

10.10.North Sydney Local Planning Panel Reformation

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ATTACHMENTS	<ol style="list-style-type: none"> 1. Local Planning Panels fact sheet [10.10.1 - 4 pages] 2. Local Planning Panels Direction: appointment of new members from 26 May 2024 [10.10.2 - 2 pages] 3. Local Planning Panels Direction: development applications & applications to modify development consents [10.10.3 - 7 pages] 4. CONFIDENTIAL - Attachment A [10.10.4 - 1 page] 5. CONFIDENTIAL - 1. LPP Expert List [10.10.5 - 3 pages]
CSP LINK	<ol style="list-style-type: none"> 2. Our Built Infrastructure <ol style="list-style-type: none"> 2.1 Infrastructure and assets meet diverse community needs 2.2 Vibrant public domains and villages

PURPOSE:

The purpose of this report is for Council to endorse the appointment of the North Sydney Local Planning Panel Chair, Alternate Chairs, and the selection of the expert member group, to serve until 1 July 2027.

EXECUTIVE SUMMARY:

- The North Sydney Local Planning Panel (NSLPP) has been operating since March 2018. The Panel comprises of:
 1. A panel chair and two alternative chairs, who were approved for appointment by the Minister for Planning.
 2. A rotating pool of expert members, who were selected from a Minister approved list of individuals who are considered to have appropriate qualifications and expertise to suit North Sydney, and
 3. A rotating pool of four community members who were selected by Council.
- While the endorsement of the Minister approved members of the planning Panel lapsed at the end of February 2024, interim arrangements were released for current Panel memberships to be extended to 30 June 2024 due to the Department of Planning, Industry and Environment not having the replacement Panel member list ready.
- The recruitment and review of the pool of experts by the Department of Planning, Industry and Environment is now complete.
- Council is now required to endorse the appointment of the Minister-approved Chairs and list of nominated experts to enable the reformation of the North Sydney Local Planning Panel.

RECOMMENDATION:

1. THAT Council endorse the appointment of the Minister-approved Chairs and experts nominated for the reformation of the North Sydney Planning Panel, to serve on the Panel until 1 July 2027.

2. THAT delegated authority be granted to the Chief Executive Officer, pursuant to Section 377 of the Local Government Act 1993 to fill vacancies on the North Sydney Local Planning Panel from the list of Minister-approved experts as required.

3. THAT Council thank the outgoing Panel for its diligent work in implementing the planning controls of North Sydney.

Background

The North Sydney Local Planning Panel has been operating since March 2018. The Panel comprises of:

1. a Panel Chair and two Alternate Chairs who were approved for appointment by the Minister for Planning;
2. a rotating pool of expert members who were selected from a Minister-approved list of individuals considered to have appropriate qualifications and expertise to suit North Sydney; and
3. a rotating pool of four community members selected by Council.

Endorsement of the Minister-approved members of the Planning Panel were due to lapse at the end of February 2024. Interim arrangements were announced by the Minister to extend the Panels until 30 June 2024 as the necessary recruitment process had not been undertaken by the Department of Planning, Industry and Environment.

Council should endorse the appointment of the Minister-approved Chairs and nominated experts to enable the reformation of the North Sydney Local Planning Panel prior to its July 2024 meeting.

Report

North Sydney Local Planning Panel

From 1 March 2018, determination of local development applications can only occur through the local planning panel, a regional planning panel, or under officer delegation. The North Sydney Local Planning Panel determines all applications up to a value of \$30 million which cannot be determined under delegation in accordance with the Directive from the Minister for Planning, as well as applications which are beyond the limits set by the Minister for the use of delegated authority by Council staff.

Further, the NSLPP is to provide advice on planning proposals and direct the conduct of planning appeals as they relate to the Panel's activities. Note: The Panel has delegated this function to certain Council staff.

The NSLPP determines applications, including modifications, to certain applications beyond the limits set by the Minister for the use of delegated authority by Council staff. These limits were set by the Minister for Planning by way of a Section 9.1 direction made under the provisions of the Environmental Planning and Assessment Act 1979 as follows:

1. Conflict of interest

Development for which the applicant or landowner 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,
- 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 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 Council and approved by the Secretary of the Department of Planning 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 standard

Development that contravenes a development standard imposed by an environmental planning instrument by more than 10%, or non-numerical development standards. Note: If the Secretary allows concurrence to be assumed by Council staff for contravening development standards, the panel can delegate these applications to Council staff to determine.

