



Planning Panels Victoria

Department of Environment, Land, Water and Planning

1 Spring Street
Melbourne Victoria 3000
GPO Box 2392
Melbourne, Victoria 3001
Telephone (03) 8392 5115

2 March 2020

As addressed

Dear Submitter,

Melbourne Planning Scheme Amendment C278: Sunlight to Public Parks

The Panel held a Directions Hearing for the above matter on 27 February 2020 at Planning Panels Victoria. Please find attached:

- Panel Directions
- Distribution List
- Hearing Timetable.

The following dates apply:

Time	Date	Action	Direction
4.00pm	Friday 6 March 2020	Parties must advise the Panel of any concerns regarding Ms Nervegna being on the Panel	1
		Parties must advise the Panel of witness details	2
		Any party who is not able to use OneDrive must inform Planning Panels Victoria	5
4.00pm	Thursday 26 March 2020	Council must circulate the link to the OneDrive account that it proposes to set up for the Hearing	4
		Council must circulate its Part A submission	6
		Council must circulate the information required for the site inspection	7
4.00pm	Monday 30 March 2020	Council must circulate witness reports and statements	9
4.00pm	Thursday 2 April 2020	Other parties must circulate witness reports	10
10.00am	Tuesday 14 April 2020	The Hearing starts	

Declarations

The members of the Panel made the following declarations at the Directions Hearing:

- Ms Carlisle declared that she is a regular user of Yarra Park and an occasional user of Fitzroy Gardens. She is not a resident or property owner in the City of Melbourne.
- Ms Carlisle declared that she chaired the recent panel for Amendment C309 to the Melbourne Planning Scheme, which seeks to implement the West Melbourne Structure Plan. That amendment (which is yet to be approved) proposes to apply Design and Development Overlays (DDOs) for the West Melbourne area which include controls designed to manage overshadowing of existing and planned open space in West Melbourne.

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



- Ms Carlisle declared on Ms Nervegna's behalf that she has sat on two past VCAT matters that dealt with overshadowing to public spaces in the City of Melbourne. Both related to overshadowing of Birrarung Marr:
 - *DEXUS Property Group Ltd v Minister for Planning* [\[2017\] VCAT 619](#) – this is one of the four VCAT cases reviewed in the Hodyl Report
 - *63 Exhibition Street Pty Ltd v Minister for Planning* [\[2018\] VCAT 861](#) – 63 Exhibition Street Pty Ltd has made a submission to the Amendment.
- Ms Carlisle declared on Ms Nervegna's behalf that she is sitting on a current VCAT matter, *Nuvolink P/L v Melbourne CC & Ors*, relating to a property at 86-90 Jolimont Street East Melbourne. The case deals with a number of issues including potential overshadowing to Yarra Park. Ms Nervegna made a declaration at the beginning of the VCAT hearing (which started on 24 February 2020) that she has been appointed to the Panel considering Amendment C278. All parties to the VCAT proceeding stated that they had no issue or objection with her continuing as a Tribunal member on the case and being a member on the C278 Panel.

No objections or concerns were raised at the Directions Hearing in relation to these declarations, but several parties requested the opportunity to review the VCAT decisions on which Ms Nervegna was a member before expressing a final position. The Panel agreed to this request (refer to Direction 1).

If you have questions, please contact Ms Nicola Clark, Senior Project Officer of Planning Panels Victoria on (03) 8392 5121 or planning.panels@delwp.vic.gov.au.

Yours sincerely,



Sarah Carlisle
Panel Chair

Panel Directions

Melbourne Planning Scheme Amendment C278: Sunlight to Public Parks

Before the Hearing

Notification of concerns regarding declarations

1. Any party who, having reviewed the VCAT decisions referred to in the covering letter, has any concerns regarding Ms Nervegna's membership of the Panel must advise the Panel by **4.00pm on Friday 6 March 2020**.

