



Planning Panels Victoria

Department of Transport and Planning

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13 May 2024

Dear Party

Precincts Standing Advisory Committee Referral 1: Fishermans Bend Infrastructure Funding Planning Scheme Amendment

The Committee has held Directions Hearings for the above matter on 15 and 30 April and 8 May 2024 at Planning Panels Victoria with online video access. Since the second Directions Hearing, Sarah Carlisle is no longer available due to the Hearing being adjourned to November 2024. Con Tsotsoros is now the Chair.

Please find attached revised Committee Directions and Distribution List.

Members

Committee members Con Tsotsoros (Chair), Meredith Gibbs, Geoff Underwood, and Sally Conway will consider this referral.

The Chair declared he is one of the organisers of the 2024 Planning Institute of Australia National Planning Congress. Ms Lowcock of Melbourne City Council is a speaker for the tour the Chair is organising. No party raised concern with this declaration.

Key dates

The following dates apply:

Time	Date	Actions for filing and other matters	Direction
12 noon	Wednesday, 15 May 2024	Department of Transport and Planning Precincts (Proponent) background documents and other information	5
12 noon	Wednesday, 15 May 2024	Proponent joint expert meeting proposal	11
12 noon	Friday, 21 June 2024	Proponent expert reports on land valuation	8.a)(i)
12 noon	Wednesday, 3 July 2024	Proponent Part A (background and context) submission	6
12 noon	Monday, 8 July 2024	Other parties' expert reports on land valuation	8.a)(ii)
12 noon	Monday, 15 July 2024	Joint expert statement on land valuation	16
12 noon	Monday, 22 July 2024	Proponent OSU ratios and modelling expert report	8.b)(i)
12 noon	Monday, 12 August 2024	Other OSU ratios and modelling expert reports	8.b)(ii)
12 noon	Monday, 19 August 2024	Joint expert statement on OSU ratios and modelling	16.b)
12 noon	Monday 2 September 2024	Proponent revised OSU modelling report and shadow analysis	17
12 noon	Monday, 9 September 2024	All other Proponent expert reports	8.c)(i)

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



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12 noon	Monday, 9 September 2024	Proponent: - Version 1 of Amendment documentation and DCP - OSU modelling presentation - any updated response to submissions	18
12 noon	Monday, 16 September 2024	Melbourne Water Part A (background and context) submission	7
12 noon	Monday, 23 September 2024	Expert reports (other than OSU ratios and land valuation) from parties other than the Proponent	8.c)(ii)
12 noon	Monday, 30 September 2024	Proponent reply to like-expert reports	10
12 noon	Monday, 14 October 2024	Joint expert statements on matters other than land valuation and OSU ratios and modelling	16.c)
12 noon	Wednesday, 30 October 2024	Parties presenting opening submissions: - opening submissions - Version 1 of Amendment documentation - documents to be presented on Day 1	19, 22, 23
10 am	Wednesday, 6 November 2024	Hearing commences	
12 noon	One business day before starting theme	Issues identification statements for relevant theme	25
12 noon	Friday, 31 January 2025	Comments on final drafting	37

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

Yours sincerely



Con Tsotsoros
Committee Chair

Filing documents

1. Proponent must host and manage online document sharing. The document sharing platform must allow parties 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 must be as short as possible and be named in accordance with the following:
[Party name] - [Document Title].
 - c) If tabling more than 10 documents at once, all documents must 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 filed.
4. All information presented to the Committee for the purposes of the Committee process is a public document solely for that purpose unless the Committee 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 Committee may not accept the 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 Committee 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.

Documents will be removed from the document sharing platform 4 weeks after the Committee submits its report.

