



INNER WEST LOCAL PLANNING PANEL - GUIDELINES

Date policy first adopted:	1 July 2021
Review date:	9 June 2021
Next review date:	9 June 2022
Version:	1

Intent

This guideline has been created to ensure the following is achieved:

- To set out procedures for how the IWLPP local planning panel is to operate.
- To ensure consistent operating between panel meetings.
- To ensure timely determination of development applications.
- To ensure efficient operation of IWLPP meetings.

Introduction

The Inner West Local Planning Panel (IWLPP) is a local planning panel established for Inner West Council (Council) under Part 2, Division 2.5 of the Environmental Planning and Assessment Act 1979. The IWLPP is responsible for determining certain development applications, modification applications, 8.2 reviews and providing advice on planning proposals.

Local planning panels are mandatory for all Councils in Sydney and Wollongong. It replaces the meetings of the former Marrickville, Ashfield and Leichhardt Councils where applications were previously considered and determined.

The development applications which are required to be determined by Local Planning Panels are set out in a *Local Planning Panels Direction – Development Applications* issued by the Minister for Planning under section 9.1 of the Act. However, the panel may delegate any function of the panel under the Act to the General Manager or other staff of the council.

The IWLPP comprises of four (4) members:

- Chair
- Two (2) expert members
- Community representative

The Chairperson and experts presiding on the IWLPP have experience and qualifications in planning, architecture, heritage, the environment, urban design, economics, traffic and transport, law, engineering, tourism, or government and public administration; while the community representative has knowledge and awareness of the Local Government Area, the planning process and assessment issues.

Members of the panel for each meeting are selected by the chair from the pool of members appointed to the panel. Two alternate chairs are appointed to the IWLPP, both have the same role as chair when presiding either a panel meeting or other business.

This guide details how the Panel is to operate. It incorporates:

- Procedural requirements from the Act (refer to Division 2.5 and Schedule 2) Requirements from the Local Planning Panels Direction – Operational Procedures issued by the NSW Minister for Planning under section 9.1 of the Act; and
- Requirements from the Local Planning Panels Direction – Planning Proposals issued by the NSW Minister for Planning under section 9.1 of the Act; and
- Relevant provisions from the IHAPs Overview and Best Practice Meeting Procedures issued by the Department of Planning and Environment; and
- General requirements to ensure the efficient and effective operation of the Panel.

1. Panel Configuration

Chair

- 1.1 The Chair is responsible for the management of the panel's functions

and operations, including managing conflicts of interest.

- 1.2 The Chair is to preside over panel meetings and other business.
- 1.3 In the absence of the Chair/alternate Chair, a member appointed by the panel, is to preside over a meeting of the panel or over other business (clause 23(1) of Schedule 2 of the Act).
- 1.4 The Chair is to ensure the panel fully discharges its responsibilities under the EP&A Act, these operational procedures, and any directions from Council under section 2.17(7) of the Act and the Code of Conduct for local panel members in a timely manner.
- 1.5 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 the panel's functions.
- 1.6 The panel co-ordinator is to determine which alternative Chair, independent expert members or alternates, and which community representative are to hear a matter prior to the meeting commencing.
- 1.7 Alternate chairs have the same role as the chair when presiding over a panel meeting or any other business.

Expert Members

- 1.8 The expert members can be interchanged as needed by the chair for reasons including
 - a member has a conflict of interest;
 - a member is unable to attend on the day; and/or
 - to periodically rotate the members.

Community Representatives

- 1.9 The panel co-ordinator shall select the community representative for each meeting.

Quorum

- 1.10 Where a quorum (3 members) for a meeting is not present, the meeting shall be deferred.

2. Panel Dealings

Site Inspections

- 2.1 The panel co-ordinator in conjunction with the chair may elect for the panel to attend site inspections or panel briefings for development applications and planning proposals prior to the panel's consideration.
- 2.2 Site visits should be conducted on the same day as a public meeting, if practical.
- 2.3 At a site visit or panel briefing, a panel member must not offer an opinion on the merit of the proposal or ask those involved in the assessment of the proposal for their opinion or recommendation.
- 2.4 The panel may be briefed by Council staff and any other person engaged in the assessment of the matter about the proposal.

