

Local Planning Panels (IHAPs) Evaluation

Half-year report (April – September
2018)

Institute for Public Policy and Governance

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Table of acronyms and abbreviations

| CSP | Community Strategic Plans |
|--------------|---|
| DA | Development Application |
| DCP | Development Control Plans |
| DPE | Department of Planning and Environment |
| LEPs | Local Environmental Plans |
| LPPs | Local Planning Panels |
| ICAC | Independent Commission Against Corruption |
| IHAPs | Independent Hearing and Assessment Panels (known as Local Planning Panels under <i>Environmental Planning and Assessment Act</i> 1979 (NSW)) |
| IPPG | Institute for Public Policy and Governance |
| OLG | Office of Local Government |

Executive Summary

On 1 March 2018, the NSW Government introduced requirements for all councils in Greater Sydney and Wollongong (34 councils) to establish an Independent Hearing and Assessment Panel (IHAP), known as a Local Planning Panel under the *Environmental Planning and Assessment Act 1979* (NSW) (the Act).

The role of IHAPs is to determine certain types of local development applications (DAs) on behalf of councils and provide expert advice to councils on planning proposals. The objectives of these changes are to reduce corruption risk, promote more consistent decision-making, enhance expertise in decision-making, promote faster decisions, and improve the capacity of councils to undertake strategic planning.

The evaluation

The NSW Department of Planning and Environment (DPE) engaged the UTS Institute for Public Policy and Governance (IPPG) to monitor and evaluate the implementation of IHAPs over the first year of their operation.

The evaluation will inform decisions about whether policy settings and referral criteria should be changed and evaluate (after a longer period of operation) whether the panel reforms have met policy objectives.

IPPG, in collaboration with DPE and stakeholders, developed a program logic to frame the evaluation. The logic identifies the immediate, intermediate and long-term outcomes of the reforms, and how these ultimately contribute to system outcomes.

Key findings

All 34 panels across greater Sydney and Wollongong have been established and are operational. Most surveyed panel members and directors of planning reported that the IHAP process is operating well. Surveyed chairs and experts express the view that IHAP reform objectives are likely to be achieved.

According to the data available, 251 IHAP meetings have been conducted and panels have considered 875 DAs (with 840 determinations made). Site visits were reportedly conducted on most occasions for DAs (88 per cent in quarter 1, 91 per cent in quarter 2).

Panels provided advice on planning proposals (a total of 99). Across these proposals, 120 recommendations were made.

From this data it is evident that significant activity regarding panel establishment and implementation has occurred during a time of change for councils and stakeholders, with a range of other Act amendments taking effect in 2018.

Referral criteria

Most DAs considered by IHAPs triggered one referral criterion. The most commonly reported referral criterion triggered was the departure from development standards.

Early data about the referral criteria indicates it is largely capturing the volume and type of DAs expected. However, some panel members and council staff reported simple DAs being referred to panels. This indicates there could be scope to facilitate access to more information for councils and chairs about the ability to seek conferral and the role of electronic determinations.

Some panel members and council staff also reported that there were some instances where complex DAs did not trigger the referral criteria. This issue was not as prevalent as the referral of simple DAs to the panel, but indicates that there may be some scope to provide further flexibility to councils and panels. This could include allowing councils to self-refer applications they feel warrant a panel determination and/or allowing panels to refer back categories of development that are straightforward and do not require a panel assessment. This could in turn have flow on effects for panel costs.¹

DPE has advised it is exploring ways they could offer panels this flexibility, without impacting the integrity of the referral criteria process. The evaluation will continue to monitor the referral criteria.

¹ The costs of panels will be monitored and compared in Year 2 of the evaluation based on available/provided data. During Year 1 preliminary data about costs is being collected largely through case studies and survey information.

Expertise informing decision-making

Collected data indicates that a high-level of expertise and familiarity with planning controls is being brought to the local development determination process. All chairs and experts have expertise in one or more of the 11 specified areas, with expertise most strongly concentrated in the planning, and government and public administration fields.

Additionally, most panel members are familiar with the council statutory and strategic planning instruments. While there is no reliable baseline about the level of expertise existing in councils prior to 1 March 2018 (for the assessment of DAs that would have otherwise gone to the IHAPs), the targeted recruitment of specific expertise, paired with the determinative role of the IHAPs, suggests that the reforms are on track for delivering expert based local decision-making.

The evaluation also assessed the degree of support and advice provided to panels. From surveys and case studies with panel members and council staff, IPPG found that there was a broad range of support tools offered to all parties associated with the panel process. Different parties tended to find different sources useful. Overall, informal relationships with counterparts in other councils/panels were cited as the most useful support tool. Others included:

- Resources provided by council and DPE were highly valued by surveyed experts and community representatives
- Departmental induction activities were highly valued by community representatives.

There were some issues with panel members and chairs understanding the purpose of the community representative's role. Case studies indicate that community representatives that possess both planning and 'local' expertise further cloud the purpose of the community representative and indicates there is not always a shared understanding of the value of local community knowledge in informing decisions. DPE is working with all panel members to further clarify the purpose of the role. DPE has also established quarterly forums for community representatives to further empower this group and build their understanding of the important role they play on the panel.

Consistency in decision-making

The IHAP reforms are intended to provide a consistent framework for decision-making while allowing councils discretion around selecting the procedures and processes that work for them for IHAP meetings. This was reflected in the findings, with councils taking different approaches to IHAP meeting times, deliberation processes and interactions with council staff.

While it is too early to draw conclusions about any improvements in consistency of decision-making, no major issues around consistency in decision-making were revealed through the evaluation. Most DAs determined by IHAPs were approved (or approved with deferred commencement), with most decisions made by panels consistent with council recommendations.

Next steps

IPPG will continue to monitor panel operations to determine if there are any patterns in performance and to understand trends.

Over the next six months, IPPG recommends that DPE provides ongoing communications and training around elements of IHAP implementation, especially for key stakeholder groups and councils. It is also recommended that DPE continue to provide greater clarity on the role of community representatives and conflicts of interest, streamline collection of complaints data from within government and provide further advice to councils on planning proposals.

Noting the importance that panel members place on informal relationships with peers to build knowledge, IPPG suggests DPE offer further information about best practice and procedures by facilitating informal networking opportunities or further collaboration between panels and councils.

1 Introduction

1.1 Planning reforms and the establishment of IHAPs

In 2017, the NSW Parliament passed significant amendments to the Act. These amendments introduced requirements for all councils in Greater Sydney and Wollongong to establish an IHAP (known as a Local Planning Panel under the Act) to determine certain types of local DAs and provide expert advice to councils on planning proposals.² These requirements took effect on 1 March 2018.

Some councils in NSW already had IHAPs at the time the reforms commenced, however the amendments to the legislation established a new, consistent framework and made this a mandatory requirement for councils in Greater Sydney and Wollongong. Other councils in NSW may establish these panels but are not required to do so.

The main objectives of the IHAPs are to:

- minimise corruption risk for local planning
- promote better planning outcomes through greater expertise, independence, and probity in decision-making
- promote/enable faster decisions
- improve capacity for councils to undertake strategic planning functions.

The role of the IHAPs is to determine DAs:

- where there is risk of a conflict of interest (e.g. an applicant or landowner is the council, councillor or council staff, or a member of State or Federal parliament)
- that are contentious (multiple objections received)
- that depart from the development standards
- propose sensitive development (e.g. involve the demolition of a heritage item).

To recognise the different levels of population and demand for development across the various local government areas, the Ministerial direction tailors the DA referral criteria to three groups of councils. These are:

- Group A (Schedule 1) – most councils
- Group B (Schedule 2) – councils that determine more than 1800 DAs and have a population over 200,000
- Group C (Schedule 3) – City of Sydney.

Different thresholds are applied to each of these groups.³

² In addition to the Act, IHAPs are governed by a range of statutory rules, including Code of Conduct for Local Planning Panel Members, the Act, Schedule 2 Clause 28; Local Planning Panels Direction – Operational Procedures, the Act, Schedule 2 Clause 28; Remuneration Determination – the Act, Schedule 2, Clauses 14 and 15; Local Planning Panels Direction – Development Applications, the Act, Section 9.1, Local Planning Panels Direction – Planning Proposals, the Act, Schedule 2 Clause 28 and Local Planning Panels Direction – Planning Proposals, the Act, Section 9.1. For further information, see www.planning.nsw.gov.au/assess-and-regulate/development-assessment/independent-hearing-and-assessment-panels/statutory-rules.

³ Local Planning Panels Direction – Development Applications, the Act, Section 9.1.

1.2 The IHAP evaluation

In 2017, DPE engaged IPPG to monitor and evaluate the implementation of the IHAPs.⁴

The objectives of the evaluation are to:

- inform, after a reasonable period of panel operation, decisions about whether policy settings and referral criteria should be changed or adapted to better meet the objectives of the reforms.
- evaluate, after a longer period of operation, whether the panel reforms have met the policy objectives.

The scope of this evaluation includes the role of IHAPs, councils, DPE and other stakeholders. Key stakeholder agencies include NSW Office of Local Government (OLG), NSW Ombudsman, and the Independent Commission Against Corruption (ICAC). Council and community stakeholders include councillors, community members, applicants, objectors and council staff.

1.2.1 Phase 1 – Evaluation design

Phase 1 (December 2017 – March 2018) involved the design of the monitoring and evaluation framework. IPPG consulted with key stakeholders including council staff, industry and government to inform this approach and develop a program logic. Refer to Appendix A for a figure summarising the program logic.

