



Planning Panels Victoria

Department of Environment, Land, Water and Planning

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20 December 2017

As addressed

Dear Submitter/Council/Proponent

Monash Planning Scheme Amendment C129: Rezoning of Former Talbot Road Sand Mine, South Oakleigh

Background

The Panel appointed to consider this Amendment and the seven submissions made to the Council in response to public exhibition, including four from local residents, commenced its Hearing in early August 2017 when three days of Hearing took place.

A required further day of Hearing was scheduled for 12 October 2017 to suit the convenience of the legal representatives of the Council and Proponent for the Amendment.

At that Day 4 of the Panel Hearing, Monash City Council tendered some 221 proforma letters which had been received by the Council since the previous day of the Hearing. Additional letters were later provided by the Council bringing the total to 341 letters (including approximately 14 duplicates).

The letters referred to the Amendment and expressed opposition to the rezoning. Some of the proforma letters had been annotated. All letters were subsequently made available to the existing parties and responses invited.

The issue of the Panel response to the letters was addressed at Day 5 of the Hearing on 30 October 2017.

The existing parties did not oppose the acceptance of the letters as late submissions in relation to the Amendment and their consideration by the Panel, albeit the Proponent for the Amendment, Sterling Global Pty Ltd, questioned the relevance of most of the matters raised in the letters.

The Panel then considered how the further submissions should be treated by the Panel. Having heard from the parties present, the Panel determined to write to the persons who forwarded the late submissions and offer them the opportunity to make a further or more detailed written (supplementary) submission to the Panel.

The Council was directed to arrange for the distribution of the Panel letter. The Panel letter was dated 13 November 2017 and supplementary submissions were invited by 30 November 2017.

In reply the Panel received 85 supplementary submissions.

Request for reconvening of Hearing

While the Panel only invited further written submissions, a request for the Panel Hearing to be reconvened was included in the supplementary submission by Dr C Thompson and Ms O Murashova (allocated Late Submission number 57). Around 12 or more other late submitters indicated they may wish to be heard if the Panel Hearing was reconvened.

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



Copies of all supplementary submissions were made available to the original parties to the Panel Hearing and responses to them were invited by the Panel by 18 December 2017. The Panel's letter noted the request to be heard made by Dr Thompson.

Mrs Valente was the only original party to the Hearing to comment on the matter of the request for further Hearing by 18 December 2017. She commented that the large number of late submissions (compared to the original few submissions in response to exhibition) was supportive of her argument that the original notice of the Amendment had been defective. In particular, she submitted that:

- *some of the ... exhibited documents lacked relevant information so that the public could not fully comprehend the scale of the proposed development; and*
- *documents relevant to the assessment of this Amendment were not exhibited at all.*

Her submission on the further Hearing issue was:

... that the 341 pro-forma submissions together with the 86 supplementary submissions is evidence to the Panel that this Planning Scheme Amendment was not properly exhibited and that it should be abandoned. The submitters have not been given the opportunity of being involved with the hearing process from the start and accordingly have not been given the opportunity to hear all the submissions of Monash Council, the EPA, the Proponents' legal team, the Expert Evidence, including the opportunity to question the proponent's expert witnesses.

Alternatively, should the Panel not agree to abandon this amendment based on the above, then we are of the view that given the lack of information that was exhibited with this application originally, that all the persons who lodged a Supplementary Submission to the Planning Panel should be invited to be given an opportunity to be heard before the Planning Panel.

The Panel has considered this issue and has determined that it is appropriate for the Panel Hearing to be reconvened and those who have made supplementary submissions be invited to make presentations to the Panel.

The Panel generally agrees with the submissions made by Mrs Valente about the limitations of the exhibition material relating to the Amendment. It is not surprising that the initial public response to exhibition was very limited. Now works have started on the site and given issues have arisen in the course of the Panel Hearing, there is a greater number of people wishing to have input.

The Panel appreciates, as argued by Mrs Valente, that to best enable the late submitters' involvement in the consideration of the issues, it may be preferable that the current Hearing be abandoned, and they be given an opportunity to be involved from the start of a new Hearing and throughout its running.

The Panel has to consider the matter of fairness to all parties, however. Given that five days of hearing have been conducted, opposing interests have been well represented throughout by the Valentines and many issues have been identified and explored, the Panel has determined that it is not appropriate to abandon the Hearing. Rather the supplementary submitters should be given an opportunity to participate in the present Hearing and make oral presentations. The Panel considers this course provides them with 'a reasonable opportunity to be heard' as referred to in section 24 of the *Planning and Environment Act 1987*. Efforts will be made to make previously tabled material

available to those who wish to inspect it and responses by existing parties to further presentations will be enabled.

Directions Hearing

The Panel considers that the most efficient way to advance this matter is to conduct a brief Directions Hearing.

The Directions Hearing will be held at:

10:00am, Tuesday 30 January 2018
Planning Panels Victoria,
Hearing Room 2, Ground Floor
1 Spring Street, Melbourne.

The purpose of the Directions Hearing will be to encourage and assist supplementary submitters to make a coordinated presentation(s) about the matters which the Panel can consider. It will also allow the original parties, the Proponent and Council in particular, to indicate how they wish to respond to such (a) presentation(s). It will also address arrangements for access to material already tendered at the Hearing. Requests to view that material can also be made in advance of the Directions Hearing by contacting the Planning Panels Office as below. Other matters may be addressed as required.

