

AUBURN CITY COUNCIL

REPORTS TO THE
EXTRAORDINARY MEETING OF COUNCIL
TO BE HELD IN THE COUNCIL CHAMBERS
CIVIC PLACE, 1 SUSAN STREET, AUBURN
ON WEDNESDAY, MARCH 2, 2016
COMMENCING AT 5.00PM

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AUBURN CITY COUNCIL

March 02, 2016
To the Extraordinary Meeting of Council

General Manager's Report

033/16 Disclosure of Interests

C-27-08/03 MB : MW

The provisions of Chapter 14 of the Local Government Act, 1993 regulate the way in which Councillors, Administrators and nominated staff of Council conduct themselves to ensure that there is no conflict between their private interests and their public trust.

The Act prescribes that where a member of Council (or a Committee of Council) has a direct or indirect financial (pecuniary) interest in a matter to be considered at a meeting of the Council (or Committee), that interest and the reasons for declaring such interest must be disclosed as soon as practicable after the start of the meeting.

As members are aware, the provisions of the Local Government Act restrict any member who has declared a pecuniary interest in any matter from participating in the discussions or voting on that matter and further require that the member vacate the Chamber.

Council's Code of Conduct provides that if members have a non-pecuniary conflict of interest, the nature of the conflict must be disclosed. The Code also provides for a number of ways in which a member may manage non pecuniary conflicts of interest.

RECOMMENDATION

That where necessary any person now disclose any interest and the reason for declaring such interest in the matters under consideration by Council at this meeting.

AUBURN CITY COUNCIL

March 02, 2016

Executive Manager Planning's
Report

To the Extraordinary Meeting of Council

**034/16 Auburn City Independent Hearing and Assessment Panel Draft
Policy and Procedures Manual**

C-28-26

GF : MW

LINK TO INTEGRATED PLANNING AND REPORTING FRAMEWORK

Operational Plan Code	Relationship to Community Strategic Plan	Relationship to Operational Plan
2a.1.1.3	High quality urban development	Assess Development Applications, Complying Development and Construction Certificates
2a.2.2.3	High quality urban development	Prepare Planning Proposals and Amend the LEP

SUMMARY

This report details the proposed draft Policy and Procedures Manual for the Auburn City Independent Hearing and Assessment Panel (IHAP) as per the resolution of the Ordinary Council meeting on 17 February 2016 [Item 014A/16]. The draft Policy and Procedures Manual are provided as Attachments 1 and 2.

RECOMMENDATION

- 1. That the draft Independent Hearing and Assessment Panel (IHAP) Policy at Attachment 1 be adopted;**
- 2. That the draft Auburn City IHAP Procedures Manual at Attachment 2, which sets out the operations of the IHAP, be adopted;**
- 3. That the Auburn City IHAP Chairperson the Hon. Paul Stein, AM, QC and the remaining members be determined from the short listing provided as detailed in the report; and**
- 4. That the first meeting of the Auburn City IHAP be convened as soon as practicable.**

REPORT

On the 17 February 2016 at the Ordinary Meeting of Council, the Interim Administrator of Auburn City Council resolved to establish an Independent Hearing and Assessment Panel (IHAP) to provide transparency and probity in the assessment of development applications and planning proposals, and to provide an independent forum for stakeholders (applicants, the community and objectors) to present and discuss issues relating to development applications and planning proposals [Item 14A/16].

This report details the proposed draft Policy and Procedures Manual for the Auburn City Independent Hearing and Assessment Panel (IHAP) as per the resolution and a nomination of members.

