



# IHAPs Evaluation

## Appendix D

### Quarter 2 Data (July – September 2018)

**Institute for Public Policy and Governance**

Prepared for the NSW Department of Planning and Environment

October 2018

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# 1 Introduction

This appendix presents the data collected during quarter 1 (July - September 2018) for the monitoring and evaluation of Independent Hearing and Assessment Panels (IHAPs). This supports the Report for the Local Planning Panels (IHAPs) Evaluation and provides more detail and other monitoring information.

In summary, this appendix contains additional information about:

- research approach, methods and qualifications and key considerations for quarter 2 (Section 1)
- the establishment of and support for IHAPs (Section 2)
- the operation of IHAPs (Section 3)
- conflicts of interest, complaints, reviews, and appeals (Section 4), and
- stakeholder perceptions (Section 5).

## 1.1 Methods

This section outlines the methods employed to collect data in quarter 2, along with key qualifications related to the interpretation of findings. See the Report for detail on the overall monitoring and evaluation approach across quarters.

### 1.1.1 Analysis of secondary data

#### 1.1.1.1 Briefing and guidance materials

IPPG obtained a range of briefing and guidance materials from the Department of Planning and Environment (DPE), including:

- an IHAPs Update email newsletter
- email communication regarding the updated Local Planning Panels Code of Conduct
- an IHAP Overview and FAQs
- an IHAP Best Practice Meeting Procedures, and
- documentation relating to DPE briefing for chairs and experts.

These materials provided an indication of the guidance and support provided by DPE.

#### 1.1.1.2 Council quarterly reports

IPPG analysed the available data from councils on the operation of panels. This data was provided by DPE from data entered by councils in the IHAP web form. The IHAP web form is designed to obtain ongoing feedback on the operation of panels (including the constitution of panel membership, the nature of development applications referred to panels, and decisions made by panels).

The data covers panel meetings held during this period between 2 July 2018 and 26 September 2018, planning proposals, complaints and appeals. In total, data was available for 466 DAs considered, across 33 councils and a total of 122 public meetings and 55 planning proposals.

In certain instances, data was analysed according to DPE-defined regions.<sup>1</sup> For some referral criteria analysis, council data was also clustered by Schedule number.<sup>2</sup> Outliers were excluded from this analysis (e.g. in cases where there was one panel meeting and one DA considered for an IHAP, data from that panel was excluded).

<sup>1</sup> These are: Sydney Central, Sydney North, Sydney South, Sydney South West, Sydney West, and Sydney West Central.

<sup>2</sup> Schedule 1: Bayside, Blue Mountains, Burwood, Camden, Campbelltown, Canada Bay, Georges River, Hawkesbury, Hornsby, Hunters Hill, Ku-ring-gai, Lane Cove, Mosman, North Sydney, Randwick, Ryde, Strathfield, Waverley, Willoughby, Wollondilly, Woollahra, and any other council that constitutes a Local Planning Panel constituted under the EP&A Act. Schedule 2: Blacktown, Canterbury-Bankstown, Cumberland, Fairfield, Inner West, Liverpool, Northern Beaches, Parramatta, Penrith, Sutherland, The Hills, Wollongong. Schedule 3: City of Sydney.

### 1.1.1.3 Complaints and other data

Issues, enquiries and complaints received by the Department are recorded in an issues register. From mid-August, the DPE Complaints Register recorded written complaints regarding IHAPs. Complaints about IHAPs can be made directly to councils.<sup>3</sup>

Complaints can also be made to the NSW Office of Local Government (OLG), NSW Ombudsman and the Independent Commission Against Corruption (ICAC). To obtain this data, DPE requests the following information from these agencies on a quarterly basis:

- How many complaints (if any) have been referred concerning IHAPs during the quarter,
- If complaints have been received, what they are about (e.g. panel members, complaints handling, decisions, review or procedures).

In line with agencies' requests, all complaints data has been aggregated.

IPPG's analysis of this aggregate data was descriptive and thematic, identifying common issues that were raised in complaints.

### 1.1.1.4 Media content

Online media coverage from approximately 45 newspaper sources was analysed from 1 July 2018 to 30 September 2018. The purpose of analysing media content was to ascertain the perceptions of various stakeholders, including the community, and to determine any trends or changes in these perceptions over time.

Monthly reports were run using the services of Meltwater, a media intelligence company that provides media monitoring. Search terms included:

- IHAP
- Independent Hearing and Assessment Panel, and
- local planning panel.

Reports were analysed according to themes.

## 1.1.2 Collection and analysis of primary data

### 1.1.2.1 Case studies

IPPG conducted two case studies for this quarter. The purpose of these case studies was to develop an in-depth understanding of how some councils have established and are implementing their panels.

The case studies were selected in consultation with DPE, with a view of getting a cross-section of different councils largely based on the following factors:

- number of DAs (high versus low)
- previously had a determinative/advisory IHAP prior to reforms, and
- position on IHAPS (opposed versus in support).

Letters of invitation were sent by IPPG to general managers, all of whom gave informed consent to participate in the case study.

As part of each case study, IPPG:

- conducted interviews with key stakeholders (e.g. chairs, experts and community representatives and council staff)
- observed panel site visits, briefings by council and the panel meetings, and
- analysed the council IHAP website, key council documents and/or other internal data collection sources.

The themes/findings from the two case studies are analysed in this report.

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<sup>3</sup> These complaints are captured in the DPE issues register if the Department is copied in to the correspondence by the complainant or the council.

### 1.1.2.2 Survey of experts

IPPG administered an online survey to panel experts using Qualtrics, to canvass their experiences with and perspectives on IHAPs. All experts (115) were invited to participate.

The survey was open from 21 September to 9 October 2018. One reminder was sent to all experts.

Overall, the survey reached a response rate of 36 per cent (41 experts). Further details are provided below.

### 1.1.2.3 Survey of community representatives

IPPG administered an online survey to community representatives using Qualtrics to canvass their experiences with and perspectives on IHAPs. All community representatives (161) were invited to participate.

The survey was open from 21 September to 9 October 2018. One reminder was sent to all community representatives.

Overall, the survey reached a response rate of 38 per cent (61 community representatives). Further details are provided below.

### 1.1.2.4 Survey of directors of planning

IPPG administered an online survey to directors of planning using Qualtrics, to canvass their council's experiences with and perspectives on IHAPs. All directors of planning (34) were invited to participate.

The survey was open from 21 September to 9 October 2018. One reminder was sent to all directors.

Overall, the survey reached a response rate of 41 per cent (14 directors of planning). Further details are provided below.

## 1.2 Qualifications and considerations

IPPG is confident with the conclusions that are drawn in this report based on the available data and with the following considerations noted:

- **Council quarterly reports:** There are some limitations and gaps in the completeness of council data in quarter 2, which means that the analysis is likely to under-represent the total number of panel meetings and other activity.

Specifically, data was available on 33 of the 34 panels and was missing for seven panel meetings (around seven per cent of meetings). Referral criteria were also missing for 46 DAs due to errors when some councils filled out the online form. DPE did provide the referral criteria for most of these DAs (collated from LPP agendas, minutes and council's assessment reports), however these criteria could not be included in the analysis due to data limitations.

DPE sent reminder emails and took steps to assist councils to meet their reporting requirements. The IHAP Online Reporting User Guide was available, and DPE staff provided additional guidance (and troubleshooting) via telephone and email. DPE has also maintained an issue register for questions and concerns raised by council staff in relation to the webform, to be resolved for future quarters.

IPPG has remained in consultation with departmental staff ahead of quarter 3 reporting, to help increase consistency of reporting through the webform and streamline the data analysis process.

- **Surveys:** Survey data is presented descriptively, and the number of respondents to each question is reported.
- **Complaints and issues data:** The level of data shared by some agencies means it is not possible to establish if there is overlap between these matters.

In addition to data provided by other agencies, DPE tracks issues, enquiries and complaints (formal and informal) it receives in relation to panel implementation.

- **Media content:** There may be some reports that have been excluded due to the search parameters used by Meltwater. For example, reports in national newspapers such as The Australian are not accessible via the subscription.

## 2 Establishment and support of IHAPs

This section provides additional information in relation to key findings on the establishment and support of IHAPS outlined in the Report. This section draws primarily on data from DPE training and guidance material, surveys for experts, community representatives, directors of planning, and the council case studies (see Section 1.1).

### 2.1 Expertise and knowledge

This section focuses on experts' and community representatives' expertise and knowledge.

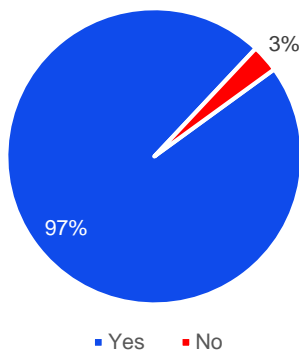
#### 2.1.1 Expertise areas

##### 2.1.1.1 Experts' expertise

All experts have expertise in at least one of the relevant areas (see Appendix C). During one case study, council staff indicated that—when selecting experts—the council sought to identify applicants who had the highest number of expertise areas.

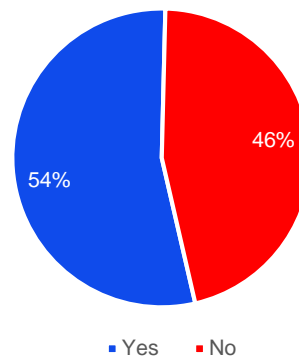
The vast majority of surveyed experts (97 per cent) work as consultants in one of the relevant expertise areas (Figure 1), and just over half (54 per cent) have worked as a consultant in any of the local government areas (LGAs) in which they were appointed as an expert (Figure 2).

**Figure 1. Proportion of experts who work as consultants in expertise areas**



Survey question: In addition to your role as an IHAP expert, are you a consultant in any of the following areas of expertise: planning; architecture; heritage; environment; urban design; economics; traffic and transport; law; engineering; tourism; government and public administration.  
Sample: N=41 experts.

**Figure 2. Proportion of experts who have worked/work as a consultant in LGAs where they are appointed**



Survey question: Do you work, or have you worked, as a consultant in any of the LGAs in which you are appointed as an expert?  
Sample: N=41 experts that are a consultant in one of the 11 areas.

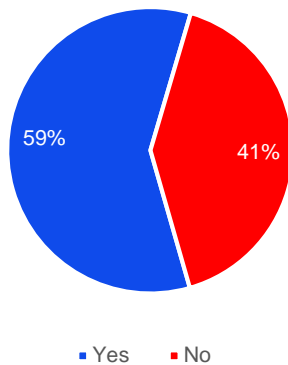


The majority of surveyed experts (63 per cent) were involved in other planning panels and nearly one quarter (22 per cent) have been appointed to four or more IHAP panels since March 2018. Furthermore, two thirds of surveyed experts (63 per cent) were a member of an IHAP prior to March 2018, and of those experts that were panel members of pre-existing IHAPs (26 experts in total), the average number of IHAPs they were involved in ranged from one to four IHAPs.

### 2.1.1.2 Community representatives' expertise

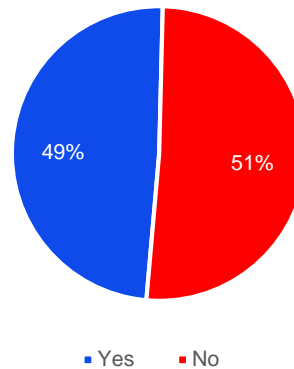
While community representatives are not required to have expertise, over half (59 per cent) of those surveyed reported they did have expertise in one of the relevant areas (Figure 3). Almost half (49 per cent) work as a consultant in one or more of the areas of expertise (Figure 4). Of those community representatives that work as a consultant in one or more of the areas (n=20), a majority have never worked as a consultant in any of the LGAs in which they were appointed as representatives (13 responses).

**Figure 3. Proportion of community representatives with reported planning or related expertise**



Survey question: Do you have planning or related professional expertise?  
Sample: N=61 community representatives.

**Figure 4. Proportion of community representatives who work as consultants in expertise areas**



Survey question: Are you a consultant in any of the following areas of expertise: planning; architecture; heritage; environment; urban design; economics; traffic and transport; law; engineering; tourism; government and public administration.  
Sample: N=61 community representatives.

Of those community members previously involved in IHAPs (n=23), a majority (19 mentions) reported being involved in just one IHAP. Similarly, the vast majority of community representatives (95 per cent) were not involved in any other planning panels.

#### Case studies

Case study panel members had mixed views about whether community representatives should have planning or related expertise, and whether community representatives with expertise should be paid more than those who do not. Some chairs and experts indicated that community representatives with planning expertise make the IHAP process more robust.

#### Community representatives who are ex-councillors

One in five surveyed community representatives (20 per cent) reported being an ex-councillor.

#### Case studies

Council staff from one case study indicated that there is a lack of clarity around the role of the community representative. The chair suggested that this may be exacerbated where a community representative is an ex-councillor. A community representative from the same panel, who was an ex-councillor, explained that their previous role as a councillor helped them gain in-depth understanding of the planning instruments and laws, as well as community concerns.

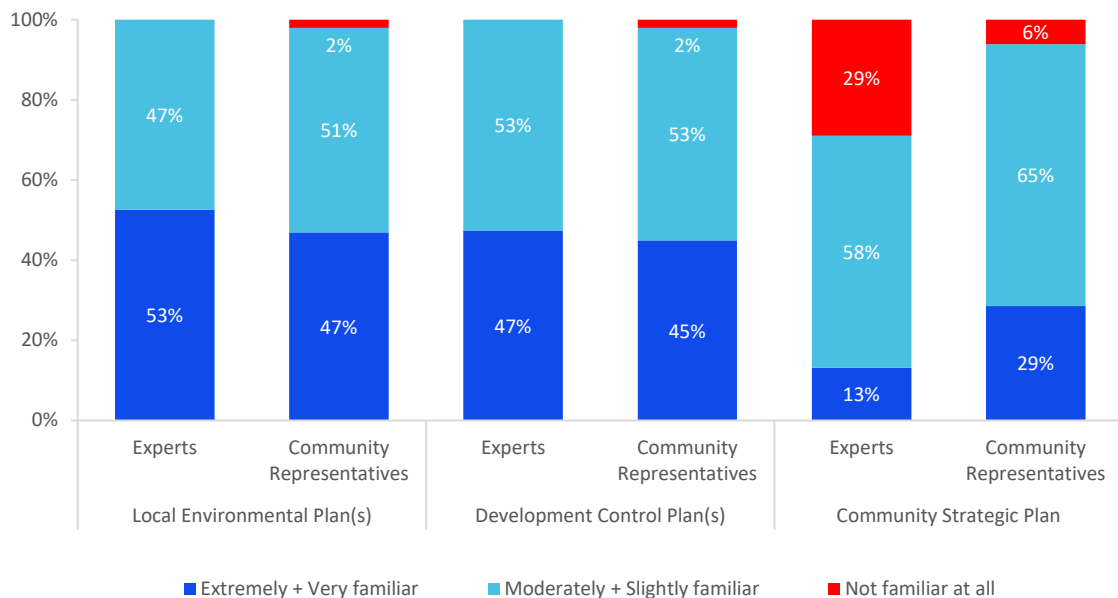
### 2.1.2 Knowledge of council statutory and strategic planning instruments

Surveyed experts and community representatives were asked how they become familiar with council statutory and strategic planning instruments. Seventy-six per cent of surveyed experts would review available documents and 49 per cent would get a briefing from councils. Similarly, two thirds of community representatives (66 per cent) would review documents and 39 per cent would get a briefing.

Surveyed panel members were asked about their knowledge of council statutory and strategic planning instruments. Familiarity with these council plans was fairly evenly distributed across experts and community representatives (Figure 5). In summary:

- **Experts** were mostly familiar with Local Environmental Plans (LEPs), followed by Development Control Plans (DCPs). Familiarity with Community Strategic Plans (CSPs) was the lowest among experts, with over one quarter reporting they were 'not familiar at all'.
- **Community representatives** were mostly familiar with LEPs and DCPs and, compared with experts, had the highest familiarity with CSPs.

**Figure 5. Familiarity of experts and community representatives with local statutory and strategic planning instruments**



Survey question: How familiar are you with the following council plans?  
 Sample: N=41 experts; N=61 community representatives.

### 2.1.3 Knowledge of local area, history and community concerns

The community representatives from the council case studies referred to living and working in the area, including their prior experiences and involvement with council (i.e. ex-councillor or involvement in council activities and groups), as examples of how they gained their knowledge of the local area, history and community concerns.

## 2.2 Inception and support processes

Councils and DPE conducted a range of inception briefings and training sessions for panel members.

### 2.2.1 Councils

Councils provided a range of resources to panel members and stakeholders about IHAPs. With regard to panel members, surveyed directors of planning reported that their councils:<sup>4</sup>

- discussed guiding principles or standards in relation to the local context with panel members (reported by all surveyed directors)
- hosted a briefing/workshop for chairs and panel members
- provided materials about the local context
- designed standard operating procedures
- referred panel members to council's Community Strategic Plan
- provided a script for chairs to follow during the meeting, and
- created a 12 month panel roster.

With regard to councillors and the community, directors of planning indicated that their councils:

- posted an IHAP overview on the council website
- hosted a briefing/workshop for councillors on the IHAP process
- drafted IHAP FAQs, and
- designed a councillor guide/toolkit (e.g. how to advise to applicants/objectors about the IHAP process).

### 2.2.2 Departmental

DPE conducted a range of briefings and activities, and provided resources for panel members.

Table 1 provides a summary of the information/guidance packages released by DPE in quarter 2.

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<sup>4</sup> Activities and resources listed in decreasing order.

