



CODE OF CONDUCT

Warringah Development Assessment Panel (WDAP) and Warringah Development Review Panel (WDRP)

1 Functions of WDAP and WDRP

The *Warringah Development Assessment Panel (WDRP) Charter* and *Warringah Development Review Panel (WDRP) Charter*, outlines the functions, constitution and obligations of members of each panel.

2 Operational Guidelines

The *Operational Guidelines - WDAP and WDRP*, to be published from time to time by the General Manager, set out the procedural operations and requirements for the Panel.

3 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 WDAP and WDRP Members (“**member**”) when exercising or purporting, at all times, to exercise their duties, responsibilities and functions under the respective charters. It is designed to assist in maintaining the reputation and integrity of the WDAP and the WDRP 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 respective WDAP and WDRP charters.

4 WDAP and WDRP Members Responsibilities

WDAP and WDRP Members must:

- act in accordance with the requirements of the law, the WDAP and WDRP charters and the Code;
- act in an appropriate way toward the public, staff of the Council and other WDAP and WDRP Members; and
- act in the best interests of the Warringah community.

5 WDAP and WDRP Members Interaction with Councillors, Council Staff and Applicants / Representors

WDAP and WDRP Members may approach and liaise with Council staff detailed within the respective charters or as nominated by the General Manager to assist the WDAP and WDRP to obtain information and clarify matters relating to their duties, responsibilities and functions and matters before them. WDAP and WDRP Members shall not issue directions to or order Council staff to carry out any direction on any matter whatsoever.

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

WDAP and WDRP Members must not approach a Councillor, or if approached by a Councillor must not discuss any application which is either before the WDAP or WDRP, or will come before the WDAP or WDRP at some future time, except during the course of a public meetings where the application forms part of the business paper and the Councillor has a right to be heard by the WDRP at the hearing.

6 Conflicts of Interest and Disclosure at WDAP and WDRP Meetings

WDAP and WDRP 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 WDAP and WDRP Members, or those people closely associated with them, which could influence or affect the impartial performance of their duties;
- consider both perceived and actual conflicts for the purposes of this clause.

Pecuniary interest and non pecuniary conflict of interest are defined as follows:

Pecuniary Interest	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).

7 Pecuniary Interest

WDAP and WDRP Members shall adhere to the Charter 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 WDAP or WDRP 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 WDAP and WDRP 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 WDAP or WDRP meeting at any time during which the matter is being considered or discussed by the WDAP or WDRP.

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 WDAP and WDRP Site Inspections and or, WDAP and WDRP 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 WDAP or WDRP meeting, either at the pre-hearing inspection, or at the public meeting, or during consideration of the item in closed session, 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.

8 Non Pecuniary Conflict of Interest

If at any time, upon notification of the draft list of agenda items, at pre hearing inspections, public hearing or consideration of an item in closed session, 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.

9 Information to Guide decisions about conflict of interests

There are a number of questions that can help in deciding whether or not there is a conflict of interest or whether behaviour could create the impression that there is a conflict and so undermine the confidence in the WDAP or WDRP. These questions are:

- *Do I, a relative, friend or associate stand to gain or lose financially from Council's decision or action on this matter?*
- *Do I, a relative, friend or associate stand to gain or lose my/our reputation because of Council's decision or action?*
- *Have I contributed in a private capacity in any way to the matter before Council?*
- *Have I made any promises or commitments in relation to the matter?*
- *Have I received a benefit or hospitality from someone who stands to gain or lose from Council's decision or action?*
- *Am I a member of an association, club or professional organisation, or do I have particular ties and affiliations with organisations or individuals, who stand to gain or lose from Council's consideration of the matter?*
- *Could there be benefits for me in the future that could cast doubt on my objectivity?*
- *If I do participate in assessment, would I be happy if my colleagues and the public became aware of my association or connection?*

- *Would a fair and reasonable person perceive that I was influenced by personal interest in performing my duty?*
- *Do I need to seek advice or discuss the matter with an objective party?*
- *Am I confident of my ability to act impartially and in the public interest?*
- *Do I understand the possible penalties/sanctions if I go on with the action?*

10 Other Business or Employment

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

- *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 WDAP or WDRP 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 an WDAP or WDRP member) through contracts with Council.*

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

11 Gifts & Benefits

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

12 Resources

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

13 Use of Information /Confidentiality

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 WDAP or WDRP.
- keep information obtained or provided confidentially, confidential.
- determine what information and material is to be retained by Members (and the WDAP or WDRP) and how it is to be treated for the purposes of retention.

14 Public Comment

The Chairperson of the WDAP and WDRP is not authorised to speak publicly to the media and address the public on behalf of the WDAP and WDRP, except with the permission of the General Manager.

No Member may make any comment to the media or the public in relation to any matter before the WDAP or WDRP or any recommendation/determination of the WDAP or WDRP.

15 Treatment and Respect of Other Members and Public

Members must:

- act fairly and honestly towards other Members of the WDAP and WDRP, Council staff and the public;
- show respect for the opinions of other Members of the WDAP and WDRP; and
- show respect and consideration to Council staff, applicants and members of the public.

16 Findings, Determinations and Recommendations

Members shall at all times when convened as WDAP or WDRP;

- act in accordance with the law;
- act in accordance with the respective charter;
- act reasonably, justly and in a non-discriminatory manner;
- deal with all matters before the WDAP or WDRP in a consistent manner;
- only take relevant information into account; and
- act reasonably and in good faith and not for an improper purpose, ulterior purpose or on irrelevant grounds.

17 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 WDAP or WDRP;
- suspension from hearing a particular matter;
- removal from the WDAP or WDRP;
- report to another authority

The Code shall be reviewed annually by the General Manager, with the assistance of the WDAP and WDRP members.

(NOTE: This Code was adopted by the Council on .)