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# **Design Excellence Panel**

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## **Procedure & Terms of Reference**

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## INFORMATION ABOUT THIS DOCUMENT

<b>Date Endorsed by General Manager</b>		<b>Document Reference Number for Endorsement</b>	
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### ***Document History***

<b>Doc No.</b>	<b>Date Amended</b>	<b>Details/Comments e.g. Executive Team Minutes</b>
E2020/21922		Preliminary Draft

### ***Further Document Information and Relationships***

*List here the related strategies, procedures, references, policy or other documents that have a bearing on this Procedure and that may be useful reference material for users of this Procedure.*

<b>Related Legislation*</b>	Byron Local Environmental Plan 2014
<b>Related Policies</b>	Design Excellence Panel Policy
<b>Related Procedures/ Protocols, Statements, documents</b>	Byron DCP 2014 Chapter E9 Byron Bay town centre

*\*Note: Any reference to Legislation will be updated in the Procedure as required. See website <http://www.legislation.nsw.gov.au/> for current Acts, Regulations and Environmental Planning Instruments.*



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## **1. Introduction**

The purpose of this Procedure is to set out the terms of reference for the Design Excellence Panel and articulate Council's criteria for the assessment of new building designs within the Byron Bay town centre, to which the Design Excellence Clause in Byron LEP 2014 applies.

The Design Excellence Panel comprises professionals in architecture, landscape architecture, urban design, sustainable design and urban planning who will be responsible for determining the level of excellence a proposed development displays.

## **2. Aims of the panel**

The Design Excellence Panel is established to act as an advisory panel where applicants for significant development proposals can receive expert design feedback. This includes critical considerations of design elements and, where required, alternative design suggestions and solutions to achieve design excellence.

The Design Excellence Panel aims to:

- a) Support Council's Community Strategic Plan objective of responsibly managing growth and change;
- b) Facilitate design excellence in development for the Byron Bay town centre;
- c) Assist in shaping future development in the Byron Bay town centre to create an integrated, inviting, vibrant and liveable place; and
- d) Ensure that development in the town centre fits within the local context and contributes positively to the locality;
- e) Provide sound and considered design advice on a range of development and planning matters.

## **3. Applications to be referred to the panel**

The Panel will assess proposals for any development subject to the design excellence provisions within the Byron LEP 2014 (i.e. all new buildings within the Byron Bay Town Centre).

The Panel may also assess any other application voluntarily submitted to the Panel, including LEP amendments and masterplans.

Where an application is referred to the Panel at pre-lodgement stage, a further referral will generally not be required at Development Application stage, unless a substantial redesign has been undertaken.

Where applicants are seeking variations to development standards, a referral to the Panel must be undertaken through the pre-lodgement application process, prior to lodgement of any formal development application.

## **4. Operations**

### **4.1 Documentation requirements**

Proponents for development subject to the design excellence provisions within the Byron LEP 2014 will submit an application (form) providing (as a minimum):

- a concise written summary of the development proposed;
- a site plan of the land (to scale and with adequate dimensions); and
- sketch/ concept plans of the development, including at a minimum site layout, floor plans and elevations. Artist's impressions and other visualisations will be looked upon favourably.

#### **4.2 Applications fees**

An application fee will be required to be paid on lodgement of an application to be referred to the Panel, in accordance with Council's fees and charges and the Environmental Planning & Assessment Regulation.

This fee is in addition to any other fees and charges associated with a subsequent development application.

#### **4.3 Meeting frequency and capacity**

Meetings will be undertaken on an 'as needed' basis, following receipt of an application, but will generally not exceed one meeting per calendar month (unless there are exceptional circumstances).

Where Council receives an application to be referred to the Panel for advice, the application will be forwarded to the relevant panel members as part of the preliminary assessment process.

A Panel meeting will be scheduled as soon as practicable thereafter and Council staff will advise the meeting date, providing at least seven (7) days notice for the meeting.

Each meeting will have a minimum of one (1) development proposal and a maximum of three (3) development proposals presented for consideration.

All meetings will be held at the Council's office in Mullumbimby or online if required.

#### **4.4 Quorum**

A quorum of three (3) panel members is required.

#### **4.5 Meeting procedures**

Prior to meeting:

Council Officers will provide digital copies of the relevant information to panel members prior to the meeting and as soon as practicable following receipt of an application requesting the Panel advice.

Responsibilities of Panel members:

Prior to the meeting occurring, each Panel member is required to have:

- a) Received copies of the development proposal;
- b) Declared any conflict of interest\*;
- c) Become familiar with the proposal; and
- d) Inspected the site that is subject to the proposal

\*A panel member who has a conflict of interest in a matter being presented before the Panel must not be present at the Panel meeting during the deliberation of that matter and must notify Council's member as soon as they become aware of the conflict so that a suitable alternative member can be arranged.

