

10.13.North Sydney Local Planning Panel Report FY2022/23

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ATTACHMENTS	<ol style="list-style-type: none">1. Local Planning Panels Direction: Operational Procedures [10.13.1 - 5 pages]2. Summary NSLPP Meetings 2022/23 [10.13.2 - 3 pages]3. Local Planning Panels Direction: DAs & Applications to modify Development Consents [10.13.3 - 7 pages]4. Local Planning Panels Direction: Planning Proposals [10.13.4 - 2 pages]
CSP LINK	<ol style="list-style-type: none">5. Our Civic Leadership5.2 Strong civic leadership and customer focussed services5.3 Community is engaged in what Council does

PURPOSE:

The purpose of this report is to detail the activities of the North Sydney Local Planning Panel for the 2022/23 financial year.

EXECUTIVE SUMMARY:

- This report is provided in response to the provision contained within Section 2.20 (5) of the Environmental Planning and Assessment Act 1979:

“MISCELLANEOUS PROVISIONS RELATING TO LOCAL PLANNING PANELS -

(5) The council is to monitor the performance of local planning Panels constituted by the council.”

- Reports are to be provided to the Planning Secretary annually based on any given financial year.
- This report outlines the role of the North Sydney Planning Panel and its activities and performance during the 2022/23 year.

RECOMMENDATION:

1. **THAT** the North Sydney Local Planning Panel Report 2022/23 report be received.

Background

At present, while around 90% of development applications are determined under delegated authority, the remainder are determined by three separate Panels which operate to determine Development Applications (DAs) within the North Sydney local government area. Two panels determine applications assessed by Council while the third determines applications assessed by Department of Planning and Environment. These panels are:

North Sydney Local Planning Panel (NSLPP)

This is Council's Local Planning Panel. It determines all applications up to a value of \$30M which cannot be determined under delegation, in accordance with the Directive from the Minister for Planning. The current composition of NSLPP consists of the Minister-appointed Chair Ms Jan Murrell (or an alternate chair), with two Panel members at each meeting selected by Council from the pool of experts approved by the Minister for Planning. The final member of the Panel is a community representative who is selected from a panel of four.

Sydney North Planning Panel (SNPP)

The Sydney North Planning Panel (SNPP) is administered by the state government and facilitated by the Department of Planning Industry and Environment (DPIE), and it determines applications which exceed a certain value threshold. This is generally \$30M but this can vary based on the type of development proposed. The Chair is Mr Peter Debnam, with the state appointed members being Mr Brian Kirk and Ms Juliet Savet-Ward.

Council can appoint two members to represent Council and its community. Before 1 September 2022, these panellists were drawn from a rotating pool comprising Ms Virginia Waller and Mr Kenneth Robinson, with the alternates being former Councillor Mr Stephen Barbour, and Mr Kevin Alker.

After 1 September 2022, Council appointed the following persons as community representatives to the panel:

Kara Castellanos	Member
Che Wall	Member
John Bohane	Alternate
Lindsey Dey	Alternate

Independent Planning Commission (IPC)

This Panel is operated by the state government and determines applications which are of state significance and are assessed by DPIE staff. There are no permanent members on this Panel which is convened on a need's basis.

Council's role in such applications is as a submitter, and Council has little direct influence on the outcome of these applications. A Chair is appointed who then selects a minimum of two

other members from a Minister-approved list, based on the issues presented by an individual application. There is no provision for a Council representative on this Panel. This Panel was previously known as the Planning Assessment Commission.

Detail

Functions of the North Sydney Local Planning Panel (NSLPP)

The functions of the NSLPP are outlined in two attached current Ministerial Directives:

- Local Planning Panels Direction -Development Applications and Applications to Modify Consents 2023, and
- Local Planning Pannels Direction-Planning Proposals 2018.

Relationship of the Council, Panel, Community, and Council Officers

The stated intent of the amendments to the Act is to depoliticise the assessment of local development applications to aid efficiency and to reduce corruption risk. Development Applications which do not meet the criteria for referral to this or any other Panel are dealt with under officer delegation.

The Council has no power to direct the activities of NSLPP nor Council staff in the assessment, reporting, and determination of Development Applications. The Council, individual Councillors, and/or community can make a submission to an application which is reviewed and reported in accordance with well-established practice. They can also address NSLPP during its determination meeting.

Covid 19 Impacts

A Ministerial directive of August 2020 sought to have the functions of the local Panel align more closely with those of the regional panel, being the Sydney North Planning Panel.

The most notable change in response to Covid 19 was that public meetings were not required to be held for applications which feature less than ten submitters, and that applicants may be invited to brief the Panel in such cases.

Where there are ten submitters or more, a public meeting is held by electronic means and both applicants and submitters may participate. In either case, written submissions addressing the officer's report are accepted and considered by the Panel up to the close of business the Monday before the Panel meeting.

The requirements of this directive remained in place until 24 April 2023 and dictated the function of the panel until that date. The current Local Planning Panel's Operational Direction dated 7 December 2022, and which operated from 24 April 2023, is attached for information.

Current Operation

From its 1 July 2023 meeting the Panel meets in the Supper Room with both applicants and submitters for all applications being able to address the panel by electronic means.

The Panel has also resumed inspecting sites together rather than separately as they had done during the Covid 19 period. This will aid in decision-making as it enables the Panel to see, understand, and discuss issues on site in a collegiate manner.

An important enhancement to the Panel's operation has been provision for all submitters being able to make both written and verbal submissions following the publication of the officer's report. This refinement also effectively eliminates any confusion that may arise from the previous directive that required public meetings only to be held when there were 10 or more submitters.

