



# Planning Panels Victoria

Department of Transport and Planning

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

26 March 2024

Dear Party

## **Boroondara Planning Scheme Amendment C398boro: Balwyn and Balwyn North Post-war heritage**

The Panel held a Directions Hearing for the above matter on 25 March 2024 online. Please find attached:

- Panel Directions
- Distribution List
- Hearing Timetable.

The following dates apply:

Time	Date	Actions for filing and other matters	Direction
12 noon	Friday, 5 April 2024	Council must provide a submitter location map to the Panel only	5
12 noon	Friday, 5 April 2024	Council documents specified	6
12 noon	Friday, 5 April 2024	Council to advise of evidence arrangements for Mr Reeves	17
12 noon	Friday, 26 April 2024	Council Part A (background and context) submission	7
12 noon	Friday, 26 April 2024	Expert witness report(s)	8
12 noon	Thursday, 2 May 2024	Any supplementary submission from a party not appearing at the Hearing	16
12 noon	Friday, 3 May 2024	Council 'Day 1' version of the Amendment documentation	14
10 am	Monday, 6 May 2024	Hearing commences	

If you have questions, please contact Planning Panels Victoria on (03) 8624 5712 or [planning.panels@delwp.vic.gov.au](mailto:planning.panels@delwp.vic.gov.au).

Yours sincerely

**Tim Hellsten**  
Panel Chair

### 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 Transport and Planning, PO Box 500, East Melbourne, Victoria 8002



OFFICIAL

## Filing documents

1. Documents must be filed electronically to all parties on the distribution list.
2. Documents must meet the following requirements:
  - a) Files must not exceed 20MB in size.
  - b) File names must be as short as possible and begin with the name of the party as it appears on the distribution list:

[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](mailto:planning.panels@delwp.vic.gov.au) after being filed.
3. All information presented to the Panel for the purposes of the Panel process is a public document solely for that purpose unless the Panel directs otherwise. It cannot be used for any other purpose.

### Notes

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](mailto: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.

### Information to be provided

5. Council must provide a map showing the location of submitters to the Panel by **12 noon on Friday, 5 April 2024**. The Plan must:
  - a) identify submitters by submitter number, and not by name
  - b) be provided only to the Panel.
6. Council must file the following documents by 12 noon on Friday, 5 April 2024:
  - a) Boroondara Thematic Environmental History
  - b) Additional content referred to in Submission 9 or explanation of Council's processes to confirm its content.

### 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.

**Directions:**

### Council Part A (background and context) submission

7. Council must file Part A (Background and context) submission by **12 noon on Friday, 26 April 2024** that includes:
- a) background to the Amendment including chronology of events including development of the background reports
  - b) a summary of the conditions of authorisation and how they have been met
  - c) a summary of the strategic context, including:
    - (i) relevant planning policies and controls
    - (ii) any other recently approved or upcoming amendments that might impact on the Amendment
  - d) an outline of: (can be in evidence):
    - (i) the methodologies of the two heritage background reports including comparative analysis and relationship to any Thematic Environmental History
    - (ii) how the heritage background reports and Statements of Significance align with Planning Practice Note 1: Applying the Heritage Overlay
    - (iii) the basis for applying or not applying other provisions with the Schedule to Clause 43.01.Alternatively these matters can be addressed in evidence
  - e) a summary of any permit applications or recently granted permits that might impact on the Amendment
  - f) a summary of the issues raised in submissions, including an explanation of which (if any) of those issues have been resolved and how

**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.

### Expert witness details and reports

8. Any expert witness reports must be filed by **12 noon on Friday, 26 April 2024**.
9. An expert witness report must:
- a) comply with the PPV Practice Note 1 - Expert Evidence ([Expert witnesses \(planningpanels.vic.gov.au\)](https://www.planningpanels.vic.gov.au))
  - 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.
10. An expert witness can provide a response to other like evidence by 12 noon the business day before the Hearing commences.

### At the Hearing

11. Council must provide administrative support to manage the Hearing.

**Note**

This may include publishing links to the Hearing online, issuing direct invitations to participants (including the Panel, parties and experts) and providing technical support.

### Presenting material

12. Submissions, presentations and other material presented to the Panel:
- a) must be presented electronically

**Directions:**

- b) must be filed by 12 noon on the business day before the material is to be presented
- c) should relate to the matters before the Panel
- d) must include a summary of fewer than 5 pages if the material is more than 40 pages.

**Council Part B (main) submission**

- 13. Council must address the following issues in its Part B (main) submission or through evidence:
  - a) list key items to be addressed
  - b) its response to submissions and evidence
  - c) its final position on the Amendment.
- 14. Council must file a 'Day 1' version of the Amendment documentation by **12 noon on Friday, 3 May 2024**. The Day 1 version must:
  - a) show any suggested changes in response to submissions
  - b) be marked up against the exhibited version
  - c) be labelled 'Council Day 1 version – Schedule to Clause 43.01/Document title X'
  - d) be in an editable format such as MS Word.

**Other party submissions**

- 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 and be filed by 12 noon on the business day before the material is to be presented.
- 16. A party who intends to supplement their original written submission but not present at the Hearing must file their supplementary written submission by **12 noon on Thursday, 2 May 2024**.

