



Planning Panels
Complaints Report
2018

1. Introduction

The Sydney planning panels and regional planning panels provide independent merit-based decision making on regional development and decisions on rezoning reviews and certain planning proposals. The panels are not subject to the direction of the Minister for Planning and Public Spaces.

The panels are committed to addressing enquiries and resolving any complaints that may be raised about their operation, including complaints about the policies, procedures or quality of service of the panels or the Planning Panels Secretariat. Concerns raised about a decision of a panel are not treated as complaints. Decisions of the panel are final and the Department is not able to intervene.

Up to August 2018 complaints against the panels were addressed by the Planning Panels Secretariat following the Planning Panels Complaints Handling Policy. From August 2018 responsibility for managing complaints relating to the panels transferred to the Department of Planning, Industry and Environment's Customer Service and Complaints team and follow the Department's Management of Complaints Policy. Complaints reporting on the panels will be included in the Department's Annual Report.

All complaints are assessed on their individual merits. When dealing with a complaint a review is undertaken to ascertain the facts of the matter and determine an appropriate course of action. Written responses are provided to those involved at the conclusion of the matter.

This complaints report covers the full 2018 period.

2. Complaints received

During 2018 there were 16 complaints made in relation to the panels, many of the complaints raised multiple issues for investigation.

A decision of the Sydney Central City Planning Panel to defer its decision to enable further information to be provided on a mosque DA generated concerns from the community. As the concerns related to a decision of the panel these were not treated as complaints.

Of the complaints received, conflicts of interest were raised nine times and issues with meeting procedures were raised four times.

It should be noted that the number of complaints received is not necessarily an effective indicator of the seriousness of the matters raised. In some cases the decision on a single controversial application by a panel can trigger a number of complaints.

The following table (Table 1) breaks down the complaints that were responded to in this period by panel.

Table 2. Complaints responded to in this period, by panel

Planning panel	No. of complaints
Sydney Central City Planning Panel	2
Sydney South Planning Panel	4
Sydney North Planning Panel	2
Sydney Western City Planning Panel	2
Northern Regional Planning Panel	4
Southern Regional Planning Panel	2

Total complaints responded to in this period	16
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3. Issues raised

The following table (Table 2) breaks down the complaints that were responded to in this period by the number of times particular subjects and issues of concern were raised, as well as a summary of the response(s) provided.

Table 2. Issue breakdown, number of times issue raised and summary of response(s)

Subject	Issue	No. of times raised	Summary of response(s) and any proposed follow up
Conflict of interest	Two panel members failed to declare a conflict of interest.	1	In this case, two panel members were found to have failed to declare conflicts. One member had a conflict of duties having been involved with the assessment report considered by the panel and another member had a perceived conflict of interest having provided planning advice to the applicant on a previous application for the site. To address any perceptions that the matter had not been impartially considered the Independent Planning Commission was asked to review the decision. The members and the chair were all reminded of their obligations under the Code of Conduct to properly identify, declare and manage conflicts of interest under the Code of Conduct.
	Two panel members failed to declare they had previous involvement in the matter.	1	In this case, two panel members were found to have failed to declare previous involvement in the matter. The Department wrote to the General Manager of the relevant council asking the members to be reminded of their obligations under the Code of Conduct. The matter was re-decided with different members.
	Two panel members failed to declare they had previous involvement in a related matter.	1	In this case, two panel members were found to have failed to declare previous involvement in a related matter. The Department wrote to the General Manager of the relevant council asking the members to be reminded of their obligations under the Code of Conduct. The matter was re-decided with different members as a Division 8.2 review.
	A panel member had a perceived conflict of interest because they had provided planning	1	In this case the complaint was raised with the panel member before the public meeting. The member accepted that they may be perceived to be conflicted and stepped aside from the

Subject	Issue	No. of times raised	Summary of response(s) and any proposed follow up
	advice on a site nearby.		panel. This is consistent with 3.1 and 3.18 of the Code of Conduct.
	A panel member had a perceived conflict of interest because the planning consultancy they worked for had provided advice on a similar development proposal.	1	It was found that the member was not obliged to declare an interest if the consultancy, not the member, had provided advice on a separate but similar proposal.
	A panel member had a perceived conflict of interest because they had authored a strategic planning document that the proposal was assessed against.	1	It was found that the member was not obliged to make a declaration. However, panel members were requested to take a cautious approach with declarations and to make them early in the process.
	A panel member had a conflict of duties because they put councillor duties before panel member duties.	2	It was found that there was no conflict of duties and the panel had followed correct procedure.
	Alleged inappropriate relationship between developer and council staff.	1	An investigation determined that there was a case of mistaken identity. The complainant accepted the findings.
Meeting procedures	Meeting not located in local area.	1	It was found that the chair, in consultation with council, decided to hold the meeting in a larger capacity venue following council advice that there were no suitable venues in the relevant LGA. The Council offered to drive the complainant to the meeting.
	Inadequate council representation on panel.	2	On both occasions it was found that council members had declared conflicts and stepped aside from the panel and council did not nominate replacement members. The panel had a quorum of State members so continued to determine the matter. There was no breach of the panel's procedures.
	Panel was biased and followed incorrect procedures.	1	An investigation found that the panel had followed correct procedure.
Operations	Relevant documents not available on Planning Panels website in time for meeting.	1	An investigation concluded that the documents were uploaded within required timeframe (7 days prior to the panel meeting).

Subject	Issue	No. of times raised	Summary of response(s) and any proposed follow up
	Inadequate response by chair at meeting to person filming.	1	An investigation concluded that the chair had requested the person stop recording and had had acted in accordance with procedures.

4. Key outcomes

During this reporting period each complainant was provided with a response on conclusion of the review into the matters raised, which included clarification of the procedures that apply to the Panels.

Investigations of these complaints recorded breaches of the Code of Conduct by members on seven occasions (no declaration of a perceived non-pecuniary interest and no declarations of conflicts of duties – making a decision on a related matter), in all cases the decisions were re-taken, either by different members of the panel or referred to the Independent Planning Commission.

Other measures taken to address these breaches included:

- the Department writing to the relevant members requesting that they re-familiarise themselves with their obligations under the Planning Panels Code of Conduct;
- amending the Planning Panels Code of Conduct in August 2018 to provide further clarification on those matters considered to be a conflict of interest and the importance of declaring and addressing conflicts of interest prior to sitting on a matter; and
- implementing a new requirement for Planning Panel members to complete and sign a declaration of interest form in relation to each matter on the panel's meeting agenda.

No breaches of the Operational Procedures were recorded.