



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

9 November 2021

Dear Party,

Hobsons Bay Planning Scheme Amendment C114hbay and permit applications PA1943532 and PA1943533 - Hobsons Bay Precinct 16 West

The Panel held a Directions Hearing for the above matter on 8 November 2021 on video conference. Please find attached:

- Panel Directions
- Distribution List
- Hearing Timetable.

The following key dates apply:

Time	Date	Action	Direction
12 noon	Friday, 12 November 2021	Council must circulate the documents specified to the parties	9
12 noon	Friday, 12 November 2021	Council must provide a submitter location map to the Panel	10
12 noon	Friday, 12 November 2021	The Proponent must provide a copy of the GTA SIDRA file to Council and any other party who requests access in writing	12
12 noon	Monday, 15 November 2021	Parties who wish to call additional evidence must circulate details of additional expert witnesses	14
12 noon	Monday, 15 November 2021	Newport Apartments (Vic) Pty Ltd must circulate a brief statement outlining its position on the key issues.	11
12 noon	Wednesday, 24 November 2021	Council must circulate its Part A submission	13
12 noon	Monday, 29 November 2021	Council and the Proponent must circulate Expert witness reports	16
12 noon	Wednesday, 1 December 2021	Other parties must circulate Expert witness reports	17
12 noon	Friday, 3 December 2021	Parties intending to attend the accompanied site inspection must provide details of the attendees to Brymart Pty Ltd	28
12 noon	Wednesday, 8 December 2021	Expert witness statements of agreed opinions and facts to be circulated	25
4 pm	Thursday, 9 December 2021	An accompanied site inspection of the existing metal fabrication and engineering business at 5-7 Sutton Street will take place	27

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



12 noon	Friday, 10 December 2021	Council must circulate its Part B submission	30
12 noon	Friday, 10 December 2021	Any supplementary submission from a party not appearing at the Hearing must be circulated	38
10 am	Monday, 13 December 2021	Video conference Hearing commences	
12 noon	Friday, 24 December 2021	Council must circulate its Part C versions of the Amendment, draft permits and draft Development Plans	47
12 noon	Friday, 14 January 2022	Parties must circulate their preferred versions of the Amendment, draft permits and draft Development Plans	48

Declarations

The Panel made the following declarations at the Directions Hearing:

- Member Carlisle declared that in late 2020 she chaired a Priority Projects Standing Advisory Committee Hearing for the permit applications for Buildings A and B on Precinct 17. Vega One Pty Ltd (a submitter to these proceedings) was the Applicant. The Committee recommended the grant of both permits.
- Member Wimbush declared that in late 2012 he chaired the Panel for Amendment C82, which rezoned Precinct 16 East (the former Caltex site) to facilitate its residential development.
- Member Wimbush declared that in July 2021 he engaged AB Natoli Lawyers on a private matter. Some of the principals of AB Natoli are related to Andrew Natoli, who is representing Newport Apartments (Vic) Pty Ltd in these proceedings. Andrew Natoli has no professional involvement in AB Natoli Lawyers.

No concerns were raised by any of the parties in relation to any of these declarations.

Procedural matters

Council has requested the Minister for Planning to appoint the Panel as an Advisory Committee to consider submissions and provide advice on the exhibited draft Development Plans. At this time the Panel has not been appointed and Terms of Reference have not been issued.

The Panel's preferred position is that if the appointment as an Advisory Committee is not made prior to the Hearing start date, the Hearing would still proceed. The Panel would informally consider submissions on the Development Plans in the Hearing and comment on them in its report. If the Panel is appointed as an Advisory Committee by the time the Panel submits its report, the Panel (as an Advisory Committee) will be able to make formal recommendations about the Development Plans.

No party objected to this course of action.

If you have questions, please contact Tom Milverton, Project Officer at Planning Panels Victoria on (03) 8508 2691 or planning.panels@delwp.vic.gov.au.

Yours sincerely,



Sarah Carlisle
Panel Chair

Panel Directions

Hobsons Bay Planning Scheme Amendment C114hbay and permit applications PA1943532 and PA1943533 - Hobsons Bay Precinct 16 West

Before the Hearing

Hearing administration

1. Council must host and manage the video conference for the Hearing. The video conference will be conducted on MS Teams.
2. Council must host and manage an online document sharing platform which provides access to all parties to upload and download documents. The document sharing platform must be established by **Friday, 19 November 2021**, and must be maintained until the Panel submits its report.
3. Parties must provide email addresses to Council for all persons, including expert witnesses, requiring access to the video conference and the document sharing platform by **12 noon on Friday 19 November 2021**.