Year 1 of the evaluation focuses on understanding the immediate outcomes (Table 1).

Table 1. Summary of evaluation plan for Year 1

| Immediate outcomes | Evaluation questions | Topics/issues to be explored |
|---|---|--|
| Local planning decisions are based on expert assessment or advice | Are local planning decisions merit-based ? | Panel composition and processes – operational issues, questions of expertise |
| | | Timing and types of DAs |
| | | Appeals |
| | | Stakeholder satisfaction with the IHAP model |
| | Are decisions about planning proposals based on expert advice by LPPs? | Provision of advice |
| Consistency in planning decision-making processes across councils | Do key stakeholders report increased consistency of the LPP process across councils? | Panel processes - rotations |
| | | Satisfaction with LPPs |
| | | Timing and types of DAs |
| | | Relationships between key stakeholders |
| | | Complaints and probity |

1.2.2 Phase 2 – Year 1 evaluation activities

Phase 2 (March 2018 – May 2019) involves monitoring and evaluating the implementation of the reforms for the first year of operation.

Table 2 provides a summary of the evaluation methods used in the first half of Year 1 i.e. quarter 1 (April⁵ – June 2018) and quarter 2 (July – September 2018).

⁴ Two IHAP reviews have been conducted to date. A preliminary review of the IHAP model was conducted by DPE, with support from the Boston Consulting Group (see [here](#)). A second review was conducted in March 2018 by DPE to assess the performance for IHAPs during their first month of operation. A third review which focuses on decision-making in the NSW planning system is currently underway (see [here](#)).

⁵ Councils were provided with a grace period for reporting in the first month of operation (March 2018).

Table 2. Planned data and methods for quarter 1 and quarter 2

| Data source | Evaluation method | Quarter 1 | Quarter 2 |
|--|--|----------------|---|
| Documents supplied by DPE | Review of IHAP implementation and training materials or briefing materials | ✓ | ✓ |
| Council data submitted via IHAP webform | Analysis of data on panel expertise | ✓ | - |
| | Council produced quarterly reports | ✓ | ✓ |
| Complaints and issues data provided by DPE | Analysis of data on complaints and issues from agencies (OLG, NSW Ombudsman, ICAC) and DPE | ✓ | ✓ |
| Online surveys | Survey analysis | Chairs | Experts Community representatives Directors of Planning from all (34) councils. |
| Observations of panel site visits, briefings with council and panel meetings | IHAP case studies chosen according to stratified sampling framework | ✓ (3 IHAPs) | ✓ (2 IHAPs) |
| Panel members and council staff from the case studies | Face to face and phone interviews | ✓ | ✓ |
| Online newspapers | Content analysis | ✓ | ✓ |

1.3 This report

This document presents the evaluation of IHAPs for quarter 1 and quarter 2. It consists of:

- key findings with regard to the immediate objectives (Section 2)
- recommendations and areas consideration (Section 3)
- program logic (Appendix A)
- summary of referral criteria (Appendix B)
- quarter 1 data (Appendix C), and
- quarter 2 data (Appendix D).

The key findings and emerging themes from this report will support DPE's ongoing monitoring of the IHAPs, in line with the immediate objectives of the evaluation.

1.3.1 Quarter 1 and quarter 2 data collection

IPPG developed a mixed-methods approach to answer the evaluation questions (Table 3), and triangulated data to explore and enable the validation of emerging issues and trends.

Overall, the available data provides sound evidence for the conclusions drawn at this early stage. While some data sources are incomplete or limited, there is coherence in the evidence base as a whole. IPPG will continue to conduct ongoing monitoring to track any trends.

Table 3. Notes on data collection in quarter 1 and quarter 2⁶

| Data source | Quarter 1 | Quarter 2 |
|---|---|---|
| Council data submitted via IHAP webform | Data on 30 of 34 panels (covering the period of 7/03/2018 to 18/7/2018) DA-level data for 29 panels Incomplete data on 35 panel meetings and some data gaps for the referral criteria for certain DAs | Data on 33 of 34 panels (covering the period of 2/07/2018 to 26/09/2018) Incomplete data on 7 panel meetings and some data gaps for the referral criteria for certain DAs ⁷ |

Notes: Councils submit data on meetings through the IHAP webform on a monthly or quarterly basis—depending on their operational practices. The IHAP webform data represents data entered by councils and extracted for the evaluation according to reporting specifications. IPPG understands that not all councils have entered all data within these timeframes.

The quarter 1 report (Appendix C) incorporated data from the meetings conducted in March and seven meetings held in July 2018 to strengthen the evidence base. Data provision has improved over time in part based on IPPG advice, familiarity with the reporting process, and improvements made to the webform. DPE plans further enhancements to the webform.

When data was analysed according to DPE-defined regions, outliers were removed from averages (e.g. in cases where there was one panel meeting and one DA considered for an IHAP, data from that panel was excluded).

| | |
|--|--|
| Complaints and issues data provided by DPE | The level of information from the DPE's issues register and in agencies' complaints data varies and presents an overall picture of key issues but limited details (e.g. the outcome of the complaint). |
|--|--|

| | | |
|-----------------------|---|--|
| Online surveys | Chairs: 31 of 41 individuals (76% response rate) | Experts: 41 of 115 (36% response rate) Community representatives: 61 of 161 (38% response rate) Directors of planning from all councils: 14 of 34 (41% response rate) |
|-----------------------|---|--|

Note: In view of the survey response rates, survey data is presented descriptively, and the number of respondents to each question is reported. Conclusions can be drawn with confidence with regards to the views of respondents and wider findings are contextualised with evidence from other sources.

| | | |
|-------------------------------------|---|---|
| Case studies data collection | Observation from 3 panels | Observation from 2 panels |
| | 12 interviews (9 panel members and 3 council staff) | 8 interviews (7 panel members and 4 council staff) |
| Online newspapers | 170 articles (from 8 August 2017 to 30 June 2018) | 45 articles (from 1 July 2018 to 30 September 2018) |

⁶ In finalising this report, DPE provided further information in November 2018.

⁷ DPE provided the referral criteria for most of these missing DAs. This was not included in the analysis due to data limitations.¹⁰

2 Key findings

This section provides the quarter 1 and quarter 2 findings in the context of the immediate evaluation objectives. As outlined in the program logic for Year 1 (Appendix A), these are:

- Local planning decisions are based on expert assessment or advice (Section 2.1), and
- Consistency in planning decision-making processes across councils (Section 2.2).

2.1 Expertise informing decision-making

Context

The purpose of the IHAP model is to ensure people with expertise in relevant fields determine DAs. Each panel comprises three independent expert members (one chair and two experts) and a community member.

The model requires that expert members have expertise in at least one of the following fields: planning, architecture, heritage, the environment, urban design, economics, traffic and transport, law, engineering, tourism, or government and public administration. The chairs must have expertise in law or government and public administration.

Councillors, property developers and real estate agents are ineligible to be panel members.

An advisory panel comprising members from the Law Society NSW, the Planning Institute of Australia, the Government Architect, and DPE reviewed applications for the chair and expert roles. The advisory panel recommended persons suitable for chair roles and approved a shortlist of experts (which indicated local government areas in which experts preferred to work).

The Minister appointed a primary chair and two alternate chairs for each IHAP. Councils were required to select from the approved shortlist at least two experts and a sufficient number of alternate experts.

2.1.1 Panel determinations on development applications

2.1.1.1 Panel expertise and knowledge

Areas of expertise

Overall, panels have been found to contain an appropriate range and depth of expertise. In addition to having the requisite expertise in government and public administration, a number of chairs also had expertise in planning and/or law. Other identified areas of expertise among chairs are tourism, engineering, economics, architecture, traffic and transport.

The expertise of expert members is strongest in planning, government and public administration, followed by environment, urban design, architecture, law, heritage, traffic and transport, engineering and economics.

Knowledge of council statutory and strategic planning instruments

Most panel members are familiar with the council statutory and strategic planning instruments. The highest levels of familiarity were Local Environmental Plans (LEPs) and Development Control Plans (DCPs). There was less familiarity with Community Strategic Plans (CSPs). IHAPs seek to bring a stronger strategic focus to planning by freeing up elected councillors to better focus on the preparation and delivery of these documents. DPE expects that the knowledge of strategic plans will increase with the roll out in 2019 of complementary reforms that seek to bolster local strategic planning.

2.1.1.2 Role and expertise of community representatives

Context

The recruitment, selection and appointment process for community representatives is a matter for councils. DPE provided guidelines to councils to assist in this process. Councils were advised to place at least two advertisements in newspapers and to advertise through a range of media outlets and forums (e.g. Facebook, radio, and community groups).

The DPE guidelines state that a local community representative should:

- be a current resident of the local government area
- have knowledge and awareness of the local government area and of issues of concern to the local community
- be able to communicate the interests of the local community
- have an understanding of the planning process and assessment issues (but is not expected to be an expert)
- commit to attending the IHAP meetings and contribute constructively to the determination of applications, and
- be willing to adhere to the IHAP's code of conduct and operational procedures.

The DPE IHAP Overview and FAQs released in August 2018 highlights that community representatives bring local knowledge and experience to the panel, can be chosen to represent more than one ward and, in choosing the community representative for each meeting, the chair is to choose a representative whose ward has the *most matters* being considered at that meeting.

Some issues around role clarity and the purpose for community representatives on panels emerged in interviews, observations and surveys.

While representing the view of community in the local area was considered to be the most important role for community representatives (according to the surveyed community representatives and experts), for some panels, this is not being delivered in practice. In particular, when community representatives possess both planning and 'local' expertise, they tend to act as a third expert.