**Table 1. Summary of DPE information packages**

Material	Date released	Topics covered
IHAPs Update email newsletter	4 July 2018	<ul style="list-style-type: none"> <li>• Chairs' 'Roundtable'</li> <li>• Submissions policies</li> <li>• Briefings for IHAP community representatives</li> <li>• PIA training</li> <li>• IHAP model review</li> <li>• What's happening next: Best practice guidelines; Expanded FAQs and quarterly reporting</li> </ul>
Updated Local Planning Panels Code of Conduct	21 August 2018	<ul style="list-style-type: none"> <li>• Updated Code of Conduct raised the importance of declaring and appropriately managing conflicts of interest and complaints management.</li> </ul>
IHAP Overview and FAQ	21 August 2018	<ul style="list-style-type: none"> <li>• Role of members: membership, alternate members, remuneration and eligibility.</li> <li>• Panel functions: referral criteria, submissions, modification applications, determination role, review of determinations and planning proposals.</li> <li>• Operations: code of conduct, conflicts of interest, operational procedures, panel performance evaluation and complaints handling.</li> </ul>
IHAP Best Practice Meeting Procedures	10 September 2018	<ul style="list-style-type: none"> <li>• Development assessment: site visits and briefings, meetings, adjournments, deferrals, circulation of papers.</li> <li>• Review of determinations: meetings, site visits and briefings.</li> <li>• Planning proposals: panel briefing.</li> </ul>

DPE also hosted a briefing for chairs and experts on 27 September 2018. Fourteen chairs and 48 experts attended.

The session was facilitated by Kathy Jones, Director, KJA. Presenters included: Marcus Ray, Deputy Secretary Planning Services, DPE; David Burfoot, Senior Consultant, Ethics Centre; Madeleine Thomas, Director Development and Resources, Legal Division, DPE; Alison McCabe, IHAP chair; and, Steve Murray, Executive Director Regions, DPE.

The briefing covered:

- conflicts of interest
- recent court judgements
- good decision-making
- advising on planning proposals
- an update on LEP review program, and
- questions and answers.

A subsequent chairs-only session was also facilitated by Kathy Jones. Presenters included: Angus Talbot, IHAP chair and former judge of NSW Land and Environment Court; Cassandra Cosgrove, Director, Regulation Review, DPE; Steve Murray; and Marcus Ray.

This session covered:

- good decision-making
- evaluation findings, and
- questions and answers.

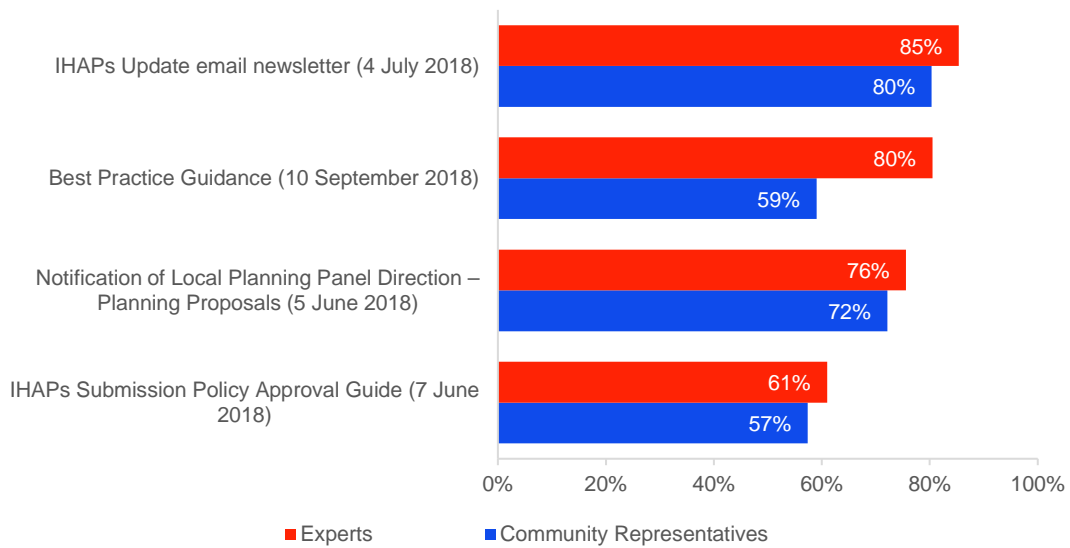
The discussion focused on the challenges chairs face when working with experts and community representatives and the solutions they adopt. DPE conducted a post-session survey to obtain feedback on the briefing session.

### 2.2.2.1 Awareness and perceptions of usefulness

Surveyed experts, community representatives and directors of planning were asked if they were aware of DPE activities and resources and how useful these were in helping them to perform their roles.

The vast majority of experts and most community representatives surveyed were aware of the IHAPs update email newsletter and the notification of Local Planning Panel Direction (Figure 6).

**Figure 6. Proportion of experts and community representatives who are aware of DPE information**

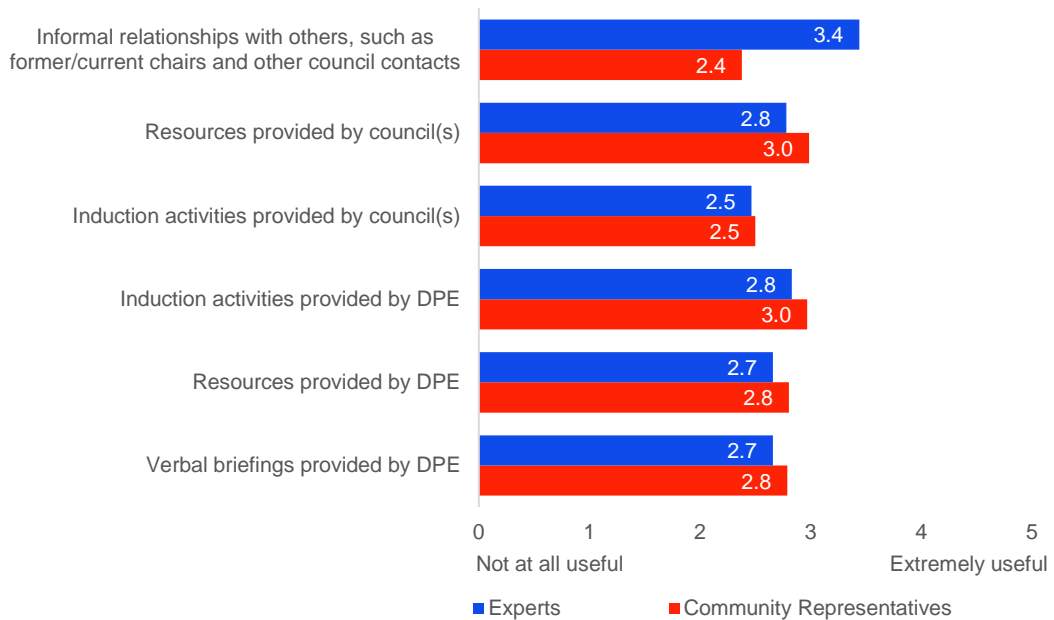


Survey question: Are you aware of the following information provided by DPE?  
 Sample: N=41 experts; N=61 community representatives.

Experts and community representatives were also asked to rate how useful various briefings, activities and resources were for their specific role on the panel (Figure 7, usefulness average scale from 0 to 5).

The results show that, while resources provided by council and DPE are highly valued by surveyed experts and community representatives, surveyed directors of planning, chairs and experts consider informal relationships with counterparts (such as former/current chairs and other councils) to be the most valuable resource. Surveyed community representatives were less likely to rate informal relationships as being useful for their role. Resources from councils and inductions activities by DPE were perceived as more useful (average rating of 3).

**Figure 7. Experts' and community representatives' views on the usefulness of briefings, activities and resources**



Survey question: Please rate the following in terms of how useful they have been to you in your role  
 Sample: N=41 experts; N=61 community representatives.  
 Scale: 0 to 5 (0 Not at all useful and 5 Extremely useful).

### 2.2.3 Suggestions for other activities or resources

In addition to the activities mentioned above, other processes that experts and community representatives reported might be useful in supporting their roles mostly related to regular updates and briefings on recent case law and regulations, and case studies.

Experts, more specifically, would like to have access to standard templates and resolutions, and consistent meeting practices. Other processes that are important to experts include procedure manuals and forums with other experts and panel members.

Community representatives also see the benefit in connecting with other representatives to discuss their experiences. Other processes that are important to community representatives include regular briefings and updates on planning laws, regulations and policies, and case studies.

# 3 Operation of IHAPs

This section provides more detailed information on key findings in relation to the operation of IHAPs in quarter 2, with a focus on panel members' motivations for sitting on a panel, understandings of panel roles, rotation, referral criteria, decision-making, deliberation and determinations.

## 3.1 Motivations and understanding of roles

### 3.1.1 Motivations

Surveyed experts and community representatives were asked about their motivations for applying to be a panel member.

Experts' main motivations for applying to be a panel member included to have the opportunity to make positive contributions to planning outcomes and to professionally develop. Other motivations reported included to:

- contribute to sustainable outcomes for the area
- influence significant planning matters
- apply professional knowledge and experience
- support a system of independent assessment, and
- develop and maintain professional relationships.

Community representatives' main motivations for applying to be a panel member included to have the opportunity to represent the community and contribute positively in areas of planning and urban design. Other motivations reported include to:

- ensure good planning outcomes
- improve the quality of living in the community
- use professional experience to contribute to the local area, and
- make use of their interest in local government and town planning.

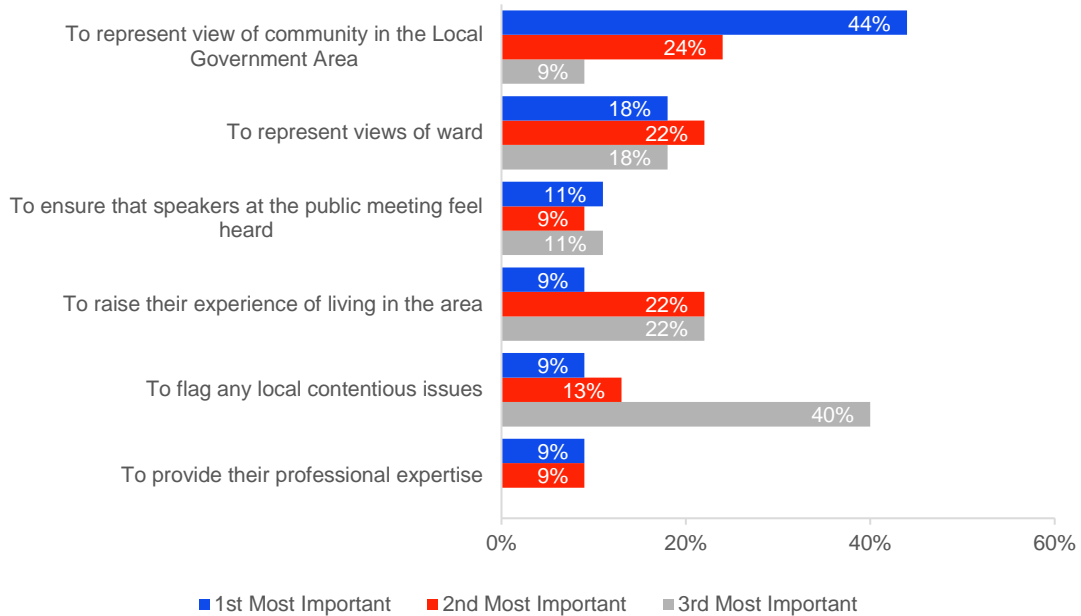
### 3.1.2 Understanding of roles

Experts were asked what they considered to be the most important aspect of their role. Over a third (39 per cent) reported that drawing upon their qualifications, related industry experience and subject matter expertise was the most important aspect of their role. Having extensive senior level experience in a designated area of expertise (26 per cent) and offering a sound understanding of the planning and environmental framework in NSW and legislative process (24 per cent) were other aspects mentioned.

The majority of community representatives reported that the most important aspect of their role was to represent and speak on behalf of the community, understand the impacts of development and planning proposals on the immediate area, provide input based on local knowledge, and ensure the community has a voice in planning processes. Surveyed experts had similar views and perceptions of community representatives' roles.

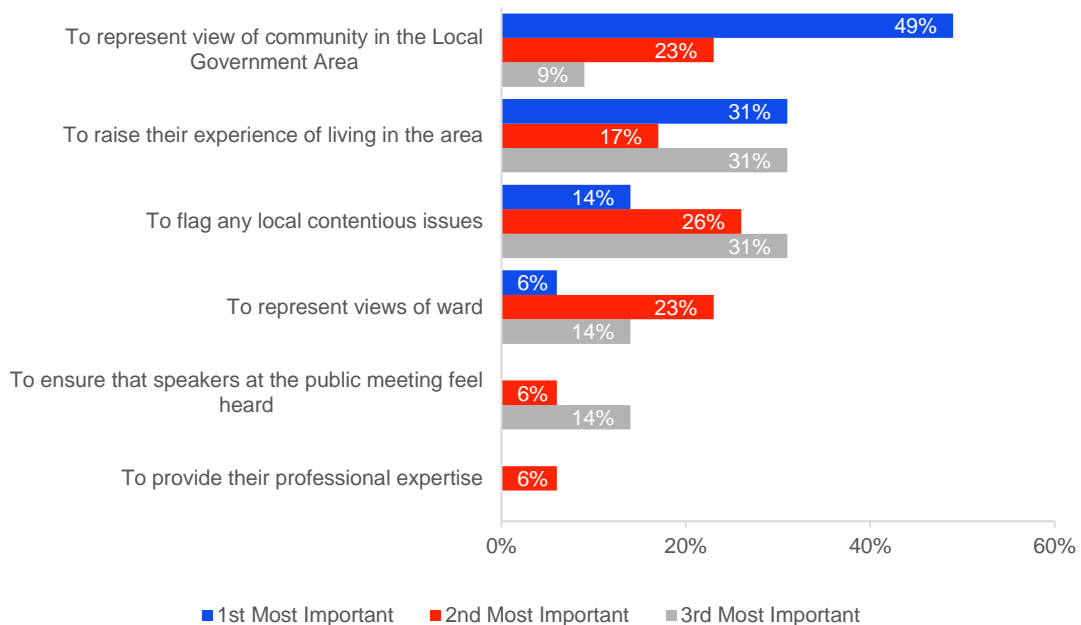
Both community representatives and experts ranked 'to represent view of community in the LGA' as the most important aspect of the community representative role (49 per cent and 44 per cent of most important mention respectively) (Figure 8 and Figure 9). Nearly one third of experts (31 per cent) also rated raising the experience of living in the area as the most important aspect of the role, followed by flagging any contentious issues (26 per cent).

**Figure 8. Community representatives' functions on the panel, according to community representatives**



Survey question: With regard to the role of community representatives, please rank the following in order of importance. Sample: N=61 community representatives.

**Figure 9. Community representatives' functions on the panel, according to experts**



Survey question: With regard to the role of community representatives, please rank the following in order of importance. Sample: N=41 experts.

In order to better represent the views of the community or ward, surveyed community representatives reported that they would read submissions, planning documents and local newspapers, keep in touch with local issues and attend local meetings.



## Case studies

A community representative explained that they are someone who lives in the community and provides a community point of view rather than a planning, legal or development point of view. Another community representative explained they saw their role was to protect the community's interests and put public benefit first, while also insisting on a strict interpretation of the planning instruments. In contrast, another community representative, who was also an expert on another panel, indicated that they did not see a difference between their role as a community representative or as an expert. They explained this was because they were trying to achieve the same outcome in both instances: an independent or unbiased outcome that is the best outcome for everyone involved.

The council case study chairs expressed a range of views about the role of the community representatives. For example, one chair indicated that it is essential to have someone who lives in the area who represents the values of the local community on the panel and that experts alone should not determine DAs. Another chair highlighted community representatives are able to 'bear witness' to the activities of panel.

During the case studies, chairs and experts indicated that community representatives did not always understand their roles. These panel members often drew a distinction between community representatives who had planning or related expertise compared to those who did not. It was suggested by an alternate chair (who was also an expert) that experts and council staff could assist community representatives who do not have having planning or related expertise so that, over time, they would gain a better understanding of their role and panel operations.

## 3.2 Panel member rotation

### 3.2.1 Rotation of chairs

On average across panels, chairs were rotated half of the time (51 per cent). Nine out of 33 councils did not rotate their chairs during the period, and seven out of 33 IHAPs rotated chairs for each meeting. The largest contingent (42 per cent) of councils had two chairs sit on panels during the quarter.

Council staff from one case study explained that the council needed consistency in panel operation and decision-making. They explained that, when chairs rotate, there are some differences in their approaches and their skillsets. These staff did not believe that rotating panel members would increase probity.

### 3.2.2 Rotation of experts

The average rate of rotation for experts over the quarter was 64 per cent. This rate of rotation was higher than for chairs. The majority (70 per cent) of IHAPs engaged between four and six independent experts. For five IHAPs (out of 33), all experts rotated so that no experts sat on the same panels more than once.

### 3.2.3 Rotation of community representatives

The average rate of rotation for community representatives over the quarter was 60 per cent. This was a slightly lower rate than for experts. The majority of IHAPs (63 per cent) utilised two or three community representatives in their public meetings.

### Case studies

One council case study had three community representatives from different wards present during the panel day. Council staff indicated that, when the panel was established, they recommended to the council that a limited number of community representatives should operate across all of the wards. However, the council resolved to have one primary and one alternate representative for each ward.

DAs were assigned to each community representative according to the ward to which the DA related. Community representatives were involved in the site visit(s), discussions and panel meeting for their assigned DAs and the other community representatives observed.

Council staff indicated that, following recent DPE guidance on community representatives, for future meetings they will appoint one community representative per meeting.