Code of Conduct

- 2.5 All panel members must comply with the Code of Conduct for Local Planning Panel Members approved by the Minister for Planning (the Minister) under clause 28, Schedule 2 of the Act.

Conflict of Interest

- 2.6 Panel members must avoid or appropriately manage any conflicts of interests. The onus is on the individual panel member to identify a conflict of interests and take appropriate action.
- 2.7 All panel members must sign a declaration of interest in relation to each matter on the agenda before or at the beginning of each meeting. These declarations and any management measures put in place are to be published on Council's website as soon as practicable.
- 2.8 If a member of a panel has a pecuniary interest in a matter being considered or about to be considered at a meeting, and the interest appears to raise a conflict with the proper performance of the member's duties, the member must, as soon as possible, disclose the nature of the interest at (or before) a meeting of the panel and comply with all requirements contained in clause 27 of Schedule 2 of the Act.
- 2.9 After a member of a panel has disclosed a pecuniary interest in any matter, the member must not be present during any deliberation of the panel with respect to the matter, or take part in any decision of the panel with respect to the matter.

Interactions with third parties about matters before the panel

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

matters to be considered by the panel, nor to panel briefings as specified in Part 3.4 of the Act.

3. Frequency of Meetings

- 3.1 Panel meetings are to be held on the second Tuesday of the month (except in January). In the event there are insufficient applications to conduct a meeting then this requirement may be deferred.
- 3.2 If necessary, the panel may also be required to meet on the 4th Tuesday of the month or any other day as agreed by the chair.

4. Prior to IWLPP meeting

Agendas

- 4.1 The agenda shall be prepared a minimum of two (2) weeks prior to the meeting.
- 4.2 The agenda shall be provided to the panel a minimum of one (1) week prior to the meeting.
- 4.3 Electronic and/or hard copies of reports, plans and submissions shall be made available to panel members at least one (1) week prior to the meeting.

Notice to external stakeholders

- 4.4 Notice of panel meetings and items on the agenda (time and place) are to be provided through Council's website at least 6 days prior to meeting.
- 4.5 Electronic copies of reports and plans are to be publicly available for review on Council's website at least 6 days prior to meeting.
- 4.6 Applicants and submitters shall be advised in writing when an application will be heard by panel.

Addressing the panel

- 4.7 Members of the public wishing to address the Panel regarding an agenda item must register by 12 midday on the day prior to the meeting (excluding weekends and public holidays)
- 4.8 Registered speakers must have already lodged a written submission on the development application (DA) they wish to address or must provide a brief written summary no greater than one A4 page, outlining the issues they wish to raise.
- 4.9 Additional submissions from either applicants or submitters shall be no greater than one A4 page (in total), and must be confined to the specific matters upon which the person seeks to address the Panel. These must be submitted no later than 12 midday the Wednesday prior to the meeting. Any material, including additional documents, reports and amended plans, will not be received or considered by the Panel at the meeting.
- 4.10 Only one person from each residential dwelling (other than the site) will be able to register to speak. Strata units should nominate one spokesperson, (unless units have different issues e.g. view loss from a particular unit that is different to other units).
- 4.11 The applicants and submitters may register up to a maximum of three (3) people to speak (additional speakers for the applicant may be registered to be available to answer questions from the panel, if required, on specific areas of expertise such as traffic, heritage, geotechnical etc).
- 4.12 Where a number of people wish to register to speak on the same item. The Chair has the right to limit the

number unless it can be demonstrated that each speaker would raise individual matters not raised by other speakers.

- 4.13 Councillors are able to address the panel on any items listed on the agenda. This is in addition to other speakers. Any Councillor who wishes to address the panel must register their intention to do so by 12 noon on the day before the panel meeting, by completing the registration form.
- 4.14 A person who has not registered to speak may not do so, unless under exceptional circumstances and at the discretion of the Chair.
- 4.15 A person is not entitled to be represented by a legal practitioner at any meeting of the panel unless the Chair grants permission. In granting any such permission, the Chair shall have regard to the following matters:
- the nature and complexity of the matter and whether it involves a question of law,
 - whether the person has the capacity to present their submission without legal representation, and
 - such other matters as the Chair considers relevant.