March 02, 2016

Executive Manager Planning's
Report

To the Extraordinary Meeting of Council

Auburn City Independent Hearing and Assessment Panel Draft Policy and Procedures
Manual (cont'd)

1. POLICY FRAMEWORK

The Draft Policy on Independent Hearing and Assessment Panels (Attachment 1) will, once adopted, establish the policy framework for all aspects of the operation of the Auburn City IHAP. The name proposed for this Panel to be Auburn Independent Assessment Panel (AIAP)

2. ROLE OF THE IHAP

The Auburn City IHAP is an independent forum for stakeholders (applicants, the community and objectors) to submit and discuss issues relevant to development applications and planning proposals. In accordance with the resolution of 17 February [Item 14A/16], the Auburn City IHAP shall:

- i. *consider and determine* all development applications ordinarily referred to the Council for a decision; and
- ii. *consider* all Planning Proposals *and make recommendations* to the Council with regard to their merits.

In reviewing and assessing these matters the Auburn City IHAP shall:

- openly discuss proposals and hear representations from applicants and objectors during the hearing;
- avoid any lobbying or external communication from applicants or objectors outside the forum of Panel hearings;
- take into account any relevant statutory planning instruments and/or Council policies and relevant Land & Environment Court Planning Principles; and
- comply with statutory provisions, particularly the Local Government Act, 1993 and the Environmental Planning and Assessment Act, 1979.

2. MEMBERSHIP

As outlined in the draft IHAP Procedures Manual (Attachment 2), it is recommended that the Panel shall consist of four (4) members as follows:

- the Chairperson who shall be a lawyer who is currently admitted or eligible for admission to practice law in New South Wales as Barrister or Solicitor; or non-lawyers but professionals with exceptional levels of experience such as retired judges or Land and Environment Court Commissioners;
- two independent experts (out of pool of four) from the professional disciplines of, and with a university degree in, town planning, urban design, architecture, law and/or the environment; and
- one panel member is to be a representative from the Auburn City Community out of pool of three community representatives.

March 02, 2016

Executive Manager Planning's
Report

To the Extraordinary Meeting of Council

Auburn City Independent Hearing and Assessment Panel Draft Policy and Procedures
Manual (cont'd)

Technical panel members will be appointed on the basis of their qualifications, experience, and absence of any real or potential pecuniary or conflict of interest.

A pool of three (3) representatives from the community will be appointed by the General Manager, and the community panel representative for each meeting will be selected on a rotational basis.

Auburn Independent Assessment Panel (AIAP) Members

Chairperson

The chairperson for the Auburn Independent Assessment Panel is recommended to be the Hon. Paul Stein, AM, QC.

Independent experts and Community representatives

The proposed independent experts and community representatives shall be determined from a short listing to be provided prior to the meeting.

3. OTHER

Aspects such as Code of Conduct, quorum, membership vacancies, meeting procedures, and site visit and assessment procedures are all detailed in the draft Procedures Manual (refer to Attachment 2).


ATTACHMENTS

1. IHAP Policy (Draft) - T017390/2016
2. Auburn City IHAP Draft Procedures Manual - T017342/2016

To the Extraordinary Meeting of Council

Auburn City Independent Hearing and Assessment Panel Draft Policy and Procedures Manual (cont'd)

ATTACHMENT 1

 <p style="text-align: center; font-size: small;">AUBURN CITY COUNCIL MANY CULTURES ONE COMMUNITY</p>		
AUBURN CITY COUNCIL IHAP POLICY		
TRIM No:	REVISION No: 1	REVIEW DATE: MARCH 2016
AUTHOR: MANAGER, STRATEGY	AUTHORISATION: GENERAL MANAGER	DATE ADOPTED: [insert date] 2016

BACKGROUND

Auburn City Council is committed to providing transparency and probity in the planning and development assessment process. The Auburn City Independent Hearing and Assessment Panel (IHAP) has been established to provide an independent and transparent forum for the assessment of development applications and planning proposals, and for the determination of development applications, without unnecessarily delaying the assessment process. It also provides a forum for stakeholders, including but not limited to, applicants and objectors, to present and discuss issues relating to development applications and planning proposals

Council's Independent Hearing and Assessment Panel has been established under the provisions of the Environmental Planning and Assessment Act 1979 (Section 23(I)(J)).