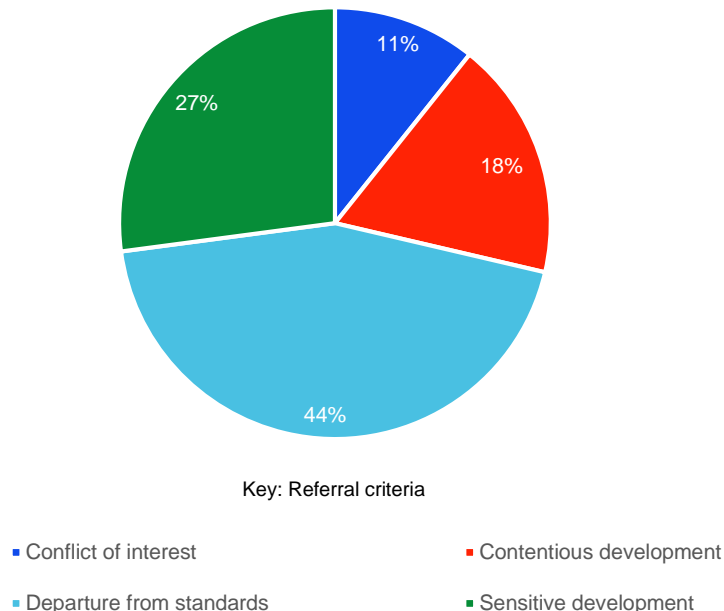
## 3.3 Referral criteria

### 3.3.1 Overall referral criteria triggered

Five hundred and thirteen (513) referral criteria were triggered for 420 DAs (average of 1.22 referral criteria triggered per DA). Three hundred and thirty-five (335) DAs triggered one referral criteria, 74 DAs triggered two referral criteria, and 10 DAs triggered three referral criteria. As discussed in Section 1.2, for 46 DAs (10 per cent), IPPG was unable to identify the referral criteria that were triggered, based on the data made available.

The most commonly reported referral criterion triggered was departure from standards (Figure 10).

Figure 10. Proportion of referral criteria triggered by DAs



Source: Council online IHAP reporting data.  
Sample: N=513 referral criteria (from 420 DAs).

The departure from standards referral criterion has the largest number of DAs, followed by the Residential Flat Building (RFB) sensitive development criterion, the contentious development criterion, the conflict of interest criterion then the non-RFB sensitive development criterion (Table 2).

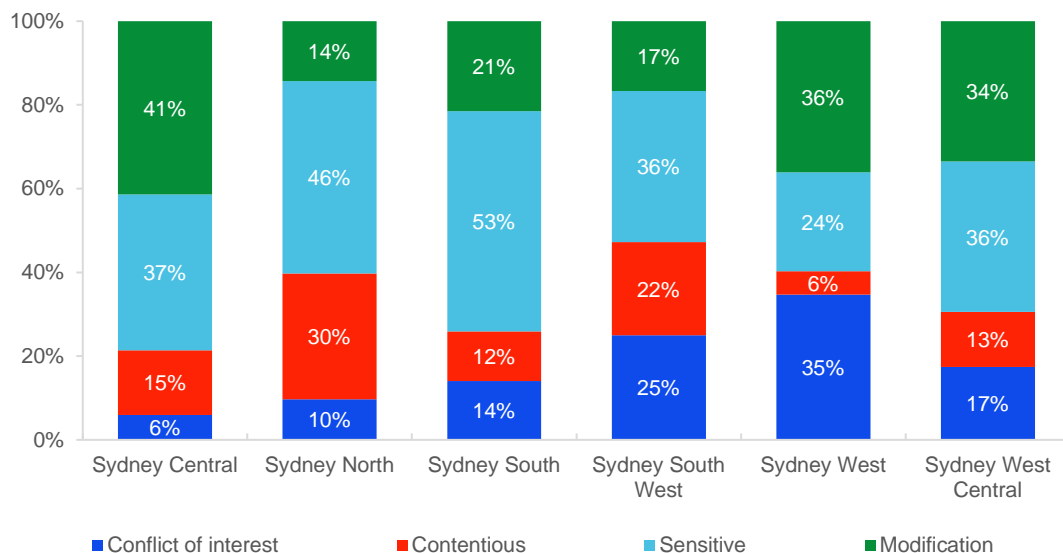
**Table 2. Breakdown of DAs by referral criteria, by Schedule**

	Schedule 1	Schedule 2	Schedule 3	Total
<b>Conflict of Interest</b>	24	28	3	55
<b>Contentious development</b>	59	31	2	92
<b>Sensitive development</b>				
RFB	67	37	3	32
Non-RFB	13	16	3	32
<b>Departures from standards</b>	128	92	7	227

The average proportion of criteria triggered varied depending on the region (Figure 11).<sup>5</sup> In summary:

- Departures from standards represented a larger proportion of developments considered by IHAPs in Sydney Central, Sydney West and Sydney West Central.
- Sensitive developments represented a relatively higher share of developments considered by IHAPs in Sydney South and Sydney North.
- Contentious developments represented a relatively high share of developments considered by IHAPs in Sydney North and Sydney South West.
- Conflict of interest cases represented a relatively large share of considerations for IHAPs in Sydney West and Sydney South West.

**Figure 11. Proportion of referral criteria triggered by DAs, by region**



Source: Council online IHAP reporting data.  
 Sample: N=31 panels (from 513 considerations, from 420 DAs).  
 Note: Percentages do not add up to 100 due to rounding.

<sup>5</sup> That is, the proportion of each councils' DAs, averaged across the councils in the region.

### 3.3.2 Breakdown of criteria triggering a referral

In most DAs considered by IHAPs, only one referral criterion was triggered.<sup>6</sup>

The criterion most commonly triggered in combination with other referral criteria was the departure from standards (building height) criterion (Table 3). In summary, the departure from standards (building height) criterion was triggered with:

- the RFB sensitive development criterion for 32 DAs, and
- the contentious development criterion for 14 DAs.

The contentious development criterion was triggered with the RFB sensitive development criterion for 17 DAs.

**Table 3. Breakdown of DAs by referral criteria triggered<sup>7</sup>**

		Conflict of Interest	Contentious development	Sensitive development		Departures from standards			
				RFB	Non-RFBs	Lot size	Building height	Floor space ratio	Other
Conflict of Interest		48	1	-	1	-	1	-	4
Contentious development		1	45	17	3	1	14	1	10
Sensitive development	RFB	-	17	31	-	3	32	14	10
	Non-RFB	1	3	-	23	-	2	1	2
Departures from standards	Lot size	-	1	3	-	14	1	4	1
	Building height	1	14	32	2	1	16	10	24
Departures from standards	Floor space ratio	-	1	14	1	4	10	27	9
	Other	4	10	10	2	1	24	9	25

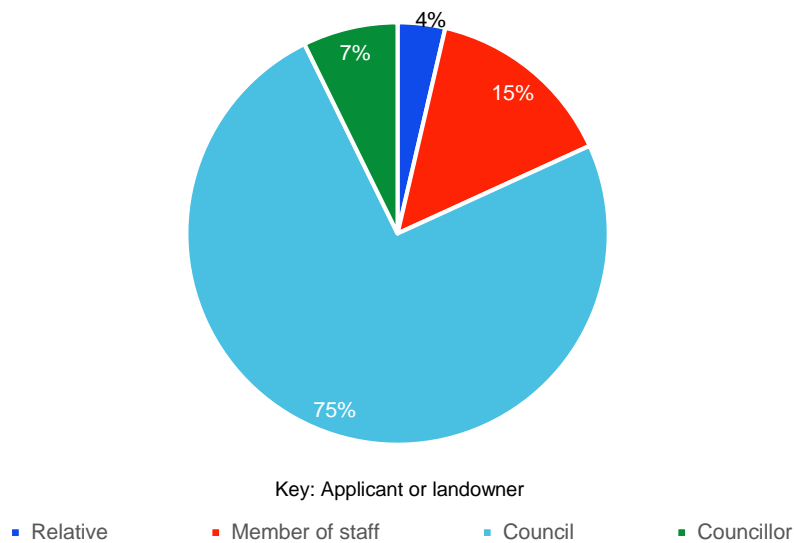
#### 3.3.2.1 Conflict of interest

For Seventy-five per cent of DAs for which the conflict of interest criterion was triggered, the reported conflict of interest was because the council was identified as an interested party (Figure 12).

<sup>6</sup> At the time of analysis, it was not possible to verify which referral criteria had been triggered for 46 DAs, due to data limitations (see Section 1.2).

<sup>7</sup> Note the total number of referrals in this table as it is greater than the total of all referral criteria counted in other sources. This is because the departures from standards are typically counted as 1 referral rather than being counted separately for each departure.

**Figure 12. Proportion of DAs that triggered the conflict of interest criterion, according to the applicant or landowner**

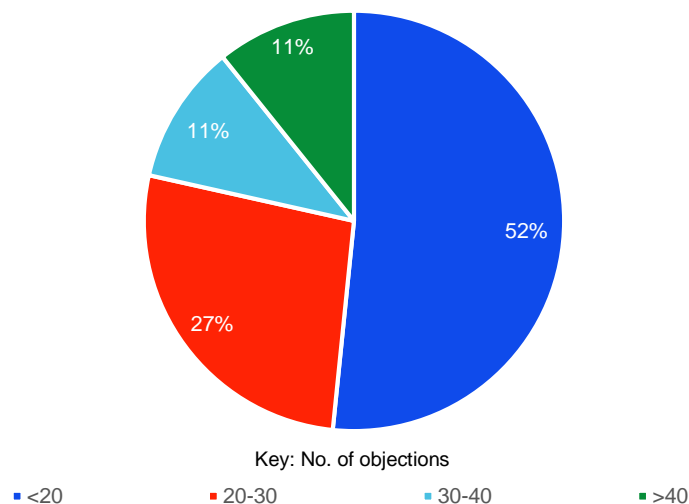


Source: Council online IHAP reporting data.  
 Sample: N=55 DAs.  
 Note: Percentages do not add up to 100 due to rounding.

### 3.3.2.2 Contentious development<sup>8</sup>

Across the 93 DAs for which the contentious development referral criterion was triggered, there was an average of 22 objections for Schedule 1 and Schedule 2 IHAPs, and 35 objections for Schedule 3 IHAPs (2 DAs). Around half of the DAs considered by Schedule 1 and Schedule 2 IHAPs reported under 20 objections, and 42 per cent reported 15 objections or under, including 20 per cent that received 10 or 11 objections (Figure 13).

**Figure 13. Proportion of DAs that triggered the contentious development criterion, according to the number of objections**



Source: Council online IHAP reporting data.  
 Sample: N=93 DAs.  
 Note: Percentages do not add up to 100 due to rounding.

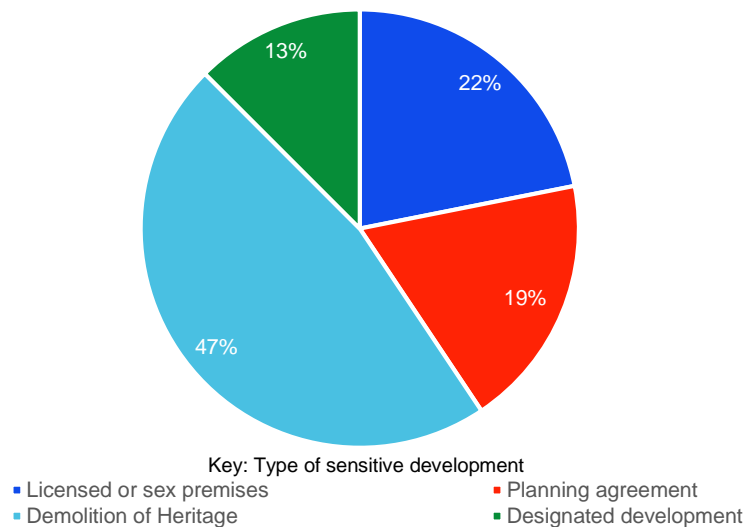
<sup>8</sup> DPE has advised that no submission policies have been approved.

### 3.3.2.3 Sensitive development

For 157 DAs that triggered the sensitive development criterion, 80 per cent were related to residential flat buildings (RFBs). These DAs had an average height of 5.0 storeys for DAs in councils in Schedule 1, 5.6 storeys for Schedule 2, and 5.7 storeys for Schedule 3.

For 32 non-RFB DAs, a large proportion were recorded as demolition of a heritage item (47 per cent, 15 DAs), with the remainder split between licensed premises (including on-site sex premises) (22 per cent, 7 DAs), planning agreements (19 per cent, 6 DAs) and designated development (13 per cent, 4 DAs) (Figure 14).

**Figure 14. Proportion of non-RFB DAs that triggered the sensitive development criterion, according to the type of development**



Source: Council online IHAP reporting data.

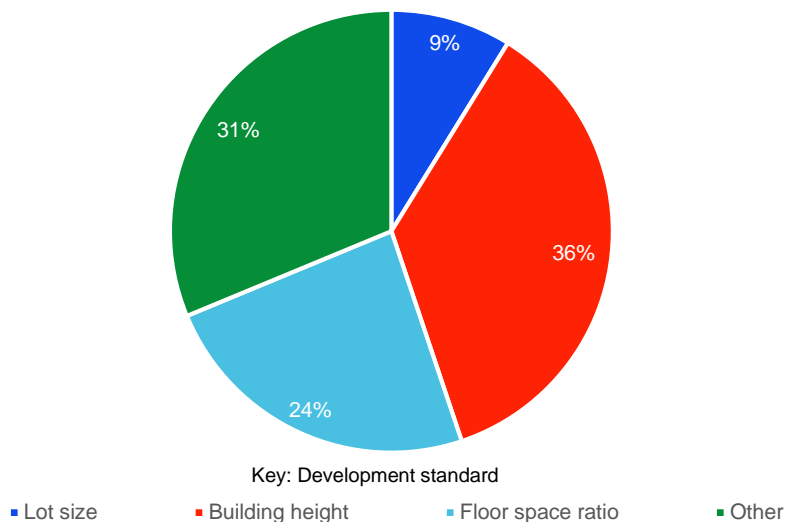
Sample: N=32 DAs.

Note: Percentages do not add up to 100 due to rounding.

### 3.3.2.4 Departure from development standards

Two hundred and twenty seven (227) DAs triggered the departure from development standards referral criterion (with 272 departures). Over one in three (36 per cent) departures were reported as building height variations and nearly one in three (31 per cent) departures were reported as 'other', which includes breaches of development instruments for numerical as well as non-numerical standards (Figure 15). These included wall height variations (13 DAs); site width, coverage, and setback variations (7 DAs), and landscape variations (21 DAs).

**Figure 15. Proportion of departures that triggered the departures from development standard criterion, according to the development standard**

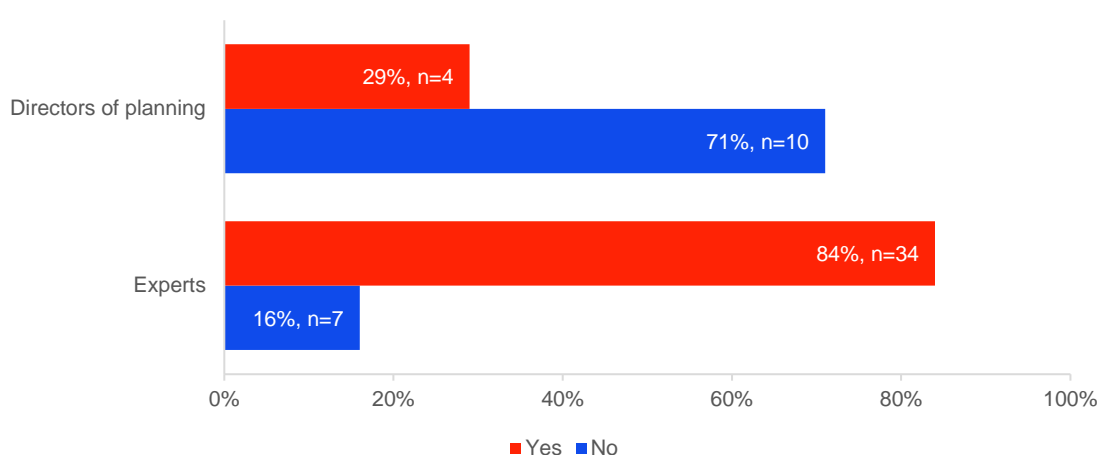


Source: Council online IHAP reporting data.  
 Sample: N=272 departure from development standards referral criteria (from 227 DAs).  
 Note: Percentages do not add up to 100 due to rounding.

### 3.3.3 Appropriateness of DAs referred

Views on the appropriateness of the criteria for referral to IHAPs varied between surveyed directors of planning and experts. Four in five experts (84 per cent) reported that the referral criteria are appropriate (Figure 16). Experts who considered the criteria to be inappropriate indicated that this was due to some referred DAs being too minor to need panel attention. In contrast, 10 out of 14 directors of planning surveyed reported that referrals were not appropriate, and this was mainly due to a perception that some DAs were too minor/low risk to warrant panel attention, and because the statutory rules do not allow individual councils to vary the types of matters referred to the panel.

**Figure 16. Views on the appropriateness of the referral criteria**



Survey question: Do you think the criteria for referral to IHAPs are appropriate (i.e. warrant panel assessment)?  
 Sample: N=14 directors of planning; N=41 experts.

Surveyed directors of planning (6 mentions) reported that there are some DAs that would be better assessed by council staff, including minor DAs and DAs where there is no community interest.

A majority of surveyed directors of planning (9 mentions) affirmed that the general manager/CEO should have the discretion to refer particular matters to the panel. Reasons offered included that some types of developments are controversial despite there not being ten unique objections and there are occasions

when the general manager needs the flexibility to refer the matter to the panel. A small number of directors of planning (6 mentions) indicated that they had encountered specific DAs like this, which they believed should have been referred to the panel.

