

**ATTACHMENT C**

**RESOLUTION OF COUNCIL OF  
19 APRIL 2004**

**SMALL PERMITS APPEALS PANEL -  
RENEWAL**

# ATTACHMENT C

## Resolution of Council



19 APRIL 2004

### ITEM 5. SMALL PERMITS APPEALS PANEL - RENEWAL (S010284)

Moved by the Chair (the Lord Mayor), seconded by Councillor McInerney -

That arising from consideration of a report by the General Manager to the Extraordinary Meeting of Council on 19 April 2004, in relation to the Small Permits Appeals Panel, it be resolved that the Small Permits Appeals Panel be re-established, with the Terms of Reference of the Panel to be as detailed at Attachment A to the subject report.

Carried unanimously.

Note - the Terms of Reference as adopted by Council are as follows.

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**TERMS OF REFERENCE - SMALL PERMITS APPEALS PANEL**

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**SMALL PERMITS APPEALS PANEL****1. Preamble**

The jurisdiction of the Small Permits Appeals Panel ('the Panel') is limited to:

- (a) determining the review of applications which would not otherwise be dealt with by Council or the Central Sydney Planning Committee or Council's Planning Development and Transport Committee; and
- (b) determining requests for review of decisions by a delegate of Council as specified below; and
- (c) investigating the delay to an application for an approval or permit as specified below.

**2. Terms of Reference**

Subject to 3., upon a request from an applicant or a person/company who is to be the subject of a proposed order and on payment of a fee to Council, the Panel is to review:

**Development Applications and s96 Modifications to Development**

- (a) Pursuant to the provisions of section 82(A) of the Environmental Planning and Assessment Act 1979, the review of a determination of applications made under delegated authority.

**Local Government Act matters**

- (b) Pursuant to the provisions of section 100 of the Local Government Act 1993, determinations of applications for approval under section 68 of the Local Government Act 1993 made under delegated authority. This includes Places of Public Entertainment (POPEs) and approvals for temporary structures (hoardings).

**Notices of Intention to Serve an Order under the Planning Act**

- (c) Notices of Intention to Serve an Order under Section 121 of the Environmental Planning and Assessment Act 1979 (except in cases where the General Manager is satisfied that the nature of the proposed order involves matters of health and/or public safety, and report such exclusions to the Lord Mayor within a month.

**Notices of Intention to serve an Order under the Local Government Act**

- (d) Notices of Intention to serve an Order under Section 132 of the Local Government Act 1993 (except in cases where the General Manager is satisfied that the nature of the proposed order involves matters of health and/or public safety, and report such exclusions to the Lord Mayor within a month.

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**Film Permits**

- (e) Film permits issued under the Local Government Act 1993.

**Footway Cafes**

- (f) Licences for outdoor seating on council land associated with cafes/restaurants and the like (in addition to the review of the DA for such proposals).

**Other Matters**

- (g) The Panel shall also consider items referred to it by the Lord Mayor, Council or the General Manager.

**Delayed applications**

- (h) The Panel may determine delayed applications. An application is taken to be a delayed application if the time taken to process the application exceeds that in a schedule to be prepared by the General Manager and approved by the Lord Mayor.

**Resubmitted applications**

- (i) Where the delegate on the Panel has the power to do so, the Panel may determine an application made in substantially similar terms to an application which has recently been determined.

**3. Matters ineligible for review**

The Panel is not to deal with the following matters:

- (a) Applications that are Integrated Development, Designated Development or Complying Development Certificates.
- (b) Waiver of statutory charges, for example under Section 61 of the City of Sydney Act 1988 or Section 94 of the Environmental Planning and Assessment Act 1979 or to waive or vary Council's fees or other financial matters.
- (c) Any matter dealt with by Council or the Central Sydney Planning Committee.
- (d) Dealings with Council Property, excluding footway café licences.
- (e) Orders where the General Manager is satisfied that the nature of a proposed order involves matters of health and/or public safety; a report of such exclusions to be submitted to the Lord Mayor within a month.
- (f) Matters other than those stated expressly in paragraph 2 above.
- (g) Matters which, by law, cannot be delegated.

