

## Attachment 1 - Submissions

Submission 1:

the scope of what it is looked at by the panel is a little narrow - shouldn't all developments that are designed under SEPP 65 be considered by the panel. Smaller RFBs and the like are often not designed by high calibre architects and therefore to ensure design excellence, a review by the panel for these development types should be considered.

Submission 2:

ATTENTION: General Manager

Please find enclosed my submission regarding Council's Design Excellence Panel Policy.

- The 'Have Your Say' website references viewing the Policy and Procedures document but only the link to the Policy document is available.

And surely the Design Excellence Panel Procedures should be able to viewed – and also uploaded to Council's website when this Policy is adopted – as they are referenced in the Policy, and need to be accessible.

I can locate a Procedure document attached to the Council Business Papers 3/4/19 (Item No: C04/19-45 Cumberland Design Excellence Panel) – but I'm sure other members of the public won't know this is possible – and besides, this document may already have been updated.

Please note: Part 5 of the Apartment Design Guide (ADG) - on page 142 - states the Panel procedures should be placed on Council's website.

So for Council's Planning Department to recently advise me that procedure documents, unlike policy documents, are generally not publicly available seems to be an incorrect and invalid response – and I can see other Guidelines are uploaded to Council's website for access by the public.

- Part J of the recently amended DCP regarding the Merrylands Station and McFarlane Street Precinct review states:

*The Cumberland Design Excellence Guidelines provides criteria and procedures that must be followed for developments seeking an incentive bonus in building height of up to an additional 10% and additional floor space ratio of up to 0.5:1.*

And as a document is referenced in the DCP, then surely that document needs to be displayed on Council's website – as are other Guidelines.

The document cannot be confidential – it needs to be used by the public as a reference point - and the Guidelines were originally placed on exhibition.

- Please note: In comparing the 2 documents, I believe the *Cumberland Design Excellence Guidelines* have been updated – and translated into / become the *Design Excellence Panel Procedures* – and the DCP wording in Part J needs to be amended to reflect reference to the *Design Excellence Panel Procedure*, not the Guidelines.

And only the Procedures (not the Guidelines) need to be placed on Council's website.  
And again I point out that Part 5 of the ADG - on page 142 - states the Panel procedures should be placed on Council's website.  
(And in this way everyone will know how the process works and how to utilise it – and also the process is then quite transparent).

- Part 5 of the ADG includes templates to aid the operation of a design review panel – and in particular:
  - *Development Assessment Overview Template*
  - *Design Quality Test Template*Refer Attachment 3 (Design Review Panel Operational Guidelines), Business Paper 5/12/18 Item No: C12/18-250 Design Excellence Panel.

I suggest these 2 templates be included in the Design Excellence Panel Procedures because as the ADG states, their use will help ensure Panels operate in a consistent manner, not only in NSW – but, most importantly, within our LGA – and this could be particularly important as Council will be drawing on a pool of 9 panel members.

Council's Design Excellence Panel Procedures contains a template for the *Design Excellence Certificate* – but the Procedures have no recommended templates that will aid and transparently reflect how that decision was made.

The 2 templates mentioned above will surely assist with this, particularly as page 137 of the ADG states a full copy of the advice should be placed on Council's website.

- Part 5 of the ADG - on page 143 - states that SEPP 65 requires the Panel's advice be made publicly available and accessible and placed on Council's website within 7 days of receipt from the panel.

It is apparently intended that the publication of this advice will contribute to the understanding and improvement of design quality - refer SEPP 65, Division 2, 27 (1) (e) Functions of Panels.

Yet I cannot see this important requirement referenced in either the Policy currently on exhibition – or in the Panel Policy Procedures attached to the Business Paper 3/4/19.

I suggest the requirement to publish the advice (that will explain, foster and facilitate design quality) needs to be added to the Policy and Procedures documents.

- I understand that **all** applications involving buildings over 25 metres in height will be referred to the Panel for review and only the target sites referenced in the LEP will be able to access the additional building heights and FSRs that can be granted for design excellence.

And I note the LEP clause 6.11 regarding Design Excellence only references 2 locations where development consent must not be granted unless the consent authority considers that the development exhibits design excellence:

- Dunmore Street in Wentworthville – for buildings greater than 30 metres in height
- The Merrylands Station and McFarlane Street Precinct - for buildings greater than 55 metres in height

But as the Design Excellence Panel is only advisory, how will Council enforce design excellence criteria for **all** development proposals incorporating buildings with a height greater than 25 metres, if this 25 metre design excellence control isn't documented in the LEP or DCP? (And even then, from my experience of development approvals, it seems all controls, even LEP and DCP controls can be so easily varied anyway).

