

ATTACHMENT TO AGENDA ITEM

Ordinary Meeting

16 August 2016

Agenda Item 8.2	Independent Panel Members on Development Hearings Panel
Attachment 1	Guidelines for Development Hearings Panel 764

**GUIDELINES FOR
DEVELOPMENT HEARINGS PANEL**



Development Hearings Panel

Review Date: [INSERT] 2016

Responsible Officer: Manager Planning

Approval Date: [INSERT] 2016

1. SUMMARY

The Development Hearings Panel ("DHP") has been formed to consider and determine, as a delegate of Council, various matters under the *Planning and Environment Act 1987*, the Greater Shepparton Planning Scheme and other relevant regulations. Specifically, this includes:

- planning permit and permit amendment applications where up to (and including) 5 objections are received (*applications with 6 or more objections must go to Council*);
- any permit application or permit amendment application, secondary consent, request for extension of time or other determination of an Officer (under a delegated authority) which is recommended for refusal by an officer;
- any relevant matter referred to the DHP by an Officer; and
- any relevant matter referred to the DHP by the Council.

The DHP is a special committee of the Council established under section 86 of the *Local Government Act 1989* and exercises powers delegated to it by Council, from time to time.

2. OBJECTIVES

The purpose of this Guideline is to establish policy and related processes for the DHP in respect of various planning and development matters that have been delegated to it in order to:

- create a body to consider applications where (up to and including 5) objections have been received, rather than under Officer delegation;
- provide relevant parties a forum to present their views (eg applicants, objectors, other government agencies);
- avoid delays in decision making;
- act as a check and review in respect of potential refusals by Council of applications and other decision making.

3. DEFINITIONS

"Alternate Councillor" means the Councillor nominated by Council resolution, from time to time, as the alternate (to the Nominated Councillor) Councillor member on the DHP;

"Alternate Moira Member" means the person holding, acting in or performing the duties of the Planning Coordinator at Moira Shire Council;

"Alternate Strathbogie Member" means the person holding, acting in or performing the duties of the Principal Planner at Strathbogie Shire Council;

"Caretaker Period" means the caretaker period prior to an election of Council under the *Local Government Act 1989*;

"CEO" means the person holding, or a person acting in or performing the duties of, the Chief Executive Officer of the Greater Shepparton City Council;

"Conflict of Interest" includes any direct or indirect conflict of interest as defined in sections 77A – 78E of the *Local Government Act 1989*;

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"DHP" means the Development Hearing Panel, the Special Committee of Council established by Council, as described in these Guidelines;

"External Member" means a Member who is the:

- Moira Member;
- Alternate Moira Member;
- Strathbogie Member; or
- Alternate Strathbogie Member;

"Member" means a person holding – or if relevant – acting in or performing the duties of the positions listed at 4.2 below;

"Moira Member" means the person holding, acting in or performing the duties of the Manager, Town Planning and Building at Moira Shire Council;

"Nominated Councillor" means the Councillor nominated by Council resolution, from time to time, as the Councillor member on the DHP;

"Officer" means a member of Greater Shepparton Council Staff;

"Responsible Authority" has the same meaning as Responsible Authority under the *Planning and Environment Act 1987*; and

"Strathbogie Member" means the person holding, acting in or performing the duties of the Executive Manager Sustainable Development at Strathbogie Shire Council.

4. TERMS OF REFERENCE

4.1 Life of the DHP

The DHP established by the Council is intended to continue until its existence is discontinued by the Council.

4.2 Members of the Special Committee

The membership of the DHP is as follows:

- Nominated Councillor or, in their absence, the Alternate Councillor;
- CEO (only for a DHP meeting during a Caretaker Period);
- Director Sustainable Development;
- Manager Planning;
- Development Team Leader;
- Strategic Planning Team Leader;
- Moira Member or, in their absence, the Alternate Moira Member; and
- Strathbogie Member or, in their absence, the Alternate Strathbogie Member.

A meeting of the DHP will also be validly constituted at the time of the meeting by:

- the attendance of an Officer acting in or performing the duties of the any Officer position described at 4.2; and
- in any case where a particular position title ("**Former Position**") of the relevant council (Shepparton, Moira or Strathbogie) is renamed, removed or amalgamated with another position ("**New Position**"), the membership and rights in respect of, the DHP will

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continue to apply to the person holding the New Position in so far as the functions and duties of the Former Position now apply to the New Position.

4.3 Meeting Attendance

- The Chair of the DHP is either:
 - the Nominated Councillor or Alternate Councillor; or
 - during a Caretaker Period, the CEO.
- The Nominated Councillor is principally responsible to attend the DHP. The Alternate Councillor will only be called on to attend if the Nominated Councillor is unable to attend a meeting.
- The CEO will only be called on to attend a DHP meeting during a Caretaker Period.
- A majority of the Members are required to form a quorum (that is 4), provided to form a quorum, the following Members are present at a DHP meeting:
 - the Nominated Councillor or the Alternate Councillor or (if in Caretaker Period) the CEO;
 - not less than one Officer; and
 - at least two External Members.
- Meetings are open to the public other than in circumstances where the DHP resolves to close the meeting in accordance with section 89 of the *Local Government Act 1989*.

4.4 Authority of the Committee

- The DHP is a special committee of the Council established under section 86 of the *Local Government Act 1989*.
- The DHP exercises power delegated to it, including under the *Planning and Environment Act 1987*, pursuant to an Instrument of Delegation adopted by resolution of the Council from time to time.

4.5 Meetings

- The DHP operates under Local Law No 2, with such modifications and adaptations as the DHP deems necessary for the orderly conduct of meetings.
- The Chair will give reasonable notice of any proposed meeting to the public, which must not be less than 7 days.
- All DHP members have 1 vote at a meeting.
- Decisions of the DHP are by ordinary majority resolution. If a vote is tied the Chair of the DHP has the casting vote in addition to the Chair's original vote.
- The process for submitters to be heard by the Panel shall be:
 - the officer to present the report
 - referral authority to present a submission as relevant
 - the objectors to present a submission
 - the applicant to present submissions

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unless otherwise directed by the Chair.

- Applicants and objectors are to be limited to three minutes per person unless otherwise directed by the Chair.

4.6 Secretariat

- The Chair of the DHP is responsible for the convening of meetings, ensuring written minutes are kept and implementation of decisions of the DHP.

4.7 DHP Decision Options

The DHP may:

- determine a matter; or
- decide (whether before, during or after the hearing and consideration of a matter at a DHP meeting) to refer the matter to a Council meeting for determination.

4.8 Conflicts of Interest

- As members of a special committee under the *Local Government Act 1989*, Members are required to complete and maintain a Register of Interests in accordance with Section 81 of that Act.
- Members must diligently disclose all Conflicts of Interest in accordance with section 79 of the *Local Government Act 1989*.
- A Member must
 - not sit as a Member; and
 - refrain from voting on any matter considered at a DHP meetingin which the Member has a Conflict of Interest.

4.9 Information to Councillors

- On a quarterly basis all Councillors must be provided with a list of matters considered by the Panel.
- Where objections are lodged, the Council officers will often hold mediation meetings with applicants and objectors in an attempt to resolve differences or reach compromise, subject to Council's decision. Where an objection is withdrawn it will no longer be considered (or counted) as an objection provided that if it is withdrawn subject to condition(s) it will require a decision in accordance with such condition(s) to constitute a withdrawn objection.