

## Item 5.

### City of Sydney Local Planning Panel - Reappointment of Members

**File No: X079022**

#### Summary

The City of Sydney Local Planning Panel (LPP) has been operating since 1 March 2018. The Local Planning Panel is comprised of a chair, two expert members and one community representative.

Council, at its meeting of 19 February 2018, appointed the following members to the City of Sydney Local Planning Panel for a three-year term expiring 28 February 2021.

- Chair - Richard Pearson
- Alternate Chairs - Abigail Goldberg and Steven Layman
- Expert members - Shaun Carter and Helen Lochhead
- Alternate expert members - Steve Kennedy and Peter Romey
- Community representative - Amelia Thorpe
- Alternate community representative - John McInerney AM

Additional expert members were appointed to the Panel by Council at its meeting of 8 April 2019 for a three-year term expiring 8 April 2022.

- Alternate expert members - Paul Berkemeier, Darlene van der Breggen, Tony Caro, Helena Miller and Penny Murray.

In December 2020, the Minister for Planning and Public Spaces requested that councils reappoint current chairs, alternate chairs and expert members up to 30 June 2021 so that an Expression of Interest can be conducted by the Department of Planning, Industry and Environment to refresh the chair and expert pools from which councils make appointments to local planning panels. The selection and appointment of community representatives is a council responsibility.

This report recommends the reappointment of the Minister's nominated chair (and alternate chairs), the reappointment of four expert members from the Minister's pool of experts and the reappointment of two community representatives to the City of Sydney Local Planning Panel for a period ending 30 June 2021.

## Recommendation

It is resolved that Council:

- (A) endorse the Minister's nomination of Richard Pearson as the Chair of the City of Sydney Local Planning Panel and Abigail Goldberg and Steven Layman as alternate Chairs to the City of Sydney Local Planning Panel for a period commencing 1 March 2021 and ending 30 June 2021;
- (B) endorse the appointment of four expert members from the Minister's pool of experts to the City of Sydney Local Planning Panel: Shaun Carter, Helen Lochhead, Steve Kennedy and Peter Romey for a period commencing 1 March 2021 and ending 30 June 2021; and
- (C) endorse the appointment of two community representatives to the City of Sydney Local Planning Panel: Amelia Thorpe and John McInerney AM for a period commencing 1 March 2021 and ending 30 June 2021.

## Attachments

Nil.

## Background

1. Local planning panels (LPPs) (formerly known as Independent Hearing and Assessment Panels or IHAPS) are panels of independent experts that determine development applications on behalf of Council.
2. Under the Environmental Planning and Assessment Act 1979 local planning panels are mandatory for all Sydney councils, Wollongong City Council and Central Coast Council. Panels are put in place so the process of assessment and determination of development applications (DAs) with a high corruption risk, sensitivity or strategic importance is transparent and accountable.
3. Statutory rules govern the panel's operation, through a code of conduct and operational procedures.
4. The City of Sydney Local Planning Panel (LPP) has been operating since 1 March 2018.
5. The Local Planning Panel is comprised of a chair, two expert members and one community member.
6. Council, at its meeting of 19 February 2018, appointed the following members to the City of Sydney LPP for a three-year term expiring 28 February 2021.
  - (a) Chair - Richard Pearson;
  - (b) Alternate Chairs - Abigail Goldberg and Steven Layman;
  - (c) Expert members - Shaun Carter and Helen Lochhead;
  - (d) Alternate expert members - Steven Kennedy and Peter Romey;
  - (e) Community representative - Amelia Thorpe; and
  - (f) Alternate community representative - John McInerney AM.
7. Additional expert members were appointed to the Panel by Council at its meeting of 8 April 2019 for a three-year term expiring 8 April 2022.
  - (a) Alternate expert members - Paul Berkemeier, Darlene van der Breggen, Tony Caro, Helena Miller and Penny Murray.
8. In December 2020, the Minister for Planning and Public Spaces requested that the Department of Planning, Industry and Environment conduct an Expression of Interest during early 2021 to refresh the chair and expert pools from which councils make appointments to their local planning panels.
9. As this timing coincides with the end of the first three-year term of office for local planning panel members, on 28 February 2021, councils have been requested to reappoint current chairs and alternate chairs up to 30 June 2021.
10. Councils can choose to reappoint current expert members or choose different experts from the expert pool for appointment up to 30 June 2021.

11. Following the completion of the Expression of Interest process by the Department of Planning, Industry and Environment, there will be a further report to Council seeking the appointment of the Minister's nominated chair (and alternate chairs) and expert members.
12. The City will also conduct an Expression of Interest process for community representatives for the City of Sydney Local Planning Panel. Following the completion of the process, there will be a further report to Council seeking the appointment of community representatives.
13. The selection and appointment of community representatives is a council responsibility.
14. Clause 11, Part 4, Schedule 2 of the Environmental Planning and Assessment Act 1979 states that a member of a local planning panel may not hold office as a member of that panel for more than six years in total.
15. Since 1 March 2018, the City of Sydney Local Planning Panel has held 48 meetings and determined 183 Development Applications.

#### **Chair and Alternate Chairs**

16. On 21 December 2017, the then Minister for Planning advised Council that Richard Pearson had been nominated as the Chair for the City of Sydney Local Planning Panel, and that Abigail Goldberg and Steven Layman have been nominated as alternate chairs to the panel.
17. The term of the chair and alternate chairs was three years, commencing on 1 March 2018 and ending on 28 February 2021.
18. In accordance with the request from the Department of Planning, Industry and Environment, it is recommended that the Minister's nominated chair (and alternate chairs) are reappointed to the City of Sydney Local Planning Panel for a period ending 30 June 2021.

