

# LOCAL PLANNING PANEL CHARTER AND CODE OF MEETING PROCEDURE

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## 1. OBJECTIVES

- 1.1 To provide a framework for Council's Local Planning Panel to enable the panel to perform its functions under the *Environmental Planning and Assessment Act 1979* including the determination of certain development applications as outlined in clause 3.1 and planning proposals as outlined in clause 3.3.
- 1.2 The Objectives of the Local Planning Panel are:
- To provide increased transparency and an independent body for the determination of certain development applications and to advise Council on certain planning proposals.
  - To provide the community and stakeholders with increased involvement in the Development Assessment process.
  - To achieve best practice environmental, social, economic and urban design outcomes consistent with relevant legislation, Council's Local Environmental Plan, Development Control Plan and other planning controls
  - To comply with statutory provisions, particularly the *Environmental Planning and Assessment Act 1979*.

## 2. PURPOSE AND FUNCTION

- 2.1 Local Planning Panels are independent bodies appointed by Councils to determine certain development applications and to provide advice on planning proposals.
- 2.2 A Local Planning Panel is not subject to the direction or control of the Council, except on matters relating to procedures of the Panel or the time within which it is to deal with a matter (unless these directions are inconsistent with a direction of the Minister). Panels are subject to any directions made by the Minister under section 9.1 of the *Environmental Planning and Assessment Act 1979*.
- 2.3 The functions of the Local Planning Panel are to:
- consider and make final independent determinations on certain development applications
  - provide an independent and open forum for the community and stakeholders to make submissions relevant to the applications before the Panel
  - to advise the Council on any planning proposal that has been prepared or is to be prepared by the Council under section 3.33 of the *Environmental Planning and Assessment Act 1979* and that is referred to the panel by the Council,
  - to advise the Council on any other planning or development matter that is to be determined by the Council and that is referred to the Panel by the Council.

## 3. APPLICABILITY

- 3.1 In accordance with the *Environmental Planning and Assessment Act 1979* and the *Local Planning Panels Direction– Development Applications* made by the Minister for Planning (**Minister**) on 23 February 2018 (**DA Direction**), a copy of which is **attached**, the Local Planning Panel will, in summary, determine the following development applications, provided the development application is not for development for which the regional planning panel is the consent authority, such as developments with a capital investment value of more than \$30 million:

- i. Development applications (other than for certain minor developments) for which the applicant or landowner is the Council, a Councillor, a member of Council staff, a member of Parliament, or a relative of such a person;
  - ii. Contentious development applications that receive ten (10) or more unique objections;
  - iii. Development applications accompanied by a proposed voluntary planning agreement;
  - iv. Development applications seeking to depart by more than 10% from a development standard;
  - v. Development applications for:
    - a. applications assessed under SEPP 65;
    - b. demolition of heritage items;
    - c. licensed places of public entertainment and sex industry premises;
    - d. designated development, as set out in the *Environmental Planning and Assessment Regulation 2000*.
  - vi. Any other development application, application to modify a consent or application to review a determination on a development application or application to modify a consent, at the discretion of the General Manager (Chief Executive Officer) or their delegate.
- 3.2 Development applications and applications to modify development consents not determined by the Local Planning Panel or a regional panel will be determined by Council officers in accordance with section 4.8 of the *Environmental Planning & Assessment Act 1979*
- 3.3 From 1 June 2018, all planning proposals are required by the *Local Planning Panels Direction – Planning Proposals* made by the Minister on 23 February 2018 (**PP Direction**), a copy of which is attached, to be referred to the Local Planning Panel for advice, unless the General Manager (Chief Executive Officer) or their delegate determines that the planning proposal relates to:
- a) the correction of an obvious error in a local environmental plan,
  - b) matters that are of a consequential, transitional, machinery or other minor nature, or
  - c) matters that the General Manager (Chief Executive Officer) or their delegate considers will not have any significant adverse impact on the environment or adjoining land.
- 3.4 This document should be read in conjunction with the *Environmental Planning & Assessment Act 1979*, the DA Direction and the PP Direction.

