

Ku-ring-gai Council

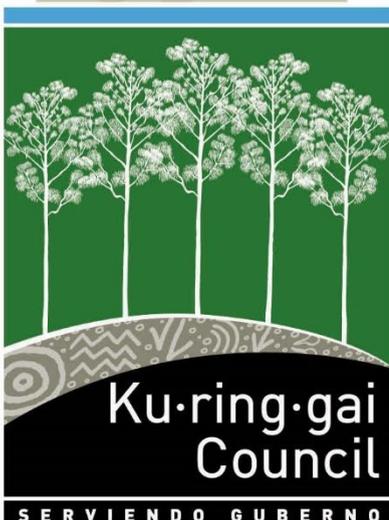
Code of Meeting Practice

For Ku-ring-gai Local Planning
Panel - KLPP

Version Number 2

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Code of Meeting Practice for KLPP

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Controlled Document Information

Authorisation Details

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Related Legislation:	Environmental Planning and Assessment Act 1979 Local Government Act 1993 Local Government (General) Regulation 2005	Developed in accordance with Environmental Planning and Assessment Act 1979 Schedule 2 and directions from the Minister under s9.1
Related Policies (Council & Internal)	KLPP Code of Conduct	
Related Documents - Procedures, Guidelines, Forms, WHS Modules/PCD's, Risk Assessments, Work Method Statements, etc		
Other References	OLG Model Code of Meeting Practice	

Cross references between this Code and the EPA Act 1979 and Minister’s directions under s9.1

Section in Act	Clause in Code	Direction name and reference	Clause in Code
Schedule 1, Section 20(2)	2.2.6	Operational Procedures Directions, Schedule 1, Clause 1.1(1)	3.1.1
Schedule 2, Section 21	1.4.4	Operational Procedures Directions, Schedule 1, Clause 1.1(2)	3.1.7
Schedule 2, Section 21(2)	1.4.5	Operational Procedures Directions, Schedule 1, Section 1.2	3.1.2
Schedule 2, Section 22	3.1.5	Operational Procedures Directions, Schedule 1, Section 1.3	3.1.3
Schedule 2, Section 23(1)	3.2.1	Operational Procedures Directions, Schedule 1, Section 2.1	3.1.8
Schedule 2, Section 23(3)	3.3.3	Operational Procedures Directions, Schedule 1, Section 3.1	3.2.2-3.2.5
Schedule 2, Section 24	3.3.1	Operational Procedures Directions, Schedule 1, Clause 3.1(2)	3.2.1
Schedule 2, Section 25(3)	2.2.4	Operational Procedures Directions, Schedule 1, Section 3.2	3.2.6
Schedule 2, Section 27	4.2.1-4.2.7	Operational Procedures Directions, Schedule 1, Clause 3.3(1)-(2)	2.1.2
Schedule 2, Section 26	2.3.1-2.3.5	Operational Procedures Directions, Schedule 1, Clause 3.3(4)	1.4.5
		Operational Procedures Directions, Schedule 1, Clause 3.3(5)	1.4.6
		Operational Procedures Directions, Schedule 1, Clause 3.3(6)	2.2.1
		Operational Procedures Directions, Schedule 1, Clause 3.3(7.b)	2.1.8
		Operational Procedures Directions, Schedule 1, Clause 3.3(8)	3.5.3
		Operational Procedures Directions, Schedule 1, Clause 3.3(9)	2.1.1
		Operational Procedures Directions, Schedule 1, Clause 3.3(10)	3.1.6
		Operational Procedures Directions, Schedule 1, Section 3.4(1)-(4)	2.4.1-2.4.4
		Operational Procedures Directions, Schedule 1, Section 4.1	3.4.1-3.4.2
		Operational Procedures Directions, Schedule 1, Clause 4.2(1)	3.5.6

Version History

Version Number	Version Start Date	Version End Date	Author	Details and Comments
1	18/06/2018	19/07/2021	Manager Governance & Records (Amber Moloney)	First version. – plus minor adjustments made on 04/07/2018 to change the name from IHAP to KLPP
2	20/07/2021		Manager Governance & Corporate Strategy (Michael Wearne)	Updated legislative reference, as Schedule 4B of the EP&A Act were repealed and provisions were moved to Schedule 2 of the same Act, and to comply with the Local Planning Panels Direction – Operational Procedures date 30 June 2020.

