

Blacktown Local Planning Panel

Operational procedures

October 2020



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Versions

Version number	Date
1	August 2020
2	May 2019
3	October 2020

Definitions

Council means Blacktown City Council

Department means the Department of Planning, Industry & Environment

Development Application (DA) means an application for consent under Part 4 of the *Environmental Planning & Assessment Act 1979* to carry out development but does not include an application for a complying development certificate

EP&A Act means the *Environmental Planning & Assessment Act 1979*

EP&A Regulation means the *Environmental Planning & Assessment Regulation 2000*

LGA means local government area

Minister means the Minister for Planning and Public Spaces

Panel or **planning panel** means the Blacktown Local Planning Panel

Planning Proposal means a document prepared to explain the intended effect of, and justification for, making a proposed environmental planning instrument

Secretariat means the planning panel secretariat which provides technical and administrative support to the planning panel

1. Introduction and objectives

The Blacktown Local Planning Panel commenced operation on 1 March 2018 at the direction of the NSW Government. It replaces Blacktown City Council as the consent authority for certain categories of development applications (DAs) and certain other development decision matters under the *Environmental Planning and Assessment Act 1979* (EP&A Act). It also provides advice to the Council in relation to Planning Proposals.

The planning panel is an independent body representing the Council and is not subject to the direction of the Council in exercising its functions under the EP&A Act. Planning panels are to undertake their functions in a way that builds trust in the NSW planning system. The approach taken should be based on the following objectives:

- independent and objective decision making
- openness and transparency in the operations of the planning panels
- delivering robust and timely determinations within the legislative and Government policy framework to best serve the people of NSW
- encouraging effective community and other stakeholder participation to inform planning panels determinations and advice.

These procedures are the planning panel's Charter and have been developed to explain the way the panel will operate.

The procedures should be read in conjunction with the planning panel's Code of Conduct which explains the standard of conduct expected of panel members.

These procedures will be kept under review and may be amended periodically.

Ian Reynolds
Blacktown Local Planning Panel Principal Chair

2. Panel composition

2.1 Chair selection and rotation

The chair and alternate chairs are to rotate presiding over panel meetings, or other business, as practicable, unless the chair or alternate chair is unavailable for any reason.

Where possible, deferred matters should be considered by the chair that presided over the original deferment.

2.2 Independent expert members and alternates

The independent expert members and alternate members can be interchanged as needed by the chair for that meeting for reasons including:

- a. a member has a conflict of interest
- b. a member is unable to attend on the day, or
- c. to periodically rotate the members.

2.3 Community representatives and use of alternates

A community representative member can be interchanged as needed by the chair or alternate chairs for reasons including:

- a. a member has a conflict of interest
- b. a member is unable to attend on the day, or
- c. to periodically rotate the members.

3. Role of members of the panel

3.1 Role of the chair

The chair is responsible for the management of the panel's functions and operations, including managing conflicts of interest.

The chair is to preside over panel meetings and other business.

The chair is to ensure the panel fully discharges its responsibilities under the EP&A Act, these operational procedures, any other directions from council, and the code of conduct for local panel members in a timely manner.

The chair is responsible for the good and orderly conduct of the panel meetings and may do all things and take all steps necessary to control the good and orderly conduct of any meeting of the panel or site inspection carried out by the panel in the performance of its functions.

The chair is to determine which alternate chair, independent expert members or alternates, and which community representative or alternate, are to hear a matter prior to the meeting commencing. The chair may make arrangements with the general manager (or delegate) to determine independent expert members or alternates, and which community representative or alternate, are to hear a matter.

3.2 Role of alternate chairs

Alternate chairs have the same role as the chair when presiding over a panel meeting or any other business.

4. Administration

Administration and support for the planning panel is provided by the secretariat. Such support is in relation to:

- scheduling of meetings
- arranging site inspections
- preparing and issuing meeting agendas and business papers
- notification of meetings
- taking meeting minutes, or preparing records of decision
- record keeping for the planning panel.

Blacktown Council remains responsible for receiving, notifying and exhibiting DAs, preparing the assessment reports (including consideration of submissions) and the post-determination functions, including notification of determinations to the applicant and any person who made a submission.

The secretariat is the first point of contact for all planning panel matters and publishes a wide range of information on the Blacktown City Council website:

<https://www.blacktown.nsw.gov.au/Plan-build/Stage-1-find-out/Independent-Hearing-and-Assessment-Panel-IHAP>

The contact details for the secretariat are:

Phone: (02) 9839 6201

Email: BIPP@blacktown.nsw.gov.au

5. Reporting

The secretariat will monitor the progress of DAs referred to the planning panel to ensure panel meetings are scheduled as soon as practicable following the completion of the assessment report by the relevant council officer.