As part of the ongoing effort to increase community engagement NSLPP agendas are now published on the Wednesday before the meeting, rather than the Friday before which gives both applicant and submitter a greater opportunity to review the officer's report and respond appropriately.

These enhancements will enable better and more consistent decision-making, with submitters being heard regardless of the numbers of submissions received.

Operation during the reporting period

The Panel continued to engage with both applicants and other interested parties by remote means between July 2022 and June 2023.

Current Panel Membership

NSLPP composition during the reporting period was as follows.

State-sanctioned Chair and alternative Chairs-also serve as experts	
Jan Murrell	Chair
Garry Shiels	Alternate Chair / Expert Member
Helen Lockhead	Alternate Chair / Expert Member
State-sanctioned, Council-appointed experts	
Tony Caro	Expert Member
Grant Christmas	Expert Member
James Harrison	Expert Member
Linda McClure	Expert Member
Brendan Randles	Expert Member
Gerard Turrisi	Expert Member
Garth Paterson	Expert Member

John McInerney	Expert Member
Ian Pickles	Expert Member
Sandra Robinson	Expert Member
Michael Reymond	Expert Member
Annelise Tuor	Expert Member
David Logan	Expert Member
Peter Brennan	Expert Member
Garth Paterson	Expert Member
Lloyd Graham	Expert Member
Community Representatives	
Kenneth Robinson	Community Member
Virginia Waller	Community Member
Lindsey Dey	Community Member
Meredith Trevallyn Jones	Community Member
Kara Castellanos	Community Member
John Bohne	Community Member

The need for numerous Panellists

Most Minister-approved experts are often active in private consultancy or are Academics, thus potentially conflicted in both time and interest. This also applies to the Community Member pool, all of whom are also professionally qualified and may from time to time be conflicted either through their professional associations or in their role as a resident.

It is of note that the Ministerial directive dated 7 December 2022 reinforces the need to have a sufficient pool of panellists to cover expertise needs, unavailability and conflict of interest issues, and to ensure rotation so that it is unpredictable which panellists will be sitting on the day.

Number of Meetings attended by Panel Members

Panel members for each panel meeting are selected by the Principal Chair in consultation with the Manager Development Services and with the assistance of CIS Administration Staff. Offers are then made to the selected experts, with final selection for any meeting based on availability and lack of material conflict.

The role of Panel Chair was shared as follows:

Jan Murrell	12
Helen Lochhead	3
Gary Shiels	2

The total number of meetings attended by Panel members was as follows:

Jan Murrell	4
Helen Lochhead	1
Gary Shiels	1
James Harrison	0
Garth Paterson	0
Gerard Turrisi	3
John McInerney	3
Linda McClure	2
Bredan Randles	2
Tony Caro	1
David Logan	1
Peter Brennan	2
Lloyd Graham	2
Michel Reymond	3
Virginia Waller	3
Kenneth Robinson	3
Lindsey Dey	2
Meredith Trevallyn-Jones	2
Karla Castellanos	3
John Bohane	2
Jane Van Hagen #	1
Veronique Marchandean #	1

Previous Community Members active in transition stage.

Meeting Procedure

The Panel meets in Council Chambers' Supper Room or may operate remotely via Zoom for single or deferred items. During the reporting period, Panel members were expected to do independent site inspections and form a view on that basis. Applicants and members of the community attended meetings remotely via zoom.

Current practice adopted from the July 2023 meeting sees the Panel conducting site inspection as a group, then meeting in the Supper Room and hearing from both applicants and submitters via electronic means. The return of group site inspections is particularly beneficial to discussion and resolution of any individual item.

Number of applications considered by the Panel

During the period covered by this report, 49 items relating to development applications, and eight planning proposals were reported to the Planning Panel.

It had been estimated prior to the commencement of the Panel that the workload of the Panel (based on the Minster's draft 9.11 Direction) would average around six applications a month. During the period covered by this report an average of 4 applications per meeting have been reported to the Panel which is below the expected.

The panel has granted delegation to Council staff to determine applications which:

- exceed the building height standard where a Cl4.6 is required, and the resultant breach arises from an existing circumstance and no greater impact or development yield occurs; and
- for alterations to heritage items where the works involve minor demolition works which are considered acceptable to Council's Heritage Planner.

These delegations have reduced the number of referrals to the panel for minor applications which are of limited public interest and result in no material impact. There is also a slight increase in efficiency with which these applications can be dealt with.

Summaries of the agenda for each Panel meeting are included in Attachment 2 to this report.

Recommendation vs Outcome

The Panel agreed with the officer's recommendation on 44 (90%) of occasions, accepting the officer's recommendations in largely unchanged form.

The Panel deferred matters from the agenda on three occasions, to allow the applicant to submit either amended plans or better or more appropriate information. On two occasions, delegation was granted to the Development Services Manager to determine, and in the other case the application was returned to the panel and determined by electronic means.

On two occasions (4%) was the officer's recommendation overturned, with a recommendation for approval determined by refusal.

Refusal of Consent

Consent was refused on seven occasions, with applications determined by refusal representing approximately 14 % of matters referred to the panel.

Advice to Council regarding Planning Proposals

The Planning Panel considered 8 planning proposals over five dedicated Panel meetings. No planning proposals were considered at regular determination meetings.

Five of the planning proposals were from private interests. Three of the planning proposals were sponsored by the Council and sought advice on proposed heritage listings.

On 5 occasions the panel agreed with the view offered by Council or its consultant. On one occasion, the Panel deferred the matter so that the applicant could provide better information for consideration.

Two of the planning proposals seeking to list properties as heritage items were not supported by the panel. The one that was supported led to a gazetted heritage listing.

It is important to remember that the panel's role in planning proposals is an advisory one and not determinative.