Although community representatives are not required to have planning or related expertise, some panel members and council staff consider that IHAPs would be improved if they did. Possessing planning or related expertise was a criterion used by some councils in selecting a community representative.

These findings reflect that the purpose and value of local community insights are not always fully understood, or that there is not a shared understanding of the role of a community representative.

DPE is working with councils, chairs, panel members and community representatives to address this point and to ensure all panels are able to tap into the valuable community knowledge provided by the community representative. DPE has established quarterly meetings for community representatives from different panels to allow community representatives to share knowledge and effective practices between panels and council areas. The evaluation will continue to monitor this issue to see if these changes improve the understanding of this role.

2.1.1.3 Summary of referral criteria

Context

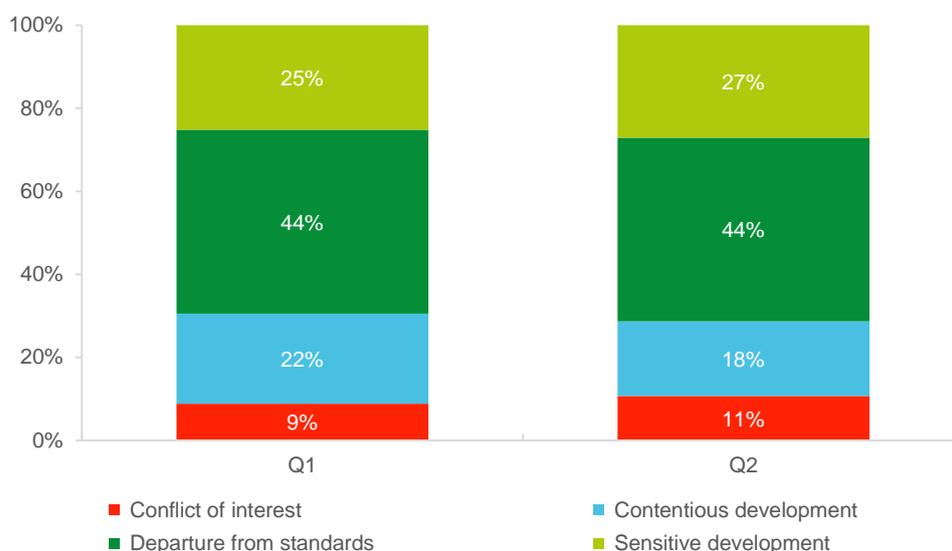
The IHAP referral criteria for DAs relate to:

- conflicts of interest
- contentious development
- departure from the development standards, and
- sensitive development.

The Minister's direction tailors thresholds in the IHAP referral criteria across three different groups of councils. These groupings recognise differences in terms of levels of population or demand for development across local government areas in Sydney and Wollongong.

Most DAs considered by IHAPs triggered one referral criterion. The main referral criterion that triggered a referral to an IHAP was 'departure from development standards', followed by 'sensitive development', 'contentious development', and then 'conflict of interest' (Figure 1). In quarter 2 there were minor differences in the proportion of DAs triggered by each of these referral criteria. For further information, see Appendix B.

Figure 1. Proportions of criteria triggered for referrals to panels



Source: Council online IHAP reporting data.
 Sample: N_{Q1}=485 (405 DAs), missing_{Q1}=54; N_{Q2}=513 (420 DAs), missing_{Q2}=46.

In quarter 2, the number of DAs triggered by the departure to development standards was broadly consistent with quarter 1 (259 variations from 215 DAs in quarter 1, 272 variations from 227 DAs in quarter 2). The referral criteria were designed to largely capture the same types of development that was previously considered by councillors. As IHAPs are broadly considering the levels of DAs anticipated, these findings do not demonstrate that there have been more contentious DAs or DAs with departures from development standards since the IHAPs were introduced.

Appropriateness of referral criteria

In some councils, concerns were raised by panel members and council staff that the panels were being referred DAs that did not warrant panel assessment. This included DAs that were referred due to existing breaches, very minor matters, and/or they were matters that council could have assessed.⁸ Concerns were also raised in relation to the cost implications for panels that determine a large volume of these types of matters. The panel has the option to delegate these matters back to council for determination or make an electronic determination.

There could be greater scope to consider other referral pathway options. Almost two thirds of the surveyed directors of planning (64 per cent) believed that the general manager/CEO should be given the discretion to refer particular matters to the panel (e.g. based on a report from the director of planning).⁹ DPE is exploring options to do this, without impacting the integrity of the referral criteria.

2.1.1.4 Number of development applications

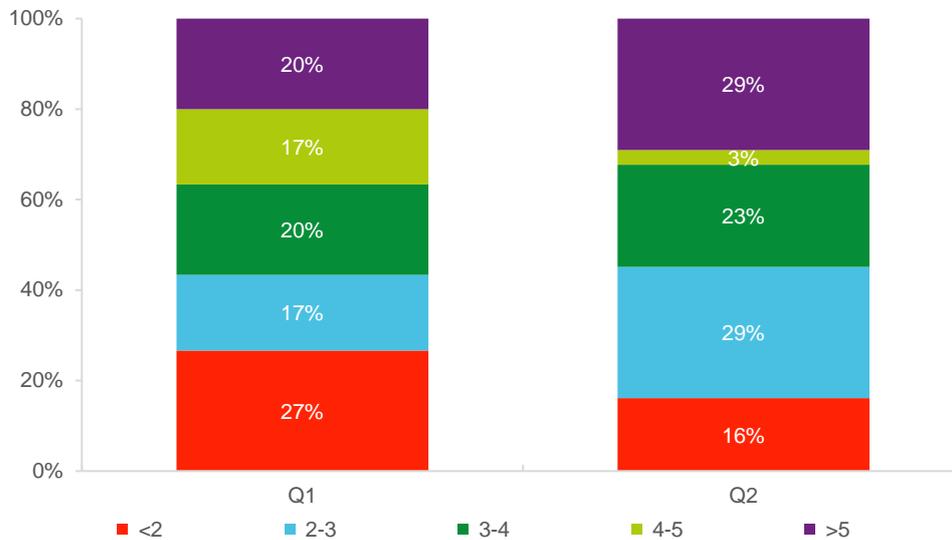
IHAPs have considered 875 DAs.¹⁰ In quarter 2 compared to quarter 1, there are more DAs on average considered per meeting and there are fewer meetings per panel (Figure 2). This could suggest that panels are becoming more efficient as chairs get more used to the process. IPPG will investigate this increase over time to see if it forms a trend.

⁸ The variation to development standards criteria is the same criteria which triggered a DA to be sent to a full council meeting prior to the IHAP reforms (unless a different concurrence was granted). In addition, councils have the ability to contact the DPE Secretary to request concurrence.

⁹ Two directors (14 per cent) did not know yet and three directors did not believe the general manager should have this discretion (14 per cent).

¹⁰ As discussed in Section 1.3.1, this data is from 33 IHAPs in quarter 2 compared to 30 IHAPs in quarter 1.

Figure 2. Breakdown of DAs considered per meeting (averaged per panel per meeting)

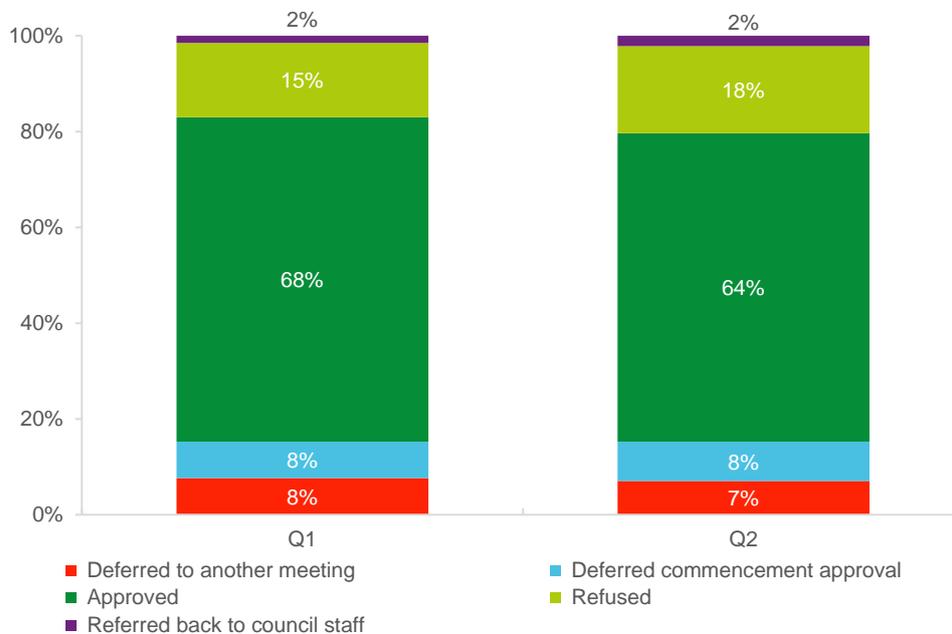


Source: Council online IHAP reporting data.
 Sample: N_{Q1}= 30 panels, N_{Q2}=31 panels.

2.1.1.5 Determinations

Most DAs determined by IHAPs were approved (or approved with deferred commencement) (Figure 3). There were slight differences between quarter 1 and quarter 2.

Figure 3. Proportion of DAs determined at each panel meeting, compared to those that were deferred to another meeting or referred back to council staff



Source: Council online IHAP reporting data.
 Sample: N_{Q1}= 459 DAs, N_{Q2}=466 DAs.

