Woollahra Local Planning Panel (WLPP) – Operational Procedures

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Introduction

The Woollahra Local Planning Panel (WLPP) is a local planning panel established for Woollahra Municipal Council (Council) under Part 2, Division 2.5 of the Environmental Planning and Assessment Act 1979 (Act). It is responsible for determining certain development applications and modification applications and providing advice on planning proposals (collectively referred to as applications in these procedures).

From 1st March 2018, Local Planning Panels (commonly referred to as Independent Hearing and Assessment Panels (IHAPs)) are mandatory for all councils in Sydney and Wollongong. They have been created to ensure that the process of assessment and determination of applications with a high corruption risk, sensitivity and/or strategic importance is undertaken in an open, transparent and accountable manner.

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 WLPP is comprised of four (4) members:

- Chair
- Two (2) expert members
- A community representative

The members for each meeting will be selected by the Chair from the pool of members appointed to the WLPP. Two alternate Chairs have been appointed who will have the same role as the Chair when presiding over a panel meeting or other business.

A list of current Panel Members as appointed by Woollahra Municipal Council is available on Council’s website.

These operational procedures set out the procedures for how the WLPP will operate.

The procedures incorporate:

- 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 (in blue font); and
- Guidelines issued by the Department of Planning and Environment from time to time and general requirements of the panel to ensure the efficient and effective operation. While these requirements will generally be followed, they may be varied by the Chair depending on the circumstances of a particular meeting or application.
Section 2.17(7) of the Act provides that a Local Planning Panel is not subject to the direction or control of the Council, except in relation to any matter relating to the procedure of the panel (or to the time within which it is to deal with a matter) that is not inconsistent with any directions of the Minister under section 9.1 of the Act.

Clause 21 of Schedule 2 of the Act provides that the procedure for the calling of meetings of a planning body (including a Local Planning Panel) and for the conduct of business at those meetings is, subject to the Act, to be as determined by the planning body (i.e. the Local Planning Panel).
1 Panel Composition

1.1 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/alternate Chair is to preside over panel meetings and other business.

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).

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.

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.

6. 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 are to hear a matter.

1.2 Role of alternate Chairs

Alternate Chairs have the same role as the Chair when presiding over a panel meeting or any other business.

1.3 Chair selection and rotation

The Chair and any alternate Chairs are to rotate presiding over panel meetings, or other business as practicable, unless the Chair or alternate Chair is unavailable for any reason.

Where possible, deferred matters should be considered by the Chair that presided over the original deferment.
1.4 Independent expert members and alternates

The independent expert 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.

Note: All Experts have been appointed as members with no alternates appointed as Expert members.

1.5 Community representatives for wards and use of alternates members

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.

The pool of community representatives includes one person and one alternate from each of Council’s five (5) wards. The community representatives have been appointed by Council on the basis of their skills and attributes and knowledge and awareness of Local Government issues. The Chair will appoint a community representative to consider and vote on items both within the ward and outside of the ward for which they have been appointed. The Chair will have regard to the number of factors when selecting a community representative to attend a particular WLPP meeting. These include:

- the number and complexity of items on the meeting agenda for each ward;
- if an item on the agenda in a ward is controversial i.e. there have been a number of submissions in response to the application;
- if an item has been deferred from an earlier meeting and should be dealt with by a majority of the same members;
- if an item is a review application under section 8.2 of the EPA Act and must be dealt with by different panel members to those who determined the original application;
- other factors such as any potential conflict of interest, the availability and fair rotation of the community representatives. Alternate community representatives will only be selected if the community representative is unavailable.

1.6 Quorum

1. The quorum for the panel is three (3) members (clause 22 of Schedule 2 of the Act).

2. Where a quorum for a meeting or other business is not present, the meeting or other business is to be deferred.

1.7 Current Woollahra Local Panel members

A list of current Woollahra Local Planning Panel members is available on Council’s website.
2 Reviews of panel decisions

2.1 Reviews

All of the processes detailed below for determination of a development application also apply to the determination of a request to review a decision under Division 8.2 of the Act.

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

3 Conduct of panel members

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.

3.1 Conflicts of interest

1. 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. 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.

If a panel members becomes aware of a conflict of interest after they have signed their declaration of interest form, 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 and sign a new declaration of interest form.

3. 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.

4. Particulars of any disclosure made must be recorded in the Minutes by the panel and be made publicly available upon request (clause 5 of Schedule 2 of the Act).

5. 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 (clauses 6 and 7 of Schedule 2 of the Act).
6. The General Manager, under clause 7.1 of the Code of Conduct, has nominated the staff members identified as the staff members who will assist the panel to obtain information and clarify matters relating to its duties, responsibilities and matters before it.

