

Sydney Eastern City Planning Panel - Appointment of City of Sydney Representatives

File No: X014523

Summary

Planning Panels is a coverall term which includes Local Planning Panels and Sydney Planning Panels and Regional Planning Panels. In the Greater Sydney Region, a Local Planning Panel operates for each Local Government Area (LGA) and a Sydney Planning Panel operates for each District (as defined by the Greater Sydney Commission).

Up until now, and by virtue of the special arrangements for the Central Sydney Planning Committee (CSPC), the City has not had matters brought before the Sydney Eastern City Planning Panel. However, due to legislative changes, Crown applicants have the right to refer matters to a Sydney Planning Panel instead of a Local Planning Panel if they are not determined within 70 days. In this case, the relevant panel is the Sydney Eastern City Planning Panel. Membership consists of three members appointed by the Minister and two positions for Council nominated members (currently vacant).

This report recommends that Council addresses the vacancy through the appointment of two nominees (known as Council members) to the Sydney Eastern City Planning Panel. The functions of Sydney District Planning Panels are prescribed in the Environmental Planning and Assessment Act 1979 (the "Act").

In general terms, Sydney District Planning Panels have the following functions:

- as a consent authority for regionally significant development (this section does not apply to the City of Sydney as development in the City cannot be prescribed as regionally significant development under the Act).
- of a council in circumstances where a Minister makes a direction because the Minister is of the opinion that the council has failed to appropriately carry out its planning functions.
- to advise the Minister or the Planning Secretary as to planning or development matters relating to the part of the state for which it is constituted if requested to do so by the Minister or the Planning Secretary.
- any other function conferred or imposed on it under the Act or any other Act, including to determine Crown development applications where the consent authority has not determined the application within 70 days and applicant has referred the application to the panel.

The City of Sydney has received written notification (the 'referral') from the applicant of D/2018/991 and D/2018/1034 that their applications (being Crown Development Applications lodged by the Sydney Cricket and Sports Ground Trust) be referred to the Sydney Eastern City Planning Panel (instead of the Local Planning Panel).

This is the first time that the City of Sydney has received a referral of an application to the Sydney Eastern City Planning Panel for determination. The referral of this application has highlighted the need for Council to appoint nominees to the Sydney Eastern City Planning Panel in the event that a matter may be considered relating to the City of Sydney.

Each Sydney Regional Planning Panel consists of five members:

- Three members, including the Chair, appointed by the Minister (state members); and
- Two members nominated by the relevant council (council members).

This report recommends the appointment of two of the current members of the Local Planning Panel as the City's nominated members for the Sydney Eastern City Planning Panel, with the remaining members of the Local Planning Panel to form a pool of available alternates.

Recommendation

It is resolved that:

- (A) Council endorse the appointment of the following people to the Sydney Eastern City Planning Panel: Richard Pearson, and Shaun Carter for a period of three years.
- (B) Council endorse the appointment of the following alternate members to the Sydney Eastern City Planning Panel, to be called upon when the appointed members are unavailable or otherwise unable to participate in a particular panel: Abigail Goldberg, Steven Layman, Helen Lochead, Peter Romey, Steven Kennedy, Amelia Thorpe and John McInerney AM.
- (C) authority be delegated to the Director City Planning, Development and Transport to nominate alternates for particular meetings of the Sydney Eastern City Planning Panel from the endorsed members and alternates based on availability, required expertise and conflict of interest requirements.

Attachments

Nil

Background

1. Planning Panels were established by the NSW Government across New South Wales to replace Councils on regionally significant development. In certain circumstances, panels can also have a role in planning proposals, to undertake reviews or to act as the planning proposal authority (PPA) when directed. In addition they can determine Crown applications where the application has not been determined within a certain number of days by the local council or Local Planning Panel and the application is referred by the applicant to the relevant Sydney District or Regional Planning Panel.
2. The term Planning Panels includes Local Planning Panels and Sydney District and Regional Planning Panels. In the Greater Sydney Region, a Local Planning Panel operates for each Local Government Area (LGA) and a Sydney Planning Panel operates for each District (as defined by the Greater Sydney Commission).
3. Sydney Planning Panels were established on 21 November 2016, to determine 'regionally significant' development applications, which are generally development with a capital investment value over \$30 million within the Greater Sydney Region. Prior to 2016, these panels were known as Joint Regional Planning Panels and they were established on 1 July 2009. The City of Sydney did not form part of the Joint Regional Planning Panels under the previous legislation, but recent amendments have changed this.
4. Sydney Planning Panels operate across the Greater Sydney Region for each district:
 - Sydney Eastern City;
 - Sydney Central City;
 - Sydney Western City;
 - Sydney North; and
 - Sydney South.
5. Each Sydney Planning Panel consists of five members:
 - Three members, including the Chair, appointed by the Minister (state members); and
 - Two members nominated by the relevant council (council members).
6. The functions of Sydney Planning Panels are prescribed in section 2.1 of the Act. In general terms they include the following:
 - Functions of a consent authority for regionally significant development (this section does not apply to the City of Sydney as development in the City cannot be prescribed as regionally significant development under the Act).
 - Planning functions of a council in circumstances where a Minister makes a direction because the Minister is of the opinion that the council has failed to appropriately carry out its planning functions.

