



Planning Panels Victoria

Department of Environment, Land, Water and Planning

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

23 March 2022

Dear Party,

WARRNAMBOOL PLANNING SCHEME AMENDMENT C205WARR: FLOOD STUDIES FOR NORTH WARRNAMBOOL AND RUSSELLS CREEK CATCHMENT

The Panel held a Directions Hearing for the above matter on 8 March 2022. Please find attached:

- Panel Directions
- Distribution List
- Hearing Timetable.

The following key issues are to be noted:

- Ms Alison McFarlane, Senior Panel Member Planning Panels Victoria, will be a second member of the Panel.
- The Hearing will be on-line, commencing at 0930 on Tuesday 26 April 2022.
- The format for the Hearing will have opening comments from the Panel followed by the Council presentation, including expert evidence. The submission by the Glenelg Hopkins Catchment Management Authority will follow. These presentations are expected to fill the morning session.
- Individual submitters will be heard in the afternoon session which will not commence before 1.30pm.
- The timetable sets out the expected order of presentation. It has been compiled on the basis of time periods sought in requests to be heard as well as to combine submissions in geographic locations.
- Submitters are asked to be on-line prior to the scheduled time of the preceding presentation or at least or at least 15 minutes before your scheduled commencement time.

The following dates apply:

Time	Date	Action	Direction
		Council and parties must meet to mediate issues in dispute	1
5.00pm	Thursday 24 March 2022	Council to upload background material to its website	3
12 noon	Thursday, 31 March 2022	Submitters must advise the names and details of any expert witnesses to be called	8
12 noon	Thursday, 14 April 2022	Expert witness statements to be circulated	11
12 noon	Tuesday, 19 April 2022	Council must circulate its submission to the Hearing	7
9.30 am	Tuesday, 26 April 2022	Video conference Hearing commences	

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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Declarations

Other than the Panel Chair stating past experiences with planning matters at Warrnambool, including about flood issues on the Merri River, the Panel has no declarations to make in this matter.

If you have questions, please contact Planning Panels Victoria on (03) 8624 5713 or planning.panels@delwp.vic.gov.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Geoff Underwood', written in a cursive style.

Geoff Underwood
Panel Chair

Panel Directions

Warrnambool Planning Scheme Amendment C205warr:
Flood studies for North Warrnambool and Russells Creek Catchment

Mediation of issues

1. The Council is to convene discussions with those submitters who intend to present at the Hearing to explain the background to the Amendment including the methodology for the flood studies, to discuss the matters in dispute and to explain the effect of proposed Overlays on individual properties. The purpose is to assist submitters with their presentations at the Hearing.

Before the Hearing

Circulation and sharing of documents

2. Documents must be circulated electronically to all parties on the Distribution list.
3. Council must make available on its website by **5.00pm on Thursday 24 March 2022** background material for the Amendment. This is to include:
 - a) Past studies by Cardno 2010 and Water Technology 2017 as background to the Amendment.
 - b) The Explanatory Report for the Amendment.
 - c) The map book showing the relevant maps in the Warrnambool Planning Scheme and proposed changes.
 - d) The report to the Council meeting on 7 February 2022 that presents a summary of the key issues raised in submissions and the response.
4. Files should not exceed 20MB in size. Documents larger than 20MB should be broken down into smaller files less than 20MB.
5. File names should be as short as possible.
6. Paper documents will only be permitted in exceptional circumstances. If any party has issues supplying documents electronically, they should contact Planning Panels Victoria.

Council submission

7. Council must also provide its proposed submission to the Hearing to the Panel by **12 noon on Tuesday 19 April 2022**. The submission must advise:
 - a) The outcome of discussions directed by the Panel with parties about their submissions following the Directions Hearing.
 - b) Changes to the Amendment documentation proposed as a result of the issues raised in submissions and discussions.
 - c) Its final position on the Amendment.

Note: Council's submission will be taken as read by the Panel at the Hearing. Council should present a summary of the submission and allow time for questions.

