

Mandatory Local Planning Panels

Date : September 25, 2017

The New South Wales Government on 10 August 2017 passed the *Environmental Planning and Assessment and Electoral Legislation Amendment (Planning Panels and Enforcement) Bill 2017 (Bill)*. The Bill was assented to by the Governor on 14 August 2017 and will have immediate effect. The most notable part of the Bill is that it will require all Council's in the Greater Sydney and Wollongong regions to have a local planning panel. The intention of the Bill was described by Planning and Housing Minister, Anthony Roberts to bring "transparency, integrity and a high degree of probity" to the development application process.

Function of the Local Planning Panels

Local Planning Panels are to be constituted by any Council that is within the Greater Sydney Region and the City of Wollongong before 1 March 2018. The function of these panels will be to carry out the consent authority functions of the Council in relation to development under Part 4 of the *Environmental Planning and Assessment Act 1979* in specific circumstances.

The circumstances are as follows:

- in the determination of any Development Application (**DA**) above \$5 million
- any DA where the applicant or landowner is the Council, a councillor, a member of Council staff or a State or Federal Member of Parliament; and
- any DA that receives 10 or more objections.

There are also other types of DA's that must be determined by a local planning panel and these are; residential flat buildings assessed under SEPP 65, the demolition of heritage items, places of public entertainment and sex industry premises and designated development as set out in the *Environmental Planning Assessment Regulation 2000*.

Composition of Local Planning Panels

The Local Planning Panels will be made up of four members being:

- an independent chairperson;
- two independent expert members;
- a community representative.

The chairperson must have expertise in law or government and public administration and will be chosen by the Minister for Planning for each Council's panel. The two independent expert members will be chosen by Council from a pool of expert members established by the Department of Planning and approved by the Minister for Planning. Any expert within the pool must be an expert in one or more of the following areas: planning, architecture, heritage, the environment, urban design, economics, traffic and transport, law, engineering, tourism, or

government and public administration. The community representative will be chosen by Council and will be from the ward or area in which a proposed development would occur.

Members will be appointed for a three year period and may only sit on the same panel for a maximum of two terms. A Code of Conduct will be established for the operation of these panels and the panels will also be governed by statute.

Effect on Council

Councils will need to ensure that they begin planning processes to allow the local planning panels to be implemented before 1 March 2018. The local planning panels will in certain circumstances carry out the consent authority functions of the Council as outlined above.

Councils that are outside of the Greater Sydney Region and the City of Wollongong do not need to establish a local planning panel but will be free to do so if it is determined as being required by the Council.

Any Council that has an existing Independent Hearing and Assessment Panel (**IHAP**) can continue using up until 1 March 2018 but at that point, an existing IHAP will no longer be able to exercise consent authority functions for development.