

Item 6.

Local Planning Panel - Appointment of Members

File No: X095150

Summary

The City of Sydney Local Planning Panel (LPP) has been operating since 1 March 2018. When meeting to determine development applications, a Local Planning Panel consists of four members: a chair, two expert members and one community representative.

Currently, City of Sydney Local Planning Panel members are:

- (a) Chair - Abigail Goldberg.
- (b) Alternate Chairs - Steven Layman and Linda Pearson.
- (c) Expert Members - Helen Lochhead, Peter Romey, Paul Berkemeier, Tony Caro, Megan Jones, Helena Miller, Penny Murray, Brendan Randles, Marcus Trimble and Annelise Tuor.
- (d) Community Representatives - John McInerney AM and Amelia Thorpe.

Excluding the City of Sydney, a general Ministerial Direction was released directing an update to the operation of Local Planning Panels in order to reduce corruption risks and improve decision-making in December 2022. Key changes included the following requirements:

- (a) to expand the pool of expert members to a minimum of 15 (the City currently has 10).
- (b) to increase the pool of community representatives to a minimum of four (the City currently has two).

A copy of the Local Planning Panels Direction - Appointment of New members is provided in Attachment A. As noted, it does not apply to the City of Sydney.

Notwithstanding, as the City's Local Planning Panel members are currently only engaged up until 29 February 2024, it is appropriate that the membership of the Local Planning Panel be reviewed. This report therefore recommends:

- (a) the reappointment of eight existing expert members beyond 29 February 2024 for a further term;
- (b) the appointment of six new expert members; and
- (c) the appointment of four new community representatives

to the City's pool of Local Planning Panel members.

An earlier report to the August 2023 Transport, Heritage, Environment and Planning Committee was unable to be determined due to a majority of Councillors declaring a conflict of interest. The item was withdrawn by the Chief Executive Officer. Staff have revisited the process and recommendations so that matter could be determined without known conflicts.

Information on the recommended Local Planning Panel expert members and community representatives is provided in Attachment B.

The report also recommends the use of the appointed expert members and community representatives for the independent role on Council's Review of Determinations Panel, subject to their acceptance of the invitation.

Recommendation

It is resolved that Council:

- (A) endorse the reappointment of four existing expert members beyond 29 February 2024 to the City of Sydney Local Planning Panel, being Megan Jones, Brendan Randles, Marcus Trimble and Annelise Tuor, for a further period of three years;
- (B) endorse the reappointment of four existing expert members beyond 29 February 2024 to the City of Sydney Local Planning Panel, being Paul Berkemeier, Tony Caro, Helena Miller and Penny Murray until 8 April 2025;
- (C) endorse the appointment of six additional expert members from the Minister for Planning's pool of experts to the City of Sydney Local Planning Panel, being Melonie Bayl-Smith, John Bilmon, Michael Harrison, Vanessa Holtham, Jocelyn Jackson and Stephen Pearse, for a period of three years from the date of appointment;
- (D) endorse the appointment of four additional community representatives to the City of Sydney Local Planning Panel, being Julie Armour; Jayden Bregu; Peter Tzannes; and Judy MacGraw (subject to probity checks), for a period of three years from the date of appointment; and
- (E) endorse the use of the appointed expert members and community representatives for the independent role on Council's Review of Determinations Panel, subject to their acceptance of the invitation.

Attachments

Attachment A. Local Planning Panels Direction - Appointment of New Members

Attachment B. Information on Recommended Local Planning Panel Expert Members and Community Representatives

Attachment C. Local Planning Panel Community Representatives - Expressions of Interest (Confidential)