Complaints against the Panel

A single written complaint was lodged regarding the Panel's activities in the reporting period. This complaint raised concern not only with the outcome of a matter determined by the Panel but also the officer's report as outlined below.

The application sought consent for the erection of a new apartment building. The site adjoined a heritage-listed property the owners of which raised several concerns which were considered in the officer's report. The Panel heard from the submitter both in writing and at its meeting. The Panel outlined its reasoning behind granting of the approval in its written determination and modified conditions to address more closely the residents' concerns. These concerns were addressed through direct discussion with Council staff and written response. However, the resident remained disappointed with the outcome and remained in disagreement with the officer's recommendation and the panels subsequent decision.

Appeals against Panel determinations

Development applications can be the subject of an appeal to the Land and Environment Court. Appeals can be commenced based on a decision made by the Panel, by a Council officer under delegation, or following the expiry of the deemed refusal period (typically, 40 days from the date of lodgement for a local development application). Appeals which relate to a determination must be made within six months of determination.

Under the provisions of the Environmental Planning and Assessment Act, NSLPP is responsible for the control and direction of planning appeals arising from its activities. However, at its meeting of 4 July 2019, NSLPP delegated its functions with regard to the control and direction of all development appeals against determinations (or deemed determinations) of the Local Planning Panel (as well as those determinations not captured by the Local Planning Direction) to the Council officers listed below. This was in the context of Council's current delegations

concerning authority to deal with appeals and procedural matters concerning such appeals in the Land and Environment Court:

1. General Manager;
2. Chief Operating Officer;
3. General Counsel;
4. Director City Strategy;
5. Manager Development Services;
6. Manager Strategic Planning; and
7. Manager Environment & Building Compliance.

These delegations will be revisited to align with Council's new structure.

The Court's practice directions dictate that residential appeals are to be resolved by way of the Section 34 Conference process. This commences with an onsite view where the commissioner can visit the site, and hear from the applicant, the Council, and any submitters who may be present. The practice aims to resolve as many issues as possible without going to a formal hearing. The conciliation process can involve the submission of amended plans which may be advertised to interested parties if the Court agrees. The Commissioner will refer to Council's notification policy and take submissions from the parties before making this decision.

There has been concern raised by the community regarding the management of appeals. The Court seeks to have as many appeals as possible resolved in the s34 process rather than go to a full hearing. Council can only press for a full hearing when it has expert support. The role of an expert in the court is to independently inform and advise the Court on planning and related matters. This rule applies to Council-employed consultant experts, Council's professional staff, and the applicant's experts. In the absence of expert support, it is inappropriate to press an appeal to a full hearing.

Council seeks to engage the community in the resolution of applications through the Section 34 process by renotification of amended plans. This requires the Court to agree with Council's Community Engagement protocol as a reference point.

The Section 34 process was explored in a report at the Council meeting of 28 November 2022: https://www.northsydney.nsw.gov.au/files/sharedassets/public/webmeetings/2022/nov_28_2022_630pm/reports_to_council_28_nov_2022/10.13_section_34_conciliation_conference_process.pdf.

Council expressed a preference during the reporting period to have matters resolved by way of the Consent Orders process. This effectively requires both parties to agree on both outcome and process with the Commissioner being required to express why the requested order is agreed to. The Council further considered a report of the Manager of Development Services at its meeting of 26 June 2023 and resolved to implement a six-month trial period of the preference. A review of the trial will be reported to Council early in the new year. The relevant report may be found here; [Section 34 Conciliation Conference Process \(nsw.gov.au\)](#).

Appeals against decisions of NSLPP

In the reporting period there was two appeals commenced in relation to a panel decision:

124 Bennelong Road Neutral Bay

Meeting Date: 7 September 2022
Officer recommendation: Refusal
Panel Decision: Refusal
Court Determination: 28 June 2023

Notes: This appeal related to the refusal of an application to demolish an existing dwelling house and erect a 20-room boarding house. The application was refused by the Panel as recommended by the officer. The key issues exceedance of the building height control, building design, traffic, and parking issues. This appeal has been the subject of a s34 conciliation process with several residents addressing the Court and remains in train.

36 Victoria Street McMahons Point

Meeting Date: 3 May 2023
Officer recommendation: Approval
Panel Decision: Approval
Court Determination: Discontinued

Notes: This appeal commenced as a deemed refusal of an application to alter an existing heritage item. The application was approved by the Panel as recommended by the officer with several conditions not agreed to by the applicant. The appeal was discontinued following without prejudice discussions which led to minor alterations to and subsequent issuance of the consent notice.

Several appeals remain in progress arising from the panel's activities in the 2021/22 financial year. The progress and outcome of these appeals will be updated by the General Counsel through the current matters list.

Consultation requirements

Community engagement is not required.

Financial/Resource Implications

The panel is funded through recurrent expenditure and there are no financial implications arising directly from this report.

Legislation

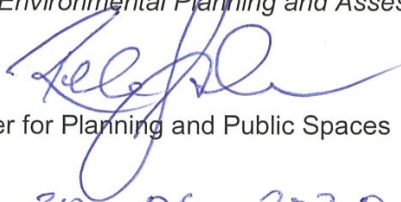
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“MISCELLANEOUS PROVISIONS RELATING TO LOCAL PLANNING PANELS -

(5) The council is to monitor the performance of local planning Panels constituted by the council.”

LOCAL PLANNING PANELS DIRECTION – OPERATIONAL PROCEDURES

I, the Minister for Planning and Public Spaces, give the following direction under section 9.1 of the *Environmental Planning and Assessment Act 1979*.



Minister for Planning and Public Spaces

Dated: 30-06-2020

Objective

The objective of this direction is to set procedures for how local planning panels are to operate.