Circulation and sharing of documents

4. All information presented to the Panel is public unless the Panel directs otherwise.
5. Documents must be circulated electronically by uploading them to the document sharing platform and sending an email to all parties on the Distribution List to advise them that the material has been uploaded. Material required to be circulated before the document sharing platform has been set up must be circulated by email to all parties on the Distribution List.
6. Files should not exceed 20MB in size. Documents larger than 20MB should be broken down into smaller files less than 20MB.
7. File names should clearly identify the document and be as short as possible.
8. Paper documents will only be permitted in exceptional circumstances. If any party has issues supplying documents electronically, they should contact Planning Panels Victoria.

Further information from Council

9. Council must circulate the following documents by **12 noon on Friday, 12 November 2021**:
 - a) the addendum to the EPA submission
 - b) the further correspondence received from Melbourne Water Corporation and the Department of Transport
 - c) copies of the additional supporting information provided by the Proponent following the close of exhibition
 - d) details of the proposed post-exhibition changes to the Development Plan Overlay Schedule 2 and the Development Plans (including mark-ups where that would assist)
 - e) a plan showing the current land ownership within Precinct 16 West.
10. Council must provide the following document to the Panel only by **12 noon on Friday, 12 November 2021**:
 - a) a map showing the location of each submitter (this map is not to be published online or circulated to the parties – if any party wants a submitter location map a de-identified version must be supplied).
11. Newport Apartments (Vic) Pty Ltd must circulate the following document by **12 noon on Monday 15 November 2021**:
 - a) a brief statement outlining its position on key issues.

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Further information from the Proponent

12. The Proponent must provide a copy of the GTA SIDRA file supporting the GTA Transport Impact Assessment dated 22 June 2020 to Council and any other party who requests access in writing by 12 noon on **Friday 12 November 2021**.

Council Part A submission

13. Council must circulate a Part A submission by 12 noon on **Wednesday, 24 November 2021** that includes:
- a) A summary of the strategic context, including:
 - (i) relevant planning policies and controls
 - (ii) other amendments that may be under preparation or recently approved that may impact on the Amendment
 - b) Clarification of the following matters:
 - (i) the extent of the subject land that may be subject to inundation in a 1 in 100 year storm event (please provide any mapping available which shows this extent)
 - (ii) which of the pipelines referred to in Submission 9 from Energy Safe Victoria are referred to in the Development Plan Overlay Schedule 2 and the draft Development Plans
 - c) Copies of recently issued permits on surrounding land:
 - (i) the permits issued for Building A and Building B on Precinct 17, together with any endorsed development plans
 - (ii) the permit for the residential subdivision of land in Precinct 16 East (the former Caltex site), together with any approved master plan and any registered section 173 agreement
 - d) Information on any current permit applications that may impact on the proposal, including:
 - (i) brief details of the Balance of Land application currently before Council in relation to Precinct 17, together with any Council officer report on the application
 - e) A summary of the conditions of authorisation, and how those conditions have been met
 - f) A summary of the main issues raised in submissions
 - g) Any other strategic material that Council intends to rely upon in support of the Amendment, draft permits and draft Development Plans that has not yet been provided, or that might assist the Panel in its consideration of the Amendment, draft permits and draft Development Plans.

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

14. Any party intending to call additional evidence must provide details of its additional expert witnesses by **12 noon on Monday, 15 November 2021**.
15. 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 Panel as an unlocked document.
16. Council and the Proponent must circulate their witness reports by 12 noon on **Monday, 29 November 2021**.
17. Other parties must circulate their witness reports by 12 noon on **Wednesday, 1 December 2021**.

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18. Council and the Proponent must request their traffic experts to address the following in their evidence:
- a) an indication as to what, if any, adjustments need to be made to the traffic impact assessment in response to the information about development yield and land uses on Precinct 17 referred to in Vega One's submission (Submission 25).

