



# Planning Panels Victoria

Department of Transport and Planning

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

19 September 2023

Dear Party

## Priority Projects Standing Advisory Committee Referral 36: Cabrini Hospital, Malvern

The Committee held a Directions Hearing for the above matter on 14 September 2023 at Planning Panels Victoria with online video access. Please find attached:

- Committee Directions
- Distribution List
- Hearing Timetable.

Sarah Carlisle, Deputy Chair, has been appointed to Referral 36 to consider issues raised regarding the covenant removal process. Member Carlisle introduced herself at the Directions Hearing.

Since the Directions Hearing, the Committee found time in the afternoon of 3 November 2023 for submissions on principles and process for removing the covenant, rather than setting aside a separate day for this.

The following dates apply:

Time	Date	Actions for filing and other matters	Direction
12 noon	Friday, 22 September 2023	Confirm expert witness/representative details	1
12 noon	Friday, 29 September 2023	Traffic Impact Assessment (GTA Consultants, 2015)	6
12 noon	Monday, 9 October 2023	Proponent Part A (background and context) submission	7
12 noon	Monday, 16 October 2023	Expert witness reports	8
2pm	Thursday, 19 October 2023	Accompanied site inspection	10
12 noon	Monday, 23 October 2023	Documents or material to be presented on Day 1 of the Hearing	14
12 noon	Monday, 23 October 2023	Proponent Part B (main) submission and 'Version 1' amendment documentation and permit conditions	15
10am	Tuesday, 24 October 2023	Hearing commences	-
12 noon	Wednesday, 8 November 2023	Proponent (Version 2) drafting changes	27
12 noon	Monday, 13 November 2023	Any party drafting changes	28
12 noon	Thursday, 16 November 2023	Part C (closing) submissions	26
12 noon	Thursday, 16 November 2023	Proponent response (Version 3) to drafting changes requested by parties	29
11am	Friday, 17 November 2023	Drafting discussion	30

### 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 Director, Privacy And Information Access, Department of Transport and Planning.

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The Committee made no declarations.

### Hearing details

The Hearing will be heard in person at:  
Hearing Room 2, Ground floor, 1 Spring Street, Melbourne

If you are unable to be there in person, you can appear by video through: [Click here to join the meeting](#)

If you have questions, please contact Georgia Brodrick, Project Officer, Planning Panels Victoria on [REDACTED]  
[REDACTED] [planning.panels@delwp.vic.gov.au](mailto:planning.panels@delwp.vic.gov.au).

Yours sincerely



**CON TSOTSOROS**  
Committee Chair

## Confirmation of expert witness and representative details

1. Parties who did not confirm details of their expert witnesses or representatives by 12 September 2023, must provide them to Planning Panels Victoria by 4pm on Friday 22 September 2023.

## Filing documents

2. The Proponent must host and manage online document sharing. The document sharing platform must allow parties to upload documents directly.
3. Documents must be circulated electronically by uploading them to the document sharing platform. When uploading documents, parties must email all parties on the distribution list to inform them of the document(s) that have been uploaded. Use of the blind carbon copy (BCC) field is preferred when sending emails to the distribution list.
4. Documents must meet the following requirements:
  - a) Files exceeding 20MB in size must be provided through a fileshare link (for example, DropBox or OneDrive) or broken into parts less than 20MB each.
  - 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 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.
5. Paper documents will only be permitted in exceptional circumstances. If any party has issues supplying documents electronically, they should contact Planning Panels Victoria.

### Notes

All information presented to the Committee for the purposes of the Committee process is a public document unless the Committee directs otherwise. For more information on how your submission will be used, refer to the [PPV Website](#).

If you do not file documents by the specified time, the Committee 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 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.

## Before the Hearing

### Further information

6. The Proponent must file by 12 noon on Friday, 29 September 2023, a copy of the Traffic Impact Assessment (GTA Consultants, 2015) for the then proposed development of the Gandel Wing referred to in section 5.1 of the Traffic Engineering Assessment (Salt<sup>3</sup>, 6 December 2022).