The Principal Chair will work with the secretariat to develop and maintain an understanding of the number and type of matters likely to be coming to the panel for determination and, with a view to reducing assessment and determination times, to regularly review with Council staff timeframes for reporting of these matters to the panel. The secretariat will make a range of information publicly available on the council website, including:

- planning panel meeting agendas
- the council officer assessment report and recommendation
- any amended or supplementary information submitted by council
- records of Determinations and Statements of Reasons on any DA matter considered
- a schedule of meeting dates reserved for panel business.

Once a planning assessment is completed by the council and referred to the panel, the panel will be expected to:

- determine the matter within 2 weeks (14 calendar days) in the case of development and modification applications; and
- provide advice within 2 weeks (14 calendar days) in the case of Planning Proposals.

6. Meeting and other business procedures

The panel is only required to hold a public meeting where the development application has attracted 10 or more unique submissions by way of objection.

A 'unique submission' means a submission which is in substance unique, distinctive or unlike any other submission. It does not mean a petition or any submission that contains the same or substantially the same text. Separate unique submissions may be made in relation to the same issue. One individual, or one household, could potentially submit multiple unique submissions.

The panel may determine detailed procedures for the execution of efficient and effective meetings and any other business.

The panel is not bound by the rules of evidence and may inquire into and inform itself on any matter, in such manner as it thinks fit, subject to the rules of natural justice and procedural fairness.

The panel is to act with as little formality as the circumstances of the case permit and according to equity, good conscience and the substantial merits of the case without regard to technicalities or legal forms.

The panel must give reasonable notice to the public of the times and places of its meetings. This must be through the website used by the panel and may include other mechanisms as appropriate.

The panel may:

- adjourn the public meeting where a panel briefing is required to hear confidential or sensitive information or to deliberate before reconvening for voting and determination; or
- close the public meeting for deliberation and/or voting and determination.

With a view to discharging its responsibilities in a timely manner, the panel may, in its absolute discretion, but otherwise fairly and consistently, impose time limits on presentations by persons other than members of the panel. Where there are a large number of objectors with a common interest at any public meeting, the panel may, in its absolute discretion, hear a representative of those persons.

The panel shall hold meetings or transact its business as required to meet panel demands and workloads.

Where a quorum for a meeting or other business is not present, the meeting or other business is to be deferred.

7. Development assessment

7.1 Pre-development application meetings

Pre-DA meetings between applicants and assessment officers are used extensively by Blacktown City Council to agree on assessment requirements before applications are submitted to the consent authority.

Applicants are encouraged to meet with council before lodging a DA, and to respond to the advice of council when preparing the DA.

To avoid any apprehension of bias, it is not appropriate for the planning panel as the determining body, or its members, to participate in pre-DA meetings.

7.2 Interactions with third parties about matters before the panel

Panel members are not to discuss any matter that is to be considered by the panel with councillors, the applicant, their consultants, parties who have made a submission, or any other person with an interest in the matter outside of the planning panel meeting.

Any prior contact with an applicant, developer or member of the public about a DA, where the panel member is engaged in the receipt of information or receives representations, will mean that the panel member is no longer impartial and must exclude himself or herself from determination of the DA on the planning panel. This includes email interactions.

This does not apply to persons employed by the council to assess the matters to be considered by the panel, nor to panel briefings

7.3 Panel site inspections and briefings

The Chair may elect for the panel to attend site inspections of panel briefings for development applications prior to the panel's consideration.

Site visits should be conducted on the same day as a public hearing, if practicable.

Site visits are solely to be used to identify and clarify issues with a proposal.

At a site visit or panel briefing the planning panel must not offer an opinion on the merit of the proposal or ask those involved with the assessment of the proposal for their opinion or recommendation.

The chair will also invite the council assessment officer and other persons engaged in the assessment of the matter to attend a site visit or panel briefing. On request, and at the Chair's discretion, the applicant may attend a briefing, along with Council staff, to explain complex matters or present confidential or commercially sensitive material. A written record

of briefing must be made publicly available on the panel's website (Attachment 5).

The planning panel may conduct the site visit on the same day as the planning panel meeting or at some other time, determined on a case-by-case basis with regard to circumstances such as location and available time. A written record of a site visit must be made publicly available on the panel's website. In some circumstances, other parties, including the applicant and people who made submissions on the DA, may also be invited to attend a site visit. Whether other parties are invited is at the discretion of the chair.

In deciding to conduct a site visit, the chair should take into consideration the availability of all members of the planning panel and any other persons also invited to attend the site visit.

Entry to any private land may only take place with the express permission of the owner of the land, and it is the responsibility of council staff to seek owner's consent when required.

7.4 Other public meetings about the proposed development

To avoid any perception of bias, panel members should not attend public meetings about a proposed development organised by members of the community or council, unless the meeting has been organised at the request of the planning panel.

In order for all panel members to hear the concerns of the public as part of the consideration of the application, panel members should decline any invitation and advise the meeting organisers to make a submission to council and register to address the planning panel at its meeting to determine the matter.