#### **Expert Members**

19. On 21 December 2017, the then Minister for Planning provided the City of Sydney access to the list of independent experts that the Minister approved. Councils were required to select two members to the panel from the Minister's pool of independent experts. The Minister's list of approved independent experts contains the names of 492 persons, of which 225 nominated for the City of Sydney panel.
20. Experts must have expertise in one of the following areas: planning, architecture, heritage, the environment, urban design, economics, traffic and transport, law, engineering, tourism or government and public administration.
21. Advice was provided to local councils that an advisory panel consisting of independent persons from the Law Society of NSW and the Planning Institute of Australia, the Government Architect and the Deputy Secretary Department of Planning and Environment reviewed the expert member applications. The panel recommended, for approval by the Minister, persons suitable for chair roles and persons for the independent expert roles. Each expert was approved on the basis of their professional standing, experience, technical ability and broad understanding of the development assessment process.

22. Advice was provided to local councils that probity and political donation checks were undertaken for each approved chairperson and each independent expert has provided a statutory declaration that they have not been bankrupt, do not have a criminal record and are not developers or real estate agents.
23. Senior staff from the City Planning, Development and Transport Division at the time reviewed the applications for 225 independent experts and recommended Shaun Carter, Helen Lochhead, Steve Kennedy and Peter Romey be appointed as the expert members of the Local Planning Panel.
24. The term of the expert members was three years, commencing on 1 March 2018 and ending on 28 February 2021.
25. In accordance with the request from the Department of Planning, Industry and Environment, it is recommended that the four expert members from the Minister's pool of experts are reappointed to the City of Sydney Local Planning Panel for a period ending 30 June 2021.
26. Those additional expert members appointed to the Panel by Council at its meeting of 8 April 2019 whose appointments expire in April 2022, will be the subject of the report to Council to appoint a new Panel.

### **Community Representatives**

27. Nominations for community representatives for the City of Sydney Local Planning Panel were sought from 1 November to 30 November 2017. Advertisements were placed in The Sydney Morning Herald and Central Newspapers on two occasions each, and information was also available on the City of Sydney website.
28. Nominations were received from seven persons who reside in the City of Sydney local government area. The Department of Planning and Environment issued guidelines to local councils regarding the selection of community representatives. These guidelines stated that community representatives are to be selected from the local community and that mayors, councillors, property developers and real estate agents are not eligible to be appointed as community representatives.
29. The guidelines also state that local community representatives should:
  - (a) be current residents within the local government area (LGA);
  - (b) have knowledge and awareness of the LGA and issues of concern to the local community;
  - (c) be able to represent and communicate the interests of the local community;
  - (d) have an understanding of the planning process and assessment issues (but are not expected to be experts);
  - (e) commit to attending the meetings and contributing constructively to the determination of applications; and
  - (f) be willing to adhere to the code of conduct and operational procedures.

30. All nominations received were reviewed by the then Executive Manager Development and Executive Manager Strategic Planning and Urban Design. Interviews were held with all seven candidates in December 2017 to assist in the shortlisting process and to determine the candidate's suitability for the role. Areas that were explored in the interview included:
- (a) area of expertise that may be relevant to the panel;
  - (b) understanding of issues affecting the City of Sydney and planning/urban development matters;
  - (c) general availability to attend and participate on local planning panel meetings;
  - (d) appreciation of conflicts of interest; and
  - (e) judicious and independent thinking and decision-making capabilities.
31. The selection process resulted in Amelia Thorpe and John McInerney being recommended and endorsed as the community representatives for the Local Planning Panel.
32. The term of the community representatives was three years, commencing on 1 March 2018 and ending on 28 February 2021.
33. It is recommended that the two community representatives, selected after an Expression of Interest by the City in 2017, Amelia Thorpe and John McInerney, be reappointed to the City of Sydney Local Planning Panel for a period ending 30 June 2021.

### **Risks**

34. If member terms are not extended, the City of Sydney Local Planning Panel will not be able to operate after 1 March 2021 as there will be no chair or community representatives and therefore no quorum. Without the Local Planning Panel, certain development applications would not be able to be determined.
35. If member terms are not extended, the Minister may appoint Panel members and/or delegate/s without council endorsement to determine these development applications.

### **Key Implications**

#### **Strategic Alignment - Sustainable Sydney 2030**

36. Sustainable Sydney 2030 is a vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress. This report is aligned with the following strategic directions and objectives:
- (a) Direction 8 - Housing for a Diverse Population - the Local Planning Panel determines development applications which contribute to the housing diversity of the City.
  - (b) Direction 9 - Sustainable Development, Renewal and Design - the Local Planning Panel determines development applications and reviews conditions of consent which provide for sustainability, renewal and design excellence.

- (c) Direction 10 - Implementation through Effective Governance and Partnerships - the operation of the Local Planning Panel is a collaboration between City staff, applicants, objectors, independent members and the NSW Government.

### **Financial Implications**

- 37. There are sufficient funds available in the 2020/21 operating budget and future years' forward estimates for the operation of the City of Sydney Local Planning Panel.
- 38. The Minister determines the remuneration rates for Local Planning Panel members. Remuneration of Local Planning Panel members and these have been provided for in the City's budget.

### **Relevant Legislation**

- 39. Environmental Planning and Assessment Act 1979.

### **Critical Dates / Time Frames**

- 40. Member terms expire on 28 February 2021.
- 41. There is a Local Planning Panel meeting scheduled on 17 March 2021.
- 42. The reappointment of members is required prior to the March meeting so that quorum for the meeting can be achieved.

### **ANDREW THOMAS**

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Erin Cashman, Council Business Coordinator