



**Randwick City  
Council**  
a sense of community

# Randwick Development Assessment Panel Guidelines

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## Introduction

The Randwick Development Assessment Panel (RDAP) is a local planning panel established under [Part 2, Division 2.5](#) of the Environmental Planning and Assessment Act 1979 (Act). It is responsible for determining certain [development applications](#) (and modifications) and providing advice on [planning proposals](#) (collectively referred to as applications in this guide).

Local planning panels (commonly referred to as Independent Hearing and Assessment Panels) are mandatory for all councils in Sydney and Wollongong. They have been created to ensure that the process of assessment and determination of applications with a high corruption risk, sensitivity or strategic importance is transparent and accountable.

The RDAP is comprised of four (4) members:

- Chair
- Two (2) expert members
- A community representative

The members for each meeting will be selected by the chair from the pool of members appointed to the RDAP. Two alternate chairs have been appointed who will have the same role as the chair when presiding over a panel meeting or other business.

This guide details how the RDAP is to operate. It incorporates:

- Procedural requirements from the Act (refer to [Schedule 2](#))
- Requirements from the [Local Planning Panels Direction – Operational Procedures](#) issued by the NSW Minister for Planning under section 9.1 of the Act; and
- General requirements to ensure the efficient and effective operation of the panel. While these requirements will generally be followed, they may be varied by the chair depending on the circumstances of a particular meeting or application.

A local planning panel is not subject to the direction or control of the council, except on matters relating to panel procedures and the time within which the panel is to deal with a matter, provided they are not inconsistent with the Direction of the Minister under section 9.1 of the Act.

## 1. Panel composition

### Chair

- 1.1 The chair is responsible for the management of the panel's functions and operations, including managing conflicts of interest.
- 1.2 The chair is to ensure the panel fully discharges its responsibilities under the Act, the code of conduct and these operational procedures.
- 1.3 The chair is responsible for the good and orderly conduct of the panel. The chair may do all things necessary to fulfil this responsibility.
- 1.4 The chair is to decide which panel members (or alternates) are to hear a matter prior to the meeting commencing.
- 1.5 The chair and alternate chairs shall rotate presiding over meetings (unless the chair or alternative chairs are unavailable for any reason).
- 1.6 Where possible, deferred matters should be considered by the chair that presided over the original deferment.

### Independent expert members

- 1.7 The expert members can be interchanged as needed by the chair for reasons including:
  - a member has a conflict of interest
  - a member is unable to attend on the day
  - to periodically rotate the members.

### Community representatives

- 1.8 After the agenda has been set, the chair shall select the community representative for the meeting.

*Note: Whilst the pool of community representatives includes at least one person from each ward, the representatives on the panel have been appointed on the basis that their skills and attributes could be equally applied to any of the wards. Consequently, whilst the choice of community representative for a meeting will consider the number of items on the agenda for each ward, other factors such as availability and rotation may also be considered.*

- 1.9 The chair may appoint a different community representative as the voting member on a particular item, such as for a planning proposal in a different ward to the other items on the agenda.

### **Quorum**

- 1.10 Where a quorum (3 members) for a meeting is not present, the meeting shall be deferred.

### **Review of panel decisions**

- 1.11 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.

## **2. Conduct of panel members**

- 2.1 All panel members must comply with the [code of conduct](#) approved by the Minister for Planning.

### **Conflict of interests**

- 2.2 Panel members must avoid or appropriately manage any conflicts of interests. The onus is on the individual panel member to identify a conflict of interests and take appropriate action.

- 2.3 If a member of a panel has a pecuniary interest in a matter being considered or about to be considered at a meeting, and the interest appears to raise a conflict with the proper performance of the member's duties, the member must, as soon as possible, disclose the nature of the interest at (or before) a meeting of the panel.

Particulars of any disclosure made must be recorded by the panel and be made publically available upon request.