All members of the planning panel are required to observe the planning panel's Code of Conduct which requires determinations to be made impartially and based on merit.

7.5 Council representation to the planning panel

An elected council may make a submission on a DA within their LGA that is to be determined by a planning panel.

After the assessment report has been forwarded to the secretariat, it may be provided to the elected council to assist in its decision as to whether it will be making a submission to the planning panel. The elected council's submission should not be prepared by persons involved in the assessment of the application.

A council submission should not be specifically addressed in the assessment report or recommendations prepared by council staff. If council makes a submission, a staff representative or individual Councillors may register to address the planning panel at the meeting to express the views of council.

7.6 Code of Conduct considerations

All planning panel members are required to comply with the planning panel's Code of Conduct when exercising their functions as a panel member and make merit-based decisions in accordance with statutory obligations.

7.7 Submission of assessment report to the secretariat

The completed assessment report and recommendation is to be forwarded via electronic means to the secretariat.

The assessment report is not to be endorsed or presented to the elected council before being forwarded to the secretariat.

The following items are to be forwarded in a digital format to the secretariat:

- assessment report and any attachments and recommendations (including conditions)
- the planning panel assessment report cover sheet
- final architectural drawings, plans and other reports that the assessing officer considers that the panel may require in order to make an informed decision
- copies of each submission received in respect of the DA along with a table containing the names, postal addresses and email addresses (if provided) of every person or body who made a submission to allow the secretariat to notify submitters of the details of the panel meeting
- in the case of petitions, only the name and address of the head petitioner should be provided, if that person can be identified.

Council's assessment report must include a summary and assessment of all submissions, to enable the planning panel to consider the submissions for the purposes of section 4.15 of the EP&A Act. Based on the details provided and in consultation with the Chair, the secretariat will notify persons who made submissions of the time, date and venue of the planning panel meeting at which the relevant application will be considered.

A full copy of each submission and petition is to be available for perusal by panel members at the meeting.

7.8 Written submissions to the planning panel

At the planning panel meeting, it is acceptable to provide the panel with written material which summarises the matters to be presented to the panel by the speaker. However, this written material must be kept to a minimum.

8. Planning Proposals

8.1 Consideration of Planning Proposals

There is no requirement for the panel to hold a public meeting to consider a Planning Proposal. The panel Chair may request to be briefed on the Planning Proposal by council staff and then provide advice on the proposal in a confidential session.

Planning Proposals can also be considered by an electronic circulation of papers.

8.2 Panel site inspections and briefings

The Chair may elect for the panel to attend site inspections of panel briefings for Planning Proposals prior to the panel's consideration.

Site visits should be conducted on the same day as a public hearing, if practicable.

Site visits are solely to be used to identify and clarify issues with a proposal.

At a site visit or panel briefing, the planning panel must not offer an opinion on the merit of the proposal or ask those involved with the assessment of the proposal for their opinion or recommendation.

The chair will also invite the council assessment officer and other persons engaged in the assessment of the matter to attend a site visit or panel briefing. On request, and at the Chair's discretion, the applicant may attend a briefing, along with Council staff, to explain complex matters or present confidential or commercially sensitive material. A written record of briefing must be made publicly available on the panel's website (Attachment 5).

The planning panel may conduct the site visit on the same day as the planning panel meeting or at some other time, determined on a case-by-case basis with regard to circumstances such as location and available time. A written record of a site visit must be made publicly available on the panel's website.

In some circumstances, other parties, including the applicant of the Planning Proposal, may also be invited to attend a site visit. Whether other parties are invited is at the discretion of the chair.

In deciding to conduct a site visit, the chair should take into consideration the availability of all members of the planning panel and any other persons also invited to attend the site visit.

Entry to any private land may only take place with the express permission of the owner of the land, and it is the responsibility of council staff to seek owner's consent when required.

8.3 Panel advice

The panel is to provide advice on whether the proposal should be submitted to the Department for Gateway determination (Attachment 4).

A full assessment report is required to enable the panel to provide comprehensive advice to the council.

Once a planning assessment is completed by the council and referred to the panel, the panel will be expected to provide advice within 2 weeks (14 calendar days).

9. Determination

9.1 Planning panel meeting

A planning panel meeting is where the planning panel meets in public or electronically to consider DAs. Refer to Schedule 1 for more information on the detailed procedures for panel determination meetings.

The purpose of the meeting is for the planning panel to hear those who wish to express their view on the DA before the panel makes a decision.

Following public submissions being heard and after considering the recommendation in council's assessment report and hearing the views of the public, the panel may determine the application or defer its decision for reasons that will be stated in the meeting record.

9.2 Meeting dates and agendas

A regular schedule of proposed meeting dates is determined at the beginning of each year by the secretariat in consultation with the chair. The meeting dates are listed on the planning panel's website and are reserved for public briefing meetings, briefings with council staff, site visits, or planning panel meetings.