Notification of witnesses

2. Any party who has not yet informed the Panel of the identity of any witness they intend to call must advise the Panel of the witness' name, position and area of expertise (where relevant) by **4.00pm on Friday 6 March 2020**.

Circulation of documents

3. Documents should be circulated electronically, either via a file sharing service such as OneDrive or by email. Hard copy materials should only be provided in exceptional circumstances. Maps or plans are to be provided both electronically and in hard copy.
4. Council must circulate the link to the OneDrive account that it proposes to set up for the Hearing to parties on the Distribution List by **4.00pm on Thursday 26 March 2020**.
5. Any party who is not able to use OneDrive must inform Planning Panels Victoria by **4.00pm on Friday 6 March 2020**. Documents will be circulated to those parties directly via email.

Council Part A submission

6. Council must circulate a Part A submission to parties on the distribution list by **4.00pm on Thursday 26 March 2020** that includes:
 - a) a summary of the strategic context, including:
 - (i) relevant planning policies and controls, including Council's Open Space Strategy
 - (ii) other amendments that may be under preparation or recently approved that may impact on the Amendment
 - b) a detailed explanation of the strategic rationale for the Amendment
 - c) a detailed response to the issues raised in the authorisation letter from DELWP
 - d) an explanation of the concepts of 'existing shadow' and 'allowable shadow' and how they are calculated or determined
 - e) a consolidated map which shows:
 - (i) the location of the parks and their classification (Park Type 1, Park Type 2, Park Type 3East or Park Type 3West)
 - (ii) the excluded areas
 - (iii) key growth areas (including Arden Macaulay, the Parkville NEIC, Fishermans Bend and City North)
 - (iv) the location of submitters (including whether they are supporting or objecting)
 - f) a summary of the main issues raised in submissions
 - g) an explanation of the post-exhibition changes Council proposes to make to the Amendment in response to submissions, including a tracked version of the amendment documents that clearly identifies the proposed post-exhibition changes

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- h) any other strategic material that Council intends to rely upon in support of the Amendment that has not yet been provided, or that might assist the Panel in its consideration of the Amendment
- i) a list of current permit applications that may impact on, or be impacted by, the Amendment.

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.

Information for site inspection

- 7. Council must provide to the Panel any modelling it has undertaken or commissioned for the parks and reserves listed in the attachment to these Directions headed 'Site Inspection' by **4.00pm on Thursday 26 March 2020.**

Witness reports

- 8. 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
 - c) be provided to the Panel as an unlocked document.
- 9. Council must circulate its witness reports and statements from current or former Council staff to parties on the distribution list by **4.00pm on Monday 30 March 2020.**
- 10. Other parties calling evidence must circulate their witness reports to parties on the distribution list by **4.00pm on Thursday 2 April 2020.**
- 11. Council must publish all witness reports and statements on its website.

At the Hearing

Submissions and information

- 12. Parties should present material at the Hearing electronically. Electronic information presented at the Hearing must be:
 - a) circulated to parties on the distribution list by 9.00am on the morning the information is to be presented, either via the party's file sharing service or via direct email
 - b) (if the party is not intending to present the material from their own device using clickshare) brought to the Hearing Room on a USB stick in a clearly marked folder half an hour before the start of the day's hearing, to allow it to be uploaded onto the Hearing Room laptop.
- 13. If a paper copy is presented at the Hearing, at least fifteen (15) copies must be provided, two-hole punched and stapled (not bound).
- 14. After presenting to the Panel, submissions (preferably in MS Word) must be emailed to planning.panels@delwp.vic.gov.au as an unlocked document.
- 15. All information presented at the Hearing is a public document unless the Panel directs otherwise.