OBJECTIVE

The purpose of this policy is:

- To provide for the independent, transparent review, assessment and determination of development applications, consistent with Auburn Local Environmental Plan 2010 and Auburn Development Control Plan 2010;
- To provide for the independent, transparent review and assessment of planning proposals, consistent with Auburn Local Environmental Plan 2010 and Auburn Development Control Plan 2010, and to make recommendations to Council about the determination of these planning proposals; and
- To provide a forum for interested parties to be heard openly.

POLICY

1. The Auburn City IHAP shall operate in accordance with the procedures set out in the *Auburn City IHAP Procedures Manual*, including, but not limited to, the Code of Conduct for panel members attached at section 4 of that procedures manual; and
2. The Auburn City IHAP shall operate in accordance with Council's Code of Conduct.
3. The Auburn City IHAP shall:

TRIM No:
IHAP Policy
Authorisation Date: [insert date] 2016

To the Extraordinary Meeting of Council

Auburn City Independent Hearing and Assessment Panel Draft Policy and Procedures
Manual (cont'd)

ATTACHMENT 1

- a. consider and determine all development applications ordinarily referred to the Council for a decision (ie those except where the JRPP is the determining authority).
- b. consider all Planning Proposals and make recommendations to the Council with regard to their merits.

GLOSSARY

IHAP – Independent Hearing and Assessment Panel

JRPP – Joint Regional Planning Panel

ALEP 2010 – *Auburn Local Environmental Plan 2010*

ADCP 2010 – *Auburn Development Control Plan 2010*

RELATED DOCUMENTS

- AUBURN CITY IHAP PROCEDURES MANUAL
- IHAP CODE OF CONDUCT (SECTION 4 OF THE AUBURN CITY IHAP PROCEDURES MANUAL)
- COUNCIL'S CODE OF CONDUCT
- AUBURN LOCAL ENVIRONMENTAL PLAN 2010
- AUBURN DEVELOPMENT CONTROL PLAN 2010

To the Extraordinary Meeting of Council

Auburn City Independent Hearing and Assessment Panel Draft Policy and Procedures
Manual (cont'd)

ATTACHMENT 2



AUBURN CITY COUNCIL

DRAFT

**Independent Hearing and
Assessment Panel (IHAP)
Procedures Manual**

March 2016

March 02, 2016

To the Extraordinary Meeting of Council

Auburn City Independent Hearing and Assessment Panel Draft Policy and Procedures
Manual (cont'd)

ATTACHMENT 2

Auburn City IHAP Procedures Manual

PROCEDURE REVISION

DATE	DOCUMENT/REVISION	TRIM REF
insert adoption date	Original document	T017342/2016

To the Extraordinary Meeting of Council

Auburn City Independent Hearing and Assessment Panel Draft Policy and Procedures Manual (cont'd)

ATTACHMENT 2

Auburn City IHAP Procedures Manual

1. INTRODUCTION

1.1 Background

On 17 February 2016, the Interim Administrator of Auburn City Council resolved to establish an Independent hearing and Assessment Panel (IHAP) to provide transparency and probity in the assessment of development applications and planning proposals, and to provide an independent forum for stakeholders (applicants, the community and objectors) to present and discuss issues relating to development applications and planning proposals. The IHAP provides additional and independent rigor in the assessment process without unnecessarily delaying the processing of applications which comply with adopted policies.

1.2 Objective

- To provide for the independent, transparent review, assessment and determination of development applications, consistent with Auburn Local Environmental Plan 2010 and Auburn Development Control Plan 2010;
- To provide for the independent, transparent review and assessment of planning proposals, consistent with Auburn Local Environmental Plan 2010 and Auburn Development Control Plan 2010, and to make recommendations to Council about the determination of these planning proposals; and
- To provide a forum for interested parties to be heard openly.

1.3 Policy Framework

Council's Policy on Independent Hearing and Assessment Panels establishes the policy framework for this procedure.