- 2.4 After a member of a panel has disclosed a pecuniary interest in any matter, the member must not be present during any deliberation of the panel with respect to the matter, or take part in any decision of the panel with respect to the matter.

*Note: A contravention of this requirement does not invalidate any decision of the panel.*

### **Interactions with third parties**

- 2.5 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 panel meeting.

*Note: This does not apply to persons employed by the council to assess the matters to be considered by the panel*

## **3. Frequency of meetings**

- 3.1 The panel shall meet on the 2nd Thursday of every month (excluding January) unless there are insufficient applications to conduct a meeting.
- 3.2 If required, the panel shall also meet on the 4<sup>th</sup> Thursday of the month.

## **4. Meeting procedures**

### **Preparation of agenda & business paper**

- 4.1 The agenda shall be prepared two weeks prior to the meeting and sent to the chair for approval.
- 4.2 No later than 10 days prior to the meeting, the chair shall approve the agenda and nominate which panel members (or alternates) are to sit on the panel for that meeting.
- 4.3 Electronic copies of the business paper and associated plans and submissions shall be made available to panel members at least 6 days prior to the meeting. Hard copies of the agenda and plans shall be couriered to the nominated panel members.

### **Notice of meetings**

- 4.4 Notice of panel meetings (time and place) shall be provided through Council's website at least 6 days prior to the meeting.
- 4.5 Applicants and submitters will be advised (in writing) when an application will be heard by the panel.

- 4.6 Business papers for meetings shall be made publicly available on Council's website 6 days preceding the meeting.

### **Notice of intention to address the panel**

- 4.7 Any person wishing to address the panel must register their intention to do so with Council by 12 noon on the day before the meeting. If any speaker wishes to use a PowerPoint presentation, it must be received by Council by 12 noon on the day before the panel meeting.
- 4.8 Unless the chair otherwise permits, the number of speakers shall be limited to one for and one against on each application. A person wishing to speak against an application must have already lodged a written submission on the subject application OR must provide a written summary (no longer than one A4 page) of the matters upon which they wish to address the panel. Council must receive this summary by 12 noon on the day before the panel meeting.

*Note: Additional speakers may be permitted if the chair considers that they are raising discrete different issues. Any requests for additional speakers must be received by 12 noon on the day before the meeting and approved by the chair before the meeting commences.*

- 4.9 Councillors are able to address the panel on any items within their ward. This is in addition to the other speakers. Any councillor who wishes to address the panel must register their intention to do so by 12 noon on the day before the meeting.

### **Site visit**

- 4.10 The chair may elect for the panel to undertake site inspections for applications that will be considered at the public meeting. Panel members must not undertake site inspections independently, rather the panel shall inspect the sites together.
- 4.11 Appropriate council planning staff shall accompany the panel on site inspections.
- 4.12 Site visits should be conducted on the same day as the public meeting.
- 4.13 Site visits are solely to be used to identify and clarify issues with a proposal. At a site visit, 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.

- 4.14 Adjoining and/or affected properties may be visited by the panel at the discretion of the chair. It is not a requirement for the panel to visit every objector's property; however, it may visit if the chair decides that the panel's consideration of an application would benefit from viewing an objector's property. If so, the objector will be requested to provide access prior to the site visit.
- 4.15 Site visits are not to be used as a forum for applicants or objectors to address the panel; however, the panel may ask questions to clarify issues whilst visiting a site.
- 4.16 The panel shall normally meet at 9:30am on the day of the meeting, or as otherwise determined by the chair, to commence site inspections.

### **Briefing**

- 4.17 At the conclusion of the site visits, Council staff shall brief panel members on the applications. Panel members are able to ask questions and clarify issues.

