



Planning Panels Victoria

Department of Environment, Land, Water and Planning

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2 September 2021

Dear Party,

Yarra Planning Scheme Amendment C269yara: Rewrite of Local Policies

The Panel held a Directions Hearing for the above matter on 27 August 2021 via video conference. Please find attached:

- Panel Directions
- Distribution List
- Hearing Timetable (version 1)
- Document List (version 1).

The following dates apply:

Time	Date	Action	Direction
12 noon	Wednesday, 8 September 2021	All parties must confirm the details of Expert witnesses	3
12 noon	Wednesday, 8 September 2021	All community groups proposing to coordinate submissions as part of a 'coalition' of parties must confirm details	4
12 noon	Wednesday, 8 September 2021	Council must circulate preferred post exhibition ordinances, showing track changes (8 September version)	5
12 noon	Friday, 10 September 2021	Council must circulate detailed site visit itinerary and associated map	6
12 noon	Friday, 17 September 2021	Parties wishing to must circulate details of any additional site visit suggestions	7
12 noon	Monday, 20 September 2021	Council must circulate its Part A submission and other required documents and material	10
12 noon	Monday, 20 September 2021	Council must circulate Expert witness reports	12
12 noon	Monday, 27 September 2021	Other parties must circulate Expert witness reports	13
12 noon	Friday, 1 October 2021	Council must circulate expert's evidence in reply	14
12 noon	Monday, 4 October 2021	Council must circulate its Part B submission	19
10 am	Tuesday, 5 October 2021	Video conference Hearing commences	

Privacy Statement

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The Panel Members confirmed that they had no known conflict of interest.

Procedural matters

Site visit

The Panel advised that it intended to undertake a site visit prior to the main Hearing, if COVID restrictions allow. Directions have been made for the provision of site visit information to the Panel.

Further written submissions

The opportunity to provide further written submissions was discussed at the Directions Hearing. As per the Directions, parties can supplement their original submissions by circulating any additional written material to parties on the distribution list by **12 noon on the business day before** the party presenting the material is due to present.

Coalition of community groups and timetable

The timetable has been prepared on the basis that 2 days will be allocated to community organisations (Day 10 - Wednesday 20 October and Day 11 - Thursday 21 October).

The version 1 Timetable includes an indicative list of community organisations that may wish to combine and present a co-ordinated submission, and also allows time for possible expert witnesses. Direction 4 requires community organisations to advise the Panel how they propose to coordinate submissions and to provide details of any expert witnesses who may be called. This information must be provided to the Panel by no later than **12 noon on Wednesday 8 September 2021**. The Panel will update the Timetable based on this information and circulate a version 2 Timetable to all parties as soon as possible after 8 September.

The Panel intends to try and keep the times and dates allocated for all other parties as outlined in the version 1 Timetable.

Drafting of planning provisions

The Panel has issued directions relating to the drafting of planning provisions that requires Council to circulate a full set of updated Amendment documents with 'tracked changes' showing its preferred version by **Tuesday 26 October**, and other parties wishing to provide written feedback to do so by **Thursday 28 October 2021**.

If you have any other questions, please contact Amy Selvaraj, Senior Project Officer, Planning Panels Victoria on 03 8624 5714 or planning.panels@delwp.vic.gov.au.

Yours sincerely,

A black rectangular redaction box covering the signature of Lisa Kendal.

Lisa Kendal
Chair

Before the Hearing

Circulation and sharing of documents

1. Documents must be circulated electronically. Paper documents will only be permitted in exceptional circumstances and with prior approval of the Panel.
2. Council must host and manage an online document sharing system which enables parties to upload and download documents.
3. Parties are to confirm and advise all parties on the distribution list of witnesses by **12 noon on Wednesday 8 September 2021**.
4. All community group parties proposing to coordinate submissions and represent other community groups or parties as part of a 'coalition' of parties, are to confirm and advise all parties on the distribution list who is the representative and contact person of the lead community group, and details of which community groups and parties are represented by **12 noon on Wednesday 8 September 2021**.
5. Council must provide the following documents to parties on the distribution list by **12 noon on Wednesday 8 September 2021**:
 - a) a full set of Amendment documents with 'tracked changes' showing its preferred version, consistent with the resolution of the Council meeting held on 3 August 2021 (to be known as '8 September version').
6. Council must provide the following documents to parties on the distribution list by **12 noon on Friday 10 September 2021**:
 - a) a detailed itinerary and associated map to guide the Panel's site visit, including the location of recommended sites (including but not limited to sites that are subject to submission relating to housing changes areas and activity centre boundaries), details of the issues raised in relation to each site and associated submission numbers. Sites are to be grouped logically in suburbs or precincts.
7. Parties may submit in writing to parties on the distribution list by **12 noon on Friday 17 September 2021** details of any additional suggested sites for the Panel to view during its site inspection.

