



Planning Panels Victoria

Department of Transport and Planning

1 Spring Street
Melbourne Victoria 3000
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Melbourne, Victoria 3001
Telephone (03) 5381 9457

1 Nov 2024

Dear Party

Whittlesea Planning Scheme Amendment C251wsea: 307 Bridge Inn Road and 390 Masons Road, Mernda

The Panel held an online Directions Hearing for the above matter on 30 October 2024. Please find attached:

- Panel Directions
- Distribution List
- Hearing Timetable.

Key dates

The following dates apply:

Time	Date	Documents for filing and other matters	Directions
12 noon	Thursday, 7 November 2024	Hanson (submitter 1) must file a short statement of its revised position	8
12 noon	Friday, 8 November 2024	If experts are being called, expert witness details must be provided	16
12 noon	Friday, 8 November 2024	Council must provide a submitter location map to the Panel only	6
12 noon	Friday 8 November 2024	Parties wishing to may suggest locations for the Panel to inspect	7
12 noon	Monday 11 November 2024	Council must publish notice of the Hearing on its website	5
12 noon	Thursday, 14 November 2024	Council Part A (background and context) submission and documents specified	9
12 noon	Friday, 15 November 2024	Proponent expert witness reports, if called	16.b)
12 noon	Monday, 18 November 2024	Proponent background submission	13
12 noon	Friday, 22 November 2024	Council Part B submission and 'Day 1' version of the Amendment documentation	10 & 11
12 noon	Monday, 25 November 2024	Any other documents or material to be presented on Day 1 of the Hearing	24
10 am	Tuesday, 26 November 2024	Hearing commences	

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 Transport and Planning, PO Box 500, East Melbourne, Victoria 8002



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The Panel made no declarations.

Procedural matters

Pitimara Pty Ltd (Proponent) and Summerset Group Holdings Ltd

The Proponent and Summerset Group Holdings Ltd will be jointly represented at the Panel hearing. Submission 7 was made on behalf of Summerset Group Holdings Ltd.

Hanson Construction Materials Pty Ltd and Hanson Landfill Services Pty Ltd (Hanson) and landfill buffer issues

Hanson advised it no longer objected to the Amendment, however its submissions to the Panel would depend on Council's response to issues, in particular issues relating to the landfill buffer and the Environment Protection Authority's (EPA's) *Landfill buffer guideline*, August 2024. It suggested consideration of alternative hearing processes if Hanson's and Council's positions generally align.

While the EPA (submitter 9) is not seeking to be a party to the Panel hearing, the Panel considers it would be of benefit to understand the EPA's updated views on landfill buffer issues. It directs Council to facilitate this by seeking the views of EPA relation to the additional Odour Assessment and on planning considerations relevant to the EPA's *Landfill buffer guideline*, August 2024 (see Direction 10.a)).

Council advised it would detail the chronology of its engagement with the EPA in its Part A submission.

Panel hearing process

Hanson suggested the Panel's hearing process may be able to be significantly truncated depending on Council's response to issues raised.

The Proponent and Summerset Group Holdings Ltd indicated that with the change advised by Hanson on its submission it did not intend to call experts, and amended its request to be heard accordingly. Depending on the issues raised by Hanson in revised submissions it may still call experts.

There was some discussion about implications for the Panel process relating to filing of documents, timeframes and format of the hearing.

It was decided that:

- Hanson would provide a short statement of its revised position by **12 noon on Thursday 7 November 2024**
- the Proponent and Summerset Group Holdings Ltd would confirm it if intends to call expert witnesses by **12 noon on Friday 8 November 2024**
- the Panel Hearing would proceed as detailed in the attached timetable, updated as required and to accommodate experts if called by the Proponent and Summerset Group Holdings Ltd.

The Panel reserves the option to consider if supplementary or alternatives processes are required following receipt of Council and party submissions, such as a meeting between Council and parties to refine the issues and prepare an agreed statement of issues. If proposed, the Panel will seek the views of parties before issuing directions.

Hearing venue

Council advised it would be able to provide a suitable venue for the Panel Hearing to be held in person in Mernda with video conferencing facilities and gallery space for public viewing. Planning Panels Victoria will provide the Microsoft Teams link. Council and Planning Panels Victoria will liaise to confirm hearing arrangements.

Note that Council will confirm Wi-Fi arrangements prior to the hearing and parties will need to bring second screens if required.

Site inspection

The Panel will undertake an unaccompanied site inspection before the Hearing. The Panel has issued a direction for parties to nominate locations for the Panel to visit and advise of any access arrangements if required (see Direction 7).

If you have questions, please contact Planning Panels Victoria on (03) 5381 9457 or planning.panels@transport.vic.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Lisa Kendal', with a small red dot above the 'i'.