1.4 Functions

The Auburn City IHAP is an independent forum for stakeholders (applicants, the community and objectors) to submit and discuss issues relevant to development applications and planning proposals. The Auburn City IHAP shall:

- a. consider and determine all development applications ordinarily referred to the Council for a decision
- b. consider all Planning Proposals and make recommendations to the Council with regard to their merits.

In reviewing and assessing these matters the Auburn City IHAP shall:

- openly discuss proposals and hear representations from applicants and objectors during the hearing.
- avoid any lobbying or external communication from applicants or objectors outside the forum of Panel hearings.
- take into account any relevant statutory planning instruments and/or Council policies and relevant Land & Environment Court Planning Principles.
- comply with statutory provisions, particularly the Local Government Act, 1993 and the Environmental Planning and Assessment Act, 1979.

Note: The Panel may request additional information in circumstances where the information is fundamental to the determination of the proposal and such information has not previously been requested by Council staff.

To the Extraordinary Meeting of Council

Auburn City Independent Hearing and Assessment Panel Draft Policy and Procedures
Manual (cont'd)

ATTACHMENT 2

Auburn City IHAP Procedures Manual

2. PANEL MEMBERSHIP

2.1 Appointment and termination

The Panel shall consist of four (4) members as follows:

- the Chairperson who a lawyer who is currently admitted or eligible for admission to practice law in New South Wales as Barrister or Solicitor; or non-lawyers but professionals with exceptional levels of experience such as retired judges or Land and Environment Court Commissioners;
- two independent experts (out of pool of four (4)) shall be drawn from the professional disciplines with a university degree of town planning, urban design, architecture, law and/or the environment; and
- one member is to be a representative from the Auburn City Community (out of pool of three (3) community representatives).

Technical 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.

A pool of three (3) representatives from the community will be appointed by the General Manager, and the community panel representative for each meeting will be selected on a rotational basis.

The Panel shall meet annually with the Executive Manager Planning to review its meeting procedures, past recommendations and Council decisions to identify any improvements to procedures or decision making. At that time the Executive Manager Planning shall prepare a report to the Leadership Team providing an assessment of the operation of the Panel and any suggestions for improvement. All panel members are to be involved in this report.

2.2 Remuneration

A member or an alternate member is entitled to be paid such remuneration as the General Manager shall from time to time determine in respect of the member.

2.3 Alternates

If a nominated panel member is not available for a meeting an alternative will be selected by the Executive Manager, Planning from the pool of alternates, on a rotating basis. A reference to a member of the Panel includes a reference to the member's appointed alternate.

2.4 Vacancies

If a vacancy occurs in the membership of the Panel, the General Manager may appoint a person to fill the vacant position.

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Auburn City Independent Hearing and Assessment Panel Draft Policy and Procedures
Manual (cont'd)

ATTACHMENT 2

Auburn City IHAP Procedures Manual

3. IHAP MEETING PROCEDURE

3.1 Meeting notification

Agendas for meetings of the Panel shall include information on meeting date, venue, business proposed to be conducted at the hearing and contain reports prepared by Council Planning Officers or independent consultants.

Agendas shall be made available to Panel Members seven days prior to the meeting in hard copy or electronic format.

Agendas will be made available to members of the public five days prior to the meeting.

The Executive Manager Planning shall convene Panel Hearings as required.

The Panel shall be provided reports in accordance with the Council's template.

In the case of planning proposals, the Manager Strategy will attach a copy of the minutes of the IHAP meeting and reference this in the Council report for consideration of, and determination by, Council at the next Ordinary Council Meeting.

3.2 Site inspections and public hearing procedures

The Panel may elect to attend site inspections of development applications and planning proposals to be considered at the public hearing. If required this should be on the day of the scheduled hearing.

Site inspections, including transportation, shall be organised by the Manager Development Assessment and/or Manager Strategy (or their delegate), who will also accompany Panel members on inspections.

