



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

10 September 2021

Dear Party

Priority Projects Standing Advisory Committee Referral 17 | Draft Amendment C163 to the East Gippsland Planning Scheme at 598-610 Main Street, Bairnsdale

The Committee held a Directions Hearing for the above matter on 9 September 2021 by video conference. Please find attached:

- Committee Directions
- Distribution List
- Hearing Timetable.

The following key dates apply:

| Time | Date | Action | Direction |
|----------|---|--|-----------|
| 12 noon | Monday, 13 September 2021 | Proponent must circulate its Part A submission outlining background information | 2 |
| 12 noon | Monday, 13 September 2021 | Proponent must circulate its expert witness reports | 4 |
| 12 noon | Monday, 13 September 2021 | Parties must nominate sites for the Committee's inspection | 8 |
| 12 noon | Friday 17 September 2021 | DELWP to provide a written response to the issues raised by the Proponent and Mr Dahlsen | 9 |
| 12 noon | Thursday 23 September 2021 | Proponent must provide video conference invitations to parties | 10 |
| 12 noon | Thursday 23 September 2021 | Proponent must file its opening (Part B) submission | 11 |
| 12 noon | Thursday 23 September 2021 | Parties not appearing at the hearing may file a supplementary submission | 22 |
| 10.00 am | Monday, 27 September 2021 | Hearing commences | |
| 12 noon | Business day before presentation at the Hearing | Parties must submit any submission or documentation to support their submission | |

Procedural matters

The Committee members made no declarations.

The Proponent sought clarification on the Minister for Planning's letter of referral to the Committee, specifically whether the Committee is to provide advice on the strategic merits of the Draft Amendment, or on drafting matters only. Further, the Proponent sought clarification on reference to the developer contributions in the letter.

Mr Dahlsen made submissions about the extent of notification.

While DELWP attended the Directions Hearing and provided a verbal response to both matters, the Committee asked that be put in writing by Friday 17 September 2021.

Privacy Statement

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Hearing

The Hearing will be conducted by video conference. The Proponent will be responsible for hosting the video conference, including providing invitations and instructions for the video conference platform.

Parties should ensure that any additional email addresses required for the hearing that are not currently noted in the distribution list are provided to Planning Panels Victoria by Wednesday 15 September 2021.

Documentation received to date

The Committee will maintain a document list of tabled material. Documents tabled to date have been uploaded to OneDrive to ensure accessibility to all parties. A link is provided below:

[REDACTED]

If you have questions about the Committee process, please contact Ms Georgia Thomas of Planning Panels Victoria on (03) 8624 5717 or planning.panels@delwp.vic.gov.au.

Yours sincerely,



Kathy Mitchell AM
Committee Chair

Committee Directions

Priority Projects Standing Advisory Committee Referral 17 | Draft Amendment C163 to the East Gippsland Planning Scheme at 598-610 Main Street, Bairnsdale

Before the Hearing

Circulation and sharing of documents

1. Documents must be circulated electronically to parties listed on the distribution list. Paper documents will only be permitted in exceptional circumstances.

Proponent Part A Submission

2. The Proponent must circulate its Part A Submission outlining all the background information to parties on the distribution **by Monday, 13 September 2021**.

Witness reports

3. 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.
4. The Proponent must circulate expert witness reports to parties on the distribution **by Monday, 13 September 2021**.

Site inspections

5. The Committee intends to undertake an unaccompanied inspection of the subject site and its surrounds from the public realm prior to the commencement of the hearing. It will visit the Bairnsdale town centre including the existing Dahlsen site in Delmahoy Street. In addition, the Committee will visit other town centres and discount department stores in Sale, Warragul, Morwell and Traralgon.
6. Parties wishing to nominate additional sites for the Committee's inspection should make this nomination by **12 noon on Monday 13 September 2021**. Site nominations should outline the site for inspection, and the relevance of the site in relation to the proposal before the Committee.

DELWP

7. The Proponent sought clarification on the Minister for Planning's letter of referral to the Committee, specifically whether the Committee is to provide advice on the strategic merits of the Draft Amendment, or on drafting matters only. Further, the Proponent sought clarification on the reference to the developer contributions in the letter.
8. Mr Dahlsen made submissions about the extent of notification.
9. While DELWP attended the Directions Hearing and provided a verbal response to both matters, for completeness, the Committee directed that response be put in writing **by Friday 17 September 2021**.

Hearing video conference arrangements

10. The Proponent must arrange to host the hearing by video conference. Hearing invitations and any necessary instructions for the video conference platform must be circulated to parties by **12 noon on Thursday 23 September 2021**.

Directions:

At the Hearing

Proponent Part B Submission

11. The Proponent must circulate its opening (Part B) submission to parties on the distribution list by **12 noon on Thursday 23 September 2021**.

Submissions and information

12. Parties must present material at the Hearing electronically.
13. Submissions and any other 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. All information presented at the Hearing is a public document unless the Committee directs otherwise.

Evidence and cross examination

15. 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*.
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, (including advocates and submitters) 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.

Written submissions

22. Any 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 23 September 2021**.
23. The Proponent must respond to the following matters through submissions or evidence:

Directions:

Priority Projects Standing Advisory Committee Referral 17 | Draft Amendment C163 to the East Gippsland Planning Scheme at 598-610 Main Street, Bairnsdale

- a) Whether there is any specific evidence of the amount of retail spending in the 'DDS Core' and 'Other non food services' categories lost to Bairnsdale since the full line Kmart store closed in 2000 and where that expenditure was lost to.
- b) Whether there is any specific evidence of the amount of escape spending from Bairnsdale to other centres in retail categories relevant to supermarket shopping since the full line Kmart store closed in 2020.