- To advise the Minister or the Planning Secretary as to planning or development matters relating to the part of the state for which it is constituted if requested to do so by the Minister or the Planning Secretary.
 - Any other function conferred or imposed on it under the EP&A Act or any other Act, including to determine Crown development applications where the consent authority has not determined the application within 70 days and applicant has referred the application to the panel.
7. The City of Sydney has received written notification from the applicant of D/2018/991 and D/2018/1034 that their applications (being Crown DAs lodged by the Sydney Cricket and Sports Ground Trust) have been referred to the Sydney Eastern City Planning Panel. This is the first time that the City of Sydney has received such notification and referral of an application to the Sydney Eastern City Planning Panel for determination. The referral of such an application has highlighted the need for the City of Sydney to appoint council members to the Sydney Eastern City Planning Panel.

Nomination of Council Members to Sydney Eastern City Planning Panel

8. This report recommends the appointment of two of the existing members of the City of Sydney Local Planning Panel and the other members to form a pool of alternates that can be drawn upon when required on the Sydney Eastern City Planning Panel. It is noted that operation of this panel is likely to be very infrequent.
9. The nine members of the City of Sydney Local Planning Panel are:
- Richard Pearson (chair); Abigail Goldberg (alternate chair); Steven Layman (alternate chair); Peter Romey (expert member), Shaun Carter (expert member), Helen Lohead (expert member), Steven Kennedy (expert member), Amelia Thorpe (community member) and John McInerney AM (community member).
- It is recommended that Richard Pearson and Shaun Carter be appointed as members of the Sydney Eastern City Planning Panel with the remaining Local Planning Panel members appointed as alternates.
10. The members of the Local Planning Panel are recommended as they have all been through a nomination and selection process (including probity and political donation checks) carried out by the City of Sydney and NSW Minister for Planning and Environment for membership as Local Planning Panel members. The members of the panel also meet the criteria for nomination under the Act, being that at least one of them has expertise in at least one area of planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering or tourism.
11. The Director of City Planning, Development and Transport will liaise with the Local Planning Panel members to nominate alternates for particular members based on availability, required expertise and any conflict of interest issues that may arise.
12. The City of Sydney Local Planning Panel has been operating well and all of its members have technical expertise in planning and architecture; have an understanding of planning process and assessment issues; are familiar with the City's planning controls and strategic priorities and have proven experience in contributing constructively to the determination of applications.

Budget Implications

13. It is reasonable for any endorsed nominee to the Sydney Eastern City Planning Panel be reimbursed for their attendance at any required meeting. It is proposed that the endorsed members be paid a rate of \$1,500 plus GST per meeting. This rate is the same as the rate paid to expert members and community representatives of the Local Planning Panel.
14. Due to the very small number of meetings that the City of Sydney would be expected to attend the additional member fees will be able to be absorbed into existing operational budgets.

Relevant Legislation

15. Environmental Planning and Assessment Act 1979
16. Environmental Planning and Assessment Regulation 2000

Critical Dates / Time Frames

17. The City of Sydney has been provided with advice that the first City of Sydney matter in which the Sydney Eastern City Planning Panel is likely to be asked to consider will be considered 50 days from 6 November 2018 (i.e. 27 December 2018). If membership by the City of Sydney is not resolved within that time it is likely that a determination would be made by the state members alone.

Options

18. Council may decide not to appoint any members to the Sydney Eastern City Planning Panel. Under the Act, the Planning Panel can then proceed to act without any council nominated members and any matters which come before it will be determined by the three State members.

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