The scheduling of the further day(s) of Hearing will also occur at the Directions Hearing. The Panel anticipates that the further Hearing would likely take place in the week beginning Monday 19 February 2018.

Please note:

- All submissions and information provided at the Hearing about the Amendment will be **treated as public documents**. Please see the attached *Privacy Collection Notice*.
- The Panel has a copy of all written supplementary submissions and will consider them when preparing its report, whether or not the late submitter appears at the reconvened Hearing.

Persons wishing to be heard at the reconvened Hearing

Please complete the attached *Request to be Heard Form* and return it to the Panel Co-ordinator **by 5.00pm on Tuesday 23 January 2018** if:

- you wish to be heard at the reconvened Hearing
- you do not wish to be heard but would like a copy of the Timetable and Directions.

A Timetable for the further day of Hearing will be prepared based on the information provided on the *Request to be Heard Form* and arrangements made at the Directions Hearing for joint presentations. It will be emailed to submitters who return this form.

You are to nominate if you will be calling expert evidence on the *Request to be Heard Form*. If evidence is being called, the Panel will make directions about the exchange of expert reports. These reports will need to be circulated at least five working days before the Hearing or as directed by the Panel.

Further Information

The *Privacy Collection Notice* is attached for your convenience.

Further information including the *What is a Panel?* guide, *Guide to the Public Hearing* and *Frequently Asked Questions* are available at:

<https://www.planning.vic.gov.au/panels-and-committees/planning-panel-guides>

Hard copies of these documents can be obtained by contacting Planning Panels Victoria.

If you have any queries please contact Planning Panels Victoria on (03) 8392 5115 or planning.panels@delwp.vic.gov.au.

A handwritten signature in black ink that reads "Jenny Moles". The signature is written in a cursive style and is set against a light grey rectangular background.

Jenny Moles

Panel Chair

Privacy Collection Notice

Natural justice for all participants and transparency are important parts of the Panel process. In meeting its legislative requirements, the Panel may do the following with your submission:

- Provide a copy of your submission with all contact details to the Proponent, Local Council, Government Agencies and other parties to the Hearing
- Provide a copy of your submission to the Department of Environment, Land, Water and Planning if needed for preparing Ministerial briefings
- Display a copy of your submission in the Planning Panels Victoria Office or Hearing room.
- Display a copy of your submission in the relevant Local Council Office or Regional Government Office as appropriate

The Panel does not propose to display your full submission on a website unless this is necessary and you have given your consent. However, your name and other personal information may be published on the internet as detailed below.

Publication of your personal information on the internet

A Panel Report will be published on the internet and may include:

- each submitter's name
- direct quotes from submissions
- submitter addresses, if required.

Please note that even when your personal information is removed from the internet, it may remain on external servers indefinitely.

After the Panel has reported

When the Panel has reported to the Planning Authority, your submission will be removed from public display.

Your original submission and any additional material provided will be held at Planning Panels Victoria for two years and then sent to the Public Record Office Victoria. All additional copies of the submission and other material held by Planning Panels Victoria will be securely destroyed.

If you have any concerns in respect to the way your submission will be used please contact Planning Panels Victoria on (03) 8392 5114.

Request to be Heard Form

Monash Planning Scheme Amendment C129: Rezoning of Former Talbot Road Sand Mine, South Oakleigh

Please complete the request to be heard form online by [clicking here](#).

Alternatively, return this form **no later than 5.00pm on Tuesday 23 January, 2018** to Planning Panels Victoria:

Email: planning.panels@delwp.vic.gov.au

Post: GPO Box 2392, Melbourne, Victoria 3001

Fax: (03) 8392 5110

Please tick one:

- I wish to be heard at the Public Hearing** - Complete all sections
- I do not wish to be heard but please email me a copy of the Timetable and any Directions - Provide name and email only

Contact Details

PLEASE WRITE IN BLOCK LETTERS

Submitter name

(as shown in submission):

Represented by

Person:

(if applicable):

Organisation:

Postal Address:

Daytime contact number:

Email (see Note 3 below):

Hearing Arrangements

Please specify dates or times of day between 19/02/2018 – 23/02/2018 when you are **not** available (see Note 1):

Time required to present your submission and expert evidence (including time for questions):

Will you be calling expert witnesses? (see Note 6) Yes No

If yes, provide details below

Full name	Organisation (if applicable)	Field of expertise
_____	of _____	on _____
_____	of _____	on _____
_____	of _____	on _____
_____	of _____	on _____

Request to be Heard Form Notes:

1. The details provided on this form will be used to prepare the Hearing Timetable. PPV will make every effort to prepare the timetable based on the availability provided on this form, but it cannot be guaranteed.
2. Future correspondence will be emailed to the above email address. Hard copies will be provided to parties without an email address.
3. The email address provided on this form will be provided to other parties to the Hearing to allow for the circulation of information or Expert Witness Reports unless you specify otherwise.
4. The Hearing Rooms at PPV are equipped with a Hearing Loop, and a laptop and projector if required.
5. If you have any access requirement in order to participate in the Hearing, please contact PPV.
6. An expert witness gives evidence in a particular field of expertise. They are required to circulate Expert Witness Reports and may be subject to cross examination at the Hearing.