

1 Spring Street Melbourne Victoria 3000 GPO Box 2392 Melbourne, Victoria 3001 Telephone (03) 8624 5712

4 May 2022

Dear Party,

VPA Projects Standing Advisory Committee Referral 3 – Wonthaggi North East Precinct Structure Plan and draft Planning Scheme Amendment C152basc Tranche 2 Hearing

The VPA Projects Standing Advisory Committee (Committee) held a Directions Hearing for the above matter on 2 May 2022 by video conference. Please find attached:

- Committee Directions
- Distribution List
- Hearing Timetable.

The following dates apply:

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Time	Date	Action	Direction
12 noon	Monday, 9 May 2022	Parties to confirm details of experts where not already provided	1
12 noon	Friday, 6 May 2022	VPA must circulate its Day 1 Hearing version of the Amendment	8
12 noon	Tuesday, 10 May 2022	VPA must circulate its Part A submission	9
12 noon	Thursday, 12 May 2022	Parties must circulate Expert witness reports	10
12 noon	Friday, 20 May 2022	Experts statement of agreed opinions and facts to be circulated	12
12 noon	Wednesday, 25 May 2022	Parties circulate submission outlines	17
12 noon	Friday, 27 May 2022	VPA circulates opening statement	18
12 noon	Tuesday, 7 June 2022	VPA circulates its Part B submission	19
10 am	Monday, 30 May 2022	Video conference Hearing commences	

Declarations

The Committee made no declarations.

Conduct of the Hearing

While it would be desirable to conduct some of the Hearing in person (with provision for remote access), given the number of parties, advocates and experts involved it is considered more efficient for the hearing to be conducted entirely by video conference.

Because the scheduled dates for the Hearing have been set for some time and known by the majority of parties, the Committee will commence the Hearing on the 30 May 2022, beginning with an opening statement from the VPA followed by the drainage, DCP and economic evidence. Primary submissions will follow that evidence. Where possible the Committee has sought to accommodate the primary submissions of parties based on advised availability. The Committee will manage the sequence of experts in each field





based on advised availability (including that of advocates). Some recording of evidence may be permitted at the discretion of the Committee in recognition that some parties and experts may not be able to be present for the entirety of evidence theme presentations.

If you have any questions, please contact Kimberly Martin, Senior Project Officer of Planning Panels Victoria on (03) 8624 3266 or planning.panels@delwp.vic.gov.au.

Yours sincerely,

Tim Hellsten

Chair, VPA Projects Standing Advisory Committee

Committee Directions

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Before the Hearing

Details of Experts

1. Parties must provide details of experts where not already provided to the Committee by **12 noon on Monday 9 May 2022**.

Hearing administration

- 2. The VPA must host and manage the video conference using the Zoom platform.
- Parties must advise the Committee of any user that requires an invitation to use the video conference by 12 noon on Monday 16 May 2022. Planning Panels Victoria will liaise with the VPA who will provide invitations for the Hearing to all parties by 12 noon on Wednesday 17 May 2022.
- 4. The VPA must host and manage an online document sharing. This should ideally include materials circulated as part of the Tranche 1 Hearing. It is noted that the iManage Share platform was used during Tranche 1.
- 5. Parties must advise the Committee of any user that requires an invitation to use the electronic document exchange platform by **12 noon on Friday 13 May 2022**.
- 6. Parties must upload circulated documents to the document sharing platform as soon as practicable. When documents are uploaded all parties on the Distribution List should be sent a courtesy email to that effect. Electronic copies of documents should also be sent to Planning Panels Victoria.
- 7. Files should not exceed 20MB in size. Documents larger than 20MB should be broken down into smaller files less than 20MB. File names should be as short and clear as possible.

VPA documents

- 8. Where the VPA proposes further changes to the November 2021 versions of the Wonthaggi North East Precinct Structure Plan (PSP), Development Contribution Plan (DCP), Native Vegetation Management Plan and draft Amendment ordinance documents it is to upload these to its project website and circulate to parties on the Distribution List a Day 1 Amendment version of the Amendment by 12 noon on Friday 6 May 2022.
- 9. The VPA is to provide a brief Part A submission by 12 noon on Tuesday 10 May 2022 which provides:
 - a) an overview of any changes to the Planning Policy Framework since its Tranche 1 Part A submission
 - b) the status of engagement with the Bunurong Land Council Aboriginal Corporation, CFA and EPA
 - c) a summary of unresolved submission issues (based on addendum submissions where provided)
 - d) a summary of PSP, DCP, NVPP and other ordinance changes and an outline of resolved submission issues
 - e) an outline of its approach to s173 Agreements and DCP, and apportionment.

