

INNER WEST PLANNING PANEL (IWPP) CODE OF CONDUCT

PURPOSE

The Code of Conduct (the "Code") outlines the standards of conduct expected of Inner West Planning Panel (the "Panel") members and outlines their responsibilities in areas such as conflicts of interest, gifts and personal information.

The Code is consistent with the Inner West Council's commitment to high ethical standards for everyone who works with the Council in a paid, voluntary or elected capacity.

It is the personal responsibility of each Panel member to comply with this Code.

This Code sets out the minimum requirements of behaviour for Panel members in carrying out their functions. This Code has been developed to assist Panel members:

- a) Understand the standards of conduct that are expected;
- b) Act honestly, ethically and responsibly;
- c) Exercise a reasonable degree of care and diligence; and
- d) Act in a way that enhances public confidence in the integrity of the role of the Panel and the Council in the planning system.

This Code is to be read in conjunction with the Inner West Planning Panel Charter and Operational Guidelines.

1. KEY PRINCIPLES

1.1 Public Interest

Panel members have a duty to make decisions in the public interest and that are objective and merit based.

Panel members must not make a decision or take action that causes or results in them obtaining:

- a) financial benefit (including avoiding a financial loss); or
- b) other benefits for themselves, their family, friends or business interests.

1.2 Honesty

Panel members must act honestly and in good faith and for proper purposes.

1.3 Integrity

Panel members must not place themselves under any financial or other obligation to any individual or organisation that might be reasonably thought to influence them in the exercise of their functions as a Panel member.

1.4 Impartiality

Panel members must make decisions on merit and in accordance with their statutory obligations when carrying out functions as a Panel member.

1.5 Accountability

Panel members are accountable to the public for their decisions and actions and must consider issues on their merits, taking into account the views of others.

1.6 Leadership

Panel members have a duty to promote and support the key principles of this Code by demonstrating leadership and maintaining and strengthening the public's trust and confidence in the Panel and their role in the planning system.

2. CONDUCT OBLIGATIONS

2.1 Panel members must not conduct themselves in a manner that is likely to bring the Panel into disrepute. Specifically, they must not act in a way that:

- a) contravenes the Environmental Planning and Assessment Act 1979, the Local Government Act 1993, any associated regulations, Council's relevant administrative requirements and policies;
- b) is detrimental to the pursuit of the charter of Council;
- c) is improper or unethical;
- d) is an abuse of power or otherwise amounts to misconduct;
- e) causes, comprises or involves intimidation, harassment or verbal abuse;
- f) causes, comprises or involves discrimination, disadvantage or adverse treatment;
- g) causes, comprises or involves prejudice in the provision of a service to the community.

2.2 Panel members must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions.

2.3 Panel members must act with respect, professionalism, politeness and courtesy towards one another, Council officers and persons addressing the Panel at meetings.

2.4 Panel members must consider issues consistently, promptly and fairly. They must deal with matters in accordance with established procedures, in a non-discriminatory manner.

2.5 Panel members must take all relevant facts known to them, or that they should be reasonably aware of, into consideration and have regard to the particular merits of each case. Panel members must not take irrelevant matters or circumstances into consideration when making decisions.

2.6 Panel members must ensure that no action, statement or communication between themselves and others (such as applicants, representatives or submitters) conveys any suggestion of willingness to provide improper concessions or preferential treatment.

2.7 Panel members must not be intoxicated or drug affected when performing official Panel duties.

2.8 Panel members must not take advantage (or seek to take advantage) of their status or position with Council in order to obtain a private benefit.

3 INTERACTION WITH APPLICANTS, REPRESENTATIVES, SUBMITTERS, COUNCILLORS AND COUNCIL OFFICERS

3.1 Members may approach and liaise with relevant Council staff as nominated by the General Manager to assist the Panel to obtain information and clarify matters relating to their duties, responsibilities and functions and matters before them. Panel members shall not issue directions to or order Council staff to carry out any direction on any matter.

3.2 In relation to Council staff, Panel members must not:

- a) approach, make requests of, make enquiries or issue instructions to Council staff other than through official channels and in accordance with this Code;
- b) be overbearing or threatening to Council staff;
- c) make personal attacks on Council staff in a public forum;
- d) direct or pressure Council staff in the performance of their work or recommendations they make;
- e) influence or attempt to influence Council staff in the preparation of assessment reports or other information to be submitted to the Panel.

3.3 Panel members must not approach an applicant, representative or submitter, or if approached by an applicant, representative or submitter must not discuss any application which is either before the Panel or will come before the Panel at some future time, except during the course of a Panel meeting where the application forms part of the business paper and the applicant, representative or submitter has a right to be heard by the Panel.

