

## 1 Spring Street and 21–25 Flinders Lane, Melbourne Advisory Committee

Version: June 2022

Advisory Committee appointed pursuant to Part 7, section 151 of the *Planning and Environment Act 1987* (PE Act) to report on planning and heritage matters in relation to the proposed redevelopment of the land for the partial demolition of existing structures and development of a multi-storey commercial office building at 1 Spring Street and 21-25 Flinders Lane, Melbourne.

### Name

The Advisory Committee is to be known as the '1 Spring Street and 21–25 Flinders Lane, Melbourne Advisory Committee' (the Committee).

1. The Advisory Committee is to have members with the following skills:
  - a. heritage
  - b. statutory planning
  - c. urban design

### Purpose

2. The purpose of the Advisory Committee is to advise the Minister for Planning on the appropriateness of draft Amendment C401melb and called-in heritage permits P33300 and P33301.

### Background

3. The proposal is for the partial demolition of existing structures on site and development of a multi-storey commercial office building at 1 Spring Street and 21-25 Flinders Lane, encompassing two places (Shell House and Milton House) listed on the Victorian Heritage Register under the *Heritage Act 2017* (Heritage Act).
4. The proposed development requires planning approval, through a site-specific planning scheme amendment (draft Planning Scheme Amendment C401melb).

#### *Heritage permits background*

5. On 11 November 2020, heritage permit applications P33300 and P33301 were submitted to Heritage Victoria. The permits sought approval for works to Shell House and Milton House to facilitate the proposed redevelopment of Shell House.
  - a. The works proposed to Shell House included demolition or partial demolition of the north plaza, theatrette, conference rooms, entrance passageway and the roof garden on Level 3 to allow for the construction of a new 35-storey tower within the north plaza (above the existing basement).
  - b. The tower would cantilever over the south-east corner of Milton House, and works are proposed to the interior and exterior of Milton House to upgrade access and allow for integration with the new tower by way of a new entrance within the eastern wall. Conservation works are proposed to the exterior of the building.
6. On 4 August 2021, the Executive Director, Heritage Victoria, determined to refuse both permit applications on the grounds the proposed development would substantially impact the cultural heritage significance of Shell House and Milton House.
7. On 2 September 2021, in accordance with section 106(1) of the Heritage Act, the applicant requested a review by the Heritage Council of the Executive Director's decision to refuse the permit applications.

8. On 9 September 2021, the applicant sent a letter to the Minister for Planning requesting the Minister call in the Heritage Council review proceeding for determination by the Minister, using powers afforded to the Minister, and that the planning (via draft Amendment C401melb) and heritage matters be referred to an advisory committee and reviewed in a single forum given the interconnectivity of the matters.
9. On 26 October 2021, the Minister for Planning determined to call in the heritage permit review under section 109 of the Heritage Act. Under section 113(1)(b), the Minister required the Heritage Council to provide a report on the permit review.
10. On 27 May 2022, a report prepared by the Heritage Council Regulatory Committee, pursuant to section 113(1)(b) of the Heritage Act, was provided to the Minister. The report recommended the Executive Director's decisions to refuse permits P33300 and P33301 be affirmed.
11. In determining a review, the Minister must consider the matters set out in s 101(2) of the Heritage Act. The Minister may make a determination to (a) affirm the determination under review; or (b) vary the determination under review; or (c) set aside the determination under review and make another determination in substitution to it.

#### *Planning Scheme Amendment background*

12. Draft Planning Scheme Amendment C401melb was submitted to the Minister for Planning on 18 November 2020. The amendment seeks planning approval for the proposed development by introducing a Specific Controls Overlay and an incorporated document.
13. A planning scheme amendment is required as the proposed development does not comply with the mandatory tower separation, height or setback requirements prescribed by Schedule 10 to the Design and Development Overlay of the Melbourne Planning Scheme.
14. On 23 June 2021, the Department of Environment, Land, Water and Planning (DELWP) consulted with Melbourne City Council and the Department of Transport under section 20(5) of the PE Act about this proposal. The Department of Transport has requested a number of changes to the Incorporated Document which are technical in nature and relate to the protection of the Melbourne Underground Rail Loop (MURL) during and post construction. Melbourne City Council considered the amendment at its Future Melbourne Committee on 5 April 2022 and resolved to support Amendment C401melb, subject to changes to the conditions within the Incorporated Document.