Expert evidence and Conclaves

- 10. Expert drainage, DCP and Economic witness statements on must be circulated and uploaded to the electronic document exchange platform by 12 noon on Thursday 12 May 2022. Bushfire witness statements must be circulated and uploaded to the electronic document exchange platform by 12 noon on Tuesday 24 May 2022.
- 11. A witness report must:
 - a) comply with the Guide to Expert Evidence (https://www.planning.vic.gov.au/panels-and-committees/planning-panel-guides)

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 - b) not refer to any individual submitter by name if necessary, submitters should be referred to by submission number (Note: it can can refer to community groups, organisations, corporations and government agencies)
 - c) be provided to the Committee as an unlocked document.
- 12. Expert conclaves, if occurring, must occur before Tuesday 17 May 2022 with an agreed statement circulated and uploaded to the electronic document exchange platform by 4:00 pm on Friday 20 May 2022. The Committee will consider later dates agreed by the parties calling evidence that are the subject of the conclaves where this assists to further refine issues and aligns with the timetabled evidence themes.
- 13. The conclave meeting(s) should be held:
 - a) at the discretion of the experts within the dates identified in Direction 11
 - b) by video or in person, as far as practicable, at a mutually convenient location.
- 14. The conclave meeting(s) can only be attended by:
 - a) the experts being called to give evidence
 - b) a non-participating note taker if necessary
 - c) a relevant staff member (one only) from the relevant CMA, South Gippsland Water and a drainage engineer from Bass Coast Shire Council (as the drainage authority). These members are limited to observer roles or providing information on behalf of those agencies to assist conclave experts.
 - d) Advocates for parties instructing the experts must not attend the meeting(s).
- 15. 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.
- 16. 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

Tranche 2 Hearing arrangements

17. Parties (other than the VPA) must circulate and upload an outline of their submission issues to the electronic document exchange platform by 12 noon on Wednesday 25 May 2022.

Directions:

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VPA opening statement of position

18. The VPA must file and upload, to the electronic document exchange platform, an opening statement which provides an overview of the Amendment and sets out its overall position to submission issues and its initial response to evidence and conclaves by 12 noon on Friday 27 May 2022.

At the Tranche 2 Hearing

VPA Part B submission

- 19. The VPA must file and upload, to the electronic document exchange platform, the Part B submission by **12 noon on Tuesday 7 June 2022**. This submission should include:
 - a) its final response to submissions and evidence including any further proposed changes to the Day 1 Amendment documents (Direction 8).

Submissions of other parties

20. The primary submission of parties (other than the VPA) must be circulated and uploaded to the electronic document exchange platform by 12 noon the day before that party is listed to present its submission unless with the leave of the Committee.

Evidence and cross examination

- 21. 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.
- 22. 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.
- 23. Unless a specific direction is made about 'like' evidence, an expert witness can provide their response to other like evidence by 12 noon the day before that witness is scheduled to appear.
- 24. Parties, advocates and the Committee may question a witness.
- 25. 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.
- 26. 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.
- 27. 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-
 - d) not have before them any document, other than their expert witness statement and relevant supporting documents.
- 28. The Committee will regulate cross-examination.

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VPA and Council closing submissions

- 29. The VPA and Council must circulate and upload, to the electronic document exchange platform, their closing submissions by **4:00 pm** on the day before they are listed to present their closing submission. The closing submissions must not raise new matters but should respond to matters raised in other parties' submissions or evidence.
- 30. The VPA and Council closing submissions must include their final positions on the Amendment including any proposed changes (based on a VPA Final Tranche 2 changes version). This document will be produced in a table format outlining proposed changes to the PSP, DCP, NVPP and other ordinance provisions (if any) and include columns for parties to confirm whether changes are agreed or to propose alternate wording.

Final drafting comment submissions

31. Parties will be provided with an opportunity to make 'Without prejudice' drafting comments in writing to the Committee following the close of the Hearing based on the VPA's Final Tranche 2 Hearing final changes version. A deadline for submissions will be confirmed at the Hearing by the Committee before the close of the Hearing. This process is not an opportunity to revisit any matter of merit.

