

City of Sydney Local Planning Panel - Appointment of Members

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Summary

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

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

Council endorsed the reappointment of the chairs, expert members and community representatives (originally appointed on 19 February 2018) to 30 June 2021 at its meeting of 22 February 2021.

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.

This report recommends the appointment of the Minister's approved chair (and alternate chairs), the appointment of seven expert members from the Minister's pool of experts and the appointment of Council's two existing community representatives to the City of Sydney Local Planning Panel for the period commencing 1 July 2021 and ending 29 February 2024.

In order to align member terms, it is also recommended that those eligible additional expert members appointed to the Panel by Council at its meeting of 8 April 2019 be reappointed until 29 February 2024.

In addition, it is recommended that appointed Local Planning Panel expert members fulfil the independent representation on Council's Review of Determinations Panel.

Recommendation

It is resolved that Council:

- (A) endorse the Minister's approval and appoint Abigail Goldberg as the Chair of the City of Sydney Local Planning Panel and Linda Pearson and Steven Layman as alternate Chairs to the City of Sydney Local Planning Panel for a period commencing 1 July 2021 and ending 29 February 2024;
- (B) endorse the appointment of seven expert members from the Minister's pool of approved experts to the City of Sydney Local Planning Panel: Helen Lochhead, Peter Romey, Ron Edgar, Megan Jones, Brendan Randles, Marcus Trimble and Annelise Tuor for a period commencing 1 July 2021 and ending 29 February 2024;
- (C) endorse the reappointment of four expert members from the Minister's pool of approved experts to the City of Sydney Local Planning Panel: Tony Caro, Paul Berkemeier, Penny Murray and Helena Miller for a period commencing 9 April 2022 and ending 29 February 2024;
- (D) endorse the appointment of two community representatives to the City of Sydney Local Planning Panel: Amelia Thorpe and John McNerney AM for a period commencing 1 July 2021 and ending 29 February 2024; and
- (E) endorse the use of the appointed expert members for independent representation on Council's Review of Determinations Panel, subject to their acceptance of the invitation.

Attachments

- Attachment A.** Information on Local Planning Panel Chairs
- Attachment B.** Information on Local Planning Panel Expert Members
- Attachment C.** Information on Local Planning Panel Community Representatives

Background

1. Local planning panels (LPPs) are panels of independent experts and community representatives that determine specified 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. When meeting to determine development applications, a local planning panel is comprised of a chair, two expert members and one community representative.
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. Note the chair and alternate chairs are approved by the Minister.
 - (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 LPP 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. Following the request from the Minister in December 2020, Council, at its meeting of 22 February 2021, reappointed the following members to the City of Sydney LPP for a period commencing 1 March 2021 and ending 30 June 2021.
 - (a) Chair - Richard Pearson;
 - (b) Alternate Chairs - Abigail Goldberg and Steven Layman;

- (c) Expert members - Shaun Carter, Helen Lochhead, Steven Kennedy and Peter Romey; and
 - (d) Community representatives - Amelia Thorpe, and John McInerney AM.
10. 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.
 11. Council is required to ensure that it is able to appoint chairs, expert members and community representatives prior to 1 July 2021 for a term through to 29 February 2024, to ensure compliance with the six-year maximum term limits of continuing members and the expiry date of the Minister's approval of the appointment of chairs, alternate chairs and expert members.
 12. Since 1 March 2018, the City of Sydney Local Planning Panel has held 56 meetings and determined 209 Development Applications.

Chair and Alternate Chairs

13. On 13 May 2021, the Minister for Planning and Public Spaces advised Council that Abigail Goldberg had been approved as the Chair for the City of Sydney Local Planning Panel, and that Linda Pearson and Steven Layman have been approved as alternate chairs to the panel.
14. The term of the chair and alternate chairs is approximately three years, commencing on 1 July 2021 and ending on 29 February 2024.
15. It is noted that at the completion of their terms Abigail Goldberg and Steven Layman will have reached their maximum six-year term as members of the City of Sydney Local Planning Panel.

Expert Members

16. On 13 May 2021, the Department of Planning, Industry and Environment provided the City of Sydney access to the list of independent experts that the Minister approved. Councils are required to select at least 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 218 persons, of which 133 nominated for the City of Sydney panel.
17. 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.
18. Advice was provided that an advisory panel consisting of independent persons from Local Government NSW, the Planning Institute of Australia (NSW), and the Department of Planning, Industry 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.

