

0.0 Request for Nominations - Joint Regional Planning Panels

TRIM REFERENCE: F2004/00526 - D01917811

AUTHOR: PK

SUMMARY

This report details the request for Nominations for the Hunter Joint Regional Planning Panel by the NSW Minister for Planning, The Hon Kristina Keneally MP.

RECOMMENDATION

That Council nominate the following persons to be members of the Hunter Joint Regional Planning Panel:

- a A Councillor;***
- b Ms Gina Vereker – Director, Shire Planning,***
- c Mr Martin Johnson – Manager, Legal and Policy Unit as Council's Alternate Nominee.***

INTRODUCTION

The NSW Government's planning reforms include the establishment of Joint Regional Planning Panels (JRPPs) to determine development proposals of regional significance. The core objectives of JRPPs are to provide stronger decision making through greater independence, to supplement Council's expertise and draw on local and regional knowledge.

Six regions are proposed to cover metropolitan and regional areas of NSW. It is intended currently to only appoint JRPPs in five of the regions, with the Western Region being undertaken by the Planning Assessment Commission (PAC). Wyong Shire is included within the Hunter JRPP area.

The core functions of the JRPPs will be to:

- Exercise certain consent authority functions in regard to regional development applications; and
- Where requested, advise the NSW Minister for Planning on planning or development matters or environmental planning instruments in respect to the JRPPs' region.



Development applications for projects classed as regional development will be assessed by Council Officers. The Council Officer's assessment and recommendations will then be referred to the JRPP for determination. Regional Development will include:

- Retail, residential, mixed use, commercial and tourism projects with a Capital Investment Value (CIV) between \$10 million and \$100 million. (Those above \$100 million will automatically be determined by the Minister, following assessment by the Department of Planning, under Part 3A of the EP&AAAct, 1979);
- Public and private community infrastructure and ecotourism with a CIV of more than \$5 million, e.g., schools, community halls, libraries, etc;
- Designated Development (Environmental Impact Statement (EIS) required);
- Certain major coastal developments; and
- If Council is the proponent or is conflicted in relation to a development with a CIV of more than \$5 million.

Council may make a submission on a regional development to the JRPP for its consideration. Also, the JRPP must consult the Council prior to determining a matter which is likely to have significant financial implications for the Council. Existing appeal rights in relation to development applications will continue to apply for regional development applications. Council will follow its normal development assessment and reporting processes prior to referral of the matter to the JRPP for determination, including reporting the application to Council to determine Council's position on the development.

The JRPPs will be five member panels comprised of three members appointed by the Minister and two members appointed by Council. They are to be independent bodies, accountable to the Minister, but otherwise not subject to the direction and control of the Minister. The Minister has requested Council to nominate two persons to become members of the Hunter JRPP, and an alternate should a nominee be unavailable when required. The Minister has stressed that these members must act as independents, ie. they are to represent their own opinion on a development, not necessarily the Council's opinion.

The Council nominees will automatically become members of the JRPP for matters dealt with in the Council's Local Government Area. Should Council fail to nominate one or more Council nominees, the JRPP may still exercise its functions in relation to the area of the Council concerned.

The three State appointed members will determine applications within any of the local Government areas within the region. These members may be residents from anywhere in the region or may be external to the Region. Where they need to consider an application from the local Government area in which they reside it could be assumed that the normal conflict of interest of the Code of Conduct would apply, however, this Code has not yet been released and therefore it is unknown as to whether there will be a requirement for a State appointed member to declare a conflict of interest should one arise.

SUPPORT AND TRAINING

The Department of Planning (DoP) has indicated that it will provide detailed guidelines to Council on the operation of the Panel and will conduct information sessions throughout the State for Council staff, stakeholders and the community. Until these guidelines are released and training programmes conducted, the procedures of the Panel, the methodology for Council submissions and the transitional arrangements for regional applications are unclear. Therefore it is not yet known whether the Panel will deal with only applications lodged after the 1st July or any development application that has yet to be determined as of that date. A Code of Conduct, based on the local government Model Code of Conduct, will be provided to all JRPP members, who will be required to attend a training program and to adhere to the Department's operational guidelines.