Prior to the public hearing, and as part of the site inspection arrangements, the Manager Development Assessment and/or Manager Strategy (or their delegate) will attend to answer and clarify any issues within the assessment report or raised by Panel members from the site inspection.

Following the site inspection the Panel shall convene the public hearing. Refer to the following sections of this procedure for details.

3.3 Quorum

A minimum of three (3) Panel members shall form a quorum and any duly convened hearing at which a quorum is present shall be competent to perform the Panel's functions.

The Chairperson of the Panel shall be the lawyer member. Should the Chairperson not be present/available for a meeting the members attending shall elect a Chairperson.

3.4 Term

The term of the members of Panel appointed by the General Manager shall be for a period of two (2) years with an option to extend the term again a further 2 years.

3.5 Meeting and other processes

The meeting shall proceed without adherence to formal rules of debate.

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Auburn City Independent Hearing and Assessment Panel Draft Policy and Procedures Manual (cont'd)

ATTACHMENT 2

Auburn City IHAP Procedures Manual

The Panel shall not receive substantive additional information that amends the application.

Questions arising shall be determined by a majority of votes of members present and voting. If votes are tied, the Chairperson has a casting vote. The Panel shall regulate its own proceedings subject to the procedural provisions.

The first item of business at Panel Inspections and Public Hearings will be Panel members declaring any pecuniary or conflicts of interest that may prevent them from participating in or considering any particular item on the agenda. A Panel member having declared a pecuniary interest, or a conflict of interest that prevents them from participating in the item, shall not attend the site inspection or public hearing associated with the item or participate in discussion or voting on the item.

3.4.1 Speakers wishing to address the Panel at the IHAP meeting

Submissions by the applicant and objectors will be considered at the hearing. An objector is deemed to be a person who has made a written submission about the application.

The Panel shall, upon request, hear submissions from persons who identify prior to a hearing that they wish to make a submission to be considered by the Panel.

Where there are a large number of persons making submissions with common interests, the Panel shall have the discretion to hear a representative of those persons.

The applicant is the person nominated on the development application form as applicant. Consultants and legal representatives of the applicant will be permitted to address the Panel at the discretion of the Chairperson.

Where an issue of legal interpretation arises the chair may refer the matter to the Executive Manager Planning for advice.

Applicants, objectors, and other interested parties shall be restricted to 3 minutes each when addressing the Panel. The Panel Chairperson has the discretion to extend the period if considered appropriate.

The Manager Development Assessment and/or the Manager Strategy (or their delegate), nominated by the Executive Manager Planning, will be available at the hearing to provide professional assistance and advice to the Panel members on Council planning provisions and policies.

3.5 Assessment procedures

Panel Members shall at all times when assessing matters;

- act in accordance with the law;
- act in accordance with the *Auburn City IHAP Procedures Manual* and the *IHAP Code of Conduct* (attached at Section 4 of this Procedures Manual);
- act reasonably, justly and in a non-discriminatory manner;
- deal with all matters before the Panel 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.

To the Extraordinary Meeting of Council

Auburn City Independent Hearing and Assessment Panel Draft Policy and Procedures
Manual (cont'd)

ATTACHMENT 2

Auburn City IHAP Procedures Manual

3.5.1 *Development Applications*

The Panel shall exercise the consent authority functions of the Council to determine development applications, which cannot otherwise be determined by Council staff in accordance with the Council's adopted Delegations Manual.

Where possible, the Panel will make a determination of the development application at the conclusion of the public hearing in an open forum and by consensus. Where a decision cannot be made by consensus, the decision will be made by majority vote. The chair will have a second or casting vote if required because of an equality of votes.

The Panel may, prior to the determination of an application and after hearing all relevant submission made at the public hearing, convene in private to discuss its findings and determination prior to the determination being made in an open public forum.

The Panel's determination can be for approval, refusal, or deferral pending the submission of additional information if such information has not been previously requested by Council's staff.