Consistency with council recommendations

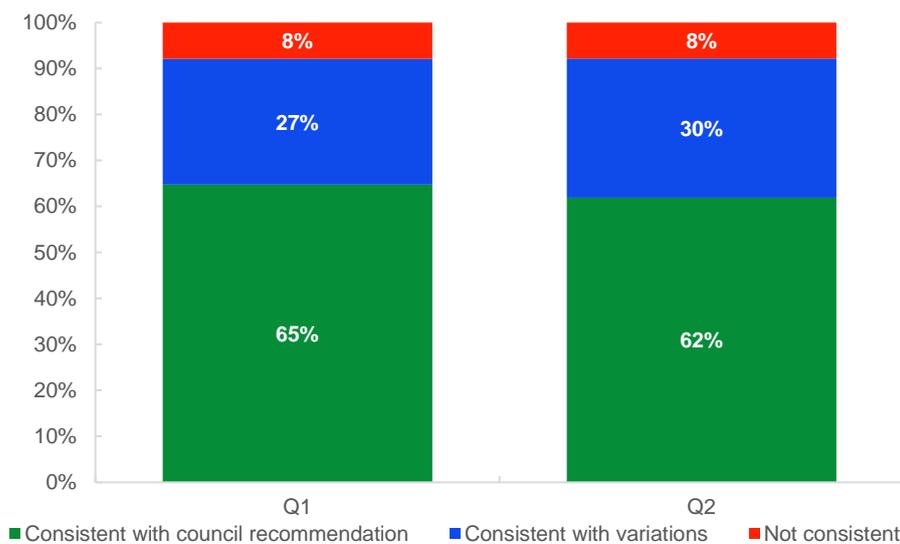
Most determinations made by panels were consistent with council recommendations, with slight differences between quarter 1 and quarter 2 (Figure 4).

Surveyed directors of planning indicated the main reasons for the panel disagreeing with the council assessment were:

- new issues were raised that had not been considered or addressed in the initial council assessment (e.g. the panel identified additional issues when reviewing the application)
- panel members' expertise and experience, and
- there was information missing from the council assessment.

The above indicates that over time, working with the panel may lead to improved council assessment reports in some instances.

Figure 4. Breakdown of DAs determined by panels, according to consistency with council recommendation



Source: Council online IHAP reporting data.
Sample: N_{Q1}= 417 DAs, N_{Q2}=423 DAs.

2.1.2 Panel advice on planning proposals

Context

From 1 June 2018, councils were required to refer all planning proposals to panels for advice, except for those relating to minor, machinery or consequential amendments, or matters that will not have a significant adverse impact on the environment or adjoining land. General managers decide if an exception applies. Planning proposals must be referred for advice before forwarding to the Minister or the Greater Sydney Commission.

There are no statutory provisions about the documentation council must provide to the panel. The DPE IHAP FAQs released in August 2018 recommended that council provide a full assessment report to enable the panel to provide comprehensive advice. The DPE Best Practice Meeting Procedures released in September 2018 suggested that the panel may request a briefing by council staff or other relevant persons.

The Local Planning Panel Direction – Planning Proposals¹¹, released on 27 September 2018, provides information regarding the documentation councils need to provide to panels.

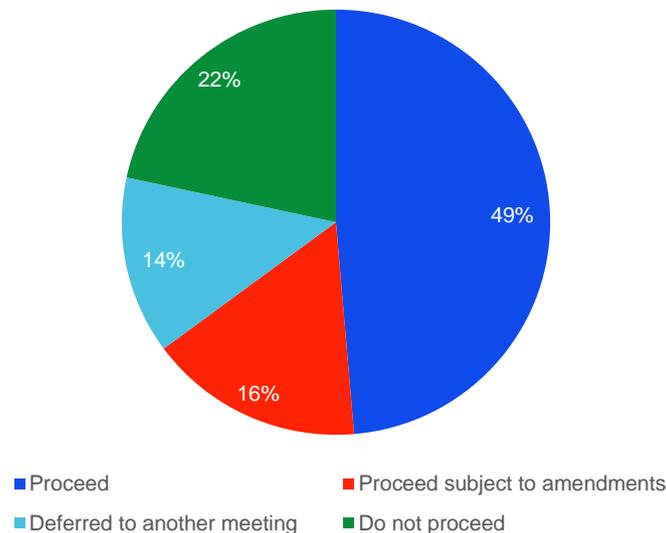
2.1.2.1 Number of planning proposals referred

While all planning proposals were required to be sent to IHAPs for advice from 1 June 2018 (the last month of quarter 1), the total number of planning proposals referred to IHAPs in both quarters was almost equal (48 referrals in quarter 1, 51 proposals in quarter 2). IHAPs offered slightly more recommendations in quarter 2 (56 in quarter 1, 64 in quarter 2). Around half of the planning proposals considered in quarter 2

¹¹ The Act, section 9.1.

were recommended by council to proceed, with a further 16 per cent recommended to proceed subject to amendments (Figure 5).¹² This aligned with the views of the majority of surveyed directors of planning.

Figure 5. Breakdown of IHAP recommendations on planning proposals for quarter 2



Source: Council online IHAP reporting data.
Sample: N_{Q2}=37 planning proposals.

Perceived value of panel advice

Surveyed directors of planning were mostly neutral about the statement, 'the expert advice provided by the panel on planning proposal(s) is valuable to council staff'. Directors indicated this is mainly due to limited comments from experts or limited advice provided by the panel and the time, and cost to process these proposals.

Issues regarding the process

Council staff and chairs have raised concerns about the procedures required for panels to advise on planning proposals. Concerns included whether councils are required to provide a full council assessment report and whether a public agenda is required for proposals that are considered as a transaction of business outside of meetings. These concerns were raised in the quarter 1 and quarter 2 complaints and issues data and in the chair and experts briefing session in September 2018.

While DPE material and the recent Local Planning Panel Direction – Planning Proposals provide some guidance on these matters, further monitoring is needed to determine if there continues to be confusion and (potential) tension between councils and panels about the panel providing advice on planning proposals.

2.2 Consistency in decision-making

Context

A goal of the IHAP reforms is to provide a consistent framework for decision-making, while allowing councils discretion on operational procedures.

Preliminary findings in this area mainly relate to differences in operational procedures across panels, rather than decision-making.

¹² As discussed in Section 1.3.1 data on panel recommendations was not available for quarter 1. For quarter 2, DPE provided data for 40 of the 47 planning proposals considered - three proposals did not have decision information provided.

2.2.1 Operational aspects

Panels tend to have different (informal and formal) operational procedures reflecting chair preferences and the way councils previously ran their IHAPs, or run their council meetings.

A majority of surveyed directors of planning, experts, and community representatives agreed with the statement ‘the IHAP process is operating well’. Although overall, surveyed directors of planning and interviewed council staff had mixed views on whether council had sufficient flexibility to tailor panel operations.

2.2.1.1 Panel names, council IHAP websites and the DPE IHAP website

Context

The Act refers to the panels as local planning panels. Prior to the legislation being passed, the panels were called IHAPs and were referred to colloquially in media and community material as IHAPs.

The operational procedures provide information on how panel meetings should be run, voting and procedural matters. Panels must advertise their meeting times, venues on the website used by the panel (council IHAP website) and, where appropriate, by other means.

Meetings are to be held in public. Recordings of the meeting (whether an audio/video record, an audio record or a transcription record) are to be made publicly available on the website used by the panel (council IHAP website).

Following its determination or provision of advice, the panel is to provide a written statement of reasons for the decisions that is to be published on the council IHAP website.

Various terms were used by councils to name their panels. The IHAP information on council websites (including the meeting recordings) was not always easy to locate. The differences in the way the IHAPs were named may contribute to this issue. In quarter 1, IPPG suggested to DPE that these naming differences are likely to have implications for community understanding and perceptions of the IHAPs. This issue was largely addressed by the Minister’s direction on panel naming, released on 22 June 2018, which requires consistent naming of panels across council areas.¹³

Councils’ IHAP websites provide different levels and types of information about panels, including an overview of the IHAP system, the process of registering to speak at the public meeting, avenues for review as well as information about panel members (e.g. biographies). DPE has monitored council IHAP websites to ensure recordings are being made publicly available and councils are compliant.

The DPE website also provides a range of information on the IHAPs. This includes an overview of the IHAP system, information about chairs (including biographies), statutory rules, and the evaluation framework. The DPE IHAP website was amended in August 2018 to include information about complaints—this amendment reflects recommendations made by IPPG in quarter 1 and the Preliminary Model Review. The Preliminary Model Review and IPPG have also recommended that DPE IHAP website include experts’ biographies. DPE indicated that councils are encouraged to publish their panel members’ biographies on their IHAP websites.

2.2.1.2 Inception and support processes

Councils and DPE have conducted induction and support briefings and provided a range of resources.

Council activity

Councils are supporting panel members and informing the community about the panels. Most council case studies conducted briefings for panel members. These briefings generally provided an opportunity for panel members to meet each other and key council staff and included an overview of council statutory and strategic planning instruments. Community representatives without planning or related expertise found these council-led activities helpful but indicated that they required further guidance/support.

Surveyed directors of planning also reported a range of resources/activities designed, hosted and provided by council. These included: an IHAP overview, briefings and workshops for chairs, panel members and councillors, frequently asked questions and, a councillor guide/toolkit.

¹³ Local Planning Panels Direction – Naming Local Planning Panels, the Act, section 9.1.