Lisa Kendal
Panel Chair

Directions

Whittlesea Planning Scheme Amendment C251wsea:
307 Bridge Inn Road and 390 Masons Road, Mernda

Administration and documents

Administrative support

1. Council must provide administrative support to manage the Hearing.

Note

This may include finding a suitable venue for an in person Hearing, or if the Hearing is online or hybrid, configuring a video conference meeting, publishing links to the Hearing online, issuing direct invitations to participants (including the Panel, parties and experts) and providing technical support. It may also include managing the document sharing platform and making audio recordings of sessions if directed by the Panel.

Filing documents

2. Documents must be filed by email to all parties on the distribution list.
3. Documents must meet the following requirements:
 - a) Files must not exceed 20MB in size.
 - 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 circulating more than 10 documents at once, all documents must be provided through a fileshare link (for example, DropBox or OneDrive) and 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@transport.vic.gov.au after being circulated.
4. All information presented to the Panel for the purposes of the Panel process is a public document solely for that purpose unless the Panel directs otherwise. It cannot be used for any other purpose.

Notes

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 Panel 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 before the deadline.

The Panel 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.

Notice of the Hearing

5. Council must publish notice of the Hearing on its website, with information on how members of the public can observe it in person or online by **12 noon on Monday 11 November 2024**.

Submitter location map

6. Council must provide a map showing the location of submitters (including any late accepted submitters) to the Panel only by **12 noon on Friday 8 November 2024**. The Plan must identify submitters by submitter number, and not by name.

Site inspection

7. Any Party that wishes to suggest a particular location for the Panel to inspect must make this request to planning.panels@transport.vic.gov.au by **12 noon on Friday 8 November 2024**, including details of access where required.

Hanson submission

8. Hanson must file a short statement of its revised position on the Amendment by **12 noon on Thursday 7 November 2024**.

Council submission

Part A (background and context) submission

9. Council must file Part A (Background and context) submission by **12 noon on Thursday, 14 November 2024** that includes:
 - a) a summary of the physical context of the subject land and surrounds
 - b) background to the Amendment including chronology of events, including details of engagement with the EPA and copies of any relevant documentation
 - c) a summary of the conditions of authorisation (if any) and how they have been met
 - d) a summary of the strategic context, including:
 - (i) relevant planning policies and provisions
 - (ii) any other recently approved or upcoming amendments that might impact on the Amendment
 - e) a summary of any permit applications or recently granted permits that might impact on the Amendment
 - f) a summary of the issues raised in submissions, including an explanation of which (if any) of those issues have been resolved and how
 - g) Copies of all relevant background documents, including but not limited to:
 - (i) noise and odour assessments
 - (ii) flora and fauna.

Part B (main) submission

10. Council must file its written Part B (main) submission by **12 noon on Friday 22 November 2024** addressing the following:
 - a) In relation to landfill buffer issues:
 - (i) file a copy additional Odour Assessment prepared in response to the EPA submission and explain the findings
 - (ii) seek and provide updated advice from the EPA on:
 - (1) the additional Odour Assessment, noting the Council report of 20 August 2024, page 66 states "*Council officers will forward this onto the EPA for their review*"
 - (2) planning considerations relevant to the EPA's *Landfill buffer guideline*, August 2024.
 - b) Explain how the Amendment responds to the EPA's *Landfill buffer guideline*, August 2024.
 - c) Explain how the Amendment protects sensitive uses from noise impacts.
 - d) Explain its response to submissions and evidence
 - e) Explain its position on the Amendment.
11. If Amendment documents are proposed to be amended, Council must file a 'Day 1' version of the Amendment documentation by **12 noon on Friday, 22 November 2024**. The Day 1 version must:
 - a) show any suggested changes in response to submissions
 - b) be marked up against the exhibited version

- c) be labelled 'Council Day 1 version – Clause X'
- d) be in an editable format such as MS Word.

Closing submission

12. Council's Part C (closing) submissions:
- a) must not raise new matters
 - b) may respond to matters raised in other parties' submissions or evidence.

Proponent submissions

13. The Proponent must file a background and context submission by **12 noon on Monday, 18 November 2024** which complements and does not repeat the content of Council's Part A submission and includes, as relevant:
- a) an explanation of the proposal
 - b) a summary of the physical context of the subject land and surrounds
 - c) a summary of the strategic context, including relevant planning policies and controls
 - d) any suggested changes to the Amendment in response to submissions.
14. The Proponent must address the following issues in its main submission or through evidence:
- a) its response to submissions and evidence
 - b) its final position on the Amendment.
15. The Proponent's closing submissions:
- a) must not raise new matters
 - b) may respond to matters raised in other parties' submissions or evidence.