## 4 CHARTER

The Charter should be read in conjunction with Schedule 2 of the *Environmental Planning & Assessment Act 1979* which is **attached** and the *Local Planning Panels Direction–Operational Procedures* issued by the Minister on 23 February 2018 (**Procedures Direction**) which is also **attached**.

Where provisions of this Charter reflect provisions of the *Environmental Planning & Assessment Act 1979*, the relevant provision is referenced.

## Membership and Tenure

*[s2.17 and clauses 11, 17 and 23 of Schedule 2 of the Environmental Planning & Assessment Act 1979]*

4.1 a. The Local Planning Panel is comprised of four (4) members:

- an independent expert member who is appointed as the chairperson (the Chair),
- two (2) other independent expert members, and
- a community representative.

b. All Panel members are appointed for a period up to (3) years.

c. A member is eligible (if otherwise qualified) for re-appointment.

d. A member of a panel may not hold office as a member of that panel for more than six (6) years in total.

e. A member of the Local Planning Panel vacates membership if the member:

(a) dies, or

(b) completes a term of office and is not re-appointed, or

(c) resigns the office by instrument in writing addressed to the council that appointed the member, or

(d) is removed from office under this or any other Act, or

(e) is absent from 3 consecutive meetings of the panel of which reasonable notice has been given to the member, except on leave granted by the panel or unless the member is excused by the panel for having been absent from those meetings, or

(f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or

(g) becomes a mentally incapacitated person, or

(h) becomes:

(i) a Councillor of any Council, or

(ii) a property developer within the meaning of section 96GB of the Election Funding, Expenditure and Disclosures Act 1981, or

Note. Section 96GB (1) of the Election Funding, Expenditure and Disclosures Act 1981 provides that property developer includes a person who is a close associate of a property developer.

(iii) a real estate agent within the meaning of the Property, Stock and Business Agents Act 2002, or

- (iv) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.

If the office of a member becomes vacant, a person may, subject to the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*, be appointed to fill the vacancy.

### **Chair and alternative chair**

*[clauses 15 of 23 of Schedule 2 of the Environmental Planning & Assessment Act 1979]*

- 4.2 The Chair or alternate Chair (where the Chair is absent for any reason) presides over panel meetings.
- 4.3 If there is no Chair present, the deputy chairperson or member elected by the members presides over the meeting.

### **Independent Expert members and use of alternates**

*[clause 15 of Schedule 2 of the Environmental Planning & Assessment Act 1979]*

- 4.4 An alternative Independent Expert Member is to attend panel meetings and act as an Independent Expert member where an Independent Expert member is absent, where they have a conflict of interest as described in the Code of Conduct or where the Chair determines so in accordance with the *Environmental Planning & Assessment Act 1979*.

### **Community Representatives and use of alternates**

*[clause 15 of Schedule 2 of the Environmental Planning & Assessment Act 1979]*

- 4.5 An alternative community representative is to attend panel meetings and act as a community representative where a community representative is absent, where they have a conflict of interest as described in the Code of Conduct or where the Chair determines so in accordance with the *Environmental Planning & Assessment Act 1979*.

### **Role of Chair**

*[see the Procedures Direction]*

- 4.6 The Chair is responsible for the following:
  - (a) for the management of the panel's functions and operations, including managing conflicts of interest.
  - (b) to preside over panel meetings.
  - (c) to ensure the panel fully discharges its responsibilities under the *Environmental Planning and Assessment Regulation 2000*, this Charter and procedure, the Procedures Direction and any other directions from Council, and under the Code of Conduct for Local Panel Members (**Code of Conduct**) in a timely manner.

- (d) the good and orderly conduct of the panel meetings and may do all things and take all steps necessary to control the good and orderly conduct of any meeting of the panel or site inspection carried out by the panel in the performance of its functions.
- (e) to decide which Community Representative are to hear and vote on matter prior to the meeting commencing.

