

# **Terms of Reference**

## **Review of Determinations Panel**

### **March 2018**

#### **1. Terms of Reference**

The jurisdiction of the Review of Determinations Panel ('the Panel') is limited to:

- (a) determining the review, under Section 8.2(1)(a) of the Environmental Planning and Assessment Act 1979, of development application determinations which have been made by a delegate of Council; and
- (b) determining the review, under Section 8.2(1)(b) of the Environmental Planning and Assessment Act 1979, of modification application determinations which have been determined by a delegate of Council.

#### **2. Amended applications**

Where amendments are made to the original application, the Panel must be satisfied that the amended application is substantially the same as the original application.

#### **3. Matters ineligible for review**

The Panel is not to deal with the following matters:

- (a) Applications that are Integrated Development, Designated Development or Complying Development Certificates.
- (b) Waiver of statutory charges, for example under Section 61 of the City of Sydney Act 1988 or Section 7.11 of the Environmental Planning and Assessment Act 1979 or to waive or vary Council's fees or other financial matters.
- (c) Any matter dealt with by Council (i.e. Planning and Development Committee) prior to 1 March 2018.

- (d) Any matter dealt with by the Local Planning Panel or the Central Sydney Planning Committee.
- (e) Applications where Council is the applicant.
- (f) Matters which, by law, cannot be delegated.
- (g) Applications lodged under Section 8.2(1)(c) of the Environmental Planning and Assessment Act 1979 for the review of rejected applications

#### **4. Panel Membership**

The Panel generally shall comprise of three (3) members made up of:

- (a) Two of either:
  - (i) The Director City Planning Development and Transport;
  - (ii) The Executive Manager Development; and
  - (iii) The Executive Manager Strategic Planning and Urban Design.
- (b) An external consultant.

The Council officers on the panel must not be subordinate to the original decision maker, nor be the actual decision maker.

In exceptional circumstances where one or both Council officer positions cannot be filled from the above list the positions on the panel may be filled by another senior council officer(s) who has the delegation to deal with matters the subject of the application to the Panel.

The panel must always include an external consultant.

#### **5. Quorum**

A quorum of the Panel shall be two, comprising:-

- (a) the Director City Planning, Development and Transport if they are represented on the panel;
- (b) the Executive Manager Development if the Director City Planning, Development and Transport is not on the panel; or

- (c) the Executive Manager Strategic Planning and Urban Design if neither the Director City Planning, Development and Transport or the Executive Manager Development are not on the panel; and
- (d) the external consultant.

In the event that neither (a), (b) or (c) above are represented on the panel the person nominated in place of the Director City Planning, Development and Transport and the external consultant shall constitute the quorum.

## **6. Notification and Advertising of matters for review**

In the case of development/modification applications that were notified/advertised and submissions were received that relate to the subject of the review, or when the subject of the review is considered to so warrant, persons who previously made a relevant submission and/or any other persons as may be determined, are to be notified in writing of the lodgement of the application for review so that they may make a further submission if they so wish.

## **7. Panel Meetings**

- (a) The Panel will meet on a monthly basis and otherwise as and when required.
- (a) The meetings are not open to applicants or the public.
- (b) Site visits may be undertaken by the Panel.

## **8. Conflict of Interest**

Panel Members will be required to declare any conflict of interest in relation to any matter that comes before them. In such instances, that member will be ineligible to participate in that particular review matter.

## **9. Determination of Applications**

- (a) Applications are to be determined by the Panel in accordance with the delegations made by the CEO under s 378 of the Local Government Act.
- (b) Decisions of the Panel must be made within 6 months of the applicants receipt of the original determination in accordance

with the requirements of s 8.3(2) of the Environmental Planning and Assessment Act.

- (c) Decisions of the panel will be recorded.
- (d) The applicant and all persons who made submissions will be notified of the decision of the panel.
- (e) Reports to the panel and decisions of the panel will be made available on Council's website.

#### **10. Fees for external consultant Panel Member**

The external member of the Panel will be paid a fee for attending Panel meetings, based on a fee for service payable hourly in accordance with the currently agreed fees with the respective firms.

#### **11. Reporting of Decisions to Council**

The Panel will submit annual reports to Council via CEO updates summarising the decisions and operation of the Panel during the relevant period.