



# LIVERPOOL DESIGN EXCELLENCE PANEL CHARTER AND PROCEDURE

Revised: 27 October 2020

TRIM 331055.2020



# PART 1 - CHARTER

## EXECUTIVE SUMMARY

Liverpool City Council (**Council**) has established the Liverpool Design Excellence Panel (**DEP**) whose primary function is to advise Council and the public of the design quality of development applications. This allows Council to determine whether such applications will contribute to an improvement in the built fabric of the Liverpool Local Government Area (**LGA**).

Given Liverpool's Regional City status, Council is seeking to encourage quality development and promote best practice urban design for developments of a significant scale.

The growth and expansion of the Liverpool LGA highlights a need to ensure development achieves the desired design outcome that is consistent with Liverpool's Regional City status. This DEP Charter incorporates a relevant scope of development applications to be referred to the DEP to ensure new development in the Liverpool LGA positively contributes to the built environment.

## 1. PURPOSE OF THE DEP

### 1.1 What will DEP members do?

Panel members will provide expert advice on applications, planning proposals or policies relating to major commercial and residential development within the Liverpool LGA early in the design process and wherever possible, prior to the submission of relevant development applications or following the receipt of an application by Council, where appropriate.

### 1.2 What is the DEP's purpose?

The purpose of the DEP is to:

- (a) examine, evaluate and critique the design aspects of relevant proposed commercial, residential and community developments prior to the determination of the relevant development application;
- (b) assess the design quality of development proposals and identify how the proposed development could be improved by design changes in order to better achieve the objectives of the relevant planning controls and an optimum design outcome; and
- (c) provide comments to applicants and their professional consultants on actions that could be taken to improve the quality of the design.

### 1.3 What is this Charter?

The DEP Charter and Procedure (**Charter**) establishes the membership, function, procedures, and terms and conditions of office for the Liverpool DEP.

## 2. AIMS AND SCOPE OF THE DEP

### 2.1 Aims of the DEP

The aims of the DEP are:

- (a) to encourage high quality development in the growth of Liverpool as a Regional City through the promotion of best practice in urban design;

- (b) to connect with the development industry by succinctly communicating practical critiques so they recognise the value of the advice provided by the DEP and are encouraged to respond accordingly;
- (c) to provide pragmatic design advice that encourages development, while ensuring outcomes that contribute to a Regional City of design excellence; and
- (d) to encourage proponents to engage with the DEP during the pre-lodgement stage of development to ensure maximum benefits to all stakeholders.

## 2.2 Scope of the DEP

The scope of the DEP is to provide expert and independent advice on the following developments:

- (a) All residential flat buildings;
- (b) Medium-density developments of thirty (30) units or more;
- (c) New developments within the Liverpool City Centre over three (3) storeys;
- (d) New buildings or major extensions to existing development within commercial zones (being B1, B2, B3, B4 and B5 zones);
- (e) Any development which has an interface with significant public space or items of heritage significance;
- (f) Any development deemed by the Manager Development Assessment and/or Manager City Design and Public Domain to have a potentially significant impact on the amenity of the locality or region; and
- (g) Any development for a new building or major extensions to existing development (except for low-density residential development) adjacent to the Georges River or environmentally sensitive land or vegetation.

2.3 The DEP will make recommendations and provide advice to Council on the matters referred to it having regard to the material forwarded to the DEP in each case and in every case having regard to Council's adopted policies including but not limited to:

- (a) Liverpool Local Environmental Plan 2008;
- (b) Liverpool Development Control Plan 2008;
- (c) State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development; and
- (d) Apartment Design Guide.

## 3. **FUNCTIONS OF THE DEP**

The function and role of the DEP is to:

- (a) play an advisory role (DEP is not a decision-making body);
- (b) thoroughly examine, evaluate and comment upon the design aspects of proposals for major development in the Liverpool LGA prior to the lodgement of relevant

development applications, or, where occurring; following development application lodgement with Council;

- (c) comment on strategic planning documents relative to the urban design issues of a proposal; and
- (d) provide advice to potential applicants and their professional consultants of actions that could be taken to improve the design quality of development proposals.