Before the Hearing

Background information

5. Proponent must file the following documents by 12 noon on Wednesday, 15 May 2024:
 - a) a map showing the location of properties the subject of submissions (including any late accepted submissions) for the use of the Committee which must:
 - (i) identify submitters by submitter number, and not by name
 - (ii) be provided only to the Committee
 - b) all background documents that it seeks to rely upon that have not already been provided as part of Document 39, including the built form modelling and analysis that informed the OSU mechanism as reflected in the exhibited material
 - c) a table which specifies for each individual project included in the draft Development Contribution Plan (DCP) the relevant document that explains or supports the cost estimate for that project
 - d) a list of all existing planning approvals and section 173 agreements which provide for development contributions within the Fishermans Bend Precinct, together with:
 - (i) a locational plan identifying the affected properties

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- (ii) a copy of each of the section 173 agreements.

Part A (background and context) submissions

6. The Proponent must file a Part A (background and context) submission by 12 noon on Wednesday, 3 July 2024 that includes or is accompanied by the following information:
 - a) a summary of the strategic context, including:
 - (i) relevant planning policies and provisions
 - (ii) other amendments that may be under preparation or recently approved that may impact on the Amendment
 - (iii) current permit applications and planning scheme amendment applications that may impact on the Amendment and an indication of current application activity in the Fishermans Bend Urban Renewal Area
 - b) a summary of the consultation undertaken in relation to the draft DCP and Amendment
 - c) a submissions summary table that summarises the issues raised in submissions (organised by issue rather than by submitter), and Proponent response including:
 - (i) identification of which submissions raised the issue
 - (ii) any resolved issues
 - (iii) any proposed alterations to the draft DCP and Amendment in response to the issue
 - d) a report that:
 - (i) identifies any mapping discrepancies between maps in the draft DCP, the proposed DCP Overlay maps and the area currently included within the ICP Overlay, and explains how they are to be resolved
 - (ii) lists any infrastructure items included in the draft DCP (as exhibited) that are located outside the DCP area
 - e) a report that:
 - (i) identifies any spatial changes to the maps (other than minor realignments or minor mapping changes) in the existing Capital City Zone and Design and Development Overlay schedules proposed to be changed by the Amendment (including open space, streets and laneways)
 - (ii) explains the rationale and supporting analysis for such changes.
 - f) an explanation of the process that will be used for the eventual acquisition of land for DCP projects, including at a minimum:
 - (i) the legislative provisions that will be used
 - (ii) how valuations in the DCP might be relevant (if at all) in any future compensation processes where land is compulsorily acquired
 - g) the shadow analysis modelling that informed the Open Space Uplift Study (document 42a) and the shadow analysis requested in City of Melbourne's email to the Proponent dated 29 April 2024
 - h) an explanation of how the exhibited OSU ratios were derived, including the valuation principles for OSU properties, the assessed or assumed market value of the open space land, all key assumptions and any site-specific testing of the OSU ratios
 - i) an explanation of how existing approvals have been accounted for when preparing the DCP
 - j) an analysis, at a property, precinct and DCP scale, of the impacts of existing development and development proceeding in accordance with existing approvals on:
 - (i) the collection of DCP levies under the DCP
 - (ii) the provision and embellishment of open space.

Note: The analysis should include all sites in the DCP area, including those that have made contributions and those that are required to make a contribution under an existing approval, and identify the total gap in the collection of levies arising from existing and approved development. Where levies can be offset against the

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value of open space contributions, a range should be provided to show the possible outcomes under existing approvals.

7. Melbourne Water must file a Part A (background and context) submission by 12 noon on Monday, 16 September 2024 that addresses drainage infrastructure design and costings and flood modelling, including whether any future changes are anticipated.

Note

The Part A (background and context) submissions will be taken as read. Proponent and Melbourne Water should allow time for questions on Day 1 of the Hearing.

Expert reports

8. Expert reports must be filed as follows:
- a) Land valuation:
 - (i) Proponent expert report by 12 noon on Friday, 21 June 2024
Note: The land valuation expert report must include the value of land to be funded by the DCP and the value of all OSU sites
 - (ii) other land valuation expert reports by 12 noon on Monday, 8 July 2024
 - b) OSU ratios and modelling:
 - (i) Proponent expert report by 12 noon on Monday, 22 July 2024
Note: this includes any written material on OSU ratios and modelling to be provided by Proponent's officers as part of Proponent's submission
 - (ii) other OSU ratios and modelling expert reports by 12 noon on Monday, 12 August 2024
 - c) All other expert reports:
 - (i) Proponent experts by 12 noon on Monday, 9 September 2024
 - (ii) other expert reports by 12 noon on Monday, 23 September 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.