Additional meetings of a planning panel may be organised at the discretion of the chair.

These additional dates will be posted on the website as soon as they become available.

The agenda for each meeting is approved by the chair who may consult with Council's Director Planning and Development as necessary.

9.3 The meeting venue

The meeting venue is determined by the chair in consultation with council.

9.4 Notice of meeting

Notice of a planning panel meeting is to be given by the secretariat at least 7 days before the meeting. Notice is provided to panel members, every person who made a submission to the council (in the case of petitions, only the head petitioner) in respect of an item to be considered at the meeting, and the applicant for the item. A notice is placed on the planning panel website.

The notice is to include details of:

- the time and date of the meeting
- the venue for the meeting

- the development application/s
- the availability of agenda and business papers, which will include the assessment report and recommendations
- other matters to be considered at the meeting.

9.5 Distribution of meeting agenda and business papers and requests for extra information

The meeting agenda, business papers/assessment reports and attachments, including any representations made by the elected council, are to be distributed to members of the planning panel and uploaded on the planning panel's website by the secretariat no less than 7 days prior to the meeting.

A hard copy of the agenda and business papers will be posted via overnight express post to those panel members who will have a decision-making role on the DA, except where electronic distribution is necessitated by Council Policy circumstances.

Requests of Council Staff by a Panel Member for extra information regarding an application or proposal should be made in writing to the Secretariat (and copied to the other Panel members) by close of business two business days prior to the relevant Panel Meeting, wherever possible.

9.6 Obligation to consult with council if adverse financial impacts

A panel must not exercise a function that will result in the making of a decision that would have, or that might reasonably be expected to have, a significantly adverse financial impact on a council until after it has consulted with the council.

The consultation may be in writing, with the council being given a specified time to respond in writing. Where a meeting with the General Manager (or delegate) is to be held to discuss the matter, all relevant panel members should be present and minutes kept of the meeting and its outcomes.

10. Post determination process

10.1 Issuing the notice of determination and record of deferral

The notice of determination or record of deferral is issued by Blacktown City Council, following the decision of the planning panel and in accordance with the EP&A Act, EP&A Regulation and the council's normal procedures.

The notice should not be issued until a copy of the endorsed and final panel determination has been received by council. The notice of determination must include all conditions imposed by the planning panel.

Enquiries about the determination should be directed to the council planning officer responsible for the assessment report.

Council is responsible for advising any person who made a submission on the DA of the determination.

Where the determination of an application is deferred pending the provision of additional information, the panel must specify the timeframe in which the information is to be provided to the Council for assessment. If the panel is of the mind to defer an application, they will also consider giving delegation to Blacktown City Council's Director Planning and Development to refuse the application if information is not received by the deadline.

10.2 Monitoring of and compliance with conditions of approval

The council as the consent authority will continue to be responsible for the monitoring of, and enforcing compliance with, any conditions of the development consent.

10.3 Appeals against a planning panel determination

A merit appeal against a panel determination is brought against the council. Merit appeals against the determination of a planning panel are defended and managed by the council, consistent with the instrument of delegation from the Blacktown Local Planning Panel dated 11 April 2019.

A planning panel can still determine a DA even though it is subject to a deemed refusal appeal. In these cases, council's assessment officer may complete their assessment report so that the planning panel can determine the DA.

10.4 Reviews of panel decisions

The determination of a review application from a panel decision shall be determined by different members of the panel to those who made the original determination.

Schedule 1: Planning panel meetings procedures

1. General

Planning panel meetings are to be conducted in public or electronically, unless otherwise directed by the Minister, or unless the chair is of the opinion there are justifiable reasons to conduct any part of the meeting in closed session.

At the meeting, the chair will introduce the members, and make any relevant announcements such as changes to the agenda or apologies. The chair will also ask for any declarations of interest on the matter being considered.

The chair may also briefly summarise the key issues that have arisen in the assessment report.

The panel is not bound by the rules of evidence and may inquire into and inform itself on any matter, in such manner as it thinks fit, subject to the rules of natural justice and procedural fairness.

The panel is to act with as little formality as the circumstances of the case permit and according to equity, good conscience and the substantial merits of the case without regard to technicalities or legal forms.

The standard meeting agenda is provided at Attachment 1.

2. Quorum for a planning panel meeting

A quorum for a determination meeting of a planning panel is a majority of its members, including the chair, i.e. a total of 3 members. The determination meeting is to be deferred if a quorum is not present.

Where conflicts of interest are known before the meeting, alternate members will be used to ensure there is a quorum.

3. Disclosure of pecuniary interests

If a member of a panel has a pecuniary interest in a matter being considered or about to be considered at a meeting of the panel, the member must disclose the nature of the interest at a meeting of the panel.