DPE activity

DPE has conducted briefings for panel members and circulated guidance materials to councils and chairs. In 2018, DPE conducted or provided:

- two chair and expert briefings (21 February and 27 September)
- two chair roundtables/briefings (23 May and 27 September)
- three community representative training sessions (10 April, 12 April and 30 April)
- all community representatives with the opportunity to attend a free training session, 'Planning for non-planners', run by the Planning Institute of Australia
- IHAP Submission Policy Approval guidance (7 June)
- IHAP Update email newsletter (4 July)
- information regarding the amended code of conduct (21 August)
- IHAP Overview and FAQs information package (31 August), and
- IHAP Best Practice Meeting Procedures information package (10 September).

The DPE guidance material to chairs appears to be passed on to other panel members as the majority of surveyed experts and community representatives were aware of these packages.

Survey results indicate that resources provided by council and DPE are highly valued by experts and community representatives, while informal relationships are valuable to directors of planning, chairs and experts, and induction activities are valuable to community representatives.

Panel members and council staff indicated that they would find the following resources/activities useful:

- templates (e.g. meeting minutes template)
- guidance and further information (e.g. on planning proposals, various scenarios, delegating modifications and appeals), and
- forums/discussions with other panel members/council staff.

In addition, directors of planning indicated they would find further best practice notes, council briefing sessions hosted by DPE or independent bodies, and council staff workshops/courses on IHAP best practice (e.g. hosted by professional bodies or universities) useful.

While council and DPE resources and activities have been useful to panel members and council staff it is apparent that these stakeholders would appreciate the opportunity to learn from other panel members and council staff, and the provision of a range of resources.

2.2.1.3 Rotation of panel members

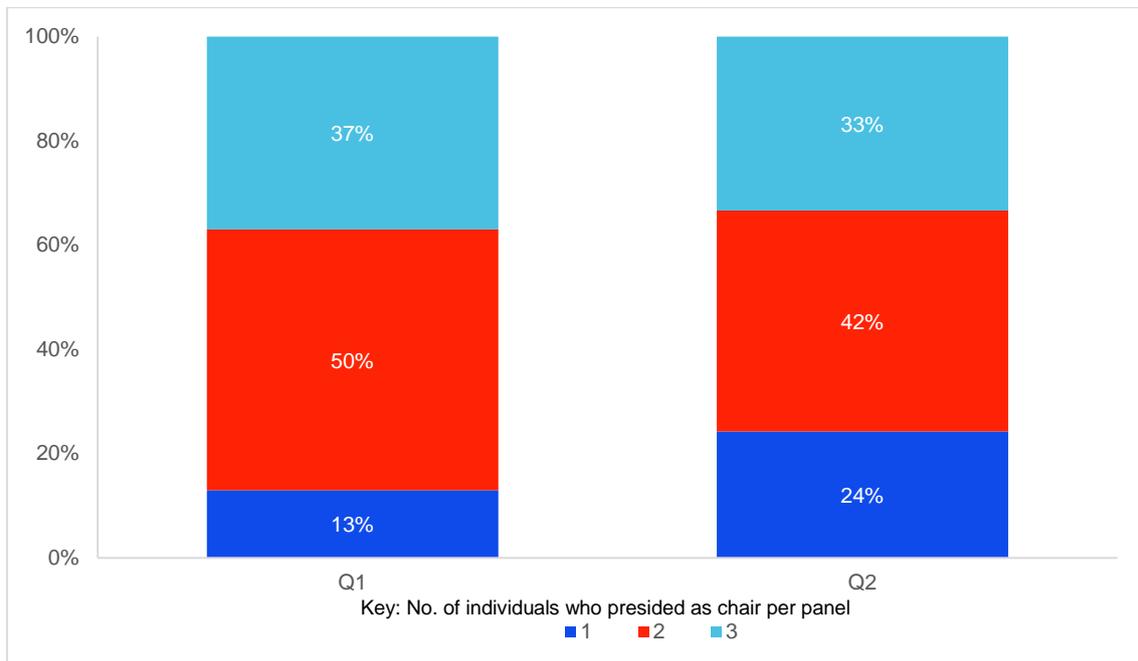
Context

For each meeting, the operational guidelines provide that the chair and any alternate chairs are to rotate as practicable. Experts and community representatives for wards and their alternatives can be interchanged as needed by the chair for that meeting for reasons including: a member has a conflict of interest; a member is unable to attend on the day; or to periodically rotate the members.

Surveyed chairs indicated the most common selection criteria for panel members for each meeting was the turn in rotation cycle and the availability of the expert. There is some flexibility with the appointment of community representatives for particular DAs. In quarter 1, during the chair roundtable, survey of chairs and case studies, some chairs indicated a desire for more prescription around rotation requirements (e.g. good practice guidance).

When comparing quarter 2 with quarter 1, the proportion of individuals who presided as chairs on all panel meetings was higher (24 per cent compared to 13 per cent in quarter 1) (Figure 6). This may be because there were fewer meetings per panel in quarter 2 and/or there was greater stability and less rotation occurring in quarter 2.

Figure 6. Rate of rotation of chairs, quarter 1 and quarter 2



Source: Council online IHAP reporting data.
 Sample: N_{Q1}=30 panels; N_{Q2}=31 panels.

Some councils with wards appointed ward community representatives to each relevant DA, while other councils selected one representative per meeting to represent the views of the whole community. The recent DPE guidance has clarified this issue – so that only one community representative is appointed to each panel meeting.

2.2.1.4 Assessment information provided by council and panel briefings

Context

Councils provide panels with a range of assessment information. For example, assessment reports, details of plans and/or addenda. Councils may also conduct panel briefings with relevant council staff.

The quality of assessment information provided by councils to the panel was of a good or higher standard. This was confirmed by surveyed panel members (with community representatives being overall more positive about the quality of information) and case study participants. There are some minor variabilities between council officers and councils.

The quality of information may improve as council staff have more experience with IHAPs. A number of responses reinforced this view, noting that quality is improving and panels were already working with council staff on refining the required assessment information.

2.2.1.5 Site visits

Context

The operational guidelines state:

- The chair may elect for the panel to attend site inspections for DAs and planning proposals to be considered at the public meeting.
- Site visits should be conducted on the same day as a public hearing, if practicable.
- Site visits are to be used solely 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.

The DPE IHAP – Best Practice Meeting Procedures released in September 2018 indicates that at a site visit (or briefing by council) the panel, council staff and other persons engaged in the assessment are

usually in attendance. In some circumstances, the applicant and people who made submissions on the DA may be invited to attend.

Panels conducted site visits for most DAs. The proportion of site visits has increased: site visits were conducted for 91 per cent of DAs considered in quarter 2 compared to 88 per cent in quarter 1. When no site visit was conducted, surveys indicated that this was usually because the DA was minor, the site was remote, there were time constraints and/or there were no objectors.

Site visits have been beneficial in informing panel decision-making processes. Most surveyed panel members and case study participants indicated that the site visits are very or extremely useful.

During the case studies, it was apparent that council staff and panel members interacted and offered their opinions to various extents. Some council staff provided a briefing on the DA and responded to panel members' questions, including with regard to the opinion of council officers. Discussions between panel members and/or council staff appear to be informative, however, a strict reading of the operational guidelines indicate panel members' seeking council staff's opinions or offering their opinions on DAs is not permissible during the site visits.

2.2.1.6 Panel meetings

Context

The panel may determine detailed procedures for the execution of efficient and effective meetings.

The chair is responsible for the management of the panel's functions and operations, including managing conflicts of interest.

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 a large number of objectors with a common interest is present at any public meeting, the panel may, in its absolute discretion, hear a representative of those persons.

Scheduled meeting times varied and tended to reflect the times of council meetings (e.g. during the day or in the evening) or the time of the pre-existing IHAP meeting. This was reportedly because keeping the meeting at the same/similar time meant panel practice would be more familiar to community members.

The number of panel meetings decreased in quarter 2 (136 in quarter 1, 122 in quarter 2, with a decrease in the average number of meetings across IHAPs (4.5 in quarter 1, 3.7 in quarter 2).

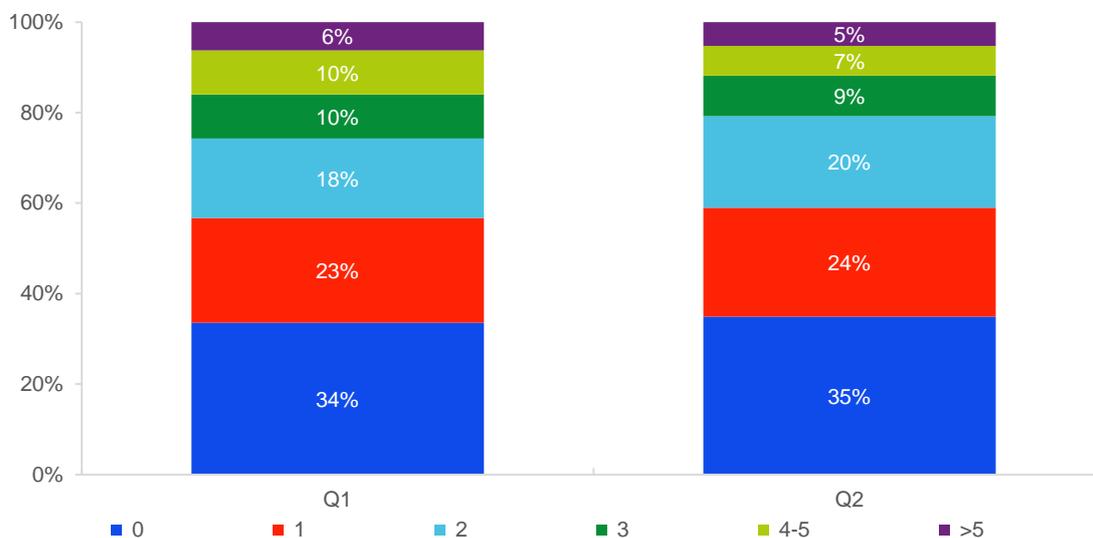
The average duration of panel meetings in quarter 1 and quarter 2 was 97 minutes.¹⁴

Registered speakers

The average number of registered speakers per meeting for quarter 1 and quarter 2 was the same (1.6 speakers registered). The relative proportion of registered speakers for DAs was also largely unchanged (Figure 7).

