



# 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

15 July 2021

Dear Party

## Priority Projects Standing Advisory Committee:

### Referral 15: Call in of VCAT proceeding P488/2021 - Aikenhead Centre for Medical Discovery

The Committee held a Directions Hearing for the above matter on 13 July 2021 at Planning Panels Victoria. Please find attached:

- Committee Directions
- Distribution List (version 2)
- Hearing Timetable.

The following key dates apply:

Time	Date	Action	Direction
12 noon	Monday, 19 July 2021	The Applicant must circulate documents specified	2
12 noon	Thursday, 29 July 2021	Council must circulate the documents specified	3
12 noon	Thursday, 29 July 2021	Parties must circulate expert witness reports	7
12 noon	Thursday, 5 August 2021	Council and the Applicant must circulate its opening submission	4
12 noon	Thursday, 5 August 2021	Heritage expert's statement of agreed opinions and facts to be circulated	14
12 noon	Thursday, 5 August 2021	Any supplementary submission from a party not appearing at the Hearing must be circulated	31
12noon	Monday 9 August 2021	Video footage of Biofabrication facility and interior of Brenan Hall (if available)	19, 20
10 am	Tuesday, 10 August 2021	Hearing commences	

## Declarations

At the Directions Hearing, the Chair made the following directions:

- The Chair recently chaired the Surf Coast Distinctive Areas and Landscapes Standing Advisory Committee, the report of which was submitted on 25 June. Mr Tweedie SC, who is lead Counsel for the Applicant was retained by the Chair as Counsel assisting to provide a legal opinion on particular matters raised in the context of that Hearing. Mr Tweedie's role in respect of that Committee concluded in late June, as has the Committee's role. Mr Edwards was one of the members of that Committee.
- On 28 June, Mr Tweedie, along with eight other people were part of a tour that the Chair organised of the Arden Station component of the Melbourne Metro rail project. The Chair of this proceeding was the Chair of the EES Inquiry for that matter in 2016 and in that case, Mr Tweedie was Counsel assisting the Inquiry. The Chair became aware that Mr Tweedie was lead Counsel

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for the applicant on Wednesday 7 July when a letter was received from Rigby Cooke advising of such (Document 74).

- Associate Professor Hutson was the Deputy Dean at the Faculty of Architecture Building and Planning at the University of Melbourne until he retired on 26 June this year. Following his retirement, he remains as an Honorary Senior Academic Fellow with the Faculty. As part of that role, he was involved in client-based project groups for the Fisherman's Bend Campus Project - Stage 1 of which DCM (the architects for this proposal) is a major partner in the CoLab consortium who are undertaking the planning and design of the precinct and buildings. It was noted that DCM are not providing evidence at this hearing.

All parties in attendance were specifically invited to raise any issues about this declaration and no party or objector raised any issues in response.

### **Conduct of the hearing**

Subject to the advice of the Chief Health Officer and the Victorian State Government, the Hearing will be conducted in person. Should this not be possible, the Hearing will be convened by video conference. Planning Panels Victoria will confirm the final arrangements by Friday 6 August 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, please contact Ms Andrea Harwood or Ms Georgia Thomas of Planning Panels Victoria on 8624 5717 or [planning.panels@delwp.vic.gov.au](mailto:planning.panels@delwp.vic.gov.au).

Yours sincerely,



**Kathy Mitchell AM**  
Committee Lead Chair

# Panel Directions

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## Before the Hearing

### Circulation and sharing of documents

1. Documents must be circulated electronically. Paper documents will only be permitted in exceptional circumstances.
2. The Applicant must provide the following documents to parties on the distribution list by **12 noon on 19 July 2021**:
  - a) Amended plans, with a statement of each change and the justification for the change.
3. Council must provide the following documents to parties on the distribution list by **12 noon on 29 July 2021**:
  - a) Copy of Council Officer report on the planning permit application
  - b) Draft permit conditions
  - c) Advice on whether its requests for further information made to the Applicant on 2 September and 9 November 2020 were addressed to its satisfaction through the responses by Contour Consulting on 21 October and 19 November 2020.