## **4. REPRESENTATIONS OF THE DEP**

### **4.1 Membership**

The DEP shall comprise three (3) high-level and respected professionals who are or have been involved in the design of recent (1-5 years) major projects. Such members shall have extensive expertise in specific urban design and sustainable and liveable communities that addresses the needs and conditions found in Western Sydney and also possess extensive qualifications in at least one or more of the following professions:

- (a) Urban Design;
- (b) Architecture;
- (c) Landscape Architecture; and
- (d) Urban Planning.

A DEP member cannot be employed by Council, including Council officers and elected Councillors, in accordance with the requirements of *State Environmental Planning Policy No. 65* (SEPP No. 65).

### **4.2 Chairperson**

The Chairperson will be selected from the pool of DEP representatives for each meeting. The relevant DEP representative selected for each meeting who will undertake the role of Chairperson for that meeting will be advised in advance that they will be undertaking the role of Chairperson.

### **4.3 Quorum**

Three (3) DEP members must be present at a DEP meeting to form a quorum.

### **4.4 Convenor**

Council's Coordinator Urban Design will be the convenor of each meeting. In the absence of the Coordinator Urban Design, a convenor will be appointed by the Director City Economy and Growth.

## **5. DEP APPOINTMENT AND SELECTION FOR DEP MEETINGS**

### **5.1 Tender Process**

Council will advertise and establish a short list of potential panel members via a tender or an expression of interest process which will be presented to a council meeting for approval. Members from the approved short list, will then be appointed to the pool of panel members by the CEO, based on their qualifications and experience, and in the absence of any real or potential pecuniary or non-pecuniary conflict of interest.

Council will select three (3) DEP representatives for each DEP meeting from the pool of DEP representatives (consisting of one (1) Chairperson and two (2) other DEP members).

## 5.2 No Guarantee

Appointment of DEP members into the pool of DEP representatives does not guarantee selection for DEP meetings. Rather, appointment to the pool of DEP representatives only gives rise to the potential for selection for DEP meetings.

## 5.3 Past Performance

In considering whether to select and/or re-select a DEP member to a DEP meeting, strong consideration will be given to the relevant DEP member's past adherence to the terms of this Charter and/or performance during past DEP meetings.

## 5.4 Council's Rights Reserved

Council reserves all rights to select members for each meeting, based on their knowledge, skills, qualifications, along with their past adherence to the terms and conditions of this Charter and/or performance during past DEP meetings.

## 5.5 If Quorum Not Established

If a quorum is not available for a DEP meeting, Council's Director City Economy and Growth may select an alternative suitably qualified DEP member to establish a quorum.

## 5.4 Vacancy

If a vacancy occurs in the membership of the DEP, the CEO may appoint a person to fill the vacant position. Council may in its absolute discretion, appoint suitable shortlisted applicants from a previous tender or expressions of interest process.

# 6. **CONDUCT AND DISCLOSURES**

## 6.1 Code of Conduct

DEP members:

- (a) must act lawfully and with integrity and professionalism;
- (b) must comply with all requirements imposed by the *Local Government Act 1993* (NSW) on persons providing advice to a Council; and
- (c) are required to understand, acknowledge and sign a copy of Council's Code of Conduct prior to being appointed on Council's pool of DEP members.

## 6.2 Breach

If a member of the DEP is found to be in breach of Council's Code of Conduct or any other relevant Council policy, the matter may be referred to the CEO to be dealt with in accordance with Council's Code of Conduct and Code of Conduct Procedures.

### 6.3 Declarations

Any declarations for a conflict of interest must be disclosed prior to acceptance of meeting attendance

## **7. TERMINATION OF DEP MEMBER APPOINTMENTS**

### 7.1 Non-Adherence to Charter

If it is deemed that a DEP member has not adhered to the terms of this Charter or their performance is not to the reasonable satisfaction of Council then Council reserves the right to provide a first and final written warning to the relevant DEP member. If, on a subsequent occasion, the relevant DEP member does not adhere to the terms of this Charter or their performance is not to the reasonable satisfaction of Council, then Council reserves the right to terminate their membership to the pool of DEP representatives. The CEO has the authority to terminate the membership of a DEP member.

### 7.2 Replacement DEP Member

7.3 In the event that a DEP member's appointment to the pool of DEP representatives is terminated, Council reserves the right to replace the relevant DEP member. This may involve Council's procurement process being followed.

### 7.4 Additional DEP Members

If, during the term of DEP, Council deems it appropriate, Council may tender for further DEP members to be appointed to the pool of DEP representatives. The CEO has the authority to appoint additional DEP members to the pool of DEP representatives.