3.4 Panel members must not approach the Administrator, or if approached by the Administrator, must not discuss any application which is either before the Panel, or will come before the Panel at some future time.

3.5 Panel members must not hold private meetings, discussions or site visits in respect of a matter outside the formal procedures established for the operation of the Panel.

4 CONFLICTS OF INTEREST

4.1 General

- a) Members of the Panel are designated persons as defined by Section 441 of the Local Government Act, 1993. Panel members are part of a Committee whose functions involve the exercise of a function of the Council. Section 441 recognises that there may be cases where the Panel member's interests as a Panel member conflicts with their interest as a private individual.
- b) A conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty.
- c) Panel members must avoid or appropriately manage any conflict of interests. The onus is on the Panel member to identify a conflict of interest and take the appropriate action to manage the conflict in favour of public duty.
- d) Any conflict of interest must be managed to uphold the probity of Panel decision making. When considering whether or not you have a conflict of interest, it is always important to think about how others would view your situation.

4.2 Types of private interests

Private interests can be of two types:

- i) pecuniary, or
- ii) non-pecuniary.

4.3 Pecuniary interests

- a) A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. (*Refer Local Government Act 1993 Section 442*).
- b) A Panel member does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision that person might make. (*Refer Local Government Act 1993 Section 442 (2)*).
- c) A Panel member has a pecuniary interest in a matter if the pecuniary interest is the interest of the member, the member's spouse or de facto partner or a relative of the member or a partner or employer of the member, or a company or other body of which

the member, or a nominee, partner or employer of the member is a member, has a pecuniary interest in the matter. (*Refer Local Government Act 1993 Section 443*).

- d) The obligations on Panel members with respect to pecuniary interests shall be in accordance with Chapter 14 Part 2 of the Local Government Act 1993.
- e) All Panel members must comply with these requirements. In particular:
 - i) As designated persons, Panel members must lodge an initial and an annual written disclosure of interests that could potentially be in conflict with their public or professional duties. (*Refer Local Government Act 1993 Section 449*).
 - ii) If a Panel member has a pecuniary interest in a matter being considered or about to be considered at a Panel meeting and the interest appears to raise a conflict with the proper performance of the member's duties in the consideration of the matter, the member must, as soon as possible after the relevant facts have come to the member's attention, disclose the nature of the interest at a meeting of the Panel.
- f) After a member has disclosed the nature of an interest in any matter, the member must not:
 - i) be present during any deliberation of the Panel with respect to the matter, including any site inspection; or
 - ii) take part in any decision of the Panel with respect to the matter.
- g) In summary, a member having declared a pecuniary interest shall not attend the site inspection or public hearing meeting associated with the item or participate in discussion or voting on the item.

4.4 Non-pecuniary interests

- a) A non-pecuniary interest is a private or personal interest the Panel member has that do not amount to a pecuniary interest. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.
- b) Panel members should consider possible non-pecuniary interests that may arise while carrying out their duties as a Panel member. Where possible, the source of potential conflict should be removed.
- c) However, where this is not possible, if a Panel member has a non-pecuniary interest in a matter and the interest appears to raise a conflict with the proper performance of the member's duties, the member must follow the procedures in the same manner as if the interest was a pecuniary interest.

4.5 Declarations of interest

Where any pecuniary or non-pecuniary interest in a matter before the Panel has been disclosed by a member, whether declared before or at the commencement of the Panel meeting, it will be noted in the minutes of the relevant Panel meeting even when the member is not in attendance.

4.6 Political donations

Panel members should be aware that political contributions or donations may give rise to a pecuniary or non-pecuniary interest. It is the responsibility of Panel members to determine in each instance whether such an interest arises and whether the provisions of this Code apply.

4.7 Personal dealings with Council

You may have reason to deal with Council in your personal capacity for example, as a ratepayer. Panel members must not expect or request preferential treatment in relation to any matter in which you have a private interest because of their position as a Panel member. Panel members must avoid any action that could lead members of the public to believe they are seeking preferential treatment.

4.8 Other business or employment

- a) Public perception of bias/conflict of interest requires that persons appointed as Panel members must not engage in any of the following:
 - i) appearing for or against Council as consultants acting on behalf of applicants or Council, giving evidence in Court;
 - ii) making representations to the Panel on behalf of others, for example, making a submission in support of a development, or on behalf of a submitter;
 - iii) making representations to Council in relation to planning and development matters in the Inner West Local Government Area, for example, supporting an application for a rezoning or a development application;
 - iv) deriving income (other than remuneration for being a Panel Member) through contracts with Council.
- b) Any other work conducted within the Inner West Local Government Area shall be the subject of a declaration of interest in accordance with the Code.