### **Presiding member**

*[clause 23 of Schedule 2 of the Environmental Planning & Assessment Act 1979]*

- 4.7 The Chair of a panel or, in the absence of the Chair, the member appointed by the members of the panel is to preside at a meeting of the panel.
- 4.8 The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

### **Frequency of the Meeting**

- 4.9 Meetings will be held on a Thursday evening, once monthly. At the discretion of the Chair, additional meetings may be held where required.

### **Quorum**

*[clause 22 of Schedule 2 of the Environmental Planning & Assessment Act 1979]*

- 4.10 The quorum for a meeting of a panel is three (3) members. Where a quorum for a meeting is not present the meeting is to be deferred.

### **Voting**

*[clause 24 of Schedule 2 of the Environmental Planning & Assessment Act 1979]*

- 4.11 A decision supported by a majority of the votes at a meeting of a panel at which a quorum is present is the decision of the panel.

### **Review of Panel decisions**

*[section 8.3(5) of the Environmental Planning and Assessment Act 1979]*

- 4.12 The determination of a review application under s8.2 of the *Environmental Planning & Assessment Act 1979* in respect of a decision by the panel is determined by the panel.

### **Remuneration for Panel Members**

*[clause 14 of Schedule 2 of the Environmental Planning & Assessment Act 1979]*

- 4.13 The remuneration of the Chair and Independent Expert Members is determined by the Minister for Planning.
- 4.14 The Council determines the remuneration for community representatives within the remuneration range set by the Minister.

- 4.15 The per meeting remuneration rate is inclusive of all work a panel member does for a meeting, including preparation, site visits, the meeting itself and any deliberation and voting by the panel on matters considered at the meeting once the meeting is closed. The hourly remuneration rate applies to any business such as electronic determinations that the panel conducts that is not connected to one of its meetings,

### **Expenses**

*[clause 14 of Schedule 2 of the Environmental Planning & Assessment Act 1979]*

- 4.16 The Council will meet administrative and venue costs associated with the Panel meeting. Council will provide a meal to Panel Members prior the meeting commencing.
- 4.17 Council will also reimburse all reasonable travel and reasonable out of pocket expenses incurred by the Panel members in exercising their functions as a panel member. Reimbursement of travel costs must reflect the rates allowed by the Australian Taxation Office (ATO) when claiming a deduction for the use of a private motor vehicle for work related purposes.

### **Removal from Office of Panel Members**

*[clause 16 of Schedule 2 of the Environmental Planning & Assessment Act 1979]*

- 4.18 Council may remove a member of a panel appointed by the Council from office at any time for any reason and without notice.

However, the General Manager (Chief Executive Officer) of the Council must provide a written statement of the reasons for removing the member from office and make the statement publicly available.

- 4.19 The Minister may remove a member of a panel from office if the Independent Commission Against Corruption, in a report referred to in section 74C of the *Independent Commission Against Corruption Act 1988*, recommends that consideration be given to the removal of the member from office because of corrupt conduct by the member.

### **Administrative Support of Panel**

- 4.20 The administrative support for the Panel is undertaken by Council staff.

## **5 MEETING PROCEDURE**

These Meeting Procedures should be read in conjunction with Schedule 2 of the *Environmental Planning & Assessment Act 1979* and the Procedures Direction.

The Council, pursuant to section 2.17(7) of the *Environmental Planning & Assessment Act 1979* directs the Panel to comply with these procedures, where the procedures are in addition to those contained in the Procedures Direction.

### **Agenda Items**

- 5.1 Panel members will be provided with an electronic copy of the assessment officer's report and recommendation for all agenda items at least five (5) business days prior to the meeting. Printed copies will be provided upon request.



### **Notice to Community of a meeting**

- 5.2 Council is to give reasonable notice to the community of the times and places of Panel meetings.
- 5.3 Agendas will be made available to members of the public at least five (5) business days prior to the meeting on Council's website.
- 5.4 All notices to the community of meetings will note that meetings will be electronically recorded and live streamed on Council's website, and that by agreeing to speak at a meeting, community members agree to being recorded and to the publication of that recording.