The particulars of any disclosure of pecuniary interest must be recorded by the panel secretariat. That record must be available to be inspected at all reasonable hours by any person on payment of the fee determined by the panel.

After a member of a panel has disclosed the nature of an interest in any matter, the member must not:

- be present during any deliberation of the panel with respect to the matter, or
- take part in any decision of the panel with respect to the matter.

It is a requirement of the Code of Conduct that all panel members must sign a declaration of interest in relation to each matter on the agenda before or at the beginning of each meeting, even if there is no interest to declare. These declarations and any management measures put in place are to be published on the relevant council's website as soon as practicable.

4. Presentations at a planning panel meeting

The chair will determine the order of presentations to the panel. Panel members may ask questions of those making presentations. The amount of time given to each speaker will be at the discretion of the chair.

At the planning panel meeting, it is acceptable to provide the panel with written material which summarises the matters to be presented to the panel by the speaker. However, this written material must be kept to a minimum.

With a view to discharging its responsibilities in a timely manner, the panel may, in its absolute discretion, but otherwise fairly and consistently, impose time limits on presentations by persons other than members of the panel. Where there are a large number of objections with a common interest at any public meeting, the panel may, in its absolute discretion, hear a representative of those persons.

Presentation by the assessment officer

The chair may request that the assessing officer responsible for preparing the assessment report (or a representative) presents a summary of the DA or other matter before the panel, as the case may be, and outline any relevant assessment issues at the start of the presentation. The assessment officer should have available at the panel meeting a set of large scale plans.

It is council's planning and assessment professional staff that prepare DA assessment reports for the panel's consideration.

The assessment officer (or representative) should inform the chair of any late submissions received, and of any issues raised which may not have been addressed in the assessment report.

The assessment officer (or representative) should be present throughout the panel meeting, so that the panel chair can seek clarification where necessary of assessment issues that may arise during the course of the meeting. Other technical experts from the council may

also be present (such as traffic and drainage engineers) and the panel chair may ask for clarification of specific issues. Any questions to council staff can only be made by panel members and are to be directed through the panel chair.

Presentation by the applicant or proponent

The applicant will be given the opportunity to outline the proposal and respond to the assessment report. The applicant/proponent may also be required to respond to submissions made at the meeting. The time allocated to the applicant/proponent, including their consultant(s), will be at the discretion of the chair, but will generally be 15 minutes. Additional time may be allocated where professional consultants have been engaged by the applicant/proponent to present at the meeting.

Presentation by people or groups who made submissions

Planning panel meetings enable people or groups to make a presentation to the panel meeting. People who wish to address the planning panel must register with the secretariat prior to the meeting by contacting the secretariat by telephone or email within the timeframe specified in the notification letter (generally 2 days before the panel meeting).

The chair will advise of the time allocated for verbal submissions, which will vary from meeting to meeting depending on a number of considerations such as the number of registered speakers.

As a guide:

- individual submitters will have 3 minutes to speak
- a speaker for a community organisation/group will have 10 minutes to present. Additional time may be allocated where professional consultants have been engaged by community groups to present at the meeting.

In addition, where a large group of people have common issues to raise at the meeting, the chair may ask that a spokesperson be appointed to speak on behalf of the group. In such cases, the spokesperson will generally be allocated more time than individual speakers.

The chair will seek to ensure that all groups or individuals who request to address the panel will be heard. Any requests for extending time limits should be made to the panel at the meeting and may be granted at the discretion of the panel chair.

Speakers should focus their oral presentations on the assessment report and its recommendation rather than re-stating information outlined in their earlier written submissions. The planning panel will have read all submissions and associated documents before the planning panel meeting.

Presentation by people or groups that have not made a submission

The chair has the discretion to allow any member of the public to address the planning panel, even if they have not made a submission or registered to speak by the relevant deadline. Considerations may include the number of persons that made submissions and have requested to address the meeting, and the available time.

5. Closed sessions

A planning panel may decide to conduct any part of the meeting in closed session if it considers that the matter to be discussed includes:

- commercial information of a confidential nature that would, if disclosed:
 - prejudice the commercial position of the person who supplied it, or
 - reveal a trade secret
- advice concerning litigation or planning panel advice that would otherwise be privileged from production in legal proceedings or for other purposes on the ground of legal professional privilege
- information concerning the nature and location of a place or item of Aboriginal significance on community land
- a potential conflict of interest of a member
- any other reason deemed appropriate by the planning panel.

Only the planning panel members should be present during the closed session. However, the chair may request council assessment staff to attend if they require any issues to be clarified. The chair may also request that the minute taker is present during the closed session.

Before the chair decides to conduct any part of a planning panel meeting in closed session, the chair may allow members of the public to make representations as to whether that part of the meeting should be closed.

Where a chair decides to close any part of a planning panel meeting, the reasons for closing that part of the meeting must be recorded in the meeting record.

