

WHAT IS A PANEL?

PURPOSE

The purpose of this brochure is to answer common questions about panel procedures and aims to particularly help anyone attending a panel hearing for the first time.

Under the Planning and Environment Act 1987, an independent panel is appointed by the Minister for Planning to consider submissions made about amendments to planning schemes. It will have one or more members, depending on the complexity of the matter or the issues involved.

1. What does a panel do?

The basic role of a panel is to:

- Give submitters an opportunity to be heard by an independent forum and in an informal, non-judicial manner. A panel is not a court of law.
- Give independent advice to the planning authority and Minister about an amendment and about submissions referred to it.

The panel may inquire into all aspects of the amendment and submissions.

2. Can I read the other submissions that have been made?

Submitters can inspect the submissions at the office of the authority that prepared the amendment (the 'planning authority'). To avoid disappointment it is recommended you contact the planning authority to arrange a time to inspect the submissions.

3. How does the panel consider submissions?

The panel will read all the written submissions which are sent to it by the planning authority. It gives anyone who made a submission which is referred to the panel, an opportunity to present their submission at a public hearing.

If a submitter objects to making a submission in public and the panel is satisfied that the submission is of a confidential nature, the panel may hear a submitter in private.

If directed by the planning authority or the Minister, the panel also hears other people (e.g. late submitters).

Submitters may make their submission to the panel in person or be represented by another person. The submission may be oral or written or partly oral and written. If represented by another person, written authority should be given to the panel, if the submitter is not present.

*Report to be forwarded to Council
after 4 weeks -
Council will release it within 28 days.*

WHAT IS A PANEL? — CONTINUED

4. What happens at a panel hearing?

A hearing is conducted in an informal manner. People are encouraged to represent themselves and to be present at the hearings at any time. People not wishing to present a submission are still welcome to attend the hearings.

If a person wants to have a witness, the panel can decide if there should be any cross-examination of that witness. This is usually allowed. Submitters are not cross-examined, but may be asked questions by the panel to clarify their submission.

The panel will usually hold a hearing before any submissions are heard so that preliminary matters (e.g. exchange of information) may be decided. This is commonly called a 'directions hearing'.

All people who made submissions about the amendment will be sent a 'Request to be Heard' form. They should complete and return the form if they wish to be heard at the panel hearing.

The panel prepares a timetable for the hearing based on the information in the 'Request to be Heard' forms.

Usually the procedure at the hearing is:

- The chairperson commences the hearing, describes the amendment and introduces the members of the panel.
- An officer of the planning authority outlines the purpose of the amendment; what changes (if any) are proposed to the amendment as a result of considering submissions; and the planning authority's attitude to the referred submissions.
- If the municipal council or the responsible authority is not the planning authority, a representative of the council or the responsible authority outlines its view of the amendment.
- If someone asked the planning authority to prepare the amendment (the proponent), that person explains the request and may introduce evidence to support the request.
- Submitters are heard in the order set out in the timetable or decided by the chairperson.
- A right of reply may be given by the panel to the planning authority and the proponent.

Submitters may ask questions about the amendment to the panel, and the panel may ask the planning authority (or someone else) to answer them.

The panel may adjourn the hearing to other dates if it considers this necessary. It may inform itself on any matters as it sees fit, and without notice to any submitter.

5. Presentation of submissions to the panel

Submitters should:

- Refer to the main arguments in their oral submission. This should be as brief as possible, particularly if the matters have been covered in their written submission.

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- Avoid repeating points made by previous speakers.
- Make sure that the submission relates to the matters under discussion, is based on fact, and relates to planning matters.
- Provide the panel with copies of documents referred to in the submission (including those the panel is satisfied are of a confidential nature).
- If possible, use visual aids such as photographs and plans to highlight the main points.

A copy of all written submissions and reports referred to should be given to each panel member, the planning authority and the person seeking the amendment. One spare copy should also be provided. As a general rule, six copies should be adequate.

6. Will the hearing be recorded?

Hearings are not recorded by the panel. Other parties may record all or part of the hearing with the knowledge and consent of the panel and on any conditions the panel specifies. Photographs and video recordings of the hearing are only allowed if the Panel consents.

7. What happens after the hearing is finished?

After considering all submissions and hearing all those who wish to be heard, making site inspections and considering all the information presented to it, the panel will give the planning authority a written report on the amendment.

The panel may take into account any matter it thinks relevant in reporting on the amendment.

The planning authority must consider the panel's report before it decides whether or not to adopt the amendment.

If it decides to adopt the amendment, it may disagree with all or part of a panel's report and/or change the amendment. If the amendment is adopted, copies of all submissions and the panel report are given to the Minister.

The planning authority must tell the Minister why it disagreed with the panel and why changes were made.

It must also give the Minister other information as set out in the regulations.

8. What happens if the planning authority does not make a decision on the amendment?

If the planning authority has not adopted the amendment, or been granted an extension of time by the Minister, the amendment will lapse two years after the date notice of it was published in the *Government Gazette*.

WHAT IS A PANEL? — CONTINUED

9. How do I know when a report has been submitted and/or is available for inspection by the public?

If you would like to know when the panel submits its report, you should contact the planning authority and ask to be advised of the date it receives the report.

In accordance with the *Planning and Environment Act 1987*, the panel's report is available for public inspection once the planning authority has decided whether or not to adopt the amendment or after it has been with the planning authority for 28 days, whichever is the earlier.

10. How do submitters know if the amendment has been approved?

If the Minister has decided to approve the amendment, notice will be published in the *Government Gazette*, and the planning authority must give notice to the Minister's satisfaction. This may take the form of a newspaper notice or a personal notice to the submitters.

11. Other types of panels

A panel may be appointed under the *Planning and Environment Act 1987* to consider other matters (e.g. planning permits referred to the Minister for decision or applied for in conjunction with an amendment) or under other Acts (e.g. *Environment Effects Act 1978* in respect of Environment Effects Statements).

Advisory committees may also be appointed under the *Planning and Environment Act* to consider specific proposals or to review policy.

When one of these other panels or advisory committees holds a public hearing, similar procedures will be followed to those described in respect of planning scheme amendments. The Minister is not obliged to release the report to the public, although this usually occurs after he has considered it.

12. More information

If you have any questions about a panel hearing you should contact the planning authority. If the Minister is the planning authority, you should ring Planning Panels Victoria, Department of Sustainability and Environment on (03) 9655 8744 (Fax: (03) 9655 8740).

You should also examine the *Planning and Environment Act 1987*, *Planning and Environment Regulations 1988* and the Department's *Using Victoria's Planning System*, November 2001.