



Planning Panels Victoria

Department of Transport and Planning

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

3 October 2023

Dear Party

Melbourne Planning Scheme Amendment C426melb: South Yarra Heritage Review

The Panel held a Directions Hearing for the above matter on 2 October 2023 by video conference. Please find attached:

- Panel Directions
- Distribution List
- Hearing Timetable.

The following dates apply:

Time	Date	Action	Direction
12 noon	Friday, 6 October 2023	Expert witness details to be provided	5
12 noon	Friday, 6 October 2023	Parties may suggest sites or locations for the Panel to view during its site inspection	6
12 noon	Friday, 13 October 2023	Council must provide the Panel with a plan showing the location of submitters including late submitters, and file map and submissions as directed by the Panel	7
12 noon	Wednesday, 25 October 2023	Council must file documents and Part A submission	8 & 9
12 noon	Monday, 30 October 2023	Council and parties must file Expert witness reports	12
12 noon	Monday, 6 November 2023	Council must circulate its Part B submission	10
10 am	Wednesday, 8 November 2023	Hearing commences	

Declarations

Member Kendal declared she does not have a conflict of interest, however notes for the record she is beneficiary of a family trust that owns an apartment in Rathdowne Street, which is in the City of Melbourne but outside the area affected by the Amendment.

City of Melbourne noted its officer Dana Foenander worked for Member Kendal as a student planner in 2018.

Procedural matters

Expert evidence

City of Melbourne submitted it preferred expert evidence to be exchanged on the same day before the Hearing, not staggered as indicated in the Panel's Directions Hearing notification letter. It submitted there was no advantage to the Panel in staggering evidence, but it would disadvantage Council in having less time to prepare its evidence, and less time to respond to other party evidence. Other party experts would have the opportunity to provide reply evidence at the Hearing.

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 Director, Privacy And Information Access, Department of Transport and Planning.

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No party objected to the suggestion for exchange of evidence on the same day. One party requested that if the evidence was not staggered, for it to be required after Council submitted its Part A submission. Two parties preferred to retain the proposed date for party evidence to be filed on Wednesday 1 November 2023.

The Panel considered the request and directed that expert evidence from Council and all parties be filed by Monday 30 November 2023. This will allow the Panel and parties adequate time to review all material before the Hearing commences on Wednesday 8 November 2023.

Council advised its experts would likely need longer than 30 minutes to give evidence in chief, given the number of properties to be addressed. The Panel accepts this on the understanding the experts would limit evidence in chief relating to the proposal and will allow time to address issues raised in submissions.

For information about cross examining a witness, please see the guides and resources available on the [Planning Panels Victoria website](#).

Timetable

The Panel has prepared a timetable version 1 (attached) based on the request to be heard forms and discussion at the Direction Hearing, ensuring adequate time for evidence in chief and cross examination.

Site inspection

The Panel will undertake an unaccompanied site inspection prior to the Hearing. Parties at the Directions Hearing were invited to suggest sites for the Panel to view during its site inspection. Council suggested the Panel's site visit should focus on sites that are the subject of submissions. The Panel has issued a direction for parties wishing to suggest sites or locations for the Panel to view during its site inspection to do so by Friday 6 November 2023.

If you have questions, please contact Georgia Brodrick on (03) 8508 0888 or planning.panels@delwp.vic.gov.au.

Yours sincerely



Sarah Carlisle
Panel Chair

Filing documents

1. Council must host and manage online document sharing. The document sharing platform must allow a party to upload documents directly.
2. Documents must be filed electronically by uploading them to the document sharing platform. When uploading documents, a party must email all other parties on the distribution list to inform them of the document(s) that have been uploaded.
3. Documents must meet the following requirements:
 - a) Files must not exceed 20MB in size.
 - b) File names should be as short as possible and apply the format [Party name] – [Document Title]
 - c) If tabling more than 10 documents at once, all documents must be provided through a fileshare link (for example, DropBox or OneDrive) and be accompanied by an index list.
 - d) A Microsoft Word version or unlocked pdf version of the document must be emailed directly to planning.panels@delwp.vic.gov.au after being uploaded.