Administrative and technical support for the operation of the Hunter JRPP will be provided by the Planning Assessment Commission (PAC) Panel Secretariat and through the Regional Branches of the DoP (Hunter Branch).

COSTS

Whilst the administrative and technical support resources mentioned above will be available to the JRPP members, the extent of other costs to be met by Council is unclear. In 2008, Council received only four applications exceeding \$10 million value, however, this number will vary year to year, particularly having regard to future projects arising from the Federal Government's Economic Stimulus Package funding for infrastructure works.

Development Applications for projects classed as regional development will be assessed in accordance with current requirements and policies by Council Officers, including consideration by the SEPP 65 Panel (reviews the design aspects of residential development proposals), etc. The Council Officer's assessment and recommendations will then be referred to the JRPP for determination. As Council will receive fees for the lodgement of the Development Application, the Council Officer's assessment and the Council Panel members costs may be covered, however, it is unclear to what extent Council may be expected to fund the wages, travelling, inspection bus hire fees, catering, copying, postage and document preparation costs for the three State appointed members of the Panel.

In consideration of the recorded costs to Council of administering the SEPP 65 Panel it was therefore considered that a reasonable budget needed to be set aside to cater for JRP Panel activities as well. Based on the costs of administering the SEPP 65 Panel in the 2008/2009 financial year, a further budget of \$52,200 has been included within the 2009/2010 Management Plan.

SELECTION OF NOMINEES

The Panel is scheduled to commence operation on 1 July 2009. Council has been requested to provide two nominations for panel members and an alternate to replace a Council nominee if unavailable, by Friday 5 June 2009 (Note: this is subject to the determination of a request for extension of the period for nominations to 30 June, 2009, by the Hunter Central Coast Local Government Planning Directors Group). To date no response has been received to that request.

A copy of the *Information Package for Council Nominees*, prepared by the DoP, is included as Attachment 1 to this report.

The Information Package requires Council to address each of the selection criteria for those nominated. It also cautions that nominees will be independent members, not subject to influence by other Council Officers or Councillors and are not to have any likely conflicts of interest in relation to Regional Development matters.

Subject to Council's agreement to the nominations proposed in the recommendation to this report, an appropriate outline of the nominees' qualifications, skills, attributes and experience under each criterion, together with examples of their relevant achievements can be prepared and submitted with Council's nomination.

The Selection Criteria applicable for all panel members include:

- Senior level experience in dealing with multiple stakeholders;
- High level communications skills;
- Capability to drive high profile outcomes in a credible and authoritative manner;
- High level analytical skills; and
- Knowledge of the assessment of complex developments and planning matters.

In addition, *at least one* of the Council panelists must have a high level of expertise in *one or more* of the following fields:

- Planning;
- Architecture;
- Heritage;
- The environment;
- Urban design;
- Land economics, traffic and transport;
- Law;
- Engineering; and
- Tourism.

There is no requirement that the Council appointed nominees be either both Councillors, both staff or one of each. However, it is considered most appropriate that one technical expert, ie, a member of staff and one elected member, representing the community be appointed.

Having regard to the Selection Criteria, it is proposed to nominate the following persons:

- 1 A Councillor, as determined by resolution at a meeting of the Council;
- 2 Ms Gina Vereker – Director, Shire Planning;
- 3 Mr Martin Johnson – Manager, Legal and Policy Unit, as Council's Alternate Nominee.