Code of Meeting Practice for KLPP

1 Introduction

1.1 Purpose

- 1.1.1 The purpose of the Code is to set out the manner in which meetings of the Ku-ring-gai Council Local Planning Panel (KLPP) are to be convened and conducted.
- 1.1.2 This Code is made in accordance with clause 3.3 of Schedule 1 of the Operational Procedures Directions issued 30 June 2020.

1.2 Objectives

The objectives of the Code are:

- To provide a summary of the statutory provisions and related directions from the Minister (in accordance with section 9.1 of the Environmental Planning and Assessment Act 1979 (EPA Act)) relating to the conduct of Local Planning Panel (KLPP) Meetings; and
- To ensure that KLPP meetings are conducted in a manner that is orderly and efficient.

1.3 Definitions

In this Code:

Act means the Environmental Planning and Assessment Act 1979

Directions means directions issued by the Minister in accordance with section 9.1 of the Environmental Planning and Assessment Act 1979

EPA Act means the Environmental Planning and Assessment Act 1979

KLPP means the Ku-ring-gai Local Planning Panel constituted under Part 2 of the Environmental Planning and Assessment Act 1979

1.4 Meeting procedures

- 1.4.1 This Code incorporates relevant provisions from the Act and Directions.
- 1.4.2 In the event of any inconsistency between this Code and the Act or Directions, the Act or Directions prevail to the extent of the inconsistency.
- 1.4.3 A ruling or interpretation not covered by the Act, Directions, or this Code shall be determined by the Chair.
- 1.4.4 The procedure for the calling of meetings of the Panel and for the conduct of business at those meetings is, subject to the Act, to be as determined by the Panel.

Note: clause 1.4.4 reflects section 21(1) of Schedule 2 of the Act.

- 1.4.5 Subject to clause 1.4.4, the Panel is not bound by the rules of evidence. The Panel may inquire into and inform itself on any matter, in such manner as it sees fit, subject to the rules of natural justice and procedural fairness.

Note: clause 1.4.5 reflects section 21(2) of Schedule 2 of the Act and clause 3.3(4) of Schedule 1 of the Operational Procedures Directions issued 30 June 2020.

- 1.4.6 The Panel is to act with as little formality as the circumstances of the case permit and according to equity, good conscience and the substantial merits of the case without regard to technicalities or legal forms.

Note: clause 1.4.6 reflects clause 3.3(5) of Schedule 1 of the Operational Procedures Directions issued 30 June 2020.

2 Administration of meetings

2.1 Frequency and order of meetings

- 2.1.1 The Panel shall hold meetings or transact business as required to meet Panel demands and workloads.

Note: clause 2.1.1 reflects clause 3.3(9) of Schedule 1 of the Operational Procedures Directions issued 30 June 2020.

- 2.1.2 The Panel is only required to hold public meetings where the development application has attracted 10 or more unique submissions by way of objection. A unique submission means a submission which is in substance unique, distinctive or unlike any other submission, It does not mean a petition or any submission that contains the same or substantially the same text. Separate unique submissions may be made in relation to the same issue. One individual, or one household, could potentially submit multiple unique submissions.

Note: clause 2.1.2 reflects clause 3.3(1)-(2) of Schedule 1 of the Operational Procedures Directions issued 30 June 2020.