Reply to expert reports

10. An expert called by the Proponent who has not participated in a joint meeting of experts can provide a response to other like-reports by 12 noon on Monday, 30 September 2024.

Expert meetings

11. The Proponent must consult with all parties calling witnesses and circulate a proposal for joint expert meetings by 12 noon on Wednesday, 15 May 2024 which suggests:
- a) themes that would benefit from a joint expert meeting
 - b) whether, and if so which, government agencies should be represented at each recommended meeting.
12. Expert witnesses in the following areas must meet to prepare a Joint Expert Statement setting out opinions and facts on which the experts agree and disagree:
- a) land valuation
 - b) other subject areas to be confirmed by the Committee, following receipt of the Proponent's proposal under Direction 11.
13. Each meeting is to be chaired by the relevant Proponent expert and can be attended only by:

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- a) the experts being called at the Hearing
- b) relevant staff from the government agencies (if any) as directed by the Committee in advance of the meeting
- c) a non-participating note taker if necessary.

Advocates or parties instructing the experts must not attend the meeting(s).

14. If any expert witness is instructed not to reach agreement in respect of points of difference, the expert must report those instructions in writing to the Committee and all parties.
15. Each statement of agreed opinions and facts:
 - a) must list the relevant participants in attendance
 - b) must note if any participant is not present for any significant discussion point
 - c) must record the facts and opinions agreed and not agreed in respect of each issue and the reasons for any disagreement
 - d) should be fewer than five pages with numbered paragraphs
 - e) should not restate content in the expert report – it can be cross-referenced in the agreed statement if required
 - f) must be signed by all participants.
16. Each Joint Expert Statement must be filed as follows:
 - a) land valuation by 12 noon on Monday, 15 July 2024
 - b) if required, OSU ratios and modelling by 12 noon on Monday, 19 August 2024
 - c) if required, other matters by Monday, 14 October 2024.

Updated OSU documents

17. The Proponent must file any revised OSU modelling report and shadow analysis, consequent on any revisions to the OSU ratios arising from the land valuation and/or OSU expert reports by 12 noon on Monday, 2 September 2024.

Version 1 documents and updated submissions summary table

18. The Proponent must file the following by 12 noon on Monday, 9 September 2024:
 - a) a Version 1 of the draft DCP and Amendment documentation. Version 1 must:
 - (i) show any suggested changes in response to submissions
 - (ii) be marked up against the exhibited version
 - (iii) be labelled 'Proponent Version 1 – [Clause X/Document title]'
 - (iv) be in an editable format such as MS Word
 - b) OSU modelling presentation
 - c) an updated submissions summary table (tracked against the background version).
19. Any other party who intends to seek changes to the draft DCP and Amendment documentation must file a Version 1 of the documentation by 12 noon on Wednesday, 30 October 2024. Version 1 must:
 - a) show any suggested changes reflecting their position
 - b) be marked up against the exhibited version
 - c) be labelled '[Party] Version 1 – [Clause X/Document title]'
 - d) be in an editable format such as MS Word.

At the Hearing

20. The Proponent must provide administrative support to manage the Hearing.

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Note

This may include configuring a video conference meeting, publishing links to the Hearing online, issuing direct invitations to participants (including the Committee, parties and experts) and providing technical support. It may also include managing the document sharing platform and making audio recordings of sessions if directed by the Committee.

Presenting material

21. Submissions, presentations and other material presented to the Committee must:
- be presented electronically
 - be filed by 12 noon on the business day before the material is to be presented or as otherwise specified in these Directions
 - relate to the matters before the Committee
 - include a summary of fewer than 5 pages if the material is more than 40 pages.

