## What is the difference between Panels, Advisory Committees and Environment Effects Inquiries?

Planning Panels Victoria (PPV) members deal with different types of Panels and Committees appointed to consider and advise on planning proposals and policies. These fall into three categories; Panels, Advisory Committees and Environment Effects Inquiries.

Unless specified in the Terms of Reference, Advisory Committee Hearings and Environmental Effects Inquiries are generally undertaken in same manner as a Panel Hearing. For specific information about Advisory Committees and Environment Effects Inquiries, refer to the separate PPV **Guide to Committees and Inquiries**.

## Panels

An independent Panel is appointed by the Minister for Planning under Part 8 of the *Planning and Environment Act* 1987. A Panel can be appointed to consider:

* Submissions made about a Planning Scheme Amendment.
* Planning permits applied for in conjunction with a Planning Scheme Amendment.
* Planning permits referred to or called in by the Minister for Planning.

## Advisory Committees

Advisory Committees are appointed by the Minister for Planning under Section 151 of the *Planning and Environment Act* *1987* to consider development proposals or to review planning policies with an accompanying Terms of Reference.

## Environment Effects Inquiries

Environment Effects Inquiries are appointed by the Minister for Planning to inquire into the environment effects of any works or proposed works to which the *Environment Effects Act* *1978* applies.

## How is a Panel requested?

A planning authority requests a Panel be appointed to consider submissions about:

* Amendments to planning schemes (unless an exemption is granted, hearing dates need to be Pre-set prior to the commencement of the exhibition period – refer to the Guide to Pre-set Hearing Dates).
* Combined planning scheme amendment and planning permit process.
* Planning permit applications called-in by the Minister for Planning.

The planning authority is typically the local council but can also be the Minister for Planning or a public authority (such as VicRoads).

## What information does the planning authority provide to Planning Panels Victoria?

When a planning authority requests the appointment of a Panel it will usually provide PPV with the following documents (as relevant):

* the planning scheme amendment;
* a full copy of the Environment Effects Statement (EES);
* the planning permit application;
* a full set of plans;
* any supporting reports or other documentation exhibited with the amendment, EES or permit application;
* any relevant council officer reports;
* all submissions or objections referred to the Panel;
* any other submissions received;
* a copy of the LPPF (Local Planning Policy Framework) including the full Municipal Strategic Statement, all local planning policies and other relevant extracts from the planning scheme (eg. schedules to zones or overlays);
* other relevant policies; and
* any other relevant information.

## How is a Panel appointed?

Members for individual Panels are usually selected from a list of Panel members based on:

* the experience or expertise required by the subject matter of the Panel;
* the likely length of the Panel Hearing; and
* the availability of Panel members.

Names of prospective Panel members are normally chosen by the Chief Panel Member who appoints the Panel under delegation from the Minister for Planning.

Members of a Panel are required to declare that they have no conflict of interest when:

* approached to be appointed to a Panel; and
* after the Directions Hearing.

Advisory Committees and Environment Effects Inquiries are appointed directly by the Minister for Planning.

## What happens after a Panel is appointed?

Typically, after a request for a Panel has been lodged, and the Panel has been appointed, the following will happen:

* A Directions Hearing is conducted by the appointed Panel member(s). The Directions Hearing is usually held within 2 – 4 weeks after the appointment of the Panel. The date and venue will be arranged by PPV. The planning authority, proponent and all submitters are advised in writing of the arrangements for the Directions Hearing. Indicative dates for the Hearing will usually be advised in the same letter.
* The Hearing before the Panel will take place 4 – 6 weeks after the Directions Hearing on dates outlined in the timetable issued by the Panel. The Hearing date(s) will be discussed at the Directions Hearing. Occasionally Hearing dates are pre-set (refer to the separate **Guide to Pre-setting Panel Dates**).

Once the Hearing is completed (including any supplementary submissions allowed or requested by the Panel) then the Panel’s report is prepared. It is generally lodged with the planning authority within the following timeframes prescribed when the Panel is appointed:

* 20 business days for a Panel with 1 member.
* 30 business days for a Panel with 2 members.
* 40 business days for a Panel of 3 or more members.

Sometimes, a Directions Hearing is not necessary. If the Panel decides no Directions Hearing is required, submitters will be advised. Written directions may be issued.

## Will my submission and personal details be made public?

Planning Panels Victoria is bound by the terms of the *Information Privacy Act* *2000* (IPA) and the *Health Records Act* *2001* (HRA) with regard to the use of personal information including submissions from individuals.

PPV will not publish submissions on its web site unless directed to do so or the Panel decides it is necessary to meet its obligations in terms of natural justice and procedural fairness. Permission from submitters will be sought for web publishing.