- 2.1.3 Meetings will generally be held on the 3rd Monday of every month. Additional meetings may be scheduled, or reserved meetings may not be held, dependent on the volume of applications that need to be determined by the KLPP.
- 2.1.4 No meetings will be held in January and meetings will generally be scheduled outside of school holiday and public holiday times.
- 2.1.5 Meetings will be conducted during business hours.
- 2.1.6 Public meetings will commence at 12.30pm unless otherwise stated.
- 2.1.7 The public hearing portion of the meeting will be undertaken in its entirety prior to deliberation and determination of agenda items.
- 2.1.8 Following any public hearing, the Panel will close the public meeting for deliberation, voting and determination.

Note: clause 2.1.8 reflects clause 3.3(7.b) of Schedule 1 of the Operational Procedures Directions issued 30 June 2020.

2.2 Public notice of meetings, agenda and decisions

2.2.1 The Panel must give reasonable notice to the public of the times and places of its meetings. This must be through the website used by the Panel and may include other mechanisms as appropriate.

Note: clause 2.2.1 reflects clause 3.3(6) of Schedule 1 of the Operational Procedures Directions issued 30 June 2020.

2.2.2 The meeting schedule will be published on Council's website.

2.2.3 The meeting agenda will be published on Council's website at least six days before the meeting date. Applicants of and submitters to items on the agenda will be notified in writing by mail or by email.

2.2.4 The Panel will make an electronic recording (audio only) of the public meeting. This recording will be published on Council's website by 6pm the day after the meeting.

Note: clause 2.2.4 reflects section 25(3) of Schedule 2 of the Act.

2.2.5 Written minutes of Panel meetings and decisions will be published on Council's website as soon as practicable and within 48 hours of the conclusion of the meeting.

2.2.6 The minutes will include public notification of:

- a) the decision; and
- b) the date of the decision; and
- c) the reasons for the decision (having regard to any statutory requirements applying to the decision); and
- d) how community views were taken into account in making the decision.

Note: clause 2.2.7 reflects section 20(2) of Schedule 1 of the Act.

2.3 Transaction of business outside of ordinary meetings

2.3.1 The Panel may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the panel for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Panel.

2.3.2 The Panel may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.

2.3.3 For the purposes of:

- a) the approval of a resolution under clause 2.3.1, or
- b) a meeting held in accordance with clause 2.3.2

the Chair and each member of the Panel have the same voting rights as they have at an ordinary meeting of the Panel.

2.3.4 A resolution approved under clause 2.3.1 is to be recorded in the minutes of the meetings of the Panel.

- 2.3.5 Papers may be circulated among the members for the purposes of clause 2.3.1 by electronic transmission of the information in the papers concerned.

Note: section 2.3 reflects section 26 of Schedule 2 of the Act.

2.4 Site inspections

- 2.4.1 The Chair may elect for the Panel to attend site inspections for development applications and planning proposals to be considered at the public meeting.
- 2.4.2 Site inspections should be conducted on the same day as a public meeting, if practicable.
- 2.4.3 Site inspections are solely to be used to identify and clarify issues with a proposal.
- 2.4.4 At a site inspection, a Panel member must not offer an opinion on the merit of the proposal, or ask those involved with the assessment of the proposal for their opinion or recommendation.

Note: clauses 2.4.1-2.4.4 reflects section 3.4(1)-(4) of Schedule 1 of the Operational Procedures Directions issued 30 June 2020.

- 2.4.5 Under normal circumstances, site inspections will take place from 9am-12pm on the day of the meeting. Panel members and staff attending site inspections are expected to arrive at 8.45am for departure at 9am sharp.
- 2.4.6 Site inspections will be undertaken by the Panel as a whole, accompanied by relevant members of staff. Personal site inspections may take place in exceptional circumstances as determined by the Chair.
- 2.4.7 Site inspections are not open to the public and any discussions with applicant/s or other interested parties will only be allowed at the discretion and/or invitation of the Chair.

3 Conduct of meetings

3.1 Panel composition

- 3.1.1 The Chair and any alternate chairs are to rotate presiding over Panel meetings, or other business as practicable, unless the Chair or alternate chair is unavailable for any reason.

Note: clause 3.1.1 reflects clause 1.1(1) of Schedule 1 of the Operational Procedures Directions issued 30 June 2020.

