



Planning Panels Victoria

Department of Environment, Land, Water and Planning

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Melbourne Victoria 3000
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Melbourne, Victoria 3001
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18 October 2022

Dear Party

Boroondara Planning Scheme Amendment C284boro Part 2 36 Kooyongkoot Road Advisory Committee

The Committee held a Directions Hearing for the above matter on 13 October 2022 by video conference. Please find attached:

- Committee Directions
- Distribution List
- Hearing Timetable.

The following key dates apply:

Time	Date	Action	Direction
12 noon	Monday, 28 November 2022	Parties must confirm expert witness details	10
12 noon	Monday, 28 November 2022	Parties must agree on the list of documents to be referred to the Committee and Council must supply them	7
12 noon	Monday, 24 April 2023	Council must circulate its Part A submission	8
12 noon	Friday, 28 April 2023	Parties must circulate expert witness reports	11
12 noon	Thursday, 4 May 2023	Council must circulate its Part B submission	12
10 am	Monday, 8 May 2023	Hearing commences and accompanied site inspection	

Declarations

The Committee made no declarations.

Procedural matters

The Committee advised in its notice letter dated 27 September 2022 the Hearing was proposed to start on 28 November 2022. The landowner of 36 Kooyongkoot Road, Hawthorn sought in its request to be heard that the hearing dates be moved to March 2023 due to the availability of its Counsel who has been briefed over an extended period. Council did not object to a deferral of the hearing dates.

The Committee indicated it is not available in March 2023, and suggested the parties find two consecutive hearing dates either before March, or in April 2023. The landowner confirmed its legal Counsel was not able to find two consecutive hearing days before the week of 8 May 2023. The Committee requested the parties separately discuss hearing dates and following the Directions Hearing it was confirmed all party's legal representatives were available in the week of 8 May 2023.

Privacy Statement

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The Committee has listed the matter for 3 days on 8, 9 and 10 May 2023. The Committee intends to utilise the afternoon of 8 May 2023 to undertake an accompanied site inspection.

The Hearing will be conducted from Planning Panels Victoria's hearing rooms at 1 Spring Street, Melbourne with the option to also attend by video. The Microsoft Teams link is included in the attached timetable.

If you have questions, please contact Chris Brennan, Senior Project Officer of Planning Panels Victoria on [REDACTED] or planning.panels@delwp.vic.gov.au.

Yours sincerely



SARAH RASO
Committee Chair

Committee Directions

Boroondara Planning Scheme Amendment C284boro Part 2
36 Kooyongkoot Road Advisory Committee

Hearing administration

1. Council must host and manage online document sharing.

Circulation and sharing of documents

2. Documents must be circulated electronically to all parties on the distribution list.
3. Council must upload circulated documents to the document sharing platform as soon as practicable or provide a mechanism for parties to upload directly.
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.
7. Parties must agree on a list of documents to be provided to the Committee including Amendment material and any background reports and Council must provide copies to parties on the distribution list by **12 noon on Monday, 28 November 2022**.

Council Part A submission

8. Council must circulate a Part A submission to parties on the distribution list by **12 noon on Monday, 24 April 2023** that includes but is not limited to:
 - a) background to Amendment C284boro Part 2 including chronology of events
 - b) strategic context and assessment
 - c) summary of issues identified in submissions which relate to 36 Kooyongkoot Road, Hawthorn
 - d) 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 Committee in its consideration of the Amendment.

Note: Council's Part A submission will be taken as read by the Committee at the Hearing. Council should allow time for questions about its Part A submission on Day 1.

Witness reports

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 Committee as an unlocked document.
10. Parties calling evidence must confirm the area of expertise, name and organisation of experts by **12 noon on Monday, 28 November 2022**
11. Parties must circulate their witness reports to parties on the distribution list by **12 noon on Friday, 28 April 2023**.

Council Part B submission

12. Council must circulate a Part B submission to parties on the distribution list by **12 noon on Thursday, 4 May 2023** that includes:
 - a) its response to submissions and evidence

- b) its final position on the Amendment.