PPV will use the submissions to inform the Panel in making its recommendations to the planning authority or Minister for Planning including use in public Hearings.

As part of the normal Hearing process and in accordance with natural justice principles, proponents and some other parties to a Hearing, may be provided with a copy of submissions in order to be able to respond to them.

The *Request to be Heard Form* includes a Privacy Collection Notice detailing how the information collected will be used. This includes material handed up directly during the Hearing.

The Panel will consider any requests for material to be treated as confidential in the light of procedural fairness and natural justice for the parties to the Hearing.

## How do I ask to appear before the Panel in person?

When advised of the date of the Directions Hearing, you will also receive a *Request to be Heard Form*.

If you wish to appear before the Panel to present a submission then you must lodge the *Request to be Heard Form* with PPV by the date specified in the letter sent to you. The date enables all requests to be returned prior to the Directions Hearing. The forms may also be tabled at the Directions Hearing.

If you do not lodge this Form by the required date or at the Directions Hearing it will be assumed you do not wish to present before the Panel. (You are, however, welcome to attend and observe any part of the Hearing as it is open to the public).

## What happens to my submission if I don’t want to appear?

If you do not appear at the Hearing, your written submission will be considered by the Panel unless you advise PPV and the planning authority that you want to withdraw your submission.

If you ask to be kept informed of the Panel process, but not appear, you may be provided with copies of some material prepared by other parties such as the proponent and planning authority but not all material that the Panel will receive.

## Do I have to attend the Directions Hearing?

Attendance is not mandatory. The Directions Hearing is conducted by the Panel member(s). On some occasions involving multi-person Panels, not all members of the Panel will be present.

The purpose of a Directions Hearing is detailed in the Hearing notice sent to you. Generally, it is to make arrangements for the running of the Hearing, fix a Hearing date, set a date for the exchange of information including expert evidence, and sometimes arrange a site visit.

It is also an opportunity for:

* submitters to ask questions about information or the Panel process; and
* the Panel to identify any particular matters that it wants the planning authority, proponent or other submitter to address in submissions, such as specific legislation, policy or practice notes or guidelines.

Directions will be given at the Directions Hearing that may affect the proposed Hearing dates, type of information to be made available, and arrangements for a site inspection. If you want to be involved in discussing these matters, including asking for copies of documents and witness statements to be provided to you, then you should attend the Directions Hearing.

The directions will be confirmed in writing to those who have asked to be heard or kept informed. A timetable will be issued at the same time.

## How is the Hearing timetable arranged?

## Order of proceedings

The order of the Hearing is usually as follows (as relevant to submitters wishing to be heard):

* Planning authority or responsible authority (in the case of amendments and planning permit applications).
* Proponent for amendment or applicant for permit.
* Council (if not the planning authority or responsible authority).
* Public or servicing agencies (eg. Melbourne Water, EPA, other councils).
* Organised groups.
* Individual submitters.
* Right of reply – planning/responsible authority or proponent/applicant responding to matters arising in submissions.

The principle guiding this order is that the matters before the Panel are fully presented before it hears submissions and comments from the submitters. This means that the Panel will understand the history policy and strategic context of the matter, what it is about and its likely impacts, from the perspective of the planning authority and the proponent, before it hears from other submitters.

## Time allocated to those appearing

A Panel is required to give a reasonable opportunity to be heard to specified people. What constitutes a reasonable opportunity to be heard will depend on the circumstances of the case.

Generally, submitters are allocated the amount of time they ask for unless the Panel decides the request seems unreasonable. In preparing a timetable, the Panel will take into account any availability and time constraints identified by submitters in their Request to be Heard Forms.

The amount of time, and any time constraints a submitter might have, may be discussed at the Directions Hearing.

## Can I change my scheduled date and time after the timetable has been issued?

Once the timetable has been issued, the Panel manages the Hearing in accordance with the timetable. This is to ensure that no other party is disadvantaged by, for example, a submission(s) that exceeds the allocated time or by changing the time when expert evidence is to be called.

Over the course of a long Hearing, there may be some scope to vary the schedule but this should not be assumed to be possible. If you can no longer appear at the scheduled time advise the Panel Chair at the Hearing or contact the offices of PPV and ask for advice. Parties should not ‘swap’ times with another party without prior approval of the Panel.

You should prepare your submission to keep within the time that has been allocated to you. Extensions of time will not be possible. However, if you run out of time, any written material not addressed will still be considered by the Panel.

## Can I attend the Hearing if I do not wish to be heard?

You can attend the Hearing at any time to observe the proceedings and may access documents presented to the Panel at the Hearing.