Notes

All information presented to the Panel for the purposes of the Panel process is a public document unless the Panel directs otherwise. For more information on how your submission will be used, refer to the [PPV Website](#).

If your document is larger than 20MB, break it down into parts that are less than 20MB each.

If you do not file documents by the specified time, the Panel may not accept the evidence or material. If you think you will not meet the specified deadline you must provide reasons in writing to planning.panels@delwp.vic.gov.au before the deadline.

The Panel will not publish or accept material that contains offensive or defamatory material, or personal information about other people (such as emails and phone numbers or photographs of people, particularly children).

Paper documents will only be permitted in exceptional circumstances.

If you have with difficulties providing documents electronically you should contact Planning Panels Victoria.

Before the Hearing

Notice of the Hearing

4. Council must publish notice of the Hearing on its website, with information on how members of the public can observe it in-person or online.

Expert witness details

5. If not already provided, full details of all expert witnesses must be circulated to parties on the distribution list by **12 noon on Friday 6 October 2023**.

Site visit

6. Parties may suggest sites or locations for the Panel to view during its site inspection by emailing details to the Panel by **12 noon on Friday 6 October 2023**.

Information to be provided by Council

7. Council must, by **Friday 13 October 2023**:
 - a) provide to the Panel only a map showing the location of all submitters including late submitters, identify submitters by submitter number and not by name
 - b) prepare and file to the document sharing platform a map showing the existing application of the Heritage Overlay and proposed application of the Heritage Overlay, clearly showing places proposed for inclusion, deletion or to be retained

- c) file to the document sharing platform redacted copies of all submissions referred to the Panel, including late submissions.
8. Council must file the following documents by **12 noon on Wednesday, 25 October 2023**:
 - a) *South Yarra Conservation Study 1985*
 - b) *City of Melbourne Heritage Strategy 2013*
 - c) *City of Melbourne Heritage Review: Local Heritage Policies and Precinct Statements of Significance*, Lovell Chen, 2015
 - d) 2006 decision of the Victorian Civil and Administrative Tribunal in the Gunn case (referred to in Submission 26)
 - e) *City of Melbourne Heritage Design Guide 2020*
 - f) *Thematic History: A history of the City of Melbourne's urban environment*, Context 2012
 - g) Any other background or panel reports relied on by Council.

Note

If you need additional information from another party and they have not agreed to provide it to you, you should make a request in writing to the Panel requesting it to direct the provision of the information. The information must be related to the proposal and be of assistance to the Panel. Requests should be short and clearly state why you need the information.

Council Part A and Part B submissions

9. Council must circulate a Part A (background and context) submission to parties on the distribution list **by 12 noon on Wednesday, 25 October 2023** that includes:
 - a) background to the Amendment including chronology of events
 - b) strategic context and assessment
 - c) a brief summary of any conditions of authorisation, and how they were met
 - d) issues identified in submissions, including late submissions
 - e) any suggested changes to the Amendment in response to submissions, including a consolidated list of changes in the following or similar format.

Heritage Overlay #	Submitter #	Proposed post exhibition change

Note

Council's Part A (background and context) submission will be taken as read. Council should allow time for questions on Day 1 of the Hearing.

10. Council must circulate a Part B (main) submission to parties on the distribution list **by 12 noon on Monday, 6 November 2023**.
11. Council must address the following issues in its Part B (main) submission or through evidence:
 - a) a summary of Planning Scheme Amendment C376melb and any considerations relating to the Amendment
 - b) details of existing planning permits, permit applications and any relevant Victorian Civil and Administrative Tribunal decisions, and any implications for the Amendment, relating to:
 - (i) 93 Park Street, South Yarra
 - (ii) any other property which is the subject of submissions
 - c) its response to submissions and evidence
 - d) its final position on the Amendment.

Expert witness reports

12. Any expert witness reports must be filed **by 12 noon on Monday, 30 October 2023**.
13. An expert witness report must:
 - a) comply with the PPV Practice Note 1 - Expert Evidence ([Expert witnesses](#))
 - b) not refer to any individual submitter by name – if necessary, individual submitters should be referred to by submission number. Community groups, organisations, corporations and government agencies can be referred to by name.