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

7. The Proponent must file a Part A (Background and context) submission by 12 noon on Monday, 9 October 2023 that includes:
  - a) a summary of the physical context of the subject land and surrounds
  - b) background to the Amendment and permit including chronology of events
  - c) a summary of the strategic context, including:
    - (i) relevant planning policies and provisions

**Directions:**

- (ii) any other recently approved or upcoming amendments that might impact on the Amendment and permit
- d) a summary of any permit applications or recently granted permits that might impact on the proposal
- e) a summary of the issues raised in submissions, including an explanation of which (if any) of those issues have been resolved and how

**Native vegetation**

- f) where relevant, a plan identifying any tree with either:
  - (i) a trunk circumference of 140 centimetres or greater measured at 1.4 metres above its base
  - (ii) a total circumference of all its trunks of 140 centimetres or greater measured at 1.4 metres above its base
  - (iii) a trunk circumference of 180 centimetres or greater measured at its base, or
  - (iv) a total circumference of all its trunks of 180 centimetres or greater measured at its base
- g) the plan must colour code trees:
  - (i) which will remain on the subject land
  - (ii) proposed to be removed and not subject to Clause 52.17 (Native vegetation)
  - (iii) proposed to be removed and will need a planning permit under Clause 52.17
- h) any arborist report prepared to assess the condition of any native vegetation proposed to be removed
- i) if an arborist report has not been prepared, an explanation why it has not been done and whether one should be completed before the permit is issued

**Restrictive covenant**

- j) a plan showing all the land benefitting from the restrictive covenant (Benefitting Land)
- k) a plan showing the extent of direct notice given in relation to the draft Amendment
- l) confirmation whether the notice obligations under sections 19(1)(ca) and 19(2A) of the PE Act have been met.

**Note**

The Proponent's background and context submission will be taken as read. The Proponent should allow time for questions on Day 1 of the Hearing.

**Expert witness reports**

- 8. Expert witness reports must be filed by 12 noon on Monday, 16 October 2023.
- 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.

**Accompanied site inspection**

- 10. There will be an accompanied site inspection at 2pm on Thursday, 19 October 2023.
- 11. Any party seeking to participate in the accompanied site inspection, must confirm their attendance with Planning Panels Victoria by 12 noon on Monday, 16 October 2023. The inspection will be limited to one representative for each party, except for the Proponent and Council.
- 12. The Proponent is to file further details including a map showing the meeting point and indicative inspection route by 12 noon on Wednesday 18 October 2023.
- 13. There must be no discussion about the merits of the proposal during the inspection.

## At the Hearing

### Presenting material

14. Submissions, presentations and other material presented to the Committee:
  - a) must be presented electronically
  - 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 Committee
  - d) must include a summary of fewer than 5 pages if the material is more than 40 pages.

### Proponent Part B (main) submission

15. The Proponent is to provide an overview of the proposal on Day 1 that includes any three-dimensional modelling, if available.
16. The Proponent must address the following issues in its Part B (main) submission or through evidence:
  - a) its response to submissions and evidence
  - b) its final position on the Amendment and permit.

#### **Built form and heritage**

- c) How the proposed site layout including built form orientation has sought to minimise offsite impacts and sensitively interface with abutting residential area.
- d) How demolishing a heritage house which contributes to the Coonil Estate Precinct (HO375) and constructing the proposed building will affect the significance of the overall precinct.

#### **Traffic and parking**

- e) Traffic volume capacity of local streets which may be affected by the proposal.
- f) How traffic generated by the proposal may impact the surrounding road network.
- g) How hospital staff, patients and visitors are expected to travel to and from the subject land and how this may affect onsite and offsite parking.

#### **Restrictive covenant**

- h) The principles that apply when assessing an amendment to authorise removal of a covenant.
- i) An assessment of the Amendment against those principles.

*Note: Panel reports which consider these principles include Mornington Peninsula C46 [2004] PPV, Manningham C112 [2017] PPV, Hobsons Bay C116 Part 2 [2018] PPV.*

17. The Proponent must file a Version 1 of the Amendment/permit documentation by 12 noon on 20 October 2023. Version 1 must:
  - a) show any suggested changes in response to submissions
  - b) be marked up against the exhibited version
  - c) be labelled 'Proponent Version 1 – Clause X'
  - d) be in an editable format such as MS Word.

### Other party submissions

18. A party who objects to the proposal must:
  - a) explain how the proposal impacts them, how the proposal is inconsistent with Council or government policy or strategy, or both
  - b) provide information which supports identified issues
  - c) explain whether certain issues are out of scope of the Committee's consideration.