At the Hearing

Submissions and information

- 13. Parties must present material at the Hearing electronically.
- 14. 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.
- 15. All information presented at the Hearing is a public document for the purposes of the Committee process unless the Committee directs otherwise.

Evidence and cross examination

- 16. 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.
- 17. Parties, advocates and the Committee may question a witness.
- 18. During the Hearing, for scheduling purposes, the Committee 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.
- 19. 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 Committee in understanding the issues
 - c) allow a witness time to explain their answer.
- 20. 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 Committee
 - b) inform the Committee 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.
- 21. The Committee will regulate cross-examination.

Other information

- 22. Any other material a party wishes to present at the Hearing must be circulated to parties on the distribution list by **12 noon on the day before** the information is to be relied on at the Hearing.
- 23. After presenting to the Committee, submissions and other material (preferably in MS Word) should be emailed to planning.panels@delwp.vic.gov.au as an unlocked document.
- 24. All information presented at the Hearing is a public document unless the Committee directs otherwise.

Closing submissions

- 25. Council will be provided time to present a closing submission.

26. 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

27. Parties must not record any part of an electronic hearing by any means without permission from the Committee.
28. 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 Committee at least five business days before the commencement of the Directions Hearing, outlining its reasons.
29. 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.
30. 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 Committee directions

31. 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*]
32. If you anticipate being unable to comply with a direction (for example, meeting a deadline for the circulation of evidence), you must provide the Committee with advance notice, and a written statement explaining why you are unable to comply with the direction, and seek leave from the Committee to vary the direction.
33. The Committee 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

Boroondara Planning Scheme Amendment C284boro Part 2
36 Kooyongkoot Road Advisory Committee

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

Electronic documents

Party	email address
Planning Panels Victoria	planning.panels@delwp.vic.gov.au
Boroondara City Council	[REDACTED]
Susan Lachal	[REDACTED]

Timetable

Boroondara Planning Scheme Amendment C284boro Part 2
36 Kooyongkoot Road Advisory Committee

Timetable Version 1

Day 1: Monday 8 May 2023

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

Microsoft Teams meeting link: [Click here to join the meeting](#)

Time	Party	Allocated
10.00am – 10.15am	Preliminary matters	15 mins
10.15am – 11.15am	Boroondara City Council (Council) represented by John Rantino of Maddocks, calling the following expert evidence: <ul style="list-style-type: none">- Heritage from Mark Stephenson of Trethowan	1.5 hours
11.15am – 11.30am	Break	15 mins
11.30am – 12.00pm	Council cont.	
12.00pm – 2.00pm	Lunch break / travel to site	2 hours
2.00pm – 3.00pm	Accompanied site inspection of 36 Kooyongkoot Road, Hawthorn	1 hour
3.00pm	Day close	

Day 2: Tuesday 9 May 2023

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

Microsoft Teams meeting link: [Click here to join the meeting](#)

Time	Party	Allocated
10.00am – 10.15am	Preliminary matters	15 mins
10.15am – 11.15am	Susan Lachal , represented by Peter O’Farrell of Counsel, instructed by Nick Sutton of Norton Rose Fulbright, calling the following expert evidence: - Heritage from TBC	6 hours
11.15am – 11.30am	Break	15 mins
11.30am – 12.30pm	Susan Lachal cont.	
12.30pm – 1.30pm	Lunch break	1 hour
1.30pm – 3.15pm	Susan Lachal cont.	
3.15pm – 3.30pm	Break	15 mins
3.30pm – 4.30pm	Susan Lachal cont.	30 mins
4.30pm	Day close	

Day 3: Wednesday 10 May 2023

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

Microsoft Teams meeting link: [Click here to join the meeting](#)

Time	Party	Allocated
10.00am – 10.15am	Preliminary matters	15 mins
10.15am – 11.30am	Susan Lachal cont.	
11.30am – 11.45am	Break	15 mins
11.45am – 12.15pm	Council closing submission	30 mins
12.15pm	Day close	

Hearing Timetable Notes:

1. The Committee 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 Chris Brennan, Senior Project Officer of Planning Panels Victoria on [REDACTED] or email planning.panels@delwp.vic.gov.au.
6. Planning Panels Victoria 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.