

8 November 2019

Mr Kerry Kyriacou  
Director of City Planning  
Randwick City Council  
30 Frances Street  
RANDWICK NSW 2031

By Email: [council@randwick.nsw.gov.au](mailto:council@randwick.nsw.gov.au)

Dear Mr Kyriacou,

**DESIGN EXCELLENCE PANEL MEETING – RZ/4/2019**

We would like to put on record our concerns with the procedure of the Design Excellence Panel (DEP) meeting held on 4 November 2019 to review the design of our Planning proposal at Little Bay Cove.

At the commencement of the meeting, Meriton's representatives made it very clear to the panel members that Meriton was (and remains) prepared to engage in a bona fide consultative process with the panel, Council and all stakeholders. It was made clear that Meriton would adjust components of its design as necessary and requested the panel's input to what might be considered 'design principles' for the site.

Notwithstanding, Meriton did not receive any architectural and/or urban design advice as one would expect when considering the intent of the DEP and the NSW Government Architects approach to "defining design excellence". Instead, the panel members had pre-determined an opposition to the proposal based primarily on non-design factors which they relied upon to avoid discussion on design matters.

A matter of principal concern for Meriton is the fact that a draft report had been prepared by the panel prior to the meeting, but not made available to Meriton. Meriton's head architect, Mr O'Connell-Warner asked if Meriton would be allowed to respond to the issues raised in the draft report at the meeting, and was advised *'what is in the draft report, is how the final report will be written'*.

Meriton is entitled to expect procedural fairness during the administrative course of its planning proposal administered by Randwick City Council. On this occasion, for the reasons set out in this letter, Meriton was denied procedural fairness which could compromise our proposal unless the matter is rectified.

Having regard to the panel's conduct, Meriton can only assume a bias against it or against its planning proposal by members of the panel. As such, the Council should not have any regard for the recommendation of the panel and a further panel ought to be convened that is focused on design matters only. At the very least, Meriton ought to be allowed a period to address the issues raised by the panel in the draft report that was not provided to Meriton prior to the meeting.

Our detailed concerns are outlined below:

- Initially, Council did not provide the proponent with an initial report the DEP had prepared after a previous briefing. This seemed to be fundamental to the meeting. Without this information, the proponent team was not made aware of the issues that were presented.
- The DEP did not provide urban design/architectural-focused advice as expected and instead dealt with strategic planning matters that are the responsibility of the planning experts and respective planning panels. If we were given the initial advice, we would have required the attendance of our planning experts.

- It is undeniable that the strategic planning framework has changed and there are sound planning principles to facilitate more density on this site which aligns with the strategic planning adopted by the State Government in March 2018, ongoing transport infrastructure planning in this area, large underutilised Government land, proximity to jobs and consistency with the planning principles established under the draft Local Strategic Planning Statement (see our separate submission). However, the Panel advised that there was no planning justification for any increase in development and avoided any engagement with the proponent on planning and/or design issues. When we asked to address these matters, the offer was declined. We were effectively advised that it didn't matter what was said that the advice given previously that was not provided would stand and that is how the report would be written.
- The DEP advised that transport was inadequate, but are not transport or traffic experts. It was explicitly stated that our proposal did not rely on major transport infrastructure but would assist with providing the population density necessary for enhanced transport. Notwithstanding, the site is located on Anzac Parade which is a strategic transport corridor.
- Interestingly, the Panel members agreed that the entire peninsula would change including the adjoining Land and Housing (L&H) and Jail sites, but could not extend this benefit to our adjoining site. They suggested that future densities across the L&H/Jail sites would only need to be 0.5:1, but the L&H site is already at 0.9:1 and the LSPS identifies it for more in the future. Furthermore, when the Jail is redeveloped and has a Metro or other mass transport solution, it is unrealistic to expect a 0.5:1 FSR would be applied.
- The DEP stated that the degree of change to the FSR (from 0.5:1 to 2:1) was unprecedented across Sydney. Please see a sample list below of proposals/areas that have been subject to a similar or greater change.
  - K2K – proposes density increases from 0.5:1 to 4:1 – this is double our proposal and has been worked on by the Panel Members
  - Melrose Park (North) - proposes to rezone a large industrial complex with heritage implications and close to the waterfront, to allow over 5,000 dwellings with no major transport provision other than buses (also worked on by one of the Panel Members)

This is just a quick review of known projects nearby or close to the waterfront and we are sure there are more. Accordingly, we feel the position put forward was incorrect and contradictory given the work of the Panel members on some of the listed projects.

- We acknowledge the panel members had some limited discussion on design. Issues were raised with changing the transition in height down towards the foreshore, reconsideration of taller buildings to the north, moving height towards the west to the local neighbourhood centre and integrating with possible future development to the north. These are issues that we would have accepted for further consideration, however these matters were rendered irrelevant by the DEP as there was no reason to discuss given their views on strategic planning matters.

A fair-minded observer would conclude that the panel's review of Meriton's planning proposal has been infected by a bias and that Meriton was denied procedural fairness leading up to and at the meeting on 4 November 2019.

The process did not fulfil its objective of considering "design excellence" and providing urban design/architectural advice, and instead was based on opinions on strategic planning. We feel with the vast experience and calibre of the panel members in facilitating urban transformation across Sydney and beyond, it was perplexing that they could completely disregard the proposal and the intent of the meeting could not be achieved due to "non-design" matters.

Unless Meriton is provided with the DEP's initial report and an opportunity to engage with the Panel members in a collaborative manner focused on design matters only for this site, the Panel's advice must be disregarded in proceeding with this application and Meriton ought to be allowed to liaise directly with Council staff to consider alternative design options.

We require confirmation in writing from Council as to how the situation is going to be remedied. Meriton takes the concept of procedural fairness extremely seriously and will take any step necessary to protect the integrity of the administrative process of planning state significant areas.

Please contact the undersigned on 9287 2888 should you wish to discuss this matter further.

Yours faithfully

**MERITON GROUP**



Matthew Lennartz  
**Executive Manager – Planning  
and Government**



Neil Wagner-O'Connell  
**Head of Architecture**

CC: - Ms Therese Manns, General Manager, Randwick City Council  
- Mr Brett Whitworth, A/Deputy Secretary Greater Sydney Place and Infrastructure,  
Department of Planning, Industry and Environment