When I expressed this concern to Council's Planning Department, Council's Planning Department advised: *Referral of affected development applications would be required in order to comply with the provisions of a publicly exhibited and adopted Council Policy.*

But as this only references the referral, and the Panel is only advisory, surely it is still an issue that Design Excellence for **all** development proposals incorporating buildings with a height greater than 25 metres cannot be enforced - if there's nothing referenced or mandated in the DCP or LEP?

Clause 6.11 of the LEP regarding Design Excellence states: *The objective of this clause is to ensure that development to which this clause applies exhibits the highest standard of architectural and urban design as part of the built environment.*

But the intention of the clause will have no bearing on developments before the Design Excellence Panel that are not in the 2 designated areas of Merrylands and Wentworthville.

Likewise Part J of the DCP (clause 14.6.2) makes reference to *Design Excellence Provisions* but they only refer to the Merrylands Station and McFarlane Street Precinct.

And, to me, this seems peculiar – that there is no reference to design excellence controls in the DCP or LEP for development proposals incorporating buildings with a height greater than 25 metres. And if I was a developer (or community member) perusing the LEP and DCP for advisement on Design Excellence, I would deem there to be no criteria except for the 2 nominated areas in the LEP – and the one nominated area in the DCP.

*Considerations for Design Excellence* - which match those in Clause 6.11 (4) (a-e) of the LEP - were added to the Design Excellence Panel Policy in the Council Meeting 3/4/19 - through the suggestion of Councillor Lake. And surely these considerations / criteria should be listed in the LEP and DCP for development proposals incorporating buildings with a height greater than 25 metres. Otherwise how can there be any compliance or enforcement of Design Excellence?

- And I do focus on compliance and enforcement of Design Excellence as when Council originally introduced the concept of Design Excellence, it was to enable developers to access an incentive bonus if meeting Design Excellence criteria, and it was only intended for major development proposals in town centres eg Merrylands – with the targeted sites referenced in the LEP.
- I understand **all** development applications over 25 metres will be charged the \$3000 fee for referral to the Design Excellence Panel for review.

But I'm concerned the \$3000 fee will not offset the cost of the 3 or 4 panellists selected for each development review and meeting – particularly when it seems some of the costs involved will be for a panel that cannot enforce design excellence for developments out of the scope of the current LEP and DCP.

And my concerns have not been allayed because the Planning Department has only said: *This fee will **substantially** offset the cost to Council associated with the operation of the DEP. Noting that Panellists will be remunerated on a "per meeting" basis, the cost recovery associated with each panel meeting will vary depending on the number of matters being considered at each meeting.*

- Cost concerns and budget stretching seem even more of an issue when it's remembered that the height criteria for assessing design excellence was dropped from 30 metres to 25 metres in the Council Meeting 5/12/18. And the number of panellists granting design excellence certificates as per the criteria mandated in the LEP was increased from 3 to 4 members in the Council Meeting 3/4/19.  
So Council's budgeted figure of \$30,000 per annum presented in the Business Paper 5/12/18 surely needs to be re-evaluated – and increased?
- On 3/4/19 Council increased the Design Excellence Panel to 4 members where exceedance of the LEP development standards is sought through the issuing of a Design Excellence Certificate (as opposed to design advice). Council increased it in size from the 3 members originally recommended 5/12/18.  
And as NSW Planning, in the ADG, state only 3 members are necessary, why does Council want to incur an extra cost through the extra member?  
Is this a bit of overkill from no panel, to a 4-member panel - when the ADG suggests a 3-member panel is adequate? (And, after all, there is a pool of 9 panel members, which will avoid overburden or any overload for these members).
- I have concerns that several planning applications may have to be reviewed by both the Design Excellence Panel and also the Cumberland Local Planning Panel. (Design Excellence, after all, has to include LEP and DCP controls, built form, setbacks etc – and vice versa for the assessment panel).  
If so, isn't this incurring 2 sets of costs for ratepayers?  
And if so, it seems a waste of resources to have 2 panels of experts being used by Cumberland Council – providing a similar service, both assessing design and development controls - when surely only one overarching holistic panel is needed – at a cheaper cost to Cumberland ratepayers.  
I note at the 5/12/18 Council Meeting, Council resolved to: *Review the operation of the (Design Excellence) Panel 12 months after the formal commencement* - and I believe the operation, costings and any duplications of these 2 Panels should be presented to Council - in an open meeting - so that the community, and developers, are cognizant of Council's evaluation.

I look forward to Council's response.