

## 10.4. North Sydney Local Planning Panel Report FY2023/24

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<b>ATTACHMENTS</b>	Nil
<b>CSP LINK</b>	5. Our Civic Leadership 5.1 Lead North Sydney's strategic direction 5.2 Strong civic leadership and customer focussed services

### PURPOSE:

The purpose of this report is to detail the activities of the North Sydney Local Planning Panel for the 2023/24 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 which requires that "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 2023/24 financial year.

### RECOMMENDATION:

1. **THAT** the North Sydney Local Planning Panel Report 2023/24 report be received.

## Background

At present, while around 90% of development applications (DAs) in the North Sydney Local Government Area are determined under delegated authority, the remainder are determined by three separate Panels which operate to determine DAs.

Two Panels determine applications assessed by Council, while the third determines applications assessed by Department of Planning Housing and Infrastructure (DPHI). These Panels are:

### North Sydney Local Planning Panel (NSLPP)

The North Sydney Local Planning Panel (NSLPP) 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. During 2023/24, the composition of the NSLPP consisted 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 NSW Government and facilitated by the DPHI, 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. Council has appointed the following persons as community representatives to the panel:

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

### Independent Planning Commission (IPC)

This Panel is operated by the NSW Government and determines applications which are of state significance and are assessed by Department of Planning Housing and Infrastructure (DPHI) 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.

### **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 DAs, aid efficiency, and 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.

Council has no power to direct the activities of NSLPP, nor Council staff in the assessment, reporting, and determination of Development Applications. 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.

### **Operation during reporting period**

The Panel met on North Sydney Council premises, with both applicants and submitters being able to address the Panel remotely.

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

An important enhancement to the Panel's operation was the provision for all submitters to make both written and verbal submissions following the publication of the officer's report.

As part of the ongoing effort to increase community engagement, NSLPP agendas were published on the Wednesday before the meeting, rather than the Friday before, which gave both applicants and submitters seven days to review the officer's report and respond appropriately.

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

### **Panel Membership during the reporting period.**

The NSLPP composition during the reporting period is outlined in the table on the next page. It also includes the attendance record for all panellists.

### North Sydney Local Planning Panel - Roles and Attendance 2023/24 FY

State/Council Appointed	Role	Name	Attendance (as chair)
State-sanctioned Chair, alternative Chairs, and experts	Chair/Expert	Jan Murrell	11 (6)
	Alternative Chair/Expert	Garry Sheils	6 (6)
	Alternative Chair/Expert	Helen Lockhead	3 (1)
	Alternative Chair/Expert	Robert Montgomery #	1
	Alternative Chair/Expert	Lindsay Fletcher #	1
State-sanctioned, Council-appointed experts	Expert Member	Annelise Tuor	0
	Expert Member	Brendan Randles	2
	Expert Member	David Logan	1
	Expert Member	Garth Paterson	0
	Expert Member	Gerard Turrisi	3
	Expert Member	Grant Christmas	3
	Expert Member	Ian Pickles	2
	Expert Member	James Harrison	2
	Expert Member	John McInerney	1
	Expert Member	Linda McClure	2
	Expert Member	Lloyd Graham	2
	Expert Member	Michael Reymond	1
	Expert Member	Peter Brennan	1
	Expert Member	Sandra Robinson	1
	Expert Member	Tony Caro	1
	Expert Member	Stuart McDonald #	1
Council-appointed community members	Community Member	Virginia Waller	1
	Community Member	Lindsey Dey	3
	Community Member	Meredith Trevellyn-Jones	3
	Community Member	Kara Castellanos	2
	Community Member	John Bohane	3
	Community Member	Kenneth Robinson	3

# Additional experts appointed under delegation from Council by the Acting General Manager in March 2024 to ensure coverage until the recruitment of state appointments in June 2024. This action was required due to several panel members reaching the statutory limit of six years for engagement.

#### 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 as to which panellists will be sitting on the day.

#### Number of applications considered by the Panel

During the period covered by this report, 63 items relating to development applications, and two 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 Minister's Direction) would average around six applications a month. During the period covered by this report, an average of 5.5 applications per meeting were reported to the Panel.

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

- exceed the building height standard where a Clause 4.6 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 Planners.

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.

The total number of applications considered by the Panel was up by eight items, compared with 57 during the 2022/23 reporting period.

#### Recommendation vs Decision

In the consideration of development applications, the Panel agreed with the Officer's recommendation on 54 (86%) occasions, accepting the Officer's recommendations in unchanged form.

The Panel deferred matters from the agenda on eight occasions, to allow the applicant to submit either amended plans, or better/more information. This represented approximately 12% of the application stream, adding on average 15 weeks or 102 days to the determination time. One application was withdrawn following deferral.

All decisions of the Panel were recorded as unanimous during the reporting period.

#### Refusal of Consent

Consent was refused on 11 occasions, with applications determined by refusal representing approximately 17% of matters referred to the Panel.

### Advice to Council regarding Planning Proposals

The Planning Panel considered two planning proposals at specifically-convened meetings of the Panel. No planning proposals were considered at regular determination meetings.

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

### Complaints against the Panel

No formal complaints were made about the panel's activities for the reporting period.

### Appeals against Panel determinations

Development applications that are refused or “deemed” to be refused (not determined within the statutory time limit) can be the subject of an appeal to the Land and Environment Court. Appeals which relate to a determination must be made within six months of determination. Appeals are managed by Council officers under delegation from the Panel.

In the reporting period there were four appeals commenced in relation to a Panel decision. Two of these remain ongoing, one was a contested appeal which was upheld, and the remaining appeal was resolved by way of a conciliated agreement with positive amendments made to the originally refused application. Appeals are managed by Council officers under the delegation of the Panel.

### **Consultation requirements**

Community engagement is not required. However, this report will be publicly available on Council’s website.

### **Financial/Resource Implications**

The Panel performs a mandatory statutory function and is funded through recurrent expenditure. There are no financial implications arising directly from this report.

### **Legislation**

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