CONCLUSION

It is considered imperative for Council to ensure that experienced and appropriately qualified persons with adequate local knowledge are appointed to the Hunter JRPP. Should Council fail to take up the offer to nominate one or more Council nominees, the JRPP will still exercise its functions in relation matters relevant to the Wyong Shire. Whilst those persons will act independently, they can bring local perspective to matters of regional importance to the development of the Central Coast. It is therefore recommended that the persons identified in this report be nominated by Council. The Council nominees will automatically become members of the JRPP for matters dealt with in the Council's Local Government Area.

ATTACHMENTS

- 1 Information Pack D01908799

5 May 2009

Mr Kerry Yates
General Manager
Wyong Shire Council
PO Box 20
WYONG NSW 2259

Request for Nominations for the Joint Regional Planning Panels (JRPPs)

Dear Mr Yates

The NSW Government's planning reforms include the establishment of Joint Regional Planning Panels (JRPPs) to determine development proposals of regional significance. The core objective of JRPPs is to provide stronger-decision making through greater independence, to supplement Councils' expertise and draw on local and regional knowledge.

Details of the JRPPs, the regions, and their functions are provided in the attached background document. Six regions are proposed to cover metropolitan and regional areas of NSW. It is intended currently to only appoint JRPPs in five of the regions, with the functions of the JRPP in the Western Region being undertaken by the Planning Assessment Commission.

The JRPPs will commence operation on 1 July 2009.

The core functions of JRPPs will be to:

1. Exercise certain consent authority functions in regard to regional development applications; and
2. Where requested, advise the NSW Minister for Planning on planning or development matters or environmental planning instruments in respect to the JRPPs' region.

Development Applications for projects classed as regional development will be assessed by Council officers. The Council officer's assessment and recommendations will then be referred to a JRPP for determination. Last year I announced that regional development will include:

- Commercial, residential, retail and tourism with capital investment value (CIV) between \$10M and \$100M
- Public and private community infrastructure and ecotourism with a CIV of more than \$5M e.g. schools, community halls, libraries etc
- Designated development (Environmental Impact Statement (EIS) required)
- Certain major coastal developments; and
- If council is the proponent or is conflicted in relation to a development with a CIV of more than \$5M.

JRPPs will be comprised of three members appointed by me to participate in JRPP matters across that region, and two members appointed by the relevant councils, to participate in JRPP development and planning matters in their particular Local Government Area.

The NSW Government is now requesting councils to nominate two persons to become members of the relevant JRPP. Each council should also nominate an alternate member, who could replace a council nominee if unavailable.



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1 Farrer Place, Sydney NSW 2000
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office@keneally.minister.nsw.gov.au

It is important for the JRPP to consist of members with a broad range of skills and experience in development and planning matters. The selection criteria include:

- Senior level experience in dealing with multiple stakeholders
- High level communication skills
- Capability to drive high profile outcomes in a credible and authoritative manner
- High level analytical skills; and
- Knowledge of the assessment of complex developments and planning matters.

In addition, *at least one* of the Council panellists must have a high level of expertise in *one or more* of the following fields: planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering and tourism.

The Department of Planning has prepared the enclosed information package to assist councils to nominate appropriate candidates for this role.

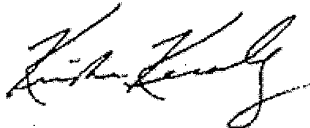
Please consult the information package and return submissions in writing **by Friday 5 June 2009** to:

Director General
NSW Department of Planning
GPO Box 39
Sydney NSW 2001

For further information please contact Sarah McGirr on (02) 9228 6347.

Additional copies of the enclosed information package are available at www.planning.nsw.gov.au or by emailing innovation@planning.nsw.gov.au.

Yours sincerely



The Hon Kristina Keneally MP

Enc: Information Package for Council Nominees



NSW GOVERNMENT
Department of Planning

EXPRESSIONS OF INTEREST AND NOMINATIONS FOR THE JOINT REGIONAL PLANNING PANELS

Information Package for Council Nominees

May 2009

1. Joint Regional Planning Panels

1.1. About Joint Regional Planning Panels

The NSW Government's planning reforms, aimed at delivering a more efficient and transparent planning system, include the establishment of Joint Regional Planning Panels (JRPPs).

