

# Waverley Independent Planning Panel

## Draft CODE OF CONDUCT



### Purpose of the Code of Conduct

The Council seeks the highest ethical standards in delivering services to its community.

This Code of Conduct (the "Code") applies to all members of the Waverley Independent Planning Panel (the "Panel") when exercising or purporting, at all times, to exercise their duties, responsibilities and functions under the Panel Charter. It is designed to assist in maintaining the reputation and integrity of the Panel and to provide a basis for fair dealings, reaching findings and making recommendations/decisions on matters before it.

This Code is to be read in conjunction with the Panel Charter, Guidelines and Memorandum of Understanding.

Panel members must perform their obligations under this agreement faithfully and diligently and must, at all times, act in accordance with the Memorandum of Understanding, the Charter and the Guidelines associated with the Panel. If members do not comply the General Manager may terminate the Panel member's appointment without notice.

### Contact with others

Panel members may communicate with senior designated staff of Waverley Council or other staff nominated by the General Manager in a protocol for interaction between Panel members and staff.

The Panel must not approach an applicant, objector or Councillor, or their representative, or if approached by those parties, 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 person has a right to be heard by the Panel.

Outside of the meeting process, Panel members must immediately report in writing to the General Manager any contact or approach by an applicant, resident, consultant, technical expert, Council or unauthorised staff member in connection with the Panel functions.

### Conflicts of Interest and Disclosure

Panel members must:

- Consider and comply with all disclosure requirements under the Code including but not limited to disclosing interests arising out of a personal and/or pecuniary nature and of a direct and/or indirect nature and if a conflict exists or arises, shall disclose the nature and extent of such interest and conflict in accordance with the provisions below;
- Ensure no conflict exists for themselves, or those people closely associated with them, which could influence or affect the impartial performance of their duties; and
- Consider both perceived and actual conflicts for the purposes of this clause.

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 or another person with whom the person is associated.

Non-pecuniary interest a private or personal interest the person has that does not amount to a pecuniary interest (for example; a friendship, membership of an association, society or trade union or involvement or interest in an activity).

### **Pecuniary Interest**

The Panel shall adhere to the Charter, Guidelines and Memorandum of Understanding signed with the Council acknowledging and accepting that if a Member has a pecuniary interest in any matter (as defined in Sections 442 and 443 of the Local Government Act 1993) to be considered by a meeting of the Panel, then:

- (i) upon being notified of a draft list of agenda items, if a Panel member identifies a possible or actual pecuniary interest the member shall withdraw as nominated member for that meeting and an alternative shall be invited to attend.
- (ii) at the Panel meeting, if a member identifies a possible or actual pecuniary interest the member will immediately disclose the nature of that interest prior to any consideration of the matter, and
- (iii) will not be present at or in the sight of the Panel meeting at any time during which the matter is being considered or discussed by the Panel.

A member having declared a pecuniary interest shall not attend the site inspection or public hearings associated with the item or participate in discussion or voting on the item.

The first item of business at Panel Site Inspections and Panel meetings will be members declaring any pecuniary interest that may prevent them from participating in or considering any item within the business paper. If at any time during a Panel meeting, either at the Site Inspection, or at the public meeting, or during consideration of the item, a member identifies a possible or actual pecuniary interest the member shall immediately notify the Chairperson and withdraw from the meeting during the consideration of that item.

However, a member of the Panel is not disqualified to vote on any matter with which the Panel is concerned if, in the absence of any other probative material that would give rise to a pecuniary interest or a conflict of interest as referred to above, the person or any member of the person's family has from time to time personal, familial, business or professional connections or dealings with persons, organisations or associations or bodies within the Waverley local government area of a kind that could not reasonably be regarded as likely to influence any decision the person might make in relation to the particular matter before the Panel.

Each Panel member shall complete their Pecuniary Interest Declaration Return (the "Return") and submit it to the General Manager upon appointment to the Panel and shall also submit an annual Return in July each year covering the period to 30 June of the previous 12 months.