Witness reports

8. Any submitter proposing to call an expert witness must advise the Panel of the name, expertise and professional details by **Noon on Thursday 31 March 2022**.
9. 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.
10. Council must publish its expert witness report on its website and make it publicly available at its office.
11. All expert witness reports must be circulated to parties on the distribution list **Noon on Thursday 14 April 2022.**

At the Hearing

Submissions and information

12. Parties must present material at the Hearing electronically.
13. All information presented at the Hearing is a public document for the purposes of the Panel process unless the Panel directs otherwise.

Evidence and cross examination

14. 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.
15. 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.
16. Parties, advocates and the Panel may question a witness.
17. During the Hearing, for scheduling purposes, the Panel 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.
18. 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.
19. 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
 - d) not have before them any document, other than their expert witness statement and relevant supporting documents.
20. The Panel will regulate cross-examination.

Written submissions

21. Submitters who propose to read from written submissions must circulate the presentation in an unlocked MS Word format by **Noon on Friday 22 April 2022** to planning.panels@delwp.vic.gov.au. Copies of submissions lodged during exhibition of the Amendment are not needed.

Closing submissions

22. Council will be provided time to present a closing submission.
23. The closing submission must not raise new matters but should respond to matters raised in other parties' submissions or evidence.

Recording Hearings and use of personal information

24. Parties must not record any part of an electronic hearing by any means without permission from the Panel.
25. In exceptional cases, the Chair may direct that the Hearing be recorded. A party who wishes proceedings to be recorded must make a request to the Panel at least five business days before the commencement of the Directions Hearing, outlining its reasons.
26. If Planning Panels Victoria records an electronic hearing, any party provided with a copy of the recording on request must not publish or distribute that recording, or use it for any purpose other than for the Hearing.
27. 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

28. 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]
29. 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.
30. The Panel 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.

Distribution List

Warrnambool Planning Scheme Amendment C205warr:
Flood studies for North Warrnambool and Russells Creek Catchment

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
Warrnambool Shire Council	jmclean@warrnambool.vic.gov.au ANield@warrnambool.vic.gov.au
Peter Bishop	pbishop234@bigpond.com
Phillip Butler	philbutlerrelocation@aussiebb.com.au
Pauline Cooper	Paulinejcooper5@gmail.com
Alastair Davies	alastair@daviessimpson.com.au
Paul Gardner	ptgards@hotmail.com
Brian Hancock	brianh@bohre.com.au
Brendan Howard	brendanhowardmobile@gmail.com
Trevor Martin	Tmartin127@bigpond.com
Stephen Timms	stephentimms5@gmail.com
John Welch	johnw@aceradio.com.au

Timetable

Warrnambool Planning Scheme Amendment C205warr:
Flood studies for North Warrnambool and Russells Creek Catchment

Timetable Version 1

Day 1: Tuesday 26 April 2022

Video conference – [Click here to join the meeting](#)

Time	Party	Allocated
9.30am	Preliminary matters	15 minutes
9.45am – 12.45pm	Council session a) Opening presentation b) Expert witness presentation, cross examination and discussion.	
11.15am	Break	15 minutes
11.30am	Council session continues	
12.45pm	Lunch break	45 minutes
1.30pm	Presentations by submitters	
1.30pm	Alastair Davies, Davies Simpson, for Glenn and Maryanne Owen (Submission 3)	10 minutes
1.40pm	Brendan Howard, Urbanomics Town Planning, for G Mollenuxy (Submission 12)	30 minutes
2.10pm	Peter Bishop, Phillip Butler, Trevor Martin (Submission 18)	30 minutes
2.40pm	Paul Gardner (Submission 14)	5 minutes
2.45pm	Break	15 minutes
3.00pm	Pauline Cooper (Submission 6)	15 minutes
3.15pm	John Welch (Submission 11)	15 minutes
3.30pm	Brian Hancock for Drumoak Pty Ltd (Submission 13)	30 minutes
4.00pm	Stephen Timms (Submission 20)	15 minutes
4.15pm	Closing submissions	15 minutes
4.30pm	Day close	

Hearing Timetable Notes:

1. The Panel may amend the timetable without notice.
2. Please be on-line prior to the scheduled time of the preceding presentation or at least 15 minutes before your scheduled commencement time.
3. If you are unable to be present at your scheduled time, please contact Planning Panels Victoria as soon as possible.
4. If you have any questions about the timetable, please contact the Panel Coordinator on (03) 8624 5712.