## **8. RESPONSIBILITIES OF THE DEP MEMBER PRIOR TO MEETING**

Prior to each DEP meeting, it is required that each selected DEP member will have:

- (a) received copies of the development proposal/application and Panel Briefing Report;
- (b) completed a thorough review of the development proposal/application and Panel Briefing Report;
- (c) attended a site visit of the subject site, or if this is not possible, undertaken a desktop site inspection (i.e. via Google Earth/Maps) to become familiar with the site including its context and conditions; and
- (d) declared any conflict/s of interest.

## **9. CONFLICTS OF INTEREST**

- (a) A DEP member who has a conflict of interest in a matter with which the DEP is concerned, must not be present at any meeting of the DEP at which the matter is being discussed or considered.
- (b) A disclosure about a conflict of interest must be acknowledged by the Chairperson and recorded in the minutes of the meeting.
- (c) On and from the date of appointment to the DEP, individual DEP members must not be carrying out or undertaking any type of consultancy work or project (whether

paid or unpaid) as regards to their relevant profession (the basis of their appointment to the DEP) within the Liverpool LGA including in relation to any matter or thing in which the Liverpool LGA is concerned or involved (including any dealings with Council). For the avoidance of doubt, this clause does not affect any pre-existing consultancy work already in existence prior to the DEP member's appointment to the DEP.

## **10. CONFIDENTIALITY AND MANAGING PRIVACY**

- (a) DEP members, through their involvement in the DEP, may come in contact with confidential or personal information retained by Council. DEP members are required to maintain confidentiality and security in relation to any such information and not access, use or remove that information, unless authorised to do so.
- (b) The *Privacy and Personal Information Protection Act 1998* (NSW) and Council's Privacy Policy deal with the collection, holding, use, correction, disclosure and transfer of personal information.
- (c) Should a DEP member become aware of any breach of security, or misuse of Council's confidential or personal information, they should inform the CEO immediately.

## **11. DISCIPLINARY ACTION**

Should a DEP member be found to be in breach of the Code of Conduct adopted by Council, the matter may be referred to Council's CEO and will be dealt with in accordance with Council's Code of Conduct and Code of Conduct Procedures.

## **12. MEDIA PROTOCOL**

The Mayor is the only person permitted to speak to the media on behalf of the DEP. No other DEP member is permitted to speak to the media in his or her capacity as a DEP member.

## **13. REVIEW OF CHARTER**

This Charter shall be reviewed annually or as required by any changes in legislation, operational requirements or minor amendments as authorised by Council's CEO in consultation with the Director City Economy & Growth.

## PART 2 – MEETING PROCEDURES

### 1. PROVISION OF DOCUMENTATION TO DEP

The following documentation is to be provided to the selected DEP members electronically at least five (5) business days before the meeting:

- (a) The meeting agenda;
- (b) The assessing officer's Panel Briefing Report;
- (c) Architectural and Landscape Architectural (i.e. including Public Domain) drawings in A3 size; and
- (d) All other relevant information.

### 2. MEETING PROCEDURES

- 2.1 The DEP will meet at such place and time as notified to the DEP members by a representative from Council (**Panel Support Officer**). It is expected that the DEP will meet twelve (12) times a year on dates and at places to be scheduled in advance for each year. Meetings will be held at suitable venues or via Audio-Visual link e.g. Zoom or MS Teams.
- 2.2 Council may request the cancellation of a meeting or call an extraordinary meeting to take place as required, with at least five (5) business days written notice to all selected DEP members.
- 2.3 Council will appoint the Chairperson for each DEP meeting, who will be one of the three (3) DEP representatives selected from the pool of DEP representatives.
- 2.4 Council staff may attend the meetings, as observers.
- 2.5 Guest speakers may be invited as required and as determined by the DEP. Guest speakers may include relevant Council staff who are there to provide guidance and support and to respond to enquiries.
- 2.6 The DEP meeting will be conducted in accordance with the meeting agenda.
- 2.7 For items that have previously been heard at a DEP meeting, the DEP's role is to address the applicant's response to the recommendations made in the previous DEP minutes of the meeting.
- 2.8 Council's DEP convenor (**Convener**) will take minutes of the DEP meetings. The minutes will include the following:
  - (a) A statement of the status and purpose of the meeting;
  - (b) Attendance;
  - (c) Apologies;
  - (d) Declarations of Interest;