- 3.1.2 The independent expert members and alternate members can be interchanged as needed by the Chair for that meeting for reasons including:
- a) A member has a conflict of interest;
 - b) A member is unavailable; or
 - c) To periodically rotate the members.

Note: clause 3.1.2 reflects section 1.2 of Schedule 1 of the Operational Procedures Directions issued 30 June 2020.

3.1.3 A community representative member can be interchanged as needed by the Chair or alternate chairs for reasons including:

- a) A member has a conflict of interest;
- b) A member is unavailable; or
- c) To periodically rotate the members.

Note: clause 3.1.3 reflects section 1.3 of Schedule 1 of the Operational Procedures Directions issued 30 June 2020.

3.1.4 Panel members will be selected by the Chair at least ten days prior to the meeting. Panel composition will not be made public prior to the meeting.

3.1.5 The quorum for a meeting of a panel is 3 members.

Note: clause 3.1.5 reflects section 22 of Schedule 2 of the Act.

3.1.6 Where a quorum for a meeting or other business is not present, the meeting or other business is to be deferred.

Note: clause 3.1.6 reflects clause 3.3(10) of Schedule 1 of the Operational Procedures Directions issued 30 June 2020.

3.1.7 Where possible, deferred matters should be considered by the Chair that presided over the original deferral.

Note: clause 3.1.7 reflects clause 1.1(2) of Schedule 1 of the Operational Procedures Directions issued 30 June 2020.

3.1.8 The determination of a review application from a Panel decision shall be made by different Panel members to those who made the original determination.

Note: clause 3.1.8 reflects section 2.1 of Schedule 1 of the Operational Procedures Directions issued 30 June 2020.

3.2 Role of the Chair

3.2.1 The Chairperson of the Panel or, in the absence of the Chair, the member appointed by the members of the Panel is to preside over Panel meetings and other business.

Note: clause 3.2.1 reflects clause 3.1(2) of Schedule 1 of the Operational Procedures Directions issued 30 June 2020 and section 23(1) of Schedule 2 of the Act.

3.2.2 The Chair is responsible for the management of the Panel's functions and operations, including managing conflicts of interest.

3.2.3 The Chair is to ensure that the Panel fully discharges its responsibilities under the EPA Act, relevant Directions, this Code, and the Panel's Code of Conduct in a timely manner.

3.2.4 The Chair is responsible for the good and orderly conduct of the Panel meetings and may do all things and take all steps necessary to control the good and orderly conduct of any meeting of the Panel or site inspection carried out by the Panel in the performance of its functions.

- 3.2.5 The Chair is to determine which alternative chair, independent expert members or alternates, and which community representative or alternates are to hear a matter prior to the meeting commencing. The Chair may make arrangements with the General Manager (or delegate) to determine independent expert members or alternates and which community representatives or alternates are to hear the matter.

Note: clauses 3.2.2-3.2.5 reflects section 3.1 of Schedule 1 of the Operational Procedures Directions issued 30 June 2020.

- 3.2.6 Alternate chairs have the same role as the Chair when presiding over a Panel meeting or any other business.

Note: clause 3.2.6 reflects section 3.2 of Schedule 1 of the Operational Procedures Directions issued 30 June 2020.

3.3 Voting

- 3.3.1 A decision supported by a majority of the votes cast at a meeting of the Panel at which a quorum is present is the decision of the Panel.

Note: clause 3.3.1 reflects section 24 of Schedule 2 of the Act.

- 3.3.2 Each member of the Panel is entitled to one (1) vote.

- 3.3.3 The Chair or presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Note: clause 3.3.3 reflects section 23(3) of Schedule 2 of the Act.

- 3.3.4 In the event of an equality of votes, where the Chair or presiding member fails or declines to exercise their second or casting vote, the motion being voted on is lost.

- 3.3.5 A Panel member who is present at a meeting of the Panel but fails or declines to vote on a motion put to that meeting is taken to have voted against the motion.