### Case studies

For one case study, council staff suggested that the referral criteria are not appropriate as they often trigger referral of minor applications (e.g. variations from development standards) which could more efficiently be determined by council staff. They also suggested that the referral criteria does not always capture major DAs that should go to the panel. Council staff indicated that they had passed these concerns onto DPE. The chair of this panel also raised whether highly qualified panel members should be determining minor matters, particularly when the panel tended to agree with council's recommendations.

This council also raised issues with the contentious development referral criteria, particularly with regard to the meaning of 'unique' submissions. They indicated that the previous delegation for their council was not triggered by the number of objections. Council staff explained that, in some instances, objectors rallied other people to submit an objection to ensure the DA was sent to the panel.

This council also indicated that some DAs got a tenth objection immediately prior to council determination and then the DA needed to be sent to the panel, which impacts efficiency and best practice tracking assessment.

The chair at the second case study also raised that a number of matters went to panel that they considered to be minor. This chair explained that this was a matter of refining the council's own planning instruments (e.g. so that minor matters do not trigger the departure from development standards criterion). To assist in this process, the chair advised staff about issues the panel considered needed review. This chair also believed that the director of planning should be able to refer things to panel if necessary.

## 3.3.4 Other DA characteristics

### 3.3.4.1 Cost of works for development applications

The average cost of works across all DAs considered by IHAPs was \$2.7 million, with highest averages recorded in Sydney South, Sydney West, and Sydney Central regions (Figure 17).

**Figure 17. Average cost of works (1000s) per DA, per panel, by region**



Source: Council online IHAP reporting data.  
Sample: N=31 panels (from 466 DAs).<sup>9</sup>

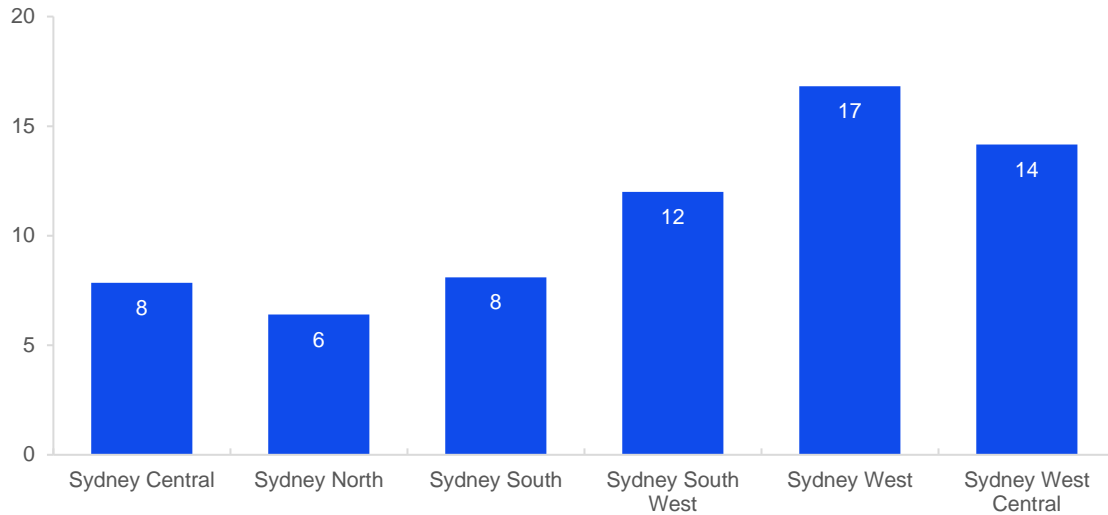
<sup>9</sup> Two panels were excluded as outliers.



### 3.3.4.2 Number of dwellings

The average number of dwellings per DA was 7.8, with IHAPs in Sydney West, Sydney West Central, and Sydney South West recording the highest averages (Figure 18).

**Figure 18. Average number of dwellings per DA, per panel, by region**



Source: Council online IHAP reporting data.  
Sample: N=31 panels (from 354 DAs).<sup>10</sup>

## 3.4 Decision-making

Surveyed directors of planning had split views in terms of whether councils have sufficient flexibility to tailor panel operations, with seven directors of planning agreeing that they do and six disagreeing.

Both surveyed experts and community representatives rated site visits, assessment reports and council briefings, in this order, as very or extremely useful resources for informing the decision-making process of the panel.

Both case studies structured the panel meeting day in a relatively similar way (Table 4). This is examined below.

**Table 4. Comparative summary of a typical panel meeting day**

Council 1	Council 2
<ul style="list-style-type: none"> <li>• Morning site visit (three council staff and driver).</li> <li>• Lunch and limited panel discussion, three council staff present.</li> <li>• Public meeting at 1pm.</li> <li>• For each DA, assigned ward community representative moves to meeting table. After all submissions are heard, chair allows panel members to ask submitters questions and for the applicant to respond, then takes a vote.</li> <li>• Meeting adjourned (approximately 10 minutes) for complex matters.</li> </ul>	<ul style="list-style-type: none"> <li>• Afternoon site visit (five council staff and driver), council staff brief panel on the way to the site.</li> <li>• Dinner and detailed panel discussions, council staff present in adjacent room are called in if panel has further questions.</li> <li>• Public meeting at 6pm, all council staff present for their assigned DAs.</li> <li>• For each DA, after all submissions are heard, chair discusses the matter with panel members on the floor. Chair reads resolution then takes a vote.</li> </ul>

### 3.4.1 Council information

Surveyed experts and community representatives were asked to rate the quality of the information provided for assessment to the panel. For example, the assessment reports, details of plans, and council briefings. Nearly half of experts surveyed rated the quality of the information provided as good (47 per

<sup>10</sup> There were 354 DAs for the number of dwellings counted.

cent), and one third rated it as excellent (32 per cent). However, 18 per cent of experts reported that the quality of information was average and 3 percent rated the quality of information as poor.

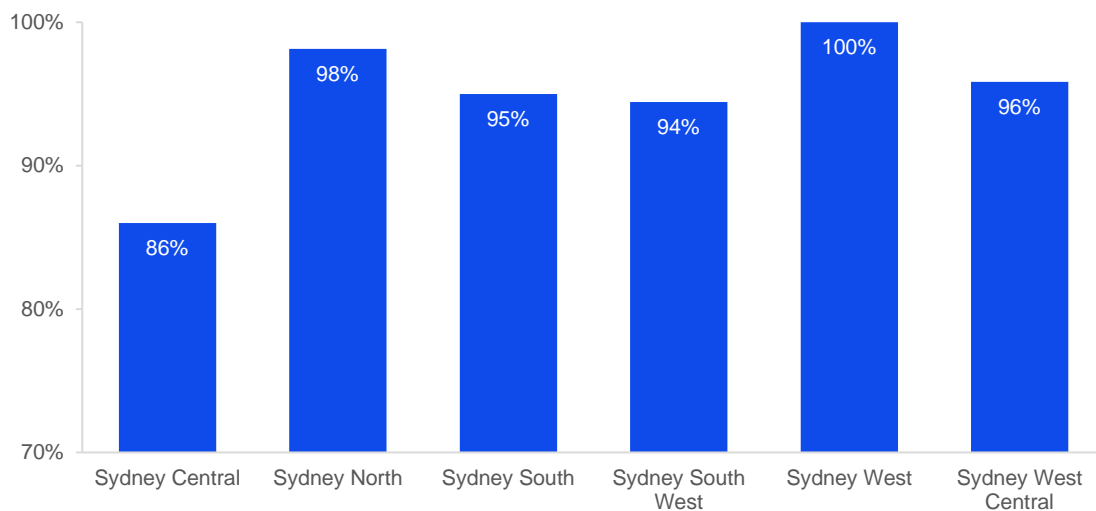
In contrast, surveyed community representatives were more positive about the information provided by the council, with 53 percent rating the information as excellent and 45 percent as good. Only two percent of community representatives rated the information as average.

### 3.4.2 Site visits

For 424 of the 466 (91 per cent) DAs considered by IHAPs a site visit was conducted. The average proportion of DAs where a site visit was conducted was highest for IHAPs in Sydney West, Sydney North, and Sydney West Central (Figure 19). City of Sydney IHAP reported not conducting site visits for any DAs considered.

The average site visit duration was 11.8 minutes - this was longest for panels in Sydney South West and Sydney West.

**Figure 19. Percentage of DAs per panel that had a site visit, by region**



Source: Council online IHAP reporting data.  
Sample: N=31 panels (from 466 DAs).<sup>11</sup>

The main reasons cited by surveyed directors of planning, experts and community representatives for not conducting site visits were:

- the DA was deemed to be minor (e.g. the DA did not need to have been referred to the panel and/or were determined electronically)
- the site was remote and the issues could be considered using aerial mapping
- the site was already known
- due to time constraints (e.g. the panel ran out of time to conduct the site visit before the panel briefing and/or meeting)
- issues were straightforward and would not impact neighbouring properties, and
- the DA was a non-contentious development which was recommended for approval with no objections.

<sup>11</sup> Two panels were excluded as outliers.

## Case studies

For both case studies, prior to the site visits, panel members were briefed by council staff on the DAs, asked staff questions, and occasionally discussed possible conditions of consent with other panel members.

For one council case study, at the beginning of each site visit, one council staff member introduced the panel to the applicant/objector and explained the purpose of the site visit. This staff member took a coordinating and facilitation role during the site visits (e.g. suggested the panel should move on to the next objector's home and highlighted the relevant DCP provisions to the panel).

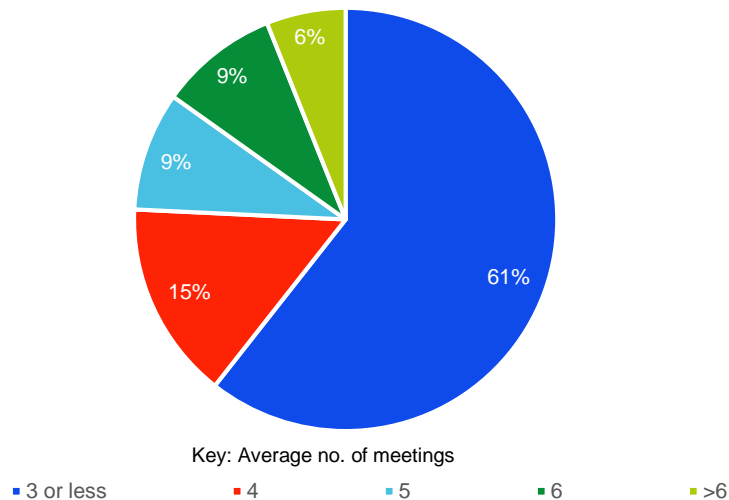
During the panel meeting it was apparent that the discussions with the applicants and objectors informed the panel's lines of questioning and comments during the subsequent panel briefing and panel meeting.

### 3.4.3 Public meetings

#### 3.4.3.1 Overview for all councils

An average of 3.7 public meetings were conducted during quarter 2. Most IHAPs conducted three or fewer meetings (20 of the 33 IHAPs) over the period (Figure 20). Sutherland Shire Local Planning Panel conducted the most meetings (10), followed by Blacktown City (7), Cumberland (6), Bayside (6), and Woollahra Municipality (6) Local Planning Panels (Figure 21). Wollondilly Shire and Liverpool City Local Planning Panels conducted one meeting during the quarter.

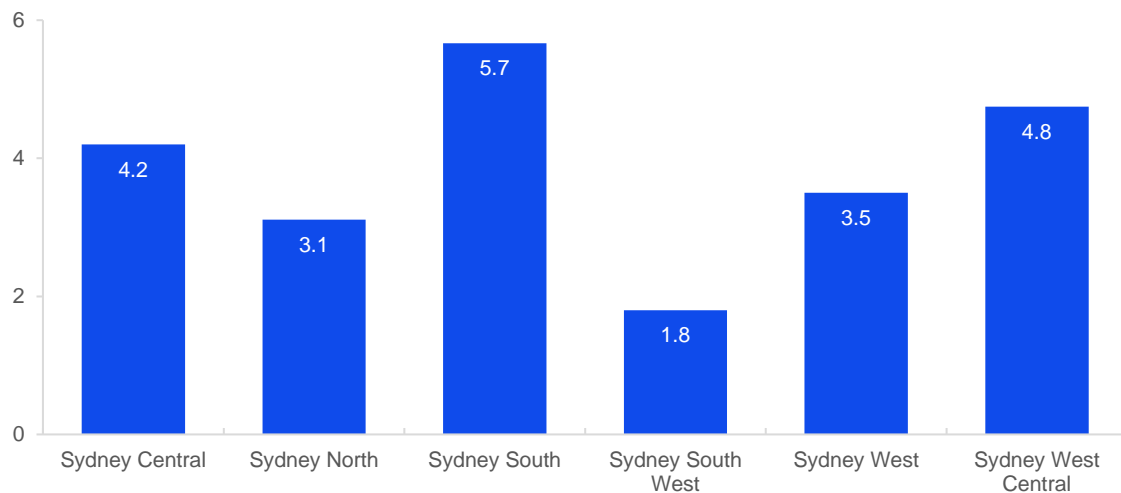
Figure 20. Proportion of panels, according to the average number of meetings conducted



Source: Council online IHAP reporting data.  
Sample: N=31 panels (from 122 meetings).<sup>12</sup>

<sup>12</sup>Two panels were excluded as outliers.

**Figure 21. Number of meetings per panel, by region**

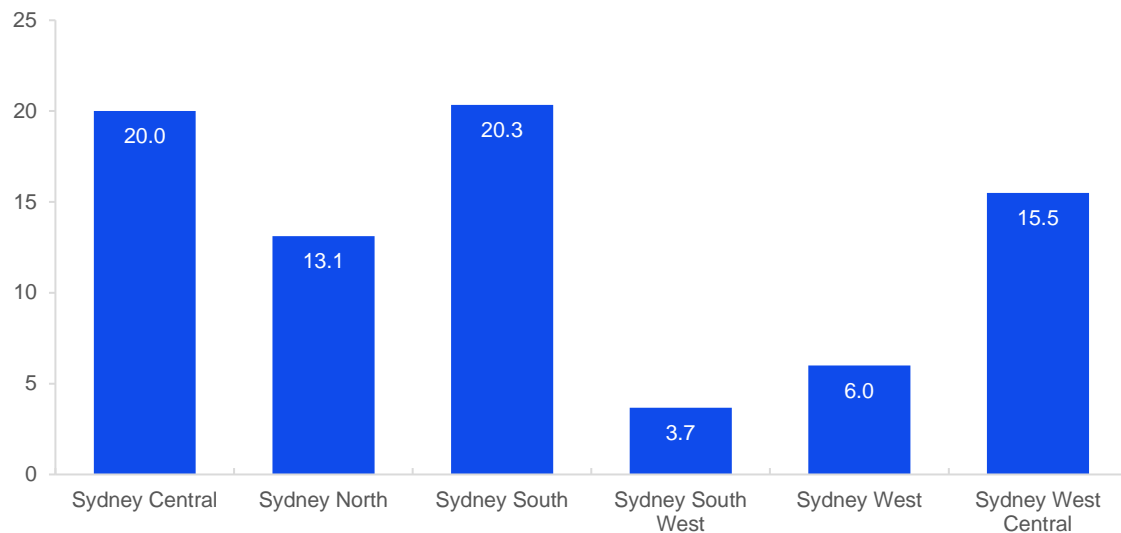


Source: Council online IHAP reporting data.  
 Sample: N=31 panels (from 122 meetings).<sup>13</sup>

**Total number of DAs considered**

Four hundred and sixty six (466) DAs were considered across 33 IHAPs. On average, 14 DAs were considered per IHAP. Sutherland Shire Local Planning Panel considered the most DAs (40), followed by Bayside (38), Woollahra (34), and Northern Beaches (31). Eleven (11) panels considered fewer than 10 DAs over the period. Sydney South and Sydney Central recorded the highest average number of DAs considered per IHAP (Figure 22).

**Figure 22. Average number of DAs per panel, by region**



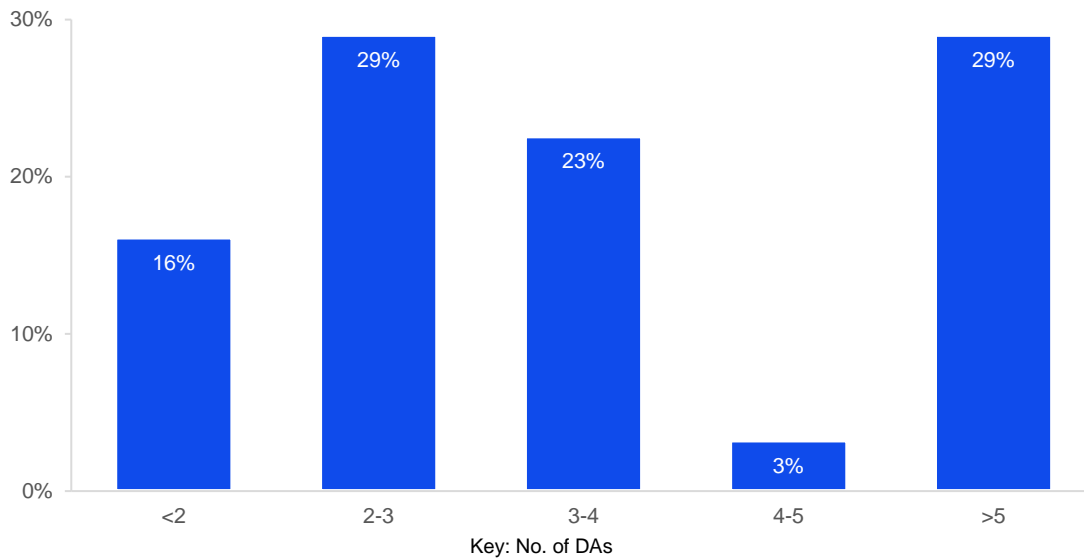
Source: Council online IHAP reporting data.  
 Sample: N=31 panels (from 466 DAs).<sup>14</sup>

The total number of DAs considered (466) were reviewed at 122 public meetings, with an average of 3.8 DAs decided per meeting. Over half (52 per cent) of IHAPs considered four or fewer DAs per meeting on average (Figure 23).

