



NOTICE OF BURWOOD LOCAL PLANNING PANEL MEETING

Late Items

The meeting of the Burwood Local Planning Panel will be held in the Council Chamber, 2 Conder Street, Burwood on Tuesday 17 September 2024 at 6:00 PM

Tommaso Briscese
General Manager

Agenda

For an Notice of Burwood Local Planning Panel Meeting of Burwood Council to be held in the Conference Room, Level 1, 2 Conder Street, Burwood on Tuesday 17 September 2024.

1. General Business

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General Business

(Item GB4/24) Delegation of Functions from Burwood Local Planning Panel to Council Officers, Minor Heritage Works

File No: 24/35759

Report by Manager City Development

Report

Background

Since the introduction of Local Planning Panels under the *Environmental Planning and Assessment Act 1979* (the EPA Act), the NSW Minister for Planning has issued a number of directions pursuant to section 9.1 of the EPA Act.

Relevant to this report is the *Local Planning Panels Direction - Development Applications and Applications to Modify Development Consents* dated 6 March 2024 (the Direction).

The Direction identifies at a minimum the type of development applications and modification applications that must be considered by Council's Local Planning Panel (LPP). A copy of the Direction is annexed at "**Attachment 1**".

Previous delegations to staff

At its meeting on 14 May 2024, the LPP considered two reports seeking:

- a) Delegation of Functions from LPP to Council Officers in Planning Appeals, and
- b) Delegation of Functions to the LPP from the General Manager.

The intent of these reports was to allow appeals to be dealt with in an efficient and timely manner and to allow additional applications to be considered and determined by the LPP if referred to it by the Director City Strategy or the Manager City Development. A copy of these reports are annexed at "**Attachment 2**".

Proposed Changes

In order to improve the efficiency of the LPP and reduce delays for applicants, it is recommended that determination of some of the less complex and uncontroversial applications be delegated back to Council staff.

Under section 2.20(8) of the EPA Act:

A local planning panel may delegate any function of the panel under this or any other Act (other than this power of delegation) to the general manager or other staff of the council...

It is recommended that the LPP exercise this power in relation to minor works to sites that are identified as heritage items (including trees). As examples this could relate to an application for an internal fitout to a modified tenancy within a locally listed heritage item or the replacement of an under awning sign. This is discussed in more detail below.

This will reduce the potential volume of minor Development Applications being reported to each LPP meeting, reduce waiting times for applicants, and improve the ability of the LPP to deal with genuinely complex and controversial matters.

1. Works to local heritage items

Currently, all applications involving alterations or tree lopping on local heritage listed sites are required to be reported to the LPP. This follows a narrow interpretation of the term 'demolition' by the Department of Planning in the requirement for LPP to determine all Development Applications involving 'demolition of a heritage item'.

It is appropriate that the LPP delegate to staff the power to determine Development Applications for locally listed heritage sites where:

- All or most of the significant heritage fabric is maintained;
- There is no adverse impact on the significant heritage fabric or setting of the item; and
- It is agreed by Council's heritage officer that the development can proceed.

Further, it is appropriate that the LPP delegate to staff the power to determine Development Applications for minor works to trees that are either

- Heritage listed; or
- On or overhanging the site of a heritage item

that affect less than (or equal to) 10% of the tree canopy where Council's experts confirm that the proposal:

- Will not adversely affect the health of the tree; and
- Will not adversely affect the heritage significance of the tree or place.

2. Caveats

- a) This delegation would only be of effect if a Development Application is not required to go before the LPP for another reason. For example, if solely due to the matter being delegated back to Council. If a minor heritage item as discussed above met another LPP threshold 'trigger' – say, for example, 10 objections, or the property were Council owned – then the application would still need to be reported for determination to the LPP.
- b) If a Council Officer is uncertain as to the subjective elements of this delegation (terms such as 'adverse impact'), a briefing may be held with the LPP to make sure a particular application falls within the reasonable limits of the delegation.

Financial Implications

Additional applications considered by the LPP are covered in existing budgets and financial agreements with Panel Members.

Conclusion

Under the EPA Act the LPP is currently required to consider all applications for locally listed heritage items. It is appropriate for the LPP to delegate its functions under section 2.20(8) of the EPA Act, to the General Manager, Director City Strategy and Manager City Development. To avoid unnecessary delays and to ensure the LPP deal with genuinely complex and controversial matters.

Recommendation(s)

Under section 2.20(8) of the *Environmental Planning and Assessment Act 1979*, the Burwood Local Planning Panel resolves to delegate its determining functions on the following development types to the General Manager, Director City Development and Manager City Development:

1. Minor alterations and additions to a heritage item, being defined to include:

- a) Maintenance of at least 90% of the heritage significant fabric; or

- b) Little or no adverse impact on the heritage fabric or setting of the item; and
- c) Where there is agreement by Council's heritage expert that the development can proceed.

2. Works to trees that are

- a) Heritage listed; or
- b) On a heritage site;

and, that

- c) Affect less than (or equal to) 10% of the tree canopy; and
- d) Will not adversely impact upon the health of the tree; and
- e) Will not adversely impact upon the heritage significance of the tree or place; and
- f) Where there is agreement by Council's experts that the development can proceed.

Attachments

- 1 [↓](#) BLPP 10 September 2024 - Attachment A - LPP Direction
- 2 [↓](#) BLPP - 10 September 2024 - Attachment B - Reports of BLPP - 14 May 2024