### **Site inspections**

- 5.5 The Chair may elect for the panel to attend site inspections in respect of development applications and planning proposals to be considered at the public meeting.
- 5.6 Panel members are to meet at the Council Chambers on the day of the scheduled meeting to carry out site inspections for the applications to be considered at the meeting. The time for site inspections will be determined by the Chair and Council staff.
- 5.7 Site visits are solely to be used to identify and clarify issues with a proposal. At a site visit, a panel member must not offer an opinion on the merit of the proposal, or ask those involved with the assessment of the proposal for their opinion or recommendation.
- 5.8 Site inspections will be held at the absolute discretion of the Chair. The site inspections will be organised by the Director of Planning and/or Manager Development Services.

An allocated member from the Development Services Team will accompany the Panel members. Council will provide appropriate transport for the site inspections.

### **Panel Meeting**

- 5.9 The Panel will formally meet at 5:30 pm to consider the applications listed on the agenda. Meetings will be live streamed and also minuted.
- 5.10 The Panel members will consider submissions made by objectors and applicants at the meeting.
- 5.11 Registrations to speak and any late correspondence relating to an application before the Panel must be submitted to the Council in writing no later than 12 noon on the day prior to the Panel meeting. At the discretion of the Chair, the Panel may hear a submission from a person attending the panel meeting who has not registered to speak. Where this occurs, the person will be asked to agree to being recorded and to the publication of that recording.
- 5.12 Objectors and applicants are provided three (3) minutes to address the panel; the Chair has the capacity to determine if this time needs to be varied. Presenters may also be questioned by Panel members.

- 5.13 Where, at any public meeting, there are a large number of objectors with a common interest, the panel may, in its absolute discretion, hear a representative of those persons.
- 5.14 The panel is not bound by the rules of evidence and may inquire into and inform itself on any matter, in such manner as it thinks fit, subject to the rules of natural justice and procedural fairness, and the provisions of the *Environmental Planning & Assessment Act 1979*.
- 5.15 The Panel will give written reasons for its decision. Council will make those written reasons publicly available on its website and in accordance with the *Environmental Planning & Assessment Act 1979*.

### **Disrespectful behaviours**

- 5.16 Public members who engage in any disrespectful behaviours at the meeting, such as making derogatory comments, acts of intimidation, discrimination or harassment or do or say anything that is inconsistent with maintaining order within the meeting may be expelled from the meeting by the Panel Chair.
- 5.17 The Chair may also adjourn the meeting for a period of not more than 15 minutes and leave the chair. The Chair, on reassembling, will determine whether the business will proceed.

### **Staff Attendance**

- 5.18 The Director of Planning and the Manager Development Services will attend the Panel meetings as required and be available to answer any questions that may arise. This will ensure that the Panel has immediate access to information regarding the application. Other Council staff may attend on request from the Chair to the Director of Planning or Manager Development Services.
- 5.19 Staff present are not required to engage in discussions with applicants or objectors on issues and are present solely for the support of Panel members.

### **Councillor Attendance**

- 5.20 Councillors may attend panel meetings to participate in circumstances where a member of the public would be entitled to participate. A Councillor may also participate in proceedings in an official capacity on behalf of the Council where authorised to do so by a resolution of Council.

### **Record of Meeting and Decisions**

- 5.21 Decisions of the Panel, Minutes and live streaming of the meeting are to be made publicly available within five (5) business days following the meeting, and otherwise in accordance with the *Environmental Planning & Assessment Act 1979* and regulations made under that Act.
- 5.22 Panel members are required to provide any records made during the Panel meeting or site inspection to the Local Planning Panel Secretary for registration within Council's record management system. This includes hand written or electronic records made.

