

8.13. North Sydney Local Planning Panel: Reformation

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ATTACHMENTS: Nil

PURPOSE:

For Council to endorse the appointment of the North Sydney Local Planning Panel chair, alternate chairs and expert members to serve until 29 February 2024.

EXECUTIVE SUMMARY:

The North Sydney Local Planning Panel (NSLPP) has been operating since March 2018. The Panel comprises of:

1. A panel chair and two alternative chairs which were approved for appointment by the Minister for Planning.
2. A rotating pool of expert members which were selected from a Minister approved list of individuals who are considered to have appropriate qualifications and expertise to suit North Sydney, and
3. A rotating pool of four community members who were selected by Council.

Council was advised that the endorsement of the Minister approved members of the planning panel lapsed at the end of February 2021. These endorsements were extended by the Minister and will now lapse on 30 June 2021 as the necessary recruitment process had not been undertaken by the Department of Planning, Industry and Environment. The recruitment and review of the pool of experts by the Department of Planning Industry and Environment is now complete.

The tenure of the community representatives has already been extended by the current Council until March 2022 to enable the recruitment and appointment of community representatives under the auspices of the new Council.

Council is now required to endorse the appointment of the Minister approved chairs and nominated experts to enable the reformation of the North Sydney Local Planning Panel.

FINANCIAL IMPLICATIONS:

The cost to operate the North Sydney Local Planning Panel is fully funded within the existing budget and there will be no additional cost to extend the existing representative appointments.

RECOMMENDATION:

- 1. THAT** Council endorses the appointment of the Minister approved chairs and experts nominated within this report for the reformation of the North Sydney Planning Panel and to serve on the Panel until 29 February 2024.
- 2. THAT** delegated authority be granted to the General Manager, pursuant to Section 377 of the *Local Government Act 1993* to fill casual vacancies on the North Sydney Local Planning Panel from the list of Minister approved experts on a needs be basis.
- 3. THAT** Council thank the outgoing Panel for its diligent work in implementing the planning controls of North Sydney.

LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

3. Our Future Planning

3.1 Prosperous and vibrant economy

3.4 North Sydney is distinctive with a sense of place and quality design

5. Our Civic Leadership

5.2 Council is well governed and customer focused

BACKGROUND

The North Sydney Local Planning Panel has been operating since March 2018. The Panel comprises of:

1. A panel chair and two alternative chairs which were approved for appointment by the Minister for Planning.
2. A rotating pool of expert members which were selected from a Minister approved list of individuals who are considered to have appropriate qualifications and expertise to suit North Sydney, and
3. A rotating pool of four community members who were selected by Council.

Council was advised that the endorsement of the Minister approved members of the planning panel lapsed at the end of February 2021. These endorsements were extended by the Minister and will now lapse on 30 June 2021 as the necessary recruitment process had not been undertaken by the Department of Planning, Industry and Environment in a timely fashion to facilitate the reappointment of the existing panel before its lapse date.

This extension has enabled the recruitment and review of the pool of experts by the Department of Planning, Industry and Environment. The tenure of the community representatives has already been extended by the current Council until March 2022 to enable the recruitment and appointment of community representatives under the auspices of the new Council.

Council should endorse the appointment of the Minister approved chairs and nominated experts to enable the reformation of the North Sydney Local Planning Panel prior to its July 2021 meeting.

CONSULTATION REQUIREMENTS

Community engagement is not required.

DETAIL

North Sydney Local Planning Panel

From 1 March 2018 determination of local development applications can only occur through the local planning panel, a regional planning panel or under officer delegation. The North Sydney Local Planning Panel determines all applications up to a value of \$30 million which cannot be determined under delegation in accordance with the Directive from the Minister for Planning as well as applications which are beyond the limits set by the Minister for the use of delegated authority by Council staff.

Further the NSLPP is to provide advice on planning proposals and direct the conduct of planning appeals as they relate to the Panel's activities. Note: The Panel has delegated this function to certain Council staff.

The NSLPP determines applications, including modifications, to certain applications which are beyond the limits set by the Minister for the use of delegated authority by Council staff. These limits were set by the Minister for Planning by way of a Section 9.1 direction made under the provisions of the *Environment Planning and Assessment Act* and which took effect on 1 March 2018 and are as follows:

1. Conflict of interest

Development for which the applicant or landowner 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:

- 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,
- 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 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 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 and 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 standard

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 licenced 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.