4. Sensitive development

- a) Designated development.
- b) Development to which State Environmental Planning Policy (Housing) 2021, Chapter 4 (Design of Residential Apartment Development) applies.

- c) Development involving the demolition of a heritage item.
- d) Development for the purposes of new licenced 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.

Planning Proposals

A Ministerial direction, dated 23 February 2018, relates to the referral of Planning Proposals, as follows:

- 1) A Council to whom this direction applies is required to refer all planning proposals to be 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:
 - the correction of an obvious error in a local environmental plan,
 - a. matters that are of a consequential, transitional, machinery or other minor nature, or
 - b. 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, Industry 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 revised the previous Local Planning Panels Direction – Planning Proposals dated 23 February 2018.

On the meeting date, the North Sydney Local Planning Panel (NSLPP) comprises a Chair and three panel members, one of whom is a community representative. Members are selected on a skills and availability-basis dependent on the matters to be determined by the Panel. The Panel Chair and two Alternative Chairs have been approved for appointment by Council by the Minister for Planning.

A rotating pool of expert members have been appointed from a Minister-approved list of individuals who are considered to have appropriate qualifications and expertise in fields such as planning, architecture, public administration, and law.

Time issues around the review and appointment of new Chairs and Experts

The endorsement of the Minister-approved members of the planning panel lapsed at the end of February 2024 but was extended to 30 June 2024. The Minister-endorsed Chair and Alternate Chairs, as well as the approved list of individuals for consideration as expert members, were released on 27 May 2024.

The timing of issue of the Minister’s expert panel list in late May 2024, has provided insufficient time to appoint expert panel members before the next planning Panel date of 3 July 2024. The first meeting of the newly convened Planning Panel will now be 7 August 2024.

Appointment of a new local planning panel.

Council is required to endorse the appointment of both the Minister approved chairs and experts for the reformation of the North Sydney Planning Panel. The Minister for Planning approves the appointment of the Chair and Alternate Chairs, with Council having free hand in the appointment of the expert panel members from a pool formed by the Minister.

Approved Panel Chairs

The Chair and Alternate Chairs have been approved for appointment by the Minister for Planning. There was no consultation with either Council staff or elected members regarding this matter and Council has no avenues for challenging the appointments.

The Chair and Alternate Chair, as approved for appointment are:

- Dr Robert Stokes - Principal Chair
- Mr Vincent Hardy - Alternate Chair
- Ms Alison McCabe - Alternate Chair

The Panel Chair has the responsibility of selecting the most appropriate panelists for each meeting based on the likely issues. Two experts and one Community member will be selected for each meeting by the Panel Chair in consultation with Council staff. An Alternate Chair may

also be nominated to replace the Principal Chair based on availability, and in the event of a conflict of interest.

Rotating Expert Panel Members.

The Minister has directed that Council must establish a pool comprising at least 15 independent expert members and alternate members for the purpose of constituting a local planning panel. Council has already appointed community representatives to sit on the panel whose sitting term are not affected by the latest Minister's Directions

Two panel members at each meeting will come from a pool of experts, selected by Council. These experts are selected from the pool of experts approved by the Minister for Planning.

Council staff reviewed the Minister approved pool of experts. A number of individuals had expressed their availability to be on the panel for North Sydney Council. Given the release of the list of potential expert panel members coincided with the release of the nominated chairs, Council staff were unable to include the feedback of the Chair in the selection of potential expert panel members.

Due to the timing of the release of the pool of experts by the Minister for Planning, and the need to have a Panel in place for the July Panel meeting, it is recommended that the filling of positions on the 2024 NSLPP should be undertaken with the independent experts as outlined in Confidential Attachment A, selected from the Ministers approved expert panel members.

Additionally, the delegation granted by Council at its meeting of 25 June 2018 (Minute Number 197) allows for staff to select from the expert member list when necessary to ensure the ongoing running of NSLPP. This delegation should remain in place to fill positions on the NSLPP from the list of Minister-approved experts on a needs-be basis.

Council staff will consider appropriate appointments from the rotating pool of experts.

It is also noted that the Panel Chair and Alternative Chairs can be offered appointment as expert members. This will allow greater flexibility in forming a panel in case of unavailability or conflict of interest.

The Manager of the Planning Panels Secretariat has advised that appointments should be made by 1 July 2024 for a period through to 1 July 2027 to ensure compliance with the:

- six-year maximum term limits of continuing members; and
- expiry date of the Minister's approval of Chairs and experts.