### **Notice of Panel Decisions to Applicant and Objectors**

- 5.23 Council will advise the applicant with a notice of the decision or determination made by the Panel. Those parties which have made written submissions will also be made aware of the decision in writing. Notice will be provided in accordance with the *Environmental Planning & Assessment Act 1979* and regulations made under that Act.

### **Transaction of business outside meetings or by telephone etc**

*[clause 25 and 26 of Schedule 2 of the Environmental Planning & Assessment Act 1979]*

- 5.24 A panel may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the panel for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the panel.
- 5.25 A panel may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members. Any such meeting is taken to be conducted in public if the meeting is recorded and the record made publicly available on the Council's website.
- 5.26 The Chairperson and each member of the panel have the same voting rights as they have at an ordinary meeting of the panel when transacting business in accordance with clause 5.24 and 5.25.
- 5.27 A resolution approved under clause 5.25 is to be recorded in the minutes of the meetings of the panel.
- 5.28 Papers may be circulated among the members for the purposes of clause 5.25 by electronic transmission of the information in the papers concerned.

## **6 OBLIGATIONS OF PANEL MEMBERS**

*[clause 28 of Schedule 2 of the of the Environmental Planning & Assessment Act 1979]*

- 6.1 Panel member/s must perform their obligations under this Charter and procedure, at all times, in accordance with the Code of Conduct.
- 6.2 Panel member/s are not to make submissions to the Planning Panel in any capacity. This is to ensure conflicts of interests are managed and to uphold the probity of panel decision making.

## 7. ATTACHMENTS – LOCAL PLANNING PANEL MINISTERIAL DIRECTIONS

### LOCAL PLANNING PANELS DIRECTION – DEVELOPMENT APPLICATIONS

I, the Minister for Planning, give the following direction under section 9.1 of the *Environmental Planning and Assessment Act 1979*.



Minister for Planning

Dated: 23/2/2018

#### Objective

The objective of this direction is to identify the development applications that are to be determined by local planning panels on behalf of councils in the Greater Sydney Region and Wollongong.

#### Application

This direction applies to councils in the Greater Sydney Region and Wollongong. It also applies to any other council that constitutes a local planning panel under the *Environmental Planning and Assessment Act 1979*.

#### Interpretation

A word or expression used in this direction has the same meaning as it has in the standard local environmental planning instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* made under the Act, unless it is otherwise defined in this direction.

#### Direction

Local planning panels of councils in the areas identified in the Table below are to determine development applications involving development of a kind specified in the Schedule to this direction that is identified in the Table below.

Note: Councils can make arrangements for the determination of applications for the modification of development consents by either the local planning panel or council staff.

Table

Council	Development
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 1
Blacktown, Canterbury-Bankstown, Cumberland, Fairfield, Inner West, Liverpool, Northern Beaches, Parramatta, Penrith, Sutherland, The Hills, Wollongong	Schedule 2
City of Sydney	Schedule 3

This direction takes effect on 1 March 2018 and applies to development applications made but not determined before 1 March 2018.

If a council to which this direction applies has not delegated the function of determining a development application to an officer or employee of the council, then the local planning panel is to determine the development application.

### SCHEDULE 1

#### 1. Conflict of interest

Development for which the applicant or land owner is:

- (a) the council,
- (b) a councillor,
- (c) a member of council staff who is principally involved in the exercise of council's functions under the *Environmental Planning and Assessment Act 1979*,
- (d) a member of Parliament (either the Parliament of New South Wales or Parliament of the Commonwealth), or
- (e) a relative (within the meaning of the *Local Government Act 1993*) of a person referred to in (b) to (d).

but not development for the following purposes:

- (a) internal alterations and additions to any building that is not a heritage item,
- (b) advertising signage,
- (c) maintenance and restoration of a heritage item, or
- (d) minor building structures projecting from the building facade over public land (such as awnings, verandas, bay windows, flagpoles, pipes and services, and sun shading devices).

#### 2. Contentious development

Development that:

- (a) in the case of a council having an approved submissions policy – is the subject of the number of submissions set by that policy, or
- (b) in any other case – is the subject of 10 or more unique submissions by way of objection.