Contact for external stakeholders

- 4.16 Members of the public wishing to address the panel must register through the Council website or by contacting the panel coordinator who can be contacted on IWPP@innerwest.nsw.gov.au.

Briefing

- 4.17 At the conclusion of the site visits, Council staff shall brief Panel members on the applications. Panel members

are able to ask questions and clarify issues.

Supplementary Reports from Officers

4.18 In accordance with Councils Development Assessment Policy the applicant is not permitted to lodge a second or third set of amended plans to panel, if they have previously been provided an opportunity to do so during the assessment process.

4.19 The panel must not defer an application determination to allow the applicant an opportunity to submit amended plans. Sufficient means for formal review and response to a determination is provided through an 8.2 application or appeal to the Land and Environment Court.

4.20 In exceptional circumstances Council officers may submit a supplementary assessment report to the panel for further consideration in conjunction with the original assessment report. This supplementary report must be submitted to panel a minimum 24 hours prior to the meeting and limited to an assessment of any additional information.

4.21 Supplementary reports and information must be published for public viewing a minimum 24 hours prior to the meeting.

5. During the IWLPP meeting

5.1 The public meeting shall commence at 2pm in the Leichhardt Town Hall or via online Teleconference. The nature of the meeting being either in person or via online teleconference is to be informed to stakeholders within the written notification outlined in section 4.6 above.

5.2 Electronic audio recordings shall be made of public meetings and these recordings shall be made publicly available on Council's website.

5.3 The chair/alternate chair, or in the absence of the chair/alternate chair, a member appointed by the Panel, is to preside at the meeting.

5.4 Speakers addressing the panel for each item on the agenda shall be heard in the following order:

- Councillors
- Submitters speaking against the application.
- Submitters speaking in support of the application.
- Applicant or applicant's representative.

5.5 All speakers (objector, applicant or supporter) addressing the panel will be limited to 3 minutes, unless the Panel otherwise permits.

5.6 A person, other than a member of the Panel, shall not speak while another person is speaking or otherwise interrupt that person while speaking.

5.7 Panel members may seek to clarify any matter with a speaker or Council officer.

5.8 The chair may adjourn the public meeting where a Panel briefing is required to hear confidential or sensitive information. Before the adjournment the chair should publicly state the reasons for the adjournment which should be recorded in the meeting minutes.

5.9 The panel meeting is for decision making and not an avenue to present new information or plans that may require further assessment by council staff. The chair has discretion to decide

whether to accept material presented at the Panel meeting.

6. Determination and Deliberation

6.1 In accordance with Part 3 of the Local Planning Panels Direction – Operational Procedures and Section 4.3 of the IHAP Overview issued by the Department of Planning and Environment, the chair may choose how to manage the deliberation and voting process. The options include:

1. Deliberate, vote and make a determination in the public meeting;
2. Adjourn the public meeting to deliberate and reconvene the meeting for voting and determination; or
3. Close the public meeting, deliberate, vote and then notify the public of the outcomes outside the public meeting.

The normal procedure for the Panel will be to adopt option 3 and close the public meeting prior to deliberation and voting. However, the chair has discretion to adopt the procedures detailed in options 1 or 2 (above) for any item on the agenda. The reasons for varying the normal procedures shall be articulated by the chair and recorded in the meeting minutes.

6.2 After the public meeting has been closed, the Panel shall attend a closed session to deliberate and vote on each matter. Only voting members of the Panel (and Council staff, for administrative support and if matters require clarification) are able to attend the closed session.

6.3 Determinations and any relevant decision of the Panel shall be by a majority of votes of members present

at a meeting and entitled to vote. If votes are tied the Chair will have the casting vote. Voting (including the names and vote of each Panel member when the vote is not unanimous) will be recorded in the minutes.

6.4 Should an application be recommended for refusal, then Council officers must also provide recommended conditions of consent to panel in the event the recommendation is overturned.