Consultation requirements

Community engagement is not required.

Financial/Resource Implications

The cost to operate the North Sydney Local Planning Panel is fully funded within the existing budget and there will be no additional cost to extend the existing representative appointments.

Legislation

- Sections 2.17-2.20 of the Environmental Planning and Assessment Act 1979, (EP&A Act)
- Schedule 2 of the EP&A Act

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Panel member selection guide for councils

This document provides an overview of the process of appointing members to local planning panels and provides guidance to assist local councils in that process.

Mandatory requirements for the process of appointing members to local planning panels are set out in:

- sections 2.17-2.20 of the *Environmental Planning and Assessment Act 1979*, (EP&A Act)
- schedule 2 of the EP&A Act
- the Local Planning Panels Direction—Operational Procedures
- the Local Planning Panels Direction – Appointment of New Members

This document provides best practice information and guidance to assist councils in addressing these requirements.

This guidance has sections on:

- panel membership
- approval of chairs and independent experts
- guidance on selecting an independent expert member
- recruitment of community representatives
- terms of appointment.

Panel membership

A local planning panel consists of four members: a chair, two independent expert members and a community representative.

If a council is required to constitute a local planning panel, it must appoint chairs and independent expert members approved by the Minister for Planning and Public Spaces (Minister).

Community representatives are recruited, selected and appointed by councils.

Mayors, councillors, property developers and real estate agents are not eligible for appointment to local planning panels.

Approval and appointment of chairs and independent experts

The Minister approves experts and chairs and alternate chairs for appointment by councils.

If the chair of a local planning panel vacates their position, council should request that the Minister approve a replacement chair for appointment by council.

Independent experts pool

A pool of over 200 independent experts has been approved.

Each expert has been approved on the basis of their professional standing, experience, technical ability and broad understanding of the development assessment process. Each expert has met one or more of the expertise requirements set out in the EP&A Act.

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Each expert has completed probity checks and provided a statutory declaration that they have not been bankrupt, do not have a criminal record and are not developers or real estate agents. None of the experts is a Mayor, local councillor, or full-time local council or State government employee.

The Planning Panels Secretariat at the Department of Planning, Industry and Environment maintains a list of approved independent experts and can make this list available to councils on request.

Council should select sufficient experts for appointment to ensure that panel meetings can proceed in the event that a member may be unavailable for any reason, and also to enable the chair to rotate panel members periodically (as required by clause 1.2.1.c of the Operational Procedures).

Guidance on the selection of independent expert members

Council may discuss potential expert members with its appointed chair.

Chairs should not make unsolicited representations on behalf of experts to councils.

Experts should not approach councils or chairs to solicit or canvass appointments.

Experts can be appointed to more than one local planning panel.

Councils are not able to prohibit experts from carrying out consultancy work within the LGA.

The Local Planning Panels Direction – Appointment of New Members requires panel members to agree to abide by the Code of Conduct for Local Planning Panel Members.

(Breaches of the code of conduct may constitute a reason for removal from the panel and/or from the pool of approved independent experts).

Recruitment of community representatives

Councils recruit, select and appoint community representatives. The following points are provided as guidance to assist councils in this process.

Community representatives are appointed to bring local knowledge and experience to the local planning panel. Community representatives should be selected from the local community. Community representatives are not expected to be experts in planning matters.

If the council area has wards, a community representative is needed to address matters for each ward. Community representatives can represent one or more wards.

The General Manager of the council should oversee the selection process for the community representatives of the local planning panel.

A sufficient number of community representatives should be appointed so that the panel can operate efficiently, even if a community representative is unable to attend for any reason, and so that community representatives can be periodically rotated (as required by clause 1.3.1.c of the Ministerial direction).

Advertising

The council should seek expressions of interest from the community for the role of community representative on the local planning panel by placing at least two advertisements in local media publications (i.e. newspapers) as well as advertising through one or more of the following:

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- the council's website, newsletters and social media e.g. council's Facebook, Twitter and LinkedIn pages
- any relevant community forums, ward or precinct committees etc. convened by the council
- local/community radio or magazines; or
- council offices, libraries, community or sports centres, schools, residents and community groups.

The advertising period should be no less than 28 days, in order to give community members enough time to apply.

Applications for the role of community representative at council may be sent to the General Manager at that council. Applications should not be sent to the Department of Planning, Industry and Environment.