The NSW Government is now requesting councils to nominate two persons to become members of the relevant JRPP. Each council should also nominate an alternate member, who could replace a council nominee if unavailable.

The NSW Government is also currently seeking Expressions of Interest (EOIs) for candidates interested in being appointed as State members of the JRPPs. This is being done through an advertised EOI processes.

The objective of JRPPs is to create a panel of people with appropriate expertise to determine development proposals of regional significance providing stronger decision making through greater expertise, independence and regional knowledge.

Six regions are proposed to be established covering metropolitan and regional areas of NSW (see figure one). The JRPPs are planned to commence operation on 1 July 2009.

1.2. Functions of JRPPs

The functions of JRPPs are to:

1. Exercise certain consent authority functions for 'regional development'; and
2. Where requested, advise the NSW Minister for Planning on planning or development matters or environmental planning instruments in respect to the JRPPs' region.

JRPPs will also have such other functions as are conferred on them by the *Environmental Planning and Assessment Act 1979* (EP&A Act). For example, JRPPs may have a role in relation to Local Environmental Plans (LEPs). This may include being appointed as the Relevant Planning Authority (RPA) for a LEP or, where requested by the Minister, reviewing or providing advice in respect of a proposed LEP. Where a JRPP is appointed as an RPA for a LEP, the Minister may also delegate plan making powers to the JRPP. JRPPs may also, in limited circumstances, be appointed by the Minister to exercise the functions of planning assessment panels under s.118 of the EP&A Act.

A regional panel is not subject to the direction or control of the Minister, except in relation to the procedures of a regional panel and to the extent provided for in the EP&A Act.

1.3. Commencement of JRPPs

Under the current Planning Reform Implementation Program, JRPPs are targeted to commence operation on 1 July 2009.

1.4. Support and Training

The Department of Planning will provide to Councils a detailed guideline to assist them prepare for the commencement of JRPPs. These guidelines will provide information on how JRPP matters are dealt with.

Prior to the commencement of the JRPPs, the DoP will conduct information sessions throughout the State for council staff, stakeholders and the community.

A Code of Conduct, based on the local government Model Code of Conduct, will be provided to all JRPP members.

Persons appointed as Panel members will be required to attend a training program that will be developed and provided by the DoP.

1.5. Council's role in relation to matters under consideration by the JRPP

The assessment of applications to be determined by the JRPPs is to be undertaken by the relevant council officers in which the proposed development is located. The council officers are to submit their assessment report and recommendations to the JRPP for determination.

Whilst the council will not be the determining body for JRPP matters, the council will have the opportunity to provide its views about any matters that are to be considered by a JRPP. The council's view may be provided to a JRPP by way of a submission in the same way that any other submissions about the matter are provided to a JRPP for its consideration in determining a matter.

The JRPP must consult the council prior to determining a matter which is likely to have significant financial implications for the council.

1.6. Consultation with stakeholders

The DoP is currently engaged in a consultation process regarding aspects of JRPPs. Elements of the policy may be varied as a result of the consultations or further reviews that may be undertaken.

The performance of JRPP will be monitored regarding the number and type of DAs determined by JRPP and timeframes. This information will provide the basis for any reviews or regional boundary adjustments.

2. Membership of JRPPs

The JRPPs are to consist of five members as follows:

State Members: Three State members appointed by the Minister, each having expertise in *one or more* of the following: planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering, tourism or government and public administration.

In appointing the State members, the Minister is required to have regard to the need to have a range of expertise represented among the panel's members. One of the State members will be appointed as the Chairperson of the JRPP. Each panel may elect a State member to be a Vice-Chairperson.