Application

This direction applies to a local planning panel constituted under the *Environmental Planning and Assessment Act 1979* (Act).

Note: Local planning panels are independent committees appointed by councils to determine certain development applications and to provide advice on planning proposals. A local planning panel is not subject to the direction or control of the council, except on matters relating to panel procedures or the time within which the panel is to deal with a matter that is not inconsistent with this direction.

Subject to these procedures, any direction by council and the requirements of the Act, the panel is to determine how to call meetings and conduct its business.

Direction

Local planning panels are directed to comply with the operational procedures set out in Schedule 1 to this direction.

In this direction, any reference to 'development applications' includes applications to modify development consents.

This direction takes effect on 1 August 2020.

SCHEDULE 1 – OPERATIONAL PROCEDURES

PART 1 – Panel composition

1.1 Chair selection and rotation

1. The chair and any alternate chairs are to rotate presiding over panel meetings, or other business, as practicable, unless the chair or alternative chair is unavailable for any reason.
2. Where possible, deferred matters should be considered by the chair that presided over the original deferment.

1.2 Independent expert members and alternates

1. The independent expert members and alternate members can be interchanged as needed by the chair for reasons including:
 - a. a member has a conflict of interest,
 - b. a member is unavailable, or
 - c. to periodically rotate the members.

1.3 Community representatives for wards and use of alternates

1. A community representative member can be interchanged as needed by the chair or alternate chairs for reasons including:
 - a. a member has a conflict of interest,
 - b. a member is unavailable, or
 - c. to periodically rotate the members.

PART 2 – Reviews of panel decisions

2.1 Reviews

1. The determination of a review application from a panel decision shall be determined by different members of the panel to those who made the original determination.

PART 3 – Meeting and other business procedures

3.1 Role of chair

1. The chair is responsible for the management of the panel's functions and operations, including managing conflicts of interest.
2. The chair is to preside over panel meetings and other business.
3. The chair is to ensure the panel fully discharges its responsibilities under the Act, these operational procedures, any other directions from council, and the code of conduct for local panel members in a timely manner.
4. The chair is responsible for the good and orderly conduct of the panel meetings and may do all things and take all steps necessary to control the good and orderly conduct of any meeting of the panel or site inspection carried out by the panel in the performance of its functions.
5. The chair is to determine which alternative chair, independent expert members or alternates, and which community representative or alternates are to hear a matter prior

to consideration of the matter commencing. The chair may make arrangements with the general manager (or delegate) to determine independent expert members or alternates, and which community representatives or alternates are to hear a matter.

3.2 Role of alternate chairs

1. Alternate chairs have the same role as the chair when presiding over a panel meeting or any other business.

3.3 Meeting and other business procedures

1. The panel is only required to hold a public meeting where the development application has attracted 10 or more unique submissions by way of objection.
2. A **unique submission** means a submission which is in substance unique, distinctive or unlike any other submission. It does not mean a petition or any submission that contains the same or substantially the same text. Separate unique submissions may be made in relation to the same issue. One individual, or one household, could potentially submit multiple unique submissions.
3. The panel may determine detailed procedures for the execution of efficient and effective meetings and any other business.
4. The panel is not bound by the rules of evidence and may inquire into and inform itself on any matter, in such manner as it thinks fit, subject to the rules of natural justice and procedural fairness.
5. The panel is to act with as little formality as the circumstances of the case permit and according to equity, good conscience and the substantial merits of the case without regard to technicalities or legal forms.
6. The panel must give reasonable notice to the public of the times and places of its meetings. This must be through the website used by the panel and may include other mechanisms as appropriate.
7. The panel may:
 - a. adjourn the public meeting where a panel briefing is required to hear confidential or sensitive information or to deliberate before reconvening for voting and determination; or
 - b. close the public meeting for deliberation and/or voting and determination.
8. With a view to discharging its responsibilities in a timely manner, the panel may, in its absolute discretion, but otherwise fairly and consistently, impose time limits on presentations by persons other than members of the panel. Where, there are a large number of objectors with a common interest at any public meeting, the panel may, in its absolute discretion, hear a representative of those persons.
9. The panel shall hold meetings or transact its business as required to meet panel demands and workloads.
10. Where a quorum for a meeting or other business is not present, the meeting or other business is to be deferred.

3.4 Site inspections and panel briefings

1. The chair may elect for the panel to attend site inspections or panel briefings for development applications and planning proposals prior to the panel's consideration
2. Site visits should be conducted on the same day as a public meeting, if practicable.

3. Site visits and panel briefings are solely to be used to identify and clarify issues with a proposal.
4. At a site visit or panel briefing, a panel member must not offer an opinion on the merit of the proposal or ask those involved with the assessment of the proposal for their opinion or recommendation.
5. The panel may be briefed by council staff and any other person engaged in the assessment of the matter about the proposal. On request, and at the chair's discretion, the applicant may attend a briefing, along with council staff, to explain complex matters or present confidential or commercially sensitive material.
6. A written record of the site visit or briefing must be made publicly available on the panel's website.

3.5 Transaction of business outside meetings

1. Where a development application is the subject of less than 10 unique submissions by way of objection, the panel is able to determine the application by an electronic circulation of papers.
2. Planning proposals are able to be considered by an electronic circulation of papers.
3. Decisions made by electronic circulation of papers are to be recorded in the panel's minutes and made publicly available on the panel's website.

PART 4 – Other matters

4.1 Obligation to consult with council if adverse financial impacts

1. A panel must not exercise a function that will result in the making of a decision that would have, or that might reasonably be expected to have, a significantly adverse financial impact on a council until after it has consulted with the council.
2. The consultation may be in writing, with the council being given a specified time to respond in writing. Where a meeting with the General Manager (or delegate) is to be held to discuss the matter, all relevant panel members should be present, and minutes kept of the meeting and its outcomes.