Selection criteria

Local community representatives may be selected on the basis that they:

- are current residents within the LGA
- have an understanding of the LGA and issues of concern to the local community
- have the capacity to form independent views and to contribute constructively to the determination of applications
- are able to demonstrate a basic level of understanding of the planning system, i.e. knowledge of the council's local environmental plan, development control plan, local strategic planning statement or community strategic plan
- are committed to:
 - following the *Code of Conduct for Local Planning Panel Members* and the Local Planning Panels Operational Procedures
 - attending local planning panel meetings and completing panel business in required timeframes.

Appointing community representatives

Following the end of the advertising period, the General Manager should arrange a selection panel to:

- review the applications against the relevant selection criteria
- shortlist suitable candidates
- arrange for interviews (if required)
- recommend candidates suitable for appointment as community representatives.

Probity checks

Probity checks are required for all panel members. The department conducts a range of background checks prior to the approval of chairs and expert members, including criminal, financial and academic checks.

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Council must arrange probity checks for community representatives. These checks should include at a minimum:

- public register of real estate agents check
- bankruptcy record check
- National Police check (ACIC).

Remuneration

The Minister has made a remuneration determination setting minimum per meeting rates for panel members. The determination is available, along with the Minister's Local Planning Panels Directions, at:

www.planning.nsw.gov.au/Assess-and-Regulate/Development-Assessment/Local-Planning-Panels/Statutory-rules

Terms of appointment

Appointed members should accept their terms of appointment in writing. The terms of appointment should identify:

- the sections of the EP&A Act under which appointments are made and terminated
- period of appointments
- duties and responsibilities
- a commitment to comply with the *Code of Conduct for Local Planning Panel Members* and to complete the Disclosures Return at Schedule 2 of the Code of Conduct when appointed, and as required under clause 4.15 of the Code of Conduct
- remuneration; and
- limits of liability.

The General Manager should notify all applicants of the outcome of their application. The General Manager should also notify the panel chair of all decisions on appointments to the local planning panel.

The Planning Panels Secretariat at the Department of Planning, Industry and Environment must be advised of all appointments to the local planning panel, including any appointments as alternates, or as ward representatives.

More information

Call the Planning Panels Secretariat on 8217 2060.

Email enquiry@planningpanels.nsw.gov.au

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LOCAL PLANNING PANELS DIRECTION –APPOINTMENT OF MEMBERS

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



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

Dated: 26/5/24

Objective

The objective of this direction is to set requirements for the appointment of new members and the re-appointment of current members to local planning panels, and establish requirements for the creation of pools comprising appointed members.

Application

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

1. Direction 1 Appointment of members

1.1 A council to whom this direction applies is to require in their letter of appointment or re-appointment of any new or current panel member, that the proposed member agree to abide by the *Code of Conduct for Local Planning Panel Members*, in their acceptance of appointment to the local planning panel. The **Code of Conduct for Local Planning Panel Members** is the code approved by the Minister for Planning under section 28 of Schedule 2 to the Act.

1.2 Before appointing community representatives to a panel, a council must require proposed representatives to complete a statutory declaration stating that they are not:

- a) a councillor of that or any other council, or
- b) a property developer within the meaning of section 53 of the *Electoral Funding Act 2018*, or
- c) a real estate agent within the meaning of the *Property, Stock and Business Agents Act 2002*.

Note: these are grounds for ineligibility for membership of a local planning panel under section 2.18 of the Act.

1.3. Before appointing community representatives to a panel, a council must also arrange probity checks for the proposed representatives which must include (but are not limited to):

- a) Search of the Public Register of real estate agents
- b) Bankruptcy Register Search
- c) A Nationally Coordinated Criminal History Check


2. Direction 2 Appointment of members to a pool

- 2.1. A council must establish a pool comprising at least 15 independent expert members and alternate members that have been appointed for the purpose of constituting a local planning panel. A council must establish a pool comprising at least 4 community representatives that have been appointed for the purpose of constituting a local planning panel.

This direction takes effect on 30 June 2024

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: 6/3/24

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

- 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 the date of this direction and applies to development applications and applications to modify development consents lodged but not determined before the date of this direction.

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, Housing and Infrastructure 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 (Housing) 2021*, Chapter 4 (Design 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, Housing and Infrastructure 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 (Housing) 2021*, Chapter 4 (Design of residential apartment) 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, Housing and Infrastructure 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 (Housing) 2021*, Chapter 4 (Design of residential apartment) 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.