



# 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

13 April 2023

Dear Party

## **Boroondara Planning Scheme Amendment C386boro: Balwyn Interwar Heritage Assessment**

The Panel held a Directions Hearing for the above matter on 7 April 2023 at Planning Panels Victoria. Please find attached:

- Panel Directions
- Distribution List
- Hearing Timetable.

The following dates apply:

Time	Date	Action	Direction
12 noon	Monday, 17 April 2023	Council must supply the documents specified and with a plan showing the location of submitters including late submitters	5
12 noon	Monday, 17 April 2023	Council must circulate its Part A submission	6
4:00 pm	Wednesday, 26 April 2023	Council must circulate Expert witness reports	8
4:00 pm	Wednesday, 26 April 2023	Parties must circulate Expert witness reports	9
12 noon	Friday, 28 April 2023	Council must circulate its Part B submission	13
12 noon	Friday, 28 April 2023	Any supplementary submission from a party not appearing at the Hearing must be circulated	24
10 am	Monday, 1 May 2023	Hearing commences	

## **Declarations**

Mr Ballock informed the parties that he has worked with Council's advocate, Ms Eastaugh, on an open space matter for the City of Yarra in 2021 and his involvement in this matter had finished some time ago. No concerns were raised.

If you have questions, please contact Planning Panels Victoria on (03) 8624 5712 (or other relevant number, ie project team member) or [planning.panels@delwp.vic.gov.au](mailto:planning.panels@delwp.vic.gov.au).

Yours sincerely

**Michael Ballock**  
Panel Chair

### **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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# Panel Directions

Boroondara Planning Scheme Amendment C386boro:  
Balwyn Interwar Heritage Assessment

## Circulation and sharing of documents

1. Documents must be circulated electronically to all parties on the Distribution list.
2. Files should not exceed 20MB in size. Documents larger than 20MB should be broken down into smaller files less than 20MB.
3. File names should be as short as possible.
4. Paper documents will only be permitted in exceptional circumstances. If any party has issues supplying documents electronically, they should contact Planning Panels Victoria.
5. Council must provide the following documents to parties on the distribution list by **12 noon on Monday 17 April 2023**:
  - a) Balwyn and Balwyn North (including Deepdene and Greythorn) Heritage Study 2015 (Final Draft)

## Council Part A submission

6. Council must circulate a Part A submission to parties on the distribution list by **12 noon on Monday 17 April 2023** that includes:
  - a) background to the Amendment including chronology of events
  - b) strategic context and assessment
  - c) issues identified in submissions
  - d) any suggested changes to the Amendment in response to submissions

*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.*

## Witness reports

7. A witness report must:
  - a) comply with the Guide to Expert Evidence ([Expert witnesses \(planningpanels.vic.gov.au\)](https://www.planningpanels.vic.gov.au/expert-witnesses))
  - 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.
8. Council must circulate their witness reports to parties on the distribution list by **4:00 pm on Wednesday, 26 April 2023**.
9. Parties must circulate their witness reports to parties on the distribution list by **4:00 pm on Wednesday, 26 April 2023**.

## At the Hearing

### Submissions and information

10. Parties must present material at the Hearing electronically.
11. Electronic information must be circulated to parties on the distribution list by **12 noon on the business day before** the information is to be presented at the Hearing.
12. All information presented at the Hearing is a public document for the purposes of the Panel process unless the Panel directs otherwise.

## Council Part B submission

13. Council must circulate a Part B submission to parties on the distribution list by **12 noon on Friday, 28 April 2023** that includes:

- a) its response to submissions and evidence
- b) its final position on the Amendment.

### **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. 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.
- 17. Parties, advocates and the Panel may question a witness.
- 18. 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.
- 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 Panel 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 permission from 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.
- 21. The Panel will regulate cross-examination.