19. Council must publish all witness reports on its website.

Meeting of experts

20. Expert witnesses in the areas listed below must meet to prepare a statement of agreed opinions and facts. The nominated expert should act as a chair for the meeting and coordinate arrangements and note taking:
- a) Traffic to be chaired by Charmaine Dunstan of Traffix Group
 - b) Acoustics to be chaired by Jim Antonopoulos of SLR Consulting.
21. The meeting(s) should be held:
- a) at a time agreed by 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.
22. The meeting(s) can only be attended by:
- a) the experts being called to give evidence
 - b) a non-participating note taker if necessary.
23. Advocates for parties instructing the experts must not attend the meeting(s).
24. The statement(s) 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.
25. The statement(s) 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 by **12 noon on Wednesday, 8 December 2021.**
26. If any expert witness directed 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 Panel by the expert witness.

Site inspection

27. An accompanied site inspection of the existing metal fabrication and engineering business at 5-7 Sutton Street will take place on **Thursday, 9 December 2021 at 4.00pm.**
28. Parties intending to attend the accompanied site inspection must provide details of the attendees (including any expert witnesses) to Brymart Pty Ltd by **12 noon on Friday, 3 December 2021.**

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29. All attendees on the accompanied site visit must follow the occupational health and safety instructions and COVID safe requirements of Brymart Pty Ltd, Able Industries Engineering Pty Ltd and Westgate Hi-Tech Machinery Pty Ltd. Proof of full vaccination will be required.

At the Hearing

Council Part B submission

30. Council must circulate its Part B submission by 12 noon **on Friday, 10 December 2021** that includes:
- its response to submissions and evidence
 - Day 1 versions of the Amendment and related documentation, which must incorporate the proposed post-exhibition changes (details of which were provided pursuant to Direction 9(d)) and any further changes proposed by Council in response to evidence or submissions, tracked against the exhibited versions.

Proponent and Newport Apartments submissions

31. At the Hearing, the Proponent and Newport Apartments (Vic) Pty Ltd must address the following issues:
- A response to Council's proposed Day 1 versions of the documentation.

Brymart submission

32. At the Hearing, Brymart must address the following issues:
- Information in relation to any complaints about its operations received from existing sensitive uses to the west and south of its site at 5-7 Sutton Street
 - Information in relation to any regulatory action taken in relation to the impact of its operations on nearby sensitive uses.

Evidence and cross examination

33. Unless agreed by the Chair, evidence-in-chief must be no longer than 30 minutes (*Note: all expert witness reports will be read before the Hearing*).
34. An expert witness may refer to a presentation which summarises their evidence, but it:
- must not include new evidence
 - may include a response to like evidence
 - must be provided to parties by 12 noon the day before that witness is scheduled to appear.
35. Parties, advocates and the Panel may question a witness.
36. If cross-examining a witness, a party must:
- be present for the whole of the giving of the evidence
 - ask clear and relevant questions, directed to matters of fact or professional opinion, that genuinely assist the Panel in understanding the issues
 - allow a witness time to explain their answer.
37. Witnesses giving evidence remotely must:
- 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 Panel
 - inform the Panel immediately should another person enter the room from which they are giving evidence
 - not discuss their evidence with any other person during breaks in evidence when under cross-examination

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- d) not have before them any document, other than their expert witness statement and relevant supporting documents.

Written submissions

- 38. A party who intends to supplement their original submission (without orally presenting that submission) must circulate their written submission by 12 noon **on Friday, 10 December 2021**.

Other information

- 39. Any other material a party wishes to present at the Hearing, including witness presentations or summaries, must be circulated by **12 noon on the day before** the party presenting the material is due to present.
- 40. After presenting to the Panel, submissions and other material (preferably in MS Word) should be emailed to planning.panels@delwp.vic.gov.au as an unlocked document.

Closing submissions

- 41. Council and the Proponent will be provided time to present a closing submission.
- 42. 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

- 43. Parties must not record any part of an electronic hearing by any means without permission from the Panel.
- 44. 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 commencement of the Directions Hearing, outlining its reasons.
- 45. 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.
- 46. 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

- 47. Council must circulate its final preferred versions of the Amendment, draft permits and draft Development Plans ('Part C versions') by **Friday, 24 December 2021**. The Part C versions must be in MS Word, and must be tracked against the Day 1 versions.
- 48. Any party seeking to provide without prejudice tracked changes to Council's Part C versions, must circulate them by **12 noon on Friday, 14 January 2022**.
- 49. This process is not an opportunity to revisit any matter of merit.