## If I am a submitter, can I lodge a late request to be heard?

The Panel has discretion about whether or not to hear a person who has not completed a *Request to be Heard Form*. If the person has made a written submission, the Panel will need to consider the structure of its timetable, the length of time involved, the number of people wishing to be heard, the reasons for not responding earlier and whether it is fair to the other parties involved.

## Can I present to the Panel without making a submission ?

As a general rule, if a person has not made a written submission, they will not be heard. The Panel has no obligation to hear them, although it may choose to do so by exercising its power under Section 161(1)(d) of the *Planning and Environment Act* *1987* to inform itself on any matter in any way it thinks fit. It should not be assumed that the Panel will decide to exercise that discretion.

## Where will the Hearing be conducted?

The Panel Hearing venue is selected so that it is reasonably accessible by most people who have an interest in presenting at the Panel Hearing. Most often, the Hearing will be in the locality of the land in question such as the Council offices. However, if the majority of likely participants are Melbourne-based, it may be preferable to have the bulk of the Hearing in Melbourne to reduce travelling time and expenses. Sometimes a Hearing is divided between two or more venues to accommodate the needs of participants. These arrangements are discussed at a Directions Hearing.

## How formal is the Hearing?

Panels try to operate informally and efficiently but proceedings are part of a formal process that operates within specific guidelines. The format is not the same as an ordinary meeting or Council meeting. The need for structure and orderly behaviour is essential to ensure all parties have a fair opportunity to present their case.

Some of the important basic ground rules or manners are:

* All mobile telephones must be turned off or on silent mode; do not answer mobile telephones in the Hearing room.
* Do not interrupt a person’s submission or presentation of evidence no matter how much you might disagree with what is being said.
* Avoid disrupting others by noise or other activities such as talking or the use of computer equipment.
* Be respectful and courteous at all times including what you say in a written submission.
* Direct any questions or concerns about the Hearing through the Panel Chair.

## What facilities will be available at the Hearing?

The following facilities are typically made available:

* Display boards for materials such as plans, maps and photographs.
* A public table where material being presented to the Panel may be available for public inspection.
* A table for Panel members.
* Table space for representatives from the planning authority, proponent, other key submitters who will be present for the duration of the Hearing, and for individual submitters as they make their submissions.
* A separate place from which witnesses and submitters may make their presentations.
* Access to any equipment submitters may require such as a computer and data projector or whiteboard.
* A supply of water and glasses on the table accessible to all participants.
* Refreshments in the form of tea and coffee for submitters and the Panel.
* Sound amplification, if necessary.

Panel sessions are not normally recorded. This approach is taken for the following reasons:

* Written submissions and expert witness statements normally provide an adequate written record of the material placed before a Panel; and
* The Panel report should provide an adequate written record of the processes and deliberations used by the Panel to make findings and recommendations.

If any party wishes to arrange for a recording to be made they should make the request at the Directions Hearing. Refer to the separate PPV **Guide to Recording Hearings.**

## How can I prepare for the Hearing?

## Read relevant documents

If you do not already have all relevant documents, contact the planning authority and/or Council. You can also ask to view the Panel’s file at PPV’s offices in Melbourne. Useful documents include all of the documents provided by the planning authority to PPV when requesting a Panel be appointed.

If you have requested to appear at the Hearing, decide how you will approach your presentation. You and other parties can ask a spokesperson to speak for you. You can be represented by someone else, such as a family member, friend, neighbour or professional advocate. Consider if you need any professional advice, such as from a town planner, architect or lawyer. The *Request to be Heard Form* asks for information about any representative appearing for you and any expert (or other) witnesses you plan to call.

Before the Hearing, if you have requested to be heard by the Panel, you may receive further material such as expert witness reports. These statements are relied upon to support another party’s case at the Hearing. They must be sent to parties directed by the Panel five (5) business days before the Hearing unless other timeframes have been fixed by the Panel at the Directions Hearing.

You should examine any relevant documents and read any expert reports before the Hearing. They will be addressed at the Hearing. It should be assumed that that the relevant material has been read by the parties before the Hearing. Be prepared and be ready to address the reports if you wish to. Questions of expert witnesses will be permitted but are confined to questions, not statements or comments. Arguments with expert witnesses are not helpful to the Panel and will not be allowed by the Panel Chair.

## Write down and rehearse what you want to say

Write down what you want to say in a logical order in the form of a submission that you can hand to the Panel at the Hearing. You can read from all or part of this document at the Hearing. This will ensure that you address all the points you wish without repetition.