19. Advice was also 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.
20. Senior staff from the City Planning, Development and Transport Division have reviewed the independent expert applications and recommend Helen Lochhead, Peter Romey, Ron Edgar, Megan Jones, Brendan Randles, Marcus Trimble, and Annelise Tuor be appointed as the expert members of the Local Planning Panel.
21. The term of the expert members is approximately three years, commencing on 1 July 2021 and ending on 29 February 2024.
22. It is noted that at the completion of their terms Helen Lochhead and Peter Romey will have reached their maximum six-year term as members of the City of Sydney Local Planning Panel.
23. In order to align member terms, it is also recommended that those eligible additional expert members appointed to the Panel by Council at its meeting of 8 April 2019 be reappointed until 29 February 2024. These members are Paul Berkemeier, Tony Caro, Helena Miller and Penny Murray.
24. It is noted that at the completion of the term ending 29 February 2024, Paul Berkemeier, Tony Caro, Helena Miller and Penny Murray will be eligible for a further one year appointment, subject to their continued inclusion on the list of independent experts approved by the Minister, before they reach their maximum six-year term as members of the City of Sydney Local Planning Panel.

Community Representatives

25. It is recommended that Council's two existing community representatives Amelia Thorpe and John McInerney AM be reappointed to the City of Sydney Local Planning Panel to 29 February 2024.
26. The Department of Planning, Industry 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.
27. The community representatives continue to meet the guideline criteria as they:
 - (a) are current residents within the local government area (LGA);
 - (b) have knowledge and awareness of the local government area and issues of concern to the local community;
 - (c) are 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) can commit to attending the meetings and contributing constructively to the determination of applications; and
 - (f) are willing to adhere to the code of conduct and operational procedures.

28. The term of the community representatives is approximately three years, commencing on 1 July 2021 and ending on 29 February 2024.
29. It is noted that at the completion of their terms Amelia Thorpe and John McInerney will have reached their maximum six-year term as members of the City of Sydney Local Planning Panel.

Review of Determinations Panel

30. Provisions under Division 8.2 of the Environmental Planning and Assessment Act 1979 allow applicants who are dissatisfied with a determination the City has made on a development application (DA), or a modification to a DA, to apply for that decision to be reviewed.
31. Reviews of decisions that have been made by the City of Sydney Local Planning Panel (LPP) and Central Sydney Planning Committee (CSPC) must be considered by the LPP and CSPC respectively. However, where the original decision was made under delegated authority by City staff, the review of the application may be made under delegation so long as it is conducted by another delegate who is not subordinate to the original decision maker.
32. At the City the review of applications function has, notwithstanding the delegations detailed above, been carried out by a panel which has been in operation in one form or another since January 2013. The panel is known as the Review of Determinations Panel.
33. The Panel has been made up of a number of council officers (generally being two of either the Director City Planning, Development and Transport, the Executive Manager City Planning and Development and the Executive Manager Strategic Planning and Urban Design), and an external expert consultant.
34. Over time the availability of external consultants used on the panel has been reduced.
35. The consultants used in more recent times confirmed at the beginning of the year that they would no longer be available due to retirement or other commitments. Other consultants have also indicated limited availability for the year.
36. It is recommended that appointed Local Planning Panel expert members be invited to fulfil the independent representation on Council's Review of Determinations Panel and those that accept will form the pool for this function.

Key Implications

Strategic Alignment - Sustainable Sydney 2030

37. 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.

Organisational Impact

38. City staff provide secretariat and operational support to the Local Planning Panel and the Review of Determinations Panel.

Risks

39. If member terms are not extended, the Minister may appoint Panel members and/or delegate/s without council endorsement to determine these development applications.

Financial Implications

40. There are sufficient funds available in the draft 2021/22 operating budget and future years' forward estimates for the operation of the City of Sydney Local Planning Panel and Review of Determinations Panel
41. The Minister determines the remuneration rates for Local Planning Panel members and these have been provided for in the City's budget. External experts on the review panel will also be paid in accordance with these rates.

Relevant Legislation

42. Environmental Planning and Assessment Act 1979.

Critical Dates / Time Frames

43. Member terms expire on 30 June 2021.
44. There is a Local Planning Panel meeting scheduled on 21 July 2021.
45. The appointment of members is required prior to the July meeting so that quorum for the meeting can be achieved.

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