Council Part B submission

- 16. At the Hearing, Council must provide a Part B submission that includes:
 - a) an explanation of the inter-relationship between the 'park types' in the DDO8 and the park hierarchy in the Open Space Strategy
 - b) an explanation of how the DDO8 was mapped

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- c) an explanation of how the overshadowing controls in the DDO8 will interact with overshadowing controls in other parts of the planning scheme
- d) maps showing land which is proposed to be subject to more than one overshadowing control
- e) an explanation of how the Amendment (in particular the revised policy at Clause 22.02) impacts on current and future structures within parks, including major sporting facilities such as the MCG, Punt Road Oval and Ikon Park
- f) further information about the community consultation undertaken in 2016 (referred to in some submissions)
- g) Council's response to the issues raised in submissions
- h) Council's response to expert evidence
- i) any further changes Council proposes to make to the Amendment in response to expert evidence or submissions
- j) Council's final position on the Amendment.

Aerials and maps

17. At the Hearing, Council should arrange for:

- a) the latest aerial photography of the key parks affected by the Amendment and their surrounds
- b) large scale copies of the maps to be provided with the Part A and Part B submissions
- c) access to Council's GIS mapping system and/or NearMap.

Distribution list

Melbourne Planning Scheme Amendment C278: Sunlight to Public Parks

Use this list to circulate expert witness statements and other information requested by the Panel. It must not be used for any other purpose.

Electronic documents

Party	email address
Planning Panels Victoria	planning.panels@delwp.vic.gov.au
Andavol Pty Ltd	emma@planningstudio.com.au
Australian Football League (AFL), Melbourne Cricket Club (MCC) and Melbourne Cricket Grounds Trust (MCG), Richmond Football Club	lthomas@urbis.com.au
Carlton Residents Association	ewanogilvy@bigpond.com
Cricket Australia	hsmyth@sjbplanning.com.au ; lthomas@urbis.com.au
Mary Drost OAM	drostmary@gmail.com
Melbourne Business School	cperfect@mbs.edu
Melbourne City Council	jill.cairnes@melbourne.vic.gov.au
Orchard Piper Pty Ltd	luke@orchardpiper.com
Property Council of Australia	cwall@propertycouncil.com.au eminney@besthooper.com.au
Polis Pty Ltd	
Protect Park Street Precinct Community Action Group	aecac@netspace.net.au christinechristian@bigpond.com
Royal Park Protection Group	arp4@bigpond.com
University of Melbourne	sally.macindoe@nortonrosefulbright.com ; victoria.vilagosh@nortonrosefulbright.com
Victorian Planning Authority	Steve.barclay@vpa.vic.gov.au Morris.edwards@vpa.vic.gov.au

Site Inspection

Melbourne Planning Scheme Amendment C278: Sunlight to Public Parks

Day 1: Tuesday 14 April 2020

Venue: Planning Panels Victoria, Hearing Room 2 (Ground Floor, 1 Spring Street, Melbourne)

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters Confirmation that all material has been properly circulated		15 mins
10.15am – 12.30pm	Melbourne City Council represented by Susan Brennan SC and Jordan Wright of Counsel, with Jill Cairnes with presentations from: <ul style="list-style-type: none">- Strategic Overview from Andy Fergus, former Council officer- GIS and modelling from Dan Smith, current Council officer calling expert evidence from: <ul style="list-style-type: none">- Open Space from Joanna Thompson of Berril Thompson Architects- Architecture from Beaudene Fulwood of SJB- Strategic Planning and Urban Design from Leanne Hoddle of Leanne Hoddle & Co- Planning from David Barnes of Hansen Partnership- Economics from Dr Marcus Spiller of SGS Economics and Planning- Health from Dr Carol Nowson of Deakin University- Health and wellbeing – TBC- Ecology – TBC- Climate – TBC		8 days
12.30pm – 1.30pm	Lunch Break		1 hour
1.30pm – 4.30pm	Council cont		
4.30pm	Day close		

Timetable

Melbourne Planning Scheme Amendment C278: Sunlight to Public Parks

Day 2: Wednesday 15 April 2020

Venue: Planning Panels Victoria, Hearing Room 2 (Ground Floor, 1 Spring Street, Melbourne)