Experts

Expert witness details and reports

16. If calling experts, the Proponent must:
- a) provide full details of all expert witnesses **by 12 noon on Friday, 8 November 2024**.
 - b) file its expert witness reports **by 12 noon on Friday, 15 November 2024**.
17. 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.

Evidence and cross examination

18. Unless agreed by the Chair, evidence-in-chief should be no longer than 30 minutes.
19. 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.
20. 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 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 report and relevant supporting documents.

21. A party, advocate and the Panel may question an expert witness.

22. 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 Panel 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 Panel.

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](#).

Other party submissions

23. A party who objects to the proposal must say how the proposal impacts them, how the proposal is inconsistent with Council or government policy or strategy, or both.

24. Submissions, presentations and other material presented to the Panel:

- 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 Panel
- d) must include a summary of fewer than 5 pages if the material is more than 40 pages.

Note

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

Privacy and use of personal information

25. A party must not record, keep, distribute or publish contact details of any other party obtained during the Panel process, or use those contact details for any other purpose.

26. A party must not record any part of a Hearing by any means without permission from the Chair.

Directions:

Whittlesea Planning Scheme Amendment C251wsea:
307 Bridge Inn Road and 390 Masons Road, Mernda

27. 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.
28. 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 Panel process.

Note

Panel hearings are only recorded in exceptional circumstances. EES Hearings are generally recorded (audio only), but you should check with Planning Panels Victoria before the Hearing starts.

For more information on how your personal information will be used, refer to the Privacy Collection Notice attached to the Panel's letter dated 30 October 2024.

Distribution List

Whittlesea Planning Scheme Amendment C251wsea:
307 Bridge Inn Road and 390 Masons Road, Mernda

Use this list to file expert witness reports and other information in accordance with the Panel'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	planning_panels@transport.vic.gov.au
Whittlesea City Council	Briana.eastaugh@maddocks.com.au Chloe.henry-jones@maddocks.com.au Stephen.parker@whittlesea.vic.gov.au
Pitimara Pty Ltd and Summerset Group Holdings Pty Ltd	naughton@pppartners.com.au Edwards@pppartners.com.au wilson@pppartners.com.au
Townshend Mernda Pty Ltd	Gary.steigenberger@csmith.com.au
Hansen Construction Materials Pty Ltd and Hanson Landfill Services Pty Ltd	Sebastian.withers@nortonrosefulbright.com
Paul Dwyer	Pd.dwyer@bigpond.com

Timetable

Whittlesea Planning Scheme Amendment C251wsea:
307 Bridge Inn Road and 390 Masons Road, Mernda

Timetable Version 1

Day 1: Tuesday 26 November 2024

Venue: To be confirmed - Mernda (in person) and online

Time	Party	Sub No	Allocated
10:00am – 10:15am	Preliminary matters		20 mins
10:15am – 11:15am	Whittlesea City Council (Council) represented by Briana Eastaugh of Maddocks		2 hours
11:15am – 11:30am	Break		15 mins
11:30am – 12:30pm	Council cont		
12:30pm – 1:30pm	Lunch break		1 hour
1:30pm – 3:00pm	Pitimara Pty Ltd (Proponent) and Somerset Group Holdings Ltd , represented by xxx	7	2 hours
3:00pm – 3:15pm	Break		15 mins
3:15pm – 3.45pm	Pitimara Pty Ltd (Proponent) and Somerset Group Holdings Ltd cont		
3:45pm – 4.30pm	Townshend Mernda Pty Ltd , represented by Gary Steigenberger of Chris Smith & Associates Pty Ltd	6	45 mins
4:30pm	Day close		

Day 2: Wednesday 27 November 2024

Venue: To be confirmed - Mernda (in person) and online

Time	Party	Sub No	Allocated
10:00am – 10:15am	Preliminary matters		15 mins
10:15am – 11.15am	Hanson Construction Materials Pty Ltd and Hanson Landfill Services Pty Ltd (Hanson) , represented by Jordan Wright of Counsel instructed by Elisa de Wit and Sebastian Withers of Norton Rose Fulbright	1	1 hour
11.15am – 11.25am	Paul Dwyer , representing himself and submission 2	2 & 3	
11:25am – 12.30pm noon	Break		1 hour
12:30pm – 1.00pm	Proponent , closing submissions		30 mins
1:00pm – 1.30pm	Council , closing submissions		30 mins
1:30pm	Hearing close		

Hearing Timetable Notes:

1. If you are unable to be present at your scheduled time, please contact Planning Panels Victoria on (03) 5381 9457 as soon as possible.

2. Please be present or online at least 15 minutes before your scheduled start time.
3. The Panel may amend a Party's start time without notice. However 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. If you have any questions about the timetable, please contact Planning Panels Victoria on (03) 5381 9457