

Once the Terms of Reference are approved by the Government Architect, recruitment will commence for the Design Review Panel.

HISTORY

- 01/12/2017** State Environmental Planning Policy (Bella Vista and Kellyville Station Precincts) 2017 notified on NSW legislation website which introduced Clause 8.6 relating to Design Excellence in Bella Vista and Kellyville Station Precincts to LEP 2012.
- 15/12/2017** State Environmental Planning Policy (Showground Station Precinct) 2017 notified on NSW legislation website which introduced Clause 9.5 relating to Design Excellence in Showground Station Precinct to LEP 2012.
- 06/02/2018** Councillors briefed on the implementation of the Planned Precincts.

REPORT

The purpose of this report is to outline the requirements for the establishment and operation of the new Design Review Panel.

1. ESTABLISHING THE DESIGN REVIEW PANEL

Approval of the NSW Government Architect

Council officers have met with the NSW Government Architect's office to discuss their requirements for the Design Review Panel. They have advised their preference is for the Panel to consist of members who satisfy the following criteria:

- Significant experience in a relevant design field for example Architecture, Urban Design, Landscape Design or Heritage.
- Suitably qualified in their relevant field and either registered with their relevant professional body, or eligible for registration.
- The quorum for the Panel should comprise at least one architect, one landscape designer and one member from any of the abovementioned design fields.
- Not a Councillor or Council officer.

A draft Terms of Reference and Procedures Manual has been prepared that has regard to how Council's current Design Excellence Panel operates but includes the necessary requirements of the NSW Government Architect. This is included as Attachment 1.

Appointment of External Panel Members

Under the draft Terms of Reference individuals will be required to demonstrate that they meet the criteria established by the Government Architect as well as the following:

- A professional that can demonstrate a reasonable understanding of the existing values and desired development outcomes of The Hills Shire;
- A professional that possesses the relevant skills and experience, such as experience on other Panels, to provide independent expert input of development matters;
- An expert who does not undertake regular work in The Hills Shire;
- Professional indemnity insurance of \$5 million;
- Public liability insurance of \$10 million; and
- Certificate of currency for workers compensation insurance.

Operation of the Panel

As for Council's existing Design Excellence Panel, it is appropriate that members who have a pecuniary or non-pecuniary interest in any matter with which the Panel is concerned must disclose the nature of the interest as soon as practicable. A member who has a pecuniary interest or a significant non-pecuniary interest in a matter with which the Panel is concerned must not be present at any meeting of the Panel at which the matter is being discussed or considered. Such criteria will ensure that the Panel operates in a transparent way.

A Service Level Agreement is also proposed as part of contracts with external Panel members to ensure both parties are protected in the event of poor performance and that the expectations of Panel members are clear. In the event that an external Panel member resigns from the Panel during the initial term, it is recommended that Council grant delegation to the General Manager to appoint the next best applicant from the original evaluation as a replacement member.

Cost of Panel members

The table below suggests service fees for external members based on a review of similar Panels and discussions with the Government Architect's Office. The higher fee for the Chairperson reflects the additional duties required of the Chair.

| | Half day | Full day |
|--------------|-----------------|-----------------|
| Panel Member | \$1,000 | \$1,800 |
| Chairperson | \$1,800 | \$2,500 |

Table 1

Recommended service fees for Design Review Panel

Based on these fees and the requirement for three Panel members, the cost of a full day meeting will be \$6,100 and the costs of a half day meeting will be \$3,800. Council will seek Expressions of Interest for the Panel Membership for an initial 12 months and the cost of the Panel will be monitored to determine whether a Tender is required for future operation of the Panel.

Setting a fixed price as part of the recruiting process gives some certainty in regards to costs and is an approach that has been taken by neighbouring councils and the NSW Government Architect in the recruitment of members for similar Panels.

Funding of the Panel

The operation of the Panel will come at a cost to Council.

It is reasonable that the costs of the Panel meetings should be borne by the applicant via a set fee charged by Council. It is recommended that the fees be established based on the cost of the external Panel members to Council and included with the fees and charges.

The *Environmental Planning and Assessment Regulation 2000* specifies a maximum fee of \$3,000 for residential apartment development referred to the Design Review Panel for consideration and advice. The maximum fee is considered to be appropriate in this instance.

While there is some discretion in whether to charge applicants a second fee for applications that require a second meeting with Council's existing Design Excellence Panel (due to lower costs with only one external member), advice from the Government Architect and neighbouring Council's indicates that applicants who attend similar Design Review Panels are required to pay the specified fee each time they attend a Panel

meeting. Adopting this approach for the Design Review Panel will reduce the risk of the Panel meetings running at a loss.

Experience has shown that the number of items which can be heard in a half day or full day meeting is dependent on the complexity of the applications. Applications for master planned sites generally contain a larger amount of information and therefore require additional consideration time. As a result only two master plan applications are able to be considered in a full day agenda to ensure that enough time is available to give due consideration.

There are other costs associated with the operation of the Panel such as Council officers time and administration duties that need to be considered. The required duties of the Design Review Panel impose increased pressures on the typical work load and roles expected from Council staff. However, as there is a public benefit associated with the Design Review Panel, being the improved quality of buildings and public domain associated with new development, it is appropriate that some cost of the operation of the Panel be borne by the community.

Duties that are recommended to be covered by Council include the time of Council staff for administrative work in organising Panel meetings and development assessment officer time preparing briefings for the Panel.

2. RECOMMENDED AMENDMENT TO LEP 2012

Council commenced operation of its Design Excellence Panel on 22 February 2018. The establishment of this Panel commenced as part of the post exhibition consideration of the Castle Hill North Precinct Plan in 2015 and applies to all development over 25 metres (8 storeys).