Opening submissions

22. Parties identified in the timetable must file an opening submission by 12 noon on Wednesday, 30 October 2024 that addresses the following:
- an overview of the draft DCP and Amendment
 - the issues it intends to raise at the Hearing, grouped by key themes as outlined in Attachment A of these Directions.
23. Other parties presenting expert reports must file an opening statement by 12 noon on Wednesday, 30 October 2024 that briefly outlines the issues they intend to raise at the Hearing, grouped by key themes as outlined in Attachment A.

Expert reports and questions

24. Except for Port Phillip City Council and Melbourne Water, experts at the Hearing will be grouped according to the following themes:
- land valuation
 - OSU ratios and modelling
 - planning and drafting
 - development contributions.
25. For each theme:
- any party proposing to present expert reports or to ask questions of experts, must provide a high-level statement identifying the issues (in dot point form) it proposes through its expert reports or questions
 - the Committee prefers written statements but may accept verbal statements in exceptional circumstances
 - written statements must be filed by 12 noon one business day before the first relevant theme day
 - verbal statements must be presented at the start of the relevant theme before any expert presents.
26. Unless agreed by the Chair, each expert must present a summary of their report in less than 30 minutes. This time allocation may be reduced for timetabling reasons.
27. An expert may refer to a report summary presentation at the Hearing, but it must:
- not include new information
 - be filed by 12 noon the business day before that witness is scheduled to appear.
28. If online, an expert witness must:

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- a) be alone in the room from which they appear and not make or receive any communication with another person except with permission from the Committee
- b) inform the Committee immediately should another person enter the room
- c) not discuss their report with any other person during breaks when being questioned by parties
- d) not have before them any document, other than their expert report and relevant supporting documents.

29. A party, advocate and the Committee may question an expert.

30. To ask an expert questions, a party must:

- a) be present for the whole of the expert giving their expert summary
- b) ask clear and relevant questions, directed to matters of fact or professional opinion, that genuinely assist the Committee in understanding the issues
- c) allow the expert time to explain their answer.

Notes

The Chair will regulate questions. During the Hearing, the Chair may ask you how much time you will need to question each witness, and will ask you to keep to your estimate. You should aim to finish as concisely as possible.

Question time may be limited.

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

Things to avoid when asking questions 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 expert report
- arguing with the witness
- commenting on the expert or their report
- asking questions that have already been asked by another party.

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

If you are not experienced in asking questions of experts, 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 ask experts questions, refer to the [PPV Website](#).

Main submissions

31. The Proponent must address the following in its Part B (main) submission or through its experts:

- a) its response to submissions, grouped by the key themes outlined in Attachment A
- b) a summary of recommendations from its experts, and its position on those recommendations
- c) its response to expert reports of other parties
- d) its final position on the draft DCP and Amendment.

32. Melbourne Water must address the following in its Part B (main) submission or through its experts:

- a) its response to submissions that relate to drainage and flood matters and related DCP infrastructure
- b) a summary of recommendations from its experts, and its position on those recommendations
- c) its response to expert reports of other parties
- d) its final position on the draft DCP and Amendment.

33. Other parties presenting expert reports must each address the following in their main submission or through their experts:

- a) a summary of recommendations from its experts, and its position on those recommendations

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- b) its response to expert reports of other parties
 - c) its final position on the draft DCP and Amendment.
34. 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](#).

Part C (closing) submissions

35. The Proponent, Melbourne Water, Melbourne City Council and Port Phillip City 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 experts.

Drafting changes

36. The Proponent must file its final preferred version of the DCP and Amendment documentation with its Part C (closing) submission. The final preferred version must:
- a) show changes proposed in response to expert reports or submissions presented at the Hearing
 - b) be marked up against the Proponent Version 1 (refer to Direction 18)
 - c) be labelled 'Proponent Part C (closing) version – Clause X/Document title'.
37. A party seeking to provide drafting comments on the Proponent Part C (closing) version of the DCP and Amendment documentation must file them by 12 noon on Friday, 31 January 2025. Their preferred versions must:
- a) be marked up against the Proponent final version (refer to Direction 36)
 - b) be labelled 'Proponent Part C (closing) version – Clause X/Document title'.
38. 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

39. A party must not record, keep, distribute or publish contact details of any other party obtained during the Committee process, or use those contact details for any other purpose.
40. A party must not record any part of a Hearing by any means without permission from the Chair.
41. 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.
42. 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 Committee process.