Council Members: Two council members appointed by each council that is situated in a part of the state for which a JRPP is appointed. At least one council nominee is required to have expertise in *one or more* of planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering or tourism. Important additional selection criteria are listed in Section 2. It will be a matter for each council to identify how the nominees are to be selected. Guidance for councils in selecting their nominees is available in Section 3.

The council nominees will automatically become members of the JRPP for matters in that council's local government area.

If a council within the area of a JRPP fails to nominate one or more council nominees, a JRPP may still exercise its functions in relation to the area of the council concerned.

Alternates: A council may, from time to time, appoint a person to be the alternate of a member nominated by the council, and may revoke any such appointment.

3. Administrative and other matters

Administrative and technical support for the operations of the JRPPs will be provided by the PAC Panel Secretariat and through the Regional Branches of the Department of Planning.

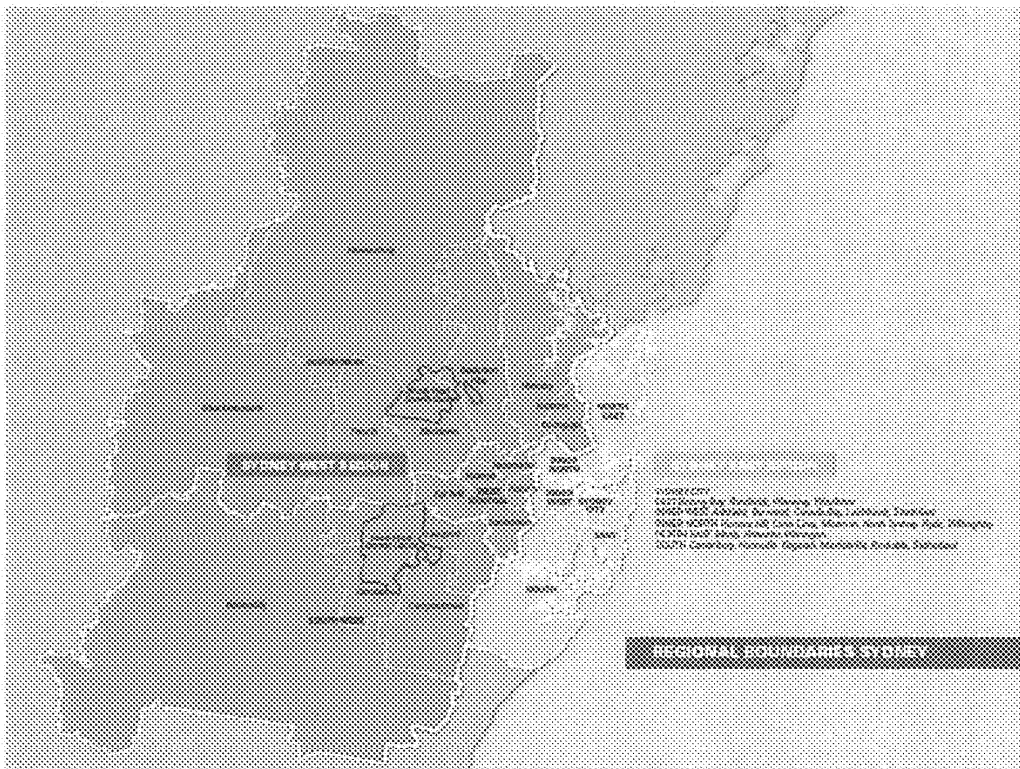
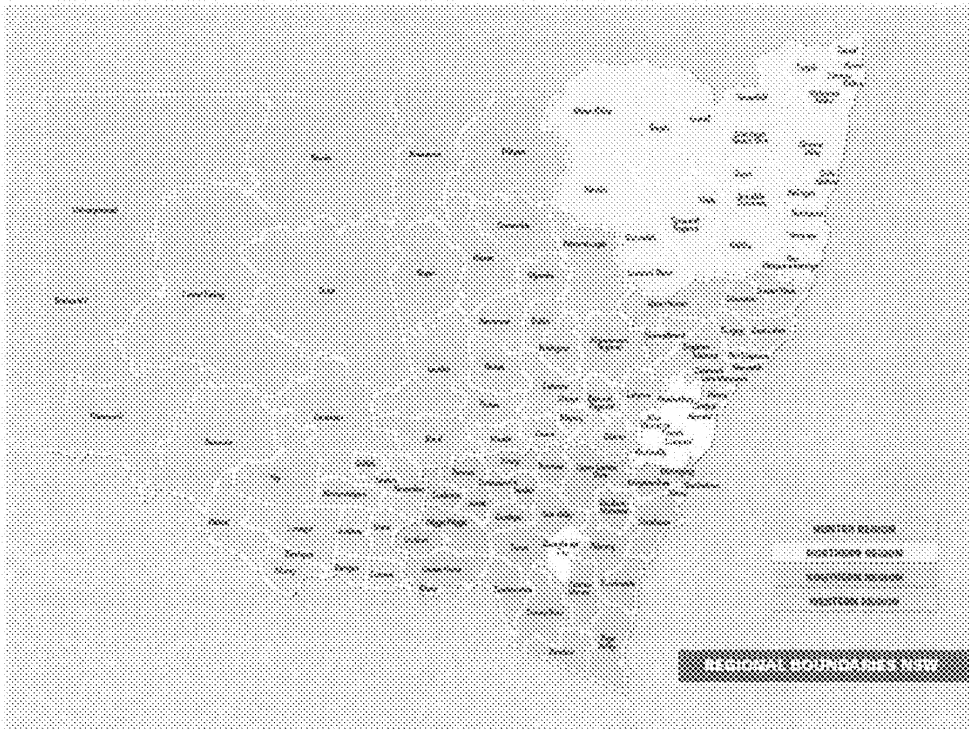
JRPPs are independent bodies, accountable to the Minister, but otherwise not subject to the direction and control of the Minister. JRPP members will be required to act at all times in accordance with best practice probity and accountability requirements and to demonstrate impartiality in the exercise of their functions.