<sup>13</sup> Two panels were excluded as outliers.

<sup>14</sup> Two panels were excluded as outliers.

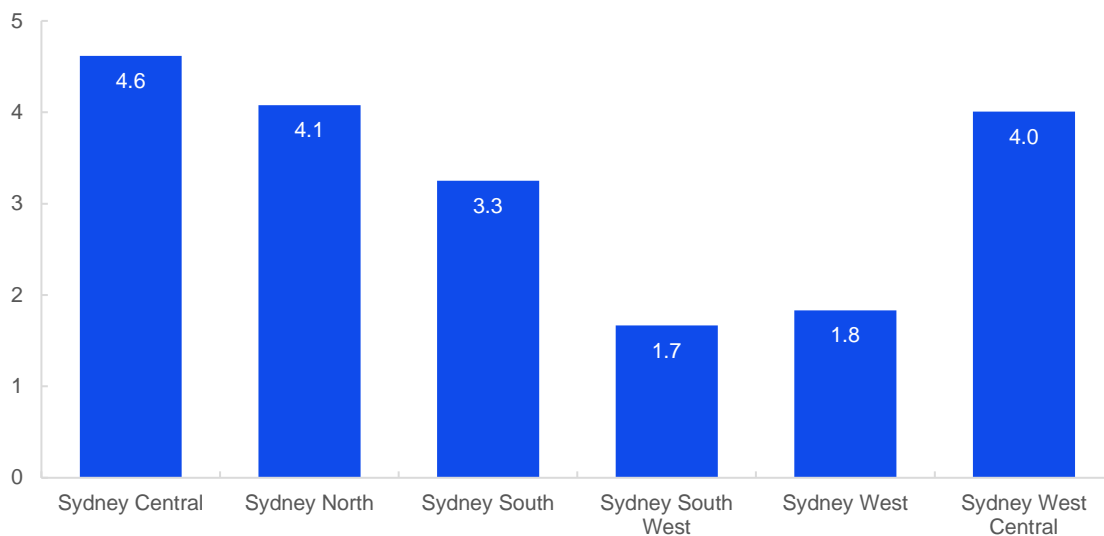
**Figure 23. Proportion of panels, according to the number of DAs considered per meeting**



Source: Council online IHAP reporting data.  
 Sample: N=31 panels (from 122 meetings and 466 DAs).<sup>15</sup>

IHAPs in Sydney West and Sydney South West regions conducted relatively fewer meetings over the period (1.7 and 1.8 on average respectively) compared to the others regions (Figure 24).

**Figure 24. Average number of DAs considered per meeting per panel, by region**



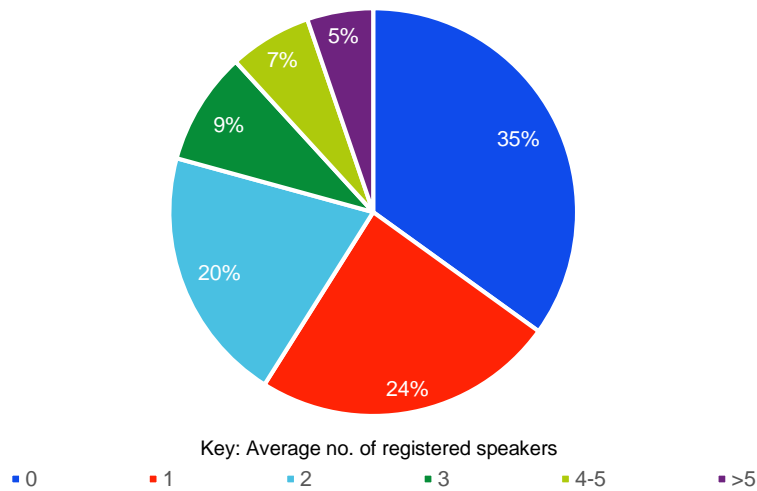
Source: Council online IHAP reporting data.  
 Sample: N=31 panels (from 122 meetings and 466 DAs).

**Number of registered speakers**

Councils inputted data for 458 DAs to indicate the number of registered speakers during public meetings. On average, there were 1.6 registered speakers registered per DA. For over one in three (35 per cent) DAs there were no registered speakers, and for around half (53 per cent) there were between one and three speakers registered (Figure 25).

<sup>15</sup> Two panels were excluded as outliers.

**Figure 25. Proportion of DAs, according to the number of registered speakers**



Source: Council online IHAP reporting data.  
 Sample: N=458 DAs.

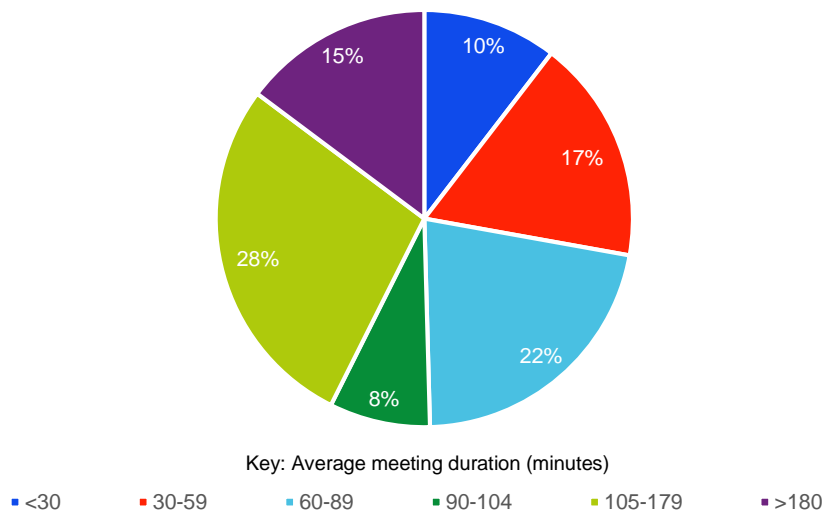
The average number of speakers per DA was highest for IHAPs in Sydney North and Sydney Central regions (2.4 and 1.8 respectively) and somewhat lower for IHAPs in Sydney West Central and Sydney South West regions (0.9 and 0.8 respectively).

**Duration of the meeting**

Meeting durations were 97 minutes on average.<sup>16</sup> Around half of the meetings conducted were between 30 minutes and 104 minutes (47 per cent), with around one in four made up of meeting durations between 105 and 179 minutes (Figure 26).

The remaining quarter is split between very short meetings (under 30 minutes, 10 per cent) and very long meetings (over 180 minutes, 15 per cent).

**Figure 26. Proportion of panel meetings, according to meeting duration**



Source: Council online IHAP reporting data.  
 Sample: N=122 meetings.

<sup>16</sup> This average includes zero entries as IPPG was unable to determine if these entries were data entry errors or otherwise.

Per DA considered during public meetings, around half of the DAs (48 per cent) were considered in three to seven minutes (on average) during the meeting. About a quarter were discussed for less than three minutes on average.

#### **Case studies**

In one council case study, an expert who was a former Land and Environment Court (LEC) commissioner and who currently works as a mediator encouraged the applicant and objectors to have a discussion. The expert later indicated that they preferred for the parties to resolve issues where possible and for the panel to resolve any remaining issues. The expert explained that the applicant appreciated this approach.

In another case study, the chair who was also a former LEC commissioner, took a collaborative approach and indicated that they sought to focus on the planning outcome and resolve issues with the DA wherever possible. For example, when a DA is deferred, this chair indicates to the applicant the outcome the panel would like to see without being prescriptive about the solution(s).

#### **3.4.3.2 Order and process of submissions**

The order of submissions heard at meetings seemed to vary for each council, but most surveyed directors of planning reported that objectors would be heard first. In general, objectors, applicants and councillors were allocated less than five minutes each to speak at meetings.

#### **3.4.3.3 Deliberation approaches**

Most surveyed experts, community representatives and directors of planning indicated that panel decisions were made in closed session.

#### **Case studies**

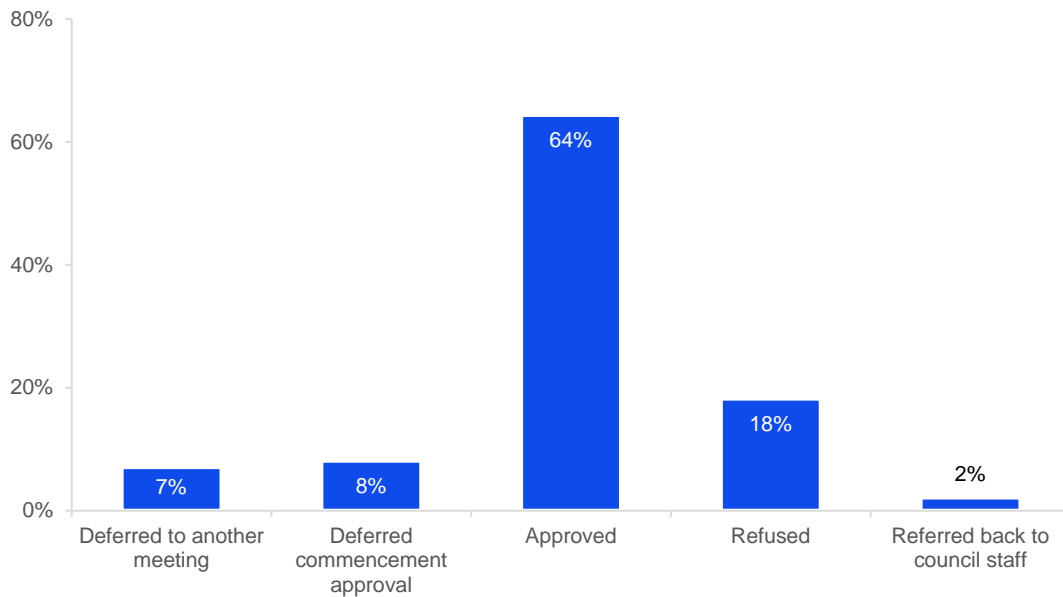
Council staff at one council case study indicated that all three chairs adopted a mixed deliberation approach. If the chair thought there were complex issues to be discussed by the panel, the chair would adjourn the meeting to deliberate during a closed session and then reconvene to announce their decision and explain how they arrived at it. The community representative on this panel believed that adjourning to discuss matters was the best way of achieving a reasonable outcome.

## **3.5 Decisions**

Around two in three DAs considered by IHAPs were approved (Figure 27).

In three IHAPs 90 per cent or more DAs considered were approved (Mosman Municipality, Willoughby City, and Fairfield City), while three IHAPs approved one in three or fewer of the considered DAs (Blacktown City, Hornsby Shire, and Ryde City).

**Figure 27. Breakdown of decisions**



Source: Council online IHAP reporting data.  
Sample: N=466 DAs.  
Note: Percentages do not add up to 100 due to rounding.

### **Referred back to council staff**

The vast majority of surveyed directors of planning (13 mentions) did not have any DAs referred back to council for determination. The only reported case was due to a pre-existing non-compliance that triggered the departure from development standards.

### **Requests for further information**

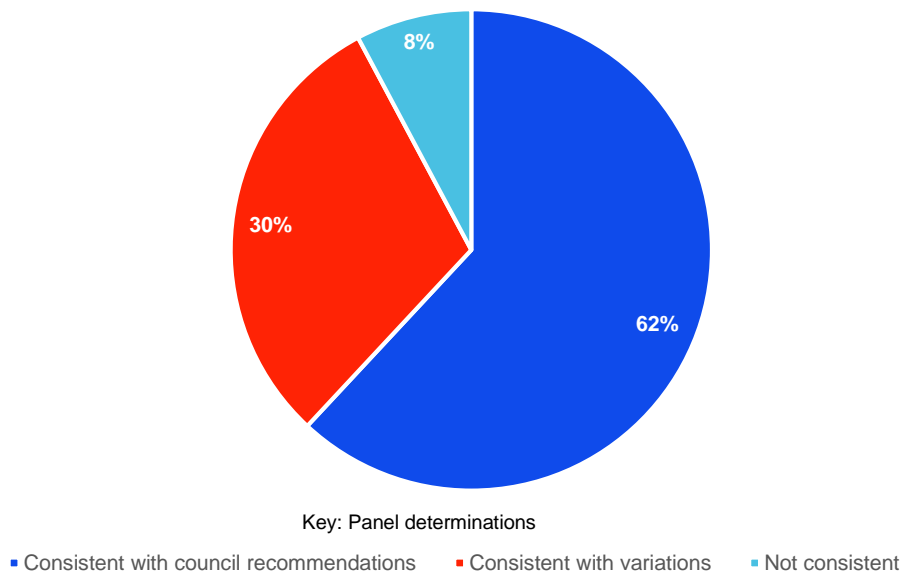
For around one in ten (12 per cent) DAs considered by IHAPs, panels requested more information. Around two in three DAs considered by Blacktown City Local Planning Panel resulted in a request for more information by panels, along with three in four DAs for Penrith City Local Planning Panel. For 10 IHAPs there were no requests for more information by the panels.

### **3.5.1 Consistency with council assessment**

For the majority of DAs (62 per cent), decisions reached by IHAPs were consistent with council recommendations (Figure 28). A further 30 per cent were consistent with council recommendations but with some variations, and a minority (8 per cent) of decisions were not consistent with council recommendations. For 14 IHAPs, the decisions reached by panels were consistent with council recommendations for all DAs considered.



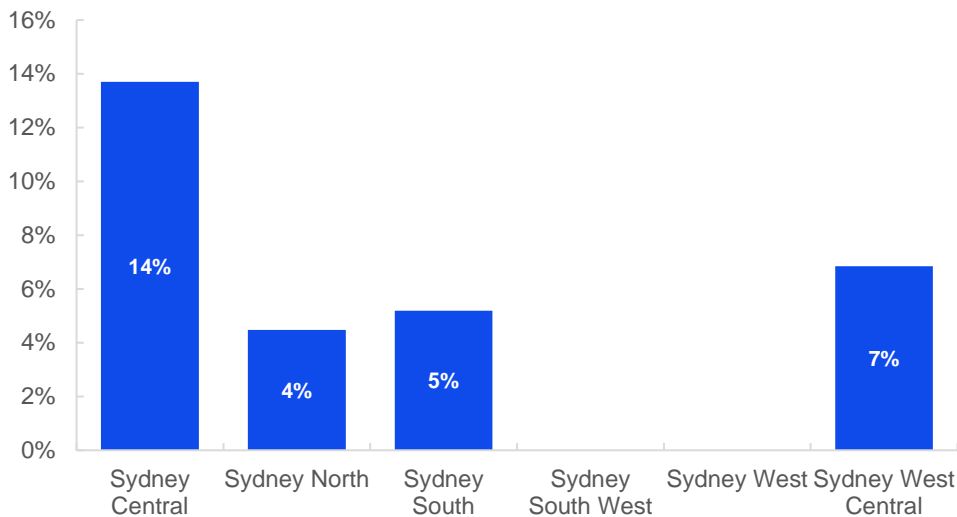
**Figure 28. Proportion of determinations that were consistent with council recommendations**



Source: Council online IHAP reporting data.  
Sample: N=423 DAs.

The rate of decisions reached that were inconsistent with council recommendations was highest in Sydney Central (14 per cent) and lowest in Sydney West (0 per cent) and Sydney South West (0 per cent) (Figure 29).

**Figure 29. Proportion of determinations that were not consistent with council recommendations, by region**



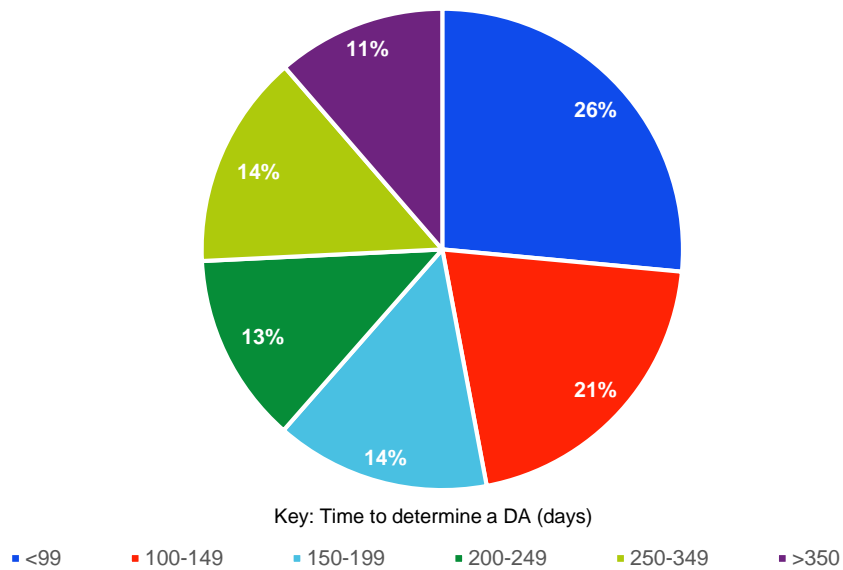
Source: Council online IHAP reporting data.  
Sample: N=423 DAs.

Surveyed directors of planning reported that the main reasons for the panel disagreeing with the council assessment were because new issues came to the fore which had not been addressed in the council assessment, information was missing from the council assessment, or due to panel members' expertise and experience.