4.2 Interactions with third parties about matters before the panel

1. Panel members are not to discuss any matter that is to be considered by the panel with councillors, the applicant, their consultants, parties who have made a submission, or any other person with an interest in the matter outside of the local planning panel meeting.
2. This does not apply to persons employed by the council to assess the matters to be considered by the panel, nor to panel briefings as specified in Part 3.4.

4.3 Deferring determinations

1. Where the panel determines to defer its determination of an application, it must record the reasons for the deferral in its minutes.
2. Where the determination of an application is deferred pending the provision of additional information, the panel must specify the timeframe in which the information is to be provided to the council for assessment.

4.4 Panel performance

1. Once a planning assessment is completed by the council and referred to the panel, the panel will be expected to:
 - a. determine the matter within 2 weeks (14 calendar days) for development and modification of consent applications; and
 - b. provide its advice within 2 weeks (14 calendar days) on planning proposals.
2. Panel chairs are obliged to work with senior council staff to ensure that key issues are addressed during assessment, in order to minimise the number of deferrals by the panel at determination stage.
3. Should an application experience unreasonable delays in excess of 180 calendar days from lodgement, the panel chair may require the council to report the matter to the panel within 4 weeks for determination.

Note: The requirements relating to the timeframes for assessing development applications under the *Environmental Planning and Assessment Regulation 2000* must be considered.

Summary of North Sydney Local Planning Panel Meetings: July 2022 - June 2023.

6/07/2022; Jan Murrell -Chair, Tony Caro, Peter Brennan, Veronique Marchandau

Item	Author	Property	Description	Reason	Rec	Decision	Comments
1	Staff	15a Lower Wycombe Rd	Alts Adds Dwelling	Cl4.6 height	A	A	Amendments to conditions.
2	Staff	18 Tobruk Avenue	New Dual Occupancy	Cl4.6 height	A	A	Approved Unchanged.
3	Staff	9 Carlyle Lane	Alts Adds Semi.	Cl4.6 height	A	A	Approved unchanged.
4	Staff	242 Miller Street	Use of shop	Council property	A	A	Chocolate, ice cream and coffee shop
5	Staff	104 Wycombe Rd	Alts to heritage dwelling	Heritage Item	R	R	Heritage impacts unacceptable.
4	Staff	22 Premier St	Alts adds to semi	Cl4.6 height	A	A	Condition to further reduce building height

13/07/2023; Planning Proposal Meeting: Jan Murrell -Chair, Grant Christmas, Gerard Turrisi, Jan Van Hagen;

Item	Author	Property	Description	Reason	Rec	Decision	Comments
1	Staff	117-133 Holt Ave	Proposed heritage listing	Advice	S	NS	Additional review required to support listing.

3/08/2023; Helen Lochhead-Chair, Jan Murrell, Ian Pickles, Virginia Waller;

Item	Author	Property	Description	Reason	Rec	Decision	Comments
1	Staff	2 Sutherland Street	New RFB	Sepp65, cl4.6, >10 subs	A	A	Replaces existing RFB.
2	Staff	172 Kurraba Road	Alts adds dual occ	Cl4.6	A	A	Changes to conditions.

7/09/2022; Jan Murrell-Chair, John McInerney, Gerard Turrisi, Meredith Trevallyn Jones;

Item	Author	Property	Description	Reason	Rec	Decision	Comments
1	Staff	9 Undercliff St	New RFB	Sepp65, Cl4.6, >10 subs	A	A	Amended conditions.
2	Consultant	124 Bennelong Road	New boarding house	>10 Submissions	R	R	84 submissions, subject to latter appeal.
3	Staff	372 Military Road	Mods to conditions	Prev panel determination	A	A	Mods to conditions mixed use approval.
4	Staff	15A Lower Wycombe Rd.	Mods to conditions	Prev panel determination	A	R	Relating to widening of crossing width, refused.
5	Staff	4F 4Whailing Rd.	Alts adds to unit	Cl4.6	A	A	Technical breach only.
6	Staff	28 Darley St.	Extensions to dwelling	Heritage item.	A	A	As per recommendation.

14/09/2022 Planning Proposal Meeting: Jan Murrell-Chair, Linda McClure, Michael Reymond, Ken Robinson.

Item	Author	Property	Description	Reason	Rec	Decision	Comments
1	Staff	15 Allister St	Heritage listing	Advice	S	S	Significant community interest.
2	Staff	1-7 Rnagers&50 Yeo	Height and FSR variation	Advice	NS	NS	No Site specific or strategic merit.

5/10/2022; Panmure-Chair, Peter Brennan, Brendan Randles, Lindsey Dey;

Item	Author	Property	Description	Reason	Rec	Decision	Comments
1	Staff	5 Rodborough Ave	Mods to RFB consent	>10 Submissions	R	R	Not same development. Subject to later appeal.
2	Staff	11 Ernest St	Change of use shop	Owned by council	R	R	

3	Staff	48 Edward St	Alts Adds Heritage item	Cl4.6, Heritage item	A	A	Added conditions.
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2/11/2022; Garry Sheils - Chair, Grant Christmas, David Logan, John Bohane;

Item	Author	Property	Description	Reason	Rec	Decision	Comments
1	Staff	18 Vale St	New RFB	SEPP65, Cl4.6 >10 Subs	A	A	Amended plans, conditions delegation to Manager.
2	Staff	4 Cremorne Rd.	Alts Adds RFB	SEPP65, Cl4.6	A	A	

9/11/2022 Planning Proposal Meeting; Jan Murrell - Chair, John McInerny, Grant Christmas, Ken Robinson.