6.5 The reasons for the Panel's decision must be recorded in the minutes as part of the decision. Where the Panel goes against or amends the officer's recommendation, the Panel must state the reasons.

6.6 If a Panel member has a dissenting view to the majority, this view is to be formally documented and recorded in the Panel's reasons for its decision.

Deferring a decision

6.7 The panel may defer its determination to a subsequent meeting or to circulation of papers outside of a meeting, only when there is insufficient information to determine on the day. Where possible a decision needs to be made on the day and deferrals strongly avoided.

6.8 If an application is deferred, the Panel shall provide reasons and advise of the procedures to be followed for determination of the application.

6.9 Where an application is deferred for additional information the panel must outline the timeframe in which the information is to be provided to the Council for assessment.

6.10 Supplementary reports prepared by Council assessment officers in response to panel deferral of an

application must address the following:

- Reasons for panel deferral
- Brief overview of additional information submitted.
- Brief assessment of additional information
- Recommendation

6.11 Where possible, a deferred application shall be determined by the same chair and Panel members.

6.12 Unless the deferred application require renotification, it should be determined through the circulation of papers outside of a meeting.

Delegating a decision

6.13 The panel may delegate any of its functions to the General Manager or other staff of Council in accordance with section 2.20(8) of that Act. A list of the panel's delegations is available on Council's website.

Transacting business outside of public meetings

6.14 Where a development application is the subject of less than 10 unique submissions by way of objection, the panel is able to determine the application by an electronic circulation of papers.

6.15 A panel may, if it sees fit, transact any of its business by the circulation of papers (electronically or in hard copy) among all the members of the panel. A resolution approved in writing by a majority of those members is taken to be a decision of the panel (clause 26(1) of Schedule 2 of the Act).

6.16 The Chair and each member of the panel have the same voting rights in

transacting business outside meetings as they have at meetings of the panel.

6.17 The resolution for any business transacted outside the meeting is to be recorded as minutes of the meetings of the panel and is to be made publicly available on the council's website.

7. Post IWLPP meeting

7.1 Minutes of the meeting shall include the decision, the outcome of voting and the reasons for the decision.

7.2 The panel members shall confirm the minutes are correct prior to the conclusion of the meeting.

7.3 The Chair shall sign the minutes within 24 hours from the conclusion of the meeting.

7.4 A copy of the minutes shall be made publicly available on Council's website subsequently to the Chair signing the minutes of the meeting.

7.5 Should the Panel resolve to defer or delegate determination of an application, the applicant shall be advised (in writing) and requested to provide the required additional information and/or amended plans within the time period specified by the Panel.

7.6 Following the issue of the Minutes, Determination Notices will be prepared and issued to applicants for all applications that are determined by the Panel at each meeting.

7.7 All those who made submissions on the development proposal will also be notified in writing of the Panel's determination.

8. Planning Proposals

8.1 When a planning proposal is referred to the Panel for advice, it is to be accompanied by an assessment report prepared by Council staff setting out recommendations in relation to the proposal, including whether or not the planning proposal should be forwarded to the Greater Sydney Commission under section 3.34 of the Act.

and agreement to abide by the IWLPP policies listed above.

I agree to abide by and follow the policies listed within this guideline.

Signed:

Date:

8.2 The advice from the Panel must be received before council considers whether or not to forward the planning proposal to the Greater Sydney Commission.

8.3 Prior to providing the advice, the Panel may request to be briefed by Council staff or other persons. If a briefing is conducted, a record of the briefing shall be published on Council's website that includes the time, date, attendees and key issues discussed.

9. Obligation to consult with Council

9.1 The 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 significant adverse financial impact on Council until after it has consulted with Council.

9.2 The consultation may be in writing, with Council being given a specified time to respond in writing. Where a meeting with the General Manager (or delegate) is held to discuss the matter, all relevant Panel members should be present and minutes kept of the meeting and its outcomes.

Acknowledgement

Newly appointed panel members are to read and sign this guideline, prior to their first panel meeting. The signing of this document is an acknowledgement