The Panel is required to provide reasons for its decision, which are to be recorded in the minutes of the meeting. The reasons for the decisions may rely on the conclusions and recommendations(s) within the Council assessment report.

If the Panel recommends approval of the application, the Panel may endorse the conditions provided by the Officer or add or delete conditions as considered appropriate by the Panel.

If the Panel recommends refusal of the application, the Panel shall provide and justify reasons for refusal - such must be capable of being defended if an appeal is lodged with the Land and Environment Court against the Council refusal.

If the Panel recommends deferral the Panel findings and recommendation must explicitly state the issues to be addressed by the applicant.

3.5.2 *Planning Proposals*

On conclusion of the public hearing, the Panel will convene in private, agree on its findings and recommendations and record the findings and recommendations in a standard format for presentation to Council.

The Panel's recommendation can be for approval, refusal, or deferral pending the submission of additional information if such information has not been previously requested by Council's staff.

If the Panel recommends approval of the application, the Panel shall either endorse the conditions provided by the Officer or add or delete conditions.

If the Panel recommends refusal of the application, the Panel findings shall clearly indicate the changes in the application necessary to achieve compliance with statutory planning instruments. The Panel shall also provide and justify reasons for refusal - such must be capable of being defended if an appeal is lodged with the Department of Planning and Environment against a Council refusal.

If the Panel recommends deferral the Panel findings and recommendation must explicitly state the issues to be addressed by the applicant or the Council

Panel members will be notified of Council decisions on applications considered by the Panel.

To the Extraordinary Meeting of Council

Auburn City Independent Hearing and Assessment Panel Draft Policy and Procedures Manual (cont'd)

ATTACHMENT 2

Auburn City IHAP Procedures Manual

4. CODE OF CONDUCT

Council seeks the highest ethical standards in delivering services to its community. This Code of Conduct ("the IHAP Code") applies to all Panel Members when exercising or purporting, at all times, to exercise their duties, responsibilities and functions under the *Auburn City IHAP Procedures Manual*.

It is designed to assist in maintaining the reputation and integrity of the Panel and to provide a basis for fair dealings and reaching findings and making recommendations on matters before it.

This Code is to be read in conjunction with the *Auburn City IHAP Procedures Manual* and Council's general Code of Conduct.

4.1 Responsibilities/obligations

Panel Members must:

- act in accordance with the requirements of the law, the *Auburn City IHAP Procedures Manual* and this Code;
- act in an appropriate way toward the public, staff of the Council and other Members of the Panel; and
- act in the best interests of the Auburn City community.

4.2 Interaction with Council staff and Applicants (including applicants' consultants)

Panel Members may approach and liaise with Council staff 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 whatsoever.

Panel Members must not approach an Applicant or a consultant representing an applicant, or if approached by an applicant or their consultant, 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 agenda and the applicant or their consultant has a right to be heard by the Panel.

Panel Members must not approach a Councillor, or if approached by a Councillor 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 agenda and the Councillor has a right to be heard by the Panel at the hearing in their private capacity.

4.3 Conflicts of interest and disclosure

Panel Members must:

To the Extraordinary Meeting of Council

Auburn City Independent Hearing and Assessment Panel Draft Policy and Procedures Manual (cont'd)

ATTACHMENT 2

Auburn City IHAP Procedures Manual

- consider and comply with all disclosure requirements under this 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 Members, or people closely associated with them, which could lead to a conflict with the impartial performance of the duties; and
- consider both perceived and actual conflicts for the purposes of this clause.

