



Department of Planning and Community Development

Enquiries: 03 9637 9690
Contact: Nicole Maloney

26 September 2007

As Addressed

Dear Sir/Madam

**RE: OCEAN ACCESS BOAT RAMP, BASTION POINT, MALLACOOTA
ENVIRONMENT EFFECTS STATEMENT
EAST GIPPSLAND PLANNING SCHEME, PERMIT APPLICATION 162/2007/P
INQUIRY DIRECTIONS**

The Minister for Planning has appointed Mr Nick Wimbush (Chair), Mr Leon Collett and Mr Robin Saunders under Section 9 of the *Environment Effects Act 1978* to hold an inquiry into the environmental effects of the Ocean Access Boat Ramp at Bastion Point, Mallacoota.

The Minister has appointed the same people as a Panel under Sections 97E, 153 and 155 of the *Planning and Environment Act 1987* to hear submissions to East Gippsland Planning Scheme Planning Permit Application 162/2007/P for vegetation removal associated with the proposed boat ramp.

These matters will be considered concurrently by the Inquiry. A directions hearing was held on Wednesday 12th September 2007 in Mallacoota. As a result of this hearing the Inquiry makes the following directions.

Hearing arrangements

The inquiry hearings will commence in Mallacoota on **Thursday 15th November 2007**. The hearings will run for five days in Mallacoota before transferring to Melbourne for a further eight days to accommodate submitters and expert witnesses.

The detailed hearing timetable is attached. You should study this carefully to ascertain when and where you are scheduled to be heard. Please contact Ms Nicole Maloney, Panel Coordinator, Planning Panels Victoria on 03 9637 9690, as soon as possible if there are sound reasons why the suggested timeslot is not suitable.

The Mallacoota venue will require audio visual facilities to enable submission presentations. Planning Panels Victoria will provide such facilities at the Melbourne venue.

1. **The Inquiry directs that the East Gippsland Shire and DPCD liaise to arrange audio-visual facilities at the Mallacoota venue. At this time a laptop computer (suitable for playing video images), data projector, screen and overhead projector have been identified. If a slide projector is required this should be provided by the submitter to account for the particular cartridges used.**

Expert witnesses

A number of parties indicated they will be calling expert witnesses on a range of topics. Planning Panels Victoria has prepared a set of guidelines for expert witnesses and these are attached. Section 2 of the Guidelines reads as follows:

- 2.1 *An expert witness has a paramount duty to the Panel and not to the party retaining the expert.*
- 2.2 *An expert witness has an overriding duty to assist the Panel on matters relevant to the expert's expertise.*
- 2.3 *An expert witness is not an advocate for a party to a proceeding.*

The Inquiry notes that some experts being called by the Save Bastion Point Campaign are also proposing to appear as individual submitters, possibly advocating a particular position in relation to the project.

2. **The Inquiry directs that parties read the attached guidelines for expert evidence and ensure that those to be called as 'experts' are not taking a position of advocacy for or against the project in principle.**

A number of parties are proposing to call people with 'expertise' in some fields, such as boat handling in the local conditions at Mallacoota. In general, the Inquiry will treat such people as 'submitters' but acknowledge their experience as appropriate. Cross examination of such people will generally not be allowed by the Inquiry.

Expert witnesses – theme days

As discussed at the directions hearing, the Inquiry is proposing to hear evidence from parties in a series of 'theme' days to ensure to the greatest extent possible that experts on a particular subject are all present for that discussion.

At the request of the major parties calling evidence, these sessions will be held in Melbourne to minimise costs. The theme days are proposed in the timetable and summarised in Table 1.

Table 1 – Proposed Expert Evidence Theme Days

Theme	Date
Aboriginal Cultural Heritage	Tuesday 27 th November
Marine and Terrestrial Ecology	Wednesday 28 th November
Coastal Processes, Coastal Engineering	Thursday 29 th November
Coastal Management, Coastal Geomorphology	Friday 30 th November
Economics and Planning	Tuesday 4 th December
Tourism and Recreation	Wednesday 5 th December
Biosphere, Landscape, Arts	
Marine Safety and Boat Operations	Thursday 6 th December

At the directions hearing the East Gippsland Shire Council indicated they will call experts in a number of areas including:

- Native vegetation
- Coastal engineering/coastal processes
- Aboriginal cultural heritage
- Planning (peer review)

The Save Bastion Point Campaign indicated they will call 16 experts across a range of fields including:

- Economics/Cost Benefit Analysis
- Beach recreation
- Surfing economics
- Coastal management
- Beach safety
- Seamanship and marine safety
- Coastal geomorphology
- Marine habitat
- Geology/geo-scientific values
- World biosphere reserve
- Landscape architecture
- Heritage conservation
- Tourism
- Local and regional arts values
- Local government policy and strategy

The Inquiry needs to be clear on the number and subject of experts to be called to ensure the timetable can be finalised accurately.