6. Adjourning during a planning panel meeting

After hearing from registered speakers, the planning panel may adjourn the meeting to confer amongst themselves, before reconvening the public meeting to make their decision. Before the adjournment, the panel chair must publicly state the reasons for adjournment which should be recorded in the meeting minutes.

Only the planning panel members should be present during the adjournment. However, the

chair may request assessment staff to attend the adjournment if they require any issues to be clarified.

During the adjournment, the panel members may deliberate on their decision and formulate a resolution.

The chair may request that the minute taker is present during the adjournment to assist in recording a resolution, where necessary. However, minutes of the adjournment will not be recorded because this is not part of the meeting.

After reconvening, the panel chair should briefly summarise the matters discussed in the adjournment, including any questions asked of the assessment officer (and any responses given). The planning panel may then discuss the matter in the public meeting and/or make their determination in the public meeting.

7. Deferring a decision at a planning panel meeting

A panel may decide to defer its determination of the matter for a subsequent meeting. A decision may be deferred for any reason, including to obtain additional information or advice.

The chair will inform the meeting of the reasons for the deferral of a decision and will advise of the procedures to be followed for the determination of the DA. This may include the decision to conduct any further meetings via electronic means following the conclusion of business transacted substantially in a public meeting.

If there are matters raised in the planning panel meeting that were not addressed in the assessment report, these will be noted in the records of the panel meeting, and the panel may refer the matter to the council's officer for a supplementary report.

The planning panel may engage experts to obtain independent advice and assistance as the panel thinks fit, to ensure adequate and appropriate information is available for consideration in making a subsequent determination.

Where the determination of an application is deferred pending the provision of additional information, the panel must specify the timeframe in which the information is to be provided to the Council for assessment. If the panel is of the mind to defer an application, they will also consider giving delegation to Blacktown City Council's Director Planning and Development to refuse the application if information is not received by the deadline.

Council must address all issues raised by the planning panel in its supplementary report. The planning panel may also request a supplementary assessment report to be provided within a specified timeframe.

A record of the panel meeting, including the reasons for deferral, will be placed on the planning panel's website.

It is the council's responsibility to follow up on any requests for additional information or amendments from the applicant, and to report these to the planning panel in a supplementary report.

8. Making the determination of a development application or other matter considered by the panel

Where possible the planning panel will make its decision in an open forum and by consensus. Where a decision cannot be made by consensus, the decision will be made by majority vote. The chair will have a second or casting vote if required because of an equality of votes.

The planning panel's consideration

The planning panel must take into account considerations under section 4.15 of the EP&A Act in making its determination. These considerations will be set out in council's assessment report, and include:

- the planning controls for the site
- any environmental, social or economic impacts
- the suitability of the site for the proposal
- any submissions made on the proposal
- the public interest.

The planning panel should satisfy itself that in making its determination it has identified (and taken into consideration) all of the mandatory considerations.

In addition to council's assessment report, the planning panel is to take into account all written submissions made on the application, as well as the views expressed by those addressing the planning panel at the public determination meeting.

The planning panel's reasons

The planning panel is required to provide reasons for its decisions, which are to be recorded in the 'Determination and Statement of Reasons' template provided by the secretariat for each meeting (see Attachment 2).

The planning panel may rely on the conclusions and recommendations within council's assessment report, however, the panel must identify the reasons why it made the decision.

The planning panel's determination

The planning panel must clearly state whether the application is unconditionally approved, approved with conditions, refused or deferred.

Any new conditions of consent or changes to the recommended conditions of consent must be recorded.

If a matter is deferred for any reason, the reasons for deferral should be recorded using the Record of Deferral template provided by the secretariat (see Attachment 3). Where the determination of an application is deferred pending the provision of additional information, the panel must specify the timeframe in which the information is to be provided to the Council for assessment. If the panel is of the mind to defer an application, they will also consider giving delegation to Blacktown City Council's Director Planning and Development to refuse the application if information is not received by the deadline.

If the planning panel resolves to approve an application that is recommended for refusal, the panel may seek a further report from the council's planning officer providing recommended conditions of consent. The planning panel may also request without prejudice conditions of consent before a planning panel meeting if council's report recommends refusal.

Dissenting views

If the decision (and reasons for the decision) is not unanimous, all members of the planning panel (i.e. including the minority) still need to give reasons.

Timing of determination and statement of reasons

It is preferable that the planning panel record both its decision and its reasons at the time of the determination.

Signatures

All members of the planning panel must sign the Determination and Statement of Reasons. Where one or two members are in dissent, they must still sign, as the reasons will set out their dissenting views.

9. Recording meeting proceedings

The secretariat and chair are responsible for ensuring that full and accurate records are kept of planning panel meetings.

A copy of the unconfirmed meeting record will be provided to all panel members who participated in the panel meeting. Panel members may submit any proposed corrections to the unconfirmed meeting record to the secretariat for confirmation by the chair.