Item	Author	Property	Description	Reason	Rec	Decision	Comments
1	Staff	71-89 Chandos St.	Increased height floorspace	Advice	S	S	Associated VPA.

7/12/2022 Gary Shiels - Chair, Jan Murrell, Ian Pickles, Kara Castellanos.

Item	Author	Property	Description	Reason	Rec	Decision	Comments
1	Staff	45 Thomas St.	New dwelling	>10 Submissions	A	A	compliant development, no change to recommendation.
2	Staff	54 High St	Roof top residential studio	Cl4.6 >10 subs.	A	A	Existing RFB amended condition.
3	Staff	275 Alfred St	Building ident signage	Cl4.6 height	A	A	Replaces existing signage.
4	Staff	8 Elamang Ave	Alts and adds dwelling	Cl4.6 height	A	A	
5	Staff	17 Cowdroy Ave	Alts and adds dwelling	Cl4.6 height	A	A	
6	Consultant	45 Ridge St	Use as school	Council property	A	A	Minor changes to conditions.
7	Staff	94 Blues Pt Rd	Alts adds Terrace	Cl4.6 height	A	A	
8	Staff	29 Churchill Crs	Mods to earlier consent	Cl4.6 height	A	A	Change to conditions.

1/02/2023 Jan Murrell, Linda McClure, Grant Christmas, Virginia Waller

Item	Author	Property	Description	Reason	Rec	Decision	Comments
1	Staff	44 Ellalong Rd	Alts adds dwelling	Cl4.6 height	A	A	Amended conditions DSM delegation.
2	Staff	27 Elamang Ave	Alts adds dwelling	Cl4.6 height	A	D	Deferred for amended plans. DSM delegation.
3	Staff	201 Miller St	Alts adds commercial	Heritage item	A	A	Amendments to conditions finishes.
4	Staff	131-133 Alexander St	New commercial	Cl4.6 height	A	D	Deferred for amended plans. DSM delegation.
5	Staff	34 Grosvenor St	Mod to RFB consent	Increase in approved height	A	A	
6	CON	12 Shellbank Pde	Alts adds dwelling	Cl4.6 height	A	A	

1/03/2023 Jan Murrell, Brendan Randles, Lloyd Graham, Meridith Trevallyn-Jones

Item	Author	Property	Description	Reason	Rec	Decision	Comments
1	Staff	4 Honda Rd	New dwelling/subdivision	Cl4.6 height, >10 submission	A	A	Additional conditions.
2	Staff	317 Pacific Hwy	Alts to commercial	>10 Submissions	A	R	Unacceptable impacts on residential amenity.
3	Consultant	232a Miller St	Change of use commercial	Council property	A	A	
4	Staff	372 Military Rd	Mod to commercial consent	Amends panel consent	A	A	Mods to conditions and design.

5/04/2023; Helen Lochhead -Chair, Jan Murrell, Michel Reymond, Karla Castellanos

Item	Author	Property	Description	Reason	Rec	Decision	Comments
1	Staff	37 Bay View St	New dwelling	>10 Submissions	A	Def	Amendments required to design
2	Consultant	40A McDougall St	Extended hours shop	Council property	A	A	
3	Staff	2/5 East Ave	Alts adds Duplex	Cl4.6 height	A	A	
4	Staff	72 Kurraba Rd	Alts adds boarding house	Heritage item	A	A	Amendments to conditions.
19/04/2023; Planning proposal meeting Jan Murrell, Gerard Turrisi, Linda McClure, Lindsey Dey.							

Item	Author	Property	Description	Reason	Rec	Decision	Comments
1	Staff	1-7 Rangers Rd	Height and FSR change	Advice	NS	NS	Amendments to conditions.
2	Staff	50-88 Parraween St	proposed heritage listing	Advice	A	NS	Panel unconvinced on information available.
3/05/2023 Jan Murrell, Grant Christmas, John McInerny, John Bohane.							

Item	Author	Property	Description	Reason	Rec	Decision	Comments
1	Consultant	58 Cowdroy Ave	New Dwelling	Cl4.6 height >10 submissions	A	A	Amendments to conditions.
2	Staff	50 Blues Point Rd	Alts Adds Semi detached	Cl4.6 height	A	A	
3	Staff	36 Victoria St	Alts Adds Dwelling	Heritage item	A	A	Subject to discontinued appeal.
31 May 2023, Planning Proposals Jan Murrell, Gary Shiels, Lloyd Graham, Virginia Waller							

Item	Author	Property	Description	Reason	Rec	Decision	Comments
1	Staff	17-25 Falcon St	Height FSR changes	Advice	S	S	VPA offered.
2	Staff	52 McLaren St	Height FSR changes	Advice	S	Def	No VPA or affordable housing.
7/06/2023 Jan Murrell, Helen Lochhead, Ian Pickles, Ken Robinson.							

Item	Author	Property	Description	Reason	Rec	Decision	Comments
1	Consultant	13 Shellcove Rd	Alts Adds Dwelling	Heritage item	R	R	4 levels of excavation under exiting building.
2	Staff	131-139 Holt Ave	Condition mods mixed use	Cl4.6 height >10 Submissions	A	A	
3	Staff	127-129 Willoughby Rd	New Mixed use	Cl4.6 height	A	A	Mods to conditions.
4	Staff	2 Brynes Ave	Alts Adds Dwelling	Heritage item	A	A	Mods to condition.
29/06/2023 Helen Lochhead, Jan Murrell, Michel Reymond, Karala Castellanos							

Item	Author	Property	Description	Reason	Rec	Decision	Comments
1	Staff	37 Bayview St	New Dwelling	Def from 5/04/2023	A	A	Amended plans addressed panels concerns.