The existing Panel composition (two internal and one external expert Panel member) is different to that required by the Government Architect for the new Design Review Panel however this format has benefits for Council in terms of reduced costs and allowing the external expert to develop a good understanding of the desired development outcomes for the Shire. This Panel fulfils an important role in achieving a high standard of architectural and urban design and it is proposed that it will continue to operate for applications outside of the Showground, Bella Vista and Kellyville Station Precincts.

The objectives and assessment criteria for the Design Excellence and Design Review Panels are essentially identical. Apart from the Panel membership, the main differences between the two are the increased height trigger for the Design Excellence Panel and the requirement for the NSW Government Architect to approve the Design Review Panel.

Currently, an application for a new building in Showground, Bella Vista or Kellyville Station Precincts would require assessment by both Panels. There is no discernible benefit in requiring an application to be heard by both Panels, when the assessment criteria are largely identical and therefore likely to return a similar result. Alternatively, there is a risk that both Panels could return a different recommendation which would create confusion for applicants and assessing officers.

A Planning Proposal is required to exclude the Bella Vista, Kellyville and Showground precincts from the operation of Council wide Design Excellence clause. This approach will ensure that applications are heard by only one design Panel, reducing confusion for applicants and costs for Council in convening two Panels for one application.

The suggested change to Clause 7.7 is in bold text below:

7.7 Design excellence

- 1. The objective of this clause is to deliver the highest standard of architectural and urban design.**
- 2. This clause applies to development involving the erection of a new building or external alterations to an existing building if the building has a height of 25 metres or more, excluding land in the Bella Vista, Kellyville and Showground Station Precincts as shown on the Sydney North West Metro Map.**
- 3. Development consent must not be granted to development to which this clause applies unless the consent authority considers that the development exhibits design excellence.**
- 4. In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters:**
 - a. whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,**
 - b. whether the form, arrangement and external appearance of the development will improve the quality and amenity of the public domain,**
 - c. whether the development detrimentally impacts on view corridors,**
 - d. whether the development detrimentally impacts on any land protected by solar access controls established under a development control plan,**
 - e. the requirements of any development control plan to the extent that it is relevant to the proposed development,**
 - f. how the development addresses the following matters:**
 - (i) the suitability of the land for development,**
 - (ii) existing and proposed uses and use mix,**
 - (iii) heritage issues and streetscape constraints,**
 - (iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,**
 - (v) bulk, massing and modulation of buildings,**
 - (vi) street frontage heights,**
 - (vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,**
 - (viii) the achievement of the principles of ecologically sustainable development,**
 - (ix) pedestrian, cycle, vehicular and service access, circulation and requirements,**
 - (x) the impact on, and any proposed improvements to, the public domain,**
 - (xi) the configuration and design of public access areas, recreation areas and communal open space on the site and whether that design incorporates exemplary and innovative treatments,**
 - g. the findings of a Panel of 3 or more persons that has been convened by the consent authority for the purposes of reviewing the design excellence of the development proposal.**

CONCLUSION

The finalisation of the Bella Vista, Kellyville and Showground Station Precincts require the establishment of a Design Review Panel to provide advice on design excellence for buildings with a height over 21 metres (6 storeys).

The Panel is to consist of three members approved by the NSW Government Architect.

As applications will shortly be received for new development in the Priority Precincts it is critical that the Design Review Panel be established as soon as possible. This report recommends that Council endorse the draft Terms of Reference for the Design Review Panel and proceed to recruit Panel members subject to approval of the Terms of Reference from the NSW Government Architect.

In addition this report recommends a Planning Proposal be prepared to exclude the Station Precincts from the operation of the wider Design Excellence clause, to prevent applications being reviewed by both Panels.

IMPACTS**Financial**

Cost of operating a Panel on a half day and full day is as follows:

The tables below give an indication of the fee income and costs for payment of external members associated with a full and half day Panel meeting dependant on the number of items. The fee assumed for the tables is \$3,000, the maximum fee under the Regulations.

| | Half day | Full day |
|-----------------|-----------------|-----------------|
| 2 Panel Members | \$2,000 | \$3,600 |
| Chairperson | \$1,800 | \$2,500 |
| Total | \$3,800 | \$6,100 |

As detailed below, revenue from the Design Review Panel is dependent on the number of matters dealt with by the Panel

| Income | 1 Item | 2 Items | 3 Items | 4 Items |
|-------------------------|---------------|----------------|----------------|----------------|
| Income from fees | \$3,000 | \$6,000 | \$9,000 | \$12,000 |

As the number of items which can be heard in a half day or full day meeting is dependent on the complexity of the applications, it is difficult to estimate whether this income can make a contribution towards the staff costs that are associated with the preparation of the Panel.

No funds are allocated in the current budget for the operation of the Panel. Required funding will be reflected in a future budget review.

Strategic Plan - Hills Future

The Design Review Panel is consistent with the outcomes and strategies of the Hills Future Plan in that it seeks to ensure that new development reflects Council's values and aspirations through achieving design excellence.

RECOMMENDATION

1. Council endorse the establishment of The Hills Design Review Panel consistent with the draft Terms of Reference contained in Attachment 1 (ECM 173206905) and proceed to recruitment.
2. Council adopt a fee of \$3,000 per review for consideration of development proposals by the Design Review Panel in Bella Vista, Kellyville and Showground Station Precincts.
3. The General Manager be authorised to appoint members to the Design Review Panel.
4. A planning proposal be forwarded to the Department of Planning and Environment for a Gateway Determination to amend Local Environmental Plan 2012 to ensure that a building proposed in the Bella Vista, Kellyville and Showground Precincts does not trigger referral to the Design Excellence Panel in addition to the new Design Review Panel.

ATTACHMENTS

1. Terms of Reference for Design Review Panel (5 pages)