



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

28 October 2022

Dear Party

Greater Geelong Planning Scheme Amendment C434ggee: Geelong Saleyards

The Panel held a Directions Hearing for the above matter on 27 October 2022 by video conference. Please find attached:

- Panel Directions
- Distribution List
- Hearing Timetable.

The following dates apply:

Time	Date	Action	Direction
12 noon	Friday, 4 November 2022	Council must supply the documents specified	16
1.30pm	Friday, 11 November 2022	Accompanied site visit	9
12 noon	Monday, 14 November 2022	Council must circulate its Part A submission	18
12 noon	Monday, 21 November 2022	All parties must circulate Expert witness reports	23
12 noon	Thursday, 24 November 2022	Council must circulate its Part B submission	19
10 am	Monday, 28 November 2022	Hearing commences	

Declarations

The Panel made the following declarations

- Member McFarlane was employed at the City of Greater Geelong from 1999-2001 and with Department of Environment, Land Water and Planning, Barwon South West Region (and its predecessors) from 2002-2018 and previously resided in the City of Greater Geelong.
- Mr Hartigan is a member of Bellarine Bayside Foreshore Committee of Management.

The parties made no comments on these declarations.

The Panel made no other declarations.

Privacy Statement

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Procedural matters

Hearing format

The Panel sought the view of the parties regarding whether the Hearing should be held in person or as a hybrid hearing (a hybrid hearing is a combination of in person and video conference). Council confirmed its preference for an in person hearing only. As all parties attending the Directions Hearing agreed to attend in person, the Panel has decided to proceed in this format. Planning Panels Victoria will liaise with Submitter 5 to confirm if video conference arrangements need to be made for Day 2 of the Hearing.

Site visit

The Panel confirmed that it will undertake a site visit before the Hearing starts. Council indicated the Panel might benefit from an accompanied inspection. The Panel invites all parties to attend the site inspection (refer to Directions 9, 10 and 11).

Notice

On 27 September 2022 in considering the submissions to the Amendment pursuant to section 23 of the *Planning and Environment Act 1987*, Council resolved as follows:

That Council having considered all submissions on Amendment C434ggee Geelong Saleyards resolves to:

- 1. Request the Minister for Planning to appoint an independent Panel under Part 5 of the Planning and Environment Act 1987 to consider submissions relating to the Amendment*
- 2. Refer all submissions to the Panel*
- 3. Submit to the Panel its response to the submissions generally as outlined in this report*
- 4. Advise the Panel that Council supports high density development within this precinct of up to 10 storeys, subject to appropriate design and siting outcomes and all applications above 6 storeys requiring a planning notice process.*

The Panel directed Council to explain its resolved position in its Directions Hearing letter dated 7 October 2022.

In response to that Direction, Council advised further public notice of the Amendment is not required because its resolution does not seek to allow something not already permissible under the exhibited planning provisions. Council circulated its response to the Panel's Direction to all submitters.

The Panel invited a representative of DELWP to attend the Directions Hearing to provide commentary on this issue, as it considered necessary. Mr Kim McGough, Manager, Regional Planning Services, Barwon South West Region, attended the Directions Hearing.

The Panel sought the view of parties and DELWP on whether further notice of the Amendment should be given in response to Council's resolution of 27 September 2022. All agreed with Council's position.

The Panel confirmed it would not make Directions requiring further notice of the Amendment prior to the Hearing.

Amendment documents

Council confirmed 'Day 1' Amendment documents were in preparation to give effect to Council's resolution of 27 September 2022. Circulation of Day 1 document is required prior to filing of Council's Part A Submission and all Expert Witness Statements.

Submission from Fire Rescue Victoria

Fire Rescue Victoria submitted a request to be heard. During the Directions Hearing, Fire Rescue Victoria confirmed it did not require time to be allocated for it be heard at the Hearing.

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

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Alison McFarlane', with a long horizontal flourish extending to the right.

Alison McFarlane
Panel Chair

Panel Directions

Greater Geelong Planning Scheme Amendment C434ggee:
Geelong Saleyards

Hearing administration

1. Council must host the Hearing.
2. Council must host and manage an online document sharing platform.

Circulation and sharing of documents

3. Documents must be circulated electronically to all parties on the distribution list.
4. Council (if relevant) must upload circulated documents to the document sharing platform as soon as practicable or provide a mechanism for parties to upload directly.
5. Files should not exceed 20MB in size. Documents larger than 20MB should be broken down into smaller files less than 20MB.
6. File names should be as short as possible.
7. Paper documents will only be permitted in exceptional circumstances. If any party has issues supplying documents electronically, they should contact Planning Panels Victoria.

Expert witness details

8. Any party who intends to call evidence must confirm its expert witness details and provide this information to all parties on the distribution list by **12 noon on Friday, 11 November 2022**.

Site visit

9. An accompanied site visit will commence at **1.30pm on Friday, 11 November 2022**.
10. Parties intending to attend the accompanied site visit must nominate attendees by **12 noon on Monday, 7 November 2022**.
11. Council must coordinate the accompanied site visit and provide an itinerary to parties by **12 noon on Wednesday, 9 November 2022**. The itinerary should identify the nominated meeting point, inspection locations, estimated finishing time and other details as required.

Submissions and information

12. Parties must present material at the Hearing electronically.
13. Unless other side directed, 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.
14. A party who intends to supplement their original submission (without orally presenting that submission) must circulate their written submission to parties on the distribution list by **12 noon on Thursday, 24 November 2022**.
15. All information presented at the Hearing is a public document for the purposes of the Panel process unless the Panel directs otherwise.