Alternatively, a planning panel may choose to complete and endorse the final meeting records immediately after completing the meeting. In this case, draft meeting records will not be circulated.

When the meeting records have been confirmed and endorsed by the chair of that meeting,

the meeting record will be placed on the planning panel's website.

The confirmed meeting records must be available within 7 days of the planning panel meeting.

Any meeting record must detail:

- the opening and closing times of the meeting
- the details of the matter considered by the panel
- the names of all members of the panel, including the chair
- any disclosure of interest made by a member, the reason for that disclosure of interest and whether the member making the disclosure participated in the discussion or determination of the matter
- any adjournments and reasons for the adjournment
- the names of each person heard by the planning panel in respect of a matter
- any decision of the planning panel, or other outcomes of the meeting
- reasons for the decision
- the names of each member who voted for or against the decision, and reasons for dissent, where the decision is not unanimous
- the signatures of all the members making the decision.

The secretariat is responsible for recording decisions and taking meeting minutes for planning panel meetings.

10. Transaction of business outside planning panel meetings

Clause 268I of the EP&A Regulation provides that a planning panel can transact its business at a meeting at which members participate by electronic means including telephone, email, and videoconference.

The Chair may determine that it is unnecessary to hold a meeting in public.

Circumstances where a public determination meeting may not be required includes:

- where the assessment report recommends approval and there are no submissions by way of objection
- where the planning panel has held a public meeting and deferred its decision to request specific additional information from an applicant or council (such as amended drawings). In this case, an electronic meeting should only occur if council, after having accepted the amended drawings, has decided that re-exhibition of the amended drawings is not required.

Where a development application is the subject of less than 10 unique submissions by way of objection, the panel is able to determine the application by an electronic circulation of papers.

Planning Proposals are able to be considered by an electronic circulation of papers.

When an electronic meeting is proposed, the council report and recommendation must be made available on the planning panel's website 7 days prior to the DA being determined.

The secretariat will distribute business papers (including the assessment report and attachments) to planning panel members for consideration and advise that the determination is proposed to be made via electronic means if all members agree with the assessment report recommendation.

Following consideration of the business papers, the planning panel will advise the secretariat of its decision on the DA and a record of decision will be completed and endorsed by all members.

The chair and each panel member will have the same voting rights as they have at public determination meetings.

Decisions made by electronic circulation of papers are to be recorded in the panel's minutes and made publicly available on the panel's website.

Attachment 1

Blacktown Local Planning Panel Meeting No. 2020/# - DATE, ##am/pm

Agenda

1. Declare Panel Meeting open
2. Welcome to Country
3. Apologies
4. Introduce members
5. Work health and safety statement
6. Disclosures of interest
7. Recording of proceedings
8. Political donations by persons addressing the panel
9. Development Application –
10. Close of open session
11. Confidential briefing and consideration of Planning Proposal
 - 11.1 Planning Proposal:
12. Close of confidential session

Attachment 2

Blacktown Local Planning Panel DETERMINATION AND STATEMENT OF REASONS

DATE OF DETERMINATION	
PANEL MEMBERS	
APOLOGIES	
DECLARATIONS OF INTEREST	
APPLICANT/OWNER	Applicant – ## Owner – ##
MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report • Written submissions during public exhibition – # (number of submissions) • Verbal submissions at public meetings: <ul style="list-style-type: none"> ○ ### object (<i>number of speakers</i>) - NAMES ○ ### support (<i>number of speakers</i>) - NAMES ○ ### Applicant (<i>number of speakers</i>) - NAMES ○ ### Council officer/s (<i>number of speakers</i>) - NAMES
MEETINGS, BRIEFING AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site inspection: DATE AND TIME • Private Panel briefing: DATE AND TIME • Attendees: <ul style="list-style-type: none"> ○ Panel members: NAMES ○ Council officers: NAMES

Public meeting held at Blacktown City Council, Committee Rooms 2 and 3 on Select Date, opened at Opening Time and closed at Closing Time.

Electronic meeting held between Select Date and Select Date.

MATTER DETERMINED

DA-##-##### at address for purpose.

PANEL CONSIDERATION AND DECISION

The Panel considered the assessment report on the matter, the material presented at the Panel meeting and the matters observed at the site inspection.

IF ELECTRONIC MEETING The Panel considered the assessment report on the matter that resulted from the original deferral decision by the same Panel at its meeting held on #### and the subsequent material submitted by the applicant.

The Panel determined to approve/refuse the development application described above pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* and uphold the variation to the #### standard in clause 4.3 of the *Blacktown Local Environmental Plan 2015* using clause 4.6.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The decision was [unanimous] or [X in favour, X against the decision as listed below].