Background

1. The independent City of Sydney Local Planning Panel (LPP) has been operating since 1 March 2018.
2. The City of Sydney Local Planning Panel operates in accordance with the NSW Government's Local Planning Panels Code of Conduct and the City of Sydney's Local Planning Panel Operational Procedures.
3. When meeting to determine development applications, a Local Planning Panel consists of four members being:
 - (a) a chair
 - (b) two expert members and
 - (c) one community representative.
4. At its inception in 2018, the pool of City of Sydney Local Planning Panel consisted of:
 - (a) one chair and two alternate chairs
 - (b) two expert members and two alternate expert members and
 - (c) one community representative and one alternate community representative.
5. On 8 April 2019, Council endorsed the appointment of five additional alternate expert members to increase the pool of expert members.
6. In December 2020, the Minister for Planning and Public Spaces requested that the then 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.
7. In June 2021, Council reappointed six of the existing Local Planning Panel members and five new expert members from the Minister's pool of approved experts to the City of Sydney Local Planning Panel.
8. Currently the City of Sydney Local Planning Panel members are:
 - (a) Chair - Abigail Goldberg.
 - (b) Alternate Chairs - Steven Layman and Linda Pearson.
 - (c) Expert Members - Helen Lochhead, Peter Romey, Paul Berkemeier, Tony Caro, Megan Jones, Helena Miller, Penny Murray, Brendan Randles, Marcus Trimble and Annelise Tuor.
 - (d) Community Representatives - John McInerney AM and Amelia Thorpe.
9. The appointment of all of the above currently expire on 29 February 2024.
10. 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. The appointment of the Chair and alternate Chairs is a matter for the Minister. The appointment of all other members is a matter for Council.
12. Of the Local Planning Panel expert members and community representatives, Helen Lochhead and Peter Romey (expert members) and John McInerney AM and Amelia Thorpe (community representatives) have all been members since the inception of the Local Planning Panel and have been reappointed. At the end of their current appointment they will have served on the Local Planning Panel for six years.
13. Four expert members, Tony Caro, Paul Berkemeier, Penny Murray and Helena Miller, will have served six years on the City of Sydney Local Planning Panel on 8 April 2025.
14. On 7 December 2022, general changes were announced to the operation of Local Planning Panels.
15. Key changes for councils included the following requirements:
 - (a) to expand the pool of expert members to a minimum of 15 (the City currently has 10).
 - (b) to increase the pool of community representatives to a minimum of four (the City currently has two).
16. A copy of the Local Planning Panels Direction - Appointment of New Members is provided in Attachment A.
17. The direction does not apply to the City of Sydney. Notwithstanding, as the City's Local Planning Panel members are currently only engaged up until 29 February 2024 it is appropriate that the membership of the Local Planning Panel be reviewed.

Chairs

18. The Chair, and alternative Chairs, of the Local Planning Panel are appointed by the Minister.
19. The appointment of a Chair and alternative Chairs is not a matter for this report.

Expert Members

20. The Department of Planning and Environment has reissued the list of eligible Local Planning Panel expert members, which City Planning staff have reviewed.
21. New experts have been selected on the basis of their:
 - (a) professional standing;
 - (b) experience;
 - (c) technical ability; and
 - (d) broad understanding of the development assessment process.

22. Six additional expert members from the state list have been selected. These are:
 - (a) Melonie Bayl-Smith
 - (b) John Bilmon
 - (c) Michael Harrison
 - (d) Vanessa Holtham
 - (e) Jocelyn Jackson
 - (f) Stephen Pearse

Community Representatives

23. Staff sought expressions of interest from the community for the role of community representative in line with the guidelines published by the department. This included:
 - (a) advertising in the City of Sydney News/the City of Sydney website;
 - (b) advertising on City of Sydney LinkedIn post;
 - (c) advertising in the Wentworth Courier;
 - (d) advertising in the City Hub; and
 - (e) advertising on the Architecture Australia website.
24. Advertising was for approximately five weeks ending on 6 March 2023. In total 65 initial expressions of interest were received. Each applicant was provided with information regarding the role requirements and selection criteria and was requested to complete a nomination form and provide information if they wished to proceed.
25. Of the 65 persons who expressed interest, 30 completed a formal nomination form and provided some information to address the selection criteria (one was excluded as they are not a resident in the local government area). Of these 16 addressed the selection criteria to some extent.
26. The list of potential candidates was further shortlisted with consideration to the following outlined in the department guidelines:
 - (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.