¹⁴ This average includes zero entries as IPPG was unable to determine if these entries were data entry errors or otherwise. 20

Figure 7. Proportion of DAs, according to the number of registered speakers, quarter 1 and quarter 2



Source: Council online IHAP reporting data.
 Sample: N_{Q1}= 432 DAs, N_{Q2}=458 DAs.

Panels had different procedures for the order in which speakers present and the length of time allowed for each speaker. This was often due to the chair's preferences and council's previous practice for council meetings/pre-existing IHAPs.

Most surveyed directors of planning reported that objectors would be the first ones heard, followed by applicants or councillors. In general, objectors, applicants and councillors were allocated up to five minutes to speak at meetings. This excludes extensions and further discussion with the panel.

2.2.1.7 Costs and resourcing

Context

The Minister has set the remuneration for panel members.¹⁵ It is expected that members would be remunerated either on a per meeting day basis that is inclusive of reading time, any site inspections and public meetings (7 hrs, or 3.5 hrs for a ½ meeting day), or on an hourly rate basis.

For each meeting, the minimum rate (excluding GST) is: \$2000 for chairs; \$1500 for experts; and, \$500 for community representatives.

For business conducted outside meetings the minimum hourly rate (excluding GST) is: \$285 for chairs; \$215 for experts; and, \$71 for community representatives.

If a panel member was a member of a pre-existing IHAP, councils are required to pay their previous panel remuneration rate if this was higher.

Panel members are entitled reasonable travel and out of pocket expenses.

Councils appear to be paying panel members close to or slightly above the minimum remuneration rates. Surveyed directors of planning indicated that the total remuneration for all four panel members per meeting was between \$5,000 to \$7,000 (10 mentions for the aforementioned cost and 4 mentions for a cost more than \$7,001).

Not all panel business can be completed in one meeting day and the remuneration does not fully account for preparation time – this was confirmed by survey responses, case studies and chair comments at the chair roundtable (May 2018). Surveyed chairs reported that their time commitment varies from 4 to 16 hours per meeting (including travel time, post-meeting finalisation). Most indicated they were remunerated by a fixed flat rate of either \$2000 or \$3500 per meeting. The time experts and community representatives spend preparing and participating in the panel ranged from 5 to 13 hours, but the time paid per meeting was equivalent to 5 to 8 hours.

¹⁵ The Act, Schedule 2, Clause 14.

There were mixed views about whether other panel costs were higher or lower than council estimates or councils' previous expenses for pre-existing IHAPs. Surveyed directors of planning reported that, on average, the total cost of staff resourcing was less than \$4,000 (10 mentions) and the cost for incidentals was less than \$500 (11 mentions).

2.2.2 Issues relating to decision-making

2.2.2.1 Conflicts of interest

Context

Parts 4 and 5 of the code of conduct outline the specific requirements relating to conflicts of interest for panel members. Panel members are required to avoid and appropriately manage any conflicts of interest, including the early and complete disclosure of any perceived or actual conflicts to the chair.

The chair manages the situation and, in doing so, must uphold the reputation of the panel. The chair may decide to allow the panel member to remain on the panel and vote, determine they should step aside and record the reasons for that decision, among other approaches. An alternate chair manages conflicts of interest arising because of an interest of the chair.

The DPE IHAP Overview released in August 2018 outlines that the overriding approach is always to err on the side of caution and prioritise the public interest in the proper exercise of public functions. The Overview also provides a number of scenarios to provide high-level guidance on the identification, disclosure and management of conflicts of interest.

In August, the updated code of conduct was released. The amendments provide clarification regarding which situations are considered to represent a conflict of interest for panel members. The new disclosure requirements require all panel members to sign a declaration of interest in relation to each matter on the agenda before or at the beginning of each meeting. These declarations and any management measures put in place are to be published on the relevant council's website as soon as practicable.

The majority of surveyed panel members and directors of planning agreed that the IHAP model will increase probity in the assessment system (with community representatives slightly less confident). However, surveyed experts, community representatives and directors of planning tended to be slightly less optimistic that the new disclosure requirements for IHAP panel members for conflicts of interest will increase probity in the planning system. The evaluation will continue to monitor this issue to see if this changes over time.

For quarter 1 and quarter 2, the complaints and issues data indicates that 10 matters related to alleged breaches of the code of conduct (e.g. declarations and handling of non-pecuniary interests) (see Section 2.2.2.4).

The majority of surveyed panel members and directors of planning were not aware of any actual, potential or reasonably perceived conflicts of interest which they believed were not disclosed or appropriately managed.

Most interviewed panel members indicated that they were able to identify a conflict prior to a meeting. However, in some instances, the conflict was not apparent until the site visit or panel meeting. It was suggested that the provision of more details (e.g. names of landowners) and the timely provision of all reports would help to identify any conflicts more quickly.

2.2.2.2 Deliberation process

Context

As per the operational procedures, chairs have the discretion to choose how to manage the deliberation process. The options include:

- deliberate, vote and make a determination in the public meeting
- adjourn the public meeting to deliberate and reconvene the meeting for voting and determination, and/or
- close the public meeting to deliberate, vote and then notify the public of the outcomes outside of the public meeting.

Further, the DPE IHAP – Best Practice Meeting Procedures released in September 2018 indicate a panel may adjourn the meeting (to a closed session) where:

- a panel briefing is required to hear confidential or sensitive information, or
- the panel wishes to confer among itself before reconvening the meeting for voting and determination.

The procedures suggest that before the adjournment, the chair should publicly state the reasons for the adjournment and after reconvening the meeting the chair should summarise the matters discussed in adjournment.

Panels conducted their deliberation in various ways: in public, closed or a combination of both. Case studies and surveys indicated that this was usually due to chair preference and/or previous council meetings and/or pre-existing IHAP practices, and the complexity of the DA.

In most case studies, adjournments were only used to discuss complex matters or if new information was presented at the meeting. This was observed in all but one case study. In one case study the panel conducted extensive discussions regarding the DAs prior to the public meeting. This panel often provided its determination immediately after speakers had made their submissions. While meeting procedure at panels' discretion, it was observed that this approach may have resulted in some members of the public feeling unheard. Meeting practice is discussed at the quarterly chairs' meetings, alongside feedback collected through the evaluation and other sources. Over time this is expected to improve meeting practice and set shared understandings of best practice.

While the variation in approaches seems to provide scope for differences in councils, chairs and/or DAs, this may have implications in terms of community perceptions and confidence in the IHAPs. The evaluation will continue to monitor to this issue.

2.2.2.3 Deferrals

Context

The IHAP FAQs released by the DPE in August 2018 indicate that, if the panel defers (e.g. for inadequate assessment or lack of relevant information), the reasons for deferral should be outlined in the panel's decision, along with a time frame within which the further information should be provided.

The number of deferred matters were similar in both quarters (35 in quarter 1, 33 in quarter 2), although the number of deferrals in quarter 2 was slightly lower (7.6 per cent of decisions in quarter 1, 7.1 per cent in quarter 2).

Perspectives as to whether deferrals should be the last resort, or whether a deferral is the best option in some cases to achieve a better outcome (for example, compared to a refusal that may be subsequently appealed) differed among chairs.

During the case studies, it was evident that some panel members and council staff preferred to avoid deferring matters. Deferrals were mostly used to provide the applicant with the opportunity to provide more information and/or to address an issue that was not covered by the assessment report. Other reasons for deferrals offered by surveyed chairs included that the applicant was unable to attend the panel meeting or new issues arose at late notice.

Chairs' suggestions for reducing the number of deferrals in future included: the provision of better information to panels (from council staff); council officers and applicants ensuring they do not raise new issues at short notice; and providing panel members with sufficient opportunities to request additional (or more relevant) information prior to the meetings.

Deferrals is a topic about which councils and panel members would like further clarification. This included delegation to staff and remuneration for subsequent electronic determination. While information on this point is publicly available in the Minister's remuneration direction for panel members¹⁶, it appears that not many panel members are aware of its practical application.

¹⁶ Remuneration Determination, the Act, Schedule 2, Clauses 14 and 15.

2.2.2.4 Complaints and other issues raised¹⁷

Context

Part 10 of the code of conduct outlines the reporting pathways for making a complaint about a panel member in relation to an alleged breach of the code.

The general manager is responsible for managing code of conduct complaints about panel members and for determining the outcome. The general manager has a range of options available: to take no action (should they deem it unwarranted); to resolve the complaint through alternatives means (e.g. voluntary apology and/or mediation); or to impose sanctions (e.g. censure, requiring an apology and/or removing the person from the panel). The general manager must provide written reasons to the complainant.

In addition, OLG receives complaints about the consideration of a code of conduct complaint by the general manager (or his or her delegate). Further, the Act provides that a panel member is a 'public official' pursuant to *Independent Commission Against Corruption Act 1988*. This allows panel members to report misconduct or other suspect behaviour to the NSW Ombudsman. Complaints are also able to be made to ICAC.