LOCAL PLANNING PANELS DIRECTION - DEVELOPMENT APPLICATIONS AND APPLICATIONS TO MODIFY DEVELOPMENT CONSENTS

I, the Minister for Planning and Public Spaces, give the following direction under section 9.1 of the *Environmental Planning and Assessment Act 1979*.


The Hon. Paul Scully MP
Minister for Planning and Public Spaces

Dated: 6/9/23

Objective

The objective of this direction is to identify the development applications and applications to modify development consents that are to be determined by local planning panels on behalf of councils.

Application

This direction applies to councils in the Greater Sydney Region, Wollongong and Central Coast. It also applies to any other council that constitutes a local planning panel under the *Environmental Planning and Assessment Act 1979* (the Act).

Interpretation

A word or expression used in this direction has the same meaning as it has in the standard local environmental plan prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* made under the Act, unless it is otherwise defined in this direction.

Direction

1. Local planning panels of councils in the areas identified in the Table below are to determine development applications for development of a kind specified in the corresponding Schedule to this direction.

Table -

Council	Development
Bayside, Blue Mountains, Burwood, Camden, Campbelltown, Canada Bay, Georges River, Hawkesbury, Hornsby, Hunters Hill, Ku-ring-gai, Lane Cove, Mosman, North Sydney, Randwick, Ryde, Strathfield, Waverley, Willoughby, Wollondilly, Woollahra, and any other council that constitutes a local planning panel under the Act	Schedule 1
Blacktown, Canterbury-Bankstown, Central Coast, Cumberland, Fairfield, Inner West, Liverpool, Northern Beaches, Parramatta, Penrith, Sutherland, The Hills, Wollongong	Schedule 2
City of Sydney	Schedule 3

2. Local planning panels are to determine applications under section 4.55(2) of the Act for the modification of development consents granted by the panel that:
 - propose amendments to a condition of development consent recommended in the council assessment report but which was amended by the panel, or
 - propose amendments to a condition of development consent that was not included in the council assessment report but which was added by the panel, or
 - meet the criteria for development applications set out in the Schedules to this direction relating to conflict of interest, contentious development or departure from development standards.

Note: Councils in the areas identified in the Table to this direction are generally precluded from exercising consent authority functions by operation of section 4.8(2) of the Act. This means councils should make arrangements for the determination of all other modification applications under section 4.55(2), as well as sections 4.55(1) and (1A) of the Act, by council staff. Councils should also make arrangements for the determination of modification applications under section 4.56 of the Act by either the local planning panel or council staff.

This direction takes effect on 1 November 2023 and applies to development applications and applications to modify development consents made but not determined before 1 November 2023.

SCHEDULE 1

1. Conflict of interest

Development for which the applicant or land owner is:

- (a) the council,
- (b) a councillor,
- (c) a member of council staff who is principally involved in the exercise of council's functions under the *Environmental Planning and Assessment Act 1979*,
- (d) a member of Parliament (either the Parliament of New South Wales or Parliament of the Commonwealth), or
- (e) a relative (within the meaning of the *Local Government Act 1993*) of a person referred to in (b) to (d).

but not development for the following purposes:

- (a) internal alterations and additions to any building that is not a heritage item,
- (b) advertising signage,
- (c) maintenance and restoration of a heritage item, or
- (d) minor building structures projecting from the building facade over public land (such as awnings, verandas, bay windows, flagpoles, pipes and services, and sun shading devices).

2. Contentious development

Development that:

- (a) in the case of a council having an approved submissions policy - is the subject of the number of submissions set by that policy, or
- (b) in any other case- is the subject of 10 or more unique submissions by way of objection.

An **approved submissions policy** is a policy prepared by the council and approved by the Secretary of the Department of Planning, Industry and Environment which details the circumstances in which a local planning panel or council staff should exercise the consent authority functions of the council, based on the number and nature of submissions received about development.

A **unique submission** means a submission which is in substance unique, distinctive or unlike any other submission. It does not mean a petition or any submission that contains the same or substantially the same text. Separate unique submissions may be made in relation to the same issue. One individual, or one household, could potentially submit multiple unique submissions.

3. Departure from development standards

Development that contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

4. Sensitive development

- (a) Designated development.
- (b) Development to which *State Environmental Planning Policy No 65- Design Quality of Residential Apartment Development* applies.
- (c) Development involving the demolition of a heritage item.
- (d) Development for the purposes of new licensed premises, that will require one of the following liquor licences:
 - (i) a club licence under the *Registered Clubs Act 1976*,
 - (ii) a hotel (general bar) licence under the *Liquor Act 2007*, or
 - (iii) an on-premises licence for public entertainment venues under the *Liquor Act 2007*.
- (e) Development for the purpose of sex services premises and restricted premises.
- (f) Development applications for which the developer has offered to enter into a planning agreement.

SCHEDULE 2

1. Conflict of interest

Development for which the applicant or land owner is:

- (a) the council,
- (b) a councillor,
- (c) a member of council staff who is principally involved in the exercise of council's functions under the *Environmental Planning and Assessment Act 1979*,
- (d) a member of Parliament (either the Parliament of New South Wales or Parliament of the Commonwealth), or
- (e) a relative (within the meaning of the *Local Government Act 1993*) of a person referred to in (b) to (d).

but not development for the following purposes which requires:

- (a) internal alterations and additions to any building that is not a heritage item,
- (b) advertising signage,
- (c) maintenance and restoration of a heritage item, or
- (d) minor building structures projecting from the building facade over public land (such as awnings, verandas, bay windows, flagpoles, pipes and services, and sun shading devices).

2. Contentious development

Development that:

- (a) in the case of a council having an approved submissions policy - is the subject of the number of submissions set by that policy, or
- (b) in any other case - is the subject of 10 or more unique submissions by way of objection.