Planning Proposals

A Ministerial direction dated 23 February 2018 relates to the referral of Planning Proposals, as follows;

- 1) A Council to whom this direction applies is required to refer all planning proposals to be prepared after 1 June 2018 to the local planning panel for advice, unless the Council's General Manager determines that the planning proposal relates to:
 - a) the correction of an obvious error in a local environmental plan,
 - b) matters that are of a consequential, transitional, machinery or other minor nature, or
 - c) matters that Council's general manager considers will not have any significant adverse impact on the environment or adjoining land.
- 2) When a planning proposal is referred to the local planning panel for advice in accordance with this direction it is to be accompanied by an assessment report prepared by the Council staff setting out recommendations in relation to the planning proposal, including whether or not the planning proposal should be forwarded to the Minister or Greater Sydney Commission under section 3.34 of the Environmental Planning and Assessment Act 1979.
- 3) The local planning panel must have given its advice on the planning proposal before Council considers whether or not to forward it to the Minister or Greater Sydney Commission under section 3.34 of the Environmental Planning and Assessment Act 1979.
- 4) This direction takes effect on the date it is published on the Department of Planning, Industry and Environment's website and applies to planning proposals that, before that date, have not been forwarded to the Minister or the Greater Sydney Commission. For the avoidance of doubt, the requirement in clause 2 to this direction extends to planning proposals that have been referred to the local planning panel, and in relation to which the panel has not provided advice, before the date this direction takes effect.
- 5) This direction revised the previous Local Planning Panels Direction – Planning Proposals dated 23 February 2018.

On the meeting date, the North Sydney Local Planning Panel (NSLPP) comprises a chair and three panel members, one of whom is a community representative. These members are selected on a skills and availability basis dependent on the matters to be determined by the Panel. The panel chair and two alternative chairs have been approved for appointment by Council by the Minister for Planning.

A rotating pool of expert members have been appointed from a Minister approved list of individuals who are considered to have appropriate qualifications and expertise in fields such as planning, architecture, public administration and law.

2018 Panel Membership

The Minister approved Chairs of the North Sydney Local Planning Panel are:

Jan Murrell - Principal Chair
Grant Christmas - Alternate Chair
Jason Picera - Alternate Chair

The Council appointed expert members selected from the Ministers endorsed list of experts, from March 2018 were Tony Caro, Grant Christmas, Lesley Finn, Deborah Laidlaw, Helen Lochhead, Ian Pickles, Caroline Piddock, Michael Reymond, Sandra Robinson, and Annelise Tuor.

Council resolved on 25 June 2018:

“THAT delegated authority be granted to the General Manager pursuant to Section 377 of the Local Government Act 1993 to fill positions on the North Sydney Local Planning Panel from the list of Minister approved experts on a needs be basis.”

Additional members appointed from August 2018 by Council on 25 June 2018 were David Logan, Peter Brennan, Jason Perica.

Additional members appointed from July 2019 were: Garry Fielding, John McInerny, Garth Paterson, Chris Wilson, David Bridgen and Lloyd Graham

The Council appointed community members are Veronique Marchandeanu, Virginia Waller, Jane van Hagen and Kenneth Robinson.

These community appointments were extended by Council resolution on 8 March 2021 with the intent that they be reviewed and adopted afresh at the March 2022 Council meeting.

Time issues around the review and appointment of new Chairs and Experts.

Council was advised that the endorsement of the Minister approved members of the planning panel lapsed at the end of February 2021.

These endorsements were extended by the Minister and will now lapse on 30 June 2021 as the necessary recruitment process had not been undertaken by the Department of Planning, Industry and Environment in a timely fashion to facilitate the reappointment of the existing panel before its lapse date.

This extension has enabled the recruitment and review of the pool of experts by the Department of Planning, Industry and Environment. The tenure of the community representatives has already been extended by the current Council until March 2022 to enable the recruitment and appointment of community representatives under the auspices of the new Council.

The endorsement of the appointed chairs and experts expires coincidentally with the June 2021 ordinary Council meeting. Thus the need to consider the issue as a matter of high priority given the proximity of the 7 July 2021 NSLPP meeting.

By way of email dated 2 December 2020 it was suggested to the department that the existing panel appointments be extended to 31 December 2021 thus allowing newly elected Councillors to have some say in the appointment of a panel that will serve Council for a minimum of three years. In short, whilst the department's representative could see the sense in this, the current directives stood.

Appointment of a new local planning panel.