- 3. The Inquiry directs that all parties provide a complete list of expert evidence to be called (with names if possible) by Close of Business on Monday 8th October. The information should be provided identifying approximately how long is needed for the initial expert presentation and which theme it will be delivered under, from Table 1 above.**

4. The Inquiry directs that copies of expert witness statements be circulated by close of business on Wednesday 31st October 2007.

Copies should be circulated directly to parties as shown in Table 2. Generally only those parties calling expert evidence are entitled to receive expert witness statements.

Expert witness statements should cover to the maximum extent possible, the material to be delivered at the hearing presentation.

Table 2 – Expert Evidence Circulation

Organisation	Address	Number of copies of expert evidence to be provided
Planning Panels Victoria	Level 1 8 Nicholson Street East Melbourne VIC 3002	4 hard copies plus electronic copy
East Gippsland Shire Council	Ms Amanda Chew Maddocks 140 William Street Melbourne VIC 3000	2 hard copies for Council use 1 hard copy for display in Mallacoota (Outreach Centre or other appropriate venue) 1 hard copy for display in Bairnsdale (Council offices) (4 copies in total)
Save Bastion Point Campaign	PO Box 192 Mallacoota 3892	2 hard copies
Department of Planning and Community Development	Mr Andrew Horner DPCD 71 Hotham Street Traralgon VIC 3844	1 hard copy
Department of Sustainability and Environment	Ms Carole McMillan DSE 71 Hotham Street Traralgon VIC 3844	1 hard copy

Representation at the hearing

The Inquiry notes that some parties (for example the Save Bastion Point Campaign) are representing other groups. Clear authorisation to represent other parties at the hearing is needed.

5. The Inquiry directs that where a submission is being made on behalf of another group or individual, written authorisation to make that submission must be provided.

Hearing presentations and cross examination

The Inquiry hearing is intended to be conducted in a relatively informal manner. However, people attending the hearing should be courteous and allow submitters to speak without being interrupted or distracted. Only the Inquiry may ask questions of submitters. If a submitter would like a point clarified, a request must be put to the Chair.

However, if a submitter wants to comment on another submission, the comments should be made as part of their own submission. Cross-examination will only be allowed of expert witnesses and must be directed towards established matters of fact or professional opinion. Submitters and advocates will not be subject to cross-examination.

Written Submissions at the Hearing

If further written material is to be provided to the Inquiry, a minimum of 10 copies (hard copy) are required at the hearing:

- 3 copies for the Inquiry;
- 1 copy for DPCD;
- 1 copy for DSE if related to their environment portfolios;
- 2 copies for East Gippsland Shire Council;
- 2 copies for other major submitters
- 1 copy for the 'public table' at the entrance to the hearing room.

If photographs or maps are part of a submission, only one copy is required. The East Gippsland Shire Council is to establish a public document table for the duration of the hearing. A copy of each submission and all relevant reports, maps and plans referred to in submissions is to be available for all parties to view.

6. The Inquiry directs that the East Gippsland Shire Council establish and maintain a public documents table during the hearing.

Matters to be addressed in submissions to the Inquiry

Having undertaken an initial review of the exhibited material and submissions, the Inquiry indicates, without prejudice to its deliberations or eventual findings, that in addition to the general merits of the proposal and issues raised by submitters, it is particularly interested in the following matters and the assumptions on which they may rest.

