

ITEM 4

POST EXHIBITION - WOLLONGONG LOCAL PLANNING PANEL DRAFT SUBMISSIONS POLICY

On 22 February 2021, Council endorsed the exhibition of a draft Submissions Policy (policy). This policy identifies additional development applications for referral to the Wollongong Local Planning Panel (WLPP) for determination, rather than for 'advice', and is complimentary to the generic referral criteria set by the NSW Minister for Planning. The policy was publicly exhibited and received two (2) submissions, one (1) in support and one (1) acknowledgement. No changes have been made to the exhibited policy. This report now seeks Council endorsement of the policy for referral to the Department of Planning Industry & Environment (DPIE) for adoption.

RECOMMENDATION

- 1 The draft Submissions Policy as amended be endorsed by Council and forwarded to the Department of Planning Industry & Environment for adoption.
- 2 The draft Submissions Policy as amended continue to be applied as referral criteria for 'advice' to Wollongong Local Planning Panel while awaiting Department of Planning Industry & Environment adoption

REPORT AUTHORISATIONS

Report of: Mark Riordan, Manager Development Assessment and Certification
Authorised by: Linda Davis, Director Planning + Environment - Future City + Neighbourhoods

ATTACHMENTS

- 1 Attachment 1 - WLPP Draft Submissions Policy 2021 - Post Exhibition
- 2 Attachment 2 - Local Planning Direction - Development Applications - Schedule 2

BACKGROUND

A report was provided to Council on 22 February 2021. In summary Council has prepared a Submissions Policy to supplement the Minister's Local Planning Panel Direction referral criteria for Development Applications (DAs) being referred to a Local Planning Panel for determination, subject to DPIE approval.

Council endorsed the draft Submissions Policy for exhibition and required that the policy be adopted as referral criteria for 'advice' to WLPP until it is reviewed post exhibition, replacing the previously endorsed policy of 24 September 2018.

PROPOSAL

It is recommended that the attached draft Submissions Policy (Attachment 1) be endorsed and forwarded to DPIE for adoption. The policy reduces the number of unique public submissions (i.e. objections) required for a DA to be referred to WLPP from 10 to six (6). The discretionary call-up criteria in the previously endorsed policy of 24 September 2018 has been removed, which included Councillor or senior staff call-up and multiple numeric thresholds for submissions on various development types.

The reduced threshold for objections from 10 to six (6) will be applied in addition to the other criteria as prescribed by the Minister (Attachment 2) being conflict of interest, departure from development standards >10%, and sensitive development such as new licenced premises. The combined referral criteria will direct around 4% of annual DAs to WLPP for public hearing and determination.

The changes will ensure continuity of the WLPP service to the local community, with the ongoing referral of those DA's that are deemed to be locally sensitive or significant. While awaiting the DPIE adoption of the policy it will continue to be applied (subject to Council endorsement) for the purpose of 'advice' rather than for 'determination' for these particular DAs.

This policy does not affect referrals to the Southern regional Planning Panel which operates under separate referral criteria via State Environmental Planning Policy (State and Regional Development) 2011.

CONSULTATION AND COMMUNICATION

The policy was publicly notified from 9 March to 6 April 2021 on Council's website, in the local newspaper, all Council Neighbourhood Forums (NF), and a media release was also published. Current WLPP members were forwarded a copy of the draft policy for comment. A total of two (2) submissions were received and are summarised below:

Public (Number)	Response
Zero (0)	0
WLPP (Number)	
One (1)	The submission noted the proposed policy. No further detail was provided.
NF (Number)	
One (1)	NF5 resolved to support the changes. No further detail was provided.

PLANNING AND POLICY IMPACT

This report contributes to the delivery of Our Wollongong 2028 Goal "We value and protect our environment". It specifically delivers on core business activities as detailed in the Development Assessment Service Plan 2020-21.