5 GIFTS OR BENEFITS

5.1 Panel members must not:

- a) seek or accept a bribe or other improper inducement;
- b) seek gifts or benefits of any kind;
- c) accept any gift or benefit that may create a sense of obligation on your part or may be perceived to be intended or likely to influence them in carrying out your public duty;
- d) accept any gift or benefit of more than token value;
- e) accept an offer of cash or a cash-like gift (includes gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, memberships or entitlements to discounts).

6 TOKEN GIFTS AND BENEFITS

6.1 Avoidance

Panel members must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment.

6.2 Definition of token gifts and benefits

Generally speaking, token gifts and benefits include:

- a) free or subsidised meals, beverages or refreshments provided in conjunction with:
 - i) the discussion of matters before the Panel;
 - ii) conferences; or
 - iii) social functions organised by groups.
- b) invitations to and attendance at local social, cultural or sporting events;
- c) gifts of single bottles of reasonably priced alcohol at end of year functions and public occasions;
- d) ties, scarves, coasters, tie pins, diaries, chocolates or flowers; and
- e) prizes of token value.

6.3 Gifts and benefits of value

- a) Gifts and benefits that have more than a token value include, but are not limited to, tickets to major sporting events, corporate hospitality at a corporate facility at major sporting events, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel.

- b) If a Panel member is offered a gift or benefit that is not considered token it should be reported to Council's Public Officer. Or, if a Panel member is not sure if the gift or benefit would be considered token, they should contact Council's Public Officer. Openness about such matters prevents unfair criticism at a later date.
- c) Any gift from an applicant, submitter or associate of an applicant or submitter in relation to a matter to be determined by a Panel must not be accepted.
- d) When offered a gift or benefit, Panel members must inform Council's Public Officer to ensure the following information is provided for the purposes of making a recording on the Gifts and Benefits Register:
 - i) the person who made the offer and the date on which the offer was made;
 - ii) whether or not the gift/benefit was accepted;
 - iii) whether the gift or benefit was allocated to another person or body; and
 - iv) the value of the gift or benefit.
- e) Panel members must also advise the Panel Chairperson of any such notification.

7 CONFIDENTIAL AND PERSONAL INFORMATION

7.1 A Panel member may have contact with confidential or personal information retained by Council. If so, they must maintain the security of any confidential or personal information and not access, use or remove any information, unless they are authorised to do so.

7.2 Panel members must:

- a) protect confidential information;
- b) only release confidential information if they have authority to do so;
- c) only use confidential information for the purpose it is intended to be used;
- d) not use confidential information gained through their position as a Panel member for the purpose of securing a private benefit for themselves or for any other person;
- e) not use confidential information with the intention to cause harm or detriment to the Panel or any other person or body; and
- f) not disclose any information discussed during a confidential session of a Panel.

7.3 When dealing with personal information you must comply with:

- a) The Privacy and Personal Information Protection Act 1998
- b) The Health Records and Information Privacy Act 2002
- c) The Information Protection Principles and Health Privacy Principles
- d) Council's Privacy Management Plan
- e) The Privacy Code of Practice for Local Government

7.4 No Panel member is authorised to make any comment to the media, through social media or to the general public in relation to any matter before the Panel or any decision of the Panel.

8 BREACH OF THE CODE

8.1 Reporting and action

- a) Panel members are required to report suspected breaches of the Code to the Panel Chairperson. If the Panel Chairperson suspects a breach of the Code they must report the suspected breach to the General Manager or the Public Officer.
- b) If the suspected breach is by the Panel Chairperson, Panel members must report the suspected breach to the General Manager or the Public Officer.
- c) The General Manager must take such steps as they think appropriate to investigate and take action in respect of the alleged breach.

- d) A person who is alleged to have breached the Code must be given:
 - i) the full particulars of the alleged breach;
 - ii) an opportunity to respond to the allegations; and
 - iii) the right to have a legal or other representative present during any meetings/discussions in respect of the matter.

8.2 Sanctions

- a) Upon receipt of advice from the Chairperson of a breach of the Code of Conduct by a member, the following action may be taken by the General Manager:
 - i) counselling of the member;
 - ii) suspension from hearing a particular matter;
 - iii) suspension from the Panel;
 - iv) removal from the Panel; or
 - v) report to another authority.
- b) Serious breaches of the Code may be referred to the Police.

9 COMPLAINTS HANDLING

- 9.1** Complaints against Panel members must be made in writing and are handled in accordance with Council's Complaints Management Policy and Procedures.