- Response to Assessment Guidelines including consideration of objective based performance approach and how it is met by preferred option
- Project description and assessment (Option 3) and how it relates to other possible facilities (eg fish cleaning, boat wash down, amenities block etc...)
- Planning context of the proposal and its relationship to the future growth of Mallacoota
- Coastal Processes, modelling, wave climate and sand movement, in context of submissions on this issue

- Impacts on Aboriginal cultural heritage values and local Aboriginal community input to date
- Social and economic impacts behind economic case in relation to other economic activities
- Safety and risk management in relation to beach use and the marine environment
- Ecological and geological significance of the area and likely impact and management
- Visual amenity and landscape
- Impact on native vegetation
- Alternatives considered and rationale for the rejection of those alternatives (or alternative design elements) not taken forward for full assessment.

Material to be provided at the hearing

Plans and aerial photography of the subject site should be provided to assist in the understanding of key issues in submissions.

7. **The Inquiry directs that East Gippsland Shire Council provide an A0 size aerial photograph of the subject site for use in the Mallacoota and Melbourne hearings.**
8. **The Inquiry directs that East Gippsland Shire Council provide A0 size plans of the subject site showing key features and issues for use in the Mallacoota and Melbourne hearings.**

Draft planning permit conditions

The Inquiry requires that a set of draft planning permit conditions for the removal of vegetation be available for consideration in the hearing. The preparation of these should be coordinated by DPCD for the responsible authority.

These conditions should be discussed with the East Gippsland Shire Council prior to circulation to determine major points of agreement or disagreement and these highlighted for discussion in the Inquiry hearing on a 'without prejudice' basis.

The requirement for the preparation of draft conditions is **not** an indication that the Inquiry is likely to recommend approval of the permit application to the Minister for Planning. Rather, the draft conditions provide guidance to the Inquiry and submitters as to the conditions and the wording of conditions that may be applied, if the Inquiry were to recommend approval.

9. **The Inquiry directs that DPCD for the responsible authority circulate to the East Gippsland Shire Council, Save Bastion Point Campaign and other parties on request a set of draft conditions for the vegetation removal permit by close of business on Wednesday 31st October 2007.**

Site inspection

The Inquiry is proposing an accompanied inspection of the boat ramp site and surrounding areas on Day 5 of the hearing. The Inquiry proposes to limit the numbers on the inspection to minimise impact and for safety reasons. A maximum of two representatives from the major submitter groups can accompany the Inquiry.

The Inquiry is interested in gaining from the site inspection:

- A general appreciation of the site and the position of launching ramp and breakwater in the landscape including named features/areas (eg the Nursery surf area) where possible
- Existing use patterns
- Environmental features (remnant vegetation, coastal habitat etc...) that may be material in its consideration of environmental effects
- Cultural heritage features that may be material in its consideration of environmental effects

To assist with the site inspection the Inquiry would like the following marked:

- Marker buoy indicating the approximate end of the proposed breakwater (if this can be achieved safely)
- Height indication of breakwater at the beach end

At the request of submitters the Inquiry will also view the launch of a commercial craft from the existing ramp (weather and safety permitting).

The site inspection is not an opportunity to make submissions to the Inquiry but rather an opportunity for members of the Inquiry to gain a good appreciation of the site and issues.

10. The Inquiry directs that East Gippsland Shire prepare a draft itinerary for the site inspection in consultation with DSE, Save Bastion Point and other submitter groups (as appropriate) and table it for discussion at the opening of the inquiry hearing.

Additional reports required

The Inquiry notes that there are a range of other reports that it is interested in including:

- Mallacoota Foreshore Management Plan
- LCC East Gippsland Area Recommendations and East Gippsland Area Review Recommendations
- DSE Site Assessment Report of 2005
- Any relevant service or management agreements between DSE, EGSC and Gippsland Ports

11. The Inquiry directs that the East Gippsland Shire Council provide copies of the reports above.

Additional agencies, organisations and individuals to be contacted

The Inquiry notes for the benefit of all parties that it will be contacting the following to ascertain their views on the project:

- Marine Safety Victoria (marine safety)
- Aboriginal Affairs Victoria (Aboriginal heritage issues)
- Department of Primary Industry (fisheries issues)
- Gippsland Ports
- Gunnai-Kurnai People
- Others as the Inquiry considers necessary

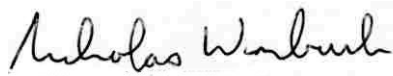
Copies of any correspondence received from these agencies will be circulated to parties and be made available for inspection during the hearing.

Provision of material to the Inquiry

Where possible, all material requested by the Inquiry and submissions made to the Inquiry should be provided in hard copy form and electronic form (preferably MS Word or unlocked PDF files).