At the Hearing

Submissions and information

14. Submissions, presentations and other material presented to the Panel:
 - a) must be filed by **12 noon on the business day before** the material is to be presented, unless otherwise directed by the Panel
 - b) should relate to the matters before the Panel
 - c) must include a summary of fewer than 5 pages if the material is more than 40 pages.
15. A party who objects to the proposal must say how the proposal impacts them, how the proposal is inconsistent with Council or government policy or strategy, or both.

Note

For information on how to prepare and present material at a Hearing, refer to the [PPV Website](#).

Evidence and cross examination

1. Expert witnesses can provide a response to like evidence **by 12 noon the business day** before they are scheduled to appear.
16. Unless agreed by the Chair, evidence-in-chief should be no longer than 30 minutes. Council witnesses may require longer than 30 minutes given the number of properties they may be required to address through evidence.
17. An expert witness may present a summary of their evidence at the Hearing, but it must:
 - a) not include new evidence, but may include a response to like evidence
 - b) be filed **by 12 noon the business day before** that witness is scheduled to appear.
18. If giving evidence online, an expert 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 permission from 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
 - d) not have before them any document, other than their expert witness report and relevant supporting documents.
19. A party, advocate and the Panel may question an expert witness.
20. If cross examining an expert witness, a party must:
 - a) be present for the whole of the expert witness giving their 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 the expert witness time to explain their answer.

Notes

The Chair will regulate cross examination. During the Hearing, the Chair may ask you how much time you will need for cross examining each witness, and will ask you to keep to your estimate. You should aim to complete your cross examination as concisely as possible.

Cross examination time may be limited.

You may be asked to move on to another topic if the line of questioning is not useful to the Panel.

Things to avoid when cross examining include:

- making a submission or providing your opinion
- giving extensive comment or context as an introduction to your question
- asking questions that are unrelated to the evidence
- arguing with the witness
- commenting on the expert or the evidence
- asking questions that have already been asked by another party.

If you do not support the evidence or basis on which it was prepared, or consider the evidence should not be given weight, detail your reasons in your submission rather than raising these issues in cross examination.

If you are not experienced in cross examination, you are encouraged to write your questions down to ensure they are succinct, structured into themes and able to be asked without long explanations of the context.

For information on how to cross examine, refer to the [PPV Website](#).

Council Part C (closing) submissions

21. Council will be provided time to present a Part C (closing) submission. The Part C (closing) submissions:
- a) must not raise new matters
 - b) may respond to matters raised in other parties' submissions or evidence
 - c) must provide a consolidated list of any further proposed changes to the Amendment
 - d) may include its final preferred version of Amendment documentation, showing proposed changes.

Privacy and use of personal information

22. A party must not record, keep, distribute or publish contact details of any other party obtained during the Panel process, or use those contact details for any other purpose.
23. A party must not record any part of a Hearing by any means without permission from the Chair.
24. A party who wishes proceedings to be recorded must make a request to the Chair at least five business days before the Hearing commences, outlining its reasons.
25. If Planning Panels Victoria records a Hearing, any person provided with a copy of the recording must not publish or distribute that recording or use it for any purpose other than for the Panel process.

Note

Panel hearings are only recorded in exceptional circumstances. EES Hearings are generally recorded (audio only), but you should check with Planning Panels Victoria before the Hearing starts.

For more information on how your personal information will be used, refer to the Privacy Collection Notice attached to the Panel's letter dated 21 September 2023.

Distribution List

Melbourne Planning Scheme Amendment C426melb: South Yarra Heritage Review

Use this list to file expert witness reports and other information in accordance with the Panel’s directions. It must not be used for any other purpose. If you are unsure about whether any material or content is appropriate for filing, please seek guidance from Planning Panels Victoria before filing the material.

Electronic documents

Party	email address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]



Planning Panels Victoria

Department of Transport and Planning

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

18 October 2023

Dear Party

Melbourne Planning Scheme Amendment C426melb: South Yarra Heritage Review

Dear Parties

The Panel for Melbourne C426melb has been reconstituted and now consists of Lester Townsend (Chair) and Lisa Kendal.