#### Meetings:

- a) Meetings will not be open to the public. However, the proponents for the development (maximum 3 people) will be invited to attend the meeting and present their proposal.
- b) Council officers responsible for the processing and handling of the relevant application will be required to attend the meeting.
- c) Applicants are not permitted to directly contact panel members at any time in relation to an application the subject of a panel meeting. Panel members are also not permitted to directly contact applicants at any time in relation to an application the subject of a panel meeting.
- d) The Panel may invite the applicant to present their proposal to the Panel. Presentations should be no longer than 15 minutes in length (exclusive of question time).
- e) The Panel will deliberate on the design aspects of the development and may choose to ask questions and seek clarification on aspects of the proposal from those present at the meeting.
- f) The Panel may choose to dismiss any external applicants and convene in a closed session to discuss the matter.
- g) Each member is entitled to one vote.
- h) Each item will be allocated a maximum of 1 hour for the above deliberations.

#### Post meeting

The Panel Chair will be responsible for the preparation of the briefing notes, which includes recommendations and where relevant, issuing any Design Excellence Certificates. The briefing notes and certificates (where relevant) are to be endorsed by all panel members in attendance and forwarded to Council's administration officers within ten calendar days of the meeting date.

If a development was referred to the Panel at the pre-lodgement stage and minor design changes were undertaken to the design for development application submission, Council officers may refer the application to the panellist for review to clarify if there are any changes to their initial position/comments on the development.

All communication involving the administration of the Design Excellence Panel is to be directed to Council's Presiding Member.

#### **4.6 The panel considerations and recommendations**

In the Panel's consideration of a proposal, the following must be taken into account where applicable:

- a) Byron Local Environmental Plan 2014;
- b) Chapter E10 of Byron Development Control Plan 2014;
- c) State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development; and
- d) Apartment Design Guide.

In assessing whether a development achieves design excellence the Panel may elect to:

- a) Support the design scheme as originally submitted; or
- b) Support the design scheme with amendments, in which case, specific recommendations relating to requested design changes to address any concern raised must be clearly detailed; or
- c) Not support the design scheme, in which case, the Panel may request a full re-design and that the new scheme be referred back to the Panel for further consideration.

The Panel, in their minutes, must not request that an application be re-referred to the Panel unless a full rejection of the application is recommended on design grounds. The Panel must instead include specific recommendations relating to the changes requested to the design to address any concerns raised.

In addition to the above, for sites subject to the design excellence clause in the LEP where applicants are seeking variations to development standards, the panel must be satisfied that the proposal exhibits design excellence as required by the LEP clause.

In such cases, and where the Panel is satisfied that a development proposal exhibits design excellence, the panel will be responsible for issuing a Design Excellence Certificate (Refer to Appendix A) to the applicant with or without recommended amendments. The certificate must then be submitted with the lodgement of a development application to Council.

## **5. Panel administration**

### **5.1 Panel membership and terms**

The Panel shall comprise industry experts having demonstrated qualifications and experience in the fields of architecture and/or urban design. A pool of expert members shall be established and each Panel meeting shall comprise three (3) members drawn from the established pool of experts.

A panel member cannot be an employee or elected representative (Councillor) of Byron Shire Council.

A Panel member cannot be a real estate agent or a developer.

Panel members will be appointed by the General Manager in consultation with the Director of Sustainable Environment and Economy for a two-year term, via an expression of interest process. At the end of the two-year term, a new expression of interest process will be undertaken. Sitting panel members will be able to reapply for the new term.

In the event that a Panel member vacates their membership prior to serving the full term of their membership, an alternate member may be appointed by the General Manager where deemed necessary.

### **5.2 'Case Worker'**

The Director Sustainable Economy and Environment or a delegate shall be the 'Case Worker' for each project, for the purpose of meeting administration and the coordination and review of advice provided to proponents.

The Case Worker will be responsible for:

- a) Liaising with Panel members in regards to availability and organising panel meetings;
- b) Checking submitted information for referral to relevant panel members;
- c) Setting the meeting date;
- d) Liaising with applicants and their architects to arrange and confirm their attendance;
- e) Coordinating the circulation of the agenda to Panel members;
- f) Arranging the distribution of final briefing notes/minutes to proponents and relevant Council officers;
- g) Conducting an annual review of outcomes with elected members and panel members.
- h) Preparing and distributing briefing notes, including Design Excellence Certificates.

The Director Sustainable Economy and Environment or a delegate of shall act as the Chair of each panel. The Chair will be responsible for:

- a) Ensuring that meetings run on time;
- b) Keeping meetings on track;
- c) Ensuring that panel discussion remains focussed on the matter under consideration
- d) Ensuring that advice is clear to the proponents at the close of the meeting;
- e) Signing off the Design Excellence Certificates;
- f) Answering any follow up questions that the proponent might have;
- g) Where necessary, using a casting vote to determine whether or not a Design Excellence Certificate is issued.

#### **5.4 Meeting remuneration**

Panellist will be remunerated for meeting attendance and associated work. A flat rate (excluding GST) will be set per meeting as agreed upon engagement.

The specified rate is inclusive of all the work a panel member does for a meeting including (but not limited to) preparation, site visits, meeting attendance, deliberation, voting, correspondence and preparation or reviewing of briefing notes.

An agreed set hourly rate will be prescribed for any additional work needed to be undertaken not in relation to meetings as described above.

