

Terms of Reference

Review of Determinations Panel

September 2021

1. Terms of Reference

The jurisdiction of the Review of Determinations Panel ('the Panel') is limited to:

- (a) determining the review, under Section 8.2(1)(a) of the Environmental Planning and Assessment Act 1979, of development application determinations which have been made by a delegate of Council; and
- (b) determining the review, under Section 8.2(1)(b) of the Environmental Planning and Assessment Act 1979, of modification application determinations which have been determined by a delegate of Council.

2. Amended applications

Where amendments are made to the original application, the Panel must be satisfied that the amended application is substantially the same as the original application.

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 7.11 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 (i.e. Planning and Development Committee) prior to 1 March 2018.
- (d) Any matter dealt with by the Local Planning Panel or the Central Sydney Planning Committee.
- (e) Applications where Council is the applicant.
- (f) Matters which, by law, cannot be delegated.

- (g) Applications lodged under Section 8.2(1)(c) of the Environmental Planning and Assessment Act 1979 for the review of rejected applications

4. Panel Membership

The Panel generally shall comprise of at least three (3) members made up of two of:

- (a) The Director City Planning Development and Transport;
- (b) The Executive Manager Development;
- (c) The Executive Manager Strategic Planning and Urban Design; and
- (d) The Manager Planning Assessments; and
- (e) An external expert taken from the list of approved Local Planning Panel members.

The Council officers on the panel must not be subordinate to the original decision maker, nor be the actual decision maker.

In exceptional circumstances where one of the positions cannot be filled from the above list the positions on the panel may be filled by another senior council officer(s) who has the delegation to deal with matters the subject of the application to the Panel.

In exceptional circumstances where an external expert is not available and the review would not be able to be made within the time frames set by the regulations if its determination were to be delayed the Panel may consist of a minimum of two Council officers from the list above.

5. Quorum

A quorum of the Panel shall be two, including at least one of the following:-

- (a) The Director City Planning Development and Transport;
- (b) The Executive Manager Development;
- (c) The Executive Manager Strategic Planning and Urban Design; and
- (d) The Manager Planning Assessments.

Note: in circumstances where a quorum of only two panel members disagree on a matter a third panel member or delegate is to provide a decision within five (5) working days of the panel meeting.

6. Notification and Advertising of matters for review

In the case of development/modification applications that were notified/advertised and submissions were received that relate to the subject of the review, or when the subject of the review is considered to so warrant, persons who previously made a relevant submission and/or any other persons as may be determined, are to be notified in writing of the lodgement of the application for review so that they may make a further submission if they so wish.

7. Panel Meetings

- (a) The Panel will meet on a monthly basis or otherwise as and when required.
- (a) The meetings are not open to applicants or the public.
- (b) Site visits may be undertaken by the Panel.

8. 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.

9. Determination of Applications

- (a) Applications are to be determined by the Panel in accordance with the delegations made by the CEO under s 378 of the Local Government Act.
- (b) Decisions of the Panel must be made within 6 months, or other such time period set by the regulations, of the applicant's receipt of the original determination in accordance with the requirements of s 8.3(2) of the Environmental Planning and Assessment Act.
- (c) Decisions of the panel will be recorded.
- (d) The applicant and all persons who made submissions will be notified of the decision of the panel.

- (e) Reports to the panel and decisions of the panel will be made available on Council's website.

10. Fees for external expert Panel Member

The external member of the Panel will be paid a fee for attending Panel meetings, based on a fee for service payable hourly in accordance with the currently agreed fees with the respective experts.

11. Reporting of Decisions to Council

The Panel will submit annual reports to Council via CEO updates summarising the decisions and operation of the Panel during the relevant period.