An **approved submissions policy** is a policy prepared by the council and approved by the Secretary of the Department of Planning, Industry and Environment which details the circumstances in which a local planning panel or council staff should exercise the consent authority functions of the council, based on the number or nature of submissions received about development.

A **unique submission** means a submission which is in substance unique, distinctive or unlike any other submission. It does not mean a petition or any submission that contains the same or substantially the same text. Separate unique submissions may be made in relation to the same issue. One individual, or one household, could potentially submit multiple unique submissions.

3. Departure from development standards

Development that contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

4. Sensitive development

- (a) Designated development.
- (b) Development to which *State Environmental Planning Policy No 65- Design Quality of Residential Apartment Development* applies and is 4 or more storeys in height.
- (c) Development involving the demolition of a heritage item.
- (d) Development for the purposes of new licensed premises, that will require one of the following liquor licences:
 - (i) a club licence under the *Registered Clubs Act 1976*,
 - (ii) a hotel (general bar) licence under the *Liquor Act 2007*, or
 - (iii) an on-premises licence for public entertainment venues under the *Liquor Act 2007*.
- (e) Development for the purpose of sex services premises and restricted premises.
- (f) Development applications for which the developer has offered to enter into a planning agreement.

SCHEDULE 3

1. Conflict of interest

Development for which the applicant or land owner is:

- (a) the council,
- (b) a councillor,
- (c) a member of council staff who is principally involved in the exercise of council's functions under the *Environmental Planning and Assessment Act 1979*,
- (d) a member of Parliament (either the Parliament of New South Wales or Parliament of the Commonwealth), or
- (e) a relative (within the meaning of the *Local Government Act 1993*) of a person referred to in (b) to (d).

but not development for the following purposes which requires:

- (a) internal alterations and additions to any building that is not a heritage item,
- (b) advertising signage,
- (c) maintenance and restoration of a heritage item,
- (d) development for the purpose of end of journey facilities, or
- (e) minor building structures projecting from the building facade over public land (such as awnings, verandas, bay windows, flagpoles, pipes and services, and sun shading devices).

2. Contentious development

Development that:

- (a) in the case of a council having an approved submissions policy - is the subject of the number of submissions set by that policy, or
- (b) in any other case - is the subject of 25 or more unique submissions by way of objection.

An **approved submissions policy** is a policy prepared by the council and approved by the Secretary of the Department of Planning, Industry and Environment which details the circumstances in which a local planning panel or council staff should exercise the consent authority functions of the council, based on the number or nature of submissions received about development.

A **unique submission** means a submission which is in substance unique, distinctive or unlike any other submission. It does not mean a petition or any submission that contains the same or substantially the same text. Separate unique submissions may be made in relation to the same issue. One individual, or one household, could potentially submit multiple unique submissions.

3. Departure from development standards

For development for the purpose of dwelling houses, dual occupancies and attached dwellings, development that contravenes a development standard imposed by an environmental planning instrument by more than 25% or non-numerical development standard.

For all other development, development that contravenes a development standard imposed by an environmental planning instrument by 10% or non-numerical development standards.

4. Sensitive development

- (a) Designated development.
- (b) Development to which *State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development* applies and is 4 or more storeys in height.
- (c) Development involving the demolition of a heritage item.
- (d) Development for the purposes of new licensed premises, that will require one of the following liquor licences:
 - (i) a club licence under the *Registered Clubs Act 1976*,
 - (ii) a hotel (general bar) licence under the *Liquor Act 2007*, or
 - (iii) an on-premises licence for public entertainment venues under the *Liquor Act 2007*.
- (e) Development for the purpose of sex services premises and restricted premises.
- (f) Development applications for which the developer has offered to enter into a planning agreement.

LOCAL PLANNING PANELS DIRECTION – PLANNING PROPOSALS

I, the Minister for Planning, give the following direction under section 9.1 of the *Environmental Planning and Assessment Act 1979*.



Minister for Planning

Dated: 27/1/2023

Objective

The objective of this direction is to identify the types of planning proposals that are to be advised on by local planning panels on behalf of councils in the Greater Sydney Region and Wollongong and to establish the procedures in relation to those matters.

Application

This direction applies to a council that has constituted a local planning panel under the *Environmental Planning and Assessment Act 1979*, other than the council of the City of Sydney.

Direction

1. A council to whom this direction applies is required to refer all planning proposals prepared after 1 June 2018 to the local planning panel for advice, unless the council's general manager determines that the planning proposal relates to:
 - (a) the correction of an obvious error in a local environmental plan,
 - (b) matters that are of a consequential, transitional, machinery or other minor nature, or
 - (c) matters that council's general manager considers will not have any significant adverse impact on the environment or adjoining land.
2. When a planning proposal is referred to the local planning panel for advice in accordance with this direction it is to be accompanied by an assessment report prepared by the council staff setting out recommendations in relation to the planning proposal, including whether or not the planning proposal should be forwarded to the Minister or Greater Sydney Commission under section 3.34 of the *Environmental Planning and Assessment Act 1979*.
3. The local planning panel must have given its advice on the planning proposal before council considers whether or not to forward it to the Minister or Greater Sydney Commission under section 3.34 of the *Environmental Planning and Assessment Act 1979*.
4. This direction takes effect on the date it is published on the Department of Planning and Environment's website and applies to planning proposals that, before that date, have not been forwarded to the Minister or the Greater Sydney Commission. For the avoidance of doubt, the requirement in clause 2 to this direction extends to planning proposals that

have been referred to the local planning panel, and in relation to which the panel has not provided advice, before the date this direction takes effect.

5. This direction revokes the previous Local Planning Panels Direction – Planning Proposals dated 23 February 2018.