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

- | | |
|--------------------------------------|---|
| <i>Pecuniary Interest</i> | 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. |
| <i>Non-pecuniary interest</i> | a private or personal interest the person has that does not amount to a pecuniary interest as defined in the Act (for example; a friendship, membership of an association, society or trade union or involvement or interest in an activity). |

4.3.1 Pecuniary Interest

Panel members shall adhere to the Memorandum of Understanding signed with the Council acknowledging and accepting that if the Panel member has a pecuniary interest in any matter (as defined in sections 442 and 443 of the Local Government Act, 1993, or otherwise defined in the Council's Code of Conduct) 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 Panel member shall withdraw as nominated Panel member for that meeting and an alternative shall be invited to attend.
- (ii) at the Panel meeting, if a Panel member identifies a possible or actual pecuniary interest the Panel 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 meeting of the Panel at any time during which the matter is being considered or discussed by the Panel.

A Panel member having declared a pecuniary interest shall not attend the site inspection or public hearing associated with the item or participate in discussion or voting on the item. The first item of business at Panel Inspections and Public Hearings will be Panel members declaring any pecuniary interest that may prevent them from participating in or considering any item on the agenda. If at any time during a Panel meeting, either at the pre-hearing inspection, or at the public hearing, or during consideration of the item in closed session, a Panel member identifies a possible or actual pecuniary interest the Panel member shall immediately notify the Chair and withdraw from the meeting during the consideration of that item.

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Auburn City Independent Hearing and Assessment Panel Draft Policy and Procedures
Manual (cont'd)

ATTACHMENT 2

Auburn City IHAP Procedures Manual

4.3.2 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 Panel member identifies a possible or actual non pecuniary conflict of interest the Panel member shall consider whether it is significant enough to withdraw from consideration of the item and if so shall notify and withdraw as nominated Panel member for that meeting or item.

If having declared a non-pecuniary conflict of interest a Panel 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 your 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, you should provide an explanation of why you consider a conflict does not exist.
- Limit involvement if practical (for example, participate in discussion but not in decision making or vice-versa). Take care when exercising this option.
- Remove the source of the conflict, for example, relinquishing or divesting the personal interest that creates the conflict.
- Have no involvement by absenting yourself from and not taking part in any debate or voting on the issue or restrict your access to all relevant information.

4.4 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 IHAP:

- 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 IHAP 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; or
- Deriving income (other than remuneration for being an IHAP panel member) through contracts with Council.
- Any other work conducted within Auburn City shall be the subject of a declaration of interest in accordance with this Code.

4.5 Gifts and benefits

Panel 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.

To the Extraordinary Meeting of Council

Auburn City Independent Hearing and Assessment Panel Draft Policy and Procedures Manual (cont'd)

ATTACHMENT 2

Auburn City IHAP Procedures Manual

4.6 Public Comment

The Chair of the Panel is not authorised to speak publicly to the media and address the public on behalf of the Panel, except with the permission of the General Manager. No Panel Member may make any comment to the media or the public in relation to any matter before the Panel or any recommendation of the Panel.

4.7 Panel Findings and recommendations

Panel Members shall at all times when assessing matters;

- act in accordance with the law;
- act in accordance with the *Auburn City IHAP Procedures Manual* and the *IHAP Code of Conduct* (attached at Section 4 of this Procedures Manual);
- act reasonably, justly and in a non-discriminatory manner;
- deal with all matters before the Panel 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.

4.8 Breach of code

Where any complaint alleging misconduct by a Panel Member is made, the complaint is to be made in writing to the General Manager or Council's Public Officer and must identify the part of this Code or the Charter alleged to have been breached, including the reasons in support of the alleged breach, 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.

Panel Members must not engage in corrupt conduct (as defined in the ICAC Act) or unlawful conduct and must report any actual or potential corrupt or unlawful conduct to the General Manager or Public Officer of the Council in accordance with the procedures set out in this Code. All deliberations relating to an investigation shall be conducted in strict confidence.

4.8.1 Sanctions for Breach of Code of Conduct

Having regard to the nature of the findings after the investigation, action including but not limited to the following 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.

4.9 Review of Code

This Code shall be reviewed annually by the Executive Manager Planning, with the assistance of the Panel and reported to the Leadership Team.