DPE directs enquiries or complaints to the relevant authority and the Department registers all complaints made this way.

Stakeholders who are unsatisfied with the way in which a council has handled a complaint can request DPE to review the matter.

Issues, enquiries and complaints received by the Department are recorded in an issues register. From the commencement of the reforms, a register has been maintained within the Department. However, in August 2018, this function was formalised and is now managed directly by the DPE complaints team via formal Complaints Register.¹⁸

Most of the matters raised with DPE and the other relevant agencies in quarter 1 and quarter 2 related to the code of conduct and panel operation. For most of these matters, concerns were raised that a panel member had a pecuniary and non-pecuniary conflict of interest. Where appropriate, these matters were dealt with under the relevant sections of the code of conduct.

The DPE issues register includes a range of matters, including comments/feedback, enquiries and complaints, however, these matters are not disaggregated. While the stakeholder who raised the matter is noted, how DPE was notified of these matters was not always recorded.

2.2.2.5 Stakeholder perceptions

In this section, stakeholders include: councillors, community members, applicants, objectors and council staff.

Understanding and satisfaction

In the media, there has been a gradual shift in perceptions and recent reports regarding the panels tend to be neutral or positive. In quarter 2, for the most part the articles tended to focus on a specific DA or a community issue in the local council area, with passing references to the panels. Most of the negative articles about the panels related to the Sutherland Shire Council where councillors are seeking to regain the ability to determine DAs.

There appears to be scoping to provide community members with (further) information on the IHAP system. Surveyed experts thought that understanding of community members was lower than with council staff and industry stakeholders.

Stakeholder perceptions of applicants/objectors' satisfaction with IHAP processes contributes to an understanding of how well the panels are operating. Community representatives tended to rate satisfaction lower than did experts. It is too soon to tell what this means for the reform objectives.

Views on the reform objectives

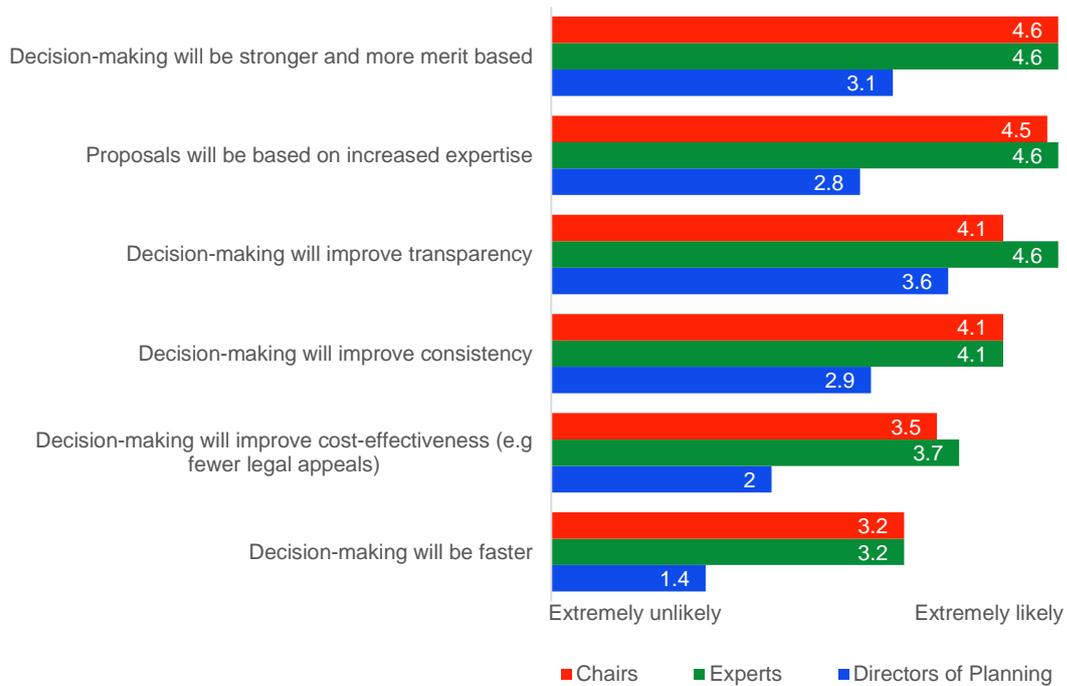
The new IHAP model is intended to contribute to six (immediate and intermediate) reform objectives: merit-based consideration, faster decision-making, improving consistency and transparency, improving cost

¹⁷ These matters relate to operational aspects as well as decision-making.

¹⁸ A matter is recorded if it is made in writing to the Department. The register indicates if the matter is deemed a complaint, pursuant to the DPE Complaints Policy.

effectiveness, and ensuring local planning proposals are based on increased expertise (Figure 8). Chairs and experts tended to agree that it is likely that most reform objectives will be met, whereas directors of planning tended to view this as less likely.

Figure 8. Views on likelihood of new IHAP model in Greater Sydney and Wollongong improving local planning in key areas



Survey question: In your opinion, under the new IHAP model in Greater Sydney and Wollongong how likely is it that...?
 Sample: Chairs N=31; Experts N=41; Directors of Planning N=14
 Scale: 0 to 5 (Extremely unlikely – Extremely likely).

3 Recommendations and areas for consideration

This section provides IPPG's recommendations and areas for consideration, based on quarter 1 and quarter 2 findings in the reform context. Recommendations apply to DPE, but the engagement of key stakeholders will help to support success. Ongoing monitoring and evaluation of the reforms will assist DPE and key stakeholders to track their effectiveness and, if needed, refine or update recommendations as more information comes to light.

3.1 Recommendations

3.1.1 Short-term recommendations

IPPG suggests that the following 'short-term' recommendations could commence and be well underway, if not completed, over the next six months. Recommendations relate to the provision of training, advice or education and are focused on communicating messages about current/ existing processes, to facilitate the implementation of the reforms as intended.

3.1.1.1 Facilitating further training about the role of community representatives

IPPG recommends that DPE works with key stakeholders to provide panel members—chairs, experts and community representatives—with further training about the community representative role. The training should focus on building a stronger shared understanding of the value of community knowledge, and clarifying expectations around how this contributes to decision-making in practice. Illustrative examples and scenarios may be a helpful training tool, and training could be supplemented with the development of guidance notes and information resources.

IPPG also recommends that DPE and councils encourage chairs to provide further guidance to community representatives during panel meetings, to help representatives in carrying out their roles in line with expectations, and in a way that best adds value to the determination from a community perspective.

3.1.1.2 Provide further advice to councils on planning proposals

IPPG recommends that DPE provide further guidance to councils about the advisory role of panels on planning proposals. This could include re-emphasising the best practice procedures, such as conducting a panel briefing and providing a full assessment report to enable the panel to provide comprehensive expert advice to the council.¹⁹

3.1.1.3 Provide further education to relevant stakeholders on conflicts of interest

IPPG recommends that DPE and other relevant stakeholders (e.g. ICAC) continue to provide greater clarity on what constitutes a conflict of interest in the context of panel membership and operations.²⁰ This could also be a valuable way to build a stronger shared understanding of real and potential conflicts of interest, and how to manage these appropriately.

3.1.1.4 Improve the collection and reporting of complaints data

To enable DPE to monitor effectively complaints submitted to other agencies, IPPG also recommends DPE develop a data provision template for agencies to complete. It would also be advisable for DPE to encourage councils to notify the Department of any IHAP complaints lodged with councils to ensure DPE is able to monitor effectively IHAP operations.

To ensure there is comprehensive complaints data from across the system, IPPG also recommends that DPE map the complaints pathways and makes this information available online.

3.1.2 Long-term recommendations

IPPG suggests that the following recommendation is pursued and sustained over the longer term.

¹⁹ As noted in Section 2.1.2, the Local Planning Panel Direction – Planning Proposals (released on 27 September 2018) provides information regarding the documentation councils need to provide to IHAPs.

²⁰ Departmental activities to date have included panel member briefing sessions on amended code of conduct and guidance material.

3.1.2.1 Investigate additional ways to build confidence in the IHAP system

Community and stakeholder confidence in the IHAPs will help the IHAP reforms achieve their objectives. IPPG recommends that DPE continue to explore ways to bolster community confidence. Many of the areas for consideration outlined below are likely to contribute to system confidence. Additionally, DPE could identify particular communication/awareness raising strategies (e.g. online information) about the overall expertise of panellists available in the system.

3.2 Areas for consideration

The following outlines issues/matters for DPE to consider actioning, often in collaboration with key stakeholders. The need for and relevance of these issues/matters should be monitored, particularly where this may involve a change or refinement to operational processes or procedures.

3.2.1 Continue to monitor and scope strategies to best achieve a balance between flexibility and consistency in decision-making

The IHAP system allows councils and chairs to have the flexibility to accommodate local practices/preferences. This discretion however has the potential to affect the consistency of panel processes when there is not a shared understanding of the rationale for decisions - or when this process is not as transparent as it could be.

Although DPE has provided further guidance on a number of these matters, IPPG suggests that further consideration may be required. This is particularly the case with regard to:

- the rotation of panel members
- panel meeting times
- time limits for speakers
- approaches to deliberation, and
- communication of determinations.

Explore strategies to collaborate with stakeholders to develop and promote good practice

IPPG notes that an area for ongoing consideration is how to address calls from many panel members and council staff for 'best practice' advice, so they can be confident in advancing consistent decision-making (and efficient panel operation) while using appropriate discretion. In conjunction with the departmental guidance material and briefings, further 'best practice' advice may require more time to be embedded in panel operations.