### Council and the Applicant opening submission

4. Council and the Applicant must circulate its opening submission to parties on the distribution list by **12 noon on 5 August 2021**.
5. The Applicant's opening submission must address the following:
  - a) How the proposal will engage with pedestrians at street level
  - b) Noting the proposal sits within an urban and heritage overlay context that contains a range of textured materials, how the proposal responds to the materiality of the streetscapes
  - c) How the proposal will address issues of potential reflective glare from the facades
  - d) A response to issues raised in Victorian Design Panel Review of the proposal
  - e) A response to Council's proposed permit conditions
  - f) A response to Council's statement of grounds, in particular, the Applicant is to advise whether a master plan has been or will be prepared.

### Witness reports

6. 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.
7. Parties must file expert witness reports by Error! No text of specified style in document. on **29 July 2021**.
8. Evidence statements in reply must be filed by **12 noon on 3 August 2021**.

### Meeting of experts

9. Expert witnesses in the area of Heritage must meet to prepare a statement of agreed opinions and facts. A nominated expert for the Applicant should act as a chair for the meeting and coordinate arrangements and note taking.

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10. The meeting should be held:
  - a) at the discretion of the experts
  - b) by video or in person, as far as practicable, at a mutually convenient location
  - c) after the expert reports are circulated but before the Hearing commences.
11. The meeting can only be attended by:
  - a) the experts being called to give evidence
  - b) a non-participating note taker if necessary
12. Advocates for parties instructing the experts must not attend the meeting.
13. The statement of agreed opinions and facts should:
  - a) list the relevant experts in attendance, noting the experts present for any significant discussion point if some attendees are only there for part of the meeting
  - b) identify the key issues, including in relation to methodology, assumptions, results and interpretation of results
  - c) record the facts and opinions agreed and not agreed in respect of each issue and the reasons for any disagreement.
14. The statement of agreed opinions and facts:
  - a) should not restate the evidence – where appropriate, that evidence should be cross-referenced in the agreed statement
  - b) should, if possible, be fewer than five pages
  - c) should have numbered paragraphs
  - d) must be signed by all participants
  - e) must be circulated to parties on the distribution list by **12noon on 5 August 2021**.
15. If any expert witness directed by the Committee to meet with any other expert is instructed not to reach agreement in respect of points of difference, those instructions must be reported in writing to the Committee by the expert witness.

### Site inspections

16. The Committee will undertake a detailed unaccompanied inspection of the subject site and its surrounds from the public realm on **5 August 2021**.
17. Part of the inspection will be undertaken accompanied by the representatives of the Applicant and no more than 2 Council representatives.
18. Due to COVID restrictions and other health compliance issues, and that this part of the inspection will access a working hospital complex, other parties and objectors are not able to attend.
19. The Applicant is to provide some video footage of the ACMB biofabrication facility and of Professor Choong as he is showing the Committee aspects of the facility appropriate by **12 noon on 9 August 2020**.
20. If accessible, the Applicant is to provide video footage of the interior of Brenan Hall by **12 noon on 9 August 2020**.

### At the Hearing

#### Submissions and information

21. Parties must present material at the Hearing electronically.

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22. 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.
23. All information presented at the Hearing is a public document unless the Committee directs otherwise.

**Evidence and cross examination**

24. 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.*
25. 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.
26. Parties, (including advocates and objectors) and the Committee may question a witness.
27. 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.
28. 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.
29. 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.
30. The Committee will regulate cross-examination.

**Written submissions**

31. Museums Victoria, Fitzroy Residents association and any other 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 **12noon on 5 August.**

**Other information**

32. 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 party presenting the material is due to present.
33. After presenting to the Committee, 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.
34. All information presented at the Hearing is a public document unless the Committee directs otherwise.

**Closing submissions**

35. Council and the Applicant will be provided time to present a closing submission.

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36. 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**

37. Parties must not record any part of an electronic hearing by any means without permission from the Committee.
38. 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.
39. 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.

**'Without prejudice' drafting**

40. Council and the Applicant must provide parties with an MS Word version of their preferred version of the proposed permit conditions by **12 noon on Thursday 12 August 2021**.
41. Any party seeking to provide without prejudice tracked changes, must provide them to all parties by **10.00 am on Friday 13 August 2021**.
42. This process is not an opportunity to revisit any matter of merit.