### **Non Pecuniary Conflict of Interest**

If at any time, upon notification of the draft list of agenda items, at site inspections, public meeting or during consideration of an item, a member identifies a possible or actual non pecuniary conflict of interest, the member shall notify the Chairperson.

If having declared a non-pecuniary conflict of interest, a member has a broad range of options for managing the conflict. The option chosen will depend on an assessment of the circumstances of the matter, the nature of the interest and the significance of the issue being dealt with. Non-pecuniary conflict of interests must be dealt with in at least one of these ways:

- It may be appropriate that no action is taken where the potential for conflict is minimal or can be eliminated by disclosure. However, the Member should provide an explanation to the Chairperson and the Chairperson should advise that the explanation is accepted.
- Remove the source of the conflict, for example, relinquishing or divesting the personal interest that creates the conflict.
- Have no involvement by leaving and not taking part in any debate or voting on the issue and not have access to any relevant information.

### **Other Business or Employment**

Public perception of bias/conflict of interest requires that Panel Members not engage in any of the following while they are members of Panel:

- Appearing for or against Council in development matters, for example, as consultants acting on behalf of applicants or Council, giving evidence in Court for or against Council;
- Making representations to the Panel on behalf of others, for example, making a submission in support of a development, or on behalf of an objector;
- Making representations to Council in relation to planning and development matters, for example, supporting an application for a rezoning;
- Deriving income (other than remuneration for being a Panel Member) through contracts with Council.

Any other work conducted within the Waverley Local Government area shall be the subject of a declaration of interest in accordance with the Code.

### **Public Comment**

Panel members shall not make oral or written statements of any description to any media outlet, newspaper, television station, radio network or the like, or to any person associated with such organisations, in connection with any work undertaken in connection with Panel function, with the exception of the Chairperson and only with prior approval from the General Manager.

Panel members must not make comment through social media, including but not limited to Facebook, Twitter, and others that may arise over time, in connection with any work undertaken in connection with Panel function.

### **Use of Information /Confidentiality**

Panel Members must:

- not use information obtained in the course of carrying out their duties for anything other than for exercising their functions, powers and duties for the Panel;
- keep information obtained or provided confidentially, confidential; and
- determine what information and material is to be retained by the Panel and how it is to be treated for the purposes of retention.

### **Gifts & Benefits**

Members must never receive, accept, demand, solicit, request or accept a gift or benefit in connection with their duties on the Panel. Facilities, transportation, equipment, meals etc provided by Council as part of Panel meetings shall not be considered as gifts or benefits under this part.

## **Occupational Health and Safety**

Panel members must comply with the provisions of the Occupational Health and Safety Act 2000 (NSW), to the extent to which those provisions are relevantly applicable to members of the Panel as regards the performance of their respective duties as such, as well as with all occupational health and safety policies and procedures of Waverley Council as in force from time to time.

## **Resources**

Members must use resources provided by the Council in an effective and efficient manner; and not use such resources for private purposes.

## **Breach of Code**

### *Misconduct*

Where any complaint alleging misconduct by a Member is made, the complaint is to be made in writing to the General Manager and be signed by the complainant. Anonymous complaints need not be investigated, but the General Manager has the discretion to determine what action if any will be taken. Upon receipt of a written complaint alleging misconduct, the General Manager shall take such action as appropriate.

### *Corrupt and Unlawful Conduct*

Members must not engage in corrupt or unlawful conduct and must report any actual or potential corrupt or unlawful conduct to the General Manager of the Council.

### *Sanctions for Breach of Code of Conduct*

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:

- counselling of the member;
- suspension from the Panel;
- suspension from hearing a particular matter;
- removal from the Panel; and/or
- report to another authority

The Code may be reviewed from time to time as required by the General Manager or the Director of Planning or delegate, with the assistance of the Panel. Any changes are subject to the approval of Council.