Recording Hearings and use of personal information

- 32. Parties must not record any part of an electronic hearing by any means without permission from the Committee.
- 33. In this instance it is anticipated that the drainage and DCP/Economic evidence may be recorded for the benefit of the Committee and parties. This will be confirmed at the commencement of the Hearing. A party who wishes proceedings to be recorded must make a request to the Committee at least two business days before the commencement of the Hearing, outlining its reasons.
- 34. 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.
- 35. 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.

Compliance with Committee directions

- 36. 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*]
- 37. 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.
- 38. The Committee 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.

Timetable

VPA Projects Standing Advisory Committee Referral 3 – Wonthaggi North East Precinct Structure Plan and d^r Scheme Amendment C152basc Tranche 2 Hearing

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

Electronic documents

Party	email address
Planning Panels Victoria	planning.panels@delwp.vic.gov.au;
Victorian Planning Authority	sturnbull@hwle.com.au; jlofting@hwle.com.au; Bonnie.Mather@vpa.vic.gov.au; henry.kassay@vpa.vic.gov.au; Emily.Killin@vpa.vic.gov.au; Crystal.Tang@vpa.vic.gov.au; robert.marks@vpa.vic.gov.au;
Bass Coast Shire Council	terry.montebello@maddocks.com.au; chloe.henry-jones@maddocks.com.au;
Sam Brotheridge	tisam2@yahoo.com.au;
Bass Coast Housing Matters	mnn@fastmail.fm;
Birdwood Pty Ltd	ipridgeon@rk.com.au;
BW Projects St. Clair Pty Ltd	jess@skplanninglawyers.com.au; morrisl@bevwill.com.au; MittenS@bevwill.com.au;
Giovanni & Cheryl Paterno and Leigh & Gemma Clifford	barnabym@pelaw.com.au;
Krastoy Pty Ltd	ellen@polislegal.com.au;
LandGipps Vic Pty Ltd	nick.sutton@nortonrosefulbright.com; shantanu.joshi@nortonrosefulbright.com; sashank.krishnamoorthy@nortonrosefulbright.com;
Larnay Pty Ltd	jess@skplanninglawyers.com.au; morrisl@bevwill.com.au; mittens@bevwill.com.au;
National Pacific Properties Pty Ltd (Stuart Edden)	tom.trevaskis@nationalpacific.com.au;
Oceanic Rise Pty Ltd	mittens@bevwill.com.au;
Robert John Edden	mittens@bevwill.com.au;
Ross Wise	wisewaytotravel@gmail.com;
Summerfields Wonthaggi Pty Ltd	jess@skplanninglawyers.com.au; morrisl@bevwill.com.au; mittens@bevwill.com.au;
Wallis Watson Industrial Pty Ltd	jess@skplanninglawyers.com.au; morrisl@bevwill.com.au; mittens@bevwill.com.au;
Wentworth Pty Ltd	mittens@bevwill.com.au;
Wonthaggi Lifestyle Precinct	bursillconsulting@gmail.com;



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Timetable Version 1

Day 1: Monday 30 N	lay 2022	
Video conference link t	o be provided	
Time	Party	Allocated
10.00am – 10.15am	Preliminary matters	15 mins
10.15am – 11.15pm	Victorian Planning Authority (VPA) Opening submission, represented by James Lofting and Sonia Turnbull of HWL Ebsworth Lawyers	1 hour
11.15am – 11.30am	Break	15 mins
11.30am – 4.30pm	 Caroline Carvalho of Alluvium (for VPA) Warwick Bishop of Water Technology (for VPA) Peter Coombes of Urban water Cycle Solutions (for Council) Michael Mag of Stormy Water Solutions (for Krastoy Pty Ltd) Nina Barich of Incitus (for LandsGipp P/L) Aram Manjikian of Beveridge Williams (for Robert John Edden, Wentworth Pty Ltd, Ocean Rise P/L, Summerfields Wonthaggi P/L, Wallis Watson Industrial P/L, Larnay P/L and BW Project St Clair P/L) TBC (for G&C Paterno and L& G Clifford) 	3 days
1.00pm – 2.00pm	Lunch break	1 hour
3.30pm – 3.45pm	Break	1 hour
4.30pm	Day close	

Day 2: Tuesday 31 May 2022

Time	Party	Allocated
10.00am – 10.15am	Preliminary matters	15 mins
10.15am – 4.30pm	Drainage evidence Cont'd	
11.30am – 11.45am	Break	15 mins
1.00pm – 2.00pm	Lunch break	1 hour
3.30pm – 3.45pm	Break	15 mins
4.30pm	Day close	