### 3.5.2 Determination time

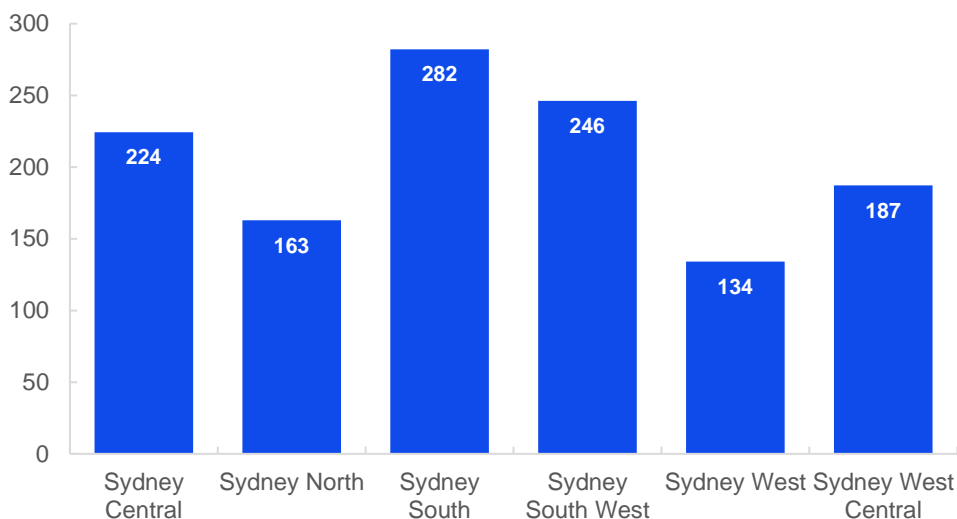
Of the DAs considered by IHAPs, the average number of days for assessment and determination, measured from lodgement, was 192 days (Figure 30). Around half of the DAs (47 per cent) were determined in under 150 days. As the figures analysed in this section include DAs that were lodged before IHAPs commenced, it is too soon to compare average determination timeframes under IHAPs to determination timeframes before IHAPs were established.

**Figure 30. Proportion of DAs, according to the determination time**



Source: Council online IHAP reporting data.  
 Sample: N=423 DAs.  
 Note: Percentages do not add up to 100 due to rounding.

**Figure 31. Average days for determination of DAs considered by panels, by region**



Source: Council online IHAP reporting data.  
 Sample: N=31 panels (from 423 DAs).  
 Note: These figures include DAs that were lodged before IHAPs commenced, it is too soon to compare average determination timeframes under IHAPs to determination timeframes before IHAPs were established.

### Case studies

In the council case studies, some panel members indicated that there were opportunities to improve the way determinations were communicated. An expert indicated that it was important to clarify and justify the determination when submitters (particularly objectors) have taken the time to attend the meeting. For example, this expert gave a comprehensive explanation of how the council determines overshadowing.

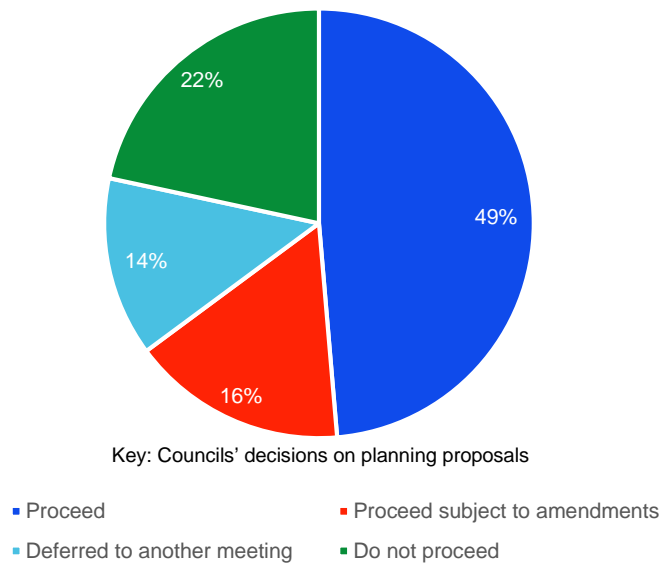
In one council case study, the panel's decisions were usually unanimous. However, when there was a conflicting position/vote, it was usually the community representative who had a conflicting position.

A chair from the second case study indicated that decisions were usually unanimous. In the event that a panel member disagreed with the other panel members, the chair encouraged the member(s) to state their reasons.

## 3.6 Planning proposals

Fifty-five (55) planning proposals were considered by IHAPs over the quarter, with 67 recommendations made. Data was available for 37 planning proposals, primarily due to the planning proposals had not yet been considered by council. Of these planning proposals, data were made available, councils decided to proceed with 24 (including six decisions to proceed subject to amendments) (Figure 32). Five proposals were deferred and for eight proposals the decision reached by the council was not to proceed.

**Figure 32. Proportion of planning proposals that panels provided advice on, related to council decisions**



Source: DPE compiled data collected from councils.  
Sample: N=37 decisions.  
Note: Percentages do not add up to 100 due to rounding.

A majority of surveyed directors of planning (10 out of 14) reported that the council's decisions on planning proposals generally aligned with the panel's recommendations and advice (always or most of the time).

Surveyed directors of planning were mostly neutral about the statement 'the expert advice provided by the panel on planning proposal(s) is valuable to council staff' (five respondents neither agreed nor disagreed and three respondents agreed). Further comments indicate that these positions were taken by the surveyed directors mainly due to limited comments and advice being provided by the panel, as well as the time and cost to process these proposals.

## 3.7 Costs and resources

Surveyed directors of planning reported that, for each meeting, on average, the total remuneration for all four panel members was between \$5,000 to \$7,000 (10 mentions for the aforementioned cost and 4 mentions for a cost more than \$7,001). In addition, the total cost of staff resourcing was less than \$4,000 on average (10 mentions), and the cost for incidentals was less than \$500 (11 mentions). These costs were generally thought to be about the same as the cost associated with council meetings or the previous IHAP (six directors of planning mentioned about the same cost of staff resourcing and eight mentioned about the same cost of incidentals).

In the case studies and surveys, experts and community representatives generally reported that they spent more time preparing and participating in the panel operations compared to the time they were actually paid for.

### Case studies

One council case study paid the minimum remuneration rate prescribed by DPE for the chair and experts. For each ward community representative, council paid a minimum of \$500 for each meeting, up to \$1500 if the ward representative determined three or more DAs. Council staff explained that the total cost for the panels (remuneration, incidental, and staff costs) was higher than estimated prior to the reforms. However, staff indicated that the potential reduction in legal fees for appeals could counterbalance in the increase in costs.

A chair at the second council case study who preferred for community representatives to have planning or related expertise believed that community representatives should be remunerated the same amount as the experts.

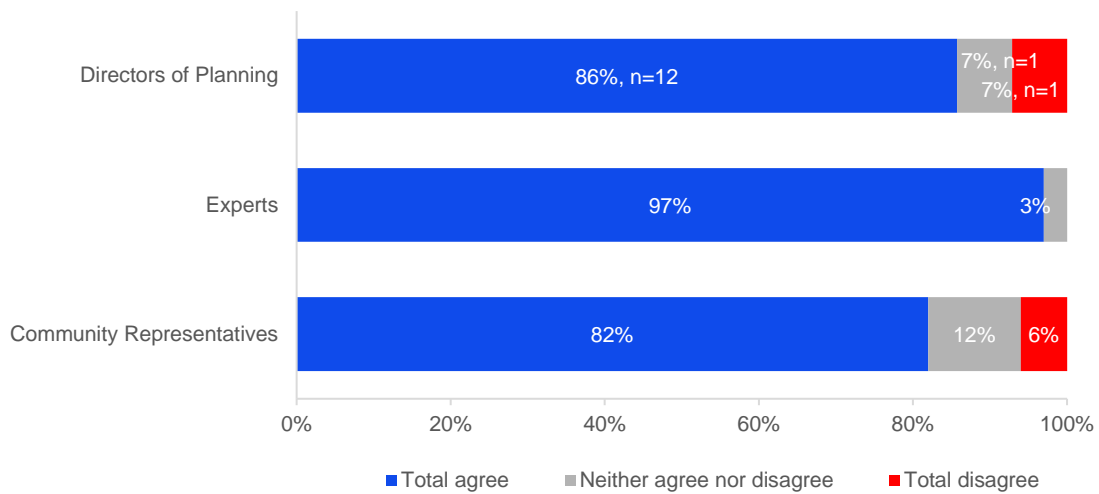
## 3.8 Overall perceptions of operation

### 3.8.1 Key elements functioning well

A majority of surveyed directors of planning, experts, and community representatives agreed with the statement 'the IHAP process is operating well' (Figure 33). Only a small proportion of community representatives (12 per cent) were neutral about the current IHAP process. Overall, the main reasons panel members stated that the process is operating well were:

- council staff working collaboratively with the chair and other panel members
- the panel is supported by senior and secretariat staff
- the panel makes sufficient changes to council staff's recommendations to provide confidence that they are deliberating on each matter
- the sense of impartiality and the opportunity to explain proposals to a panel of independent experts allows for a more professional discourse when presenting proposals
- the IHAP process is depoliticised, open and transparent, and
- the opportunity provided to applicants and residents to be heard.

**Figure 33. Level of agreement with the statement ‘the IHAP process is operating well’**



Survey question: Please indicate your level of agreement with the following statement: The IHAP process is operating well.

Sample: N=14 directors of planning; N=38 experts; N=49 community representatives.

Surveyed directors of planning, experts, and community representatives agreed that the main benefits of the current IHAP process was its transparency, independence, and that it was a depoliticised and professional process (Table 5).

**Table 5. Views on the key benefits of the IHAP process**

Directors of planning	Experts	Community representatives
<ul style="list-style-type: none"> <li>transparent</li> <li>independent</li> <li>depoliticised</li> <li>professional</li> </ul>	<ul style="list-style-type: none"> <li>transparent / open</li> <li>independent</li> <li>depoliticised</li> <li>professional</li> <li>objective</li> <li>consistent</li> <li>rigorous</li> <li>quick turnaround</li> <li>unbiased / impartial</li> <li>participatory</li> <li>efficient</li> <li>fair</li> </ul>	<ul style="list-style-type: none"> <li>transparent</li> <li>independent</li> <li>depoliticised</li> <li>professional</li> <li>objective</li> <li>fair</li> <li>opportunity for community involvement</li> <li>expert assessment</li> <li>local voice</li> <li>public</li> <li>inclusive</li> <li>balanced</li> </ul>

Survey question: What do you consider to be the key benefits of the current IHAP process?

In addition, council staff members and panel members from the case studies raised the following:

- **The opportunity for panels to provide expert advice on council policy** (e.g. future reviews of DCPs or LEPs) when determinations are delivered.
- **The role of council staff:** A number of panel members indicated that they found council staff to be responsive and eager to do a good job.

### 3.8.2 Key challenges

Perceptions on the challenges or limitations of the current IHAP process varied across surveyed directors of planning, experts, and community representatives. However, they all seemed to agree that time constraints, the volume of DAs to consider in one meeting and the difference in the time spent preparing compared to the time paid were some of the challenges of the current process (Table 6).

**Table 6. Views on the key challenges or limitations of the IHAP process**

Directors of planning	Experts	Community representatives
<ul style="list-style-type: none"> <li>• time consuming</li> <li>• minor matters referred</li> <li>• panel members can be influenced by emotions</li> <li>• lack of flexibility</li> <li>• costs of running the panels</li> </ul>	<ul style="list-style-type: none"> <li>• time expectation and time paid to participate</li> <li>• too many matters in one meeting</li> <li>• limited site inspections</li> <li>• limited by outdated local planning controls</li> <li>• inconsistencies between different panel operations</li> </ul>	<ul style="list-style-type: none"> <li>• time constraints (e.g. for site visits and during panel meetings)</li> <li>• time expectation and time paid to participate</li> <li>• too many matters in one meeting</li> <li>• limited site inspections</li> <li>• lack of continuity caused by panel rotation</li> <li>• meetings held during the day limits the general public participation</li> </ul>

Survey question: What do you consider to be the key challenges or limitations of the current IHAP process?

Case study council staff members and panel members tended to agree with these elements and they also raised the following challenges or limitations:

- **The administrative load on council staff:** This was particularly the case with regard to: rotating panel members; ensuring the new disclosure forms are completed and uploaded in a prompt manner; arranging for panel member remuneration; and, obtaining approval on the resolutions from all panel members after the meeting.
- **The time allocated to registered speakers:** An expert indicated that there should be more time allowed for submitters to present, depending on the number and complexity of issues.
- **The number of planning guidelines and controls to be considered for panels for amalgamated councils.**
- **Layout of the meeting room:** Some panel members indicated that different meeting room structures may inhibit the sense of inclusiveness and make it difficult for panel members to make eye contact, engage and ask questions.

### 3.8.3 Suggested areas of clarification and improvement

Surveyed directors of planning reported that there are some improvements to the IHAP process to make it work better for councils, which included:

- providing a clear guide that states the role and objectives of the panels
- reviewing the referral criteria to prevent referral of minor matters
- removing the threshold of 10 objections for Schedule 1 councils, and
- establishing a more efficient system for the preparation and distribution of business papers.

Surveyed experts raised the following suggestions:

- ensuring adequate panel member remuneration to align with time spent preparing
- ensuring expert panel members do not work as panel members while also representing private clients in the same LGA, and
- allowing panel members to have robust discussions behind closed doors, with no time pressure, after hearing from submitters and applicants.

Surveyed community representatives offered suggestions in relation to their role. Their comments were mainly around adequate remuneration commensurate to time spent outside meetings analysing reports and visiting sites, and clarifying the role of community members.

Council staff and panel members from council case studies suggested the following areas could be improved or clarified:

- **Standardising and consolidating the information councils provide to panel members:** A number of panel members indicated that it would be helpful for the council to provide further

information (e.g. the full text of clause 4.6 of the standard instrument<sup>17</sup> for departures from development standards, details of the landowner) in a standardised way (e.g. all in hard copy or electronic).

- **Examining the role of the community representatives:** Panel members suggested that there could be greater clarity on role of the community representative, including the issues representatives should raise, beyond technical compliance issues, as well as restrictions on discussing DAs with the community.
- **Considering the inclusiveness of community representatives in technical discussions when they do not have planning or related expertise:** A community representative raised that the dominant focus of panel discussions is technical and, if the community representative does not have planning or related expertise, it is difficult to have an informed decision about the DA. This community representative highlighted that an area of improvement would be for the other panel members to tap into community representatives' knowledge, which is an important resource.
- **Providing panels with the discretion to deliberate in closed session:** One council suggested that there was uncertainty around the ability under the Act for a panel to deliberate in a closed session, despite the Minister's direction providing for this.<sup>18</sup> This council suggested that deliberating in a closed session was at odds with open and transparent decision-making.
- **Matching experts' expertise to the DAs on the agenda:** Experts indicated that at times it might be advisable to match experts' expertise with particular (e.g. complex) DAs.
- **Scoping the appropriateness of whether chairs should have the casting vote:** Two panel members indicated that they did not think the chair's casting vote was appropriate and that it was preferable to have an equal split in the votes rather than a casting vote.
- **Clarifying the meaning of conflicts of interest:** One council indicated that panel members, including chairs, were having difficulties interpreting 'conflicts of interest' and DPE should provide further advice on this matter.
- **Clarifying the meaning of 'unique' submissions and issues when objectors seek to ensure the threshold is met:** One council sought clarification regarding the meaning of 'unique' submissions and indicated that some objectors seek to garner additional objections to ensure the ten objections threshold was met.
- **Advising on naming conventions:** One council sought clarification about the naming convention for panels, namely whether the panels should be referred to as IHAPs or LPPs.
- **Using technology during the panel meetings:** Panel members encouraged better visual presentation and use of technology during the panel meetings. For example, electronically displaying plans, photographs and diagrams.

### Additional guidance and support

Surveyed directors of planning were presented with a variety of resources or processes that could assist them to support the panel operation. The survey found that most directors reported that best practice notes (12 mentions) and council briefing sessions hosted by DPE and independent bodies (10 mentions) would be useful resources (Table 7). More than half of directors of planning (9 mentions) suggested that council staff workshops and courses on IHAP best practice would be useful. Other resources mentioned by directors of planning as useful tools to support panel operations were templates of key documents and technological improvements to generate and publish agendas.

<sup>17</sup> Prescribed under the Standard Instrument (Local Environmental Plans) Order 2006.

<sup>18</sup> See clause 3.3(5) of the operational procedures, which provides that a panel may adjourn a public meeting to deliberate.

**Table 7. Resources or processes directors of planning might find useful to support panel operation**

Resources	(n)
Best practice notes	12
Council briefing sessions hosted by DPE, council briefing sessions hosted by independent bodies	10
Council staff workshops/courses on IHAP best practice (e.g. hosted by professional bodies or universities)	9
Reporting templates	6
Peer to peer learning opportunities	5
Council staff workshops facilitated by educational organisations	4

Survey question: Please select which other resources or processes your department might find useful to support panel operation.

Sample: N=14 directors of planning.