Please contact Nicole Maloney in our office on 03 9637 9690 with any queries.

Yours faithfully



Nick Wimbush
INQUIRY CHAIR

TIMETABLE FOR PUBLIC HEARING

VERSION 1

**OCEAN ACCESS BOAT RAMP, BASTION POINT, MALLACOOTA
ENVIRONMENT EFFECTS STATEMENT
EAST GIPPSLAND PLANNING SCHEME, PLANNING PERMIT
APPLICATION 162/2007/P**

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- PANEL:**
- MR NICK WIMBUSH (CHAIR)
 - MR ROBIN SAUNDERS
 - MR LEON COLLETT
-

DAY	DATE	VENUE
1	Thursday 15 th November	Mallacoota
2	Friday 16 th November	Mallacoota
3	Monday 19 th November	Mallacoota
4	Tuesday 20 th November	Mallacoota
5	Wednesday 21 st November	Mallacoota
6	Friday 23 rd November	Melbourne
7	Tuesday 27 th November	Melbourne
8	Wednesday 28 th November	Melbourne
9	Thursday 29 th November	Melbourne
10	Friday 30 th November	Melbourne
11	Tuesday 4 th December	Melbourne
12	Wednesday 5 th December	Melbourne
13	Thursday 6 th December	Melbourne
14	Reserve Friday 7 th December	
15	Reserve Monday 10 th December	

DETAILS OF VENUES:

- **MAIN HALL, RECREATION RESERVE, ALLAN DRIVE, MALLACOOTA**
- **HEARING ROOM 2, PLANNING PANELS VICTORIA, LEVEL 1, 8 NICHOLSON STREET, EAST MELBOURNE**

ANY QUERIES REGARDING THIS TIMETABLE SHOULD BE MADE TO MS NICOLE MALONEY AT PLANNING PANELS VICTORIA ON (03) 9637 9690.

PLEASE NOTE THAT THIS TIMETABLE MAY BE AMENDED WITHOUT NOTICE.

TIMETABLE FOR PUBLIC HEARING**VERSION 1****DAY 1****DATE: Thursday 15th November 2007****VENUE: Main Hall, Recreation Reserve, Mallacoota**

<u>Time</u>	<u>Name</u>	<u>Time Requested</u>
10.00am	Opening comments and preliminary matters	
10.30am	Department of Planning and Community Development Background to EES and representing Minister for Planning as responsible authority for planning permit application	30 minutes
11.00am	East Gippsland Shire Council (Proponent) submission in chief	4 hours
12.00pm	Lunch	
1.00 pm	EG Shire continued	
4.00pm	Department of Sustainability and Environment (482)	20 minutes
4.30pm	Close	

DAY 2**DATE: Friday 16th November 2007****VENUE: Main Hall, Recreation Reserve, Mallacoota**

<u>Time</u>	<u>Name</u>	<u>Time Requested</u>
9.30am	Preliminary matters	
9.45am	Save Bastion Point (273)	4.5 hours
12.00pm	Lunch	
1.00pm	Save Bastion Point continued	
3.15pm	Mallacoota Surf Life Saving Club (84)	1 hour
4.15pm	Friends of Mallacoota (321)	1 hour
5.15pm	Close	

DAY 3**DATE: Monday 19th November 2007****VENUE: Main Hall, Recreation Reserve, Mallacoota**

<u>Time</u>	<u>Name</u>	<u>Time Requested</u>
9.30am	Preliminary matters	
9.35am	Mr Craig Ingram MP (386)	45 minutes
10.20am	Mallacoota Coast Action/Coast Care (272)	1 hour
11.20am	Break	
11.30am	Mallacoota Ocean Access Committee (211)	1 hour
12.30pm	Mallacoota & District Business and Tourism Association (139)	1 hour
1.30pm	Lunch	
2.30pm	Mallacoota District Reconciliation Group (145)	10 minutes
2.40pm	Ms Jean Nickels (51)	10 minutes
2.50pm	Surfrider Foundation, Far East Gippsland (363)	15 minutes
3.05pm	Ms Allison Marion (254)	15 minutes
3.20pm	Mr Darryl Burns (436)	15 minutes
3.35pm	Mr Ken Vatcher (437)	15 minutes
3.50pm	Break	
4.00pm	Mr Philip Counsel (358)	30 minutes
4.30pm	Mr David Eagleson (239)	10 minutes
4.40pm	Ms Linette Treasure (304)	10 minutes
4.50pm	Close	