4. Coverage of JRPPs

Six regions are proposed, corresponding with the existing DoP regions. These are:

- Northern Region
- Hunter Region
- Southern Region
- Sydney Metro East Region; and
- Sydney Metro West Region.

Currently, it is proposed that matters in the Western Region will be covered by the existing Planning Assessment Commission (PAC). The JRPP provisions do not apply in the City of Sydney, where the Central Sydney Planning Committee (CSPC) will continue to function.



5. Nominations of Council Members to the JRPP

In preparing nominations, councils should address each of the selection criteria below including an outline of the nominee's qualifications, skills, attributes and experience under each criterion, along with examples of their achievements relevant to the criterion.

The NSW Government is requesting councils to nominate two persons to become members of the relevant JRPP for the council's area. Each council should also nominate an alternate member, who could replace a council nominee if unavailable.

Selection criteria

It is important for the JRPP to consist of members from a diverse background with a broad range of skills and experience. The selection criteria include:

- Senior level experience in dealing with multiple stakeholders
- High level communication skills
- Capability to drive high profile outcomes in a credible and authoritative manner
- High level analytical skills; and
- Knowledge of the assessment of complex developments and planning matters; and

In addition, *at least one* of the two Council nominees must have a high level of expertise in *one or more* of the following fields:

- Planning
- Architecture
- Heritage
- The environment
- Urban design
- Land economics
- Traffic and transport
- Law
- Engineering
- Tourism.

6. Guidance for Councils in Selecting Nominees

All members of JRPPs will be expected to act independently in reaching their decisions. Therefore, in determining nominees, councils should consider the potential for conflicts of interest, either real or perceived.

Councils may choose to undertake a local Expression of Interest (EOI) process to identify members of the community who would make suitable members of the JRPP. This could be undertaken through existing channels such as Council's Mayoral Column in the local media, Council's website or newsletter (where applicable).

