



The Henry Halloran Trust

Research Report



THE UNIVERSITY OF
SYDNEY

Council Decision Making and Independent Panels

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A Practitioner-in-Residence Project

A review of the Evolution of Panels and their
Contribution to Improving Development
Assessment in NSW

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CONTEXT

Over the last 15 years, there has been an increasing use of panels by NSW councils in development application (DA) processes – both ‘internal’ panels staffed by officers and/or councillors, and ‘independent’ panels comprising external experts and community representatives.

Both these types of panels have been used to provide advice to applicants, objectors, council officers and councillors on the assessment process and determination of individual DAs. These collaborative approaches have provided increased transparency, integrity and rigour in the development assessment process.

The objective of the research was to obtain an understanding of the motivators for the evolution of council independent panels in the DA process in NSW and to form a view as to how these panels have assisted in delivering an improved system.

IMPLICATIONS FOR PRACTICE

Structural and performance implications

While the panels have cost implications depending on the number of matters dealt with, there are also savings resulting from shorter council meetings and DA processing timeframes as well as fewer risks of court challenges. The use of independent panels also has a number of performance benefits through reinforcing the integrity of the decision making process. Importantly, the panels

provide an additional opportunity for community and applicant views to be considered, thus increasing procedural fairness. Surveys of stakeholders indicate strong support for this additional engagement.

Further potential roles for independent panels

Additional opportunities exist to improve the planning process through the use of panels. Independent panels could be used earlier in the DA process at the pre-lodgement stage, rather than just at the end of the determination process. This has the potential to improve the effectiveness of community participation and could lead to better outcomes for all participants.

In addition, the use of panels as part of the strategic planning process could reduce the need for panels at the DA stage with subsequently less need for deviations from the planning controls. The community would also gain a better understanding of what could be developed in their area and thus fewer unresolvable objections should eventuate.

To some, the DA process is currently seen as planning policy ‘on the run’. In a way, the need for panels as an independent arbitrator at the DA stage is a barometer of the shortcomings of the strategic planning process. While independent panels can’t fix the problems of poor strategic planning, in the short term, panels can help facilitate the resolution of issues arising from uncertainty. The feedback from independent

panels can also play an important role in improving the strategic planning framework. Panels can thus assist in the move towards more transparent, efficient and effective planning in NSW.

SOURCES

The research involved analysis of information from councils and planning experts and from council, government and professional organisation websites and refereed journals.

MAIN FINDINGS

The state of play

Currently six councils - Canterbury, Fairfield, Liverpool, Sutherland, Wollongong and Shellharbour - have established 'independent hearing and assessment' type panels (IHAPs) which provide advice on DAs to council decision makers. Another seven councils - Holroyd, Lane Cove, North Sydney, Manly, Mosman, Waverley and Warringah - have independent development assessment panels (DAPs) with responsibility for determining DAs. These panels have been established under the provisions of the *Local Government Act 1993*, with the councils concerned responsible for their procedures.

Other types of 'independent panels' have also been established by the NSW Government to determine regional and state significant developments and to deal with certain planning matters. The state governments of South Australia, Victoria and Western Australia have also established similar panels.

Catalyst for evolution of panels

The cumulative impact of a number of factors has led to NSW councils establishing independent panels. Population pressures accompanied by increased densification have resulted in increases in controversial developments and pressure on council services. Regulatory pressure from both federal and state governments focused on the efficiency and effectiveness of councils' processes, with strong endorsement of independent panels.

There has been acknowledgement of the need to strengthen the integrity of councils' processes to minimise corruption risks and an appreciation of the importance of effective engagement. Panels were recommended by the Independent Commission Against Corruption (ICAC) and the NSW Land and Environment Court to reduce corruption risks and court costs.

FURTHER INFORMATION

This paper is based on The Henry Halloran Trust Practitioner in Residence Project

The full paper from this project can be found on The Henry Halloran Trust website:

<http://sydney.edu.au/halloran/programs/index.shtml>

For further information about the Practitioner-in-Residence Program please contact:

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About the Trust

The University of Sydney, through the generous gift of Warren Halloran, has established the Trust in honour of Henry Halloran who was an active advocate for town planning in the first half of the twentieth century.

The objective of this trust is to promote scholarship, innovation and research in town planning, urban development and land management. This will be achieved through collaborative cross-disciplinary and industry research that will generate innovative approaches to urban and regional policy, planning and development issues.