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Day 3: Wednesday 1 June 2022

Video conference link to be provided

Time	Party	Allocated
10.00am – 10.15am	Preliminary matters	15 mins
10.15am – 4.30pm	Drainage evidence Cont'd	1 hour
11.30am – 11.45am	Break	15 mins
1.00pm – 2.00pm	Lunch break	1 hour
3.30pm – 3.45pm	Break	15 mins
4.30pm	Day close	

Day 4: Thursday 2 June 2022

Time	Party	Allocated
10.00am – 10.15am	Preliminary matters	15 mins
10.15am – 1.15pm	Drainage evidence Cont'd	3 hours
11.30am – 11.45am	Break	15 mins
2.15pm – 4.30pm	Reserve afternoon (or continuation of drainage evidence)	

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Day 5: Friday 3 June	2022	
Video conference link t	o be provided	
Time	Party	Allocate
10.00am – 10.15am	Preliminary matters	15 mins
10.15am – 4.30pm	 Development Contributions/Economic evidence: Chris DeSilva of Mesh (for VPA) Chris McNeill of Ethos Urban (for Council) Paul Zlatkovic of Safe System Solutions Pty (for Council) Mark Woodland of Echelon Planning (for Krastoy P/L) Alex Herlja of HillsPDA (for Krastoy P/L) Mark Dawson of Urbis (for Krastoy P/L)(Note: Available between 11.00am and 3.00pm only) TBC (for Robert John Edden, Wentworth Pty Ltd, Ocean Rise P/L, Summerfields Wonthaggi P/L, Wallis Watson Industrial P/L, Larnay P/L and BW Project St Clair P/L) 	3 days
11.30am – 11.45am	Break	15 mins
1.00pm – 2.00pm	Lunch break	1 hour
3.30pm – 3.45pm	Break	15 mins
4.30pm	Day close	

1.00pm – 2.00pm	Lunch break	1 hour
11.30am – 11.45am	Break	15 mins
10.15am – 4.30pm	Development Contributions/Economic evidence Cont'd	
10.00am – 10.15am	Preliminary matters	15 mins
Time	Party	Allocated
Video conference link t	o be provided	

Day 6: Monday 6 June 2022

3.30pm - 3.45pm

4.30pm

Break

Day close

15 mins

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Day 7:	Tuesd	lav 7	June	2022

Video conference link to be provided

Time	Party	Allocated
10.00am – 10.15am	Preliminary matters	15 mins
10.15am – 4.30pm	Development Contributions/Economic evidence Cont'd	
11.30am – 11.45am	Break	15 mins
1.00pm – 2.00pm	Lunch break	1 hour
3.30pm – 3.45pm	Break	15 mins
4.30pm	Day close	

Day 8: Wednesday 8 June 2022

Video conference link to be provided

Time	Party	Allocated
10.00am – 10.15am	Preliminary matters	15 mins
10.15am – 4.30pm	VPA submission	1.5 days
1.00pm – 2.00pm	Lunch break	1 hour
3.30pm – 3.45pm	Break	1 hour
4.30pm	Day close	

Day 9: Thursday 9 June 2022

Time	Party	Allocated
10.00am – 10.15am	Preliminary matters	15 mins
10.15am – 1.00pm	VPA Cont'd	
11.15am – 11.30am	Break	15 mins
1.00pm – 2:00pm	Lunch break	1 hour
2.00pm – 4.30pm	Krastoy P/L represented by Juliet Forsyth SC, and Jennifer Trewhella and instructed by Ellen Tarasenko of Polis Legal	1.5 days
3.15pm – 3.30pm	Break	15 mins
4.30pm	Day close	

VPA Projects Standing Advisory Committee Referral 3 – Wonthaggi North East Precinct Structure Plan and draft Planning Scheme Amendment C152basc Tranche 2 Hearing

Day 10: Friday 10 June 2022

Video conference link to be provided

Time	Party	Allocated
10.00am – 10.15am	Preliminary matters	15 mins
10.15am – 4.30pm	Krastoy P/L Cont'd	
11.15am – 11.30am	Break	15 mins
1.00pm – 2:00pm	Lunch break	1 hour
2.00pm - 2.20pm	Ross Wise	20 mins
2.20pm	Close	