A list of nominated staff members is available on Council’s website.

Note: A contravention of this requirement does not invalidate any decision of the panel.

7. A member of the panel must limit and disclose development/planning related work in the Woollahra Local Government Area.

8. A member of the panel shall not represent an application, council or submitter at a meeting of the panel.

3.2 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 panel meeting.

2. This does not apply to persons employed by the council to assess the matters to be considered by the panel, in liaison with Senior Council staff members and other staff members nominated by the General Manager under the provisions of clause 7.1 of the Code of Conduct for Local Planning Panel Members as staff who can liaise with the panel and listed on Council’s website.

4 Frequency of Meetings

1. The panel shall hold meetings as required to meet panel demands and workloads.

2. Public meetings under clause 25(2) of Schedule 2 of the Act will be held on the 1st and 3rd Thursday of each month (excluding January) or as otherwise directed by the Chair to meet panel demands and workloads.

3. Under clause 25(4) of Schedule 2 of the Act, the panel may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone or other electronic 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 as required by subclause (3).

4. Under clause 26 of Schedule 2 of the Act, the panel may, if it thinks fit, transact any of its business by the circulation of papers (electronically or in hardcopy) among all the members of the panel and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the panel.
5 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 with regard to technicalities or legal forms.

4. The panel must give reasonable notice to the public of the times and places of its public meetings. This must be done through the website used by the panel and may include other mechanisms as appropriate.

The panel has adopted the following procedures for its public meetings:

5.1 Notice of Public Meetings

1. Panel meetings will commence at 1pm at Council’s Redleaf Chambers, 536 New South Head Road, Double Bay, unless otherwise advised.

2. Notice of the time and place of panel meetings shall be provided through Council’s website at least 6 days prior to the meeting. The names of panel members presiding over the meeting will not be published on the notice of meetings.

3. Applicants and persons who made a submission to an application will be advised when an application will be heard by the panel.

5.2 Notice of intention to address the panel at a public meeting

1. Any person wishing to address the panel must register their intention to do so with Council by **12 noon on the day before the meeting**. Only one person from each residential dwelling will be able to register to speak. Strata units should nominate a spokesperson, unless units have different issues e.g. view loss from a particular unit that is different to other units.

   The ‘Application to Address WLPP’ form available on Council’s website should be used to register as a speaker.

2. A person wishing to speak for or against an application must have already lodged a written submission on the subject application OR must provide a written summary (no longer than one A4 page in length) of the matters upon which they wish to address the panel. Any new written summary must be submitted to **Council 48 hours before the meeting together with the registration to speak form.**

3. 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. A person who has not registered to speak may do so at the discretion of the Chair.

5.3 Guidelines for addressing the panel at a public meeting

1. To assist with the public address process and to ensure smooth running of the meeting, when addressing the panel please ensure you:

   - address the Chair.
   - are concise, and emphasise your key points, noting that the Panel has a copy of your submission so there is no need to merely read out your written submission.
   - if someone has already spoken before you and you agree with their key points, say so, there is no need to repeat what has already been said.
   - focus on how the proposed development might affect you, in your own words.
   - sometimes proposed developments do not comply with certain planning rules such as the height of the building. Rather than talking about this non-compliance, explain to the Panel, in your own words, how this will affect you.
   - Talk about what you would like the Panel to do or how the development could be changed to address your concerns.
   - If you are part of a group with similar concerns get together before the meeting and work out who will speak on a particular issue to avoid repetition and to make the most of everyone’s 3 minutes.

2. Be polite and respectful to the members of the Panel, other attendees and the council staff. Speakers (and all other people attending the public meeting) must refrain from engaging in disorderly conduct, or making potentially defamatory statements. If this behaviours occurs, the Chair may ask the person to stop speaking and/or request that they leave the meeting, or may adjourn the meeting.
5.4 Addressing the panel at a public meeting

1. Speakers shall be heard for each item on the agenda in the following order:
   - Councillors;
   - Objectors (or representative) speaking against the application; and
   - The applicant (or the applicant’s representative) and supporters speaking for
     the application.

   **Note:** The Chair may vary the order of speakers if required.

2. 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.

3. With the 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.

4. Unless the Chair otherwise permits, no speaker may address the panel for more
   than three (3) minutes in respect of any one matter at any particular meeting. If a
   number of people wish to speak on a similar issue, e.g. parking, they are
   encouraged to nominate a single person to speak on their behalf. The Chair may
   allow for an extension of time to enable relevant issues to be adequately
   addressed.