Note

Committee 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 Committee's letter dated 21 March 2024.

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At the Directions Hearing, the Committee presented the following preliminary list of key issues that it had identified based on its review to date of the referred submissions.

1 draft DCP – general issues

- 1.1 Whether the proposed 30-year timeframe is appropriate
- 1.2 The scope and timing of periodic reviews of the DCP
- 1.3 Whether the priorities and timings for delivery of DCP projects are appropriate
- 1.4 Whether the land use groups which trigger the levy are appropriate
- 1.5 Whether the method for levy indexation is appropriate
- 1.6 Whether the works-in-kind provisions are adequate
- 1.7 The interaction of the DCP with contributions already collected, and how that will be appropriately managed
- 1.8 Whether the DCP should include a governance model for using the collected DCP funds

2 Land valuation and land acquisition process

- 2.1 Whether the land valuations have been appropriately undertaken
- 2.2 Whether the DCP adequately deals with the land acquisition process, including how land will be acquired and whether the PAO should be applied through the Amendment

3 Operation and implementation of the proposed Open Space Uplift

- 3.1 Uncertainty with a voluntary mechanism
- 3.2 The scope and application of the Open Space Uplift, including its interaction with the Social Housing Uplift mechanism
- 3.3 Whether the uplift rates are appropriate
- 3.4 Whether the DCP levy should be paid on uplift dwellings

4 Proposed ‘master-planning’ approach to implementation of the DCP projects

- 4.1 Whether an integrated approach to infrastructure provision across the Urban Renewal Area will be achieved if smaller incorporated plans are approved prior to the finalisation of the three remaining Precinct Implementation Plans
- 4.2 Whether there is a need for this extra layer of smaller precinct master planning, in addition to the Precinct Implementation Plans
- 4.3 How the Incorporated Plan Overlay boundaries and their sub-precincts have been determined and whether this is appropriate

5 Contribution charge amount, operation and implementation

- 5.1 Whether applying a single DCP levy for residential and non-residential development across the entire Urban Renewal Area is appropriate
- 5.2 Whether the 3-in-1 contribution charge amount is too high and will discourage development
- 5.3 Whether it is appropriate to exclude a Community Infrastructure Levy (which is capped) and instead include all Community Infrastructure in the Development Levy
- 5.4 Whether the project costing methods, apportionments and outcomes are appropriate, including whether the flood and climate change modelling used by Melbourne Water to underpin costings of drainage infrastructure is appropriate
- 5.5 Whether a cap on the contribution charge will create a funding shortfall
- 5.6 How the funding shortfall will be met and how that will impact on the pace of development in Fishermans Bend
- 5.7 Whether a 15 per cent contingency is appropriate

6 The scope of essential infrastructure proposed to be included

- 6.1 Whether the projects in the DCP all qualify for inclusion in a DCP under the Ministerial Direction on Development Contributions
- 6.2 Whether further work to refine the list of DCP projects is required, including:
 - a. potentially rebalancing what is included in the three infrastructure categories
 - b. inclusion of additional projects
- 6.3 Whether design standards are appropriate (basic and essential)
- 6.4 Whether open space embellishment is appropriate (and if so what)
- 6.5 Whether projects are accurately described in the DCP

7 Drafting of the associated planning provisions

- 7.1 Whether the plans and maps in the DCP are accurate
- 7.2 Whether the DCP should be an Incorporated Document or a Reference Document
- 7.3 Whether the implementation of the DCP / Amendment and Precinct Implementation Plans will be appropriately integrated
- 7.4 Whether the DCP levy exemptions have been appropriately drafted
- 7.5 Whether Melbourne Water should be a determining referral authority for flood hazard in the Urban Renewal Area
- 7.6 Whether changes to the site-specific controls in the various Specific Controls Overlay schedules need to be considered after the Amendment is introduced into the Planning Scheme.