Day 11: Tuesday 14 June 2022

Time	Party	Allocated
10.00am – 10.15am	Preliminary matters	15 mins
10.15am – 1.30pm	Bass Coast Shire Council represented by Terry Montebello of Maddocks	3 hours
11.15am – 11.30am	Break	15 mins
1.30pm – 2.30pm	Lunch break	1 hour
1.30pm – 2.30pm 2.30pm – 2:50pm	Lunch break National Pacific Properties P/L (Stuart Edden) represented by Tom Trevakis	1 hour 20 mins
	National Pacific Properties P/L (Stuart Edden)	

VPA Projects Standing Advisory Committee Referral 3 – Wonthaggi North East Precinct Structure Plan and draft Planning Scheme Amendment C152basc Tranche 2 Hearing

Day 12: Wednesday 15 June 2022

Video conference link to be provided

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Time	Party	Allocated
10.00am – 10.15am	Preliminary matters	15 mins
10.15am – 4.30pm	Robert John Edden, Wentworth Pty Ltd and Oceanic Rise P/L represented by Saraid Mitten of Beveridge Williams and Summerfields Wonthaggi P/L, Wallis Watson Industrial P/L, Larnay P/L, BW Projects St. Clair Pty Ltd represented by Jessica Kaczmarek of S&K Planning Lawyers	1.5 days
11.15am – 11.30am	Break	15 mins
12.30pm – 1.30pm	Lunch break	1 hour
3.15pm – 3.30pm	Break	15 mins
4.30pm	Day close	

Day 13: Thursday 16 June 2022

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Time	Party	Allocated
10.00am – 10.15am	Preliminary matters	15 mins
10.15am – 1.15pm	Robert John Edden, Wentworth Pty Ltd and Oceanic Rise P/L and Summerfields Wonthaggi P/L, Wallis Watson Industrial P/L, Larnay P/L, BW Projects St. Clair Pty Ltd Cont'd	
11.15am – 11.30am	Break	15 mins
1.15pm – 2.15pm	Lunch break	1 hour
2:15pm – 3.15pm	Wonthaggi Lifestyle Precinct represented by Greg Bursill of Bursill Consulting	1 hour
3.15pm	Day close	

VPA Projects Standing Advisory Committee Referral 3 – Wonthaggi North East Precinct Structure Plan and draft Planning Scheme Amendment C152basc Tranche 2 Hearing

Day 14: Monday 20 June 2022		
Video conference link t	o be provided	
Time	Party	Allocated
10.00am – 10.15am	Preliminary matters	15 mins
10.15am – 1.15pm	G and C Paterno and L & G Clifford represented by Barnaby McIlrath of PE Law and calling the evidence of Phillip Walton of XWB Consulting on Bushfire Planning	4 hours
11.15am – 11.30am	Break	15 mins
1.15pm – 2.15pm	Lunch break	1 hour
2.15pm - 3.15pm	G and C Paterno and L & G Clifford Cont'd	
3.15pm – 3.30pm	Break	15 mins
3.30pm – 4.30pm	Birdwood P/L represented by Ian Pridgeon of Russell Kennedy	1 hour

Day 15: Tuesday 21 June 2022

4.30pm

Video conference link to be provided

Day close

Time	Party	Allocated
10.00am – 10.15am	Preliminary matters	15 mins
10.15am – 1:30pm	LandGipps P/L represented by Nick Sutton of Norton Rose Fulbright	3 hours
11.15am – 11.30am	Break	15 mins
1.30pm –2.30pm	Lunch break	1 hour
2.30pm – 4.40pm	Bass Coast Housing Matters represented by Michael Nugent	2 hours
3.30pm – 3.40pm	Break	15 mins
4.40pm	Day close	

Day 16: Wednesday 22 June 2022 Reserve Day

Time	Party	Allocated
10.00am – 4.30pm	Reserve Day	
4.30pm	Day close	

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Day 17: Thursday 23 June 2022

Video conference link to be provided

Time	Party	Allocated
10.00am – 10.15am	Preliminary matters	15 mins
10.15am – 10.45pm	Council closing	30 mins
10.45am – 11.00am	Break	15 mins
11.00am – 1.00pm	VPA Closing	2 hours
1.00pm – 1.30pm	Break	1 hour
1.30pm – 2.00pm	Confirm arrangements for without prejudice submissions on Final Hearing version of Amendment documents	30 mins
2.00pm	Hearing close	

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 Kimberly Martin, Senior Project Officer, Planning Panels Victoria on (03) 8624 3266.