



# Planning Panels Victoria

Department of Environment, Land, Water and Planning

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2 March 2022

Dear Party,

## **Yarra Activity Centres Standing Advisory Committee: Draft Amendment C293yara – Collingwood South Mixed Use Precinct**

The Yarra Activity Centres Standing Advisory Committee (the Committee) held a Directions Hearing for the above matter on 25 February 2022 by video conference. Please find attached:

- Committee Directions
- Distribution List
- Hearing Timetable.

The following dates apply:

Time	Date	Action
12 noon	Friday, 4 March 2022	Council to circulate the Day 1 version of the Amendment docs
12 noon	Friday, 18 March 2022	Council must circulate its Part A submission
12 noon	Friday, 18 March 2022	Council must provide the Committee with a plan showing the location of submitters
12 noon	Monday, 21 March 2022	Parties calling evidence must circulate Expert witness reports
12 noon	Friday, 25 March 2022	Council must circulate its Part B submission
10 am	Monday, 28 March 2022	Video conference Hearing commences

The Committee made no declarations.

The Committee confirms the Hearing will be conducted by video conference using the MS Teams platform. A single link for all hearing days is provided below and included in the attached Timetable. Maddocks Lawyers on behalf of Council will host the video conference. If you have technical difficulties in accessing the video conference, please contact Maddocks on (03) 9258 3759 or email [amelia.hunter@maddocks.com.au](mailto:amelia.hunter@maddocks.com.au).

The Hearing will be held:

**From 10am Monday 28 March 2022**

**Video link:** [Click here to join the Hearing](#)

**Or call in (audio only):** Dial +61 2 8318 0088 and enter phone conference ID 287 920 765# when prompted

Council has indicated that it should be able to complete all expert witnesses within 3 days, subject to the extent of cross-examination from the Committee and other parties. The Committee has scheduled a 'reserve day' on Thursday 31 March 2022 to provide for the possibility that some additional time may be required to complete the cross-examination of witnesses. The Committee does not anticipate that all of the 'reserve day' is likely to be required for this purpose.

### 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

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Day 5 of the Hearing will proceed on Friday 1 April 2022 as scheduled whether or not the 'reserve day' is required.

Council has provided its best estimate of which day they propose to call each of their expert witnesses and the time each may require in cross examination, and this has been timetabled accordingly. The Committee accepts that Council intends to run its case on a continuous basis and that some flexibility may be required with scheduling witnesses during the Hearing.

If you have questions, please contact Mr Chris Brennan, Project Officer, Planning Panels Victoria on (03) 8624 5715 or [planning.panels@delwp.vic.gov.au](mailto:planning.panels@delwp.vic.gov.au).

Yours sincerely,

A handwritten signature in black ink, reading "John Roney". The signature is written in a cursive style with a large, stylized 'J' and 'R'.

**JOHN RONEY**

Deputy Chair, Yarra Activity Centres Standing Advisory Committee

# Committee Directions

Yarra Activity Centres Standing Advisory Committee: Draft Amendment C293yara –  
Collingwood South Mixed Use Precinct

## Before the Hearing

### Hearing administration

1. Council must host and manage the video conference.
2. Council must host and manage online document sharing.
3. Council must publish notice of the Hearing on its website, with information on how members of the public can observe the Hearing. Planning Panels Victoria will liaise with Council in relation to this direction.

### Circulation and sharing of documents

4. Documents must be circulated electronically to all parties on the Distribution list.
5. Council must upload circulated documents to the document sharing platform as soon as practicable or provide a mechanism for parties to upload directly.
6. Files should not exceed 20MB in size. Documents larger than 20MB should be broken down into smaller files less than 20MB.
7. File names should be as short as possible.
8. Paper documents will only be permitted in exceptional circumstances. If any party has issues supplying documents electronically, they should contact Planning Panels Victoria.
9. Council must provide the following documents to parties on the distribution list by **12 noon on Friday 4 March 2022**:
  - a) a full set of Amendment documents with 'tracked changes' showing its preferred version, consistent with the resolution of the Council meeting held on 21 December 2021 (to be known as the 'Day 1' version).

