

Item No: 1.4
Title: Mayoral Minute – Independent Hearing and Assessment Panels (IHAPs)
Department: Councillor



29 January 2019 Ordinary Council Meeting

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Author: Jane Smith, Mayor

Background:

The New South Wales Government has announced that it has accepted all 19 of the recommendations of a review of the NSW planning system, undertaken by former NSW Deputy Police Commissioner Nick Kaldas.

One of the recommendations is to extend Independent Hearing and Assessment Panels (IHAPs) to the Central Coast and Newcastle. An IHAP known as a Local Planning Panel under the *Environmental Planning and Assessment Act 1979*, is a panel of; a chair, two independent expert members and a community member who assess development applications (DAs) made to local councils. IHAPs were made mandatory for all Sydney Councils and Wollongong City Council from 1 March 2018. According to the NSW Department of Planning, panels are put in place 'so the process of assessment and determination of DAs with a high corruption risk, sensitivity or strategic importance are transparent and accountable.'

(<https://www.planning.nsw.gov.au/Assess-and-Regulate/Development-Assessment/Independent-Hearing-and-Assessment-Panels>)

Local Government NSW, the peak body for Councils in NSW, is opposed to the mandatory introduction of IHAPs. At the Local Government NSW Conference in 2017 the following motion was carried:

- i. That Local Government NSW campaigns with NSW councils against the State Government takeover of planning powers through IHAP legislation.*
- ii. That Local Government NSW calls on the NSW Parliament to revoke legislation that mandates Independent Hearing and Assessment Panels (IHAPs) for all councils in Sydney and Wollongong.*

Local Government NSW has recently released its 'NSW Election Priorities 2019' calling on all parties and candidates contesting the 2019 state election to commit to 12 priority areas to improve liveability and help local government deliver better infrastructure, services and outcomes for communities. One of the priority areas is 'to restore planning powers to communities' and calling on candidates to support reform of the NSW planning system to:

- Restore the right of metropolitan councils to choose whether to use local planning panels, allowing councils and neighbourhoods to make decisions about developments that affect them
- Fix the NSW private certification system

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- Set housing targets with local governments, not for them.

This Mayoral Minute will move that Central Coast Council join with Local Government NSW and other councils in opposing the mandatory introduction of IHAPs.

NSW Planning Minister Anthony Roberts has claimed IHAPs are all about probity, but Councils and Local Government NSW believe they actually erode the community's democratic right to help determine what happens in their neighbourhood. Councillors are elected by and accountable to the community, while IHAPs have the potential to reduce the accountability and transparency of planning decisions.

With the introduction of an IHAP, ratepayers will be expected to pay for the cost of establishing and running the panels which has been estimated to be at least \$100,000 per annum. This cost would be higher in growing areas like the Central Coast due to the number of applications received by Council. Council would also be required to cover court costs if IHAP decisions are challenged by applicants – even though Council will not have been the decision making authority. This is another example of cost-shifting to Councils and would mean that the funding of the panels would reduce Council's level of service delivery to our community.

According to Local Government NSW less than 3% of Development Applications (DAs) are currently referred to a council meeting for determination, with 97% being determined by Council planning staff under delegation.

Democratically-elected councils should be able to determine whether the panel option is the right choice for their area and whether there are real benefits to the community. Currently we are consulting with our community about consolidating our planning rules to provide consistency across the Coast. The community should be able to have confidence that they have a voice in the planning rules that affect their neighbourhoods and also a voice at the decision-making table via their elected representatives.

The current planning system includes a clear objective "to provide increased opportunity for community participation in environmental planning and assessment" and has been a mandate of this current State Government.

This Council is committed to progressing development that is in line with planning controls and community expectations. Community expectation is that elected Councillors will make decisions in the public interest and that includes in the planning sphere. Council must be able to represent the community and remain as the consent authority for development on the Central Coast.

I formally move:

1. Council reaffirms its position that Council must be the decision maker for all planning matters on the Central Coast that aren't subject to determination by the Hunter and Central Coast Regional Planning Panel.
2. Council opposes the introduction of an IHAP for the Central Coast.
3. Council work with Local Government NSW and other Councils to campaign to restore planning powers to communities.
4. Council write to the Minister for Planning and local State Members of Parliament candidates on the Central Coast calling for a reform of the NSW planning system to restore the right of councils to choose whether to use local panels, allowing councils and neighbourhoods to make decisions about developments that affect them.

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Attachments

Nil.