Compliance with Panel directions

- 50. 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*]
- 51. 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 seek leave from the Panel to vary the direction.

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52. The Panel may:

- a) refuse to hear from anyone who fails to comply with a direction. [section 159(b)]
- b) not accept evidence if leave to vary a direction for the circulation of evidence is not sought or granted.

Distribution List

Hobsons Bay Planning Scheme Amendment C114hbay and permit applications PA1943532 and PA1943533 -
Precinct 16 West

Use this list to circulate expert witness statements and other information requested by the Panel.
It must not be used for any other purpose.

Party	email address
Planning Panels Victoria	planning.panels@delwp.vic.gov.au ;
Hobsons Bay City Council	adeline.lane@ilgp.com.au ; ekrijestorac@hobsonsbay.vic.gov.au ; jleane@hobsonsbay.vic.gov.au ;
Alceon Group No. 67 Pty Ltd	linda.choi@nortonrosefulbright.com ;
Newport Apartments (Vic) Pty Ltd	andrew.natoli@equipelawyers.com.au ;
Brymart Pty Ltd	jlofting@hwle.com.au ; nsissons@hwle.com.au ; nbradley@hwle.com.au ;
Mobil Oil Australia Pty Ltd	bradley.j.frick@exxonmobil.com ;
Vega One Pty Ltd	stthomas@sjbplanning.com.au ;

Timetable

Hobsons Bay Planning Scheme Amendment C114hbay and permit applications PA1943532 and PA1943533 - Precinct 16 West

Timetable Version 1

Note: early starts and early or late finishes are highlighted in **red**

Day 1: Monday 13 December 2021

Convened by video conference via MS Teams – link to be provided

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 11.15am	Hobsons Bay City Council represented by Adeline Lane of Jackson Lane Legal, calling the following expert evidence: <ul style="list-style-type: none">- Traffic from Charmaine Dunstan of Traffix Group- Planning from Chris De Silva of Mesh Planning- Planning from David Barnes of Hansen Partnership	-	Day 1 of 2
11.15am – 11.30am	Break		15 mins
11.30am – 12.30pm	Hobsons Bay City Council cont		
12.30pm – 1.30pm	Lunch break		1 hour
1.30pm – 3.15pm	Hobsons Bay City Council cont		
3.15pm – 3.30pm	Break		15 mins
3.30pm – 4.30pm	Hobsons Bay City Council cont		
4.30pm	Day close		

Day 2: Tuesday 14 December 2021

Convened by video conference via MS Teams – link to be provided

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 11.15am	Hobsons Bay City Council cont	-	Day 2 of 2
11.15am – 11.30am	Break		15 mins
11.30am – 12.30pm	Hobsons Bay City Council cont		
12.30pm – 1.30pm	Lunch break		1 hour
1.30pm – 3.15pm	Hobsons Bay City Council cont		
3.15pm – 3.30pm	Break		15 mins
3.30pm – 4.30pm	Hobsons Bay City Council cont		
4.30pm	Day close		

Day 3: Wednesday 15 December 2021

Convened by video conference via MS Teams – link to be provided

Time	Party	Sub No	Allocated
9.30am – 9.45am	Preliminary matters		15 mins
9.45am – 11.00am	Alceon Group No. 67 Pty Ltd represented by Paul Chiappi and Carly Robertson of Counsel instructed by Norton Rose Fulbright, calling the following expert evidence: <ul style="list-style-type: none"> - Acoustics from Jim Antonopoulos of SLR Consulting - Planning from Rob Milner of Kinetica - Traffic from Hilary Marshall of Ratio 	-	Day 1 of 2.5
11.00am – 11.15am	Break		15 mins
11.15am – 12.30pm	Alceon Group No. 67 Pty Ltd cont		
12.30pm – 1.30pm	Lunch break		1 hour
1.30pm – 3.00pm	Alceon Group No. 67 Pty Ltd cont		
3.00pm – 3.15pm	Break		15 mins
3.15pm – 4.00pm	Alceon Group No. 67 Pty Ltd cont		
4.00pm – 4.05pm	Break		5 mins
4.05pm – 5.05pm	Mobil Oil Australia Pty Ltd represented by Brad Frick	24	1 hour
5.05pm	Day close		