An **approved submissions policy** is a policy prepared by the council and approved by the Secretary of the Department of Planning and Environment which details the circumstances in which a local planning panel or council staff should exercise the consent authority functions of the council, based on the number and nature of submissions received about development.



**3. Departure from development standards**

Development that contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

Note: If the Secretary allows concurrence to be assumed by council staff for contravening development standards, the panel can delegate these applications to council staff to determine.

**4. Sensitive development**

- (a) Designated development.
- (b) Development to which *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* applies.
- (c) Development involving the demolition of a heritage item.
- (d) Development for the purposes of new licenced premises, that will require one of the following liquor licences:
  - (i) a club licence under the *Registered Clubs Act 1976*,
  - (ii) a hotel (general bar) licence under the *Liquor Act 2007*, or
  - (iii) an on-premises licence for public entertainment venues under the *Liquor Act 2007*.
- (e) Development for the purpose of sex services premises and restricted premises.
- (f) Development applications for which the developer has offered to enter into a planning agreement.

## SCHEDULE 2

### 1. Conflict of interest

Development for which the applicant or land owner is:

- (a) the council,
- (b) a councillor,
- (c) a member of council staff who is principally involved in the exercise of council's functions under the *Environmental Planning and Assessment Act 1979*,
- (d) a member of Parliament (either the Parliament of New South Wales or Parliament of the Commonwealth), or
- (e) a relative (within the meaning of the *Local Government Act 1993*) of a person referred to in (b) to (d).

but not development for the following purposes which requires:

- (a) internal alterations and additions to any building that is not a heritage item,
- (b) advertising signage,
- (c) maintenance and restoration of a heritage item, or
- (d) minor building structures projecting from the building facade over public land (such as awnings, verandas, bay windows, flagpoles, pipes and services, and sun shading devices).

### 2. Contentious development

Development that:

- (a) in the case of a council having an approved submissions policy – is the subject of the number of submissions set by that policy, or
- (b) in any other case – is the subject of 10 or more unique submissions by way of objection.

An **approved submissions policy** is a policy prepared by the council and approved by the Secretary of the Department of Planning and Environment which details the circumstances in which a local planning panel or council staff should exercise the consent authority functions of the council, based on the number or nature of submissions received about development.

### 3. Departure from development standards

Development that contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

Note: If the Secretary allows concurrence to be assumed by council staff for contravening development standards, the panel can delegate these applications to council staff to determine.

### 4. Sensitive development

- (a) Designated development.
- (b) Development to which *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* applies and is 4 or more storeys in height.

- (c) Development involving the demolition of a heritage item.
- (d) Development for the purposes of new licenced premises, that will require one of the following liquor licences:
  - (i) a club licence under the *Registered Clubs Act 1976*,
  - (ii) a hotel (general bar) licence under the *Liquor Act 2007*, or
  - (iii) an on-premises licence for public entertainment venues under the *Liquor Act 2007*.
- (e) Development for the purpose of sex services premises and restricted premises.
- (f) Development applications for which the developer has offered to enter into a planning agreement.



### SCHEDULE 3

#### 1. Conflict of interest

Development for which the applicant or land owner is:

- (a) the council,
- (b) a councillor,
- (c) a member of council staff who is principally involved in the exercise of council's functions under the *Environmental Planning and Assessment Act 1979*,
- (d) a member of Parliament (either the Parliament of New South Wales or Parliament of the Commonwealth), or
- (e) a relative (within the meaning of the *Local Government Act 1993*) of a person referred to in (b) to (d).

but not development for the following purposes which requires:

- (a) internal alterations and additions to any building that is not a heritage item,
- (b) advertising signage,
- (c) maintenance and restoration of a heritage item,
- (d) development for the purpose of end of journey facilities, or
- (e) minor building structures projecting from the building facade over public land (such as awnings, verandas, bay windows, flagpoles, pipes and services, and sun shading devices).