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 12.30pm	Council , continued		
12.30pm – 1.30pm	Lunch Break		1 hour
1.30pm – 4.30pm	Council , continued		
4.30pm	Day close		

Day 3: Thursday 16 April 2020

Venue: Planning Panels Victoria, Hearing Room 2 (Ground Floor, 1 Spring Street, Melbourne)

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 12.30pm	Council , continued		
12.30pm – 1.30pm	Lunch Break		1 hour
1.30pm – 4.30pm	Council , continued		
4.30pm	Day close		

Day 4: Friday 17 April 2020

Venue: Planning Panels Victoria, Hearing Room 2 (Ground Floor, 1 Spring Street, Melbourne)

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 12.30pm	Council , continued		
12.30pm – 1.30pm	Lunch Break		1 hour
1.30pm – 4.30pm	Council , continued		
4.30pm	Day close		

Timetable

Melbourne Planning Scheme Amendment C278: Sunlight to Public Parks

Day 5: Monday 20 April 2020

Venue: Planning Panels Victoria, Hearing Room 2 (Ground Floor, 1 Spring Street, Melbourne)

Time	Party	Sub No	Allocated
9.00am – 9.15am	Preliminary matters		15 mins
9.15am – 12.30pm	Interpose evidence from Michael Barlow from Urbis for the University of Melbourne and Orchard Piper Pty Ltd		3 hours
12.30pm – 1.30pm	Lunch Break		1 hour
1.30pm – 4.30pm	Council , continued		
4.30pm	Day close		

Day 6: Tuesday 21 April 2020

Venue: Planning Panels Victoria, Hearing Room 2 (Ground Floor, 1 Spring Street, Melbourne)

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 12.30pm	Council , continued		
12.30pm – 1.30pm	Lunch Break		1 hour
1.30pm – 4.30pm	Council , continued		
4.30pm	Day close		

Day 7: Wednesday 22 April 2020

Venue: Planning Panels Victoria, Hearing Room 2 (Ground Floor, 1 Spring Street, Melbourne)

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 12.30pm	Council , continued		
12.30pm – 1.30pm	Lunch Break		1 hour
1.30pm – 4.30pm	Council , continued		
4.30pm	Day close		

Timetable

Melbourne Planning Scheme Amendment C278: Sunlight to Public Parks

Day 8: Thursday 23 April 2020

Venue: Planning Panels Victoria, Hearing Room 2 (Ground Floor, 1 Spring Street, Melbourne)

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 12.30pm	Council , continued		
12.30pm – 1.30pm	Lunch Break		1 hour
1.30pm – 4.30pm	Council , continued		
4.30pm	Day close		

Day 9: Friday 24 April 2020

Venue: Planning Panels Victoria, Hearing Room 2 (Ground Floor, 1 Spring Street, Melbourne)

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 12.30pm	Council , continued		
12.30pm – 1.30pm	Lunch Break		1 hour
1.30pm – 4.30pm	Reserve		
4.30pm	Day close		

Timetable

Melbourne Planning Scheme Amendment C278: Sunlight to Public Parks

Day 10: Monday 27 April 2020

Venue: Planning Panels Victoria, Hearing Room 2 (Ground Floor, 1 Spring Street, Melbourne)

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 10.45am	The Victorian Planning Authority , represented by Steve Barclay	75	30 mins
10.45am – 11.15am	Property Council of Australia , represented by Cressida Wall	87	30 mins
11.15am – 12.15pm	AFL Australia, Cricket Australia, Melbourne Cricket Club and Melbourne Cricket Grounds Trust and Richmond Football Club , represented by Laura Thomas of Urbis	235, 119, 97, 89	1 hour
12.15pm – 1.15pm	Lunch Break		1 hour
1.15pm – 1.30pm	Mary Drost OAM	117	15 mins
1.30pm – 2.00pm	The Carlton Residents Association , represented by Ewan Ogilvy	40	30 mins
2.00pm – 2.15pm	The Royal Park Protection Group , represented by Anne Phefley	53	15 mins
2.15pm – 3.15pm	Protect Park Street Precinct Community Action Group , represented by Christine Christianson	125	1 hour
3.15pm	Day close		