5. A single bell will sound after two (2) minutes and two (2) bells will sound at the
   end of three (3) minutes.

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.

7. Panel members may seek to clarify any matter with a speaker or council officer.

5.5 Late correspondence

Late correspondence may only be submitted if it is new information e.g. a response

to draft conditions. It should not reiterate matters that have already been raised in

submissions. To enable Council staff time to assess any new information for

consideration by the panel, late correspondence must be submitted to Council
48 hours before the meeting (generally by 1pm on the Tuesday before the

meeting) via email to records@woollahra.nsw.gov.au.
5.6 Deliberation and voting at public meetings

1. The Chair may choose how to manage the deliberation and voting process. The options include:

   a. Deliberate, vote and make a determination in the public meeting

   b. Adjourn the public meeting to deliberate and reconvene the meeting for voting and determination; or

   c. Close the public meeting, deliberate, vote and then notify the public of the outcomes outside the public meeting.

The panel generally adopts option (b) above unless the matter is relatively straightforward in which case it adopts option (a) above. The panel does not generally adopt option (c) above.

The panel will provide reasons for its decision.

2. If a panel member votes against the recommendation or has a dissenting view to the majoring, the panel member is entitled (but not obligated) to give their reasons and this can be formally documented and recorded in the panel’s reasons for decision.

3. A decision supported by a majority of votes cast at the meeting at which a quorum is present is the decision of the panel (clause 24 of Schedule 2 of the Act).

4. The Chair (presiding member) has a deliberative vote and, in the event of an equality of votes, has a second or casting vote (clause 23(3) of Schedule 2 of the Act).

5. Applications shall be determined by the panel in the order they appear on the Agenda, unless otherwise determined by the Chair.

5.7 Audio Recording

Panel meetings will be recorded by audio and that audio recording will be placed on council’s website (clause 25(3) of Schedule 2 of the Act).

5.8 Deferring a decision

1. The Panel may defer its determination of an application.

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

3. If the deferred application requires re-notification and there are objections, it will be considered at another public meeting and, if possible, determine by the same Chair and panel members. Otherwise, the application will be determined by circulation of papers (electronically or in hardcopy) outside of a meeting under clause 26 of schedule 2 of the Act.
5.9 Delegating a decision

1. The panel may delegate the determination of an application to Council staff.

2. If determination of an application is delegated to Council staff the panel shall provide reasons for its delegation and these reasons will be recorded in the minutes.

5.10 Post meeting procedures

1. Minutes of the meeting shall include the decision, the recording of voting and the reasons for the decision.

2. All members shall review and confirm the decisions made by the panel as soon as possible after the meeting.

3. Minutes shall be made publicly available on Council’s website.

4. All parties that made written submissions shall be advised of the Panel’s decision in writing.

5. The Notice of Determination shall be provided to the applicant.

6. Should the panel resolve to request additional information or seek amendment of the application, the panel may defer the application. A written request to the applicant with the reasons for deferral shall be sent to the applicant as soon as possible after the panel meeting.

5.11 Site inspections / Site visits

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 inspections shall normally commence at 9:30am on the day of the meeting, or as otherwise determined by the Chair.

3. Panel members must not undertake site inspections independently.

4. Site visits should be conducted on the same day as the public hearing, if practicable.

5. Site visits are solely to be used to identify and clarify issues with a proposal.

Site visits are not to be used as a forum for applicants or objectors to address the panel; however, the panel may ask questions to clarify issues whilst inspecting a site.
6. 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.

7. It is not a requirement for the panel to visit every adjoining and/or affected property; however, it may visit if the Chair decides that the panel's consideration of an application would benefit from viewing a property. If so, the owner will be requested to provide access prior to the site inspection. Objectors may request that the panel visit their property. Any request, including reasons for the visit, should be made by emailing council as soon as possible, and no later than 12 noon on the day before the panel meeting. The decision to visit and objector's property will be at the discretion of the Chair.

8. The council officers responsible for coordinating the panel (Panel Officer) will organise the site inspections, including assembly times and transportation. Other Council officers and/or Council Consultants (if required), may attend site inspections to answer questions and clarify any issues raised by panel members.
3 Other matters

6.1 Delegations
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.

6.2 Transacting business outside of public meetings
1. 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).

2. 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 (clause 26(2) of Schedule 2 of the Act).

3. 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 (clause 26(3) of Schedule 2 of the Act).

4. A record of a panel briefing should be published on the Council’s website.

6.3 Briefings
Council staff may brief the panel and answer questions on items on the agenda before a public meeting.

Briefing of the panel may also be held at other times to inform the panel of matters such as planning proposals or updates in processes and procedures.