Day 4: Thursday 16 December 2021

Convened by video conference via MS Teams – link to be provided

Time	Party	Sub No	Allocated
9.30am – 9.45am	Preliminary matters		15 mins
9.45am – 11.00 am	Alceon Group No. 67 Pty Ltd cont	-	Day 1.5 of 2.5
11.00am – 11.15am	Break		15 mins
11.15am – 12.15pm	Alceon Group No. 67 Pty Ltd cont		
12.15pm	Day close		

Day 5: Friday 17 December 2021

Convened by video conference via MS Teams – link to be provided

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 11.15am	Alceon Group No. 67 Pty Ltd cont	-	Day 2.5 of 2.5
11.15am – 11.30am	Break		15 mins
11.30am – 12.30pm	Alceon Group No. 67 Pty Ltd cont		
12.30pm – 1.30pm	Lunch break		1 hour
1.30pm – 3.15pm	Alceon Group No. 67 Pty Ltd cont		
3.15pm – 3.30pm	Break		15 mins
3.30pm – 4.30pm	Alceon Group No. 67 Pty Ltd cont		
4.30pm	Day close		

Day 6: Monday 20 December 2021

Convened by video conference via MS Teams – link to be provided

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 11.15am	Newport Apartments (Vic) Pty Ltd represented by Andrew Natoli of Equipe Lawyers, calling the following expert evidence: <ul style="list-style-type: none"> - Planning from John Glossop of Glossop Town Planning - Acoustics from Jim Antonopoulos of SLR Consulting 	-	4 hours
11.15am – 11.30am	Break		15 mins
11.30am – 12.30pm	Newport Apartments (Vic) Pty Ltd cont		
12.30pm – 1.30pm	Lunch break		1 hour
1.30pm – 3.30pm	Newport Apartments (Vic) Pty Ltd cont		
3.30pm – 3.45pm	Break		15 mins
3.30pm – 4.30pm	Vega One Pty Ltd represented by Sarah Thomas of SJB Planning	25	1 hour
4.30pm	Day close		

Day 7: Tuesday 21 December 2021

Convened by video conference via MS Teams – link to be provided

Time	Party	Sub No	Allocated
9.30am – 9.45am	Preliminary matters		15 mins
9.45am – 11.00am	Brymart Pty Ltd represented by James Lofting of HWL Ebsworth Lawyers, calling the following expert evidence: <ul style="list-style-type: none"> - Urban Planning / Design from Tim Biles of Ratio - Traffic from Russell Fairlie of Ratio - Property economics from Emma Carstairs of Resin - Acoustics from Nicholas Peters of Renzo Tonin 	33	Day 1 of 2
11.00am – 11.15am	Break		15 mins
11.15am – 12.30pm	Brymart Pty Ltd cont		
12.30pm – 1.30pm	Lunch break		1 hour
1.30pm – 3.30pm	Brymart Pty Ltd cont		
3.30pm	Day close		

Day 8: Wednesday 22 December 2021

Convened by video conference via MS Teams – link to be provided

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 11.15am	Brymart Pty Ltd cont	-	Day 2 of 2
11.15am – 11.30am	Break		15 mins
11.30am – 12.30pm	Brymart Pty Ltd cont		
12.30pm – 1.30pm	Lunch break		1 hour
1.30pm – 3.30pm	Brymart Pty Ltd cont		
3.30pm – 3.45pm	Break		15 mins
3.45pm – 5.00pm	Brymart Pty Ltd cont		
5.00pm	Day close		

Day 9: Thursday 23 December 2021

Convened by video conference via MS Teams – link to be provided

Time	Party	Sub No	Allocated
10.00am – 10.15am	Preliminary matters		15 mins
10.15am – 11.00am	Alceon Group No. 67 Pty Ltd Closing submission		45 mins
11.15am – 11.30am	Break		15 mins
11.30pm – 12.15pm	Hobsons Bay City Council Closing submission		45 mins
12:15pm	Day close		

Hearing Timetable Notes:

1. Start and finish times and break times may be amended without notice.
2. Please log in 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 Tom Milverton on (03) 8508 2691.