

Reducing amendment timeframes by pre-setting panel hearing dates

Advisory note

July 2007

This advisory note explains how to pre-set a directions hearing and panel hearing date for an amendment prior to exhibition.

Once a council or a proponent commits to an amendment process, it should ensure that the process is undertaken expeditiously. The council and any proponent should ensure that the amendment process is sufficiently resourced (including staff, expert advice and information) and decisions are made within reasonable time frames.

The experience of Planning Panels Victoria has shown that pre-setting dates for hearings has facilitated the processing of major matters coming before panels. This initiative was taken up in Action 6 of *Cutting Red Tape in Planning* which focuses on the need to reduce timeframes in the planning scheme amendment process.

Pre-setting the panel hearing dates and including the dates in the exhibition documents provides an opportunity to shorten the planning scheme amendment process. It assists parties, their advocates and witnesses to better prepare for the panel process. Parties will know when the hearings are anticipated to be held from the time the amendment is placed on exhibition and will be able to prepare in advance, so that the panel hearing can start without delay.

Pre-setting hearing dates can also be applied to other processes likely to involve Planning Panels Victoria such as permits or other matters likely to be called-in by or referred to the Minister for Planning.

What is a pre-set hearing date?

The procedure to pre-set panel hearing dates prior to the exhibition of an amendment is a commitment by Planning Panels Victoria to provide quick access to Planning Panels for the consideration of submissions within an agreed timeframe after the conclusion of the exhibition process.

Once authorisation has been given to prepare an amendment and before the exhibition of an amendment has commenced Planning Panels Victoria (through the Chief Panel Member or delegate) can be asked to set a date for a directions hearing and a panel hearing in the event that there will be submissions that cannot be resolved by the planning authority.

The directions hearing and panel hearing dates will be negotiated between the council (or the relevant planning authority) and Planning Panels Victoria and will take into consideration the date and length of exhibition, the expected time required for the submissions to be considered and reported to council and the availability of suitable panel members.

Council must also consult with any proponent about possible panel hearing dates.

The agreed dates will be included in the notice of preparation of an amendment and the Government Gazette notice.

Which amendments will benefit from a pre-set hearing date?

Panel hearing dates can be set for any amendment. If there are no submissions that need to proceed to a panel, the pre-set date will be cancelled. Amendments where it is known that there will be submissions will benefit from a pre-set hearing date. Larger or more controversial amendments may require longer lead times between the closing date for submissions and the date set for a panel hearing.

For most amendments, the only additional work required if the amendment proceeds to a panel hearing should be to prepare a 'response to submissions'. If a full hearing is required then a panel may make explicit directions to a council about the type of additional material that should be provided.

What are the suggested time frames?

The hearing dates set for most amendments (other than very complex amendments) should be within the following time frames:

- Directions Hearing – within 8 weeks from the closing date for submissions
- Panel Hearing – within 4 weeks from the directions hearing.

How to request a hearing date

Prior to the exhibition of the amendment, the planning authority should contact the Chief Panel Member of Planning Panels Victoria (or delegate) to arrange a date for a potential directions hearing and panel hearing. The request should include the following information:

- the draft explanatory report
- the draft amendment documentation
- the proposed exhibition dates
- the expected date of the council meeting for the consideration of submissions.

Once the dates for a directions hearing and panel hearing are set, Planning Panels Victoria will write to the council (or relevant planning authority) to confirm the agreed dates.

How to give notice of a hearing date

In addition to the prescribed information that must be included in a notice of an amendment, the anticipated dates for the directions hearing and panel hearing should also be stated in the notice.

The notice of an amendment should include the following information:

Panel Hearing

A submission which seeks to change the amendment and is not accepted by the planning authority will be referred to an independent Panel appointed by the Minister under Part 8 of the *Planning and Environment Act 1987*.

If a submission is referred to a Panel, a Directions Hearing and Panel Hearing are to be held on the following dates:

Directions Hearing: (Date)
Panel Hearing: (Date)

Anyone who has made a submission which has been referred to a Panel has an opportunity to be heard.

All submitters will be formally advised in writing of any Directions or Panel Hearing and the date.

Does a planning authority need to formally request the Minister to appoint a panel?

Yes, all the statutory requirements of the amendment process still apply. Once a planning authority has considered each submission, the planning authority can refer a submission under s23 of the *Planning and Environment Act 1987* to a panel. Although a panel date has been pre-set, a request in writing to the Minister to appoint a panel under Part 8 of the Act is still required.

Can the hearing dates be changed?

Yes. Pre-set panel hearing dates can be changed if the circumstances warrant it. Pre-set panel hearing dates can be cancelled if the amendment is not proceeding to a panel.

It is the responsibility of the planning authority to notify all submitters of any change to or cancellation of the hearing dates.

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Timeframe for amendments