Day 11: Tuesday 28 April 2020

Venue: Planning Panels Victoria, Hearing Room 2 (Ground Floor, 1 Spring Street, Melbourne)

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 12.30pm	The University of Melbourne , represented by Paul Connor QC and Roshan Chaile of Counsel, instructed by Norton Rose Fulbright, calling the following expert evidence: <ul style="list-style-type: none"> - Town Planning from Michael Barlow of Urbis (called on 20/4/20) - Town Planning and Urban Design from Tim Biles of Ratio Consultants 	83	1 day
12.30pm – 1.30pm	Lunch Break		1 hour
1.30pm – 4.30pm	The University of Melbourne continued		
4.30pm	Day close		

Timetable

Melbourne Planning Scheme Amendment C278: Sunlight to Public Parks

Day 12: Wednesday 29 April 2020

Venue: Planning Panels Victoria, Hearing Room 2 (Ground Floor, 1 Spring Street, Melbourne)

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 12.15pm	Orchard Piper Pty Ltd , represented by Marita Foley SC of Counsel, instructed by Rigby Cooke, calling the following expert evidence: <ul style="list-style-type: none">- Town Planning from Michael Barlow of Urbis (called on 20/4/20)	99	2 hours
12.15pm – 1.15pm	Lunch Break		1 hour
1.15pm – 4.15pm	Melbourne Business School , represented by Celeste Perfect, calling the following expert evidence: <ul style="list-style-type: none">- Planning from Vaughan Connor of Contour Consultants	74	3 hours
4.15pm – 4.30pm	Andavol Pty Ltd , represented Emma Barnes of Planning Studio Pty Ltd	91	15 mins
4.30pm	Day close		

Day 13: Thursday 30 April 2020 - RESERVE DAY

Venue: Planning Panels Victoria, Hearing Room 2 (Ground Floor, 1 Spring Street, Melbourne)

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		

Day 14: Friday 1 May 2020

Venue: Planning Panels Victoria, Hearing Room 2 (Ground Floor, 1 Spring Street, Melbourne)

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 12.15pm	Polis Pty Ltd , represented by John Cicero and Eliza Minney of Best Hooper, calling the following expert evidence: <ul style="list-style-type: none">- TBC	64	4 hours
12.15pm – 1.15pm	Lunch Break		1 hour
1.15pm – 3.15pm	Polis Pty Ltd , continued		
3.15pm - 4.15pm	Melbourne City Council - Closing Submission		1 hour
4.15pm	Day close		

Timetable

Melbourne Planning Scheme Amendment C278: Sunlight to Public Parks

Hearing Timetable Notes:

1. The Panel may amend the timetable without notice.
2. Please arrive at least 15 minutes before your scheduled commencement time.
3. Time will be made for morning and afternoon breaks each day.
4. If you are unable to be present at your scheduled time, please contact Planning Panels Victoria as soon as possible.
5. If you have any questions about the timetable, please contact the Ms Nicola Clark, Senior Project Officer of Planning Panels Victoria on 8392 5121.
6. Planning Panels 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.

Site Inspection

Melbourne Planning Scheme Amendment C278: Sunlight to Public Parks

The Panel proposes to inspect the following parks and their surrounds on its unaccompanied site inspection:

- Kings Domain, Alexandra Gardens and the Botanical Gardens
- Fawkner Park
- Fitzroy Gardens and Treasury Gardens
- Royal Park
- Carlton Gardens
- Flagstaff Gardens
- Yarra Park
- Princes Park
- Reeves Park
- Lincoln Square
- Argyle Square
- Wheedon Reserve
- Gardiner Reserve
- Clayton Reserve
- Galada Avenue Reserve
- Canning/Macaulay Street Reserve
- University Square
- Railway Reserve West Melbourne
- Hawke/Adderley Street Reserve.