## 4 Conflicts of interest, complaints, reviews and appeals

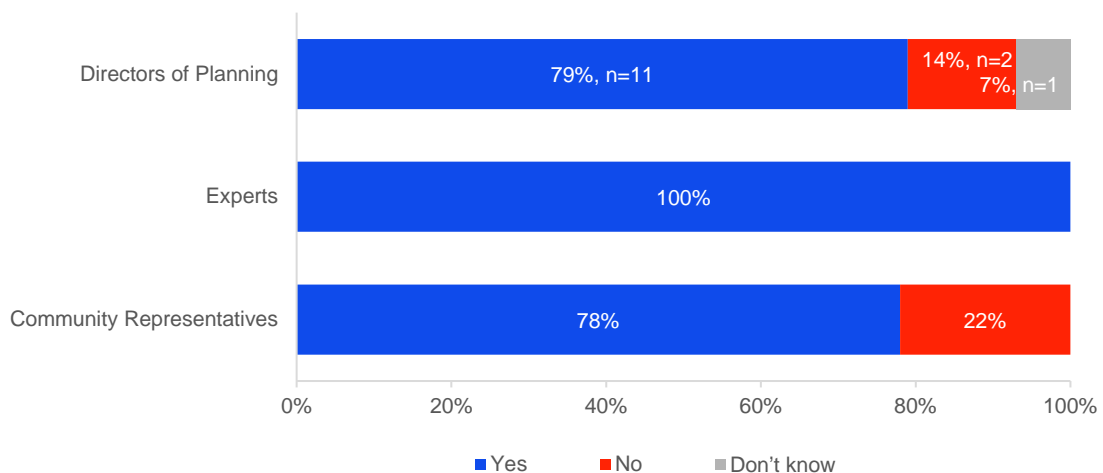
This section provides more detailed information on key findings in the Report related to conflicts of interest, complaints, reviews and appeals. Data was primarily obtained via DPE and from OLG, the NSW Ombudsman and ICAC, as well as case studies and council reports (see Section 1.2).

### 4.1 Conflicts of interest

#### 4.1.1 Disclosure requirements

The majority of surveyed directors of planning, experts and community representatives agreed that the IHAP model will increase probity in the assessment system from what was the case before its introduction in March 2018 (Figure 34). However, nearly one quarter of community representatives (22 per cent) did not agree.

Figure 34. Views on the IHAP model increasing probity in the assessment system

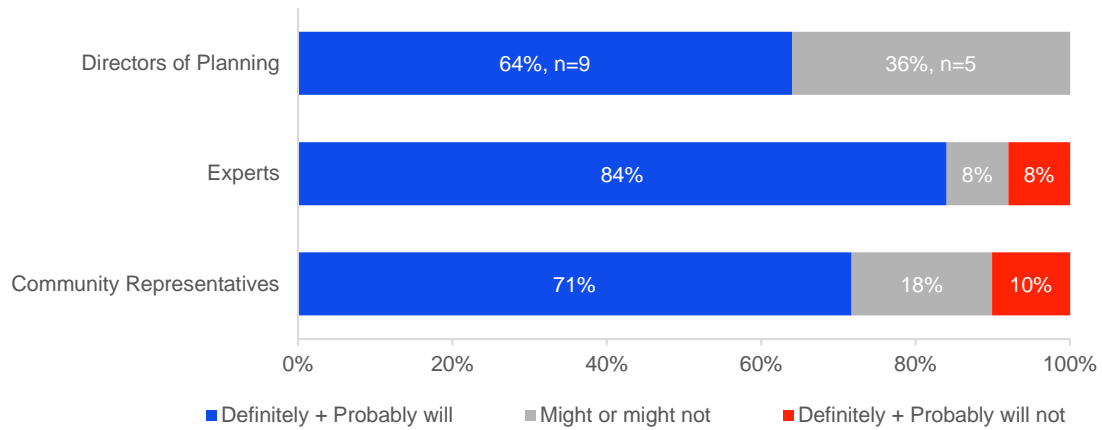


Survey question: Do you consider that the IHAP model will increase probity in the assessment system from what was the case before its introduction in March 2018?

Sample: N=14 directors of planning; N=38 experts; N=49 community representatives.

In addition, the majority of surveyed directors of planning, experts and community representatives agreed that the new disclosure requirements for panel members for conflicts of interest will increase probity. Eighty-four per cent of experts reported that the new disclosure definitely or probably will increase probity and 71 per cent of community representatives mentioned the same (Figure 35). However, a small number of community representatives (10 per cent) reported that the new disclosure will definitely not or probably not increase probity.

**Figure 35. Views on whether new disclosure requirements for panel members for conflicts of interest will increase probity**



Survey question: Do you think the new disclosure requirements for IHAP panel members for conflicts of interest will increase probity in the planning system?

Sample: N=14 directors of planning; N=38 experts; N=49 community representatives.

#### 4.1.1.1 Management of disclosures

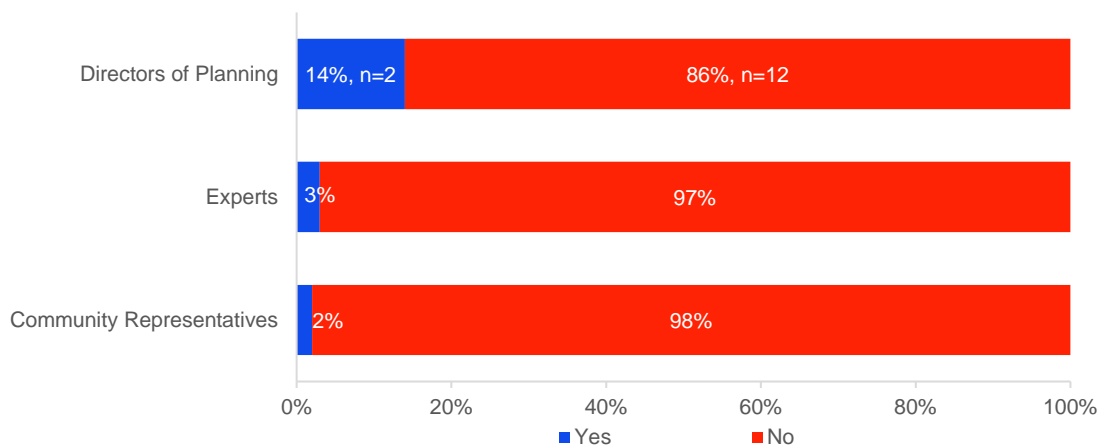
The vast majority of surveyed directors of planning, experts and community representatives, reported that they were not aware of any perceived conflicts of interest that were not disclosed or properly managed (Figure 36).

The vast majority of experts (97 per cent) and community representatives (92 per cent) mentioned that they have never encountered any situations or issues which have caused concern, but they decided not to report.

There were a small number of situations/issues which survey respondents indicated caused concern, but they decided not to report. These were that:

- two chairs, who were both lawyers, were currently running appeals against the councils with which they were associated, and
- panel members who are planning consultants were representing clients in the same LGA as the panel on which they sit.

**Figure 36. Awareness of any actual, potential or reasonably perceived conflicts of interest that were not disclosed or appropriately managed**



Survey question: Are you aware of any actual, potential or reasonably perceived conflicts of interest which you believed were not disclosed or appropriately managed by a panel member?

Sample: N=14 directors of planning; N=38 experts; N=49 community representatives.

### Case studies

At one site visit, a community representative realised that their employer was the landowner for a DA and disclosed this to the chair. The chair said they always err on the side of caution and asked the representative not to sit on the panel for that DA.

Another community representative who was an ex-councillor indicated that they had withdrawn from considering a DA for which they had lodged an objection when they were a councillor. However, this representative did not believe that their objection was a conflict of interest. The same community representative mentioned that a local community group had indicated to the representative that they were in favour of a development considered on the agenda. It was not apparent whether the representative had disclosed this conversation to the chair. These examples indicate that there is scope for more awareness in relation to the identification and disclosure of conflicts of interest.

## 4.2 Complaints and issues

Data regarding complaints and issues were reviewed from the council reporting data, agency data (DPE, OLG, NSW Ombudsman and ICAC) and the case studies.

There were no code of conduct complaints recorded in the council quarterly reports.

In total, there were 16 matters that arose from the other data sources. This includes matters relating to conflicts of interest under the code of conduct (see section 4.2.1 below), along with issues, queries and informal complaints received by DPE in relation to panel implementation.

A range of stakeholders raised matters, including panel members, applicants, the general manager of the relevant council and managers of strategic planning departments and development assessment departments.

### 4.2.1 Code of conduct

There were three matters related to conflicts of interest pursuant to the code of conduct. In summary:

- One matter related to the procurement of a consultant report that was considered by the panel when determining a DA for a subdivision. The complainant submitted that the advice in the report was ignored by the panel. There was an alleged conflict of interest between council, panel and consultant.
- Another matter concerned allegations that a panel member who approved a DA had a conflict of interest.
- Another matter was raised by a panel member was about new disclosure requirements in the amended code of conduct. The panel member sought clarification about how the new section 4.4 would apply as they were not able to recall the numerous matters and sites dealt with during their career. DPE provided advice, including that the new section 4.4 of the code of conduct should be read in the context of Part 4 of the code which deals more broadly with identifying, declaring and managing conflicts. DPE advised that the amendments to the code have not changed the definition of a conflict of interest under the code, nor the requirement for panel members to identify a conflict of interest and take appropriate action.

### 4.2.2 Panel operation

Matters raised in relation to panel operation included the following:

- Once council manager queried whether DPE has issued a circular or any advice for modification referral criteria for applications where the original application predates the panel. DPE advised that there are no referral criteria for modifications to the panel, and whether the application predates the IHAP is not a factor for consideration. DPE advised that, if council staff do not have the delegation to determine modifications, the IHAP should determine these applications.
- A council's Executive Principal of Planning queried whether DPE has issued guidance or a policy regarding panel meetings being undertaken electronically (e.g. where there are no objectors). DPE advised that there is an option available under the Act to transact business outside of meetings through a circulation of papers.

- A council's manager of development assessment raised that an application for an internal review (under section 8.2 of the Act) had been lodged for a boarding house DA that was refused by full council at an ordinary meeting. The DA was checked and signed by the Manager, the Director and the General Manager before being reported to council. The council submitted that there is now no position in the council's hierarchy to independently check the determination. It was submitted that the DA should go to the panel, even though it does not trigger the usual criteria needed to be referred to the panel. DPE advised that the reviews of previous full council decisions go to the panel. Section 8.3(6) of the Act states that reviews of determinations made by a council are to be conducted by council and not by a delegate of council. Section 4.8 of the Act states that the local planning panel has functions of the consent authority in an area where councillors cannot exercise consent authority functions.
- One matter related to the cost of running local planning panels. The acting CEO of a council raised with the Minister that the cost of the panels is significantly more than the cost of panels under the old system. They suggested that DPE review the costs of panels. To help pay for the panels, this council suggested that DPE either subsidise the panels in view of the State government appointing members or allow councils to add a fee to DAs.
- General Counsel at one council queried whether the IHAP legislation alters the ability for council to reduce or waive fees in extenuating circumstances. DPE advised that council (voting collective of councillors) cannot have any involvement in consent authority functions including waiving or reducing fees and that council staff may be able to, if council policies allow this.
- One council submitted that the legislation has not incorporated sufficient provisions to mitigate the possibility of indefinite and unnecessary delays in councils bringing matters to a local planning panel. DPE advised the council that it can decide which modification applications are to be determined by its panel and which are to be determined by staff by reviewing and updating delegations. It was advised that council should consider referring modifications that meet the panel criteria for DAs to the panel. DPE also advised that, should certain criteria be used to refer modifications to the panel, these criteria and council's delegations should be published on the council's panel webpage for transparency.
- One matter concerned delays in referring a modification application to the panel.

Two matters were related to planning proposals, with two councils (the managers of strategic planning) querying whether planning proposals reviewed by panels are required to have a public agenda. One of the councils also queried whether a panel's consideration and advice in relation to a planning proposal must be conducted as part of the public meeting process and whether a panel can consider a report from planning staff setting out the details of the planning proposal. DPE advised no public meeting is required for consideration of planning proposals and that the panel could be briefed by council staff, and then formulate its resolution on its advice as transaction of business outside of meetings in accordance with clause 26 Schedule 2 of the Act. The advice provided should also be recorded on the panel's website.

## 4.3 Reviews and appeals

Twelve reviews were commenced in quarter 2.

Eighteen appeals were filed in quarter 2 and two appeals were finalised in quarter 2. One IHAP recorded incurring legal expenses of \$3752 in this quarter.

### Case studies

For one case study, council staff suggested that there was not yet a difference in the number of appeals pre-reform and post-reform. They noted that one recent appeal concerned a DA which had been refused by the panel after council staff had recommended its approval. Staff did acknowledge that it was too soon to tell if the number of appeals would decrease under the IHAP system over time.

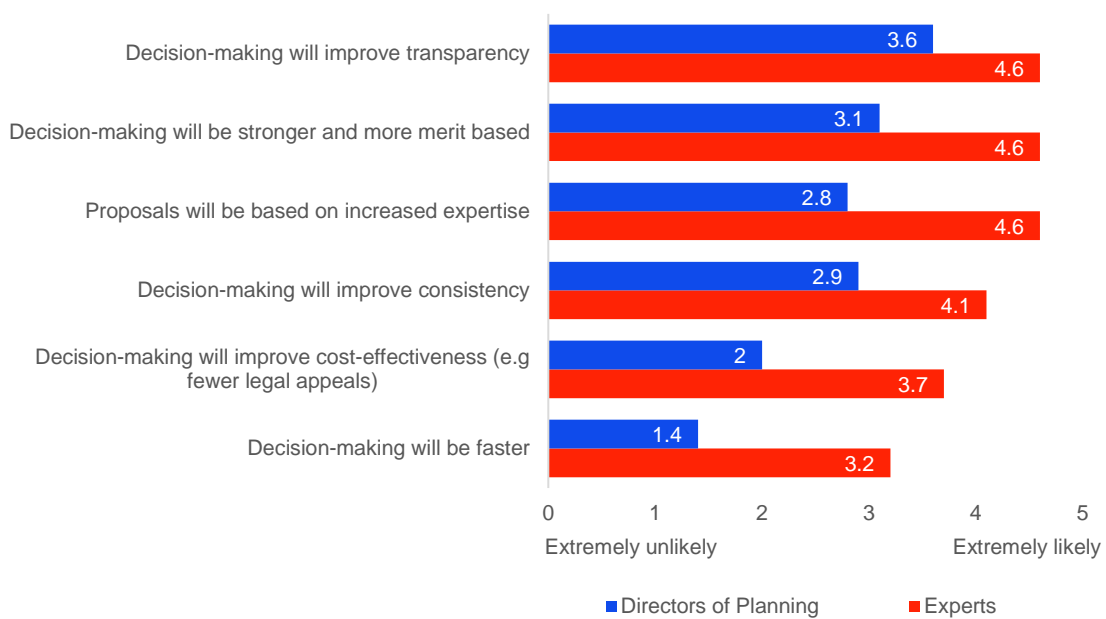
# 5 Stakeholder perceptions

This section provides additional information on key findings from the Report relating to key stakeholders' perceptions about IHAPs. This has been synthesised from the media content analysis, surveys for experts, community representatives and Directors of Planning, and the case studies. In this section, stakeholders include: panel members, councillors, community members, applicants, objectors, and council staff.

## 5.1 Reform objectives

Surveyed experts were more likely to agree that the new IHAP model would improve transparency, consistency, cost-effectiveness, be stronger and more merit based, and increase expertise, when compared to directors of planning (Figure 37). Perceptions regarding the new model improving cost-effectiveness and faster decision making were less robust.

**Figure 37. Views on the likelihood that the IHAP model will meet reform objectives**

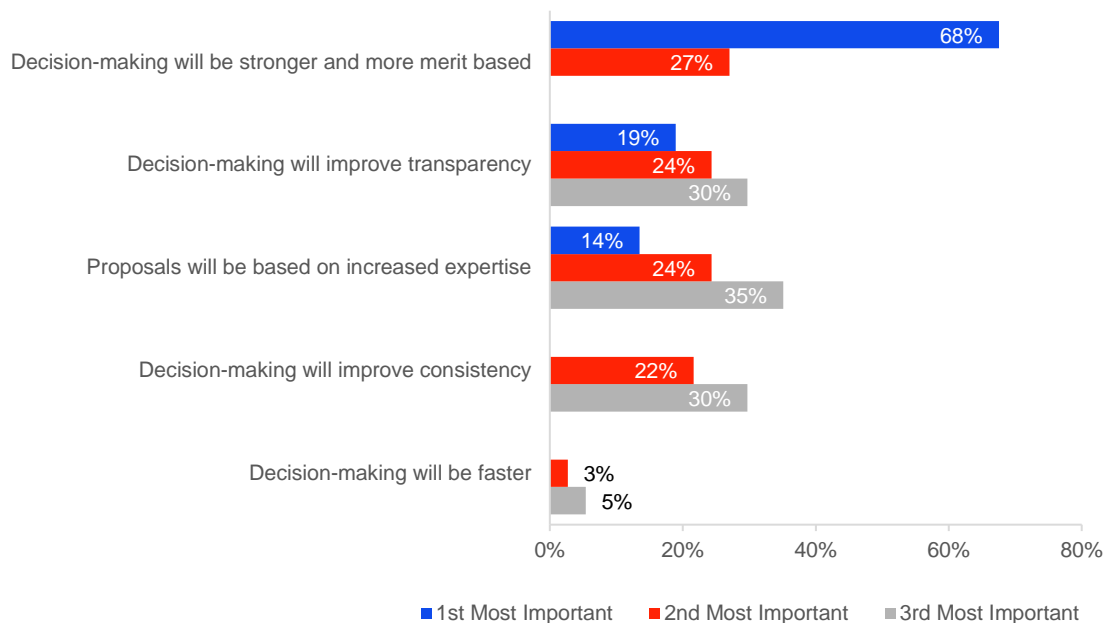


Survey question: In your opinion, under the new IHAP model in Greater Sydney and Wollongong how likely is it that...?  
Sample: N=14 directors of planning; N=41 experts.  
Scale: 0 to 5 (0 extremely unlikely and 5 extremely likely).

