

LIVERPOOL CITY COUNCIL

INDEPENDENT HEARING AND ASSESSMENT PANEL CHARTER

Adopted: 26 July 2017

TRIM: 105032.2017-008



1. NAME

Independent Hearing and Assessment Panel (IHAP)

2. INTERPRETATION

For the purpose of this charter:

“Council” means the Liverpool City Council;

“Member” means a member of the Independent Hearing and Assessment Panel.

3. STATUS OF COMMITTEE

Advisory committee

4. PURPOSE

4.1 IHAP is an independent forum for stakeholders - applicant, the community and objectors - to discuss the following types of development applications:

- a) Those Class 2 to 9 Buildings under the Building Code of Australia (BCA) where there are five or more *unresolved objections*, except where the application is being refused on the grounds of incomplete or insufficient information required to enable a complete and proper assessment of the application in accordance with the *Environmental Planning and Assessment Act 1979*;
- b) Any matter that involves a variation to the Liverpool Local Environmental Plan 2008 or a relevant State Environmental Planning Policy (SEPP) greater than 10%;
- c) Any development application lodged on behalf of Council or by Council, where it has a pecuniary interest in the development;
- d) The development applications referred to above will only be considered by the IHAP and Council in circumstances where the Sydney South West Planning Panel is not the determining authority.

5. OBJECTIVES

5.1 The objectives of IHAP are:

- a) To provide a forum for interested parties to be heard openly;

- b) To independently review the assessment of development applications;
- c) To provide increased transparency and an independent assessment of development applications listed in Clause 4 above;
- d) To provide stakeholders with an increased sense of involvement in the outcomes of the assessment process in relation to the types of development applications listed in Clause 4 above;
- e) To achieve development outcomes consistent with Council's Local Environmental Plan 2008.

6. FUNCTIONS

6.1 The functions of IHAP are:

- a) To consider and make a recommendation to Council on development applications listed in Clause 4 above.
- b) To openly discuss proposals and hear representations from applicants and objectors.
- c) To take into account any relevant statutory planning instruments, including Council's LEP and/ or Council's policies.
- d) To comply with statutory provisions, particularly the Local Government Act 1993 and the *Environment Planning and Assessment Act 1979*.
- e) To avoid lobbying or external communication from applicants or objectors outside the forum of Panel hearings.
- f) To provide advice to Council and suggest policy changes in relation to planning controls and operational arrangements to be addressed following determination.
- g) To assess and recommend approval, refusal or deferral of applications referred to the Panel.
- h) The Panel must only request a re-review of the application if a refusal of the application is recommended. Should the Panel require further information or amendments to be made to the application, the Panel must include specific recommendations relating to the matters raised, which Council Officers may then request and take into consideration before making a final recommendation/determination.
- i) In the event that an application requires a re-referral to the Panel, new issues, concerns or recommendations must not be made which are different to those raised at the original meeting, except where the

proposed development has changed to the extent that new issues have been identified as a result of those changes.

7. OUTCOMES

- 7.1 The development is assessed in accordance with the requirements of the Council's LEP and other State planning controls and regulations.
- 7.2 A Panel of technical experts and community representatives independently reviews the assessment of the development.

8. MEETING NOTIFICATION AND REPORTING

- 8.1 Agendas for meetings of the Panel shall include information on the meeting date, venue and business proposed to be conducted at the hearing; and contain reports for the development applications to be considered at the hearing, prepared by Council assessment officers or independent consultants.
- 8.2 Agendas shall be made available to Panel Members five days prior to the meeting in hard copy or electronic format.
- 8.3 Agendas will be made available to members of the public five days prior to the meeting at Council.
- 8.4 The Director City Economy and Growth shall convene Panel Hearings as required.
- 8.5 The Panel shall provide reports in accordance with the template provided.
- 8.6

9. DETERMINATION OF DEVELOPMENT APPLICATIONS REFERRED TO IHAP

- 9.1 All development applications referred to IHAP, must be reported to and determined by the elected Council.

10. PANEL APPOINTMENT AND TERMINATION

- 10.1 Panel members shall be appointed for a period of two years, with an option for Council to extend the appointment for up to another two years.