### **Written submissions**

- 22. 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 **Friday, 28 April 2023.**

### **Other information**

- 23. Council must provide the Panel with a plan showing the location of submitters (including any late accepted submitters) by **12 noon on Monday, 17 April 2023.** The plan should identify submitters by submitter number, and not by name.
- 24. 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 business day before** the information is to be relied on at the Hearing.
- 25. After presenting to the Panel, submissions and other material (preferably in MS Word) should be emailed to [planning.panels@delwp.vic.gov.au](mailto:planning.panels@delwp.vic.gov.au) as an unlocked document.

26. All information presented at the Hearing is a public document unless the Panel directs otherwise.

### **Closing submissions**

27. Council will be provided time to present a closing submission.
28. 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**

29. Parties must not record any part of an electronic hearing by any means without permission from the Panel.
30. 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 Hearing commences, outlining its reasons.
31. 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.
32. 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**

33. 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*]
34. 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 permission from the Panel to vary the direction.
35. The Panel may:
- a) refuse to hear from anyone who fails to comply with a direction. [section 159(b)]
  - b) not accept evidence if permission to vary a direction for the circulation of evidence is not sought or granted.

# Distribution List

Boroondara Planning Scheme Amendment C386boro:  
Balwyn Interwar Heritage Assessment

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	<a href="mailto:planning.panels@delwp.vic.gov.au">planning.panels@delwp.vic.gov.au</a>
Boroondara City Council	<a href="mailto:emil.dickson@boroondara.vic.gov.au">emil.dickson@boroondara.vic.gov.au</a> <a href="mailto:briana.eastaugh@maddocks.com.au">briana.eastaugh@maddocks.com.au</a>
Deepal Fernando	<a href="mailto:deepal.fernando@ericsson.com">deepal.fernando@ericsson.com</a>
Thomas Jolly	<a href="mailto:tom.w.jolly@gmail.com">tom.w.jolly@gmail.com</a> <a href="mailto:hew@glossopco.com.au">hew@glossopco.com.au</a>

# Timetable

Boroondara Planning Scheme Amendment C386boro:  
Balwyn Interwar Heritage Assessment

## Timetable Version 1

### Day 1: Monday 1 May 2023

Venue: Planning Panels Victoria, Hearing Room 2 (Ground Floor, 1 Spring Street, Melbourne)  
and by video conference [Click here to join the meeting](#)

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 11.15am	<b>Council</b> represented by Briana Eastaugh of Maddocks calling the following expert evidence: - Mark Huntersmith from GML Heritage on Heritage	#	4 hours
<b>11.15am – 11.30am</b>	<b>Break</b>		<b>15 mins</b>
11.30am – 12.30pm	<b>Council</b> cont		4 hours
<b>12.30pm – 1.30pm</b>	<b>Lunch break</b>		<b>1 hour</b>
1.30pm – 3.15pm	<b>Council</b> cont		4 hours
<b>3.15pm – 3.30pm</b>	<b>Break</b>		<b>15 mins</b>
3.30pm – 3.45pm	<b>Council</b> cont		4 hours
3.45pm – 3.55pm	Deepal Fernando	4	10 mins
3.55pm – 4:30pm	<b>Thomas Jolly</b> represented by Hew Gerrard of Glossop Town Planning calling the following expert evidence: - Bryce Raworth of Bryce Raworth Conservation & Heritage from GML Heritage on Heritage:	1, 4	2.5 hours
4.30pm	Day close		

### Day 2: Tuesday 2 May 2023

Venue: Planning Panels Victoria, Hearing Room 2 (Ground Floor, 1 Spring Street, Melbourne)  
and by video conference [Click here to join the meeting](#)

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 11.15am	<b>Thomas Jolly</b> cont -	1, 4	2.5 hours
<b>11.15am – 11.30am</b>	<b>Break</b>		<b>15 mins</b>
11.30am – 12.30pm	<b>Thomas Jolly</b> cont		2.5 hours
<b>12.30pm – 1.30pm</b>	<b>Lunch break</b>		<b>1 hour</b>

1.30pm – 2.00pm	<b>Council reply</b>	30 mins
2.00pm	Day close	

**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.
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.