#### **Note**

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

### Evidence and cross examination

19. Evidence-in-chief must be presented as a succinct executive summary of no longer than 15 minutes.

**Directions:**

20. 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.
21. 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 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 report and relevant supporting documents.
22. A party, advocate and the Committee may question an expert witness.
23. A party who intends to question an expert witness must provide written notice to Planning Panels Victoria ([planning.panels@delwp.vic.gov.au](mailto:planning.panels@delwp.vic.gov.au)) by 3pm the day before the expert witness is due to appear.
24. If cross examining an expert witness, a party must:
  - a) be present for the whole of the expert witness giving their 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 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 Committee.

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**

25. The Proponent and Council will be provided time to present a Part C (closing) submission.
26. The Part C (closing) submissions:
  - a) must be supported by a written submission filed by 12 noon on Thursday, 9 November 2023
  - b) must not raise new matters
  - c) may respond to matters raised in other parties' submissions or evidence.

**Directions:**

## Drafting changes

27. The Proponent must file its final preferred version of the Amendment clauses and permit conditions by 12 noon on Wednesday, 8 November 2023. The final preferred version must:
  - a) show changes proposed in response to evidence or submissions presented at the Hearing
  - b) be marked up against Version 1
  - c) be labelled Version 2.
28. A party seeking to provide drafting comments on the Version 2 Amendment clauses/permit conditions must file them by 12 noon on Monday, 13 November 2023. Drafting comments must only relate to drafting issues, not broader issues.
29. The Proponent must file a response (labelled as Version 3) by 12 noon on Thursday, 16 November 2023 to the requested drafting changes, confirming if changes are agreed to in whole or in part or not agreed.
30. There will be drafting discussion at 11am on Friday, 17 November 2023.

**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

31. 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.
32. A party must not record any part of a Hearing by any means without permission from the Chair.
33. 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.
34. 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**

Hearings are only recorded in exceptional circumstances.

For more information on how your personal information will be used, refer to the Privacy Collection Notice attached to the Committee's letter dated 20 July 2023.

# Distribution List

Priority Projects Standing Advisory Committee Referral 36: Cabrini Hospital, Malvern

Use this list to file expert witness reports and other information in accordance with the Committee'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>
Stonnington Council	[REDACTED]
Proponent	[REDACTED] [REDACTED]
Adam and Dana Davidson, Emma and Matt Preston	[REDACTED]
Alison Murray	[REDACTED]
Amanda McDougall	[REDACTED]
Cameron Malingbrough	[REDACTED]
David Langmore	[REDACTED]
Kaye Fallick	[REDACTED]
Lilian Johnstone	[REDACTED]
Luke Daley	[REDACTED]



## Timetable Version 1

### Document hub link

Documents are available online here: [\[REDACTED\]](#)

### Week 1

#### Day 1: Tuesday 24 October 2023

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

**By video (Microsoft Teams):** [Click here to join the meeting](#)

Time	Party	Sub No	Allocated
10.00am	Preliminary matters		20 mins
10.20am	<b>Stonnington City Council</b> – opening submission		10 mins
10.30am	<b>Cabrini Health Limited</b> – proposal overview then submission – represented by Chris Townshend KC and Nicola Collingwood instructed by Planning & Property Partners, calling expert evidence on (see Direction 1): <ul style="list-style-type: none"><li>- planning</li><li>- urban design</li><li>- heritage</li><li>- traffic</li><li>- landscape</li></ul>		<b>4 days</b>
<b>12.45pm</b>	<b>Lunch break</b>		<b>1 hour</b>
1:45pm	<b>Cabrini Health Limited</b> cont.		
4.30pm	Day close		

#### Day 2: Wednesday 25 October 2023

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

**By video (Microsoft Teams):** [Click here to join the meeting](#)

Time	Party	Sub No	Allocated
10.00am	Preliminary matters		15 mins
10.15am	<b>Cabrini Health Limited</b> cont.		
<b>12.45pm</b>	<b>Lunch Break</b>		<b>1 hour</b>
1.45pm	<b>Cabrini Health Limited</b> cont.		
4.30pm	Day close		