#### **5.5 Conflict of interest**

Panel members are to ensure the highest ethical standards are maintained in the exercise of their professional duties to ensure the integrity and fairness of the decision making process is maintained.

Panel members must not unlawfully disclose or misuse any information provided to, or discussed at, the Panel meeting.



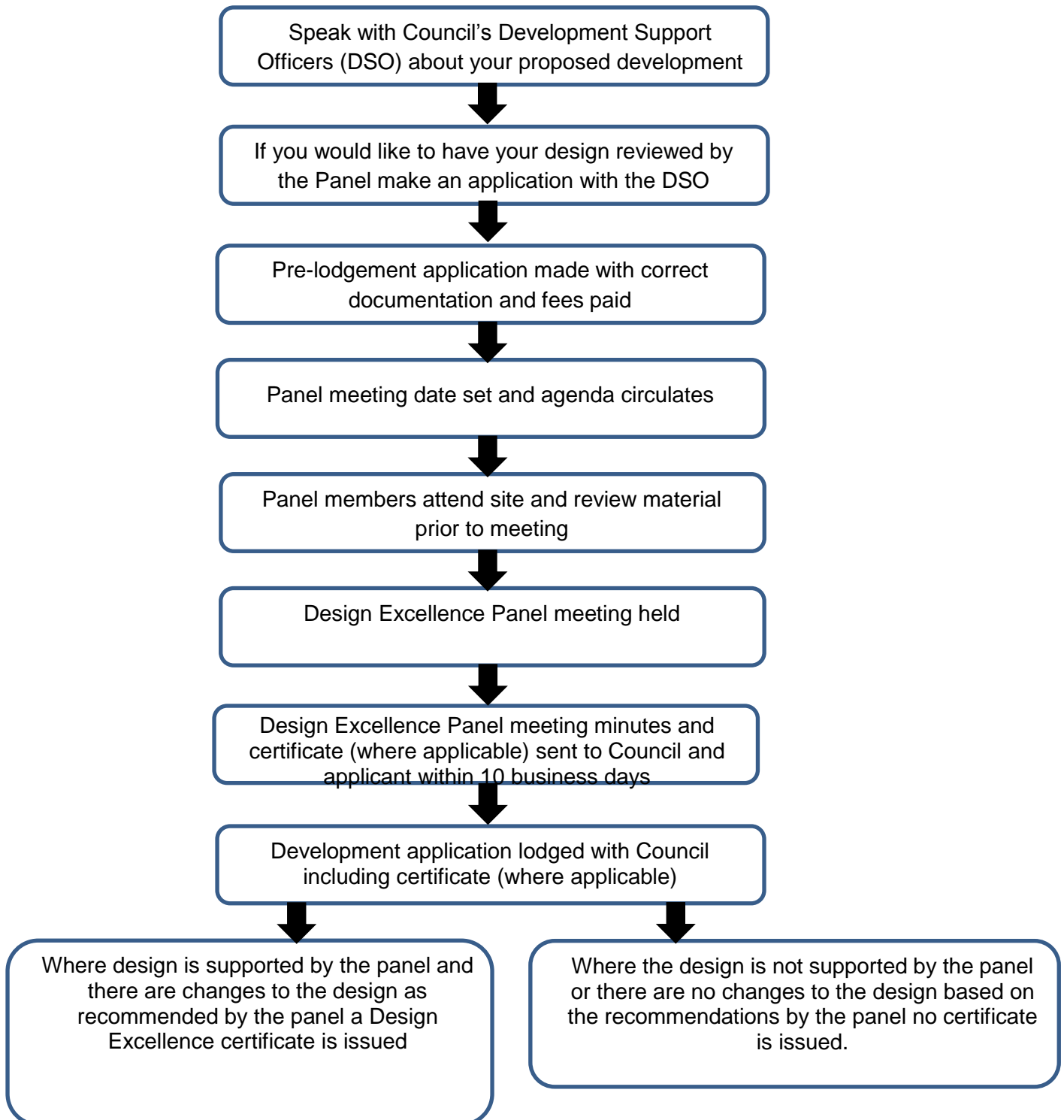
A panel member who may have a potential conflict of interest must advise the panel administrator as soon as practicable.

## **5.6 Code of conduct**

- a) All panel members are required to understand, acknowledge and sign Council's Code of Conduct prior to being appointed;
- b) Panel members must adhere to the Code of Conduct and Work Health and Safety requirements, insofar as those provisions are relevantly applicable to the members of the Panel in regards to the performance of their respective duties;
- c) Panel members must act lawfully and with integrity and professionalism;
- d) Panel members must comply with all requirements imposed by the Local Government Act 1993 on persons providing advice to a Council;
- e) Any declarations for a conflict of interest must be disclosed prior to acceptance of meeting attendance;
- f) All matters brought before the Panel are strictly confidential; and
- g) No panel member is authorised to make any comment to the media, through social media or to the general public in relation to any matter before the Panel or any decision of the Panel.



## ATTACHMENT 2 Design Excellence Panel Process Flow Chart





***Procedure: Design Excellence Panel Procedure 2020***

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