Please find attached:

- Hearing Timetable (revised):
 - adds presenters on behalf of Sheridan Close
 - replaces Edward Mahony's timeslot on Thursday 16 November 2023 with Sheridan Close Ltd
 - hearing now concludes on Thursday 16 November 2023 with Friday 17 November 2023 now set as a reserve day

If you have questions, please contact Georgia Brodrick on (03) 8508 0888 or planning.panels@delwp.vic.gov.au.

Yours sincerely

Lester Townsend

Panel Chair

Privacy Statement

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Timetable

Melbourne Planning Scheme Amendment C426melb: South Yarra Heritage Review

Timetable Version 2

Day 1: Wednesday 8 November 2023

In person Venue: Planning Panels Victoria, Hearing Room 1 (Ground Floor, 1 Spring Street, Melbourne)

Or join online: [Click here to join the meeting](#)

Time	Party	Sub No	Allocated
10.00am – 10.20am	Preliminary matters		20 mins
10.20am – 11.15am	Melbourne City Council represented by Susan Brennan SC and Carly Robertson, instructed by Ann-Maree Drakos and Dana Foenander, Melbourne City Council, calling the following expert evidence: <ul style="list-style-type: none">- Heritage from Mark Hunter-Smith of GLM Heritage- Heritage from Natica Schmeder of Landmark Heritage Pty Ltd		3 days
11.15am – 11.30am	Break		15 mins
11.30am – 1.00pm	Melbourne city Council cont		
1.00pm – 2.00pm	Lunch break		1 hour
2.00pm – 3.15pm	Melbourne city Council cont		
3.15pm – 3.30pm	Break		15 mins
3.30pm – 4.30pm	Melbourne city Council cont		
4.30pm	Day close		

Day 2: Thursday 9 November 2023

In person Venue: Planning Panels Victoria, Hearing Room 1 (Ground Floor, 1 Spring Street, Melbourne)

Or join online: [Click here to join the meeting](#)

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 11.15am	Melbourne City Council continued		3 days
11.15am – 11.30am	Break		15 mins
11.30am – 1.00pm	Melbourne city Council cont		
1.00pm – 2.00pm	Lunch break		1 hour
2.00pm – 3.15pm	Melbourne city Council cont		
3.15pm – 3.30pm	Break		15 mins
3.30pm – 4.30pm	Melbourne City Council cont.		
4.30pm	Day close		

Day 3: Friday 10 November 2023

In person Venue: Planning Panels Victoria, Hearing Room 1 (Ground Floor, 1 Spring Street, Melbourne)

Or join online: [Click here to join the meeting](#)

Time	Party	Sub No	Allocated
11.00am – 1.00pm	Melbourne City Council continued		3 days
1.00pm – 2.00pm	Lunch break		1 hour
2.00pm – 3.15pm	Melbourne city Council cont		
3.15pm – 3.30pm	Break		15 mins
3.30pm – 4.30pm	Melbourne City Council cont.		
4.30pm	Day close		

Day 4: Tuesday 14 November 2023

In person Venue: Planning Panels Victoria, Hearing Room 1 (Ground Floor, 1 Spring Street, Melbourne)

Or join online: [Click here to join the meeting](#)

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 11.15am	Owners Corporation of 172-182 Walsh St , represented by Amanda Johns of Planning & Property Partners, calling the following expert evidence: - Heritage from Martin Turnor of Bryce Raworth Pty Ltd Heritage	4, 19, 20, 21, 22, 23 and 34	2 hours
11.15am – 11.30am	Break		15 mins
11.30am – 12.30pm	Owners Corporation of 172-182 Walsh St cont.		
12.30pm – 1.30pm	Lunch break		1 hour
1.30pm – 2.45pm	Owners of 233-235 Domain Rd, South Yarra (The Consulate of Italy) , represented by Amanda Johns of Planning & Property Partners, calling the following expert evidence: - Heritage from Martin Turnor of Bryce Raworth Pty Ltd Heritage	45	2 hours
2.45pm – 3.00pm	Break		15 mins
3.00pm – 3.45pm	Owners of 233-235 Domain Rd, South Yarra (The Consulate of Italy) cont.		
3.45pm – 3.50pm	Peter Gaunt , represented by Amanda Johns of Planning & Property Partners	42	5 mins
4.00pm	Day close		