**Note**

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

**Evidence and cross examination**

- 17. Council must advise the Panel by 5 April 2024 whether it intends to call Mr Reeves to provide evidence - in-chief or alternatively circulate his evidence statement to enable the Panel to ask questions of it (either in writing or online).
- 18. Unless agreed by the Chair, evidence-in-chief should be no longer than 30 minutes, however the Panel anticipates the evidence-in-chief of Mr Huntersmith make require longer but should be managed to be completed within 45 minutes.
- 19. An expert witness may present a summary of their evidence at the Hearing, but it must:
  - a) not include new evidence
  - b) be filed by 12 noon the business day before that witness is scheduled to appear.
- 20. 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.
- 21. A party, advocate and the Panel may question an expert witness.

**Directions:**

22. If cross examining an expert witness, a party must:
- be present for the whole of the expert witness giving their evidence
  - ask clear and relevant questions, directed to matters of fact or professional opinion, that genuinely assist the Panel in understanding the issues
  - 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](#).

## Part C (closing) submissions

23. Council will be provided time to present a Part C (closing) submission. The Part C (closing) submissions:
- must not raise new matters
  - may respond to matters raised in other parties' submissions or evidence.

## Drafting changes

24. Council must file its final preferred version of the Amendment documentation with its Part C (closing) submission. The final preferred version must:
- show changes proposed in response to evidence or submissions presented at the Hearing
  - be marked up against the Council Day 1 version (refer to Direction 14)
  - be labelled 'Council Part C (closing) version – Clause X/Document title'.
25. Depending on the nature of any changes to Amendment documents proposed by Council in its closing submission the Panel may make further directions to enable a party to provide drafting comments. Drafting comments must only relate to drafting issues, not broader issues.

**Note**

Comments on the final version of Amendment documentation must be limited to drafting (form and content).

Drafting comments can be provided even though your primary position may be that the proposal should not be supported.

## Privacy and use of personal information

26. 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.
27. A party must not record any part of a Hearing by any means without permission from the Chair.

**Directions:**

28. 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.
29. 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 26 February 2024.

# Distribution List

Boroondara Planning Scheme Amendment C398boro: Balwyn and Balwyn North Post-war heritage

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
Planning Panels Victoria	<a href="mailto:planning.panels@delwp.vic.gov.au">planning.panels@delwp.vic.gov.au</a>
Boroondara City Council	<a href="mailto:Rachel.Brien@boroondara.vic.gov.au">Rachel.Brien@boroondara.vic.gov.au</a> <a href="mailto:briana.eastaugh@maddocks.com.au">briana.eastaugh@maddocks.com.au</a> <a href="mailto:amelia.hunter@maddocks.com.au">amelia.hunter@maddocks.com.au</a>
Gregory Ball	<a href="mailto:Greg_j_ball@hotmail.com">Greg_j_ball@hotmail.com</a>
Sanjun Wei	<a href="mailto:mark@askplanningservices.com">mark@askplanningservices.com</a>
Dimitrious Loutas	<a href="mailto:djloutas@gmail.com">djloutas@gmail.com</a>
Zachary Tyler	<a href="mailto:zmt Tyler@yahoo.com">zmt Tyler@yahoo.com</a>

# Timetable

Boroondara Planning Scheme Amendment C398boro: Balwyn and Balwyn North Post-war heritage

## Timetable Version 1

Online access to Hearing each day

### [Join the meeting now](#)

Meeting ID: 440 449 128 481 Passcode: wN3d9j

#### Day 1: Monday 6 May 2024

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

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		20 mins
10.15am – 11.30am	<b>Council</b> represented by Briana Eastaugh of Maddocks, calling the following heritage expert evidence: <ul style="list-style-type: none"><li>- Simon Reeves of Built Heritage (TBC)</li><li>- Mark Huntersmith of GML Heritage</li></ul>		4.5 hours
<b>11.30am – 11.45am</b>	<b>Break</b>		<b>15 mins</b>
11.45am – 1.00pm	<b>Council</b> cont		
<b>1.00pm – 2.00pm</b>	<b>Lunch break</b>		<b>1 hour</b>
2.00pm – 3.15pm	<b>Council</b> cont		
<b>3.15pm – 3.30pm</b>	<b>Break</b>		<b>15 mins</b>
3:30pm – 4:15pm	<b>Council</b> cont		
4.15pm – 4.30pm	<b>Gregory Ball</b>		15 mins
4.30pm	Day close		

#### Day 2: Tuesday 7 May 2024

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

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		20 mins
10.15am – 11.30am	<b>Sanjun Wei</b> represented by Mark Stanojevic of ASK planning services, calling the heritage evidence of: <ul style="list-style-type: none"><li>- John Briggs of JBA Heritage</li></ul>		2 hours
<b>11.30am – 11.45am</b>	<b>Break</b>		<b>15 mins</b>
11.45am – 12.30pm	<b>Sanjun Wei</b> cont		
12.30pm	Day close		

**Day 3: Wednesday 8 May 2024**

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

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		<b>15 mins</b>
10.15am – 11.30am	<b>Zachary Tyler</b>		<b>2 hours</b>
<b>11.30 – 11.45pm</b>	<b>Break</b>		<b>15 mins</b>
11.45am – 12.30pm	<b>Zachary Tyler cont'd</b>		
12.30pm – 1.00pm	<b>Dimitrios Loutas</b>		<b>30 mins</b>
<b>1.00pm – 2.00pm</b>	<b>Break</b>		<b>1 hour</b>
2.00pm – 2:30pm	<b>Council closing submission</b>		<b>30 mins</b>
2.30pm	Day close		

**Hearing Timetable Notes:**

1. If you are unable to be present at your scheduled time, please contact Planning Panels Victoria on (03) 8624 5712 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 (03) 8624 5712