### Council Part A submission

10. Council must circulate a Part A submission to parties on the distribution list by **12 noon on Friday 18 March 2022** that includes:
  - a) background to the Amendment including chronology of events
  - b) strategic context and assessment, including but not limited to:
    - (i) Plan Melbourne
    - (ii) an overview of relevant strategic planning studies completed by Council and how they informed the Amendment
    - (iii) the relationship of the Collingwood South Mixed Use Precinct to the surrounding land
    - (iv) an overview of any other amendments that may be under preparation, assessment or recently approved that may impact on the Amendment
    - (v) relevant Planning Practice Notes
    - (vi) the views of agencies and departments consulted as part of the preparation of the Amendment (referred to in the Explanatory Report)
  - c) strategic justification for the proposed mandatory planning provisions, including an assessment against the criteria set out in Planning Practice Note 59 (The Role of Mandatory Provisions in Planning Schemes)
  - d) the relationship between the current (interim) controls and the proposed controls for the precinct
  - e) issues identified in submissions which are grouped by:
    - (i) issues common across the whole precinct
    - (ii) site specific issues
  - f) any suggested changes to the Amendment in response to submissions

- g) copies of any other relevant strategic documents or policies that have not already been provided to the Committee.

*Note: Council's Part A submission will be taken as read by the Committee 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 Committee as an unlocked document.
12. Parties must circulate their witness reports to parties on the distribution list by **12 noon on Monday 21 March 2022**.
13. Council must publish all witness reports on its website.

### At the Hearing

#### Submissions and information

14. Parties must present material at the Hearing electronically.
15. 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.
16. All information presented at the Hearing is a public document for the purposes of the Committee process unless the Committee directs otherwise.

#### Council Part B submission

17. At the Hearing, Council must provide a Part B submission that includes:
  - a) a response to the relevant issues in the referral letter dated 6 February 2022 from the Minister for Planning to the Lead Chair of the Yarra Activity Centres Standing Advisory Committee
  - b) an overview of the anticipated impact that the COVID-19 pandemic may have on the assumptions that underpin the Amendment
  - c) an explanation of relevant 3D-modelling completed as part of the preparation of the built form controls
  - d) how the proposed built form controls address places of heritage significance
  - e) the rationale for the proposed shadowing provisions
  - f) a brief overview of existing and proposed public open space within and close to the precinct
  - g) a map and table summarising the key metrics regarding the height and setbacks for constructed and approved development within the precinct (where relevant and readily available)
  - h) the rationale for the proposed DDO23 boundary and the boundaries of Area 1, Area 2 and Area 3 within DDO23
  - i) its response to submissions and evidence
  - j) its final position on the Amendment.

#### Evidence and cross examination

18. 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.*

19. 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.
20. 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.
21. Parties, advocates and the Committee may question a witness.
22. 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.
23. 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.
24. 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.
25. The Committee will regulate cross-examination.

### **Evidence and submissions**

26. Evidence and submissions supporting or opposing mandatory planning provisions should:
  - a) provide clear supporting reasons why performance based provisions are sufficient or insufficient to achieve intended outcomes
  - b) explain the methodology which led to the conclusion regarding mandatory provisions, such as the methodology set out in Planning Practice Note 59.
27. Evidence and submissions proposing a different building setback or height to what was exhibited should provide reasons for their alternative metric, and should consider including supporting information such as photos.

### **Other information**

28. Council must provide the Committee with a plan showing the location of submitters (including any late accepted submitters) by **12 noon on Friday 18 March 2022**. The plan should identify submitters by submitter number, and not by name.
29. 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.
30. After presenting to the Committee, submissions and other material (preferably in MS Word) should be emailed to [planning.panels@delwp.vic.gov.au](mailto:planning.panels@delwp.vic.gov.au) as an unlocked document.
31. All information presented at the Hearing is a public document unless the Committee directs otherwise.

### Council closing submission

32. Council will be provided time to present a closing submission.
33. The closing submission must not raise new matters but should respond to matters raised in other parties' submissions or evidence.
34. Council must provide parties with a copy of its closing submission **before** presenting its submission.

### Recording Hearings and use of personal information

35. Parties must not record any part of an electronic hearing by any means without permission from the Committee.
36. 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.

### 'Without prejudice' drafting

37. If there is discussion on without prejudice drafting, the Committee will:
  - a) provide further directions on the process
  - b) reserve time for discussion on the final day of the Hearing after Council's closing submission.
38. This process is not an opportunity to revisit any matter of merit.

### 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.