- (e) A record of all recommendations made by the DEP; and
  - (f) A meeting outcome, selected by the DEP, from the options listed within the DEP minutes of meeting template.
- 2.9 The draft meeting minutes will be sent to the Chairperson by Council's Panel Support Officer for review, following the DEP meeting. The meeting minutes will be reviewed and approved for circulation to the DEP by the Chairperson. The Chairperson will then circulate the minutes to the other DEP members. All DEP members must confirm the accuracy of the minutes to the Chairperson as soon as possible. It is the responsibility of the Chairperson to ensure that the entire review of the draft DEP meeting minutes is completed and the final meeting minutes are returned to Council's Panel Support Officer by no later than seven (7) business days following their receipt of the draft meeting minutes from Council.
- 2.7 The DEP, in their minutes, must not request that an application is re-referred to the DEP unless a full rejection of the application is recommended on design grounds. The DEP must instead include specific recommendations, relating to the changes requested to the design to address any concerns raised.
- 2.8 Should an application require a re-referral to the DEP, new issues, concerns or recommendations must not be made which are different to those raised at the original DEP meeting, except where the design has changed to the extent that new issues have been identified specifically, as a result of those changes.
- 2.9 DEP meeting minutes must be reviewed and circulated to the applicant by Council's allocated planner or assessing officer. The DEP minutes are required to be accompanied by a cover letter signed by the allocated planner or assessing officer which outlines the planner or assessing officer's comments regarding the changes required to be made to the development, based on the DEP recommendations. Note: The DEP recommendations may have implications on the assessment of the application against Section 79C of the *Environmental Planning and Assessment Act 1979* (NSW) and this will need to be clearly communicated to the applicant by the planner or assessing officer.
- 2.10 Within seven (7) business days of the allocated planner or assessing officer receiving the final DEP meeting minutes, the final DEP meeting minutes are to be distributed to the applicant, via mail or e-mail.
- 2.11 A DEP meeting must be adjourned if a quorum is not present within 15 minutes after the time designated for the holding of the DEP meeting or at any time during the meeting. In either case, the DEP meeting must be adjourned to a time, date and place fixed by the Chairperson.

### **3. APPLICANT REPRESENTATION PROCEDURES**

- 3.1 Both the applicant and nominated Architect and Landscape Architect for the development application and/or proposal will be invited by Council to attend the DEP meeting.
- 3.2 The applicant will be given seven business (7) days written notice on the time and date of the DEP meeting.
- 3.3 The DEP will be allocated a minimum of thirty (30) minutes and a maximum of one (1) hour for discussions with the applicant and nominated Architect and Landscape Architect.

- 3.4 Landowners, applicants and nominated Architects and Landscape Architects are not permitted to contact DEP members directly.

#### 4. REVIEW

A review of the DEP meeting procedures shall be conducted annually by Council. To assist Council with this review, DEP members may be invited to meet with those Council staff members undertaking the review to seek comment on current meeting procedures and their feedback on potential improvements.

#### 5. REMUNERATION OF PANEL MEMBERS

- 5.1 DEP members will be engaged for a term of two (2) years.
- 5.2 DEP members shall be paid a remuneration of \$1,200.00 per half day or \$1,700.00 per full day (**Standard Fee**). In addition to the relevant Standard Fee, the Chairperson shall be paid an additional \$150.00 remuneration.
- 5.3 A full day DEP meeting will commence at 9.30am and a half day DEP meeting will commence at 1.30pm.

*(\* The CEO may approve variations to these rates during the term of the DEP subject to budget considerations.)*

**AUTHORISED BY**  
Council Resolution

**EFFECTIVE FROM**  
27 October 2020

**REVIEW DATE**  
27 October 2022

**DEPARTMENT RESPONSIBLE**

City Economy and Growth (Development Assessment); and  
City Economy and Growth (City Design and Public Domain)

**VERSIONS**

<b>Version</b>	<b>Amended by</b>	<b>Date</b>	<b>TRIM number</b>
1	Adopted by Council	24 March 2015	058678.2015
2	Planning and Development Committee and endorsed by Council	29 June 2016	058678.2015
3	Adopted by Council	13 December 2017	058678.2015-010
4	Adopted by Council	27 October 2020	331055.2020