Should a council decide to nominate a member of its staff or an elected member of the council, it should do so in full recognition that such persons will be independent members of JRPPs. As such they should not be subject to influence by other council officers or Councillors on matters that are to be determined by a JRPP.

7. Responsibilities of Members

The responsibilities of JRPP members are to:

- Exercise their functions in accordance with statutory requirements as set out in the EP&A Act and associated regulations
- Comply with the approved JRPP Code of Conduct
- Promote a sense of confidence in the JRPPs as independent decision making bodies
- Establish and maintain effective working relationships with the councils in the relevant JRPP region
- Foster a positive working relationship with other JRPP members, the Panel Secretariat and the Department of Planning
- Follow approved JRPP procedures and participate in regular reviews of procedures, to ensure efficient and effective practices are adopted
- Perform their functions with integrity, impartiality, honesty, conscientiousness, care, skill, diligence; and
- Participate in/chair panel meetings or hold public hearings or panel meetings in a timely, efficient and cost-effective manner while having proper regard to the issues.

8. Appointment Terms and Conditions

8.1. Statutory Position

JRPPs are statutory bodies representing the Crown. Each council within a JRPP region is to nominate two members (and an alternate member) to sit on the JRPP with respect to matters that are within that council's area.

8.2. Term of Appointment

The term of appointment for council panellists is up to three years. Councils may nominate a shorter time period if they desire.

8.3. Remuneration

A JRPP member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine.

8.4. Private Interests

As part of the consideration of nomination of members to a JRPP, it is suggested that councils require nominees to declare any private interests that may conflict with the public duties they would be required to perform if nominated to a JRPP.

8.5. Pecuniary Interests

If a member of a JRPP has a pecuniary interest in a matter being considered or about to be considered at a meeting of a JRPP, and the interest appears to raise a conflict with the proper performance of the member's duties in relation to consideration of the matter, the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the JRPP. Unless otherwise determined, the member must not be present during any deliberations by the panel with respect to the matter or take part in any decision of the panel with respect to the matter.

8.6. Other Matters

- i. **Dealing with the Media:** A protocol will be prepared whereby the Chairperson can comment on decisions and respond to questions.

- ii. **Disclosure or misuse of information:** Members are required under the Act not to unlawfully disclose or use any information received in connection with carrying out their duties under the Act.
- iii. **Appropriate use of Secretariat Resources:** The JRPP must use resources provided by the Panel Secretariat and the DoP in an effective and efficient manner; and not use such resources for private purposes.
- iv. **Removal from office:** A council may remove any of its nominees from office at any time. The Minister may remove a State or council member from office if the Independent Commission Against Corruption (ICAC) recommends that consideration be given to the removal of the member because of corrupt conduct by that member.
- v. **Vacancies:** A vacancy in the office of a member occurs if the member:
 - Dies, or
 - Completes a term of office and is not reappointed, or
 - Resigns the office by instrument in writing addressed to the Minister or applicable council, as the case requires, or
 - In the case of a council nominee, is removed from office by an applicable council or by the Minister where ICAC recommends removal, or
 - In the case of a State member is removed from office by the Minister or by the Governor under Chapter 5 of the *Sector Employment and Management Act 2002*, or
 - Is absent from three consecutive meetings of the regional panel of which reasonable notice has been given to the member personally or by post, except on leave granted by the panel or unless the member is excused from the panel for having been absent from those meetings, or
 - Becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - Becomes a mentally incapacitated person, or
 - Is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more and is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- vi. **Regulations:** Regulations may be made in relation to the procedures of regional panels in exercising their functions, the provision of information and reports by regional panels and other matters.

9. Notification of council members

Each council should provide advice of the two persons it has nominated to become members of the relevant JRPP for its area.

Such advice should be should be provided by **Friday 5 June, 2009** in writing to:
Director-General
NSW Department of Planning
GPO Box 39
Sydney NSW 2001