- 3.3.6 The division of votes will not be recorded in the minutes, unless a Panel member specifically requests that their dissenting vote be recorded.

3.4 Financial impacts of decisions

- 3.4.1 A Panel must not exercise a function that will result in the making of a decision that would have, or that might reasonably be expected to have, a significantly adverse financial impact on a Council until after it has consulted with the Council.

- 3.4.2 The consultation may be in writing, with the Council being given a specified time to respond in writing. Where a meeting with the General Manager (or delegate) is to be held to discuss the matter, all relevant Panel members should be present and minutes kept of the meeting and outcomes.

Note: section 3.4 reflects section 4.1 of Schedule 1 of the Operational Procedures Directions issued 30 June 2020.

3.5 Public participation in meetings

- 3.5.1 Members of the public will have the opportunity to address a public Panel meeting on a matter listed in the agenda for that meeting.
- 3.5.2 Anyone who wishes to address the Panel at a public meeting must register on Council's website before 3pm, three (3) business days before the meeting.
- 3.5.3 With a view to discharging its responsibilities in a timely manner, the Panel may, in its absolute discretion, but otherwise fairly and consistently, impose time limits on presentations by persons other than members of the Panel. Where there are a large number of objectors with a common interest at any public meeting, the Panel may, in its absolute discretion, hear a representative of those persons.

Note: clause 3.5.3 reflects clause 3.3(8) of Schedule 1 of the Operational Procedures Directions issued 23 February 2018.

- 3.5.4 Subject to clause 3.5.3, each registered speaker will be allocated three minutes to address the Panel.
- 3.5.5 The Panel may ask questions of the speaker, however speakers may not enter into debate with Panel members, staff or other speakers.
- 3.5.6 Panel members are not to discuss any matter that is to be considered by the Panel with councillors, the applicant, their consultants, parties who have made a submission, or any other person with an interest in the matter outside of the Panel meeting. For this purpose, site inspections are not considered to be part of the Panel meeting.

Note: clause 3.5.6 reflects clause 4.2(1) of Schedule 1 of the Operational Procedures Directions issued 30 June 2020.

4 General conduct of the Panel

4.1 Code of Conduct

- 4.1.1 The Panel and each of its members are to carry out its functions in accordance with the *Code of Conduct for Members of Local Planning Panels*, issued by the Minister in accordance with section 28 of Schedule 2 of the Act.

4.2 Disclosure of pecuniary interests

- 4.2.1 If:
- a member of the Panel has a pecuniary interest in a matter being considered or about to be considered at a meeting of the Panel, and
 - the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter

the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Panel.

- 4.2.2 A member has a pecuniary interest in a matter if the pecuniary interest is the interest of:
- the member, or

- b) the member's spouse or de facto partner or a relative of the member, or a partner or employer of the member, or
- c) a company or other body of which the member, or a nominee, partner or employer of the member, is a member.

4.2.3 However, a member is not taken to have a pecuniary interest in a matter as referred to in subclause 4.2.2(b) or (c):

- a) if the member is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body, or
- b) just because the member is a member of, or is employed by, a council or a statutory body or is employed by the Crown, or
- c) just because the member is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the member has no beneficial interest in any shares of the company or body.

4.2.4 A disclosure by a member at a meeting of the panel that the member, or a spouse, de facto partner, relative, partner or employer of the member:

- a) is a member, or is in the employment, of a specified company or other body, or
- b) is a partner, or is in the employment, of a specified person, or
- c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under clause (4.2.1).

4.2.5 Particulars of any disclosure made under this clause must be recorded by the Panel and that record must be open at all reasonable hours to inspection by any person on payment of the fee determined by the Panel.

4.2.6 After a member of a Panel has disclosed the nature of an interest in any matter, the member must not:

- a) be present during any deliberation of the Panel with respect to the matter, or
- b) take part in any decision of the Panel with respect to the matter.

4.2.7 A contravention of this clause does not invalidate any decision of the Panel.

Note: section 4.2 reflects section 27 of Schedule 2 of the Act.