**Compliance with Committee directions**

43. 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

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## Timetable Version 1

### Day 1: Tuesday 10 August 2021

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

Time	Party	Allocated
10.00am – 10.15am	Preliminary matters	15 mins
10.15am – 11.15am	<b>St Vincent's Hospital (Melbourne) Limited</b> represented by Nick Tweedie SC and Peter O'Farrell of Counsel, instructed by Rhodie Anderson of Rigby Cooke, calling the following expert evidence: <ul style="list-style-type: none"><li>- planning from Amanda Ring of SJB</li><li>- heritage from Peter Lovell of Lovell Chen</li><li>- architecture from Mark O'Dwyer of H2O Architecture</li><li>- Research and hospital operations from Professor Peter Choong of St Vincent's Hospital</li></ul>	2 days
<b>11.15am – 11.30am</b>	<b>Break</b>	<b>15 mins</b>
11.30am – 1.00pm	<b>Vincent's Hospital (Melbourne) Limited cont</b>	
<b>1.00pm – 2.00pm</b>	<b>Lunch break</b>	<b>1 hour</b>
2.00pm – 3.15pm	<b>Vincent's Hospital (Melbourne) Limited cont</b>	
<b>3.15pm – 3.30pm</b>	<b>Break</b>	<b>15 mins</b>
3.30pm – 4.30pm	<b>Vincent's Hospital (Melbourne) Limited cont</b>	
4.30pm	Day close	

### Day 2: Wednesday 11 August 2021

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

Time	Party	Allocated
10.00am – 10.15am	Preliminary matters	15 mins
10.15am – 11.15am	<b>St Vincent's Hospital (Melbourne) Limited cont</b>	2 days
<b>11.15am – 11.30am</b>	<b>Break</b>	<b>15 mins</b>
11.30am – 1.00pm	<b>Vincent's Hospital (Melbourne) Limited cont</b>	
<b>1.00pm – 2.00pm</b>	<b>Lunch break</b>	<b>1 hour</b>
2.00pm – 3.15pm	<b>Vincent's Hospital (Melbourne) Limited cont</b>	
<b>3.15pm – 3.30pm</b>	<b>Break</b>	<b>15 mins</b>
3.30pm – 4.30pm	<b>Vincent's Hospital (Melbourne) Limited cont</b>	

**Timetable Version 1:**

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**Day 3: Thursday 12 August 2021**

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

Time	Party	Allocated
10.00am – 10.15am	Preliminary matters	15 mins
10.15am – 11.15am	<b>Yarra City Council</b> represented by Sarah Porritt of Counsel instructed by Terry Montebello of Maddocks Lawyers, calling the following expert evidence: - heritage from Anita Brady of AB Heritage	1 day
<b>11.15am – 11.30am</b>	<b>Break</b>	<b>15 mins</b>
11.30am – 12.30pm	<b>Yarra City Council</b> cont	
<b>12.30pm – 1.30pm</b>	<b>Lunch break</b>	<b>1 hour</b>
1.30pm – 4.30pm	<b>Yarra City Council</b> cont	
<b>3.15pm – 3.30pm</b>	<b>Break</b>	<b>15 mins</b>
3.30pm – 4.30pm	<b>Yarra City Council</b>	
4.30pm	Day close	

**Day 4: Friday 13 August 2021**

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

Time	Party	Allocated
10.00am – 10.15am	Preliminary matters	15 mins
10.15am – 10.45am	<b>National Trust of Australia (Victorian Division)</b> represented by Felicity Watson	30 mins
10.45am – 11.05am	<b>Sally Romanes</b>	20 mins
<b>11.05am – 11.20am</b>	<b>Break</b>	<b>15 mins</b>
11.20am – 11.50am	<b>Royal Historical Society of Victorian Inc</b> , represented by Charles Sowerwine	30 mins
11.50am – 12.35pm	<b>Protectors of Public Land</b> , represented by Fiona Bell	45 mins
<b>12.35pm – 1.30pm</b>	<b>Lunch break</b>	<b>1 hour</b>
1.30pm – 2.30pm	<b>Louise Elliot and Greg Hocking</b>	1 hour
2.30pm – 3.30pm	<b>Margaret O'Brien</b>	1 hour
<b>3.30pm – 3.45pm</b>	<b>Break</b>	<b>15 mins</b>
3.45pm – 4.00pm	<b>Yarra City Council – Right of Reply</b>	15 mins
4.00pm – 4.30pm	<b>St Vincent's Hospital (Melbourne) Limited – Right of reply</b>	30 mins
4.30pm	Day close	

**Timetable Version 1:**

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**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 the Ms Georgia Thomas on (03) 8624 5717 or at [planning.panels@delwp.vic.gov.au](mailto: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.