- 10.2 Each Panel shall consist of five members. Four experts shall be drawn from the professional disciplines of planning law, environment, urban design and transport. One member is to be a representative from the Liverpool Community. The Chairperson of the Panel shall be from a professional discipline and not a representative of the Liverpool Community. The Panel Chairperson shall be appointed by the CEO or their delegate.
- 10.3 A pool of professional experts will be appointed by the CEO and selected for each meeting where possible on a rotational basis. Panel members will be appointed on the basis of their qualifications and experience, and absence of any real or potential pecuniary or conflict of interest.
- 10.4 A pool of three community representatives will be appointed by the CEO, and the community Panel representative for each meeting will be selected on a rotational basis. The community representative must be 18 years or older and must reside in the Liverpool Local Government Area.
- 10.5 If a nominated Panel member is not available for a meeting, the Director City Economy and Growth, will select an alternative. A reference to a member of the Panel includes a reference to the member's appointed alternate.
- 10.6 If a vacancy occurs in the membership of the Panel, the CEO may appoint a person to fill the vacant position.
- 10.7 The Panel shall meet annually with the Director City Economy and Growth to review its meeting procedures, past recommendations and Council decisions to identify any improvements to procedures or decision-making. At that time, the Director City Economy and Growth shall prepare a report to the CEO providing an assessment of the operation of the Panel and any suggestions for improvement. All Panel members are to be involved in this report.
- 11. OBSERVING THE CODE OF CONDUCT AND RELEVANT COUNCIL POLICIES**
- 11.1 All members of the Panel are required to observe the provisions of Council's Code of Conduct and any other relevant Council policy applicable to the proper functioning of the Panel.
- 11.2 Should a member of the Panel breach Council's Code of Conduct or any other relevant Council policy, the matter will be referred to the CEO to be dealt with in accordance with Council's Code of Conduct and Code of Conduct Procedures.
- 11.3 If a Panel member has a pecuniary interest in any matter with which the Panel is concerned, they must disclose the interest to the CEO or the Director City Economy and Growth in writing prior to the Panel meeting and they must not participate in any discussion or decision making relating to that matter.
- 11.4 A member of the Panel who has a non-pecuniary conflict of interest in any matter with which the Panel is concerned and is present at a meeting of the

Panel at which the matter is being considered must disclose the interest to the meeting as soon as practicable. If a member of the Panel has declared a non-pecuniary conflict of interest, there exists a range of options for managing the conflict of interest. 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.

- 11.5 A Panel member will deal with a non-pecuniary conflict of interest in at least one of these ways:
- a) Where the potential for conflict is deemed minimal, take no action. However, the Panel member should consider providing an explanation in writing to the CEO or the Director City Economy and Growth as to why it is considered that only a minimal or non-existent conflict exists;
 - b) Where the potential for conflict is more significant, they must disclose the interest to the CEO or the Director City Economy and Growth in writing prior to the meeting and must not participate in any discussion or decision making relating to that matter.
- 11.6 Panel members declaring a conflict of interest, whether pecuniary or non-pecuniary, should complete a Declaration of Interest Form (Committee member) which is to be signed by the CEO and retained by Council in accordance with Council's Code of Conduct and its Ethical Governance: Conflicts of Interest Policy.

12. CONFIDENTIALITY AND MANAGING PRIVACY

- 12.1 Panel members, through their involvement on the Panel, may come in contact with confidential or personal information retained by Council. Panel members are required to maintain confidentiality and security in relation to any such information and not access, use or remove that information, unless authorised to do so.
- 12.2 The *Privacy and Personal Information Protection Act 1998* and Council's Privacy Policy deal with the collection, holding, use, correction, disclosure and transfer of personal information.
- 12.3 Should a Panel member become aware of any breach of security, or misuse of Council's confidential or personal information, they should inform the CEO immediately.

13. DEFINITIONS

- 13.1 **Liverpool CBD (City Centre)**

The CBD shall be defined by and generally bound by the train line to the east, Hume Highway/ Copeland Street to the north and west, and Atkinson Street to the South.

13.2 **Unresolved Objection**

An unresolved objection is a valid written submission received in response to Council's notification/ exhibition of a development application, which raises specific issues for the refusal of the application or would otherwise require significant changes or restrictions to the proposed development.

A valid written submission is a submission that is not anonymous and relates to matters relevant to the Development application and does not contain material that is defamatory, that constitutes harassment, discrimination or racial or sexual vilification, or otherwise breaches the *NSW Anti-Discrimination Act 1977*.

Multiple unresolved objections received from the same household or property are defined as one unresolved objection.

INDEPENDENT HEARING AND ASSESSMENT PANEL CHARTER

AUTHORISED BY

Council Resolution

EFFECTIVE FROM

26 July 2017

DIRECTORATE RESPONSIBLE

City Economy and Growth (Development Assessment)

REVIEW DATE

26 July 2019

VERSION

Version	Amended by	Date	TRIM Number
1	Council Resolution	19 December 2005	Not applicable
2	Council Administrator	23 August 2008	213444.2008
3	Council Resolution	19 December 2012	301090.2012
4	Council Resolution	27 November 2013	283086.2013
5	Council Resolution	20 June 2014	079085.2014
6	Council Resolution	26 August 2015	208784.2015
7	Council Resolution	28 October 2015	288576.2015
8	Council Resolution	31 August 2016	203399.2016
9	Council Resolution CFO 05	23 November 2016	007602.2017
10	Chief Executive Officer	13 March 2017	015032.2017
11	Council Resolution	26 July 2017	015032.2017-008