6.4 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 significant adverse financial impact on the 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.
### Policy Amendments

<table>
<thead>
<tr>
<th>Date</th>
<th>Responsible Officer</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>21 June 2018</td>
<td>J Della Bosca</td>
<td>Delegation providing Council staff with control and direction of Appeals (Council Resolution 21 June 2018).</td>
</tr>
<tr>
<td>4 July 2019</td>
<td>H Tola</td>
<td>Amended following consideration by WLPP on 4 July 2019 (as outlined in the minutes of the meeting).</td>
</tr>
</tbody>
</table>
## ANNEXURE 1 – Summary of Operational Timeframes

<table>
<thead>
<tr>
<th>Timeframe</th>
<th>Objective/Task</th>
<th>Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>14 days prior to meeting</td>
<td>To email the draft meeting agenda items to the Chair.</td>
<td>Governance Officer</td>
</tr>
<tr>
<td>Before 10am</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10 days prior to meeting</td>
<td>To approve items for Agenda and nominate panel members for the meeting.</td>
<td>Chair</td>
</tr>
<tr>
<td>-</td>
<td></td>
<td></td>
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<tr>
<td>10 days prior to meeting</td>
<td>To email the meeting agenda items to the Panel Member's for identification of any</td>
<td>Governance Officer</td>
</tr>
<tr>
<td>Before 3.00pm</td>
<td>Conflicts of Interest.</td>
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<tr>
<td>10 days prior to meeting</td>
<td>Panel Members to return email confirming whether or not there is a Conflict of</td>
<td>Panel Members</td>
</tr>
<tr>
<td>-</td>
<td>Interest (detailing the nature and type of conflict).</td>
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<tr>
<td>10 days prior to meeting</td>
<td>To send the Agenda including all relevant plans, reports and documentation via</td>
<td>Governance Officer</td>
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<tr>
<td>-</td>
<td>courier to Panel Members.</td>
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<tr>
<td>1.00pm</td>
<td>Late correspondence must be submitted to Council via email to</td>
<td>Members of Public</td>
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<tr>
<td>(Tuesday before the meeting)</td>
<td><a href="mailto:records@woollahra.nsw.gov.au">records@woollahra.nsw.gov.au</a>.</td>
<td></td>
</tr>
<tr>
<td>12noon</td>
<td>Applications to address the panel must be submitted to Council via email to</td>
<td>Members of Public</td>
</tr>
<tr>
<td>Wednesday 12noon (day before</td>
<td><a href="mailto:records@woollahra.nsw.gov.au">records@woollahra.nsw.gov.au</a>.</td>
<td></td>
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<tr>
<td>the meeting)</td>
<td></td>
<td></td>
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<tr>
<td>9.30am</td>
<td>To meet at the pre-arranged location (536 New South Head Road, Double Bay).</td>
<td>Panel Members</td>
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<tr>
<td>1st &amp; 3rd Thursday of the month</td>
<td>This time may be varied depending on location of sites to visit, however 9.30am</td>
<td></td>
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<td>-</td>
<td>will generally be the default meeting time.</td>
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<tr>
<td>1st &amp; 3rd Thursday of the month</td>
<td>To submit written declaration of conflicts of interest to Governance Officer for loading onto Council’s website.</td>
<td>Panel Members</td>
</tr>
<tr>
<td>1.00pm</td>
<td>Undertake Site Inspections – Council to provide transport.</td>
<td></td>
</tr>
<tr>
<td>12noon</td>
<td>To send completed ‘Minutes of the Woollahra Local Planning panel Meeting’ to Panel</td>
<td>Governance Officer</td>
</tr>
<tr>
<td>Monday after the meeting</td>
<td>for concurrence after being reviewed by the Manager Development Control.</td>
<td></td>
</tr>
<tr>
<td>3.00pm</td>
<td>To finalise and confirm ‘Minutes of the Woollahra Local Planning Panel’ for placement on Council’s website.</td>
<td>Chair</td>
</tr>
<tr>
<td>-</td>
<td>Upload to Council’s website and/or Councillors Hub:</td>
<td>Governance Officer</td>
</tr>
<tr>
<td>-</td>
<td>- Minutes and audio recording of the WLPP meeting, and</td>
<td></td>
</tr>
<tr>
<td>-</td>
<td>- Signed declaration forms.</td>
<td></td>
</tr>
<tr>
<td>-</td>
<td>To prepare resolutions to action the decisions of the WLPP.</td>
<td>Governance Officer</td>
</tr>
</tbody>
</table>