

Panel member selection guide for councils

This document provides an overview of the process of appointing members to local planning panels and provides guidance to assist local councils in that process.

Mandatory requirements for the process of appointing members to local planning panels are set out in:

- sections 2.17-2.20 of the *Environmental Planning and Assessment Act 1979*, (EP&A Act)
- schedule 2 of the EP&A Act
- the Local Planning Panels Direction—Operational Procedures
- the Local Planning Panels Direction – Appointment of New Members

This document provides best practice information and guidance to assist councils in addressing these requirements.

This guidance has sections on:

- panel membership
- approval of chairs and independent experts
- guidance on selecting an independent expert member
- recruitment of community representatives
- terms of appointment.

Panel membership

A local planning panel consists of four members: a chair, two independent expert members and a community representative.

If a council is required to constitute a local planning panel, it must appoint chairs and independent expert members approved by the Minister for Planning and Public Spaces (Minister).

Community representatives are recruited, selected and appointed by councils.

Mayors, councillors, property developers and real estate agents are not eligible for appointment to local planning panels.

Approval and appointment of chairs and independent experts

The Minister approves experts and chairs and alternate chairs for appointment by councils.

If the chair of a local planning panel vacates their position, council should request that the Minister approve a replacement chair for appointment by council.

Independent experts pool

A pool of over 200 independent experts has been approved.

Each expert has been approved on the basis of their professional standing, experience, technical ability and broad understanding of the development assessment process. Each expert has met one or more of the expertise requirements set out in the EP&A Act.

Each expert has completed probity checks and provided a statutory declaration that they have not been bankrupt, do not have a criminal record and are not developers or real estate agents. None of the experts is a Mayor, local councillor, or full-time local council or State government employee.

The Planning Panels Secretariat at the Department of Planning, Industry and Environment maintains a list of approved independent experts and can make this list available to councils on request.

Council should select sufficient experts for appointment to ensure that panel meetings can proceed in the event that a member may be unavailable for any reason, and also to enable the chair to rotate panel members periodically (as required by clause 1.2.1.c of the Operational Procedures).

Guidance on the selection of independent expert members

Council may discuss potential expert members with its appointed chair.

Chairs should not make unsolicited representations on behalf of experts to councils.

Experts should not approach councils or chairs to solicit or canvass appointments.

Experts can be appointed to more than one local planning panel.

Councils are not able to prohibit experts from carrying out consultancy work within the LGA.

The Local Planning Panels Direction – Appointment of New Members requires panel members to agree to abide by the Code of Conduct for Local Planning Panel Members.

(Breaches of the code of conduct may constitute a reason for removal from the panel and/or from the pool of approved independent experts).

Recruitment of community representatives

Councils recruit, select and appoint community representatives. The following points are provided as guidance to assist councils in this process.

Community representatives are appointed to bring local knowledge and experience to the local planning panel. Community representatives should be selected from the local community. Community representatives are not expected to be experts in planning matters.

If the council area has wards, a community representative is needed to address matters for each ward. Community representatives can represent one or more wards.

The General Manager of the council should oversee the selection process for the community representatives of the local planning panel.

A sufficient number of community representatives should be appointed so that the panel can operate efficiently, even if a community representative is unable to attend for any reason, and so that community representatives can be periodically rotated (as required by clause 1.3.1.c of the Ministerial direction).

Advertising

The council should seek expressions of interest from the community for the role of community representative on the local planning panel by placing at least two advertisements in local media publications (i.e. newspapers) as well as advertising through one or more of the following:

- the council's website, newsletters and social media e.g. council's Facebook, Twitter and LinkedIn pages
- any relevant community forums, ward or precinct committees etc. convened by the council
- local/community radio or magazines; or
- council offices, libraries, community or sports centres, schools, residents and community groups.

The advertising period should be no less than 28 days, in order to give community members enough time to apply.

Applications for the role of community representative at council may be sent to the General Manager at that council. Applications should not be sent to the Department of Planning, Industry and Environment.

Selection criteria

Local community representatives may be selected on the basis that they:

- are current residents within the LGA
- have an understanding of the LGA and issues of concern to the local community
- have the capacity to form independent views and to contribute constructively to the determination of applications
- are able to demonstrate a basic level of understanding of the planning system, i.e. knowledge of the council's local environmental plan, development control plan, local strategic planning statement or community strategic plan
- are committed to:
 - following the *Code of Conduct for Local Planning Panel Members* and the Local Planning Panels Operational Procedures
 - attending local planning panel meetings and completing panel business in required timeframes.

Appointing community representatives

Following the end of the advertising period, the General Manager should arrange a selection panel to:

- review the applications against the relevant selection criteria
- shortlist suitable candidates
- arrange for interviews (if required)
- recommend candidates suitable for appointment as community representatives.

Probity checks

Probity checks are required for all panel members. The department conducts a range of background checks prior to the approval of chairs and expert members, including criminal, financial and academic checks.

Council must arrange probity checks for community representatives. These checks should include at a minimum:

- public register of real estate agents check
- bankruptcy record check
- National Police check (ACIC).

Remuneration

The Minister has made a remuneration determination setting minimum per meeting rates for panel members. The determination is available, along with the Minister's Local Planning Panels Directions, at:

www.planning.nsw.gov.au/Assess-and-Regulate/Development-Assessment/Local-Planning-Panels/Statutory-rules

Terms of appointment

Appointed members should accept their terms of appointment in writing. The terms of appointment should identify:

- the sections of the EP&A Act under which appointments are made and terminated
- period of appointments
- duties and responsibilities
- a commitment to comply with the *Code of Conduct for Local Planning Panel Members* and to complete the Disclosures Return at Schedule 2 of the Code of Conduct when appointed, and as required under clause 4.15 of the Code of Conduct
- remuneration; and
- limits of liability.

The General Manager should notify all applicants of the outcome of their application. The General Manager should also notify the panel chair of all decisions on appointments to the local planning panel.

The Planning Panels Secretariat at the Department of Planning, Industry and Environment must be advised of all appointments to the local planning panel, including any appointments as alternates, or as ward representatives.

More information

Call the Planning Panels Secretariat on 8217 2060.

Email enquiry@planningpanels.nsw.gov.au

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