Hearing videoconference and live streaming arrangements

8. Council must host the Hearing via video conference. Planning Panels Victoria will liaise with the Council to make arrangements for this.
9. Council must publish notice of the Hearing on its website, with information on how members of the public can observe the Hearing via a live streaming function. Planning Panels Victoria will liaise with Council in relation to this.

Council Part A submission

10. Council must circulate a Part A submission to parties on the distribution list by **12 noon on Monday 20 September 2021** that includes:
 - a) background to the Amendment including chronology of events
 - b) strategic context and assessment, including but not limited to:
 - (i) Amendment VC148
 - (ii) Ministerial Direction on the Form and Content of Planning Schemes
 - (iii) A Practitioner's Guide to Victorian Planning Schemes
 - (iv) Relevant Planning Practice Notes such as:
 - PPN13 Incorporated and Background Documents

Directions:

- PPN32 Review of Planning Schemes
 - PPN46 Strategic Assessment Guidelines
 - PPN90 Planning for Housing
- c) a summary table that clearly distinguishes between 'new' proposed provisions and those that are 'policy neutral' translations of existing policies. Any substantive changes to 'policy neutral' translations should be highlighted and discussed.
 - d) a summary table that clearly distinguishes between new documents proposed to be referenced in the Planning Scheme and previously adopted documents which are already referenced in the Planning Scheme
 - e) an overview of how each background or supporting document has informed the Amendment
 - f) an overview of any other amendments that may be under preparation or recently approved that may impact on the Amendment
 - g) details of Council's proposed further strategic work program that addresses any issues raised in submissions that are beyond the scope of this Amendment
 - h) issues identified in submissions
 - i) any suggested changes to the Amendment in response to submissions
 - j) copies of any other relevant strategic documents or policies that have not already been provided to the Panel.

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

Witness reports

11. 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.
12. Council must circulate its expert witness reports to parties on the distribution list by **12 noon on Monday 20 September 2021.**
13. Other parties must circulate expert witness reports to parties on the distribution list by **12 noon on Monday 27 September 2021.**
14. Council must circulate its expert evidence in reply to parties on the distribution list by **12 noon on Friday 1 October 2021.**
15. Council must publish all witness reports on its website and make them publicly available at its office.

At the Hearing

Submissions and information

16. Parties must present material at the Hearing electronically.
17. Electronic submissions must be circulated to parties on the distribution list and upload them to the document sharing system by **12 noon on the business day before** the information is to be presented at the Hearing.

Planning Panels Victoria will be able to assist submitters who are not able to upload documents.

Directions:

18. All information presented at the Hearing is a public document unless the Panel directs otherwise.

Council Part B submission

19. Council must circulate its Part B written submission to all parties on the distribution list and upload it to the document sharing system **by 10 am on Monday 4 October**.

20. At the Hearing, Council must provide a Part B submission that includes:

- a) Activity Centres
 - (i) an explanation and justification of the proposed Activity Centre hierarchy including the proposed designation of each centre
 - (ii) an explanation of how the boundary of each Activity Centre has been determined
 - (iii) a response to specific submissions that question the designation and boundary of various Activity Centres (grouped by Activity Centre)
- b) Environmental and landscape values
 - (i) details of any protections for significant trees identified in submissions
 - (ii) details of how all views, waterways and open spaces are protected, as relevant to issues raised in submissions
 - (iii) a response to the request to include reference to specific policy documents by the Merri Creek Management Committee (Submission 260)
- c) Environmental risk and amenity
 - (i) details of how Council's adopted policies and strategies relating to climate change, emissions reduction and city greening/cooling are proposed to be applied in local policy
 - (ii) a detailed explanation of the proposed Clause 13.07-1L (Interfaces and Amenity) including:
 - (a) strategic justification, response to the issues raised in submissions including from the Environment Protection Authority, and the rationale for any proposed changes to the policy and proposed incorporated document
 - (b) assessment against the relevant requirements of PPN81 Live music and entertainment noise and PPN83 Assessing external noise impacts for apartments
 - (c) an explanation of how it interacts with existing planning provisions regarding noise, including Clause 13.05-1S (Noise abatement), 13.07-3S (Live Music) and Clause 53.06 (Live Music Entertainment Venues)
- d) Built environment and heritage
 - (i) what is meant by 'low rise', 'mid rise' and 'high rise'
 - (ii) how built form and building heights are proposed to be managed
 - (iii) the basis for the proposed Heritage policy (Clause 15.03-1L) including:
 - (a) the application of a setback for buildings and works of the 'depth of two front rooms' for residential alterations and additions
 - (b) the policies regarding commercial and former industrial heritage places
 - (iv) a detailed explanation and justification for provisions regarding:
 - (a) shadowing
 - (b) site coverage
 - (c) landmarks
 - (v) the basis of Clause 15.02-1L (Environmentally Sustainable Development) and the proposed post-exhibition changes having regard to condition number four in the letter from the Minister for Planning dated 7 July 2020 authorising the preparation of the Amendment
 - (vi) response to submissions seeking to encourage or support adaptive reuse of buildings
- e) Housing
 - (i) an explanation and justification of the proposed housing change areas hierarchy
 - (ii) an explanation of how the boundary of each housing change area has been determined