The chair roundtable could be used as an opportunity for chairs to exchange examples and share ideas and advice. Similarly, for experts and community representatives, the opportunity for further guidance from council and DPE and learning from other panel members appears to be welcomed.

Councils, DPE and other stakeholders could consider developing a community of practice across councils, along with council to council and peer to peer learning opportunities. One place to begin may be considering which agencies and/or organisations would be best placed to design, deliver and/or facilitate training and learning exchange.

3.2.2 Scope the feasibility of strengthening requirements for site visits

Given the beneficial nature of site visits for informing panel members' decision-making, IPPG suggests that an area for consideration is whether site visits should be made mandatory with some exceptions (e.g. to 'opt out' when the matter is minor or the panel has already visited the site). Alternatively, DPE could consider providing more education to panels on the importance and value of site visits in informing deliberations.

IPPG also suggests that DPE provide more clarity about whether panel members and council staff can elicit and/or offer their opinions during the site visits.

3.2.3 Consider ways to better align the community representative role with expectations and its value

IPPG suggests that a range of strategies could be considered to address the different views on the community representative role, part of which may involve reflection/investigation around the description of its current scope and nature.

One option that has been suggested by a number of stakeholders is to re-articulate the role as a community 'member' rather than a 'representative'. This approach aligns with some stakeholder views that individuals in the role without planning expertise would benefit from training on assessment pathways, and other relevant matters. Alternatively, the emphasis could be placed on the unique value of local insights/perspectives. IPPG notes that the most feasible and 'fit for purpose' approach should align with vision for the reforms.

3.2.4 Assess ways to sustain and grow the pool of panel members

IPPG suggests that DPE consider issues related to sustaining and growing a high quality panel member pool, such as how member remuneration, and differences in remuneration, may affect retention and recruitment.

3.2.5 Take steps to maximise the quality and availability of data for evaluation and other purposes

IPPG suggests that DPE scope options to enhance the availability of secondary data that can be provided for monitoring and evaluation purposes. One interim strategy related to council data could be to adjust the evaluation reporting timeframes to maximise the quality and completeness of the council quarterly data. Related to complaints data, DPE could investigate ways to embed advised changes to complaints data collection into routine business systems.

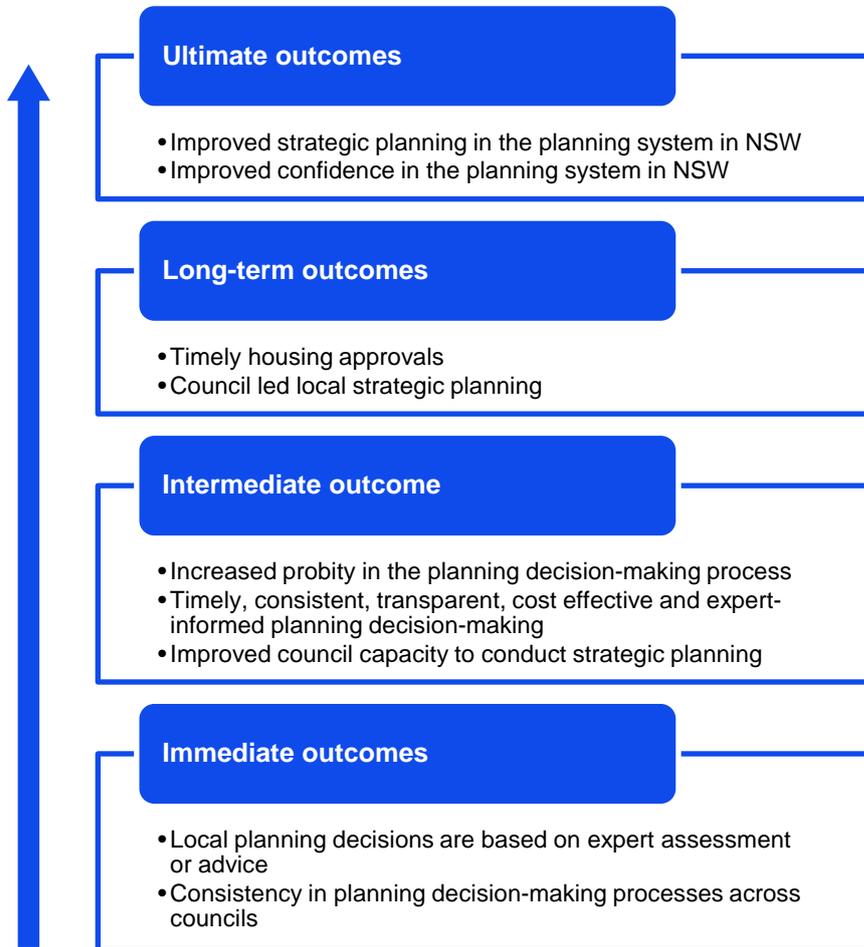
IPPG notes that, in taking these steps, consideration is needed to the reporting load on councils and other stakeholders.

3.2.6 Communicate strategies to councils that can best support reform implementation

IPPG notes that councils play an important role in the successful achievement of the IHAP reform objectives. A range of strategies could be considered to support this role, including encouraging councils to provide further information and guidance to panel members on CSPs to help improve panel members' knowledge of relevant council plans and future strategic directions.

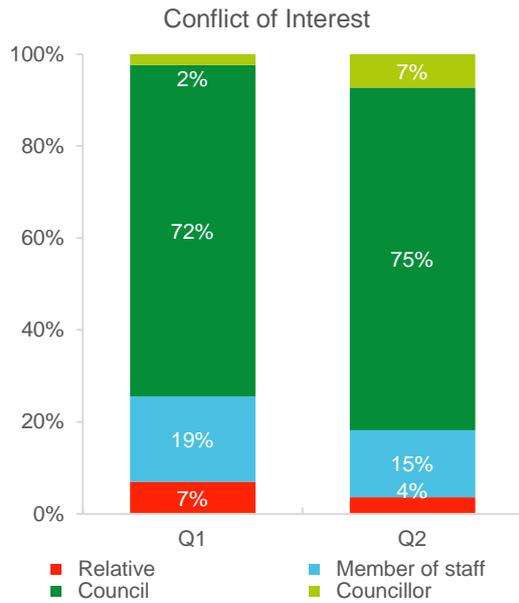
Another strategy that could be considered is providing guidance to councils regarding the types and level of information posted on council IHAP websites (e.g. overview of the IHAP system, panel members' biographies and information regarding complaint, review and appeal pathways). This strategy would assist with ensuring consistency across panels and, in turn, influence community understanding and perceptions of the IHAP system.

Appendix A – Program logic



Appendix B – Summary regarding referral criteria

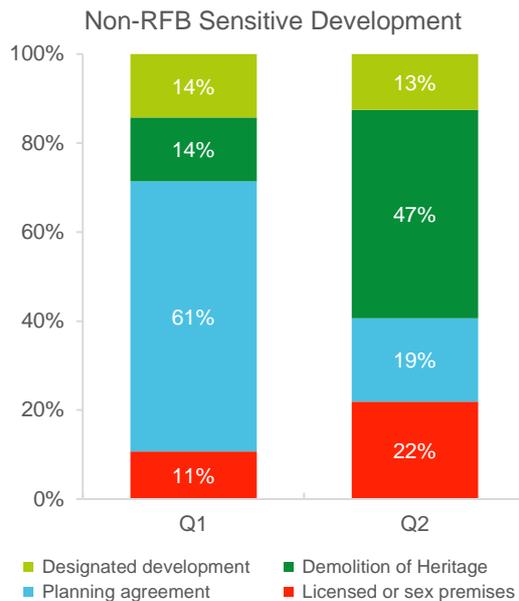
This Appendix provides a summary of the referral criteria triggered for DAs considered by IHAPs in quarter 1 and quarter 2.



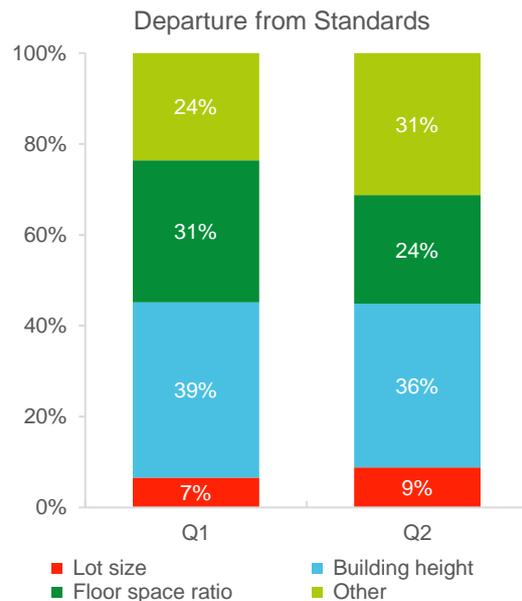
Source: Council online IHAP reporting data.
 Sample: N_{Q1}(Conflict of Interest)=43, N_{Q2}(Conflict of Interest)= 55.



Source: Council online IHAP reporting data.
 Sample: N_{Q1}(Contentious Development)=105, N_{Q2}(Contentious Development)= 93.



Source: Council online IHAP reporting data.
 Sample: N_{Q1}(Non-RFB Sensitive Development)=28, N_{Q2}(Non-RFB Sensitive Development)= 32.



Source: Council online IHAP reporting data.
 Sample: N_{Q1}(Departures to Development Standards)= 259 (from 215 DAs), N_{Q2}(Departures to Development Standards)=272 (from 227 DAs).