	
11.15am	Break	15 mins
11.30am	Proponent (continued)	
12.30pm	Lunch break	1 hour
1.30pm	Proponent (continued)	
3.15pm	Break	15 mins
3.30pm	Proponent (continued)	
4.30pm	Day close	

Day 3: Wednesday 8 March 2023

Venue: Planning Panels Victoria, Hearing Room 1 (Ground Floor, 1 Spring Street, Melbourne) and by video conference

Time	Party	Allocated
------	-------	-----------

**Planning
Panels
Victoria**

10.00am	Preliminary matters	15 mins
10.15am	Proponent (continued)	
11.15am	Break	15 mins
11.30am	Proponent (continued)	
12.30pm	Lunch break	1 hour
1.30pm	Proponent (continued)	
3.15pm	Break	15 mins
3.30pm	Proponent (continued)	
4.30pm	Day close	

Day 4: Thursday 9 March 2023

Venue: Planning Panels Victoria, Hearing Room 1 (Ground Floor, 1 Spring Street, Melbourne) and by video conference

Time	Party	Allocated
10.00am	Preliminary matters	15 mins
10.15am	Proponent (continued)	
11.15am	Break	15 mins
11.30am	Proponent (continued)	
12.30pm	Lunch break	1 hour
1.30pm	Proponent (continued)	
3.15pm	Break	15 mins
3.30pm	Proponent (continued)	
4.30pm	Day close	

Day 5: Friday 10 March 2023

Venue: Planning Panels Victoria, Hearing Room 1 (Ground Floor, 1 Spring Street, Melbourne) and by video conference

Time	Party	Allocated
10.00am	Preliminary matters	15 mins
10.15am	Proponent (continued)	
11.15am	Break	15 mins
11.30am	Proponent (continued)	
12.30pm	Lunch break	1 hour
1.30pm	Proponent (continued)	
3.15pm	Break	15 mins

3.30pm Proponent (continued)

4.30pm Day close

Day 6: Monday 20 March 2023

Venue: Planning Panels Victoria, Hearing Room 1 (Ground Floor, 1 Spring Street, Melbourne) and by video conference

Time	Party	Allocated
10.00am	Preliminary matters	15 mins
10.15am	Melbourne City Council , represented by Louise Hicks, instructed by Ann-Maree Drakos of Melbourne City Council, calling expert evidence on: - Heritage from Jim Gardner of GLM Heritage	1 Day
11.15am	Break	15 mins
11.30am	Council continued	
12.30pm	Lunch break	1 hour
1.30pm	Council continued	
3.15pm	Break	15 mins
3.30pm	Council continued	
4.30pm	Day close	

Day 7: Tuesday 21 March 2023

Venue: Planning Panels Victoria, Hearing Room 1 (Ground Floor, 1 Spring Street, Melbourne) and by video conference

Time	Party	Allocated
10.00am	Preliminary matters	15 mins
10.15am	Heritage Victoria , represented by Nicola Stairmand and Janet Sullivan of Heritage Victoria	1 hour
11.15am	Break	15 mins
11.30am	Proponent Closing Submission	1.5 hours
1.00pm	Hearing Close	15 mins

Day 8: Wednesday 22 March 2023

Venue: Planning Panels Victoria, Hearing Room 1 (Ground Floor, 1 Spring Street, Melbourne) and by video conference

Time	Party	Sub No	Allocated
10.00am – 10.15am	RESERVE DAY		1 Day

Hearing Timetable Notes:

1. The Committee may amend the timetable without notice.
2. Please be present at least 15 minutes before your scheduled commencement time.
3. Time will be made for morning and afternoon breaks each day.
4. If you are unable to be present at your scheduled time, please contact Planning Panels Victoria as soon as possible.