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**TERMS OF REFERENCE - SMALL PERMITS APPEALS PANEL**

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- (h) The Panel will not be able to review and re-determine an application such that the applicant is given approval for more than that originally applied for.
- 4. Panel determinations must be generally consistent with Council's controls and policies.
- 5. The Panel should draw to the attention of Council any policies or controls that, in its opinion, need review.

**6. Panel Membership**

The Panel generally shall comprise:

- (a) The Chairperson of the Planning Development and Transport Committee or the Lord Mayor (or an alternate approved by the Lord Mayor); and
- (b) A further member determined by the General Counsel being a senior council officer, being the Director who has the delegation to deal with the matters subject of that Panel (or alternate approved by the General Counsel); - the Council officer must not be subordinate to the original decision maker, nor be the actual decision maker; and
- (c) A member of an approved list of external persons comprising not more than eight persons, to be determined by the Lord Mayor in consultation with the General Manager.
- (d) In addition, the Lord Mayor and General Manager are ex officio members of the Panel and may choose to join Panel meetings.

**7. Frequency of Panel Meetings**

The Panel will meet as and when required

**8. Notification and Advertising of DA matters for review**

In the case of development applications that were notified and/or advertised and where there were submissions that are related to the subject of the review, or when the subject of the review warrants (in the opinion of the Director City Planning), persons who previously made a relevant submission or any other persons as decided by the Director City Planning, are to be notified by mail of the lodgement of the section 82A application and advised of the date and time of the Panel meeting, so that they may make a representation and/or address the Panel.

**9. Fee**

The fee for review shall be:

- (a) 50% of the original application fee up to a maximum of \$500;

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- (b) for matters which did not involve an application fee, \$50.00.

**10. Site Visit**

Site visits may be undertaken, at the discretion of the Chairperson, before the Panel meeting.

**11. Determination of Applications**

- (a) Subject to the Preamble and the Terms of Reference, to the extent permitted by law, Council delegates authority to the Panel to determine applications made under section 82A of the Environmental Planning and Assessment Act 1979, section 100 of the Local Government Act 1993, representations made under Clause 121H and 121J of the Environmental Planning and Assessment Act 1979 and representations made under Section 133 of the Local Government Act 1993.
- (b) Decisions of the Panel are to be made within 14 days of a request for review and are to be conveyed to the applicant and to any person who made a submission or addressed the Panel, within three (3) working days of the Panel determination.

**12. Term of Office**

Panel members (other than ex officio members) shall be appointed for a period of up to three years.

**13. Panel Meetings**

- (a) The General Counsel is responsible for the conduct and administration of the Panel.
- (b) The relevant Council Unit will provide the necessary resources as required.
- (c) The Panel shall meet as and when required. The meetings shall be open to the public and agendas will be produced and minutes taken by Secretariat staff.
- (d) Applicants and persons who previously made a submission on a development application or adjoining owners/occupants will be invited to attend and make submissions. The purpose of the Panel is to expeditiously review actions and decisions made by Council staff and to assess the merits of an issue. Legal representation is not encouraged. The Panel will not have its own legal representative, except it may in the case when it is reviewing a representation on an Order, if the Panel applicant has legal representation.

**14. Appeal Rights**

Appeal rights to the Land and Environment Court are notified to all applicants as part of the normal determination of DAs and the issue of Orders.

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**15. Quorum**

A quorum of the Panel shall be two, comprising:-

- (a) the Chairperson of the Planning Development and Transport Committee, or the Lord Mayor, or the alternate approved by the Lord Mayor;
- (b) the external member, except where that member is unable to attend in exceptional circumstances, in which case a senior Council officer shall attend.

**16. Conflict of Interest**

Panel Members will be required to declare any conflict of interest in relation to any matter that comes before them. In such instances, that member will be ineligible to participate in that particular review matter.

**17. Fees for Panel Members (other than the Chairperson and Council Officers)**

An annual fee shall be paid to the Panel representatives, other than the Chairperson and the Council officers or their alternates. The amount of the annual fee shall be determined by the General Manager in consultation with the Lord Mayor.

**18. Reporting of Decisions to Council**

Quarterly reports to Councillors and annual reports to Council summarising the decisions and operation of the Panel will be submitted.

**19. Process**

The applicant shall lodge their Request for Review by the Small Permits Appeal Panel with the One Stop Shop who will immediately advise the Secretariat who commences the process.

**20. Review**

The functions of the Panel will be reviewed within twelve months of a general election of Council.

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