

Planning Services Committee – Terms of Reference

Establishment of the Committee

The Mornington Peninsula Shire Planning Services Committee (the Committee) is a Delegated Committee of Council established under Section 63 of the *Local Government Act 2020*.

The Committee has delegated authority to exercise Council's powers, discretions and authorities under the *Planning and Environment Act 1987*, Planning Scheme Amendments, all Ministerial Directions and all policy issues relating thereto, the *Subdivision Act 1988* and the *Building Act 1993*, and to do all things necessary or convenient to be done for or in connection with the performance of those functions, duties and powers.

The Committee is not authorised to 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.

Objectives of the Committee

The Committee's objective is to determine all planning matters in accordance with the Council Plan and the *Planning and Environment Act 1987*.

Under the *Planning and Environment Act 1987* the following broad principles are relevant to deciding planning applications, planning scheme amendments and strategic planning projects:

- To provide for the fair, orderly, economic and sustainable use and development of land in the Mornington Peninsula Shire.
- To provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity.
- To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.
- To conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.
- To protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community.
- To facilitate development in accordance with the objectives set out above.
- To balance the present and future interests of all Victorians.

In addition to the *Planning and Environment Act 1987*, the Committee shall recognise the requirements of:

- The Mornington Peninsula Shire Planning Scheme.
- State Government Policies.
- Council Planning Policies.
- Council Policies and Guidelines.

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Operational Procedures

The *Local Government Act 1989*, and the Mornington Peninsula Shire Meeting Procedures Local Law will apply in relation to this committee's formal processes and functioning powers.

Meetings

By Council resolution of 1 September 2020, the Committee shall:

- a) Meet on a monthly basis, or in accordance with a Committee resolution, on Monday evening at 7.00 p.m.
- b) Meetings shall be held in the Rosebud Municipal Office Council Chamber (or via virtual meetings as required).
- c) Meetings will be audio recorded and the recording will be available via the Shire website in conjunction with the Minutes of the meeting.
- d) Meeting dates will be determined and published in advance.
- e) The Committee may hear verbal submissions from applicants and objectors to Statutory Planning Permit applications wishing to expand on their written submissions.
- f) In accordance with Section 63 of the *Local Government Act 2020*, meetings of the Planning Committee are open to the public, but the Committee may resolve to close the meeting to members of the public if the meeting is discussing any of the following:
 - The personal hardship of any resident or ratepayer;
 - Legal advice; or
 - Any other matter which the Council or Delegated committee considers would prejudice the Council or any person.
- g) Minutes shall be confirmed at the next Committee meeting.
- h) Shall be conducted in line with the Governance Rules unless otherwise stated in these Terms of Reference.

Communication

A copy of the agenda will be provided to Councillors one week in advance of the meeting

All agendas shall be published on Council's website and will be placed on public exhibition at all Council offices and libraries.

Full and accurate minutes of any decisions made will be prepared and maintained at every meeting by Governance.

Draft minutes will be published on Council's website and placed on public exhibition at all Council offices and libraries.

Reasonable notice of meetings will be provided to applicant and objectors. As a general reference, reasonable notice is deemed to be five (5) days prior to the meeting, however the Committee reserves the right to give lesser notice if the circumstances warrant.

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Membership

The membership of the Committee consists of all Councillors of the Mornington Peninsula Shire.

Quorum

A quorum for the Committee is six.

Presiding Member

A Chairperson shall be nominated for a period of 6 months to preside at all meetings of the Committee at which he/she is present. Council may also elect to nominate a Deputy Chairperson to preside at meetings where the Chairperson is not present. In the absence of both, a member of the Committee, elected by the members present, shall preside.

Voting

In accordance with the Mornington Peninsula Shire Meeting Procedures Local Law, all members of the Committee have an equal voting right. The Committee decision shall be by majority decision. In the event of an equal division of votes, the Chairperson will have the casting vote.

Committee Call-In Procedures

Provision for a planning application to be referred to, or called-in by, the Committee acknowledges that certain applications are best dealt with by the Committee than the planning officers, due to the level of community interest generated by an application or an issue of policy is raised.

Criteria for referral of, or calling-in, an application:

The following guidelines set out the criteria by which an application for planning permit would be considered by the Committee.

An application may be referred to the Committee by the Director – Planning and Building or may be called in by a Ward Councillor where the application is located. Or alternatively may be called in by resolution of the Committee. To call in an application, written notification must be sent to the Director – Planning and Building.

It would be normal for an application being referred or called-in, to fall into more than one of the following listed criteria.

- Receipt of a significant number of objections highlighting wide community concern i.e.15 or more objections;
- Proposal seeks a significant variance from the performance standard, which may have future decision making and policy implications;
- There is conflicting policy or a policy vacuum, which may have future decision making and policy implications; or
- The applicant is prepared to present their case to Council.

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Consideration of Planning Permit Applications

In all of its deliberations Committee members must:

- (a) Be mindful of the objectives and policies of the Council as they relate to the business of the Committee;
- (b) Be mindful of the potential for a “Conflict of Interest” and to declare such interests as and when they arise in accordance with Section 77 of the Local Government Act;

In considering planning permit applications, the Committee shall have regard to the following requirements of Section 60(1) of the *Planning and Environment Act*:

“Before deciding on an application, the responsible authority

a) must consider:

i) all objections and other submissions which it has received and which have not been withdrawn;

ii) any decision and comments of a referral authority which it has received;

iii) any significant effects which the responsible authority considers the use or development may have on the environment or which the responsible authority considers the environment may have on the use or development

iv) any significant social effects and economic effects which the responsible authority considers the use or development may have;

v) the number of objectors in considering whether the use or development may have a significant social effect;

b) if the circumstances appear to so require, may consider:

i) any strategic plan, policy statement, code, guideline or amendment to the planning scheme which has been adopted by a planning authority and is in force but which does not yet form part of the planning scheme; and

ii) any other relevant matter.”

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Consideration of Planning Scheme Amendments

In all of its deliberations Committee members must:

- (a) Be mindful of the objectives and policies of the Council as they relate to the business of the Committee;
- (b) Be mindful of the potential for a “Conflict of Interest” and to declare such interests as and when they arise in accordance with Section 77 of the Local Government Act;

In considering planning scheme amendments, the Committee shall have regard to the Council Plan, the requirements of the *Planning and Environment Act 1987*, the recommendations of Advisory Committees, Panels and other Government Authorities and Ministers and all Ministerial Directions of the Minister for Planning.

Consideration of Strategic Planning Projects

In all of its deliberations Committee members must:

- (a) Be mindful of the objectives and policies of the Council as they relate to the business of the Committee;
- (b) Be mindful of the potential for a “Conflict of Interest” and to declare such interests as and when they arise in accordance with Section 77 of the Local Government Act;

In considering Strategic Planning Projects, the Committee shall have regard to the adopted Council Plan, the requirements of the *Planning and Environment Act 1987*, State Government policies and guidelines and Council policies and guidelines.

Conflict of Interests

Committee members must declare any conflict of interests at the start of each meeting or before discussion of a relevant agenda item or topic. Details of any conflict of interests should be reflected in the minutes.

Where members are deemed to have a real or perceived conflict of interest, it may be appropriate they be excused from Committee deliberations on the issue where the conflict of interest may exist. The final arbiter of such a decision is the Chair of the Committee.

Adoption by Council

The Instrument of Delegations and these functions and rules of the Mornington Peninsula Shire Planning Committee have been adopted by the Council, by resolution passed on the 1 September 2020.

The responsibilities of the Committee may be revised or expanded by the Council from time to time.