Closing submissions

24. The Proponent will be provided time to present a brief closing submission.
25. 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

26. Parties must not record any part of an electronic hearing by any means without permission from the Committee.
27. 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.
28. Parties must not record, keep, distribute, or publish contact details of any other party obtained in the course of an electronic hearing session, or use those contact details for any purpose other than for the Hearing.

Compliance with Committee directions

29. 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.

Timetable

Priority Projects Standing Advisory Committee Referral 17 | Draft Amendment C163 to the East Gippsland Planning Scheme at 598-610 Main Street, Bairnsdale

Timetable Version 1

Day 1: Monday 27 September 2021

Video conference – link to be circulated prior to the hearing

| Time | Party | Allocated |
|--------------------------|---|----------------|
| 10.00am – 10.15am | Preliminary matters | 15 mins |
| 10.15am – 11.15am | Landmor Pty Ltd represented by Paul Chiappi of Counsel, instructed by Nick Sutton and Linda Choi of Norton Rose Fulbright, calling the following expert evidence: <ul style="list-style-type: none">- Planning from Michael Barlow of Urbis- Economics from Tony Dimasi of Dimasi & Co- Traffic and Transport from John Kiriakidis of Stantec- Landscape from John Patrick of John Patrick Landscape Architects- Acoustics from Christophe Delaire of Marshall Day | 3 days |
| 11.15am – 11.30am | Break | 15 mins |
| 11.30am – 1.00pm | Landmor Pty Ltd cont | |
| 1.00pm – 2.00pm | Lunch | 1 hour |
| 2.00pm – 3.15pm | Landmor Pty Ltd cont | |
| 3.15pm – 3.30pm | Break | 15 mins |
| 3.30pm – 4.30pm | Landmor Pty Ltd cont | |

Day 2: Tuesday 28 September 2021

Video conference - link to be circulated prior to the hearing

| Time | Party | Allocated |
|--------------------------|-----------------------------|----------------|
| 10.00am – 10.15am | Preliminary matters | 15 mins |
| 10.15am – 11.15am | Landmor Pty Ltd cont | 3 days |
| 11.15am – 11.30am | Break | 15 mins |
| 11.30am – 1.00pm | Landmor Pty Ltd cont | |
| 1.00pm – 2.00pm | Lunch | 1 hour |
| 2.00pm – 3.15pm | Landmor Pty Ltd cont | |
| 3.15pm – 3.30pm | Break | 15 mins |
| 3.30pm – 4.30pm | Landmor Pty Ltd cont | |

Timetable Version 1:

Priority Projects Standing Advisory Committee Referral 17 | Draft Amendment C163 to the East Gippsland Planning Scheme at 598-610 Main Street, Bairnsdale

Day 3: Wednesday 29 September 2021

Video conference - link to be circulated prior to the hearing

| Time | Party | Allocated |
|--------------------------|-----------------------------|----------------|
| 10.00am – 10.15am | Preliminary matters | 15 mins |
| 10.15am – 11.15am | Landmor Pty Ltd cont | 3 days |
| 11.15am – 11.30am | Break | 15 mins |
| 11.30am – 1.00pm | Landmor Pty Ltd cont | |
| 1.00pm – 2.00pm | Lunch | 1 hour |
| 2.00pm – 3.15pm | Landmor Pty Ltd cont | |
| 3.15pm – 3.30pm | Break | 15 mins |
| 3.30pm – 4.30pm | Landmor Pty Ltd cont | |

Day 4: Thursday 30 September 2021

Video conference - link to be circulated prior to the hearing

| Time | Party | Allocated |
|--------------------------|--|----------------|
| 10.00am – 10.15am | Preliminary matters | 15 mins |
| 10.15am – 11.15am | East Gippsland Shire Council , represented by Nicole Reynolds | 1 hour |
| 11.15am – 11.30am | Break | 15 mins |
| 11.30am – 12.30pm | Department of Transport , represented by Chris Padovan | 1 hour |

Day 5: Monday 4 October 2021

Video conference - link to be circulated prior to the hearing

| Time | Party | Allocated |
|-------------------------|--|----------------|
| 10.00am – 10.15am | Preliminary matters | 15 mins |
| 10.15am – 12.30pm | Bairnsdale Commercial Pty Ltd represented by Mark Bartley of HWL Ebsworth Lawyers | 2 hours |
| 12.30pm – 1.30pm | Lunch | 1 hour |
| 1.30pm – 2.00 | Bairnsdale Chamber of Commerce and Industry represented by Jaime Savory | 30 mins |
| 2.00pm – 3.00pm | JC Dahlsen Pty Ltd , represented by John Dahlsen | 60 mins |
| 3.00pm – 3.15pm | Break | 15 mins |

Timetable Version 1:

Priority Projects Standing Advisory Committee Referral 17 | Draft Amendment C163 to the East Gippsland Planning Scheme at 598-610 Main Street, Bairnsdale

| | | |
|-----------------|---|---------|
| 3.15pm – 3.45pm | Landmor Pty Ltd – Closing submission | 30 mins |
| 3.45pm | Hearing close | |

Hearing Timetable Notes:

1. The Committee may amend the timetable without notice.
2. Please log in at least 15 minutes before your scheduled commencement time.
3. If you are unable to be present at your scheduled time, please contact Planning Panels Victoria as soon as possible.
4. If you have any questions about the timetable, please contact the Ms Georgia Thomas at planning.panels@delwp.vic.gov.au