### Day 3: Thursday 26 October 2023

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

**By video (Microsoft Teams):** [Click here to join the meeting](#)

Time	Party	Sub No	Allocated
10.00am	Preliminary matters		15 mins
10.15am	<b>Cabrini Health Limited</b> cont.		
<b>12.45pm</b>	<b>Lunch break</b>		<b>1 hour</b>
1.45pm	<b>Cabrini Health Limited</b> cont.		
4.30pm	Day close		

### Week 2

### Day 4: Monday 30 October 2023

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

**By video (Microsoft Teams):** [Click here to join the meeting](#)

Time	Party	Sub No	Allocated
10.00am	Preliminary matters		15 mins
10.15am	<b>Cabrini Health Limited</b> cont.		
<b>12.45pm</b>	<b>Lunch break</b>		<b>1 hour</b>
1.45pm	<b>Cabrini Health Limited</b> cont.		
4.30pm	Day close		

### Day 5: Tuesday 31 October 2023

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

**By video (Microsoft Teams):** [Click here to join the meeting](#)

Time	Party	Sub No	Allocated
10.00am	Preliminary matters		15 mins
10.15am	<b>Stonnington City Council</b> represented by Andrew Walker and Kate Lyle instructed by Council of, calling expert evidence on (see Direction 1): - planning - heritage		1 day
<b>11.15am</b>	<b>Break</b>		<b>15 mins</b>
11.30am	<b>Stonnington City Council</b> cont.		
<b>12.45pm</b>	<b>Lunch break</b>		<b>1 hour</b>
1.45pm	<b>Stonnington City Council</b> cont.		
4.30pm	Day close		

### Day 6: Thursday 2 November 2023

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

**By video (Microsoft Teams):** [Click here to join the meeting](#)

Time	Party	Sub No	Allocated
10.00am	Preliminary matters		<b>15 mins</b>
10.15am	<b>Adam and Dana Davidson, Emma and Matt Preston</b> represented by Andrew Iser and Emily Marson of Best Hooper Lawyers, calling expert evidence on (see Direction 1): - planning - heritage	65	4 hours
<b>11.15am</b>	<b>Break</b>		<b>15 mins</b>
11.30am	<b>Adam and Dana Davidson, Emma and Matt Preston</b> cont.		
<b>12.45pm</b>	<b>Lunch break</b>		<b>1 hour</b>
1.45pm	<b>Adam and Dana Davidson, Emma and Matt Preston</b> cont.		
4.30pm	Day close		

### Day 7: Friday 3 November 2023

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

**By video (Microsoft Teams):** [Click here to join the meeting](#)

Time	Party	Sub No	Allocated
10.00am	Preliminary matters		<b>10 mins</b>
10.10am	<b>Amanda McDougall</b>	38	10 mins
10.20am	<b>Cameron Malingbrough</b>	30	10 mins
10.30am	<b>Alison Murray</b>	26	10 mins
10.40am	<b>Kate Fallick</b>	13	10 mins
10.55am	<b>Luke Daley</b>	35	15 mins
11.15am	<b>Lilian Johnstone</b>	22	20 mins
<b>11.40am</b>	<b>Break</b>		<b>15 mins</b>
11.55am	<b>David Langmore</b>	72	20 mins
<b>12.15pm</b>	<b>Lunch break</b>		<b>1 hour</b>
1.15pm	Covenant removal principles and process discussion		3 hours
<b>2.45pm</b>	<b>Break</b>		15 mins
3pm	Covenant removal principles and process discussion cont.		
4.30pm	Day close		

**Day 8: Friday 17 November 2023**

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

**By video (Microsoft Teams):** [Click here to join the meeting](#)

Time	Party	Sub No	Allocated
10am	Preliminary matters		10 mins
10.10am	<b>Stonnington City Council</b> – closing submission	69	20 mins
10.30am	<b>Cabrini Health Limited</b> – closing submission		30 mins
11am	Drafting discussion		1 hour
<b>12 noon</b>	<b>Hearing close</b>		

**Hearing Timetable Notes:**

1. If you are unable to be present at your scheduled time, please contact Planning Panels Victoria on as soon as possible.
2. Please be present or online at least 15 minutes before your scheduled start time.
3. The Committee may amend a Party's start time without notice. 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 at [planning.panels@delwp.vic.gov.au](mailto:planning.panels@delwp.vic.gov.au).