



3 September 2018

As addressed

Dear Submitter

Melbourne Amendment C258 Panel procedural rulings

These are written records of the procedural rulings made by the Panel at the Hearing on Friday 31 August 2018.

1. Metro Pol Investment Pty Ltd

- The Panel was made aware by the Council on Friday 28 August that Metro Pol's solicitors had written to the Council on the previous day asking that their client be accepted as a late submitter to the present proceeding (Document 47). The Panel heard from the Council in relation to this request. The Council indicated that they did not oppose hearing from Metro Pol but on the condition that it should be afforded time only within the scheduled Hearing days so as to not delay the conclusion of the proceeding.
- The Panel agreed and subsequently wrote to Metro Pol in these terms, adding that in light of the available Hearing times, there was insufficient time to pre-circulate expert evidence and that only submissions were expected.
- The Metro Pol application made at the outset of the Hearing on 3 August is set out in Document 53.
- The Panel heard from Metro Pol, the Council and Melbourne University and made the following ruling (amended from the oral reasons for clarity).
 - The Panel is not inclined to adjourn the Hearing to wait and see if other parties potentially affected by proposed Amendments C328 or C327 to the Melbourne Planning Scheme, which propose the introduction of new central city Heritage Overlays, wish to be joined in the Amendment C258 Panel proceeding.

Amendment C328 is some way off - Panel records indicate a proposed exhibition in March or April 2019.

Amendment C327, the associated interim controls, may be approved any day, but there is no known date for this, nor is there any certainty that these controls will be approved at all.

If requests to make submissions are made by persons affected by those amendments during the course of the present Panel process, these can be dealt with as they arise.

- So far as Metro Pol itself is concerned, the Panel notes the Council submissions that Metro Pol should have reasonably have been aware of the present Amendment.

The Panel invited Metro Pol to make submissions last week on the understanding that the Council had referred the request by Metropol to appear at the Panel as a late submitter. Whether or not this was a formal referral of a late submission is a matter for the Council.

The Panel has now heard additional submissions on behalf of Metro Pol related to this matter and replies by others and the Panel is prepared to extend the time allocated for the Hearing to allow Metropol to present their submission and call evidence.

The Panel understands that this will delay the Council's reply and the planned workshop day.

The Panel requests that Mr O'Farrell seek instructions as soon as possible and arranges for Planning Panels to be advised of the amount of time needed for the Metro Pol presentation and available times, cognisant of the need to distribute expert witness statements no less than five working days ahead of its scheduled presentation.

The Panel is not adjourning or abandoning the matter and it will proceed today.

The Panel later advised that all previously received Hearing documents would be made available on line to the late submitter in an endeavour to assist Metro Pol's fair participation in the Hearing.

2. Melbourne Business School

- The solicitors for Melbourne Business School wrote to the Panel on 30 August expressing dissatisfaction that Docs 49 and 50 had been supplied by the Council after their client had closed its case (Document 47). It was said that the content of the documents should have been put to the witnesses for the Business School, procedural fairness had been compromised and the documents should be disregarded.
- The Panel heard from the Council in relation to this letter on Friday 31 August.
- The Panel made the following ruling with respect to this matter.
 - The Panel agrees with the Melbourne Business School that the timing of presentation of the two documents after the business School case was closed and without putting their content to the witnesses, is unfortunate.
 - The Panel nevertheless finds the contents of the documents relevant to its consideration of the Amendment.
 - In order to rectify any disadvantage to the Business School, the Panel offers them an opportunity to make further written submissions and provide an expert statement on this matter if they wish. They may also request to be heard further on this issue, noting that the Hearing schedule is being extended for other reasons.
 - The Business School must advise whether they wish to appear again at the Hearing as soon as practicable and any further written submissions and evidence must be circulated by no later than Wednesday 12 September.

If you have any queries, please contact Joe Morrow at Planning Panels Victoria on (03) 8392 5137 or planning.panels@delwp.vic.gov.au.

A handwritten signature in black ink on a light grey background. The signature reads "Jenny Moles" in a cursive script.

Jenny Moles

Panel Chair