

This practice note provides guidance on how to preset a date for a directions hearing and a panel hearing in accordance with Ministerial Direction 15 – The Planning Scheme Amendment Process.

In this practice note a ‘business day’ means any day other than:

- a Saturday or a Sunday, or
- a day appointed under the *Public Holidays Act 1993* as a public holiday or public half-holiday.

Background

Ministerial Direction 15 sets times for completing steps in the planning scheme amendment process and requires:

- Before notice of an amendment is given under section 19 of the *Planning and Environment Act 1987* (the PE Act), a planning authority must, with the agreement of Planning Panels Victoria (PPV), set a date for a directions hearing and a panel hearing to consider any submissions that must be referred under section 23(1)(b) of the PE Act.
- The planning authority must request the appointment of a panel under Part 8 of the PE Act within 40 business days of the closing date for submissions unless a panel is not required.
- A panel appointed under Part 8 of the PE Act to consider submissions to an amendment must commence carrying out its functions under that Part or Part 3 of the PE Act within 20 business days of its appointment (that is, the directions hearing, or if a directions hearing is not required, the written directions of the panel).

Process for pre-setting dates

To enable the requirements of the direction to be achieved efficiently, PPV has established the following procedure:

- **Step 1** – The planning authority emails the PPV Panel Co-ordinator to discuss potential hearing dates after being authorised to prepare the amendment.
- **Step 2** – At least 25 business days before the anticipated public exhibition begins, the planning authority submits the proposed hearing dates to PPV through the Pre-set Panel Hearing Request Form online
- **Step 3** – The Chief Panel Member agrees to the hearing dates or, in consultation with the planning authority, agrees to alternative dates or additional hearing days.
- **Step 4** – The Panel Co-ordinator confirms the agreed hearing dates by email within 15 business days of the email request being received from the planning authority.
- **Step 5** – If there is a proponent involved (other than the planning authority), they should be notified of the agreed dates by the planning authority.
- **Step 6** – The planning authority includes the agreed panel hearing dates in the explanatory report as part of the material available during the exhibition of the amendment.

Using the online Pre-set Panel Hearing Request Form

When using the online request form the planning authority is required to:

- enter the appropriate information about the proposed amendment, contact details and proposed dates in the required fields
- upload the draft explanatory report. Note that files can only be uploaded in Microsoft Word or PDF format and that multiple files should be sent through a file sharing platform.
- submit the online form to PPV.

The online Pre-set Panel Hearing Request Form can be found here:

<https://www.planningpanels.vic.gov.au/request-preset-hearing-date>.

An outline of the process for pre-setting Hearing dates is included at the end of this practice note.

Matters to consider when setting hearing dates

When setting hearing dates:

- Set realistic timeframes as it is assumed the Panel will proceed on exhibited pre-set dates, any changes to these are an exception.
- Include time for two rounds of Council meetings (in case the matter misses the agenda for the first one)
- As a general guide, there should be four weeks between the formal Panel request from the Planning Authority and the Directions Hearing, and then four weeks between the Directions Hearing and Panel Hearing
- Consider likelihood of expert evidence, number of submissions, complexity of the matter as you may require longer timeframes between the Directions Hearing and the Panel Hearing (e.g. six weeks). Some examples are:
 - Structure Plan: six weeks
 - Heritage Overlays: six weeks
 - Policy: four weeks
 - Major site-specific amendment: six to eight weeks.

Can the hearing dates be changed?

Yes, the hearing dates can be changed or additional days added if the circumstances warrant it and provided the timeframes outlined in Ministerial Direction 15 are still met. The hearing dates can be cancelled if a panel is not required.

The planning authority is responsible to notify all submitters of any change to, or cancellation of, the hearing dates.

Pre exhibition

- Please email the Panel Coordinator with a request for revised dates.
- Within 15 business days after the receipt of the request to revise the pre-set the hearing dates, PPV will confirm the agreed dates with the planning authority.
- If there is a proponent or major affected landowner involved (other than the planning authority), they must be notified by the planning authority of the new agreed pre-set dates. (eg Precinct Structure Plans, major site-specific amendments)

Where PPV pre-set exhibited dates are not met

In exceptional circumstances, where exhibited pre-set dates cannot be met, you will need to make a formal request to the Chief Panel Member (by email to the Panel Coordinator) seeking approval for revised dates. This request should include:

- a reason why the exhibited pre-set dates cannot be met
- new dates proposed
- how any proponent or major affected landowner have been consulted about the proposed date changes
- how any proponent or major affected landowner will be notified about any date changes if approved by PPV.

Advice to PPV following the closing date for submissions

To assist the scheduling of upcoming hearings, the planning authority is required to advise email PPV within five business days of the closing date for submissions to advise of:

- the number of submissions received
- major issues
- the likelihood of the matter being referred to a panel
- council meeting date.

Formal request to appoint a Panel

A formal request is required after the Planning Authority has decided to refer the submissions to a Panel. This is due within 40 business days of the closing date for submissions.

After receiving the formal Panel request, the Chief Panel Member under delegation from the Minister for Planning will appoint the Panel.

If the pre-set dates cannot be met or the matter does not need to be referred to a Panel, the Planning Authority must advise the Panel Coordinator as soon as possible.

Outline of the process for pre-setting hearing dates

Timeframe	Action required The Minister may exempt an Amendment from the need to comply with one or more of the requirements of the Direction. Timeframes may vary accordingly.
Authorisation granted (MD15)	Planning Authority has 40 business days to give notice of exhibition of the Amendment
After authorisation granted and before notice of the PSA is given (PN77)	Planning Authority contacts Panel Coordinator to discuss potential Hearing dates. As a general guide there should be 4 weeks between the formal Panel request from the Planning Authority and the Directions Hearing and then 4 weeks between the Directions Hearing and Panel Hearing
At least 25 business days before the anticipated commencement of exhibition (PN77)	Planning Authority submits a request to PPV (by email - see online form on the DELWP web site) to pre-set dates
Within 15 business days of the request to pre-set dates	PPV confirms pre-set dates with Planning Authority (PN77)
Following confirmation of agreed Hearing dates	Planning Authority to advise proponent of the agreed dates (PN77) – no set time frame for this step
10 business days before commencing exhibition	Taking into account the previous 2 steps – pre-set dates should now be finalised
Notice of exhibition given	Nil
Exhibition commences	Nil
Exhibition closes	Nil
Within 5 business days of exhibition closing (PN77)	Planning Authority advises PPV by Email (planning.panels@delwp.vic.gov.au) of the number of submissions received and the likelihood of a Panel
Within 40 business days of exhibition closing (MD15, PN77)	Planning Authority to request a Panel
Panel to be appointed	No timeframe allocated
Panel appointed (MD15, PN77)	Panel must ' <i>commence its functions</i> ' within 20 business days of the appointment
Directions Hearing	As per the pre-set date 'window' set out in exhibited documentation
Panel Hearings	As per the pre-set date 'window' set out in exhibited documentation
Panel to submit its report (to the Planning Authority) – this timing includes the time taken by PPV to review the report) (MD15)	1 person panel – within 20 business days * 2 person panel – within 30 business days* 3 (or more) person panel – within 40 business days* *after the last hearing day or further information requested by the Panel is received (whichever is the later)
Remaining steps of the Amendment process do not affect Panels	Nil