#### *Appointment of Advisory Committee*

15. The Minister for Planning has now determined to establish an Advisory Committee to consider all relevant matters relating to this proposal. The Minister proposes to consider the report of the Advisory Committee before determining the heritage permits and planning scheme amendment request.

### **Method**

16. The Advisory Committee must:
  - a. Review and assess all relevant matters concerning the proposal, including the heritage permits, including all submissions made; and
  - b. Review and assess all relevant matters concerning the draft Planning Scheme Amendment C401melb, including statutory planning, built form and urban design considerations.
17. The Advisory Committee may inform itself in anyway it sees fit, and must consider all relevant matters, including, but not limited to:
  - a. Relevant provisions of the Heritage Act.
  - b. All submissions or objections received by Heritage Victoria pursuant to section 95 of the Heritage Act.
  - c. The report prepared by the Heritage Council Regulatory Committee dated 27 May 2022.
  - d. Relevant provisions of the PE Act and the Melbourne Planning Scheme, including any adopted plans, strategies or planning scheme amendments.

- e. The submissions and views of the applicant, Heritage Victoria, Melbourne City Council, DELWP and the Department of Transport.
  - f. All relevant material prepared by or for the applicant or otherwise provided to the Advisory Committee, including any amended application material submitted.
18. The Advisory Committee is not expected to carry out any additional public notification or referral.
19. The Advisory Committee shall provide the following parties with an opportunity to make a submission and be heard:
- Heritage Victoria
  - Melbourne City Council
  - The applicant and its representatives
  - Department of Environment, Land, Water and Planning
  - Department of Transport
20. The Advisory Committee may limit the time of parties appearing before it and may regulate or prohibit cross examination.
21. The Advisory Committee may apply to vary these Terms of Reference in any way it sees fit before submitting its report.

### **Submissions are public documents**

22. The Advisory Committee must retain a library of any written submissions or other supporting documentation provided to it directly to it until a decision has been made on its report or five years has passed from the time of its appointment.
23. Any written submissions or other supporting documentation provided to the Advisory Committee is treated as public documents and 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**

24. The Advisory Committee must produce a written report for the Minister for Planning providing the following:
- a. An assessment of all relevant matters relating to draft Planning Scheme Amendment C401melb and any amended application material submitted to it.
  - b. An assessment of all relevant matters relating to the heritage permit applications and any amended application material submitted to it.
  - c. A recommendation on any changes required for the proposal to be considered acceptable on heritage grounds and matters relevant to determination of the review under the Heritage Act. Recommended changes should be consistent with the committee's assessment of draft Planning Scheme Amendment C401melb.
  - d. An assessment of all submissions to the Advisory Committee.
  - e. Any other relevant matters raised during the Advisory Committee hearing.
  - f. A list of persons who made submissions considered by the Advisory Committee.
  - g. A list of persons consulted or heard.

### **Timing**

25. The Advisory Committee is required to set dates for a Directions Hearing and Hearing no later than 20 business days from the date Panel Panels Victoria is formally notified of the Committee's appointment.
26. The Advisory Committee is required to submit its report in writing as soon as practicable but no later than 25 business days from the completion of its hearings.

**Fee**

27. The fee for the Advisory Committee will be set at the current rate for a Panel appointed under Part 8 of the PE Act.
28. The costs of the Advisory Committee will be met by the applicant.



**HON RICHARD WYNNE MP**  
Minister for Planning

Date: 24 / 06 / 2022

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

## **Project Management**

- 1 Day to day liaison for this matter will be provided by Sheridan Harley, Senior Planner, Development Approvals & Design at the Department of Environment, Land, Water and Planning, on telephone (03) 8508 1510 or email [sheridan.harley@delwp.vic.gov.au](mailto:sheridan.harley@delwp.vic.gov.au).
- 2 Day to day liaison for the Advisory Committee will be through Hayley Becker, Manager Major Projects of Planning Panels Victoria on (03) 8508 2775 or [hayley.becker@delwp.vic.gov.au](mailto:hayley.becker@delwp.vic.gov.au).