DAY 4**DATE: Tuesday 20th November 2007****VENUE: Main Hall, Recreation Reserve, Mallacoota**

<u>Time</u>	<u>Name</u>	<u>Time Requested</u>
9.30am	Preliminary matters	
9.35am	Mr Nigel Allison (82)	30 minutes
10.05am	Mr Leo Op Den Brouw (310)	30 minutes
10.35am	Mr Tony Symes (410)	30 minutes
11.05am	Break	
11.20am	Ms Jenny Mason (270)	15 minutes
11.35am	Ms Liza Newby & Mr Lester Sturgess (183/47)	15 minutes
11.50am	Mr Phil Reichelt (245)	15 minutes
12.05pm	Ms Meg Allan (118)	5 minutes
12.10pm	Mr David Allan (267)	10 minutes
12.20pm	Mr Tony Hastings (300)	5 minutes
12.25pm	Lunch	
1.30pm	Mr John Ariens (339)	10 minutes
1.40pm	Ms June Drake (387)	10 minutes
1.50pm	Dr Michael Drake (70)	10 minutes
2.00pm	Mr Kevin Lott (244)	10 minutes
2.10pm	Mr Paul Rodoreda (206)	10 minutes
2.20pm	Mr R Shooter (186)	15 minutes
2.35pm	Ms Lorelle Roberts (141)	10 minutes
2.45pm	Mr Michael Bartholomew (388)	10 minutes
2.55pm	Break	
3.15pm	Mr Ray Davey (170)	10 minutes
3.25pm	Mr Tim Frazer (294)	20 minutes
3.45pm	Mr Hans Van Der Sant (232)	5 minutes
3.50pm	Ms Lynne Flakemore (330)	5 minutes

3.55pm	Mr Bruce Pascoe (79)	7 minutes
4.05pm	Close	

DAY 5

DATE: Wednesday 21st November 2007

VENUE: Main Hall, Recreation Reserve, Mallacoota

<u>Time</u>	<u>Name</u>	<u>Time Requested</u>
10.00am	Preliminary matters	
10.10am	Ms Arlene Petty (476)	5 minutes
10.15am	Mr Peter Sands (152)	10 minutes
10.25am	Mrs Dale Fisher (250)	10 minutes
10.35am	Mr Michael Perry (462)	20 minutes
10.55am	Mr John Roy (68)	30 minutes
11.25am	Parker Family (6/15/25)	30 minutes
11.55am	Lunch	
1.00pm	Elders and Representatives, Aboriginal Communities	60 minutes (TBC)
2.00 – 5.00pm	Site Inspection	

DAY 6**DATE:** Friday 23rd November 2007**VENUE:** Hearing Room 2, Planning Panels Victoria, Melbourne

<u>Time</u>	<u>Name</u>	<u>Time Requested</u>
9.30am	Preliminary matters	
9.40am	Australian Conservation Foundation (259)	45 minutes
10.25am	Victorian National Parks Association (320)	15 minutes
10.40am	Bushwalking Victoria (238)	15 minutes
11.00am	Break	
11.15am	Mr Gib Wettenhall (208)	10 minutes
11.25am	Mr Gregory Smith (319)	10 minutes
11.35am	Mr Bryce Grunden (431)	45 minutes
12.20pm	Lunch	
1.20pm	Dr James Thyer (213)	40 minutes
2.00pm	Mr Colin Stephen & Ms Sharyn Cambridge (55)	10 minutes
2.10pm	Ms Narelle Warren (314)	15 minutes
2.25pm	Ms Briony Wood-Ingram (63)	10 minutes
2.35pm	Mr David Blake (337)	5 minutes
2.40pm	Mr Stephen Chey (406)	30 minutes
3.10pm	Close	