#### 2. Contentious development

Development that:

- (a) in the case of a council having an approved submissions policy – is the subject of the number of submissions set by that policy, or
- (b) in any other case – is the subject of 25 or more unique submissions by way of objection.

An **approved submissions policy** is a policy prepared by the council and approved by the Secretary of the Department of Planning and Environment which details the circumstances in which a local planning panel or council staff should exercise the consent authority functions of the council, based on the number or nature of submissions received about development.

#### 3. Departure from development standards

For development for the purpose of dwelling houses, dual occupancies and attached dwellings, development that contravenes a development standard imposed by an environmental planning instrument by more than 25% or non-numerical development standard.

For all other development, development that contravenes a development standard imposed by an environmental planning instrument by 10% or non-numerical development standards.

Note: If the Secretary allows concurrence to be assumed by council staff for contravening development standards, the panel can delegate these applications to council staff to determine.

**4. Sensitive development**

- (a) Designated development.
- (b) Development to which *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* applies and is 4 or more storeys in height.
- (c) Development involving the demolition of a heritage item.
- (d) Development for the purposes of new licenced premises, that will require one of the following liquor licences:
  - (i) a club licence under the *Registered Clubs Act 1976*,
  - (ii) a hotel (general bar) licence under the *Liquor Act 2007*, or
  - (iii) an on-premises licence for public entertainment venues under the *Liquor Act 2007*.
- (e) Development for the purpose of sex services premises and restricted premises.
- (f) Development applications for which the developer has offered to enter into a planning agreement.

## LOCAL PLANNING PANELS DIRECTION – PLANNING PROPOSALS

I, the Minister for Planning, give the following direction under section 9.1 of the *Environmental Planning and Assessment Act 1979*.



Minister for Planning

Dated: 23/2/2018

### Objective

The objective of this direction is to identify the types of planning proposals that are to be advised on by local planning panels on behalf of councils in the Greater Sydney Region and Wollongong.

### Application

This direction applies to a council that has constituted a local planning panel under the *Environmental Planning and Assessment Act 1979*, other than the council of the City of Sydney.

### Direction

A council to whom this direction applies is required to refer all planning proposals to be prepared after 1 June 2018 to the local planning panel for advice, unless the council's general manager determines that the planning proposal relates to:

- (a) the correction of an obvious error in a local environmental plan,
- (b) matters that are of a consequential, transitional, machinery or other minor nature, or
- (c) matters that council's general manager considers will not have any significant adverse impact on the environment or adjoining land.

A proposal is to be referred to the local planning panel before it is forwarded to the Minister under section 3.34 of the *Environmental Planning and Assessment Act 1979*.

This direction takes effect on 1 June 2018 and applies to planning proposals prepared, but not submitted to the Minister, before 1 June 2018.

## LOCAL PLANNING PANELS DIRECTION – OPERATIONAL PROCEDURES

I, the Minister for Planning, give the following direction under section 9.1 of the *Environmental Planning and Assessment Act 1979*.



Minister for Planning

Dated: 23/2/2018

### Objective

The objective of this direction is to set procedures for how local planning panels are to operate.

### Application

This direction applies to a local planning panel constituted under the *Environmental Planning and Assessment Act 1979* (EP&A Act).

**Note:** Local planning panels are independent committees appointed by councils to determine certain development applications and to provide advice on planning proposals. A local planning panel is not subject to the direction or control of the council, except on matters relating to panel procedures or to the time within which the panel is to deal with a matter that is not inconsistent with this direction.

Subject to these procedures, any direction by council and the requirements of the EP&A Act, the panel is to determine how to call meetings and conduct its business.

### Direction

Local planning panels are directed to comply with the operational procedures set out in Schedule 1 to this direction.

This direction takes effect on 1 March 2018.



## **SCHEDULE 1 – OPERATIONAL PROCEDURES**

### **PART 1 – Panel composition**

#### **1.1 Chair selection and rotation**

1. The chair and any alternate chairs are to rotate presiding over panel meetings, or other business, as practicable, unless the chair or alternative chair is unavailable for any reason.
2. Where possible, deferred matters should be considered by the chair that presided over the original deferment.

