

12.1 Establishment of a Local Planning Panel

Reference:	5602/19
Report Author:	Deputy General Manager Corporate, Strategy and Development Services
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Link to Community Strategic Plan:	An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

PURPOSE

The Purpose of this report is to put forward the establishment of a Local Planning Panel covering Wingecarribee Shire in accordance with the framework established under Part 2, Division 2.5 of the Environmental Planning and Assessment Act, 1979 and administered through the Department of Planning Industry and Environment.

RECOMMENDATION

1. **THAT** a Local Planning Panel (LPP) be established for Wingecarribee Shire Council in accordance with Part 2, Division 2.5, Section 2.17 of the Environmental Planning and Assessment Act 1979 to consider:
 - a) All development applications ordinarily referred to Council for a decision and applications and matters required to be reported to a LPP as prescribed in the *Local Planning Panel Direction – Development Applications and Applications to Modify Development Consents* in Attachment 1.
 - b) All Planning Proposals and make recommendations to the Council with regard to the merits.
2. **THAT** the Operation of the Wingecarribee Shire Council LPP be in accordance with the Local Planning Panels Direction – Operational Procedures as approved by the Minister for Planning and Public Open Spaces.
3. **THAT** the Acting General Manager, in consultation with the Interim Administrator, determine the membership of the Wingecarribee Shire Council LPP.
4. **THAT** the Acting General Manager notify the Department of Planning Industry and Environment of the Council decision to establish a LPP for Wingecarribee Shire Council and the nominated Chair and Alternate Chair as required.
5. **THAT** until a Local Planning Panel is formally established by the Minister for Planning and Public Spaces, an Interim Advisory Planning Assessment Panel consisting of the following members be appointed to make recommendations on Development Applications required to be determined by Council all Planning Proposals and other planning matters as set out in Schedule 1 of Attachment 1 to this report.
 - Julie Walsh (Chair)



- **Michael Mantei (Alternate Chair)**
 - **Alf Lester (Independent Expert)**
 - **Larissa Ozog (Independent Expert)**
 - **Scott Barwick (Independent Expert)**
 - **Heather Warton (Independent Expert)**
 - **Carl Petersen (Community Representative)**
 - **Jim Gilvarry (Community Representative)**
6. **THAT remuneration of the Interim Advisory Planning Assessment Panel Members be in accordance with the current *Remuneration Determination* for LPPs as prescribed by the Minister for Planning under the Environmental Planning and Assessment Act, 1979.**

REPORT

Local Planning Panels (LPP), formerly known as Independent Hearing and Assessment Panels or IHAPS, are panels of independent experts that determine development applications on behalf of Council and provide advice on other planning matters, including planning proposals.

Under the Environmental Planning and Assessment Act 1979, Local Planning Panels are currently mandatory for all Sydney councils, Wollongong City Council and Central Coast Council. Other NSW Regional and Rural Councils such as Wingecarribee Shire Council are not mandated through legislation to have a LPP in place. Notwithstanding, Councils which are not mandated may seek to constitute a Local Planning Panel its Local Government Area under the Environmental Planning and Assessment Act.

Panels are put in place so the process of assessment and determination of development applications (DAs) with a high corruption risk, sensitivity or strategic importance is transparent and accountable and to provide an independent forum for stakeholders (applicants, the community and objectors) to present and discuss issues relating to development applications, planning proposals and other planning related matters such as development control plans.

It is noted that Wingecarribee Shire Council is already a member of a Regional Planning Panel, *Southern Regional Planning Panel (SRPP)*. Local Planning Panels have similar operational requirements. Development Applications reported to the SRPP are however defined by their regional significance of a value of \$30M and over for private developments and \$5M for Government or Council developments.

The Operation of Local Planning Panels

The LPPs ensure increased probity and accountability in the planning system, safeguard against corruption and lead to better planning outcomes. LPPs make decisions on sensitive, complex and high-value DAs that come before councils thereby replacing the Council in determining developments that exceed the staff delegation, review planning proposals and other planning related policies. Council staff, under delegation, will still determine the more straight forward DAs being the vast majority of DAs received by Council.

AGENDA FOR THE ORDINARY MEETING OF COUNCIL

Wednesday 24 March 2021

REPORT DEPUTY GENERAL MANAGER CORPORATE, STRATEGY AND DEVELOPMENT SERVICES



The Panel meetings consist of 4 members comprising a chair appointed by the Minister, two independent experts appointed by council from a Minister endorsed pool of independent, qualified people, plus a community representative.

