



# IMPLEMENTATION OF THE INDEPENDENT HEARING & ASSESSMENT PANEL (IHAP)

## BRIEFING PAPER



## State and Federal Issues Briefing Paper

**Title:** Monitor and advocate for the Community in regards to the implementation of the Independent Hearing and Assessment Panel (IHAP)

**Date:** July 2018

<b>Key issues</b> ( <i>What problem/issue needs to be resolved?</i> )
<ul style="list-style-type: none"><li>• The requirement for the establishment of Independent Hearing and Assessment Panels will not increase transparency integrity and probity to the development assessment process.</li><li>• This requirement removes decision making at the local level.</li></ul>

<b>Action sought</b>	<b>Timeframe</b>
Determination of development applications be returned to local councils	Immediately

### Contact for telephone discussion (if required)

Name	Position	Telephone		Suggested first contact
		direct line	after hours	
John Sproule	Manager Governance	0246779561		✓
Chris Stewart	Director Planning	0246779559		

### The Briefing note:

#### Purpose of briefing

The purpose of the briefing is to inform the Government and Community that Council has concerns over the establishment of Independent Hearing and Assessment Panels and the weakening of local democratic accountability and decreased local/community input into local planning decisions that may occur as a result of this.

#### Executive Summary

The Council does not support the introduction of mandatory Independent Hearing and Assessment Panels (IHAP)

- It is recommended the determination of development applications be returned to elected Local Government Councillors.

## **Overview of the issue**

IHAPs are mandatory for all Sydney Councils and Wollongong City Council and the requirement for mandatory IHAPs commenced on 1 March 2018.

The new IHAP will exercise the consent authority functions of Council for certain DAs.

Elected Councillors no longer have any approval authority under the new provisions.

The primary function of an IHAP is to determine development applications that meet thresholds as determined by the NSW Government. They will also have the function of providing advice to Council on planning proposals (eg: rezonings) and any other planning or development matter that is referred to the panel.

It is envisaged this matter will be extensively debated at future Government conferences.

## **How do IHAPS (or Local Planning Panels) work?**

The IHAP is made up of 3 professional members (1 Chair and 2 experts in a planning related field) and 1 community representative (selected from a pool of Council appointed panel members).

The Minister for Planning has selected the independent expert Chairs for the Wollondilly Shire IHAPP who will rotate between various meetings. Council has selected 4 expert members (who will also rotate to fill the 2 expert positions required for each meeting) from a pool established by the NSW Department of Planning and Environment and approved by the Minister for Planning.

The Panels are governed by a code of conduct and operational procedures that will ensure the proper conduct of members, procedural fairness and efficient and effective meetings

The NSW Government announced this requirement for mandatory IHAPs will bring transparency, integrity and a high degree to the development application process. The requirement is viewed by the Government as a safeguard against corruption.

The impacts of this issue are:

- a removal of decision making from locally elected Councillors
- decisions are made in whole by delegates chosen by the Department of Planning
- The formal decision making process occurs behind closed doors

**Arguments for the creation of IHAPs include:**

- a broad selection of experts are better equipped to make the right decision than Councillors who are not familiar with detail of planning controls
- a separation of those who set planning policies (Councillors) and those who implement policy settings (IHAP)

**Arguments against the creation of IHAPs include:**

- Weaken local democratic accountability and decreased local/community input into local planning decisions
- The appointment of experts by the State
- Increased costs to Councils and local communities

**Council Resolutions regarding the issue:**

269/2017; 96/2017; 22/2018; Cr Strategic Planning Day 20/03/2018

**Community views on the issue (CSP)**

Given the recent introduction of the IHAP, the wider community is unaware of the change. It is envisaged a large controversial development proposal will result in an immediate change.

**Lobbyist's/Submitters' views on the proposal**

The development industry has suspended the Government stance on this issue and believe it is important the Panel members assess against the rules rather than becoming arbitrators seeking to balance community concerns with the viability of the proposal.

Concern has been raised regarding the focus on technical arguments of a proposed project rather than implications for surrounding residents

**State Government view on the issue**

The requirement for mandatory IHAPs and the removal of Councillors from deciding development applications has been passed into law by the NSW Parliament.

Hansard records a range of MPs whom consider mandatory IHAPs as being an anticorruption measure and this view was articulated in press releases from the Minister for Planning and Housing.

**Possible alternative solutions, options and/or recommendations**

It is recommended the IHAP be monitored, particularly in relation to the financial burden placed upon Council and that Council increase community awareness of the panel and its procedures.

Major flaws have been identified in the recruitment process of “experts” on the new independent planning panels. As a result of this recruitment processes should be reviewed and

**Actions:**

Determination of development applications be returned to local councils