27. The four community representatives that are recommended are:
- (a) Julie Armour - in addition to interest and participation in local development and planning Julie shows a good understanding of local area and issues of concern to the local community as a long term City resident. Julie has served on community and professional boards from a broad range of interests and sectors, including health and delivery of social services as well as engaging with Police to address local vandalism.
 - (b) Jayden Bregu - in addition to interest and participation in local development Jayden shows a good understanding of local area and issues of concern to the local community as a City resident, student and working in the City. Jayden has served in arts related community programs and on Panels such as the Greater Cities Commission Youth Panel and Faculty of Health Science, University of Sydney Alumni Association.
 - (c) Judy MacGraw - in addition to being a long-term resident of the City Judy has served in senior management and a Chief Executive Officer role. She has also served on professional and not for profit boards as well as a member committee.
 - (d) Peter Tzannes - Peter is a long term resident of the City. He has been a member of Centennial Park Residents Association for more than 20 years and has previously been a member of two Sydney Cricket Ground Trust Committees as a community representative.
28. In addition to the considerations outlined above the following matters were taken into account to narrow the panel to four recommended community representatives:
- (a) Practicing professionals in the development sector such as architects, urban designer, heritage specialists and engineers, including those nominated on the Department of Planning's Local Planning Panel expert list are not recommended. This is because this expertise is provided by the local planning panel experts recommended in this report or those currently serving on the Panel.
 - (b) Candidates not recommended demonstrate a narrower focus in their community activities for example one particular group or activity sector such as planning and development.
 - (c) Potential conflicts that may arise for Councillors resulting from the candidate's political activities and associations.
 - (d) The diversity of community representatives in terms of gender, age, professional background and areas of the City.
29. Recommended candidates are required to be subject of the following probity checks:
- (a) a public register of real estate agents check;
 - (b) a bankruptcy record check; and
 - (c) a National Police check (ACIC).
30. To date three of the four recommended candidates have been subject of the required probity checks. Checks will be required of each candidate before they can be engaged.

Additional Information

31. Information about the proposed new City of Sydney Local Planning Panel expert members and community representatives can be found at Attachment B to this report.

Review of Determinations Panel

32. 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.
33. 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.
34. At the City the review of applications function has, notwithstanding the delegations detailed above, been conducted 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.
35. The Panel is made up of senior staff: the City's Director City Planning, Development and Transport and senior managers and an independent member.
36. Local Planning Panel expert members are invited to fill the independent member role on Council's Review of Determinations Panel and those that accept will join the pool for this function.

Key Implications

Strategic Alignment - Sustainable Sydney 2030-2050 Continuing the Vision

37. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. 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 1 - Responsible governance and stewardship - the operation of the Local Planning Panel is a collaboration between City staff, applicants, objectors, independent members and the NSW Government.
 - (b) Direction 4 - Design excellence and sustainable development - the Local Planning Panel determines development applications and reviews conditions of consent which provide for sustainability, renewal and design excellence.
 - (c) Direction 10 - Housing for all - the Local Planning Panel determines development applications which contribute to housing diversity and good design.

Organisational Impact

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

Risks

39. If new expert members and community representatives are not appointed prior to February 2024 the Local Planning Panel may not be able to meet and determine development applications and the Minister may appoint panel members and/or delegate/s without council endorsement to determine development applications.

Financial Implications

40. Local Planning Panel member remuneration is based on meeting attendance.
41. City of Sydney Local Planning Panel remuneration rates are as follows:
 - (a) Chairpersons - \$2,000 plus GST per meeting (one per meeting);
 - (b) Expert members - \$1,500 plus GST per meeting (two per meeting); and
 - (c) Community representatives - \$1,500 plus GST per meeting (one per meeting).
42. The number of panellists at each meeting will not change, therefore there will be no change to the cost of administering each meeting of the City of Sydney Local Planning Panel.
43. There are sufficient funds available in the 2023/24 operating budget and future years' forward estimates for the operation of the City of Sydney Local Planning Panel and Review of Determinations Panel.

Relevant Legislation

44. Environmental Planning and Assessment Act 1979.
45. Local Government Act 1993 - Section 10A provides that a council may close to the public so much of its meeting as comprises the discussion of information of a personal nature concerning individuals other than councillors.
46. Attachment C contains confidential personal information concerning particular individuals other than councillors.

GRAHAM JAHN AM

Director City Planning, Development and Transport

Bill Mackay, Manager Planning Assessments