Surveyed experts ranked:

- stronger and more merit-based decision-making as the most important reform objective, with over two thirds of mentions (68 per cent)
- improved transparency as the second most important reform objective, and
- proposals being based on increased expertise as the third most important reform objective (Figure 38).

**Figure 38. Reform objectives considered high priorities by experts**



Survey question: Please rank the following in order of importance you place on them.  
 Sample: N=41 experts.

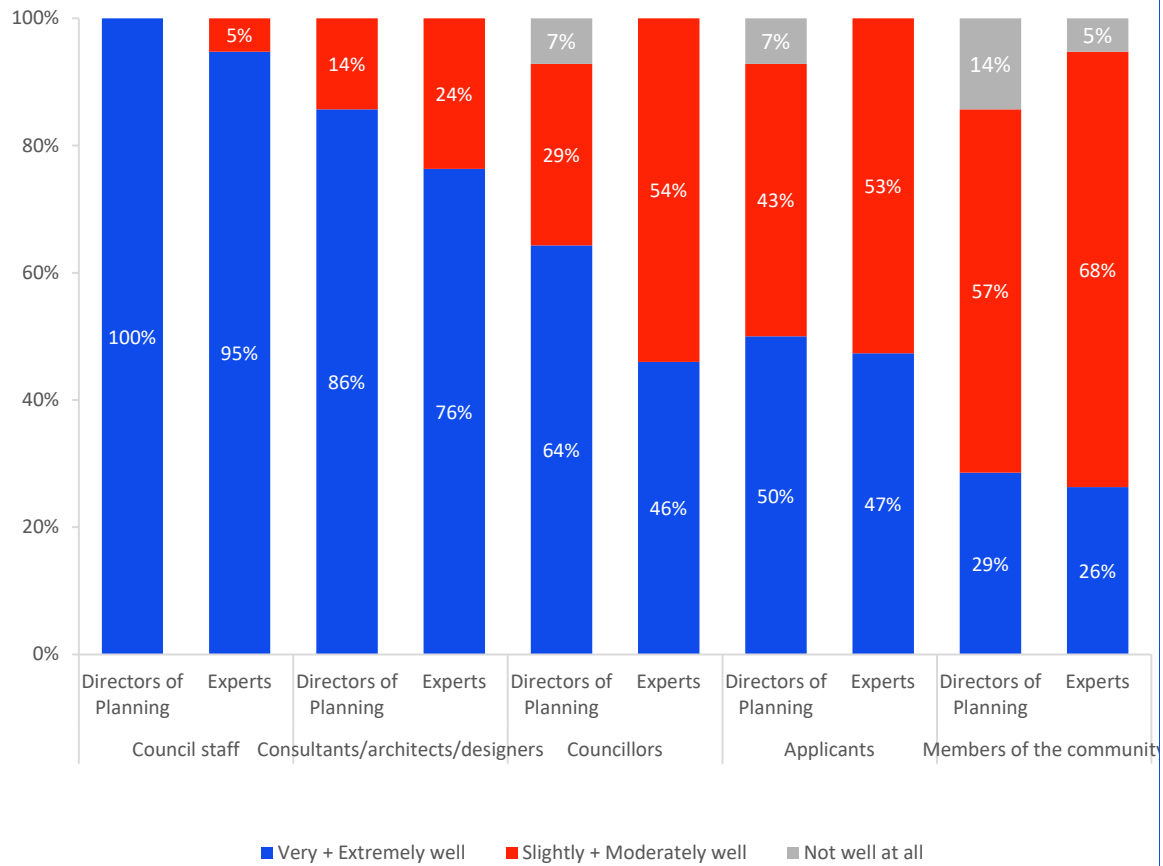
**Case studies**

At one case study, chairs, community representatives and council staff provided mixed views on whether the panels would meet the reform objectives, including whether councillors would be more involved in strategic planning. One staff member indicated that councillors are now more involved in operational matters (e.g. they noticed an increase in the number of motions and questions in council meetings). In contrast, other staff indicated that it might be too soon to know if councillors are more involved in strategic planning but there had been reasonable attendance at council-led training on strategic planning.

**5.2 Understanding of the purpose of the panels**

A majority of surveyed directors of planning and experts reported that council staff and consultants/architects/designers understood the objectives of the IHAP process very or extremely well (Figure 39). In contrast, 68 per cent of experts reported that that the IHAP objectives were slightly or moderately well understood by members of the community and 5 per cent mentioned they were not understood at all.

**Figure 39. Views on how well stakeholders understand the objectives of the IHAP process**

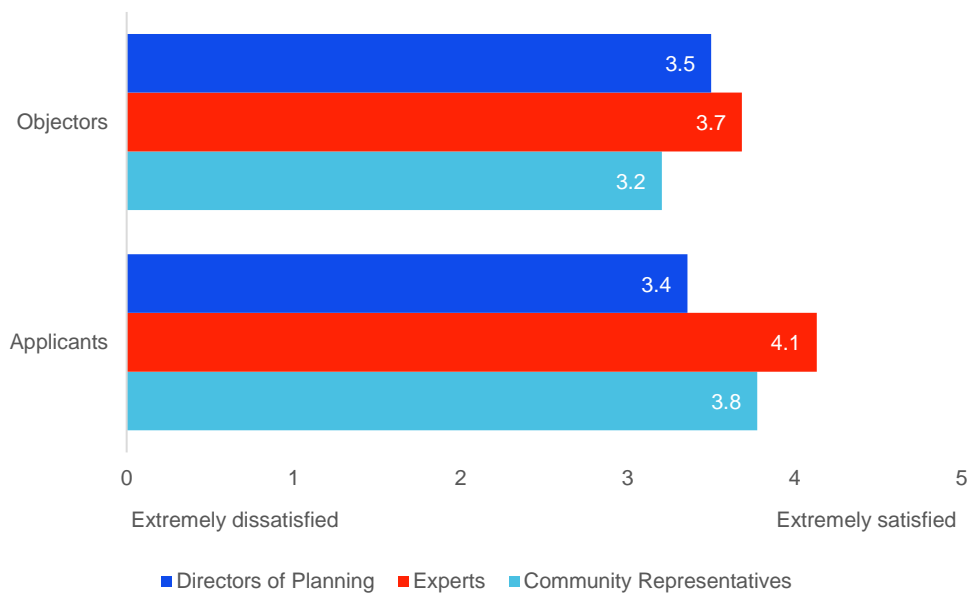


Survey question: Overall, in your opinion, how well understood are the objectives of the IHAP process by the following stakeholders who attend the meeting?  
 Sample: N=14 directors of planning; N=38 experts.

### 5.3 Satisfaction with the panels

Surveyed experts were more likely to rate applicants' perceived satisfaction with their experience of the IHAP process higher than community representatives (Figure 40). Applicants' perceived perception was rated an average of 4.1 by experts and 3.8 by community representatives.

**Figure 40. Views on stakeholders' satisfaction with the IHAP process**



Survey question: Overall, in your opinion, how satisfied do you perceive applicants, objectors and Councillors are with their experience of the IHAP process?

Sample: N=14 directors of planning; N=41 experts; N=61 community representatives.

Scale: 0 to 5 (0 Extremely dissatisfied and 5 Extremely satisfied).

### Case studies

Some panel members believe that the community is generally satisfied with the IHAP process. For example, an expert indicated that, even if applicants or objectors are not satisfied with the outcome, the panel seeks to ensure that everyone leaves the meeting with an understanding of the how the decision was made so that they understand the outcome. Another expert explained that, occasionally, there are some objectors who thank the panel members for listening and trying to understand the issues they have raised. Also, a community representative explained that most people in the community want consistency and transparency, which is what the panel achieved.

After the vote was taken at one panel meeting, an applicant thanked the panel and the council for their support and said they had been 'fantastic'. In contrast, another applicant indicated to an IPPG researcher observing the panel meeting that they were unsatisfied with the panel because it considered modification DAs. The applicant explained that the panels took longer to determine these types of DAs compared to council staff and that other panels had delegated modifications to council staff to determine.

For one case study, council staff indicated that, prior to March 2018, councillors were strongly opposed to the IHAP reforms. Council staff thought that there might be a minor shift in some councillors' positions on the IHAP reforms although most councillors remained disappointed that councillors' determination powers had been removed under the new IHAP system.

### 5.3.1 Views reported in the media

In quarter 2 newspaper articles tended to focus on a specific DA or a community issue in the local council area. Most of the references to IHAPs were passing (e.g. the panel is determining or had previously assessed the DA).

For the most part, the reporting was neutral in tone and was descriptive. For example, a positive opinion piece from the President of a Civic Trust indicated that the IHAP system was working well, the Trust sought to work with local council to discuss the development proposals and advise objectors with regard to contentious or non-compliant DAs.<sup>19</sup>

<sup>19</sup> 'IHAPs working well' *Monthly Chronicle* (20 Sep 2018).



### Monthly snapshot (July to September 2018)

- **July 2018:** The majority of articles involved a passing reference to IHAPs. Heritage and overdevelopment were recurrent themes.
- **August 2018:** A minority of the reports were specifically about IHAPs. Some reference was made to the importance of maintaining the 'local character of the area'. The remaining articles included a reference to local planning panels as part of broader discussion about a DA.
- **September 2018:** Many articles referenced panels in context of a specific DA. Building height limits were a common theme.

#### 5.3.1.1 Key themes

During quarter 2, the following themes were identified in the newspaper reporting:

- concerns regarding overdevelopment and the importance of maintaining 'local character'
- the value of heritage and quality design
- councillors' concerns regarding IHAPs
- panel recommendations regarding planning proposals, and
- ICAC and investigations.

#### Concerns regarding overdevelopment and the importance of maintaining 'local character'

These articles typically combined a discussion of the importance of maintaining the 'local character' of the area with concerns about overdevelopment.

When the panel listened to community concerns or made a decision in line with community expectations, the reporting was generally positive. For example, the Wollongong Local Planning Panel refused the development of four detached units on a subdivided block as it was 'out of character with the area' and did not comply with development rules.<sup>20</sup> The Panel also refused a DA to demolish cottages on a prominent site for five townhouses based on consideration of appropriate design, local character and height limits.<sup>21</sup> Also, Sutherland Shire Local Planning Panel approved a DA regarding a boarding house (after the Panel's initial refusal), but the Panel emphasised that the DA should be in harmony with the local area and imposed a range of conditions.<sup>22</sup> Other reports commented about the large number of boarding houses approved in Kogarah, despite protests from the local community.<sup>23</sup>

Some articles related to DAs that were refused based on the 'local character' of the area. For example, in one article the panel considered that the development was not consistent with the known 'desired future character of the area', the existing urban form and the permitted planning controls of adjacent and nearby sites.<sup>24</sup> In contrast, one report referred to a DA for two double storey apartment blocks that was approved despite community protests stating that the development was not in line with local character (and would have impacts on traffic and flood and storm water infrastructure).<sup>25</sup>

#### The value of heritage and quality design

There were a number of reports which highlighted the importance of the heritage and urban design. Reporting on this theme was generally positive.<sup>26</sup> For example, Blue Mountains City Council lodged a third DA to preserve the existing heritage values of the building. The panel rejected the DA on the basis that that the plans were not adequate. The chair explained: 'What's offered to date is not good enough for a

<sup>20</sup> 'Northern suburbs unit spree continues in Thirroul' *Illawarra Mercury* (15 Aug 2018).

<sup>21</sup> 'Out of character: too-high Thirroul townhouses rejected' *Illawarra Mercury* (5 Aug 2018).

<sup>22</sup> Murray Trembath, 'Scaled-back boarding house at Jannali approved after initial refusal' *St George & Sutherland Shire Leader* (20 Sep 2018).

<sup>23</sup> Jim Gainsford, 'Kogarah residents rally against English Street boarding house plan' *St George & Sutherland Leader* (17 Jul 2018); Jim Gainsford, 'More boarding house accommodation proposed for Kogarah' *St George & Sutherland Leader* (26 Jul 2018).

<sup>24</sup> Jim Gainsford, 'Plan for Riverwood tower refused by local planning panel' *St George & Sutherland Shire Leader* (4 Jul 2018).

<sup>25</sup> Kate McIlwain, 'Public hearing on controversial Corrimall unit block proposal' *Illawarra Mercury* (11 Aug 2018).

<sup>26</sup> 'Heritage in peril' *Monthly Chronicle* (28 Jul 2018); 'Rescue heritage treasure' *Local News Plus* (23 Jul 2018); Lanie Tindale, 'The little church that needs a prayer' *Alternative Media Group* (29 Aug 2018); Jennie Curtin, 'New DA Will save the 1920s former manager's residence at Katoomba Falls Kiosk' *Blue Mountains Gazette* (2 Aug 2018).

Blue Mountains City Council in a world heritage area. We believe it can be better'. The IHAP made a number of recommendations for improvements, which the article indicated the architects addressed.<sup>27</sup>

Another report was regarding an application considered by the City of Sydney's Local Planning Panel.<sup>28</sup> The DA received 134 objections (one submission in favour). The Panel indicated that the development would have 'detrimental impacts on the existing building and its contribution to the heritage conservation area' and the DA was withdrawn. Another report discussed the development of a new pub in a restored building and how, after strong support from Canterbury-Bankstown Council, the developer had worked with Council and the panel to design a restoration that was in line with the building's heritage status.<sup>29</sup>

Another positive article with regard to the Hornsby Shire Council Local Planning Panel indicated the panel wanted to improve the standards of urban design following years of 'ugly development' in the area. Also, Hornsby Panel recently refused an \$8.4 million DA which failed to 'achieve design excellence'.<sup>30</sup>

### **Councillors' concerns regarding IHAPs**

There were two instances of negative reporting, which related to the Sutherland Shire Local Planning Panel. In an article entitled 'Sutherland Shire Council expresses no confidence in local planning panel',<sup>31</sup> it was reported that councillors want to regain the power to determine applications. It was highlighted that, since March 2018, the Panel had differed from the LEP on 24 occasions. Local residents were reportedly concerned about the extent and rate of overdevelopment in the area. The article noted that a number of panel decisions have allowed DAs with height and floor space ratio well in breach of Council's planning controls. This has reportedly led to community's loss of confidence in a system that apparently ignores any input from residents and is affecting or impacting upon residents 'Shire' way of life. It was reported that Council intends to write to the NSW Premier to have councillors reinstated as the consent authority for DAs determined by the Panel. Another article regarding the Sutherland Shire Local Planning Panel notes that 23 non-compliant building applications were approved in the past year.<sup>32</sup> It also indicates that a councillor has sought more input for major DAs and that IHAPs increase transparency, integrity and probity in the development assessment process.

### **Panel recommendations regarding planning proposals**

One article provided details about a proposal to rezone land for residential lots for the Campbelltown Local Planning Panel and provided details on the IHAP system.<sup>33</sup> The article detailed the purpose of the IHAP system and how it operates, when decisions are made public, details of the next meeting and items for consideration at the meeting, and panel composition (including names and member's role on the panel).

Some articles referenced strategic documents and the fact that the panel will assess development plans and consider the impact of building heights and the development's impact on the local road network.<sup>34</sup>

### **ICAC and investigations**

Three articles published in July referenced IHAPs in the context of ICAC and its investigation into the conduct of councillors and senior staff at the former Canterbury Council. The articles detailed events that had transpired at the former Canterbury Council, in addition to events at the former Auburn and Botany Councils.<sup>35</sup> The article discussed how one of the issues at Canterbury Council was that the council used a local panel and that body was empowered to only make recommendations. On occasions, councillors voted to approve developments against the recommendation of the council's IHAP. The corruption inquiry is investigating whether councillors had financial stakes in the developments on which they were voting. The examples highlighted the need for an IHAP system to avoid corruption.<sup>36</sup>

<sup>27</sup> Jennie Curtin, 'Will it be third time lucky for the Waygoose building?' *Blue Mountains Gazette* (10 Sep 2018).

<sup>28</sup> 'Swanson Hotel five-storey apartment plan scrapped' *The Daily Telegraph* (2 Jul 2018).

<sup>29</sup> Clyde Mooney, 'Iris unveils new but heritage pub at Campside Station' *PubTIC* (14 Sep 2018).

<sup>30</sup> Jake McCallum, Hornsby Council call for design excellence following refusal of \$8.4 million Waitara development' *The Daily Telegraph* (19 Sep 2018).

<sup>31</sup> Murray Trembath, 'Sutherland Shire Council expresses no confidence in local planning panel' *St George & Sutherland Shire Leader* (21 Aug 2018).

<sup>32</sup> Eliza Barr, 'Developers bend rules with planning loophole for noncomplying developments' *The Daily Telegraph* (4 Sep 2018).

<sup>33</sup> Eric Kontos, 'Local Planning Panel to decide fate of Scenic Hills housing plan' *South West Voice* (23 Jul 2018).

<sup>34</sup> Daniel Zautsen, 'Plans for 24 storey RSL development go to council' *The Daily Telegraph* (13 Aug 2018); Jess Layt, 'Panel supports proposal to raise Ingleburn height limits' *Campbelltown Macarthur Advertiser* (4 Sep 2018).

<sup>35</sup> Now Parramatta City Council / Cumberland Council and Bayside Councils.

<sup>36</sup> 'Nick Kaldas returns to audit corruption risks in NSW planning system' *The Sydney Morning Herald* (28 Jul 2018); Jacob Saulwick, 'We were kept in the dark: Teacher tells ICAC of tough lessons in property deals' *The Sydney Morning Herald* (24 Jul 2018); Jacob Saulwick, 'Need to see you at the gym: ICAC hears of texts, calls between developer and councillors' *The Sydney Morning Herald* (21 Jul 2018).