

TERMS OF REFERENCE DEVELOPMENT HEARINGS PANEL

Development Hearings Panel

Review Date: 4 September 2020
Responsible Officer: Manager Building, Planning and Compliance
Approval Date: 4 September 2020

1. SUMMARY

The Development Hearings Panel (“**DHP**”) has been formed to consider and determine, as a delegated committee of Grater Shepparton City Council (“**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 delegated committee of the Council established under section 63 of the *Local Government Act 2020* 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 (i.e. applicants, objectors, other government agencies);
- avoid delays in decision making; and
- 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 a Nominated Councillor) Councillor member on the DHP;

“Extended Caretaker Period” means the caretaker period prior to an election of Council under the *Local Government Act 2020* plus the period following the election until the Nominated Councillor and the Alternate Councillor are appointed;

“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;

TERMS OF REFERENCE DEVELOPMENT HEARINGS PANEL

“Conflict of Interest” includes any general or material conflict of interest as defined in sections 126, 127, and 129 of the *Local Government Act 2020*;

“Benalla Members” means the people of Benalla Shire Council holding, acting in or performing the duties of the:

- Manager Development; and
- Planning Coordinator.

“Campaspe Members” means the people of Campaspe Shire Council holding, acting in or performing the duties of the:

- Planning and Building Manager; and
- Senior Planner.

“DHP” means the Development Hearings Panel, the Delegated Committee of Council established by Council, as described in these Guidelines;

“External Member” means a Member who is one of the:

- Campaspe Members;
- Benalla Members;
- Moira Members; or
- Strathbogie Members.

“Member” means a person holding a position listed at 4.2 below;

“Moira Members” means the people of Moira Shire Council holding, acting in, or performing the duties of:

- Manager, Town Planning and Building; and
- Planning Co-Ordinator

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

“Officer” means an employee of Greater Shepparton City Council;

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

“Strathbogie Members” means the people of Strathbogie Shire Council holding, acting in or performing the duties of:

- Executive Manager Sustainable Development; and
- Principal Planner.

TERMS OF REFERENCE DEVELOPMENT HEARINGS PANEL

4. TERMS OF REFERENCE

4.1 Life of the DHP

The DHP established by the Council continues until discontinued by resolution of the Council.

4.2 Members of the Special Committee

The membership of the DHP Committee is:

- at least two Nominate Councillors or, in the absence of a Nominated Councillor, the Alternative Councillor;
- the Director of Sustainable Development;
- the Manager Planning;
- the Development Team Leader;
- the Strategic Planning Team Leader;
- any 2 of the 8 External Members.

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 any Officer position described at 4.2; and
- in any case where a particular position title ("**Former Position**") of the relevant council (i.e. Shepparton, Benalla, Campaspe, Moira or Strathbogie) is renamed, removed or amalgamated with another position ("**New Position**"), the membership and rights in respect of the DHIP will continue to apply to the person holding the New Position 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 appointed as Chair by the Council or the Mayor; or
- if the Councillor appointed as Chair is not present, a Councillor who is present at the meeting and appointed as Chair by the members of the DHIP present at the meeting.
- The Nominated Councillors are principally responsible to attend the DHP. The Alternative Councillor will only be called on to attend if a Nominated Councillor is unable to attend a meeting.
- An absolute majority of the Members are required to form a quorum (that is 4), provided to form a quorum, the following members must be present at a DHP meeting:
 - a Nominated Councillor or the Alternate Councillor;
 - not less than one Officer; and
 - not less than 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 66 of the *Local Government Act 2020*.

TERMS OF REFERENCE DEVELOPMENT HEARINGS PANEL

4.4 Authority of the Committee

- The DHP is a delegated committee of the Council established under section 63 of the Local Government Act 2020.
- 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 in accordance with Council's Governance Rules, with such modifications and adaptations as resolved by Council or by the DHP with the approval of Council.
- The Chair will give reasonable notice of any proposed meeting to the public, which must not be less than 7 days.
- DHP Members in attendance at a meeting have 1 vote at that 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 (unless otherwise directed by the Chair):
 - An Officer to present the report;
 - Referral authorities to present a submission, as relevant;
 - Objectors to present a submission;
 - The applicant to present a submission;
- 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.

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.

TERMS OF REFERENCE DEVELOPMENT HEARINGS PANEL

4.8 Conflicts of Interest

- As members of a delegated committee under the Local Government Act 2020, Members are required to complete and lodge an initial personal interests return with the Chief Executive Officer in accordance with section 133 of the Act and lodge a biannual personal interests return in accordance with section 134 of the Act.
- Members must diligently disclose all conflicts of interest in accordance with section 130 of the Local Government Act 2020 and Chapter 5 of Council's Governance Rules.

A member must:

- not sit as a Member; and
- refrain from voting on any matter considered at a DHP meeting in 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.

Instrument of Delegation (Planning Committees)**Greater Shepparton City Council
Instrument of Delegation
Development Hearings Panel**

Greater Shepparton City Council (**Council**) delegates to each person who is from time to time appointed as a member of the committee established by resolution of Council passed on 4 September 2020 and known as the "Development Hearings Panel" (**the Committee**), the powers, discretions and authorities set out in the Schedule, and declares that:

1. this Instrument of Delegation is authorised by a resolution of Council passed on 4 September 2020;
2. the delegation:
 - (a) comes into force immediately upon the common seal of Council being affixed to this Instrument of Delegation;
 - (b) remains in force until Council resolves to vary or revoke it; and
 - (c) is to be exercised in accordance with the exceptions, conditions and limitations set out in the Schedule and with the guidelines or policies which Council from time to time adopts; and
3. all members of the Committee have voting rights.

Council seal

SCHEDULE

Delegated powers, discretions and authorities

To exercise Council's powers, discretions and authorities to perform Council's functions under the *Planning and Environment Act 1987* in accordance with relevant policies and guidelines of the Council and to do all things necessary or convenient to be done for or in connection with the performance those functions, duties and powers.

Exceptions, conditions and limitations

The Committee is not authorised by this Instrument to:

1. exercise the powers which, under section 11(2) of the *Local Government Act 2020* or section 188 of the *Planning and Environment Act 1987*, cannot be delegated to the Committee.