DAY 7

DATE: Tuesday 27th November 2007

VENUE: Hearing Room 2, Planning Panels Victoria, Melbourne

<u>Time</u>	<u>Name</u>	<u>Time Requested</u>
9.30am	Preliminary matters	
9.40am	Ms Diana Wolfe (306)	10 minutes
9.50am	Ms Rosemary Luker (89)	15 minutes
10.05am	Mr Jim Green (61)	10 minutes
10.15am	Ms Jennifer Lee (301)	15 minutes
10.30am	Ms Jan Wild & Mr Rowan Rafferty (255)	5 minutes
10.35am	Ms Robyn Erwin (293)	10 minutes
10.45am	Mr Rod Ingham (368)	10 minutes
11.00am	Break	
11.15am	Theme Session for Expert Witnesses – Aboriginal Cultural Heritage	
	Parties calling experts: East Gippsland Shire Council Save Bastion Point	
4.30pm	Close	

DAY 8**DATE:** Wednesday 28th November 2007**VENUE:** Hearing Room 2, Planning Panels Victoria, Melbourne

<u>Time</u>	<u>Name</u>	<u>Time Requested</u>
9.30am	Preliminary matters	
9.35am	Theme Session for Expert Witnesses – Marine and Terrestrial Ecology	
	Parties calling experts: East Gippsland Shire Council Save Bastion Point	
4.30pm	Close	

DAY 9**DATE:** Thursday 29th November 2007**VENUE:** Hearing Room 2, Planning Panels Victoria, Melbourne

<u>Time</u>	<u>Name</u>	<u>Time Requested</u>
9.30am	Preliminary matters	
9.35am	Mr Rod Thomas (54)	60 minutes
10.35am	Theme Session for Expert Witnesses – Coastal Processes, Coastal Engineering	
	Parties calling experts: East Gippsland Shire Council Save Bastion Point	
4.30pm	Close	

DAY 10**DATE:** Friday 30th November 2007**VENUE:** Hearing Room 2, Planning Panels Victoria, Melbourne

<u>Time</u>	<u>Name</u>	<u>Time Requested</u>
9.30am	Preliminary matters	
9.35am	Theme Session for Expert Witnesses – Coastal Management, Coastal Geomorphology	
	Parties calling experts: East Gippsland Shire Council Save Bastion Point Surfrider Foundation	
TBA	Mr Chris Tola, Surfrider Foundation (212)	40 minutes (including expert witness on coastal management)
4.30pm	Close	

DAY 11**DATE:** Tuesday 4th December 2007**VENUE:** Hearing Room 2, Planning Panels Victoria, Melbourne

<u>Time</u>	<u>Name</u>	<u>Time Requested</u>
9.30am	Preliminary matters	
9.35am	Theme Session for Expert Witnesses – Economics and Planning	
	Parties calling experts: East Gippsland Shire Council Save Bastion Point	
4.30pm	Close	

DAY 12**DATE:** Wednesday 5th December 2007**VENUE:** Hearing Room 2, Planning Panels Victoria, Melbourne

<u>Time</u>	<u>Name</u>	<u>Time Requested</u>
9.30am	Preliminary matters	
9.35am	Theme Session for Expert Witnesses – Tourism and Recreation	
	Parties calling experts: East Gippsland Shire Council Save Bastion Point	
1.00pm	Lunch	
2.00pm	Theme Session for Expert Witnesses – Biosphere, Landscape, Arts	
	Parties calling experts: East Gippsland Shire Council Save Bastion Point	
4.30pm	Close	

DAY 13**DATE:** Thursday 6th December 2007**VENUE:** Hearing Room 2, Planning Panels Victoria, Melbourne

<u>Time</u>	<u>Name</u>	<u>Time Requested</u>
9.30am	Preliminary matters	
9.35am	Theme Session for Expert Witnesses – Marine Safety and Boat Operation	
	Parties calling experts: East Gippsland Shire Council Save Bastion Point	
3.00pm	East Gippsland Shire Council Right of Reply	
4.30pm	Close	