Council is required to endorse the appointment of both the Minister approved chairs and experts for the reformation of the North Sydney Planning Panel. The Minister for Planning approves for appointment the chair and alternate chairs with Council having free hand in the appointment of the expert panel members from a pool formed by the Minister.

The allocation of Panel Chairs and the list of Minister approved experts was released on 13 May 2021 and outlined in the next section.

The tenure of the community representatives has been extended by Council until March 2022 to enable the recruitment and appointment of community representatives under the auspices of the new Council. The community representatives are typically appointed following an expressions of interest process.

Approved Panel Chairs

The Chair and alternate Chairs have been approved for appointed by the Minister for Planning. There was no consultation with either Council staff or elected members regarding this matter and Council has no venues for challenging the appointments.

The Chair and alternate Chair as approved for appointment are:

Jan Murrell - Principal Chair

Professor Helen Lochhead - Alternate Chair

Dr Gary Shiels - Alternate Chair

As Councillors would be aware, Ms Murrell has been the NSLPP chair since its inception over three years ago and served as the panel chair for its predecessor, the North Sydney Independent Planning Panel (NSIPP). Professor Lochhead and Dr Shiels are eminently qualified to serve on the panel in the role of Panel chair. No material objection can be raised to the approved chairs, and it is recommended their appointment be endorsed by the Council.

The Panel Chair has the responsibility of selecting the most appropriate panelist for each meeting based on the likely issues. Two experts and one Community member will be selected for each meeting by the Panel Chair in consultation with Council staff. An alternate chair may also be nominated to replace the Principal Chair based on availability, and in the event of a conflict of interest.

Rotating Expert Panel Members.

Two panel members at each meeting will come from a pool of experts, selected by Council. These experts are selected from the pool of experts approved by the Minister for Planning.

Council staff reviewed the Minister approved pool of experts in consultation with the Panel Chair. A number of individuals had expressed a desire to be on the North Sydney Panel including most of the existing panel members. Many more had indicated their availability to be on the panel.

Existing panel members have been both professional and reliable and those that have expressed a desire to be on the Panel have been retained on the list. To maintain a list of 20 experts, offers were made to four panellists, taking into consideration any likelihood of conflict of interest issues, both perceived and real, and the nature of work undertaken previously by the individuals in the North Sydney Council area.

The individuals who have indicated their desire to be on the panel, are considered well qualified and will make a valuable contribution to the panel. The Panel Chair has agreed to their inclusion on the list.

Due to the late release of pool of experts by the Minister for Planning, and the need to have a Panel in place for the July panel meeting, the General Manager has approved the filling of positions on the 2021 NSLPP pursuant to the delegation granted by Council at its meeting of 25 June 2018 (Minute Number 197). This delegation should remain in place to fill positions on the NSLPP from the list of Minister approved experts on a need be basis.

Council staff have considered appropriate appointments from the rotating pool of experts endorsed by the Panel Chair. It is recommended that the following appointments be endorsed by the Council.

Recommended Panel Experts and areas of expertise.

Name	Planning	Architecture	Environment	Urban Design	Law	Government & Public Administration
Peter Brennan*	•					
David Bridgen*					•	•

Name	Planning	Architecture	Environment	Urban Design	Law	Government & Public Administration
Tony Caro*		•		•		
Grant Christmas*	•				•	•
Lloyd Graham*	•					•
James Harrison	•					
Helen Lochhead*	•	•		•		•
David Logan*	•	•		•		
Linda McClure	•					•
John McInerny*	•	•		•		•
Jan Murrell*	•		•	•	•	•
Garth Paterson*	•			•		
Ian Pickles*	•					
Caroline Pidcock*		•	•	•		
Brendan Randles		•		•		
Michel Reymond*					•	•
Sandra Robinson*	•					
Gary Shiels	•		•	•		•
Annelise Tuor*	•	•	•	•	•	•
Gerard Turrisi	•					•

*Continuing 2018 panel members; new panel members in **bold**.

It is also recommended that the Panel Chair and alternative chairs be offered appointment as expert members. This will allow greater flexibility in the formation of a panel in the event of unavailability or conflict of interest.

The Manager of the Planning Panels Secretariat has advised that appointments should be made by 1 July 2021 for a period through to 29 February 2024 to ensure compliance with:

- 6 year maximum term limits of continuing members; and
- the expiry date of the Minister's approval of chairs and experts.

Conclusion

It is recommended that Council endorse the appointment of both the Minister approved chairs and experts to enable the timely reformation of the North Sydney Local Planning Panel.