Council

16. Council must provide the following documents to parties on the distribution list by **1.30pm on Friday, 11 November 2022**:
 - a) Day 1 version of the Amendment to show changes in response to:
 - Council's resolution of 27 September 2022
 - Amendment C417ggee revisions to the Planning Policy Framework.

17. Council must provide the Panel with a plan showing the location of submitters (including any late accepted submitters) by **12 noon on Friday, 11 November 2022**. The plan should identify submitters by submitter number, and not by name.
18. Council must circulate a Part A submission to parties on the distribution list by **12 noon on Monday, 14 November 2022** that includes:
 - a) background to the Amendment including chronology of events
 - b) strategic context and assessment
 - c) an explanation of the Amendment drafting having regard to relevant Planning Practice Notes, Ministerial Directions and A Practitioner’s Guide to Victoria’s Planning Schemes
 - d) other amendments that may be under preparation or recently approved that may impact on the Amendment
 - e) current permit applications that may impact on the Amendment
 - f) a summary of the main issues raised in submissions (but not a response to those issues – that will be dealt with in the Part B submission)
 - g) any changes Council proposes to make to the Amendment in response to submissions
 - 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.

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.

19. Council must circulate a written **Part B submission** to parties on the distribution list by **12 noon on Thursday, 24 November 2022**, including:
 - a) its response to submissions and evidence
 - b) its final position on the Amendment.
20. Council will be provided time to present a closing submission.
21. The closing submission must not raise new matters but should respond to matters raised in other parties’ submissions or evidence.

Witness reports

22. A witness report must:
 - a) comply with the Guide to 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, 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.
23. All parties must circulate their witness reports to parties on the distribution list by **12 noon on Monday, 21 November 2022**.

Evidence and cross examination

24. 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*.
25. 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.
26. 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.

27. Parties, advocates and the Panel may question a witness.
28. 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.
29. 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.
30. 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.
31. The Panel will regulate cross-examination.

Recording Hearings and use of personal information

32. Parties must not record any part of an electronic hearing by any means without permission from the Panel.
33. 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.
34. 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.
35. Parties must not record, keep, distribute or publish contact details of any other party obtained during an electronic hearing session, or use those contact details for any purpose other than for the Hearing.

Compliance with Panel directions

36. 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*]
37. 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 and Parties with at least 24 hours' 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.
38. 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

Greater Geelong Planning Scheme Amendment C434ggee:
Geelong Saleyards

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
Greater Geelong City Council	terry.montebello@maddocks jun.yu@maddocks.com.au lkrasas@geelongcity.vic.gov.au
Leaf Corporation	planning1@rigbycooke.com.au
Fire Rescue Victoria	tony.field@frv.vic.gov.au
Leo Murphy	darleo2020@gmail.com

Timetable

Greater Geelong Planning Scheme Amendment C434ggee:
Geelong Saleyards

Timetable Version 1

Day 1: Monday 28 November 2022

Venue: City of Greater Geelong, Podium Room 2, Wurriki Nyal, 137-149 Mercer Street, Geelong

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 4.30pm	City of Greater Geelong represented by Terry Montebello of Maddocks, calling the following expert evidence: <ul style="list-style-type: none">- Affordable Housing from Dr Marcus Spiller of SGS Economics and Planning- Urban Design from Amanda Roberts of LatStudios	-	1 day
11.15am – 11.30am	Break		15 mins
12.30pm – 1.30pm	Lunch break		1 hour
3.15pm – 3.30pm	Break		1 hour
4.30pm	Day close		

Day 2: Tuesday 29 November 2022

Venue: City of Greater Geelong, Podium Room 2, Wurriki Nyal, 137-149 Mercer Street, Geelong

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 10.25am	Leo Murphy	5	10 mins
10.25am – 4.30pm	Leaf Corporation represented by Nick Tweedie SC and Jordan Wright of Counsel, instructed by Rigby Cooke Lawyers, calling the following expert evidence: <ul style="list-style-type: none">- Planning from TBC- Economics from TBC- Traffic from TBC- Infrastructure from TBC	7, 7a	2.8 days
11.15am – 11.30am	Break		15 mins
12.30pm – 1.30pm	Lunch break		1 hour
3.15pm – 3.30pm	Break		1 hour
4.30pm	Day close		

Day 3: Wednesday 30 November 2022

Venue: City of Greater Geelong, Podium Room 2, Wurriki Nyal, 137-149 Mercer Street, Geelong

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 11.15am	Leaf Corporation	7, 7a	2.8 days
11.15am – 11.30am	Break		15 mins
12.30pm – 1.30pm	Lunch break		1 hour
3.15pm – 3.30pm	Break		1 hour
4.30pm	Day close		

Day 4: Thursday 1 December 2022

Venue: City of Greater Geelong, Podium Room 2, Wurriki Nyal, 137-149 Mercer Street, Geelong

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 11.15am	Leaf Corporation	7, 7a	2.8 days
11.15am – 11.30am	Break		15 mins
12.30pm – 1.30pm	Lunch break		1 hour
3.15pm – 3.30pm	Break		1 hour
4.00pm – 4.30pm	Council closing		30 mins
4.30pm	Day close		

Day 5: Friday 2 December 2022

Venue: City of Greater Geelong, Podium Room 2, Wurriki Nyal, 137-149 Mercer Street, Geelong

Time	Party	Sub No	Allocated
10.00am – 1.00pm	Reserved		

Hearing Timetable Notes:

1. The Panel may amend the timetable without notice.
2. Please be present 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 Panel Coordinator on (03) 8624 5712.