DAY 14

DATE: Friday 7th December 2007

VENUE: Hearing Room 2, Planning Panels Victoria, Melbourne

<u>Time</u>	<u>Name</u>	<u>Time Requested</u>
	RESERVE DAY	

DAY 15

DATE: Monday 10th December 2007

VENUE: Hearing Room 2, Planning Panels Victoria, Melbourne

<u>Time</u>	<u>Name</u>	<u>Time Requested</u>
	RESERVE DAY	

Planning Panels Victoria

Planning Panels – Expert Evidence

1. Circulation of expert reports

- 1.1 Expert witness reports must be submitted five to seven working days prior to the commencement of the hearing, or at an earlier date directed by the Panel. An earlier date will be specified for more complex reports.
- 1.2 Parties must disclose at the Directions Hearing, the evidence (if any) they will be calling at the public hearing.
- 1.3 Copies of witnesses' reports or statements must be circulated in accordance with directions made at the directions hearing. If no specific directions were made, ten copies of their reports or statements must be given to the Panel Coordinator by the specified date. Copies will be given to the Panel and to other parties as directed. Other people may obtain copies by contacting the Panel Coordinator.
- 1.4 Before the hearing, copies of witnesses' reports or statements will normally be available for perusal by submitters at the offices of the planning authority and Planning Panels Victoria, Level 1, 8 Nicholson Street, East Melbourne.

2. Expert's duty to the Panel

- 2.1 An expert witness has a paramount duty to the Panel and not to the party retaining the expert.
- 2.2 An expert witness has an overriding duty to assist the Panel on matters relevant to the expert's expertise.
- 2.3 An expert witness is not an advocate for a party to a proceeding.

3. Content and form of expert's report

- 3.1 The report of an expert must include the following:
 - 1) the name and address of the expert,
 - 2) the expert's qualifications and experience,
 - 3) a statement identifying the expert's area of expertise to make the report,
 - 4) a statement identifying any other significant contributors to the report and where necessary outlining their expertise,
 - 5) all instructions that define the scope of the report (original and supplementary and whether in writing or oral), and
 - 6) the identity of the person who carried out any tests or experiments upon which the expert relied in making the report and the qualifications of that person.
- 3.2 Where a report has been used to inform the preparation of an amendment or proposal the expert should not provide a revised report. The expert should provide a brief report that includes:
 - 1) an unambiguous reference the report, or reports that the expert relies upon,
 - 2) a statement identifying the role that the expert had in preparing or overseeing the exhibited report(s),
 - 3) a statement to the effect that the expert adopts the exhibited report and identifying:
 - any departure of the expert from the finding or opinions expressed in the exhibited report,
 - any questions falling outside the expert's expertise,
 - any key assumptions made in preparing the report, and
 - whether the exhibited report is incomplete or inaccurate in any respect.

3.3 Where a report has not been used to prepare an amendment or proposal, the report should include:

- 1) the facts, matters and all assumptions upon which the report proceeds,
- 2) reference to those documents and other materials the expert has been instructed to consider or take into account in preparing his or her report and the literature or other material used in making the report,
- 3) a summary of the opinion or opinions of the expert,
- 4) a statement identifying any provisional opinions that are not fully researched for any reason (identifying the reason why such opinions have not been or cannot be fully researched), and
- 5) a statement setting out
 - any questions falling outside the expert's expertise, and
 - whether the report is incomplete or inaccurate in any respect.

3.4 The expert must declare at the end of the report, 'I have made all the inquiries that I believe are desirable and appropriate and that no matters of significance which I regard as relevant have to my knowledge been withheld from the Panel.'

4. Where the expert changes his or her opinion on a material matter

4.1 An expert witness who changes an opinion on a material matter on the basis of another expert's report or for any other reason must, after the exchange of reports or at any other stage, communicate that change of opinion in writing to the party retaining the expert and such party shall forthwith file with the Panel, notice of such change of opinion.

4.2 Such a document must specify reasons why his or her opinion has changed.

5. Where the Panel directs expert witnesses to meet

5.1 Expert witnesses retained by parties are encouraged to meet to narrow any points of difference between them and to identify any remaining points of difference. The Panel may also direct that they meet.

5.2 If expert witnesses meet they must each set out in writing by a document filed with the Panel any agreed points and all remaining points of difference.

5.3 If any expert witness directed by the Panel to meet with any other expert is instructed by a party not to reach agreement in respect of points of difference, the fact of such instructions must be reported in writing to the Panel by the expert witness concerned.

6. Generally

6.1 Parties to a proceeding must ensure that any expert retained by them to provide a report for use in the proceeding is aware of the contents of this direction, at the time of such retainer.

7. Form of report

7.1 Written material presented at the hearing should preferably be in the following form:

- 1) Two-hole punched,
- 2) Stapled, not bound,
- 3) Photographs or other visual material in A4 binders or A4 format, not on large boards. This makes the material easier to transport and file.