Your submission must identify what is of particular concern to you about the proposal and the specific reasons why. Focus on these points and think about ways to demonstrate them. Photographs, diagrams or a short DVD can help. Refer to previous Panel reports or VCAT decisions if directly relevant to the point you wish to make. You can access these at [www.austlii.edu.au](http://www.austlii.edu.au) .

Rehearse what you want to say so that you remain within your allotted time.

Bring the required number of copies of your written submission as outlined in the Panel directions, including copies of supporting documents such as photographs.

## Expect some questions of clarification from the Panel

The Panel may have questions for you to assist it to understand your case.

The Panel might also ask you if the proposal can be changed to overcome your concerns.

So, before the Hearing, think about whether anything can be done to address your concerns.

## What to wear

There is no dress code but persons attending the Hearing are expected to be neatly and appropriately dressed. Business attire or smart casual dress are acceptable.

## What happens at a Hearing?

## Hearing protocol

When you arrive at the Hearing venue, go into the room. Take a seat at the Hearing table (if the Hearing has not commenced) or near to the table.

At the time listed for the commencement of the Hearing, the Panel will enter the Hearing room. Everyone in the Hearing room should stand. Sit when invited to do so.

The Panel Chair will introduce him/herself, any other Panel members, and then confirm who is present and appearing for each of the parties. You should refer to the Panel Chair as “Mr Chairman” or “Madam Chair”. Other members should be referred to as Mr Smith or Ms Jones. Name plates will be on the Hearing table to help you recall the Panel member’s name.

All parties are expected to use formal names, such as Mr Green or Dr Black, not first names.

Any preliminary matters will be dealt with at the start of the Hearing. Examples are:

* Confirming that required documents have been circulated.
* Ensuring expert witness statements have been received.
* Explaining any site visit already undertaken by the Panel.

This is when you should ask any questions that have arisen since the Directions Hearing.

At the end of the Hearing, everyone should stand while the Panel leaves the room.

When taking breaks during a Hearing, everyone should also stand when the Panel adjourns and stand when the Panel returns.

Parties are (within reason) able to enter and leave the Hearing venue as they wish. They are not required to bow on entry or exit.

## Your submission

If you do not attend the whole Hearing, please arrive at least 15 minutes before your allotted time.

When it is your turn, you will be invited to sit at the Hearing table (if not already at the table).

You must present your whole case. That includes handing up documents, calling any witnesses and responding to any witness statements. If you are unsure about this, ask the Panel Chair for guidance.

Written material presented at the Hearing should preferably be two-hole punched; stapled; and not bound. Photographs or other visual material should be presented in A4 binders or A4 format, not on large boards. This makes the material easier to transport and file. If items such as photographs or maps are to be used, only one copy is required.

If you have any difficulty with supplying copies of your submission, please contact PPV.

## If you are delayed or running late

If you are delayed for any reason it is important that you contact PPV and/or contact at the planning authority as early as possible to ensure a message is sent through to the Panel Chair.

## Expert evidence

Expert witnesses must comply with the separate PPV **Guide to Expert Evidence**.

The Panel may limit the evidence parties and their witnesses give to ensure that it is relevant to the matters the Panel must consider. The Panel may stop parties and witnesses from speaking about things which the parties may want to say but the Panel believes will not affect the findings and recommendations to be made.

## Questioning witnesses and other submitters

When a witness is called, usually the witness report or statement is taken as having been read by the parties. The Panel will have read it too. The Panel will often ask for a summary of the evidence to be given. PowerPoint presentations should have been circulated in accordance with the Panel’s directions.

There will then be an opportunity to question the witness (called “cross-examination”). This is limited to asking questions about the evidence – including the written statement and evidence given at the Hearing. It is not the time to make comments or statements.

The Panel will decide the order for others to ask questions. You will only have one opportunity to ask questions. When preparing for the Hearing, think about the questions you want to ask to test or challenge the evidence.

Other than questioning of expert witnesses, parties do not have the chance to question one another about their submissions unless clarification is required. If you want clarification of another submitter, such as the planning authority or proponent, your question must be asked through the Panel Chair.

Bring a pen and paper with you to the Hearing to write any questions you decide to ask a witness or to remember points that you would like to raise later during your presentation.

## What should I do if I can no longer attend the Hearing?

If you no longer wish to appear before the Panel, advise the Panel Chair at the Directions Hearing or Hearing. You can also contact the offices of PPV and advise in writing that you will not be attending. Your written submission will still be considered by the Panel.

You may ask to lodge a written submission if you cannot attend the Hearing. If the Panel agrees, then you are likely to be asked to distribute the submission to nominated persons (such as the planning authority) by a set date that is usually no later than the date of your scheduled appearance.