#### **1.2 Independent expert members and alternates**

1. The independent expert members and alternate members can be interchanged as needed by the chair for that meeting for reasons including:
  - a. a member has a conflict of interest,
  - b. a member is unable to attend on the day, or
  - c. to periodically rotate the members.

#### **1.3 Community representatives for wards and use of alternates**

1. A community representative member can be interchanged as needed by the chair or alternate chairs for reasons including:
  - a. a member has a conflict of interest,
  - b. a member is unable to attend on the day, or
  - c. to periodically rotate the members.

### **PART 2 – Reviews of panel decisions**

#### **2.1 Reviews**

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

### **PART 3 – Meeting procedures**

#### **3.1 Role of chair**

1. The chair is responsible for the management of the panel's functions and operations, including managing conflicts of interest.
2. The chair is to preside over panel meetings and other business.
3. The chair is to ensure the panel fully discharges its responsibilities under the EP&A Act, these operational procedures, any other directions from council, and the code of conduct for local panel members in a timely manner.
4. The chair is responsible for the good and orderly conduct of the panel meetings and may do all things and take all steps necessary to control the good and orderly conduct of any meeting of the panel or site inspection carried out by the panel in the performance of its functions.
5. The chair is to determine which alternative chair, independent expert members or alternates, and which community representative or alternates are to hear a matter prior

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

### **3.2 Role of alternate chairs**

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

### **3.3 Meeting procedures**

1. The panel may determine detailed procedures for the execution of efficient and effective meetings.
2. The panel is not bound by the rules of evidence and may inquire into and inform itself on any matter, in such manner as it thinks fit, subject to the rules of natural justice and procedural fairness.
3. The panel is to act with as little formality as the circumstances of the case permit and according to equity, good conscience and the substantial merits of the case without regard to technicalities or legal forms.
4. The panel must give reasonable notice to the public of the times and places of its meetings. This must be through the website used by the panel and may include other mechanisms as appropriate.
5. The panel may:
  - a. adjourn the public meeting to deliberate before reconvening for voting and determination, or
  - b. close the public meeting for deliberation and/or voting and determination.
6. With a view to discharging its responsibilities in a timely manner, the panel may, in its absolute discretion, but otherwise fairly and consistently, impose time limits on presentations by persons other than members of the panel. Where, there are a large number of objectors with a common interest at any public meeting, the panel may, in its absolute discretion, hear a representative of those persons.
7. The panel shall hold meetings as required to meet panel demands and workloads.
8. Where a quorum for a meeting or other business is not present, the meeting or other business is to be deferred.

### **3.4 Site inspections**

1. The chair may elect for the panel to attend site inspections for development applications and planning proposals to be considered at the public meeting.
2. Site visits should be conducted on the same day as a public hearing, if practicable.
3. Site visits are solely to be used to identify and clarify issues with a proposal.
4. At a site visit, a panel member must not offer an opinion on the merit of the proposal, or ask those involved with the assessment of the proposal for their opinion or recommendation.

**PART 4 – Other matters**

**4.1 Obligation to consult with council if adverse financial impacts**

1. A panel must not exercise a function that will result in the making of a decision that would have, or that might reasonably be expected to have, a significantly adverse financial impact on a council until after it has consulted with the council.
2. The consultation may be in writing, with the council being given a specified time to respond in writing. Where a meeting with the General Manager (or delegate) is to be held to discuss the matter, all relevant panel members should be present and minutes kept of the meeting and its outcomes.

**4.2 Interactions with third parties about matters before the panel**

1. Panel members are not to discuss any matter that is to be considered by the panel with councillors, the applicant, their consultants, parties who have made a submission, or any other person with an interest in the matter outside of the local planning panel meeting.
2. This does not apply to persons employed by the council to assess the matters to be considered by the panel.