Day 5: Wednesday 15 November 2023

In person Venue: Planning Panels Victoria, Hearing Room 1 (Ground Floor, 1 Spring Street, Melbourne)

Or join online: [Click here to join the meeting](#)

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 11.15am	Owners of 93 Park Street Holdings , represented by Taryn Sobel-Beeri of Urbis Pty Ltd, calling the following expert evidence: - Heritage from Peter Lovell of Lovell Chen	40	1.5 hours
11.15am – 11.30am	Break		15 mins
11.30am – 12.00pm	Owners of 93 Park Street Holdings cont.		
12.00pm – 1.00pm	Owners of 105-107 Park Street, South Yarra , represented by Taryn Sobel-Beeri of Urbis Pty Ltd, calling the following expert evidence: - Heritage from Peter Lovell of Lovell Chen	41	1.5 hours
1.00pm – 2.00pm	Lunch Break		1 hour
2.00pm – 2.30pm	Owners of 105-107 Park Street, South Yarra , cont.		1.5 hours
2.30pm – 3.15pm	Owners of 221-223 Domain Road , represented by Taryn Sobel-Beeri of Urbis Pty Ltd, calling the following expert evidence: - Heritage from David Helms	29	1.5 hours
3.15pm - 3.30pm	Break		15 mins
3.30pm – 4.15pm	Owners of 221-223 Domain Road cont.		
4.15pm	Day close		

Day 6: Thursday 16 November 2023

In person Venue: Planning Panels Victoria, Hearing Room 1 (Ground Floor, 1 Spring Street, Melbourne)

Or join online: [Click here to join the meeting](#)

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 10.45am	Mark Sutcliffe	34	30 mins
10.45am – 11.15am	Sheridan Close Ltd, 485-489 St Kilda Road , represented by Chris Taylor of Planning & Property Partners, with presentations from: <ul style="list-style-type: none">- Michael Hoy resident and shareholder of Sheridan Close- Marc Dixon, Architect, resident and shareholder of Sheridan Close	24	1 hour
11.15am – 11.30am	Break		15 mins
11.30am – 12.00pm	Sheridan Close Ltd, 485-489 St Kilda road cont.		
12.00pm – 1.00pm	The Estate of Rachel Hornung, 31-33 Millswyn Street , represented by Suganya Pathan of Counsel instructed by Roger Yelland of Roger Yelland & Co, calling the following expert witness: Martin Turnor of Bryce Raworth Pty Ltd	44	1.5 hours
1.00pm – 2.00pm	Lunch Break		1 hour
2.00pm - 2.30pm	The Estate of Rachel Hornung, 31-33 Millswyn Street , cont.		
2.30pm – 3.15pm	City of Melbourne closing submission		1 hour
3.15pm – 3.30pm	Break		15 mins
3.30pm – 3.45pm	City of Melbourne closing submission cont.		
4.00pm	Day close		

Day 7: Friday 17 November 2023

In person Venue: Planning Panels Victoria, Hearing Room 1 (Ground Floor, 1 Spring Street, Melbourne)

Or join online: [Click here to join the meeting](#)

Time	Party	Sub No	Allocated
	RESERVE		

Hearing Timetable Notes:

1. If you are unable to be present at your scheduled time, please contact Planning Panels Victoria on Planning.Panels@delwp.vic.gov.au as soon as possible.
2. Please be present or online at least 15 minutes before your scheduled start time.
3. The Panel may amend a Party's start time without notice. However you will be contacted in advance if you are to be rescheduled to a different day.
4. Time will be made for morning and afternoon breaks each day. Break times will be taken at appropriate points in the proceedings, and break times in the timetable are indicative only.

5. Getting to the Hearing venue – Planning Panels Victoria (corner Spring and Flinders Streets) is on the 75 and City Circle tram lines and a short walk from the Collins Street trams 109, 11, 12 and 48. It is also a short walk from Parliament Train Station.
6. If you have any questions about the timetable, please contact Planning Panels Victoria on Planning.Panels@delwp.vic.gov.au.