Directions:

- (iii) a response to specific submissions that question the designation and boundary of various housing change areas (grouped by housing change area)
- (iv) clarification of whether the objective at 16.01-4L is intended to facilitate affordable housing for key workers only, or affordable housing in a more general sense
- f) Economic Development
 - (i) details of the key findings of the *Yarra Spatial Economic and Employment Strategy 2018* in relation to Yarra's major employment precincts and how these are captured in the Amendment
- g) Infrastructure
 - (i) how infrastructure planning and development infrastructure contributions are managed
 - (ii) details of how changes proposed by Amendment C286 - Yarra Open Space Strategy 2020 will affect exhibited Clause 19.02-6L and any other provisions proposed by Amendment C269
 - (iii) an explanation of the basis for the proposed change to Clause 19.03-5L (Waste)
- h) Form and content
 - (i) any plans to provide information about the Amendment in a summary form in plain English
- i) an overview of the anticipated impact that the COVID-19 pandemic may have on the assumptions that underpin the Amendment and the resulting suite of proposed planning policies
- j) its response to submissions and preliminary response to evidence
- k) its position on the Amendment.

Evidence and cross examination

21. 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.*
22. 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 on the distribution list and uploaded to the document sharing system by **12 noon the business day before that witness is scheduled to appear.**
23. Parties, advocates and the Panel may question a witness.
24. During the Hearing, for scheduling purposes, the Panel will ask each party:
 - a) how much time they anticipate they will need to cross-examine each witness
 - b) to keep to their anticipated time for each witness.
25. 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 Panel in understanding the issues
 - c) allow a witness time to explain their answer.
26. 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 Panel
 - b) inform the Panel 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, unless with the express leave of the Panel
 - d) not have before them any document, other than their expert witness statement and relevant supporting documents, and any document already before the Panel, unless with the express leave of the Panel.

Directions:

27. The Panel will regulate cross-examination.

Written submissions

28. A party who does not intend to appear and present orally at the Hearing but wishes to supplement their original submission to the Amendment must circulate this additional written submission to parties on the distribution list by **10 am on Thursday 30 September 2021**.

Other information

29. Any other material a party wishes to present at the Hearing must be circulated to parties on the distribution list and uploaded to the document sharing system by **12 noon on the business day before** the party presenting the material is due to present.

Planning Panels Victoria will be able to assist submitters who are not able to upload documents.

30. After presenting to the Panel, submissions and other material (preferably in MS Word) should be emailed to Planning Panels Victoria at planning.panels@delwp.vic.gov.au as an unlocked document.

31. All information presented at the Hearing is a public document unless the Panel directs otherwise.

Drafting of planning provisions

32. Council must provide a full set of updated Amendment documents with 'tracked changes' showing its preferred version to parties on the distribution list and upload it to the document sharing system by **12 noon on Tuesday 26 October** (to be known as '26 October version').

33. Other parties wishing to provide written feedback on the updated Amendment documents must do so by **12 noon on Thursday 28 October**. Feedback should be sent to all parties on the distribution list and uploaded to the document sharing system.

Planning Panels Victoria will be able to assist submitters who are not able to upload documents.

Closing submissions

34. Council 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.

36. Council must circulate written Part C submission to parties on the distribution list and upload it to the document sharing platform by **12 noon on the business day before** the information is to be presented at the Hearing. The Part C submission must include Council's final position on the Amendment.

Recording Hearings and use of personal information

37. Parties must not record any part of an electronic hearing by any means without permission from the Panel.

38. Parties must not record, keep, distribute or publish contact details of any other party obtained in the course of an electronic hearing session, or use those contact details for any purpose other than for the Hearing.

Compliance with Panel 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 Panel with advance notice, and a written statement explaining why you are unable to comply with the direction, and seek leave from the Panel to vary the direction.

Directions:

41. The Panel may decide to:

- 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.