In favour: _____

Against: _____

REASONS FOR THE DECISION

The Panel approved/refused the Development Application for the following reasons:

- _____
- _____
- _____

The Panel upheld the variation to the height of buildings development for the following reasons

- _____
- _____
- _____

[Member Name] disagreed with the majority decision for the following reasons:

- _____

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered the written submissions made during public exhibition and the views of those who addressed the Panel at the meeting. The issues of concern included:

- _____

- _____
- _____

The Panel determined that the concerns raised by the community have been adequately addressed in the assessment report and that no further new issues requiring assessment were raised during the meeting.

OR No submissions were received during public exhibition.

CONDITIONS

The Development Application was approved subject to the conditions in the Council Assessment Report with the following amendments: [Explanation of why conditions were amended or 'Not applicable' for refusal]

Condition	Amendment

PANEL MEMBERS
[Name] (Chair)
[Name] (Expert)
[Name] (Expert)
[Name] (Community representative)

Attachment 3

Blacktown Local Planning Panel RECORD OF DEFERRAL

DATE OF DETERMINATION	
PANEL MEMBERS	
APOLOGIES	
DECLARATIONS OF INTEREST	
APPLICANT/OWNER	Applicant – ## Owner – ##
MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report • Written submissions during public exhibition – # (number of submissions) • Verbal submissions at public meetings: <ul style="list-style-type: none"> ○ ### object (number of speakers) - NAMES ○ ### support (number of speakers) - NAMES ○ ### Applicant (number of speakers) - NAMES ○ ### Council officer/s (number of speakers) - NAMES
MEETINGS, BRIEFING AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site inspection: DATE AND TIME • Private Panel briefing: DATE AND TIME • Attendees: <ul style="list-style-type: none"> ○ Panel members: NAMES ○ Council officers: NAMES

Public meeting held at Blacktown City Council, Committee Rooms 2 and 3 on Select Date, opened at Opening Time and closed at Closing Time.

MATTER DEFERRED

DA-##-#### at address for purpose.

PANEL CONSIDERATION AND DECISION

The Panel considered the assessment report on the matter, the material presented at the Panel meeting and the matters observed at the site inspection.

The Panel agreed deferred the determination of the matter until the following information or assessment is completed/provided by Applicant/Council:

- _____
- _____

The Panel requires this information to be submitted to Council by ###. When this information is received, the panel will [hold another public determination meeting/determine the matter electronically]. If the information is not received by this date, the Panel gives Council's Director Planning and Development delegation to refuse the development application.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The decision to defer was [unanimous] or [X in favour, X against the decision as listed below].

In favour: _____

Against: _____

REASONS FOR DEFERRAL

The reasons for the decision of the Panel were:

- _____
- _____

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered the written submissions made during public exhibition and the views of those who addressed the Panel at the meeting. The issues of concern included:

- _____
- _____
- _____

The Panel determined that the concerns raised by the community have been adequately addressed in the assessment report and that no further new issues requiring assessment were raised during the meeting.

OR No submissions were received during public exhibition.

PANEL MEMBERS
[Name] (Chair)
[Name] (Expert)
[Name] (Expert)
[Name] (Community representative)

Attachment 4

Blacktown Local Planning Panel PLANNING PROPOSAL ADVICE

DATE OF DETERMINATION	
PANEL MEMBERS	
APOLOGIES	
DECLARATIONS OF INTEREST	
APPLICANT/OWNER	Applicant – ## Owner – ##
MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report
BRIEFING BY THE PANEL	<ul style="list-style-type: none"> • Private Panel briefing: DATE AND TIME • Attendees: <ul style="list-style-type: none"> ○ Panel members: NAMES ○ Council officers: NAMES

Confidential Panel meeting held at Blacktown City Council, Committee Rooms 2 and 3 on Select Date, opened at Opening Time and closed at Closing Time.

PLANNING PROPOSAL

F###/#####: Planning Proposal for ##

PRIVATE BRIEFING

A private briefing was held between Panel members and Council staff and the following issues were discussed:

- _____
- _____
- _____

PANEL ADVICE

The Panel considered the assessment report on the matter and the material presented at the Panel meeting and supports/does not support the recommendation to progress the Planning Proposal for Gateway Determination.

The Panel provided the following advice for the Planning Proposal described above:

- The Proposal has/does not have strategic merit in regard to the natural environment, existing uses and likely future uses on and surrounding the site, and existing and required services and infrastructure.
- The proposal is responding to changing circumstance not recognised by current controls such as new infrastructure and changing demography.
- _____
- _____

PANEL MEMBERS
[Name] (Chair)
[Name] (Expert)
[Name] (Expert)
[Name] (Community representative)

Attachment 5

Blacktown Local Planning Panel RECORD OF BRIEFING

DATE	
LOCATION	
PANEL MEMBERS	
APOLOGIES	
DECLARATIONS OF INTEREST	
COUNCIL STAFF	
OTHER	

BRIEFING MATTER

DA-##-#### at address for purpose.

KEY ISSUES DISCUSSED

- _____
- _____
- _____