### **Public meeting**

- 4.18 The public meeting shall commence at 1pm in the Council Chambers, (1st floor, Town Hall Building, 90 Avoca Street, Randwick).
- 4.19 Electronic audio recordings shall be made of public meetings and these recordings shall be made publicly available on Council's website.
- 4.20 The chair/alternate chair, or in the absence of the chair/alternate chair, a member appointed by the panel, is to preside at the meeting.
- 4.21 Speakers shall be heard for each item in the agenda in the following order:
- Councillor/s addressing any item of relevance in their ward
  - Objector (or representative) speaking against the application; and then
  - The applicant (or the applicant's representative) speaking for the application.

*Note: Unless the panel otherwise permits, there shall be no more than one speaker*

*against and one speaker for each application. This is in addition to any councillors who wish to address the panel.*

- 4.22 A person is not entitled to be legally represented at any meeting of the panel unless the chair grants permission. In granting any such permission, the chair shall have regard to the following matters;
- the nature and complexity of the matter and whether it involves a question of law,
  - whether the person has the capacity to present their submission without legal representation, and
  - such other matters as the chair considers relevant.
- 4.23 Unless the chair otherwise permits, no speaker may address the panel for more than 3 minutes in respect of any one matter at any particular meeting. The chair may allow for an extension of time—to enable relevant issues to be adequately addressed.
- 4.24 A person, other than a member of the panel, shall not speak while another person is speaking or otherwise interrupt that person while speaking.
- 4.25 Panel members may seek to clarify any matter with a speaker or council officer.
- 4.26 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.
- 4.27 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.

#### **Deliberation**

- 4.28 Following the address from councillors, objectors and applicants on all matters scheduled for that meeting, the panel shall adjourn from the public meeting to deliberate. Only voting members of the panel (and council staff, for administrative support and if matters require clarification) are able to attend the closed session.

The panel shall prepare a draft written resolution for each matter, including reasons.

#### **Voting and determination**

- 4.29 Following deliberation, the panel shall reconvene the public meeting (in the Council Chambers) for voting and determination. There is no opportunity for

debate or discussion at this point in the meeting.

- 4.30 The chair shall articulate the draft resolution of the panel on each item and panel members shall then vote on the resolution. A decision supported by a majority of the votes is the decision of the panel. In the event of an equality of votes, the chair (or presiding member) has a second or casting vote.
- 4.31 If a panel member votes against the resolution, they are entitled (but not obligated) to present their reasons.
- 4.32 Applications shall be determined by the panel in the order they appear on the agenda

#### **Post-meeting procedures**

- 4.33 The chair shall review and confirm the decisions made by the panel immediately after the meeting.
- 4.34 Minutes of the meeting shall include the decision, the outcome of voting and the reasons for the decision. These minutes shall be made publicly available on Council's website.
- 4.35 All parties that made written submissions shall be advised of the outcome in writing.
- 4.36 The Notice of Determination shall be provided to the applicant
- 4.37 Should the panel resolve to request additional information or seek amendment of the application, the panel may defer the application. A written request to the applicant with the reasons for deferral shall be sent to the applicant the following day.

If the amended application requires renotification and there are objections, it will be considered at another panel meeting and, if possible, dealt with by the same chair and panel members. The procedures in section 4.7-4.9 for addressing the panel will apply.

In other cases, the application may be determined by the panel electronically (refer to section 5).

## **5. Transaction of business outside meetings**

- 5.1 A panel may, if it thinks fit, transact any of its business by the circulation of papers (electronically or in hard copy) among all the members of the panel. A resolution

approved in writing by a majority of those members is taken to be a decision of the panel.

The chair and each member of the panel have the same voting rights as they have at an ordinary meeting of the panel.

The resolution is to be recorded in the minutes of the meetings of the panel.

- 5.2 A panel may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members

## **6. Obligation to consult with council**

- 6.1 The 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 significant adverse financial impact on council until after it has consulted with council.

The consultation may be in writing, with council being given a specified time to respond in writing. Where a meeting with the General Manager (or delegate) is held to discuss the matter, all relevant panel members should be present and minutes kept of the meeting and its outcomes.