Panel chairs are required to have expertise in law or government and public administration and are selected from the endorsed list approved by the Minister for Planning and Public Spaces. The Minister approves the appointment of the Chair and Alternate Chair. Independent expert members are required to have expertise in one or more of the following fields: planning, architecture, heritage, the environment, urban design, economics, traffic and transport, law, engineering, tourism, or government and public administration. Like Panel Chairs, independent expert members are also selected from the listing endorsed by the Minister for Planning and Public Spaces.

Community representatives appointed to a LPP are not required to have planning expertise. The role of the community representative is to ensure that local insights and knowledge are considered as part of the panel's decision-making.

Councillors, property developers and real estate agents are ineligible to be panel members as this undermines the objective of having DAs determined by independent experts, depoliticising the assessment process.

The referral criteria for development applications, planning proposals and other planning related matters has been set by the Minister for Planning and Public Spaces. The categories of development referred to the LPP is set out in the *Local Planning Panels Direction – Development Applications and Applications to Modify Development Consents* made by the Minister for Planning and Public Spaces and included as **Attachment 1** to this report. In effect, the LPP makes the determination of the application. However, in relation to Planning Proposals and other planning related matters, they are reported to the LPP and the LPP makes a recommendation to Council with regard to the merit of the Proposal and then the Council makes the determination. In other words, the LPP cannot determine a Planning Proposal.

Members of the LPP are subject to a Code of Conduct, lodgement of an annual pecuniary interests declaration and Operational Procedures which have been established by Government.

A number of procedural processes have to be undertaken with the Department of Planning Industry and Environment before a LPP is formally put in place for Council. Therefore, it is proposed to establish an Interim Advisory Planning Assessment Panel to consider planning related matters prior to a resolution of Council being made.

The first meeting of the Interim Advisory Planning Assessment Panel for Wingecarribee Shire Council has been set for 7 April 2021. This will enable the Panel's recommendations to be put to and determined by the Interim Administrator for the April Ordinary Meeting of Council. Panel meetings will then be scheduled monthly to occur the week prior to the Ordinary Meeting of Council. The Interim Advisory Planning Assessment Panel will consist of a Chair, Alternate Chair, 4 independent experts and 2 community representatives. Each meeting will proceed with 4 members. The arrangements in place for the Interim Advisory Planning Assessment Panel will continue until the Wingecarribee Shire Council LPP is ratified through DPIE.

COMMUNICATION AND CONSULTATION

Community Engagement

No Community Engagement has been undertaken in regard to this matter.

Internal Communication and Consultation

The matter has been discussed between Council's Executive the Interim Administrator.

External Communication and Consultation

Staff have liaised with the Department of Planning Industry and Environment (DPIE). It is noted that DPIE is currently in the process of re-appointing Chairs and Independent Experts to existing LPPs which will be effective from 1 July 2021 for a 3-year term. Upon the resolution to establish a Wingecarribee Shire Council LPP, Council will be included in the new 3-year term.

SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

There are no broader economic implications in relation to this report.

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

There are no governance issues in relation to this report.

COUNCIL BUDGET IMPLICATIONS

The members of the Local Planning Panel are remunerated at a set rate for each meeting plus a per hour rate for business that is undertaken outside of the meetings in accordance with the *Remuneration Determination* by the Minister for Planning prescribed under the Environmental Planning and Assessment Act, 1979. The rate is inclusive of all the work a panel member does for a meeting, including preparation, site visits, the meeting itself and any deliberation and voting by the panel on matters considered at the meeting once the meeting is closed.

At this point in time, Council has no budget allocation for such remuneration. This cost will be considered as part of the March Quarterly budget review and the preparation of the 2021/2022 Financial Year Budget.

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RELATED COUNCIL POLICY

There are no related Council Policies.

CONCLUSION

Local Planning Panels and formally Independent Hearing and Assessment Panels have been in existence in a number of NSW Councils for many years. Based on the mandatory operation of LPPs in Metropolitan Sydney, Wollongong and Central Coast, a review of the LPP model found it rigorous and strikes a balance between offering strong procedural checks and balances without hindering efficient panel operation or impacting on the overall functioning of the planning system.

The Shire is experiencing significant increased interest in development and as such the introduction of a Local Planning Panel is timely to ensure developments likely to have a significant wider community interest are determined by a qualified Panel.

Until a Local Planning Panel is formally established, an Independent Advisory Planning Assessment Panel is recommended to be established to review planning matters and make recommendations on Development Applications required to be determined by Council, all Planning Proposals and any other planning matters as required.

ATTACHMENTS

1. Local Planning Panels Direction - Development Applications and Applications to Modify Development Consents