## Can I withdraw my submission?

If you decide to withdraw your submission, advise the planning authority and Planning Panels Victoria in writing as soon as possible.

## Can I contact the Panel directly?

You can only make contact with the Panel in the public forum of a Hearing or in writing. You cannot contact Panel members by telephone or email to discuss matters before the Panel.

If an issue or concern arises, send a letter, fax or email to the Panel Chair via the Panel Co-ordinator at PPV. The document will be forwarded to the Panel Chair and a response will provided to you, through a PPV staff member or at the Hearing. The Panel may send copies of your letter to other submitters.

Some large Panels have a project officer assigned to them – you are able to make contact with that nominated person for assistance. The name and contact details will be included in the letter that is sent to you following the Directions Hearing.

## Can I send in further submissions or information after the Hearing?

The general rule is no. You need to make sure you have covered all that you want to present within your allotted time.

The exception is where the Panel has specifically given directions for submissions or information to be sent to the Panel after the Hearing finishes.

## Does the Panel inspect the site/area?

An inspection, or a “view”, is taken to better understand the evidence given and the submissions made. Its purpose is not for the Panel to gather its own evidence.

If a Panel intends to conduct an inspection, it will usually indicate this intention either at the Hearing or Directions Hearing. It:

* May allocate a specific time within the Hearing timetable for an inspection.
* Will advise if an inspection has been undertaken prior to the Hearing.
* May re-inspect after a Hearing.

Panel inspections are often not accompanied by submitters. If any accompanied inspection is required, arrangements will be made at a Hearing or through PPV staff. Whether accompanied or unaccompanied, the Panel is not able discuss the merits of the amendment or proposal with its guide or with any other people it may meet on site or during the course of its inspection.

If a Panel observes something during the course of its inspection which has not been referred to by parties, and it intends to rely on this information in reaching its conclusions, the Panel must draw its observations to the attention of parties and give them an opportunity to comment. This may be done at the Hearing. It may also be done by letter or by reconvening the Hearing, if the Hearing has finished.

## What happens after the Panel Hearing is finished?

The Panel will review all of the submissions and materials presented and prepare its Report.

The Panel Report records the considerations and recommendations of the Panel. The role of a Panel report is to:

* Record the outcome of the public consultation process involving exhibition, submissions and Hearing.
* Provide an independent assessment of the issues arising from that process.
* Provide recommendations about the decisions that should be made.

## When can I see the Panel’s report?

The Panel’s Report will be forwarded to the planning authority when completed and must be released to the public after 28 days. The planning authority may release the Report earlier if it chooses.

The Panel’s report is not binding on the Council or the Minister but it must be taken into consideration before the Council or the Minister makes a decision. If the Council does not adopt a recommendation of the Panel it must give reasons why not. An amendment lapses if no decision is made two years after the date public notice was given of the amendment.

Once available to the public, the Panel report is uploaded to the [AustLii website](http://www.austlii.edu.au) and [Planning Scheme Amendments Online](http://dsewebapps.dse.vic.gov.au/shared/ats.nsf/webviewdisplay?openform) where it remains permanently available for reading and searching.

For information on Advisory Committee and Environment Effects Inquiries reports, refer to the separate PPV **Guide to Committees and Inquiries**.

## Who pays for the cost of a Panel Hearing?

The planning authority meets the Panel’s fees. The fees are prescribed by PPV and relate to the full Panel process including the Hearing, site visits and report writing.

Submitters do not pay a fee to be heard by the Panel or for the submission to be considered.

The award of costs against a party is rare in Panel proceedings. Section 165 of the *Planning and Environment Act* 1987 provides for the adjournment of Hearings as follows:

**165 Adjournment of hearings**

 A Panel may from time to time adjourn a Hearing to any times and places and for any purposes it thinks necessary and on any terms as to costs or otherwise which it thinks just in the circumstances.

The need for an adjournment may arise during the course of a Hearing for a variety of reasons, especially if a significant change is proposed to an amendment or proposal, or significant new evidence is introduced, which parties have not previously been aware of.

If an adjournment is necessary, the Panel may consider if costs should be awarded.

Costs are usually only awarded to a party if the costs claimed would not otherwise have been incurred and they are the direct result of another party’s actions.

If costs are requested or the Panel itself considers an award of costs is appropriate, parties determined by the Panel will be given an opportunity to be heard before any direction is made.

## How do I contact PPV?

If you need more information, you can contact PPV staff directly via the following methods:

Telephone: (03) 8392 6384

Fax: (03) 8392 6381

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

Post: GPO Box 2392, Melbourne, Victoria 3001