CONCLUSION

The WLPP, continues to provide a transparent process for those who have made submissions to relevant DAs to also make representations as part of the determination process. To ensure that all locally sensitive DAs continue to be referred to WLPP, the revised Submissions Policy is proposed to complement the WLPP framework. This policy reduces the submission threshold from the prescribed standard of 10 individual submissions to six (6). This will apply in addition to the Minister's criteria relating to conflict of interest, departure from development standards and specified sensitive development. The combined referral criteria will direct around 4% of annual DAs to the WLPP for public hearing and determination. The policy has been exhibited and is now ready to be forwarded to DPIE for adoption.

ATTACHMENT 1

AMENDED

DRAFT WOLLONGONG LOCAL PLANNING PANEL SUBMISSIONS POLICY

Wollongong Local Planning Panel Submissions Policy

OBJECTIVE

To identify the circumstances in which contentious development applications should be referred to the Wollongong Local Planning Panel (WLPP) for determination. This policy is made pursuant to point 2 (a) of schedule 2 of the Local Planning Panels Direction dated 30 June 2020 and extends those referral provisions.

POLICY STATEMENT

Wollongong City Council is committed to providing a robust, transparent and independent process for assessing contentious development applications. This policy outlines the circumstances in which an application will be referred to WLPP for determination based on the number of submissions.

APPLICATIONS TO BE REFERRED TO THE WLPP FOR DETERMINATION (Contentious development)

Development that:

- 1 Is the subject of six or more unique submissions by way of objection.

Notes:

- 1 Unique submissions have the same meaning as contained within the Local Planning Panels Direction dated 30 June 2020

ATTACHMENT 2

LOCAL PLANNING PANELS DIRECTION - DEVELOPMENT APPLICATIONS AND APPLICATIONS TO MODIFY DEVELOPMENT CONSENTS

SCHEDULE 2

1. Conflict of interest

Development for which the applicant or land owner is:

- (a) the council,
- (b) a councillor,
- (c) a member of council staff who is principally involved in the exercise of council's functions under the Environmental Planning and Assessment Act 1979,
- (d) a member of Parliament (either the Parliament of New South Wales or Parliament of the Commonwealth), or
- (e) a relative (within the meaning of the *Local Government Act 1993*) of a person referred to in (b) to (d).

but not development for the following purposes which requires:

- (a) internal alterations and additions to any building that is not a heritage item,
- (b) advertising signage,
- (c) maintenance and restoration of a heritage item, or
- (d) minor building structures projecting from the building facade over public land (such as awnings, verandas, bay windows, flagpoles, pipes and services, and sun shading devices).

2. Contentious development

Development that:

- (a) in the case of a council having an approved submissions policy - is the subject of the number of submissions set by that policy, or
- (b) in any other case - is the subject of 10 or more unique submissions by way of objection.

An **approved submissions policy** is a policy prepared by the council and approved by the Secretary of the Department of Planning, Industry and Environment which details the circumstances in which a local planning panel or council staff should exercise the consent authority functions of the council, based on the number or nature of submissions received about development.

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.

3. Departure from development standards

Development that contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

Note: If the Secretary allows concurrence to be assumed by council staff for contravening development standards, the panel can delegate these applications to council staff to determine.

4. Sensitive development

- (a) Designated development.
- (b) Development to which *State Environmental Planning Policy No 65- Design Quality of Residential Apartment Development* applies and is 4 or more storeys in height.
- (c) Development involving the demolition of a heritage item.
- (d) Development for the purposes of new licensed premises, that will require one of the following liquor licences:
 - (i) a club licence under the *Registered Clubs Act 1976*,
 - (ii) a hotel (general bar) licence under the *Liquor Act 2007*, or
 - (iii) an on-premises licence for public entertainment venues under the *Liquor Act 2007*.
- (e) Development for the purpose of sex services premises and restricted premises.
- (f) Development applications for which the developer has offered to enter into a planning agreement.